



**EUROPEAN UNION
ELECTION OBSERVATION MISSION
ETHIOPIA 2005**

**PRELIMINARY STATEMENT
ON THE ELECTION APPEALS' PROCESS, THE RE-RUN OF ELECTIONS
AND THE SOMALI REGION ELECTIONS**

Sheraton Hotel, Addis Ababa, 25 August 2005, 11:00 AM

Despite significant efforts by the election administration to establish a complex system to deal with complaints, overall the process failed to provide an effective remedy to the parties. Re-runs of elections went peacefully and orderly, albeit without opposition representation and with militia and security forces present around and inside polling stations of some sensitive constituencies. Somali Region elections, despite the high turnout, can be summarised as poorly organized and marred by serious irregularities.

EU EOM will present final report with recommendations for the future on 23 September.

Mission background

The European Union Election Observation Mission (EU EOM), under the leadership of Ana Gomes, Member of the European Parliament (MEP), has been present in Ethiopia since March 18, 2005.

The EU EOM came to Ethiopia upon a letter of the Government of Ethiopia of December 1, 2004, stating that the invitation extended to observe the upcoming national Ethiopian elections was made in the light of the «consultation and co-operation in the political and human rights fields». The EU EOM operated on the basis and with a mandate established by a Memorandum of Understanding agreed between the European Commission and the National Electoral Board of Ethiopia (NEBE). The EU EOM has no mandate to certify election results. It should be clarified that there is a firewall between the EU EOM, the EU Commission Delegation, represented in Addis Ababa by Ambassador Mr. Timothy Clarke, and the EU member States, represented by Ambassadors. We may consult each other that our assessments are made independently. The EU EOM Chief Observer's mandate is fully independent, bearing all responsibility for the contents of the EU EOM report.

The EU EOM followed campaign developments both from its headquarters in Addis Ababa and through its 26 regional 2-member teams of long term observers.

On Election Day, May 15th, more than 200 observers were deployed, including a Delegation of 9 members of the European Parliament. In total the EU observers visited 1034 polling stations in all regions of the country.

The EU EOM observed the complaint investigation process with 15 observers and the re-runs of elections, on August 21, with 2 member teams in 7 constituencies.

The EU EOM also observed the elections in the Somali region on August 21, deploying 6 observers in 3 constituencies.

The content of this report is based on the information collected by the EU observers.

The EU EOM's assessment is made against international standards notable among which is Article 25 of the International Covenant for Civil and Political Rights (ICCPR) of 1966, ratified by the Federal Democratic Republic of Ethiopia, where **eight democratic principles** are established: **periodic** elections; **universal** and **equal** suffrage; **right to stand** for public office; **right to vote**; **secret** ballot; **genuine** elections allowing for the **free expression of the will of the people**.

Introduction

On **17 May** the EU EOM commended the massive turnout in **‘the most competitive elections the country has experienced’** and pointed out that on Election Day atmosphere was peaceful.

On **24 May** the EU EOM regretted the way in which votes were counted at constituency levels and the way the publication of results was being handled by the electoral administration, the government and political parties, especially the EPRDF. It noted that **«these practices, taken as a whole, are seriously undermining the transparency and fairness of the elections. They also risk increasing the scope for manipulation and consequently putting in doubt public confidence in the process»**.

On **8 June** the EU EOM deplored the killings, wide-spread arrests of citizens and harassment of opposition leaders and activists by security forces.

(The full text of all EU EOM statements can be found on the EU EOM website: www.et-eueom.org)

I. Preliminary Assessment of the Complaints Investigation Process

After the political Agreement signed among three main actors: EPRDF, CUD and UEDF on June 10th, and at the request of all parties, the EUEOM to Ethiopia observed the complaints investigation process since its beginning, on June 30th. A total number of 15 observers were assigned to this task, sharing its deployment plan with other international observations missions so that they would not overlap and cover a maximum of Complaints Investigation Panels (CIPs).

The EU observers have followed 26 different CIPs out of the 42 deployed by the NEBE and have observed their job in 38 different constituencies, which accounts for more than 20% of the total number of constituencies under investigation.

Summary of preliminary findings

The election administration has set-up a complex system to investigate and address election complaints in a tense political environment, thus offering the political parties a mechanism to sort out disputes by peaceful means. **That mechanism in itself is a very positive development**, which should be improved in the future taking stock of lessons learned with the practice this time. But it encompassed another and **most significant political progress**, by providing the parties with a forum where they were forced to interact as it is necessary in democracy.

In procedural terms, the work of many, though not all, Complaint Investigation Panels (CIPs) observed went according to the Terms of Reference, at least as long as observers were present. However, **the overall process has not satisfied the state's obligation to provide an effective remedy for complaints, for two main reasons:**

1- The complaints investigation process took place in the context of serious violations of human rights and freedoms, namely of opposition leaders and suspected supporters. This undermined the opposition's ability to participate effectively in the process, independently of their competence to argue their case: material evidence was unobtainable because detained or fearful witnesses were unable to testify and, in one case, an important witness was killed. The climate of threats and intimidation was maintained throughout the complaints investigation process. EU EOM observers reported cases, where militia, police or armed forces were present around the location of the hearings. Also opposition witnesses were arrested before or after they testified in front of the panel, and many witnesses or opposition supporters reported to the observers that they were threatened in various ways, as it happened in Albuko and Eteya constituencies.

2) Questionable CIP's impartial arbitration. While the composition of the CIPs seemed adequate (one member of the election administration, one of the complainant party and one of the defendant party), **de facto there was no level-playing field:** the ruling party was generally represented on the panels by important members of the local society, including state officials, such as judges. This increased confusion between the roles of the state and EPRDF and exacerbated the atmosphere of intimidation, including of members of the election

administration, often called as witnesses by all parties (for EPRDF in 42% of the cases observed by the EU EOM). Although the CIPs worked in general in accordance with the Terms of Reference, the trend emerged of a 2:1 majority for the ruling party.

The opposition may appeal NEBE decisions on the CIPs conclusions to the Courts. Nevertheless, the chairman of the National Election Board, Ato Kemal Bedri, is the same person who chairs the Supreme Court. Despite his efforts to uphold an independent and legally grounded arbitration within the NEBE, that coincidence of offices **does not encourage public trust in an independent review by the NEBE or, actually, the Courts**. The opposition parties and other observers, who charged since the electoral campaign that NEBE was not independent, perceived it worsening at the appeals stage, also pointing out that there is no clear separation of power between the Judiciary and the Executive.

1. Quantitative findings about the CIPs' recommendations:

1.1. Most CIPs' recommendations and final decisions by NEBE upheld EPRDF requests.

- EPRDF was involved, either as complainant or respondent, in complaints filed in 36 constituencies out of the 38 observed. The recommendations issued by the CIPs in 35 out of the 38 of the observed constituencies have upheld the ruling party's claims. That accounts for almost 92% of the observed recommendations.
- CIPs recommended re-elections in five out of the seven observed constituencies, where the ruling party filed a complaint, which accounts for 71% of EPRDF complaints. Four of these constituencies were initially won by CUD (Albuko, Bati, Chilga 2 and Gonji) and 1 (Itaya) by UEDF. The NEBE decided to re-run elections in 31 constituencies, with the EPRDF as complainant in 62% of those cases.
- 27 out the 28 recommendations affecting the EPRDF as respondent have upheld the ruling party requests. This means that 96% of the complaints filed against EPRDF have been rejected.

1.2. Most complaints filed by opposition parties have been rejected.

- CUD was involved in 27 complaints, either as complainant or respondent. In 24 cases, the recommendations issued by the CIPs have gone against CUD demands. This accounts for almost 89% of their complaints.
- UEDF was involved in 11 complaints, either as complainant or respondent. In 8 cases, the recommendations issued by the CIPs have gone against their requests, accounting for 72% of their complaints.
- On the whole, the CIPs made recommendations against the opposition parties in 80% of the complaints in which they were involved. On the other hand, CIPs made

recommendations for EPRDF in 87% of the cases. As far as the NEBE considered these cases, it followed all CIPs recommendations, except for one.

2. Presentation of complaints by the ruling party and opposition parties

In many occasions, the EU observers reported that opposition parties presented their cases based on poor evidence, inconsistent testimonies or weak arguing. The fact that in some constituencies opposition parties withdrew from the CIPs without presenting their case or before the end of the examination of the case was detrimental to the final recommendation given by the CIPs to the NEBE. However, there were cases where opposition had strong evidence, namely result certificates of May 15th, and that was dismissed against unconvincing elements, namely statements from NEBE or Police officials. This was, for example, the case in Shashemene 1.

On the contrary, in most cases, EPRDF evidence was better substantiated; their CIPs representatives were better prepared and their witnesses (often members of the local administration) more impressive.

3. Opposition hindered by intimidation and arrests of their witnesses

Significant numbers of opposition members and activists were arrested in early June and remained in prison during the complaints process. And additional arrests took place in the meantime. Also, EU EOM observers received reports of many cases of intimidation of opposition supporters. A CUD witness, Ato Wudu Amelegn, in Meragna constituency, North Shewa zone, was assassinated on July 16th, 5 days after testifying in front of the CIP. Authorities indicated that the murder was the result of a family feud.

This context undermined the opposition's ability to participate in the process freely and effectively.

4. Inconsistencies in the application of the rules of procedures

EU observers noted several cases in which the original complaint, as recommended by NEBE, was not the main source of investigation. Also, in a number of cases, procedures were followed accordingly to the Terms of Reference, only as long as international observers were present. This was the case in East Shewa, in Ada 1, Ada 2 and Adama 2, where EU EOM observers noted that three complaints had been considered in just 4 days before their arrival, while afterwards each complaint took at least three days to debrief all witnesses.

5. Questionable impartiality in the evaluation of complaints

The complaints were adjudicated by three CIP members (one from NEBE, one from the complainant party and one from the respondent) either by majority vote or unanimity. Out of the 35 cases in which CIP vote was observed by EU EOM, the NEBE and EPRDF members voted the same way in 74% of the cases (this percentage excludes decisions taken by unanimity, which only accounts for 11% of the total number of recommendations). The trend in this sample is consistent with the pattern emerging

from the list of recommendations provided to the EU EOM by the NEBE at the end of process.

While that trend may result from the merits of the cases argued by the ruling party or the baseless of opposition cases - and therefore not mean necessarily collusion with EPRDF on the part of the CIPs or NEBE - the EU EOM observers noted highly sensitive cases where solid and tangible evidence – such as certificates of results of May 15 – provided by the opposition parties was too easily and unconvincingly dismissed.

One such case occurred in **Shashemene 1 constituency**, where the complainant (UEDF) presented certificates of results for 64 Polling Stations (out of 67 in the constituency) duly completed, signed and stamped by the relevant election officers, declaring the UEDF candidate as winner. This evidence was rejected by the CIP on the allegation that the documents were forged. The complaint was dismissed, so the EPRDF candidate retains the seat. This decision was based on the testimony of a local police officer, who certified in front of the panel that some copies of the mentioned form had been stolen prior to the election, thus the documents presented to the panel could be fake.

Another case occurred in **Hagere-Selam, Sidama**, where the EPRDF was also the complainant and the CIP recommended re-elections. Re-run of the election allowed the current Minister of Justice, Mr Harka Haroyu to regain his seat, lost in May 15. During the hearing and, as stated in the Summary of Facts and Recommendations of the CIP, it became clear that the Police conducted an investigation against the chairman of Wirama 01 Polling Station, Mr. Werku Dulecha, on charges of taking registration cards from voters on Polling Day. However dubious the charges could be, Mr Dulecha was sentenced to jail for that, and despite the legal provisions to allow witnesses in prison to testify in the CIPs, he was not heard. Moreover, other three election officers testified against him, paving the way for a recommendation in favour of the ruling party. The fact that NEBE election officers testified for one of the competing parties (EPRDF) and that the main witness could not defend himself does not attest to the independence neither of the CIP nor the National Election Board. The EU EOM was not able to establish whether the defendant party called for the testimony of Mr. Delucha before the seat, but in any case the seat should have taken that initiative in order to find out the truth. Even more so since this case could have been remedied, as it was brought to the attention of the NEBE by the EU EOM in mid June.

6. Context of complaints process did not meet international democratic standards for elections

The context of the complaints process was marked by on-going high tension in the country and stalemate between the government party and the opposition. This was aggravated by the handling of the June disturbances by governmental forces, in violation of human rights and the citizen's rights enshrined in the Ethiopian Constitution.

Tension was exacerbated by the fact that, since polling day, public demonstrations were banned and media openness ceased, with the official media back under the tight control and spinning of the ruling party and opposition parties denied access to them. Also

journalists were intimidated and arrested. The Government, in the meantime, rejected to agree on a code of conduct for the free and responsible operation of the media. The governmental control of state media compromises the credibility of the electoral process since May 15, in light of international standards for democratic elections and impacts negatively in the public confidence in the electoral process.

Furthermore, the ruling party passed after May 15th new regulations affecting the conduct of Parliament business and the role of opposition parties in it, and also impacting in the governance of the municipalities throughout the country, namely in the capital. Those regulations, adopted without consultation with other parties which have gained seats in Parliament in the current electoral process, do not help promote the minimal confidence that democratic parties must build in a functioning democratic system.

II – Preliminary report on the re-runs of elections, occurred on August 21

The re-runs were held in 31 constituencies in the 3 following regions: Amhara, Oromiya, SNNP. The EU EOM deployed 14 observers in the following 7 constituencies: **Bugna, Chilga 2, Bati, Kuyou, Meki, Hagere Selam and Wonago 1. Addis Alem 1** was also visited by EU EOM.

EU observers could not be present during the registration that took place again in those constituencies prior to the re-runs and were limited in their observation on election-Day by the difficult accessibility of numerous of the Polling Stations concerned by the re-runs.

Their findings about the **polling process were generally positive**. Their overall assessment of the process has been rated as *good* in 64% of the cases and *very good* in 24 %. The rules were implemented according to the electoral law and the re-runs took place in a peaceful and orderly manner.

However, **negative elements** have to be underlined:

1. Many voters lacked information about the re-run in their constituencies;
2. Registration did not involve all the people who voted in May 15th, as the number of voters registered for the re-run was generally lower.
3. The turn-out, as well, was much lower;
4. A very limited number of domestic observers were present in the Polling Stations;
5. Opposition parties' representatives were often not present in the polling stations (CUD showed up at 4% of the polling stations, 20% for UEDF).

6. In most of the polling stations visited the chairperson did not provide sufficient information to the voters about the process and/or not in the appropriate regional language;

7. Although extremely limited cases of intimidation have been directly observed (3% of the cases), the presence, in some constituencies, of police, military forces or armed militia, even inside the polling stations, could have been perceived by voters as intimidating and was, anyhow, against the rules. This was the case namely in **Kuyou**, **Bugna** and **Hagere-Selam**, the last two constituencies where two top EPRDF candidates, Ministers in the current government, regained seats they had lost according to the May 15 polling.

III - Preliminary report on elections in the Region of Somalia, 21 August

The 6 EU EOM observers were based in Dire Dawa (Shinile), Jigiga and Gode, and were deployed since early August.

1. Registration process and the election campaign

The registration period lasted from July 25th to August 13th. Special registration was conducted between August 14th and 15th. **The process was poorly organized**, with actors such as representatives of the local administrative authorities interfering in it in various ways. EU observers have reported that multiple registrations have taken place in several parts of the region, especially in areas where the process was conducted by mobile teams, due to undue pressure by the clan leaders and the local authorities. The fact that blank voter registration cards could be found on sale in the region's markets sufficiently explains that the process was not completely under the control of the NEBE, the entity entitled by law to handle it.

On the eve of the beginning of the registration process, three different explosive devices blasted in Jijiga, the Region's capital, aiming at different candidates and officials from the ruling party, the SPDP, killing at least 4 people and injuring other 54. Other two ordnances were de-activated by the security forces on the same night. Episodes of violence are common in the Region as clans tend to solve their differences through confrontation.

Three Somali opposition parties (WSDP, SDAF and DWPDM) announced on August 16th their boycott to the electoral process on the basis of alleged irregularities during the registration of voters. However, due to the clan structure of the Somali society as well as the weakness and the internal fragmentation of the parties, the boycott was not completely followed. Some of the candidates did not inform the NEBE about their withdrawal and, therefore, they officially competed. Moreover, representatives of the boycotting parties were present in some Polling Stations on Election Day.

2. Election Day and Counting

The 3 EU EOM observer teams visited 27 polling stations on Election Day. 63% of them were located in urban areas, whereas the remaining 37% were in rural settlements. The process was troubled with some isolated clan-related incidents in Jijiga that led to the intervention of the Army to settle down the situation.

The assessment of the EU EOM observers, acknowledging the limits of the sample due to fragile and insecure situation in the area, **can be summarised as poorly organized and marred by serious irregularities.**

Although most of the Polling Stations opened on time (in 67 % of the observed cases), **the overall polling process has been rated as “Poor” to “Totally Unsatisfactory” in 74 % of the cases.** Only in 26% of the polling stations observed, the process could be considered as “Good”. Observers reported a **high turnout.**

Some of the **rules were not followed:** Public observers were not all present at the Polling Stations in 41 % of the observed cases and, in 33 % of the observed cases, the chairperson of the polling station did not brief the voters on the voting procedures, as stipulated.

Moreover, **serious irregularities** concerning key elements to genuine elections have been reported by the observers: in 30% of the cases, the secrecy of the vote was not ensured by the way the polling booth was set up; in 26%, the EU observers reported evidence of multiple voting; in 17 %, the EU observers reported evidence of ballot stuffing.

The EU Observers were also present at the early stages of the counting in polling stations located in urban areas and noted **a high percentage of invalid ballots**, almost 30% in some stations (an appalling percentage, however similar to what was reported in May 15th in many constituencies throughout the country). In some cases, the polling station staff showed a very limited knowledge of the counting procedures: forms were not properly filled in and the criteria to determine the validity of ballot, was inconsistent.

The EU EOM regrets that although the majority of the Somali population cannot speak and read Amharic, ballot papers were printed in this language only.

EU EOM observers also noted that, despite the efforts, **the holding of the elections three months later** in the Region of Somalia than in the rest of the country, **has not contributed to a better performance** by the election administration. On the contrary, EU EOM observed extreme cases of poor management, especially in large polling centres

Final Remarks

The EU EOM regrets that the 15th of May post-polling day irregularities, delays and opacity of the counting and aggregation of data, plus the subsequent flawed handling of complaints and re-runs of elections in some constituencies, and the poorly organized

electoral process conducted in Somali Region, did not live up to international standards and to the aspirations of Ethiopians for democracy, clearly manifested by the record number showing up to cast their votes on 15 May.

The EU EOM commends the extraordinary patience, restraint and sense of political responsibility in general displayed by the people of Ethiopia since polling day, despite the normal anxiety to see the integrity of their choice respected, the electoral process closed and the country political institutions democratically reinforced to move on and face the challenges of good governance and development.

The decision by the Government of Ethiopia and EPRDF to launch this electoral process with international observation and unprecedented openness was a courageous and bold move, which is already bringing measurable political change in Ethiopia. Over 90% of Ethiopian electors casting their vote expressed a faith in democracy and a confidence in asserting their choice which cannot be suppressed any longer. Ethiopia is not the same as before May 15 and cannot be run in the same way as before May 15, namely in the enjoyment of human rights and democratic freedoms, also enshrined in the Ethiopian Constitution. Freedom of expression and of the media and respect for the independence of the Judiciary are essential to a democratic framework.

The EU EOM expresses its gratitude to the NEBE, through Ato Kemal Bedri, Ato Tesfaye Mengesha and Ato Mekonnen Wendimu, for the exceptional access and frank cooperation it afforded the EU EOM at all stages throughout the process. The EU EOM admired the achievements of NEBE in organizing such a complex and politically sensitive operation, despite shortcomings, especially in the Somali region. At the same time, it is crucial for the authority and credibility of NEBE to ensure that the structure of its direction is genuinely independent of the Executive and that its officials at all levels are not to be perceived as agents of the Administration or the ruling party by the people.

The EU EOM will provide NEBE, the Government of Ethiopia and all political Parties with a final detailed report of its evaluation on the process and recommendations for the future. That final report will be delivered to the NEBE and published by September 23rd.