

# African Commission on Human and Peoples' Rights



**GUIDELINES ON  
ACCESS TO INFORMATION AND  
ELECTIONS IN AFRICA**

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# Preface

## **The link between access to information and elections**

The right of access to information guaranteed by Article 9 of the African Charter on Human and Peoples' Rights (the African Charter) is an invaluable component of democracy, as it goes a long way in facilitating participation in public affairs. The importance of the right of access to information is underpinned by the fact that it is a cross-cutting right. It is a right that is necessary for the realisation of other human rights, including the right to participate in government directly or through freely chosen representatives, as guaranteed by Article 13 of the African Charter.

Access to information empowers the electorate to be well-informed about political processes with due regard to their best interests: to elect political office holders; to participate in decision-making processes on the implementation of laws and policies; and to hold public officials accountable for their acts or omissions in the execution of their duties. Thus, access to information is a foundational requirement of the practice of democratic governance. It has been rightly stated that: 'No democratic government can survive without accountability and the basic postulate of accountability is that people should have information about the functioning of government.'<sup>1</sup> It is the responsibility of State Parties to create an atmosphere that fosters access to information and to ensure 'adequate disclosure and dissemination of information' in a manner that offers 'the necessary facilities and eliminates existing obstacles to its attainment.'<sup>2</sup>

A fundamental element of democracy is the freedom to choose political leaders through elections. Free and fair periodic elections expose candidates' records and proposed policies to a level of public scrutiny that is capable of positively influencing the responsiveness of elected representatives. At the macro level, elections allow electors to

1. *S.P. Gupta v Union of India* [1982] AIR (SC) 149 at 232.

2. *Navarro Gutiérrez v Lizano Fait*, Supreme Court of Costa Rica judgement of 2 April 2002, Annual Report of the OAS Special Rapporteur on Freedom of Expression 2003, 159-160.

determine the acquisition or retention of political power in a peaceful and structured manner and elections are as such crucial for the overall legitimacy of political leadership. They are a necessary element of democracy.

For elections to be free, fair and credible, the electorate must have access to information at all stages of the electoral process. Without access to accurate, credible and reliable information about a broad range of issues prior, during and after elections, it is impossible for citizens to meaningfully exercise their right to vote in the manner envisaged by Article 13 of the African Charter. The importance of access to information in the electoral process and for democratic governance is recognised in the African Charter on Democracy, Elections and Governance, as well as other sub-regional treaties and standards.

## **Drafting process**

At its 18<sup>th</sup> Extra-Ordinary Session, which was held in Nairobi, Kenya in August 2015, the African Commission on Human and Peoples' Rights (the African Commission) adopted Resolution ACHPR/Res.307 (EXT.OS/ XVIII) 2015. This Resolution requested the Special Rapporteur on Freedom of Expression and Access to Information in Africa (the Special Rapporteur) to develop guidelines that would address the absence of a regional standard on access to information and elections 'as a means of guaranteeing the credibility of elections and the overall strengthening of democratic governance in Africa.'

The then Special Rapporteur, Commissioner Pansy Tlakula, embarked on the process of developing draft guidelines, with the support of the Centre for Human Rights of the University of Pretoria. In May 2016, the first in a series of expert meetings was held, bringing together African experts in the fields of access to information and elections. The meeting tasked a working group to develop the draft text whose initial draft was presented to the African Commission during its 60<sup>th</sup> Ordinary Session in Niamey, Niger, in May 2017. As part of the process, two sub-regional consultations were held in Maputo, Mozambique and in Nairobi, Kenya in March and June 2017 respectively, to elicit feedback from key stakeholders on the

draft text. In addition, comments were received electronically by the Secretariat of the African Commission, in response to a public call for comments. All the comments received electronically and at each consultative meeting informed the finalisation of the draft text.

The Guidelines on Access to Information and Elections in Africa (the Guidelines) were subsequently adopted by the African Commission on 10 November 2017, during its 61<sup>st</sup> Ordinary Session, which took place in Banjul, The Gambia.

## **Rationale and objectives of the Guidelines**

The Model Law on Access to Information for Africa, adopted in February 2013, undoubtedly contributed to improving the legislative landscape of access to information in Africa. States, including those with constitutional provisions and laws on access to information, have however generally been slow in mainstreaming proactive disclosure of information into their day-to-day processes of governance. These Guidelines provide direction on access to information in the electoral process as a means of strengthening democratic governance in Africa.

Recent experiences across the continent illustrate the dangers that the lack of information during the electoral process poses to peace, security and stability. At best, the failure of stakeholders in the electoral process to proactively provide information breeds distrust and lack of confidence. At worst, when combined with simmering ethnic, religious and other such tensions, it can easily ignite into violence when voters express their frustration at real or perceived disenfranchisement. Civil tension and conflict resulting in loss of life, internal displacement and despair have far too often left their mark in the aftermath of contested elections. Being proactive in providing information on the electoral process is thus imperative.

A cardinal principle at the heart of the right of access to information is that of proactive disclosure. The principle of proactive disclosure requires that those who hold information of public interest must routinely provide such information to the public even without being requested to do so. Such information must be provided in easily accessible formats and it must consider the needs of its intended users. Proactive disclosure of election related information is thus a

tool for fostering accountability and transparency of key election stakeholders and for guaranteeing the credibility and integrity of the electoral process.

In line with Article 1 of the African Charter, which requires State Parties to adopt legislative or other measures to give effect to the rights, duties and freedoms enshrined in the Charter, State Parties must thus ensure that all stakeholders in the electoral process fulfil the responsibility of proactively disclosing information about the electoral process. The purpose of these Guidelines is to provide guidance to States on the categories of information on the electoral process that must, at the minimum, be proactively disclosed. The Guidelines complement and do not replace legislation, policies, practices and procedures for access to information on the electoral process which conform to the African Charter and other standards and best practices on the subject matter.

The Guidelines provide direction to stakeholders in the electoral process who have a responsibility to proactively disclose various categories of information in their possession or control that are necessary for safeguarding the integrity and legitimacy of the electoral process. Guidance is provided in relation to the following stakeholders:

- (a) Authorities responsible for appointing the Election Management Bodies;
- (b) Election Management Bodies;
- (c) Political Parties and Candidates;
- (d) Law Enforcement Agencies;
- (e) Election Observers and Monitors;
- (f) Media and Online Media Platform Providers;
- (g) Media Regulatory Bodies; and
- (h) Civil Society Organisations.

## **Conclusion**

I trust that these Guidelines will assist all stakeholders in the electoral process, not only in identifying the specific categories of election related information that must be proactively disclosed to the public, but also in developing systems and processes for mainstreaming access to information into the entire electoral process. I believe these

Guidelines will support the better exercise of the right to access information, as well as the right to vote and to participate freely in political life for Africans across the continent.

Finally, I wish to acknowledge and thank all the stakeholders, including State and non-state actors, without whose support and feedback these Guidelines could never have been prepared. I appreciate and thank Commissioner Pansy Tlakula, the Special Rapporteur I succeeded, whose vision and energy conceived and drove this process towards finalisation.

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Vice Chairperson of the African Commission on Human and Peoples' Rights

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# Preamble

## **The African Commission on Human and Peoples' Rights:**

**Affirming** its mandate to promote human and peoples' rights in accordance with Article 45 of the African Charter;

**Recalling** Article 9 of the African Charter, which guarantees every individual the right of access to information, as further elaborated by the Declaration of Principles on Freedom of Expression in Africa (the Declaration);

**Recalling further** Article 13 of the African Charter on the right of all citizens to participate freely in the government of their country;

**Reaffirming** its previous resolutions on elections and participatory governance in Africa, in particular, Resolution on Electoral Process and Participatory Governance (ACHPR/Res.23 (XIX) 1996), Resolution on Electoral Processes and Participatory Governance in Africa (ACHPR/Res.184 (EXT.OS/IX) 2011), Resolution on Elections in Africa (ACHPR/Res.232 (EXT.OS/XIII) 2013), Resolution on the 2013 Elections in Africa (ACHPR/Res.239 (EXT.OS/XIV) 2013), Resolution on the 2014 Elections in Africa (ACHPR/Res.272 (LV) 2014) and Resolution on 2015 Elections in Africa (ACHPR/Res.293 (EXT.OS/XVII) 2015);

**Cognisant** that the African Charter on Democracy, Elections and Governance emphasises the need to promote best practices in the administration and supervision of regular, transparent, free and fair elections for the purposes of political stability and good governance on the continent;

**Conscious** that the African Union Declaration on the Principles Governing Democratic Elections in Africa reiterates that the right to access public information is a fundamental right of every individual;

**Noting** that regional standards such as the African Charter on Democracy, Elections and Governance, the African Union Convention on Preventing and Combatting Corruption, the Protocol

to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, in addition to the Declaration of Principles on Freedom of Expression in Africa, the African Union Declaration on the Principles Governing Democratic Elections in Africa, and the Model Law on Access to Information for Africa, recognise the importance of access to information in the conduct of transparent, free, fair and credible elections;

**Noting further** the East African Community Principles for Election Observation and Evaluation, the ECOWAS Supplementary Protocol on Democracy and Good Governance, the Guidelines for African Union Election Observation and Monitoring Missions, the Parliamentary Forum Norms and Standards for Elections in the SADC Region, and the SADC Principles and Guidelines Governing Democratic Elections, which lay down key principles relating to transparency in the electoral process;

**Recognising** Articles 19 and 21 of the Universal Declaration of Human Rights and Article 19 and 25 of the International Covenant on Civil and Political Rights, which guarantee the right of access to information and the right to participate in genuine periodic elections that are free, fair and credible, by equal and universal suffrage respectively;

**Recognising** that transparent, free, fair and credible elections play a crucial role in ensuring the effective exercise of the fundamental and universal right to democratic elections and participatory government;

**Acknowledging** the challenges of limited access to information during the electoral cycle which may foster public distrust, abstention and violence in the electoral process;

**Cognisant** that vulnerable and marginalised groups such as women, persons with disabilities, older persons and other minority groups, continue to face disproportionate challenges that limit their participation in the electoral process;

**Concerned** that there exists no regional standard on access to information in the electoral process as a means of guaranteeing free, fair and credible elections in States Parties to the African Charter and the overall strengthening of democratic governance in Africa;

**Adopts** these Guidelines as minimum standards on access to information in elections and urges States Parties to the African Charter to incorporate them in their domestic legislation and take measures to ensure their effective implementation.

## Definitions

1. In these Guidelines:

**‘African Charter’** refers to the African Charter on Human and Peoples’ Rights.

**‘African Commission’** refers to the African Commission on Human and Peoples’ Rights.

**‘Appointing authority’** refers to any person or institution within a State Party that is authorised by law to oversee the appointment of members of the election management body.

**‘Electoral cycle’** refers to a continuum of interrelated activities and processes that take place across the following three phases:

- (a) **Pre-election period** which includes processes such as legal reforms, planning and implementation, training and education, voter registration and electoral campaigns;
- (b) **Election period** which covers processes such as voting operations and election day procedures and results verification; and
- (c) **Post-election period** which covers processes such as post-election audits and reviews and institutional reforms and developments.

**‘Election Management Body’** refers to the body or bodies responsible for electoral management. It has the sole purpose of, and is legally responsible for, managing some or all of the elements that are essential for the conduct of elections, and direct democracy instruments such as referendums, citizens’ initiatives and recall votes, to the extent that they are part of the legal framework.

**‘Election monitors’** refers to persons who have a mandate to observe an electoral process and to intervene in that process if relevant laws or standard procedures are being violated or ignored.

**‘Election observers’** refers to accredited independent, non-partisan individuals who have a mandate to observe an electoral process but not to interfere in the process.

**‘Information’** includes any original or copy of documentary material irrespective of its physical characteristics, such as records, correspondence, fact, opinion, advice, advertisement, memorandum, data, statistic, book, drawing, plan, map, diagram, photograph, audio or visual record, and any other tangible or intangible material, regardless of the form or medium in which it is held, in the possession or under the control of the information holder to whom a request has been made under these Guidelines.

**‘Law enforcement agencies’** refers to the State institutions charged with maintaining law and order during the course of the electoral process, including police, military and intelligence operatives.

**‘National security’** refers to military strategy, tactics, exercises or operations undertaken in preparation for hostilities or in connection with the detection, prevention, suppression or curtailment of subversive or hostile activities, as well as intelligence. Such intelligence must relate to the defence of the State; the detection, prevention, suppression or curtailment of subversive or hostile activities; methods and technical equipment for collecting, assessing or handling intelligence information; or the identity of a confidential source or of the quantity characteristics, capabilities, vulnerabilities or deployment of anything being designed for use as a weapon or other equipment.

**‘Proactive disclosure’** refers to a regular flow of information by routinely providing information to the public without the need to make a request.

**‘Publish’** means to make available in a form and manner that is easily accessible to the public and includes providing copies or making information available through broadcast and electronic means of communication.

**‘Relevant electoral stakeholders’** refers to the categories of stakeholders in the electoral process to whom these Guidelines on proactive disclosure primarily apply, including Election Management Bodies, political parties, election observers, election monitors, law

enforcement agencies, campaign funders whether public or private entities of persons, media regulatory bodies, the media, civil society organisations, professional organisations, religious bodies, and other relevant State institutions, departments and private entities.

**‘Relevant private body’** refers to a body that would otherwise be a private body but is owned partially or totally, or controlled or financed, directly or indirectly, by public funds, or a body that carries out a statutory or public function or a statutory or public service.

**‘Special voting’** refers to voting on a predetermined day by registered voters who would otherwise be unable to cast their votes at their voting station on election day, either for health reasons, disability, pregnancy, or for other good reason, or by nature of their employment such as in the case of election officials and members of the military or police force.

**‘State resources’** refers to any monetary and other resources that are directly or indirectly under the control of Government or a political entity at the national, regional or local level, which may be human, financial, institutional, regulatory or enforcement related.

**‘State Parties’** refers to States that have ratified the African Charter on Human and Peoples’ Rights.

## **General Principles**

### **The Right of Access to Information**

2. The right to information is guaranteed in accordance with the following principles:

- (a) Every person has the right to access information of public bodies and relevant private bodies expeditiously and inexpensively.
- (b) Every person has the right to access information of private bodies that may assist in the exercise or protection of any right expeditiously and inexpensively.
- (c) Any policy or practice creating a right of access to information shall be interpreted and applied on the basis of a duty to disclose. Non-disclosure shall be permitted only in exceptionally justifiable circumstances.

- (d) No one shall be subject to any sanction for releasing information in good faith

## **Proactive Disclosure**

3. The presumption is that all information held by relevant electoral stakeholders is subject to full disclosure. Accordingly, relevant electoral stakeholders are obliged to publish key information of public interest about their structure, functions, powers, decision making processes, decisions, revenue and expenditure in relation to the electoral process.

## **Duty to Create, Keep, Organise and Maintain Information**

4. All relevant electoral stakeholders are obliged to create, keep, organise, maintain and manage information about the electoral process in machine-readable formats and in a manner that facilitates the right of access to information. This requires that electoral stakeholders keep and record information for a reasonable period of time on electoral cycle activities, and arrange this information in a manner that allows prompt and easy identification and also safeguards the integrity of its content.

## **Procedure for Accessing Information**

5. The process for accessing information held by relevant electoral stakeholders shall be simple, quick and affordable. In accessing information, no fees, other than the actual cost of reproduction, shall be charged. The cost of reproduction shall however be waived where the requester is indigent.

6. Any refusal of information by relevant electoral stakeholders shall be well reasoned and premised on existing regional and international standards and best practices on access to information. The refusal shall also be provided timeously, in writing and be subject to an internal appeal process which shall be expeditious and inexpensive. The right of further appeal against the outcome of an internal appeal process shall lie to an independent body and the Courts.

## Exemptions

7. The right to access information held by relevant electoral stakeholders may only be limited by narrowly defined exemptions, which shall be provided by law and shall comply strictly with regional and international standards and good practices on access to information.

8. Information may only be legitimately withheld as an exemption if its release would:

- (a) Result in the unreasonable disclosure of the personal information of a third party;
- (b) Cause substantial prejudice to a legitimate commercial or financial interest of relevant election stakeholders or other third party;
- (c) Endanger the life, health and safety of an individual;
- (d) Cause substantial prejudice to the national security and defence of the State;
- (e) Cause substantial prejudice to international relations where the information relates to information required to be held in confidence under international law, the position of the State with respect to international negotiations, and diplomatic or official correspondence with States or international organisations and diplomatic or consular missions respectively;
- (f) Cause substantial prejudice to the economic interests of the State in terms of its ability to determine currency or exchange rates, interest rates or taxes;
- (g) Cause prejudice to law enforcement, in particular, the prevention and detection of crime, apprehension or prosecution of offenders, the administration of justice or the assessment or collection of tax or duty;
- (h) Result in the disclosure of confidential communication between medical practitioner and patient, lawyer and client, journalist and sources, or is otherwise privileged from disclosure in legal proceedings; or
- (i) Jeopardise the integrity of a professional examination or recruitment process.

## **Public Interest Override**

9. Information can only be legitimately withheld by relevant election stakeholders where the harm to the interest protected under the relevant exemption clearly outweighs the public interest in disclosure of the information.

## **Severance**

10. Where a portion of a document containing requested information is exempted from disclosure, the exempted portion shall be severed or redacted and access granted to the remainder of the document that is not exempted from disclosure.

## **Whistleblowing Protection**

11. Persons who, in good faith and in the public interest, disclose information about wrongdoing in the electoral process by a relevant electoral stakeholder or its employees, shall be protected from administrative, social, legal and employment-related sanctions or other sanctions of a similar nature.

# **Relevant Stakeholders**

## **The Appointing Authority**

12. States Parties shall ensure that:

- (a) The process for the selection and appointment of members of the Election Management Body is clearly stipulated in law, and that it is transparent, widely publicised and allows for public participation; and
- (b) It proactively discloses the following categories of information in relation to the Election Management Body:
  - (i) Mode, criteria and process of appointment of members, including any requisite considerations such as gender balance, qualifications and experience;
  - (ii) Appointment process of members;
  - (iii) Remuneration and conditions of service of members; and



- (iv) Procedure for the termination of appointed members of the Election Management Body.

## **Election Management Bodies**

13. To facilitate access to information, Election Management Bodies shall as part of their operations:

- (a) Create, keep, organise and maintain records in a manner that facilitates access to information, including for vulnerable and marginalised groups;
- (b) Adopt and implement flexible proactive disclosure arrangements that enable access to information without the need for individual applications;
- (c) Establish clear and effective processes and procedures to deal with requests for information; and
- (d) Formulate clear procedures for making requests for information, which must include the required format of requests, costs for reproduction, timeframes and formats for providing requested information.

14. An Election Management Body shall cause to be published, on an annual basis, accurate and updated information pertaining to its:

- (a) Organisational structure;
- (b) Strategic plan;
- (c) Decision-making process;
- (d) Procedure for the recruitment of both permanent and temporary staff and their conditions of service;
- (e) Training policies;
- (f) Code of conduct for employees, including declaration of assets;
- (g) Budget and sources of funding, including donor funding, which shall be disaggregated accordingly;
- (h) Mechanisms for voter identification;
- (i) Procurement policy, processes and award of contracts; and
- (j) Annual Report, including audited accounts.

15. An Election Management Body shall proactively disclose information relating to its membership including:

- (a) Details of the professional background of its members;

- (b) Policy on declaration of assets and interests by its members; and
- (c) Its code of conduct and ethics.

16. The proactive disclosure of information by an Election Management Body is required at all stages of the electoral process. Certain categories of information shall be disclosed prior, during and after the conduct of elections.

17. During the pre-election period, an Election Management Body shall proactively disclose the following information:

- (a) Detailed electoral calendar;
- (b) Criteria, process and results for the delimitation of electoral boundaries in a simplified manner;
- (c) List of constituencies or voting districts, if applicable;
- (d) Full details of the voter registration process including criteria, qualifications, requirements and location of voter registration centres;
- (e) Voters roll containing information allowing the unique identification of each voter, including the full name, identity number, photograph (where it exists), gender and age of each voter, and any subsequent amendments to this information;
- (f) Information on arrangements for the inspection of the voters roll by the public to allow for any necessary corrections to be made;
- (g) Operational plan for special or advance voting and diaspora voting (where applicable) relating to dates, time and method, including storage and security of ballot boxes until the general count;
- (h) Criteria for identification of the location of voting stations;
- (i) Location and number of voting stations;
- (j) Criteria and requirements for registration of political parties;
- (k) Details of applications made by political parties for registration as participants in the electoral process, specifying the number of applications made, the number of applications granted, the number denied and reason(s) for each denial;
- (l) Details of political parties registered as participants in the electoral process, specifying their number and names;
- (m) Qualification, rules and procedure for nomination of candidates by political parties;
- (n) Code of conduct applicable to political parties and candidates during the electoral campaign period;

- (o) Number and nature of complaints or petitions received by the Election Management Body and how they have been addressed;
- (p) Mediation and conflict resolution mechanisms in place for addressing election related complaints or petitions;
- (q) Policy on voter education;
- (r) List of service providers, the criteria for their selection and the content of their service contracts and details of the procurement process;
- (s) The criteria for accreditation of election observers and monitors;
- (t) Timelines for registration of international and domestic election observer missions;
- (u) Details of applications for accreditation by election observers and monitors, including the number of applications rejected and reasons for the rejection;
- (v) Criteria for accreditation of media during the electoral process (if applicable);
- (w) Details of application for accreditation by the media, including the number of applications received, number rejected and the reasons for the rejection;
- (x) Code of conduct for media (if any);
- (y) Number of complaints or petitions received and how they were addressed, if applicable;
- (z) Categories of observers admitted; and
- (aa) Register of the different categories of observers and deployment areas.

18. On Election Day and results announcement day(s), the Election Management Body shall proactively disclose the following information:

- (a) Location, as well as opening and closing times of voting stations;
- (b) Support mechanisms for voters and election officials through the provision of episodic and periodic reports of election day activities;
- (c) Information on the closing of voting and vote reconciliation, counting and results management system starting from vote counts at the voting station up to the announcement of final results;
- (d) Details of special votes cast including the counting and collation process;

- (e) Information on the occurrence of any technical glitches and how these have been addressed;
- (f) Information on all complaints or petitions received and how these have been addressed; and
- (g) Election results by polling station, which shall be conspicuously posted at each voting station and in publicly accessible electronic and online formats.

19. Upon the conclusion of elections, an Election Management Body shall proactively disclose the following information:

- (a) Progress in achieving timelines for the declaration of collated results which shall be within a reasonable time or as stipulated by law;
- (b) Declaration and publication of final election results, down to the polling station level;
- (c) Details of all objections, complaints or petitions received and how they were addressed;
- (d) Calculations or allocations of seats and timeframes and processes for the adjustment of political party lists, where applicable; and
- (e) Evaluation reports on the elections produced by the Election Management Body as well as by election observers and monitors.

## **Political Parties and Candidates**

20. Political parties and candidates (including independent candidates) shall proactively disclose the following information:

- (a) Constitution, names of office bearers as well as the policies of the political party;
- (b) Symbols, logos or trademarks associated with the political party;
- (c) Number of registered members;
- (d) Criteria and procedure for nomination and election of candidates for internal and external office;
- (e) Process for dispute resolution and the relevant appeal mechanisms;
- (f) Mechanisms for public participation, including any special mechanisms for persons with disabilities;
- (g) Mechanisms for monitoring of the nomination process and proceedings;

- (h) Names of party agents or representatives responsible for or on duty at various stages of the electoral process;
  - (i) Assets, investments, membership subscriptions, subventions and donations; and
  - (j) Financial schemes initiated.
21. The legal framework of States Parties shall provide for the proactive disclosure by political parties of:
- (a) Receipt of campaign funding from both public and private sources;
  - (b) Campaign expenditure broken down into distinct line items and specifying the sources of funding and actual amounts;
  - (c) Annual audited financial reports; and
  - (d) All other information, proactively disclosed or available on request.
22. States Parties shall adopt laws requiring the proactive disclosure of information on the use by all political parties of all state resources, providing for the following:
- (a) Financial resources, covering the period starting one year before and ending six months after elections, including Government or central bank contracts with currency printers, Central Bank or Monetary Policy Committee reports, and Central Bank reports on Government issued bonds;
  - (b) Institutional resources, covering the period starting six months before and ending three months after elections, including advertising rates and the allocation of airtime and space to all political parties in State-supported media coverage, vehicle or flight logs and fuel allocations to Government departments, and service agreements, contracts and tenders awarded, their amounts and budgets;
  - (c) Regulatory resources, covering the period starting one year before and ending six months after elections, including documentary justification for requests for approval of supplementary budgets by Parliament, supplementary budgets passed by Parliament and political party finance legislation; and
  - (d) Enforcement resources, covering the period starting six months before and ending three months after elections, including details of records of the elections deployment strategy for the police, military, paramilitary and other law enforcement agents involved in ensuring security throughout the electoral process.

## **Election Observers and Monitors**

23. Election observers and monitors shall proactively disclose the following categories of information:

- (a) Names and details of key office bearers in the observer or monitoring mission;
- (b) Code of conduct for observers and monitors;
- (c) Financial or non-financial assistance received from any donor or any political party or candidate, including the incumbent government;
- (d) The Election Observation Mission Report, specifying the methodology, deployment plan as well as the assessment of the conduct and outcome of the elections. This shall be published widely and timeously, with preliminary reports issued within 30 days and final reports issued within 90 days;
- (e) Conflict of interest or political affiliations of local observers or monitors, if any; and
- (f) Sources of funding for any organisations conducting opinion and exit polls and parallel voter tabulation.

## **Law Enforcement Agencies**

24. In ensuring the maintenance of law and order during the course of the electoral cycle, law enforcement agents shall proactively disclose their:

- (a) Code of conduct and roles during the electoral period;
- (b) Training and operational plan and manuals for the electoral period;
- (c) Deployment plans from pre-election through to post-election period;
- (d) Budgetary allocations and actual expenditure for the electoral period;
- (e) Details of any reported election related crimes, including the number of cases reported and steps taken to investigate, prosecute or withdraw such cases; and
- (f) Details of any arrangements whereby any other persons or groups are authorised by law enforcement agencies to perform specific law enforcement related tasks during the electoral period.

## **Media and Internet Regulatory Bodies**

25. Media and internet regulatory bodies shall adopt regulations on media coverage during elections that ensure fair and balanced coverage of the electoral process and transparency about political advertising policy on media and online media platforms. Such regulations shall proactively disclose to the public:

- (a) The complaints procedure against media organisations that violate the regulations;
- (b) The enforcement mechanism for ensuring compliance with the decisions taken and sanctions imposed;
- (c) The code of conduct for online media; and
- (d) Details of all complaints or petitions received during the electoral period and how these were addressed.

26. The body responsible for regulating the broadcast media and any other relevant national security, public or private body involved in the provision of telecommunication services shall refrain from shutting down the internet, or any other form of media, during the electoral process.

27. In exceptional cases in which a shutdown may be permissible under international law, the reasons for any shutdown shall be proactively disclosed. Such limitation shall:

- (a) Be authorised by law;
- (b) Serve a legitimate aim; and
- (c) Be necessary and proportional in a democratic society.

28. Any decision of the Media or Internet Regulatory Body shall be subject to judicial review, which shall be undertaken on an expedited basis.

## **The Media and Online Media Platform Providers**

29. Print, broadcast and online media, whether publicly or privately owned, shall proactively disclose the following:

- (a) Editorial and ethical codes or guidelines utilised in undertaking election coverage, including provisions prohibiting incitement to discrimination, hostility or violence, if any;

- (b) Sanctions for transgressions of these codes or guidelines;
- (c) Complaints procedures for handling breaches of these codes or guidelines;
- (d) Number of complaints received and how these were addressed;
- (e) Code of conduct for staff on procedural matters;
- (f) Criteria for the allocation of airtime or news coverage for political campaign advertisements and activities;
- (g) Polling methodologies and margins of error;
- (h) Actual allocation of airtime or news coverage for political campaign advertisements and activities;
- (i) Plan for transparent repository of all political advertisements, including those targeted at individuals or specific groups on online media;
- (j) Coverage plan for election day;
- (k) Criteria for the selection of election commentators, political analysts or other experts;
- (l) Guidelines on responsible use of online media; and
- (m) Conflict of interest media ownership information, political affiliations or party support arrangements, if any.

## **Civil Society Organisations**

30. Subject to exceptional circumstances in which it can be shown that their operations will suffer demonstrable harm, civil society organisations involved in the electoral process shall proactively disclose the following information:

- (a) Organisational aims and objectives;
- (b) Membership and composition;
- (c) Details of key staff and office bearers;
- (d) Sources of funding;
- (e) Operational plans, methodology, manuals and their implementation for civic and voter education;
- (f) Possible conflict of interest, which may include the promotion of a particular religious, ethnic or political interest or bias or prejudice in cases where they participate in both voter education and election observation; and
- (g) Campaign funders.



## **Implementation**

31. State Parties shall adopt legislative, administrative, judicial and other measures to give effect to these Guidelines.

32. State Parties shall facilitate the dissemination of these Guidelines to relevant electoral stakeholders, as well as all stakeholders in the electoral process such as Parliament, the Judiciary, National Human Rights Institutions and the electorate.

33. State Parties shall ensure that relevant electoral stakeholders are trained in relation to the content of these Guidelines. In particular, these Guidelines shall form part of the training curriculum for officials of Election Management Bodies, election observers, political parties, law enforcement agencies, media and internet regulatory bodies, media and online media platform providers, and civil society organisations participating in the electoral process.

34. State Parties shall, in each Periodic Report submitted to the African Commission in accordance with Article 62 of the African Charter, provide detailed information on the measures taken to facilitate compliance with the provisions of these Guidelines.

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