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**AFRICAN UNION ELECTION OBSERVATION MISSION TO THE PRESIDENTIAL
ELECTION IN THE ARAB REPUBLIC OF EGYPT HELD ON 26 - 28 MAY 2014**

PRELIMINARY STATEMENT

09 June 2014

I. INTRODUCTION

1. At the invitation of the Government of the Arab Republic of Egypt and the High Presidential Elections Committee (HPEC), the Chairperson of the African Union Commission (AUC), H.E. Dr. Nkosazana Dlamini-Zuma, deployed an African Union Election Observation Mission (AUEOM) to the Presidential Election held on 26-28 May 2014.
2. The Mission was led by H.E. Mohamed Lemine Ould Guig, former Prime Minister of the Islamic Republic of Mauritania. It comprised forty five (45) competent observers drawn from the Pan-African Parliament (PAP), Election Management Bodies, Human Right Institutions, Universities and think tanks and Civil Society Organisations drawn from various African countries.
3. The Mission was supported by a team of technical experts from the Department of Political Affairs of the African Union Commission, Pan-African Parliament (PAP) and the Electoral Institute for Sustainable Democracy in Africa (EISA).
4. The AUEOM has a mandate to observe the Presidential Election in conformity with relevant AU instruments, notably, the 2007 African Charter on Democracy, Elections and Governance, the 2002 OAU/AU Declaration on the Principles Governing Democratic Elections in Africa and the 2002 AU Guidelines for Elections Observation and Monitoring Missions. Relevant international instruments governing election observation, such as the 1948 Universal Declaration for Human Rights (UDHR) and the 2005 Declaration of Principles for International Election Observation, also guided the AUEOM to Egypt. The Mission was further guided by the Constitution of the Arab Republic of Egypt and other relevant national laws.

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5. The observations and recommendations of the AUEOM are based on the principles and standards for the conduct of democratic elections as enshrined in the aforementioned international and AU instruments.
 6. This is a preliminary statement of the AUEOM. A detailed final report of the AUEOM will be released within two months after the election and will be shared with relevant authorities in the Arab Republic of Egypt once ready.

II. OBJECTIVES AND METHODOLOGY OF THE MISSION

7. In line with the mandate provided in the aforementioned AU instruments in paragraph 4 above, the objective of the AU Mission was to make an independent, objective and impartial assessment of the Presidential Election in the Arab Republic of Egypt, as contained in Article 21 of the African Charter on Democracy, Elections and Governance.
8. The nature and character of the AUEOMs is well defined within the African Charter on Democracy, Elections and Governance (ACDEG). Specifically, Article 21 of the Charter provides that:
 - The Commission shall ensure that these missions are independent and shall provide them with the necessary resources for that purpose.
 - Electoral observer missions shall be conducted by appropriate and competent experts in the area of election monitoring, drawn from continental and national institutions such as, but not limited to, the Pan-African Parliament, national electoral bodies, national legislatures and eminent persons taking due cognizance of the principles of regional representation and gender equality.
 - Electoral observer missions shall be conducted in an objective, impartial and transparent manner.
 - All electoral observer missions shall present the report of their activities to the Chairperson of the Commission within a reasonable time.
 - A copy of the report shall be submitted to the State Party concerned within a reasonable time.
9. To achieve its stated objective, the Mission undertook the following activities in accordance with the above-mentioned AU instruments:

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- i. The Mission consulted key electoral stakeholders before the Election Day to ascertain their level of preparedness and understand the political environment for the election. The stakeholders consulted included the High Presidential Elections Committee (HPEC), presidential candidates, civil society organisations and other international organisations and observer missions on the ground.
 - ii. The Mission also held a three-day orientation workshop for the AU observers, in which they were briefed on the electoral and political context in Egypt, the legal framework governing elections, the African Union instrument governing the conduct of elections in Africa and AU observation methodology. Observers were also provided with information on the use of AU Election Day checklist for data collection.
 - iii. On 24 and 25 May 2014, Observers were deployed in fifteen (15) teams to fifty two (52) districts in the ten (10) governorates, namely: Alexandria, Aswan, Beheira, Beni Suef, Cairo, Giza, Fayoum, Ismailia, Luxor and Port Said where they met with local stakeholders and observed the last stages of electoral preparations. They also familiarised themselves with the polling centres and stations within their areas of deployment.
 - iv. On polling days, the teams visited a total of 261 polling stations to observe the procedures and voting processes during the three-day election.

III. PRELIMINARY FINDINGS

a. The Context

10. The AUEOM notes that the 2014 elections took place within the context of Egypt's long-winding transition that began with the January 2011 popular uprising and a second political transition since July 2013. The events of June-July 2013 led to the ousting of the country's first democratically elected president. During its 384th Meeting held in Addis Ababa, Ethiopia, the Peace and Security Council resolved that the overthrow of the democratically elected president does not conform to the relevant provisions of the Egyptian constitution and in contravention of the key African Union instruments

including the 2000 Lome Declaration, the 2007 African Charter on Democracy, Elections and Governance. The PSC concluded that the overthrow of the democratically elected government constituted an unconstitutional change of government which contravenes articles 23, 24 and 25 of the African Charter on Democracy, Elections and Governance. The Council finally decided to suspend the participation of Egypt in the AU activities until restoration of constitutional order.

11. The AUEOM further notes that while recognizing the political and security context, the pre-election environment was largely impacted by the protest law, which undermined freedom of expression and created limited space for opposition parties to voice their grievances due to fear of criminalisation. The pre-election context was, therefore characterised by a clamp down on public protests, mass arrests of activists and journalists. This in essence undermined the basic principles of participation as enshrined in the Universal Declarations of Human Rights. Egyptian election was therefore conducted within the context of limited space, rights and freedom.

b. The Constitutional and Legal Framework

12. The legal framework for the conduct of the 2014 Presidential Election consists of the Constitutional Declaration of 18 January 2014; Law 73 of 1956 on the Exercise of Political Rights and its amendments; Decree Law No22/2014 of 8 March 2014 regulating Presidential Elections, and the regulations issued by the PEC.

13. Egyptians went to the poll in January 2014 to vote on a new constitution. AUEOM notes that the 2014 constitution recognises fundamental rights and freedoms. It provides for a multi-party political system based on the principles of separation of powers in Article 5; and for universal adult suffrage in regularly held public elections conducted by direct secret ballot. It also provides for the establishment of an Election Management Body.

14. With regard to the timing of the elections, the AUEOM noted the presidential elections were not called within the stipulated 30 to 90 day timeframe provided in Article 230 of the 2014 Constitution.

15. The Constitution provided for a two round majoritarian electoral system in Article 143 which stipulates that: *'The President of the republic is elected by direct secret ballot, with an absolute majority of valid votes'*. The Mission noted that the recognition and guarantee of fundamental rights and freedoms as contained in Article 4 is in line with provisions of the Universal Declaration of Human rights (article 21), the International Covenant on Civil and Political Rights (article 25) as well as the provisions of the African Charter on Democracy, elections and Governance. However, it is important to note that whilst these legal guarantees were in place, the repression and criminalisation of opposition undermined these legal guarantees.

c. Election Management

16. The AUEOM noted that Article 228 of the Constitution provides for the establishment of an Independent National Elections Commission. The May 2014 presidential election was administered by the Presidential Election Committee (PEC), which was supported by 353 district committees. The Mission noted that preparations and the conduct of the election were effectively and efficiently managed by the PEC. Materials were distributed across the country and the administration of the election was handled in a professional manner.

17. The 2014 Presidential Election Commission (PEC) was also efficient in the way it carefully issued and translated guidelines thereby providing access to vital information by voters.

d. Voter Registration and the Voter's Roll

18. The voter register was compiled from the national civil registry of Egypt. According to Article 5 of the Law No. 73 of 1956 regulating the Exercise of Political Rights, *'The electoral register shall be automatically created from national ID data held in the database of the Civil Status Authority of the Ministry of the Interior. It shall contain data on eligible voters who have not been excluded for any reason from practicing their political rights (and updated) throughout the year.'* To compile the voters' list, the personal information of all 18 years-old Egyptian citizens possessing a National Identity Card is transferred from the ID database to the voters' roll database. Article 6 of Law 22/2014 tasks the PEC with the supervision of the preparation of the voters' lists for the presidential elections.

19. The Secretary General of the PEC on 23 May 2014 confirmed that the voter register is reliable because the national registry is continuously updated in order to include citizens who turn 18 and remove the deceased people. The AUEOM noted that this is a cost-effective method of maintaining the voters' roll.

e. Political Party Registration and Candidate Nomination

20. Article 141 and 142 of the 2014 Constitution and Articles 1 and 2 of Law No. 22/2014 stipulate the requirements for candidates' nomination. Stakeholders consulted by the Mission were generally happy with the conditions for candidacy.

21. Law No. 22/2014 requires the PEC to set the nomination period which should not be less than 10 days from the opening of nomination and not more than 30 days from nomination of candidates. Articles 13 – 15, Law No. 22/2014 provides for PEC to check for compliance and accept or reject nomination thereby announcing and providing reasons thereof.

22. At the end of the nomination period, only two candidates¹ submitted applications for candidacy. This is a considerable reduction in the number of presidential candidates compared to the 2012 elections.

f. Campaign Process and Campaign Finance

23. The AUEOM noted that the campaign period was largely impacted by the protest law that limited the conduct of public rallies and gatherings for campaign purposes. The campaigns took place mostly in the media space using adverts, posters, press conferences and TV interviews. The AUEOM were not able to follow campaign activities outside of Cairo and only observed campaign through the media.

24. Article 22 of Law No. 22/2014 provides ceilings on campaign expenditure. The law limit presidential campaign expenditure to L.E. 20 million for the first round, and L.E. 5 million for a runoff. Articles 23 & 24 also stipulate acceptable sources of campaign funds. The law restricts sources of funding to contributions in cash or kind made by only Egyptian natural persons. The law

¹ Field Marshall Abdel-Fattah Al-Sisi, the former commander in the chief of the Egyptian armed forces and Hamdeen Sabahai, one of the candidates in the 2012 presidential elections.

however does not provide details of the mechanism for monitoring compliance with these provisions on campaign finance and to ensure a level playing field for all candidates.

g. Media

25. Media regulation for the 2014 Presidential election is regulated by Article 20 of Law 22/2014. PEC has the authority to ensure compliance with this article and correct violations. The Mission noted that although equal access to public media was guaranteed by the law, access to private media remained unequal.

h. Election Disputes and Appeals

26. The AUEOM notes that Article 7 of the Presidential law grants final authority to the PEC in the determination of electoral disputes and prohibits the review of its decisions. This invariably makes the Commission the judge and jury of the electoral process and does not provide adequate space for aggrieved candidates to challenge the decision of the PEC.

i. Preparedness of the Electoral Management Body

27. The Mission observed that the PEC preparation and management of the entire electoral process were such that it contributed to the overall integrity of the process and enhanced public confidence. Most of the stakeholders met by the AU Mission expressed confidence in Egyptian judges and trust in the ability of the PEC to preside over a credible and transparent process.

28. The Mission observed that the polling staff were adequately trained on all aspects of the electoral process and demonstrated high levels of professionalism, competence and understanding of their roles and responsibilities.

IV. POLLING OBSERVATION

1. Opening the Poll

29. The Mission noted that on the first day of the election, most polling stations visited by the AUEOM teams opened on time with a few exceptions of stations that were delayed up to 30 minutes. On the second and third day of

the election, there were few cases of late opening reported as a result of travel logistics for electoral personnel and in a few cases materials that were not stored at the polling stations and the late arrival of presiding judges. Overall in the polling stations where AU observers covered 98.9% of the polling stations opened on time.

2. Polling Stations

30. The Mission noted that the display of the voter's list outside the voting station allowed voters to identify their polling station in advance. AUEOM noted that 99.6% of the polling stations observed by AU observers were adequately laid out in a manner that allows for easy flow of voters.
31. However, the Mission noted the inaccessibility of a few number of polling stations for persons with disabilities and the elderly. Some of the polling stations were located in the first floor thereby making it difficult for persons with disability and the elderly. Overall, 21.0% of polling stations visited by AU observers were not easily accessible by the elderly and persons with disability.

3. Election Materials

32. Election materials were distributed on time and in sufficient quantity throughout the three days. The serialisation of the ballot papers makes it easier to manage and account for used and unused ballots. AUEOM did not observe any cases of insufficient election material in all the polling stations visited. Ballot boxes were sealed properly and in full public view. 98.6% of AU observers confirmed that election materials were properly handled in a professional manner.

4. Election Personnel

33. The Mission observed that polling staffs were in sufficient number and their handling of the voting process reveals that they received adequate training on all aspect of electoral process. They demonstrated high level of professionalism, competence and clear understanding of their roles and responsibilities. However observation was made regarding the non-checking of fingers for ink and the inking of fingers after voting. Overall, AU observers rated the competence of polling personnel as very good and good in all instances.

5. Independent observers and party and candidate agents

34. The PEC accredited citizen and international observer groups in due time and displayed a full availability to attend to the Mission's requests. Citizen and international observers were granted easy access to the polling centres and stations to attend the vote and the counting procedures. In addition to AUEOM, other international observer groups that observed the election include EU EOM, the League of Arab States, the Common Market for East and South Africa, and L' Organisation pour la Francophonie and Arab Parliament.
35. The Mission noted with concern the insufficient number of citizen observers in the polling stations visited. The Mission believes that the presence of citizen observer groups contributes to the reinforcement of the credibility of the electoral process and to the appropriation of the process by the citizens.
36. Candidates' agents were also granted access to polling stations. The AU observers noted that they were present in many polling stations. However, the Mission noted that in most polling stations visited party/candidate agents were not fully aware of their roles and responsibilities. The candidates were unequally represented in the polling stations visited. Candidates' agents present were authorised to sign the minutes of the counting and were handed out copies of the polling stations results.

6. The Voting Process

37. The voting was generally conducted efficiently in a peaceful atmosphere. AU observers generally rated the polling process as very good and good and 99.6% confirmed that the polling environment was peaceful.
38. AUEOM also noted cases of where, polling staff did not check the ink on voters' fingers to ascertain whether they had previously voted. Furthermore, there was no consistency in regard to the finger inked after voting.
39. The secrecy of the vote was generally upheld with the exception of isolated cases of misplacement of the booths due to the limited space in some voting stations. Voters' secrecy was guaranteed in 91.0% of polling stations observed by AUEOM.

- **Voting Extension and Voter Turnout**

40. On the second day of voting, the PEC announced that the poll would be extended to a third day. The AUEOM noted that this additional day of polling was not justified. The Mission did not observe any logistical challenge that would have necessitated voting extension. There was also no sign of voters who were unable to vote on the first and second day. The Mission also notes that the announcement that failure to vote would result in fine of 500 EGP goes against fundamental principles of rights and freedom.

41. The Voting population in Egypt is estimated around 54 million. The Mission observed that the turnout of about 44% of the voting population of about 53 million eligible voters is lower than the turnout in the last presidential election.

7. Closing and Counting Process

42. The closing and counting went without any form of disturbance or disagreement although procedures were not consistently applied. At some of the polling stations observed by AUEOM, the counting and reconciliation of ballots was not adequately followed.

43. However, the Mission notes with satisfaction that party and candidate agents were allowed free access to voting and counting and that they were present at most of the stations visited by the AUEOM. In addition a further positive decision by the PEC was that these agents were provided with a copy of the official results at the polling stations at the conclusion of the count.

8. Participation of Women on Election Day

44. The Mission wishes to commend the remarkably high level of participation and inclusion of Egyptian women in the voting process. Women were engaged as presiding judges, polling officials, party agents, and election observers. Women also turned out in large numbers to vote during the three days of polling.

9. Security

45. The pre-election security environment was clouded with uncertainty. There was arrest and life imprisonment of opposition groups especially the members of the banned Muslim Brotherhood. However, the Mission noted that the security environment during the election was peaceful with no major incidents recorded by AU observers. Police officers as well as soldiers were present in sufficient number in all polling centres visited by the observers. In most cases, the security forces were very calm and neither obstructive nor intimidating and effectively managed the voters waiting to cast their vote.

V. Conclusion

- i. The AUEOM concludes that the 2014 Presidential Election in the Arab Republic of Egypt was held in an environment which allowed willing voters to effectively participate in the process and exercise their right to vote.
- ii. The election was conducted in a stable, peaceful and orderly environment.
- iii. The AUEOM congratulates the Government and people of Egypt for conducting a peaceful poll.

VI. Recommendations

46. Based on its observations and findings, the AUEOM makes the following recommendations;

To Government:

- i. It is important to note that the resolution of election disputes is a crucial aspect of the electoral process and impacts on the overall democratic stability of a country. The AUEOM, therefore, recommends that the Egyptian government should consider repealing Article 7 of the Presidential law that grants final authority to the PEC in the determination of electoral disputes. Establishing an electoral court whereby aggrieved candidates can legally challenge the decision of the PEC is one possible option.
- ii. The Mission encourages the government to provide mechanism for monitoring compliance to campaign financing in a way that would encourage transparency and promote level playing field for all candidates.

Such mechanism should ensure adequate disclosure, independent audit to ensure compliance.

- iii. The Mission recommends that the Government of Egypt should pursue inclusivity in the electoral system and provide adequate space for oppositions.

To PEC:

- iv. The Mission implores the PEC to ensure that polling location are accessible to the elderly and people with disability
- v. The Mission recommends that the PEC must provide further training for polling officers especially to ensure compliance in checking of inked fingers before voting and inking after voting.
- vi. The Mission urges the PEC to provide further training to candidate and party agents on their roles and responsibility on Election Day.
- vii. With less turnout compared to the previous election, the Mission recommends that the PEC must provide civic and voter education in collaboration with CSOs especially well ahead of the upcoming parliamentary elections