



Presidential Elections – 21 July 2015

PRELIMINARY STATEMENT Bujumbura, 27 July 2015

Summary

The United Nations Electoral Observation Mission (MENUB), pursuant to Security Council Resolution 2137 of 2014 to observe and report on the Burundian electoral process before, during and after the elections, began its observation activities on 1 January 2015. MENUB presented its preliminary findings on legislative and communal elections on 2 July 2015. The following are MENUB's preliminary conclusions on the conduct of the presidential elections:

The presidential election took place on 21 July after two postponements in an environment of profound mistrust between opposing political camps. The decision of the incumbent President to run for another term precipitated a deep political and socio-economic crisis.

The Constitutional Court's ruling on the admissibility of the President's candidature for a third mandate did not solve the wider political problem of presidential term limits in Burundi, but rather exacerbated further controversy, protests and tensions.

Freedoms of expression, assembly and association, essential conditions for the effective exercise of the right to vote, remained severely impaired. Violence, although observed in a less intense degree than during the period preceding the 29 June elections, remained an unfortunate feature of the entire process.

The various dialogue efforts, including the most recent initiative under the leadership of Ugandan President Yoweri Museveni and the East African Community, remained inconclusive. Also, the parties did not reach agreement on a consensual electoral calendar.

Nevertheless, on Election Day Burundians in most places went peacefully to the polls to cast their ballots.

Out of the eight presidential candidates, four declared that they would withdraw from the presidential race. However, their names remained on the ballot.

Media freedom remained severely restricted. Private and independent media outlets that were destroyed during the failed coup did not reopen, despite national and international appeals to the Burundian government to enable media to operate. State-owned media did not provide a balanced media coverage to all presidential candidates.

The *Commission Electorale Nationale Indépendante* (CENI) conducted adequate logistical preparations for the presidential elections. Polling activities in the observed polling sites largely followed procedures.

Tabulation at the observed municipal and provincial locations was carried out expeditiously, albeit in a disorganized manner.

Based on the above observations, MENUB concludes that while Election Day was relatively peaceful and conducted adequately, the overall environment was not conducive for an inclusive, free and credible electoral process.

Pursuant to the United Nations Security Council Resolution 2137, MENUB will continue to observe the remaining stages of the presidential elections, as well as all the other elections planned for 2015. MENUB reiterates the Secretary-General's call for the cessation of all forms of violence, respect of basic human rights and resumption of dialogue.

Preliminary Findings

Overall Context

After two postponements and amid a continued political impasse, Burundi's presidential elections took place on 21 July. In the weeks and months leading up to the elections, the controversy over President Nkurunziza's candidacy exacerbated the political and electoral environment. Ahead of his designation by the ruling party, the *National Council for the Defense of Democracy-Forces for the Defense of Democracy* (CNDD-FDD), many national and international stakeholders urged the Government to ensure that peace and stability were preserved and that the gains brought about by the Arusha Peace Agreement were safeguarded.

Some civil society organizations, part of the political opposition and some members of the CNDD-FDD repeatedly criticised the incumbent President's intention to stand as a violation of the Arusha Agreement and the Constitution. Before the incumbent President's official nomination at the CNDD-FDD congress on 25 April, several opposition leaders warned that the decision could plunge the country into chaos. Consequently, anti-third term demonstrations began in Bujumbura, setting the stage for a tense and violent electoral environment that culminated in the attempted coup of 13 May.

Shortly after, the Government initiated a dialogue to find a solution to contentious issues. Dialogue participants requested the facilitation of the UN through the Special Envoy of the Secretary General for the Great Lakes Region. The Special Envoy was joined by the African Union's Special Representative to the Great Lakes Region, the Executive Secretary of the International Conference on the Great Lakes Region (ICGLR), members of the East African Community and the Common Market for Eastern and Southern Africa (COMESA) Panel of Eminent Persons to form an International Facilitation Team. This Team worked with Burundian stakeholders to build consensus on critical issues throughout the months of May and June. Other initiatives included three EAC Summits, and an AU Summit. Following the breakdown of the dialogue that preceded the legislative and communal elections, the UN remained engaged through the SRSG for Central Africa and Head of UNOCA in the Joint International Facilitation Team. Dialogue efforts remained however inconclusive.

On 6 July, the EAC convened an Emergency Summit in Dar es Salaam, Tanzania to address the political impasse in Burundi and appointed Ugandan President Yoweri Museveni to lead dialogue efforts. In their statement, the Heads of State called for the presidential elections, then set for 15 July, to be pushed back to 30 July, to "allow time for the facilitator to lead the dialogue". On 9 July, the African Union's Peace and Security Council endorsed the EAC's conclusions. The following day, a presidential decree postponed the presidential elections to 21 July.

On 14 July, President Museveni convened all political party and civil society representatives in Bujumbura, while advising that all the issues on the dialogue agenda

would be discussed. Later, under the chairmanship of Ugandan Minister of Defense, dialogue participants were able to reach agreement on the need for African Union military and human rights experts to oversee the disarmament of armed groups. The dialogue was suspended sine die on 19 July after the government suspended its participation. Out of eight presidential candidates, four (Jean Minani, Domitien Ndayizeye, Sylvestre Ntibantunganya and Agathon Rwaso) publicly declared their withdrawal from the presidential race. However, their names remained on the ballots with CENI indicating that no candidate had formally withdrawn in the manner required by law.

Meanwhile, on 9 July, the UN High Commissioner for Human Rights expressed concerns to the UN Security Council over an escalating pattern of politically motivated violence. The rumoured threat of an armed rebellion developing abroad added to the atmosphere of fear and the feeling that Burundi was on the brink of more devastating violence. Following the 13 June Summit recommendations, on 22 July the African Union began deployment of military and human rights observers to monitor the disarmament of armed groups.

Legal Framework

The modality of electing the President of the Republic and the presidential term limits are set forth in articles 96 and 302 of the 2005 Constitution and in articles 89 and 91 of the electoral code of 2014. Constitutional article 96 and the electoral code article 89 both stipulate that the President of the Republic is elected through universal direct suffrage for a term of five years renewable only once. The electoral formula is based on a two-round system: in case no candidate receives the absolute majority of valid votes at the first round, a simple majority run-off between the two best performing first round candidates is held within 15 days.

On 28 April, 14 Senators referred to the Constitutional Court for an interpretation of Constitutional articles 96 and 302. On 5 May, the Constitutional Court recognized the constitutionality of the candidature of the incumbent President. The Court opted to underline "*the spirit of the legislature at the time of drafting the Constitution*" and "*the will of the Burundian legislature reflected in the texts that inspired the Constitution*". While the Court acknowledged the ambiguity of article 302, it ruled that its special nature could not prevent the candidacy of the outgoing President in a second election by universal direct suffrage.

The decision of the Constitutional Court sparked further controversy. The Vice-President of the Constitutional Court fled the country a day before the ruling, declaring that the Court's judges were under enormous pressure and had received death threats from senior government officials in order to rule in favour of the constitutionality of the candidature. Several political parties and civil society organizations opposing the third term questioned the independence of the Court, referring to the Court appointment modalities to argue that judges could easily be influenced by the incumbent President. Opposition political parties, such as Sahwanya Frodebu and MSD also argued that the ruling was invalid, as it had not been signed by the Court's Vice-President. President Nkurunziza welcomed the ruling as a way forward out of the stalemate, adding that this would be the last time he would stand. The CENI declared that it was not within its

remit to enter a debate on the constitutional legitimacy of the incumbent President's candidature. After the Constitutional Court ruling, it merely performed an administrative verification of the validity of the documents submitted for the candidature.

The long-drawn debate on the eligibility of the outgoing President and the deep crisis that ensued highlighted the eminently political nature of the issue of presidential term limits in Burundi.

Election Administration

The *Commission Electorale Nationale Indépendante's* (CENI) logistical and administrative preparations for the presidential elections were adequate and completed in a timely manner. The CENI was able to prepare for the presidential elections while simultaneously completing the tabulation of communal and legislative results and adjudicating communal and provincial level complaints.

For the presidential elections, all electoral materials were timely delivered by municipal electoral commissions (CECIs) to the polling station locations. Polling station staff training took place on the same day in many locations. MENUB observers evaluated the observed training sessions as mostly inadequate. As for the legislative and communal elections, CENI's voter education activities continued to be extremely limited. On *Radio and Télévision Nationale du Burundi* (RTNB), there were daily advertisements aired on prime time for the duration of the presidential campaign.

The final phases of the legislative and communal elections considerably overlapped the preparations for the presidential elections. CECIs and CEPs struggled to strike a balance between conflicting priorities, and the overlap impacted communal tabulation activities. MENUB observed a lack of transparency during the results tabulation for various reasons, including insufficient training and poorly completed result sheets. CENI stated that this was a consequence of last minute withdrawals of polling stations staff and subsequent replacements carried out without respecting CENI instructions.

Nomination of Candidates for the Presidential elections

The submission period for presidential nominations began on 30 April and ended on 9 May. Overall, the nomination process of candidates was inclusive. No presidential candidate from the opposition was rejected by CENI, despite previous concerns expressed by a few opposition leaders that CENI might invalidate their candidacies. CENI received eight applications, including President Pierre Nkurunziza's submitted by the CNDD-FDD. The other applicants were Agathon Rwasa (independent list *Abibenga Amizero y'Abarundi*), Gerard Nduwayo (UPRONA), Jacques Bigirimana (FNL), Jean de Dieu Mutabazi (COPA), Jean Minani (FRODEBU-Nyakuri) and former Presidents Domitien Ndayizeye (RANAC) and Sylvestre Ntibantuganya (independent list IJAMBO). All candidatures were validated by the CENI on 9 May.

Campaign Environment

The campaign period for the presidential elections started on 25 June and was extended until 18 July, following the postponement of the presidential elections to 21 July. Notably, the start of the presidential campaign overlapped by three days both the campaign and the requisite silence period for the 29 June legislative and communal elections. The presidential campaign activities conducted during the silence period for the legislative and communal elections were confusing and defeated the purpose of the mandatory silence period.

In comparison with the legislative and communal elections, MENUB observed a reduction in the number of campaign events and activities and a general lack of enthusiasm among the population. With a few exceptions at the beginning and at the end of the campaign period, parties held smaller meetings or door-to-door canvassing activities instead of large rallies as previously observed. Mounting restrictions on freedom of assembly, a lack of campaign funds, supporters' fatigue after a long legislative and communal campaign period, repeated changes in the electoral calendar and continued violence (mainly in Bujumbura) likely caused the change in campaign strategies. Further, the opposition's boycott of the legislative and communal elections played an important role in shaping a subdued presidential campaign. MENUB noted that CNDD-FDD was the only party that visibly campaigned throughout the country while the FNL, UPRONA and COPA coalition were observed campaigning in certain areas. MENUB did not observe any sign of campaign by the other opposition parties.

As the CNDD-FDD's presidential candidate, the incumbent President was observed campaigning in the provinces of Cankuzo, Karusi, Ruyigi, Cibitoke, Bubanza, Makamba and Bujumbura Rurale. The CNDD-FDD campaign's messaging focused on development, healthcare assistance and education. The FNL candidate was observed campaigning in Cibitoke province, appealing to FNL members to massively participate in the presidential elections.

As it concerns abuse of public resources, MENUB observed use of state administration vehicles for several CNDD-FDD rally preparations in Makamba, Ngozi, Bujumbura Rural (municipalities of Ntahangwa, Kabezi, Nyabiraba, Mutimbuzi) and Bujumbura Maire.

Media

During the presidential campaign, media freedoms remained severely restricted. The private and independent media outlets destroyed during the failed coup did not reopen, despite national and international appeals to the government to enable the media to operate. The absence of major private and independent media coupled with the departure of a number of prominent journalists from Burundi affected the presidential campaign, by limiting the electorate's access to plural sources of information. The lack of diverse reporting increased the circulation of rumors and spread fear. Moreover, the activities of the Burundian media oversight organizations such as the Press Observatory in Burundi (OPB), the Burundian Association of Radiobroadcasters (ABR) and the

Organization of Burundian Journalists (OBJ) were paralyzed after their representatives had fled the country due to harassment and intimidation.

Against this backdrop, since 10 July, Burundian journalists in exile in Rwanda have set up an Internet radio called *Inzamba* to present their views on the political situation in Burundi and freely address any issues of their choice. However, the initiative did not appear to have any major impact on the media scene during the presidential campaign.

The state-owned *Radio and Télévision Nationale du Burundi* (RTNB) continued to dominate the media landscape. The National Communication Council (CNC) had issued rules that provided broadcasting time for candidates on both RTNB Radio and TV, in accordance with the electoral code and the code of conduct for media and journalists for equal and fair access to state media. Between 15 and 17 July, presidential candidates were granted a 20-minute program in Kirundi to present their political programs. Only three candidates, namely Gerard Nduwayo (UPRONA), Jean de Dieu Mutabazi (COPA) and Pierre Nkurunziza (CNDD-FDD) through his spokesperson availed themselves of this opportunity. They also made use of the free print space provided by two state-owned newspapers *Le Renouveau du Burundi* and *Ubumwe*.

The state broadcaster RTNB failed to fulfil its obligation to provide balanced coverage of the different political contestants, as noted by MENUB's media monitoring. The incumbent received a disproportionate coverage compared to the other presidential candidates.

Human Rights Issues

Throughout the electoral process, the freedoms of opinion and expression, information, movement, association and peaceful assembly suffered severe restrictions by the authorities, resulting in a significant shrinking of democratic space.

In the past months, Office of the High Commissioner for Human Rights (OHCHR) has documented over 300 cases of arbitrary arrest and detention of demonstrators, human rights defenders, political opponents and journalists, including numerous cases of torture and other forms of ill-treatment. In his report to the Security Council on 9 July, the UN High Commissioner for Human Rights provided details on the acts of violence and human rights violations committed in the course of the electoral process. These acts of violence have contributed to the flight of Burundians to neighbouring countries. As of 21 July, the UN High Commissioner for Refugees (UNHCR) reported that Burundian refugees in the region had reached the figure of 172,562.

Participation of Women

None of the presidential candidates was female, although Burundian electoral legislation is quite progressive in promoting women's participation.

During the presidential campaign, women leaders and political actors were accorded very limited visibility or access to the state-owned broadcaster. On 9 July, an electoral program sponsored by *Search for Common Ground* was covered by the national radio. Women from different local organizations and local political party leaders were given

the floor to discuss voter and civic education activities targeting women voters as well as appealing for peaceful elections.

On 20 July, the Women Forum called on Burundians and women in particular to go out and vote in the presidential elections. It further called on them to vote for a candidate with a political program to empower women, lamenting the lack of seats for women political figures in the previous elections.

Other Electoral Observation Groups

Following the EAC's Heads of State Emergency Summit, the EAC deployed a 30-person delegation to observe pre-electoral preparations and polling day proceedings. EAC was able to deploy nine teams that covered 15 provinces. MENUB met with the EAC mission leadership to exchange on observation plans and methodology before and after Election Day.

Polling, Counting and Tabulation

On Election Day, MENUB deployed 21 teams in all 18 Provinces covering 67 municipalities out of 119. MENUB observers were present in 249 polling stations during opening and voting hours. They reported a calm environment throughout the country with no security incidents observed. The observers reported that Burundians went out to cast their vote, though they noted a lower level of participation than in the legislative and communal elections.

Most of the polling stations visited opened on time. The few late openings were due to late arrival and insufficient number of polling station members, and in a few cases to the incompetence of the members of polling station. In around 60% of polling stations visited, voters were added to the provided additional voter lists. In the polling stations observed, voting was generally well organized and run smoothly. All essential material was present, and voting procedures were overall respected. However the inking procedures to prevent double-voting was not checked in the majority of polling stations observed and in many cases voters were allowed to vote only with the electoral card without an identification document.

Party agents from CNDD/FDD were present in almost all polling stations visited and UPRONA was the second most visible party. Party agents of the boycotting parties were not observed. Domestic observation groups generally considered close to the ruling party were present in approximately 50% of polling stations visited. The largest groups observed by MENUB were *Action Burundaise pour l'Afrique (ABA)*, *Association pour une Jeunesse Africaine Progressiste (AJAP)*, *Collectif Des Organisations Pour Le Développement Intégré (CODIP)*, *Association d'Assistance aux Jeunes Vulnérables pour le Développement (JVD)*, *Observatoire National des Elections et des Organisations pour le Progrès (ONELOP)*, *Ministère Africain pour la Compassion au Burundi (MAC)*, and *Union des Eglises Chrétiennes du Burundi*.

The counting activities observed by MENUB took place expeditiously and in a more organized fashion than on 29 June elections. Tabulation at CECI and CEPI levels was conducted in the night of the Election Day and the early hours of 22 July. Due to security

restrictions, MENUB observers were not able to follow all stages of the CECI and CEPI tabulation processes overnight. However, MENUB observed that some polling station results sheets were received open by CECIs in Muramvya, Gisozi, Rumonge, Ruyigi, Songa, Mukaza, Ntahanywga, and Bubanza. MENUB observers were not always able to follow municipal tabulations, due to conflicting information at CECIs level and last minute verbal communication from CENI. MENUB continues its analysis and observation of post electoral complaints.

The United Nations Electoral Observation Mission in Burundi (MENUB) was inaugurated on 1 January 2015 following the Security Council Resolution 2137 (2014) in which the Security Council took note of the request of the Government of Burundi and mandated MENUB to observe and report before, during and after the 2015 elections. Since January 2015, MENUB officials have met with government officials, political party leaders, religious groups and leaders, media and civil society representatives to collect information on all aspects of the electoral process. MENUB follows the Declaration of Principles for International Election Observation endorsed at the United Nations in October 2005. Pursuant to its Security Council mandate, MENUB will continue to observe post-election developments, eventual complaints and appeals, as well as all other elections scheduled for 2015. MENUB wishes to express its appreciation to the Government of Burundi, the CENI and all other Burundian authorities, political parties and civil society as well as the people of Burundi for their cooperation and assistance in the course of the observation.

An electronic version of this Preliminary Statement is available <http://menub.unmissions.org>

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