

# **Report of the Commonwealth Observer Mission**

## **SOUTH AFRICAN NATIONAL AND PROVINCIAL ELECTIONS**

7 May 2014



**The Commonwealth**

## TABLE OF CONTENTS

<b>Chapter 1</b>	<b>Introduction</b>	<b>3</b>
<b>Chapter 2</b>	<b>Political Environment</b>	<b>4</b>
	Background	4
	The campaign environment	5
	Other issues:	7
	Status of the IEC Chairperson	7
	Emergence of new political parties	7
	Agang SA	7
	Economic Freedom Fighters (EFF)	8
	Media	8
<b>Chapter 3</b>	<b>Electoral Framework and Electoral Administration</b>	<b>10</b>
	Electoral System	10
	The Independent Electoral Commission	11
	Results Auditors	15
<b>Chapter 4</b>	<b>Election Day</b>	<b>16</b>
<b>Chapter 5</b>	<b>Conclusions and Recommendations</b>	<b>19</b>
	Recommendations	21
<b>Annexes</b>		
	Annex 1 List of Organisations met or consulted by the Observer Mission	23
	Annex 2 List of Political Parties that contested the 2014 Elections	25
	Annex 3 National and Provincial Election Timetable	31

# Chapter 1

## Introduction

In response to an invitation from the Minister of International Relations and Cooperation of South Africa, the Commonwealth Secretary-General constituted an Observer Mission for the National and Provincial Elections of 7 May 2014.

The Commonwealth Observer Mission was led by Nana Addo Dankwa Akufo-Addo, former Foreign Minister and Attorney-General of Ghana. The other members of the Mission were Hon. Dorothy Pine-McLarty OJ, Chairperson of the Electoral Commission of Jamaica; and Sheikh Abdul Carimo Nordine Sau, Chairperson of the National Elections Commission of Mozambique. The Mission was supported by a four-person staff team from the Commonwealth Secretariat.

The Mission was tasked with determining whether the elections were conducted according to the standards for democratic elections to which South Africa had committed itself.

During their time in South Africa, the Observer Mission met with a range of stakeholders including political parties, civil society organisations, media representatives, other election observer missions and Commonwealth High Commissioners. (A full list of meetings is at **Annex 1**)

## Chapter 2

### Political Environment

#### Background

The 2014 National and Provincial Elections were the fifth to be held since the end of apartheid and the first democratic elections in 1994, which were won by the African National Congress (ANC). In subsequent elections held in 1999, 2004 and 2009, the ANC was returned to power and entrenched the party's position as the dominant political party in South Africa at a national level, and in most provinces, having received 69.7 per cent of the vote during the 2004 elections, and 66 per cent during the 2009 elections.

As of April 2014, there were 200 registered political parties in South Africa. One hundred and fifty-two parties were registered nationally, of which 29 political parties were contesting at the national level and 16 which contested only at the provincial level<sup>1</sup>. This represented the largest number of parties to date contesting national level elections.

While the 2009 elections were significant as a result of the emergence of the ANC splinter party, Congress of the People (COPE), the 2014 elections saw the emergence of two new parties, Agang SA and Economic Freedom Fighters (EFF).

Key issues which emerged in the run-up to the 2014 elections included: reactions to the report of the Public Protector into the security upgrades at President Zuma's Nkandla residence; numerous "service delivery protests" against the ruling party, questioning its ability and commitment to improving the living standards of the poor; the political fallout of the shootings by police of mineworkers during a protest at Marikana; and calls by some political parties for the removal of the IEC Chairperson following the findings by the Public Protector that there had been irregularities on an IEC headquarters leasing deal in 2009.

By and large, party manifestoes focused on several common issues, including unemployment, job creation, economic growth, tackling corruption and land reform. In the case of the EFF, it was distinct in calling for land redistribution without compensation, and the nationalisation of mines.

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<sup>1</sup> See **Annex 2**. The number of political parties contesting the elections has increased steadily over the past 20 years. In 2004, 37 of 75 registered political parties contested the elections; of which 21 contested the national elections, in 2009 the elections were contested by 26 political parties at the national level, and 152 at the provincial level.

## The campaign environment

### *Banning of adverts and messaging*

Two political parties, the Democratic Alliance (DA) and EFF, both had television adverts banned by the South African Broadcasting Corporation (SABC), decisions upheld by the Independent Communications Authority of South Africa (ICASA)<sup>2</sup>. The DA advert, titled "Ayisifani", along with five radio adverts, were banned by the SABC on the basis that they could incite violence against the police, and that they were contrary to the Advertising Standards Authority's code of conduct, as well as constituting a personal attack on President Zuma. Following a challenge in the Electoral Court, the advert was subsequently allowed to air by the SABC. In contrast, an advert by the EFF was banned on the grounds that, in calling for the physical removal of e-tolls, it incited people to undertake destructive (and potentially violent) activities. This ban was upheld by ICASA and the advert was not reinstated by the SABC, though it continued to be shown in other media. This generated some debate about the impartiality of ICASA.

A day before the elections, the Electoral Court ruled in favour of an appeal by the ANC against the DA, in regard to a bulk text message sent to over 1.5 million voters, which had stated that the report by the Public Protector had shown that President Zuma had stolen over 200 million South African Rand from taxpayers for the security upgrades at his Nkandla residence.

### *Allegations of abuse of state resources*

Some opposition parties alleged that state resources were abused during the conduct of the campaign. Examples cited included: ruling party colours appearing on billboards showcasing the achievements of government ministries; civil servants appearing on the podia at ruling party rallies; the distribution of t-shirts in ruling party colours during government ministers' walkabouts; and police vehicles used to ferry ruling party materials. While acknowledging the advantages that naturally accrue to a ruling party once it is in government, should these allegations prove to be true, they are of a serious nature, with an uneven playing field having the capacity to compromise the integrity of the electoral process.

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<sup>2</sup> ICASA is the independent, impartial regulator for the South African communications, broadcasting and postal services sector, as established by the Independent Communications Authority of South Africa Act of 2000. Its functions are to regulate broadcasting in the public interest and to ensure fairness and a diversity of views broadly representing South African society, as required by s192 of the Constitution; and to regulate telecommunications in the public interest.

### *Campaign rallies*

The atmosphere at campaigns was reported to be vibrant and largely peaceful, with the campaign paraphernalia of the major political parties, including billboards, posters and voters in party T-shirts, highly visible in various parts of the country. Political parties with fewer resources had a lower level of visibility. There were allegations that the ruling party was accorded preferential treatment when applying for permission from municipalities to conduct campaign rallies at various stadiums. The EFF, for instance, had to seek redress in the Electoral Court to have access to stadiums for its rallies. It was, however, apparent from our observations that a high level of tolerance among supporters of opposing parties prevailed. It was also noted that, in our meetings with various parties, civil society organisations and the media, a similar mutual respect was displayed. This also extended to a high degree of confidence in key institutions, including the IEC and the Electoral Court.

Final campaign rallies on the weekend before the elections by the ANC and DA, both held in Johannesburg (at the FNB and Coca Cola Stadiums respectively), were reported to be peaceful, orderly, vibrant and colourful. A similar atmosphere prevailed at the EFF's final rally at the Lucas Moripe Stadium in Atteridgeville near Pretoria, which the Mission was able to observe. Generally, the campaign environment within which the elections were held enabled candidates and party supporters to canvass freely without hindrance.

### *Contradiction in the law and regulations*

According to the law<sup>3</sup>, no campaign activities were to take place on Election Day. Regulations related to the conduct of the activities on Election Day, however, permitted contesting parties “to continue with lawful and legitimate election-related activities immediately outside voting stations”<sup>4</sup>.

We observed that some political parties had tables positioned outside voting centres, where party supporters were voluntarily able to check their names on registers. In some instances, we witnessed groups of ruling party supporters dancing and singing in the vicinity of voting centres, in their party colours. While we take cognisance of the objective to ensure that the rights and freedoms accorded to parties and their supporters are protected, and indeed promoted, we find that the law and related regulations could be contradictory in some instances, in that the opportunity to continue with “lawful and legitimate election related activities” immediately outside voting centres is potentially open to wide interpretation. Hence, we found cases where activities tantamount to campaigning were taking place. We believe

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<sup>3</sup> Section 108, Electoral Act 73 of 1998

<sup>4</sup> Preamble to the Regulations relating to activities permissible outside voting stations on voting day (published in terms of Section 23(1) (d) of the Electoral Commission Act, 1996 (Act 51 of 1996)).

that this uncertainty in the interpretation of the law and the regulations should be resolved for future elections, to remove any potential for intimidation.

## **Other issues:**

### *Status of the IEC Chairperson*

In a report by the Public Protector on an IEC headquarters leasing deal, it was found that the IEC Chairperson, when she was Chief Electoral Officer in 2009, had been responsible for a process that was not fair, equitable or transparent. In the findings<sup>5</sup>, the Public Protector concluded that ‘while there was no impropriety with regard to the Commission handling its own procurement of immovable assets as a constitutional institution, the process followed by Adv. Tlakula and her EXCO in the procurement of the Riverside Office Park building was grossly irregular as it was characterized by a violation of procurement legislations and prescripts<sup>6</sup>’.

On the basis of this finding, a petition was brought before the Electoral Court by five political parties (the African Christian Democratic Party [ACDP], Agang SA, COPE, EFF and the United Democratic Movement [UDM]) seeking the resignation of the IEC Chairperson, Adv Pansy Tlakula, before the elections. Some parties, however, continued to express confidence in the IEC Chairperson, viewing this purely as an administrative issue, and were of the view that this would not compromise the capacity of the IEC to organise credible elections<sup>7</sup>.

## **Emergence of new political parties**

### *Agang SA*

In June 2013, Agang SA was launched by Dr Mamphela Ramphele, a former anti-apartheid activist, and one of the founders of the Black Consciousness Movement. The party encouraged reforms towards direct governance, striving to build a stronger democracy in which citizens would be at the centre of public life. In its manifesto, Agang strove ‘to restore hope, dignity and freedom’ for South Africans who were disillusioned with the ruling party. The party’s emergence widened political space in South Africa.

On 28 January 2014 Dr Ramphele accepted the DA’s invitation to stand as their presidential candidate in the 2014 elections. However, a few days later

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<sup>5</sup> Report of the Public Protector in terms of Section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 and Section 8(1) of the Public Protector Act, 1994; Report No 13 of 2013/14, ‘Inappropriate Moves’.

<sup>6</sup> The prescripts include section 38 of the PFMA, Treasury Regulation 5.1, and 16A6, section 2(1)(e) of the PPPFA as well as chapter 4 of the Electoral Commission’s Procurement Policy and Procedures of 10 March 2005.

<sup>7</sup> The case was due to be settled in the Electoral Court by June 2014.

she issued a statement reversing her decision. In her statement, she indicated that the timing was not right as the reaction to it had shown that people were unable to overcome race-based party politics. It was speculated that the sudden *volte face* on the Agang/DA merger had not reflected well on Dr Ramphela and her party, and that it would create some uncertainty and confusion among voters.

### *Economic Freedom Fighters (EFF)*

The former leader of the ANC Youth League, Julius Malema, who had previously been a staunch supporter of President Zuma, launched the Economic Freedom Fighters (EFF) party in July 2013 to contest the 2014 elections. This followed Malema's expulsion from the ANC in 2012 for misconduct.

The EFF's range of policies, which were viewed by several other parties as radical, included widespread nationalisation and land expropriation without compensation. Other proposals reflected in the party's manifesto included promises to double welfare payments, increase wages and subsidise housing, using funds generated by nationalising the mines and banks, in which the state would take a 60 per cent share. The party also sought to introduce a national minimum wage.

The emergence of the EFF on the political scene was not expected to have any substantial impact on the outcome of the 2014 elections, but it was significant in that it further opened up political space.

### **Media**

South Africa has a vibrant, diverse and robust media that is incisive in its coverage of public affairs issues. There is a wide range of radio and television stations as well as newspapers spread across the country. The country's Constitution provides and protects freedom of expression including freedom of the press.

The mission observed and was also informed by the various stakeholders that the media provided in-depth and thorough coverage of the entire electoral process. Newspapers, radio and television stations allocated substantial space and airtime to interrogating political party manifestos, the personalities of candidates and voices of the voters.

Nearly all of the radio and television stations that the mission followed ran specific segments on the 2014 elections. The same was true of the print media. They employed political analysts to provide commentary about what the election meant to the voters and the country through opinion pieces, op-eds, special reports and live phone-in talk-shows.



There was also intensive use of online and social media platforms such as websites, Twitter, Facebook and Youtube to disseminate news and information to the population, especially young people. Newspapers, radio and television stations ran multimedia content on their website, combining text, audio, images and video to create appealing news about elections. They used graphics, tables, maps, cartoons and even ventriloquists to illustrate the stories.

In one of the many commendable initiatives, observers were impressed with the manner in which the IEC engaged the media to promote civic and voter education. In June 2013 the Commission hosted a workshop for journalists and editors to agree on the application of the 'Guidelines on Media Coverage of Elections in the SADC region' for the 2014 elections. The Guidelines had been finalised at a conference organised by the Media Institute of Southern Africa (MISA) in Johannesburg in September 2012. Their objective was to ensure credible, objective, professional, ethical and responsible coverage of electoral process within the southern Africa region.

Although we were unable to determine the extent to which the Guidelines were adhered to, various stakeholders told the Mission that they were generally satisfied with quality of the coverage provided by the media during this election.

A national Results Operations Centre and accompanying provincial results centres were established during the elections period, serving as command centres for voting operations. Political parties and media were given office space and computer and telecommunications facilities.

The national public broadcaster, SABC, which is mandated by law to provide equal coverage to all political parties contesting the 2014 elections was said to have performed in a more balanced manner compared to the previous elections. Media monitoring reports indicated that generally, most media coverage went to the three main political parties, namely; ANC, DA and EFF.

In a report issued a few days before Election Day, Media Monitoring Africa, an agency that tracks media coverage of elections on the continent, said that the three parties had a combined media coverage across the various media houses of close to 77 percent.

The content of media coverage during the election period was dominated by issues of corruption, the personalities of candidates and 'service delivery protests'. On the whole, the Mission is of the view that the media played a positive and constructive role during these elections.

## Chapter 3

### Electoral Framework and Electoral Administration

#### Electoral System

The institutional and legal framework for the conduct of elections in South Africa is set out here.

#### *Parliament*

Parliament consists of the National Assembly and National Council of Provinces. The National Assembly is elected to represent the people and to ensure government by the people under the Constitution. It does this by choosing the President, by providing a national forum for public consideration of issues, by passing legislation and by scrutinising and overseeing executive action. The National Council of Provinces represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. The Constitution states that the 400 members of the National Assembly be elected in terms of an electoral system based on a national common voters roll and which “results, in general, in proportional representation.” Eligibility criteria for membership of the National Assembly are set out in the Constitution.

#### *The President*

The President is elected by the National Assembly, and can hold office for a maximum of two five year terms. The person elected as President ceases to be a member of the National Assembly. The President is the Head of State and also exercises national executive power.

#### *Relevant Legislation*

South Africa’s Bill of Rights, set out in its Constitution guarantees political rights, including the freedom for every citizen to make political choices, which include the right to form a political party, to participate in the activities of and to recruit members for a political party and to campaign for a political party or cause.

Citizens also have the constitutional right to free and fair elections for any constitutionally established legislative body. This includes the right for every adult citizen to vote in such elections through a secret vote, and to stand for public office.

The core legislation governing elections is set out in the Electoral Act (73 of 1998), the Election Commission Act (51 of 1996) and the Public Funding of Represented Political Parties Act (103 of 1997).

*Qualification to be a voter:* a South African citizen in possession of a valid identity document can register to be placed on the voters' roll. The only permitted identity document is the identity booklet issued to all citizens. Any eligible citizen 16 years or older may apply for registration; however successful applicants will only be included on the voters' roll once they have turned 18.

### **The Independent Electoral Commission**

The Constitution sets out a number of 'state institutions supporting constitutional democracy.' These are: the Public Protector, South African Human Rights Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Commission for Gender Equality, the Auditor-General and the Electoral Commission. These institutions are commonly referred to as 'chapter 9' institutions in reference to the relevant chapter of the Constitution under which they fall.

The Constitution stipulates that these institutions are independent, and subject only to the Constitution and the law. They are required to be impartial and to exercise their powers and perform their functions without "fear, favour or prejudice." Other state bodies have an obligation, through legislative and other measures, to assist and protect these institutions so as to ensure their "independence, impartiality, dignity and effectiveness".

The Electoral Commission and other Chapter 9 institutions are accountable to the National Assembly and must report to the Assembly on their activities and on the performance of their functions at least once a year.

The functions of the Electoral Commission are set out in the Constitution. These are: to manage elections of national, provincial and municipal legislative bodies; to ensure that those elections are free and fair; and to declare the results of those elections within a period prescribed by national legislation and that is as short as reasonably possible.

The Electoral Commission Act elaborates on the functions of the Commission, the appointment of Commissioners and standards of conduct, and role of the Electoral Court. The appointment of Commissioners is made by the President following an open and transparent nomination and interview process. At least one member of the Commission is required to be a judge.

Candidates for the five-member Commission are nominated by a National Assembly committee, and interviewed by a panel comprising the Chief Justice

of the Constitutional Court, representatives of the Human Rights Commission and Commission on Gender Equality, and the Public Protector. This panel recommends no fewer than eight candidates to the National Assembly committee.

The National Assembly must then vote by a majority in favour of the candidates, who is then formally appointed by the President. Commissioners serve a seven year term, which may be extended by the President on the recommendation of the National Assembly.

The Electoral Act regulates the administration of elections, and deals with voter registration, the announcement of elections, constituency delimitation, appointment of election officials, voting day arrangements, announcement of results and formula for apportioning National and Provincial Assembly seats.

An Electoral Code of Conduct, to which all political parties participating in elections must bind themselves, forms part of the Electoral Act and therefore carries legal force and resultant enforceable penalties for infringement. The stated purpose of the Code is to promote conditions conducive to free and fair elections, including tolerance of democratic political activity and free political campaigning and open public debate.

The Electoral Amendment Act of 2013 provided for South Africans who may be outside the country the opportunity to vote, and for all prisoners to vote.

Under the relevant amended sections in the Electoral Act and Election Regulations 2004, registered voters who were to be out of the country on Election Day would be able to notify the Chief Electoral Officer within 15 days of the announcement of elections (which was proclaimed on 25 February 2014), of their intention to vote outside the country (overseas voting was to be held on 30 April 2014)<sup>8</sup>. They were required to produce a valid identity document and valid South African passport to a designated special voting officer at a South African embassy, high commission or consulate. Overseas voters were able to vote only in the National Assembly elections.

Previously, under a 2003 amendment to the electoral laws, only prisoners who were awaiting trial and those given the option of paying a fine rather than imprisonment were permitted to vote. A subsequent Constitutional Court judgement overturned this, ruling that all prisoners, so long as they met the overall voter qualifications, could register to vote. Prisons and correctional facilities organised registration and voting facilities for the 2014 elections.

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<sup>8</sup> Registered voters abroad were required to notify the IEC of their intention to vote at a South African diplomatic mission through an online or postal version of the VEC10 form. Submissions for the VEC10 opened on the day when elections were proclaimed by the President (25 February 2014), and closed on 12 March 2014 at midnight (South African time). There were some instances reported in media of voters who had not filled in the VEC10 form, thus being turned away at diplomatic missions when the voting took place.

### *Special Votes*

In addition to above categories, the law provides for those voters with physical infirmities or disabilities, or pregnancy, to apply for a special vote. This includes home visits by electoral officials on a designated day and time. If disabled voters preferred to vote on 7 May instead, the Commission reported that 65 per cent of voting stations had disabled access: a figure it was continually seeking to improve. A Universal Ballot Template was available for the use of visually impaired voters who wished to vote unaided. Registered voters who would be away from their registered voting district due to service as election officers or security forces for the elections, were also be able to apply for a special vote. Special voting took place on 5 and 6 May in designated voting stations.

There are several relevant regulations under the Electoral Act and Electoral Commission Act, including Regulations on Party Liaison Committees, Regulations for the Registration of Political Parties, and Regulations relating to activities permissible outside voting stations on voting day.

### *Preparations for Elections*

The IEC is required to establish an electoral timetable in consultation with party liaison committees. (see **Annex 3**)

Party Liaison Committees (PLCs) were established at national, provincial and municipal levels, composed of up to two representatives from each registered party at each level. The role of these committees is to “serve as vehicles for consultation and cooperation between the Commission and the registered parties concerned on all electoral matters, aimed at the delivery of free and fair elections.”

Through a National Coordinating Forum, the IEC engaged in consultations with political parties on all issues relating to the electoral planning process. Several panels - including on conflict resolution, voter education, and wider democracy and development issues - were set up. Moreover, a conflict coordinator was appointed for every province, and a protocol was signed at national level with relevant security structures, prosecuting authorities and legal aid to ensure that electoral offences would be addressed in a timely manner.

The Observer Mission was informed by political parties during its briefings that these committees were in active use during the electoral period.

**Voter Registration:** Citizens are required to register in the area where they are ordinarily resident. Administrative voting districts are compiled using the IEC’s electronic mapping system. For the 2014 elections, 22,263 voting districts were established - a nine per cent rise on the number for the local government elections in 2011. 1255 of these voting districts were to include sub-stations, due to large numbers of expected voters in those places.

The Commission conducted information campaigns on voter registration in 2013, which were followed up by two national registration weekends in late 2013 and early 2014. South African diplomatic missions in 108 countries also carried out voter registration weekends in January 2014, resulting in around 6000 new registrations. A total of 26,703 South Africans abroad registered to vote in the 2014 elections.

The IEC reported that out of an estimated voting age population of 31,434,035, as of the cut-off date of 5 March 2014, 25,390,150 voters had registered, of which 2.3 million were new registrants. The total figure represented 80.8 per cent of the voting age population, and 48 per cent of the total population. The figure exceeded the Commission's target. In terms of gender breakdown, 54.9 per cent of registered voters were female, and 45.1 per cent male.

It is of note that these elections were to see the participation of the 'born-free' generation - those citizens born in or after 1994. The symbolic significance of this was much commented upon during the electoral period. However, despite the overall 80 per cent registration figure, only 33.6 per cent of the 18 to 19 age group had registered. The 20 to 29 age group saw a 60.7 per cent registration rate, and rates rose steadily as the age bracket increased. This could indicate that levels of political interest and participation increase with age, but the low registration figure for the 'born-frees' was remarked upon in the national discourse.

**Recruitment and Training of Polling Officials:** The IEC recruited and trained approximately 212,000 volunteers as polling officials. These individuals hailed mainly from the public service, and the figure included 'buffer staff' to allow for last minute absences on Election Day.

### *Dispute Resolution Procedure*

The Electoral Act sets out the procedure for the lodging of objections at various stages of the electoral process. During the voting and counting process, a party agent (or in some cases a voter) may lodge an objection to any alleged irregularity. These are to be dealt with at the voting station and a record of any such incidents are kept.

Objections material to the overall result are to be dealt with directly by the IEC. Any party not satisfied with the Commission's decision may appeal to the Electoral Court.

### *The Electoral Court*

The five-member Electoral Court, established under the Electoral Commission Act, has the status of the Supreme Court. It comprises three judges from the Supreme Court. The chairperson of the Court must be a judge of the Appellate

Division of the Supreme Court. The remaining two members must be South African citizens. The members of the Electoral Court are appointed by the President upon the recommendation of the Judicial Services Commission.

The Electoral Court “may review any decision of the [Independent Electoral] Commission relating to an urgent matter.” The Court is required to conduct such reviews “on an urgent basis” to dispose of matters “as expeditiously as possible.”

In the electoral period, several objections and petitions (that could not be addressed by the IEC) were indeed referred and lodged with the Electoral Court, covering a range of issues include advert bans and the call for the resignation of the IEC Chairperson. In addition, the Mission observed a commendable attempt to boost extant conflict management mechanisms through the appointment of mediators to visit townships in advance of Election Day to address any conflict issues.

**Voter Education:** the Commission engaged in a vigorous voter education campaign beginning late 2013, focusing on two themes: the first reflecting the diversity of the country and the second on the 16 to 29 age group. The campaign, called IXSA - or *I Vote South Africa* - featured ordinary South Africans and celebrities, across various media platforms with a particular focus on social media. The Commission also developed several mobile applications targeted at youth voters. These enabled voters to check their registration status, find a voting station, and keep up to date with election news on Twitter and Facebook. A free IXSA game, available for smartphones and Facebook, enabled users to engage in a 3D Election Day experience.

**Information Technology:** Prior to voting day, the IEC conducted tests of its information and communication technology systems. Political parties were given the opportunity to satisfy themselves of the systems in place. The hand-held scanners (‘zip-zips’) used at all voting stations, and containing the entire voters’ roll, would also facilitate subsequent analysis of voter participation and improved future planning, as the scanners enable disaggregation based on gender, age and time of voting.

## **Results Auditors**

Independent qualified auditors are employed by the IEC to verify that the results captured on the results system at each local office correspond with the results on the original results slip as received from the voting station. A unique code is entered on the system once the auditor is satisfied the correct result has been recorded.

## Chapter 4

### Election Day

The Observer Mission visited voting stations in Gauteng, Kwazulu-Natal and Western Cape provinces, including in the cities of Pretoria, Johannesburg, Durban, Cape Town and townships in their vicinity.

#### *Opening of voting stations*

The opening of voting stations were for the most part on time, but in many cases we observed (and it was reported to us) that stations opened late due to administrative delays e.g. shortage of some materials or polling staff not reporting for duty on time.

Voters were enthusiastic and queued up for many hours prior to the opening of the polls. In many cases, we observed long queues and noted that, despite the IEC's laudable attempt to implement a recommendation from Commonwealth observers at the 2009 elections to reduce these queues in the interest of easing the administrative burden on polling staff, this continued to be a challenge. We were informed by the IEC that the number of voting centres with multiple voting sub-stations were increased. Voters were also divided into several streams according to surnames to make the queues more manageable.

Voters who were physically challenged, including the disabled, the elderly and pregnant women were allowed preferential access to voting stations.

#### *Voting procedure*

To ensure that voters could not vote more than once, portable hand-held scanners (or "zip zip" machines) were utilised to verify the registration and eligibility of a voter upon entering a voting centre or sub-station. The voters' ID books were also stamped. In addition, election officials used indelible ink to mark the thumbs of voters.

Voters used polling booths to cast their ballot. This ensured that the secrecy of the ballot was safeguarded. However, in the case of visually impaired voters, the Presiding Officers would often call the party agents together to make his/her mark in their presence, to ensure that the election official did not manipulate the vote. This meant that such voters were unable to cast their vote in secret.



In a large majority of the polling stations visited, voters were given the ballot papers and directed to the booths without any explanation regarding how to mark the paper and to fold it.

Many ballot boxes were often not clearly marked to indicate whether they related to the National or the Provincial election ballots. Voters often appeared confused as to which was the correct box and this confusion extended to the colours of the ballot papers, which when folded became difficult to distinguish between that for the National and that for the Provincial elections.

The layout at voting stations was good, with areas for polling staff, party agents and observers clearly marked. Given that voting centres were located mainly at schools and churches, the sizes of the stations varied to a large degree. The system was nevertheless not uniform in respect of the ballot boxes. Some polling stations used only one box for the ballots for both the National and Provincial elections, while others used two separate boxes. It was the understanding of the Mission that there is no regulation which provides that there must be two ballot boxes and that it is the prerogative of the Presiding Officers to decide how to organise the boxes.

#### *Polling staff*

Polling staff were well-trained, with many of them having served in similar capacities for previous elections. Many of the staff were drawn from the civil service, and it was encouraging to see the large numbers of young people (mainly university students) and women among the polling staff.

#### *Transfers: Section 24A of Electoral Act*

There were large numbers of voters exercising their right under s24A of the Electoral Act to vote elsewhere than in the voting district in which they were registered. This required the completion of numerous transfer forms, which proved very onerous and time consuming for officials, who should have been supervising the overall operations of their voting station. The IEC noted in its post-election briefing that one in ten voters came under the provisions of s24A, which is a tremendous volume of persons to be processed during Election Day.

#### *Party colours on Election Day*

Political party supporters were seen holding lists of voters and summoning them while seated at desks outside the voting stations, many of which were covered with tents or umbrellas all decorated with party colours. This could be viewed by some voters as a form of intimidation, while the wearing of party colours inside the voting stations could potentially undermine the secrecy of the vote. On Election Day, it was reported that several voters had

been ejected from a voting station because they were wearing party colours. The IEC Vice-Chairperson went on radio to clarify that it was the right of voters to express their political choices by wearing party shirts or colours. He reiterated that legal requirements on impartial conduct and appearance related only to electoral officials. It was also noted that many voters danced or sang in party colours outside voting stations, which amounted to open campaigning, which was against the electoral law and a potential source of intimidation.

### *The Close and the Count*

At 9pm, the official close of the polls, there were still long queues in some polling stations, particularly in the townships. Those voters who were in the queue by 9pm were allowed to vote, which due to the large numbers of voters involved, led in some instances to the close of polls (and the count) taking place several hours afterwards. It was reported that at one of the largest voting centres in the country, Joubert Park in Johannesburg, polls only closed the early hours of the following morning, with the count concluding later that day.

At all the counting centres the Mission visited and from reports received from other observers, counting procedures were followed meticulously. There were instances where some presiding officers used one box for both provincial and national instead of two separate ones, while the sorting process was overly cumbersome, compounded by the fact that national and provincial ballot papers were difficult to distinguish when folded.

### *Results Process*

The well-equipped and technologically advanced National Results Centre in Pretoria (as well as Results Operation Centres in all nine provinces) bolstered the integrity and transparency of the electoral process. Live streaming of the results as they were fed into the results centre also enhanced the transparency and credibility of the results process.

During the announcement of the official results, the IEC Chairperson informed that only one formal objection had been received. It was encouraging that all political parties accepted the results, even those which had petitions in the Electoral Court prior to Election Day.

### *Incidents*

During Election Day and in the post-election period, there were several isolated incidents of electoral violence. In Kwa-Dukuza, KwaZulu-Natal a female ANC party agent was shot dead at the party desk outside a polling station, allegedly by an IFP supporter.

In Alexandra near Johannesburg, EFF supporters allegedly took ANC members hostage after believing that ballot boxes had been transported from a voting station in an ANC vehicle. The hostage situation was resolved but violence in Alexandra continued for several days after the elections.

In several locations, ballot papers were found in discarded bin bags. The IEC, following investigations, stated that the ballots had already been counted, and had been inadvertently discarded by election officials.

## Chapter 5

### Conclusions and Recommendations

These were significant elections, for a number of reasons:

- They marked the 20<sup>th</sup> anniversary of the first democratic elections in South Africa;
- They were the first elections in which ‘born frees’ (i.e. those born in or after 1994) could vote;
- They were the first to be held since the passing of South Africa’s iconic former President, Nelson Mandela;
- They marked a further step in the opening of political space in South Africa, with several new political parties contesting, most notable among these Agang SA and EFF.

Despite some shortcomings in a number of areas which we have highlighted in our report, they are largely technical in nature and we believe that this did not have any impact on the overall integrity of the electoral process. The exemplary conduct of all political parties in accepting the outcome of the results bears testimony to the maturity of democracy in South Africa. The technical efficiency of the IEC, the conduct of political parties, robust media and above all, the large turnout of enthusiastic voters all contributed to a well-managed, transparent and largely violence-free election. The electoral process fully met international and regional democratic standards to which South Africa has committed itself, and we therefore attest to the credibility of these elections, which, in our view, were credible.

The positive elements and good practices highlighted by the Commonwealth Assessment Team which observed the 2009 elections were very much in evidence in these elections, and we reiterate aspects as follows:

- We commend the transparent system of appointing the Chair and Commissioners of the IEC, as well as the constitutional independence granted to the IEC in its functions, which insulates the IEC from political interference.

- Notwithstanding the issue surrounding the status of the IEC Chairperson, there remained a very high level of confidence in the IEC. This was borne out by the fact that all the political parties accepted the results. The preparedness of the IEC and the high standards of all systems and processes put in place are to be particularly commended.
- The ongoing use of the ‘zip zip’ scanners is to be applauded.
- The national and provincial results centres were not only well equipped, but also notably easily accessible by media and observers, thus setting high standards of best practice on results management, which should be emulated.
- On Election Day, the high level of political tolerance and cordiality which existed among political parties, which was further reflected in the collaboration exhibited among party agents and party representatives stationed outside polling stations, is to be commended.
- Women and the youth once again played a prominent role in this election, as candidates, voters, members of polling staff as well as party agents.
- As in previous elections the party liaison committees remained pivotal in ensuring ongoing dialogue among political parties, as well as political parties and the IEC. This forum served as an effective conflict management mechanism, and was bolstered by the commendable decision in one province (Western Cape) to appoint mediators to visit townships in advance of Election Day to address any conflict issues. Party representatives and mediators were also rapidly deployed to Alexandra township in Johannesburg to deal with post-election tensions;
- South Africa’s system of continuous voter registration (until the proclamation of the elections) remains a model for other Commonwealth countries facing ongoing challenges in managing similar exercises.

As in any election, there is always some room for improvement. We encourage the IEC, political parties, the media and civil society organisations to remain closely engaged in dialogue, as has always hitherto been the case, to address any problems which may have arisen in these elections. Any shortcomings highlighted, we believe, can also be addressed with appropriate technical assistance and we encourage the Commonwealth to remain ready to provide such support. We therefore propose the following recommendations for consideration:

## Recommendations

### *Ballot Boxes*

- Ballot boxes should be clearly marked to designate whether they relate to the National or Provincial ballots.
- Boxes and the ballot papers should be colour coordinated so that they are easily distinguished. This would also speed up the sorting process during the count.

### *Voting Procedure*

- Presiding Officers and election officers should explain the voting process to each voter and show him/her how and where to mark the ballot paper; and also how to fold it.

### *Legal Framework*

- The Mission reiterates the recommendation of the 2009 Commonwealth Election Assessment Team that section 24A of the Electoral Act should be reviewed and reformed to allow for re-registration to conclude prior to Election Day.
- Consideration should be given to strengthening existing laws regarding the use of state resources, including advertising, during the electoral period.

### *Political Activities on Election Day*

- The regulations permitting political parties to establish party desks outside the immediate boundaries of voting stations should be reviewed so as to minimise the risk of voter intimidation and electoral violence.

### *Voter education*

- Voter education needs to be undertaken on an ongoing basis through the IEC Area Managers of the Provinces. Many voters would benefit from instructions on the voting process generally in meetings outside the election period. The inclusion of the 'born-frees' in this educational outreach should be considered.



## Annex 1

### List of Organisations met or consulted by the Observer Mission

- Independent Electoral Commission (IEC)

#### Political Parties

- African National Congress (ANC)
- Agang SA
- Congress of the People (COPE)
- Democratic Alliance (DA)
- Economic Freedom Fighters (EFF)

#### Civil Society Organisations

- Foundation for Human Rights
- South African NGO Coalition (SANGOCO)

#### Media

- Business Day
- Mail and Guardian
- Media Institute of Southern Africa (MISA), South Africa chapter
- Media Monitoring Africa
- South African National Editors' Forum (SANEF), Media Freedom Committee

#### International Observers

- African Union (AU) Observer Mission
- Southern African Development Community (SADC) Electoral Observer Mission

#### Commonwealth High Commissions

- Canada

- Ghana
- Jamaica
- Lesotho
- Malawi
- Malaysia
- Mauritius
- Namibia
- New Zealand
- Sri Lanka
- Tanzania
- United Kingdom



## Annex 2

### List of Political Parties that contested the 2014 Elections

#### A) NATIONAL LEVEL

1. AFRICAN CHRISTIAN DEMOCRATIC PARTY
2. AFRICAN INDEPENDENT CONGRESS
3. AFRICAN NATIONAL CONGRESS
4. AFRICAN PEOPLE'S CONVENTION
5. AGANG SOUTH AFRICA
6. AL JAMA-AH
7. AZANIAN PEOPLE'S ORGANISATION
8. BUSHBUCKRIDGE RESIDENTS ASSOCIATION
9. CONGRESS OF THE PEOPLE
10. DEMOCRATIC ALLIANCE
11. ECONOMIC FREEDOM FIGHTERS
12. FIRST NATION LIBERATION ALLIANCE
13. FRONT NASIONAAL/FRONT NATIONAL
14. INDEPENDENT CIVIC ORGANISATION OF SOUTH AFRICA
15. INKATHA FREEDOM PARTY
16. KEEP IT STRAIGHT AND SIMPLE
17. KINGDOM GOVERNANCE MOVEMENT
18. MINORITY FRONT
19. NATIONAL FREEDOM PARTY
20. PAN AFRICANIST CONGRESS OF AZANIA
21. PAN AFRICANIST MOVEMENT
22. PATRIOTIC ALLIANCE
23. PEOPLES ALLIANCE
24. UBUNTU PARTY
25. UNITED CHRISTIAN DEMOCRATIC PARTY
26. UNITED CONGRESS
27. UNITED DEMOCRATIC MOVEMENT
28. VRYHEIDSFRONT PLUS
29. WORKERS AND SOCIALIST PARTY

## **B) PROVINCIAL LEVEL**

### **Eastern Cape**

- AFRICAN CHRISTIAN DEMOCRATIC PARTY
- AFRICAN INDEPENDENT CONGRESS
- AFRICAN NATIONAL CONGRESS
- AFRICAN PEOPLE'S CONVENTION
- AGANG SOUTH AFRICA
- AZANIAN PEOPLE'S ORGANISATION
- CONGRESS OF THE PEOPLE
- DEMOCRATIC ALLIANCE
- ECONOMIC FREEDOM FIGHTERS
- INKATHA FREEDOM PARTY
- KINGDOM GOVERNANCE MOVEMENT
- NATIONAL FREEDOM PARTY
- PAN AFRICANIST CONGRESS OF AZANIA
- PATRIOTIC MOVEMENT OF SOUTH AFRICA
- UNITED CHRISTIAN DEMOCRATIC PARTY
- UNITED CONGRESS
- UNITED DEMOCRATIC MOVEMENT
- VRYHEIDSFRONT PLUS

### **Gauteng**

- AFRICAN CHRISTIAN DEMOCRATIC PARTY
- AFRICAN NATIONAL CONGRESS
- AFRICAN PEOPLE'S CONVENTION
- AGANG SOUTH AFRICA
- AZANIAN PEOPLE'S ORGANISATION
- CONGRESS OF THE PEOPLE
- DEMOCRATIC ALLIANCE
- ECONOMIC FREEDOM FIGHTERS
- FRONT NASIONAAL/FRONT NATIONAL
- INDEPENDENT CIVIC ORGANISATION OF SOUTH AFRICA
- INKATHA FREEDOM PARTY
- KINGDOM GOVERNANCE MOVEMENT
- LEKGOTLA FOR DEMOCRACY ADVANCEMENT
- MERAFOONG CIVIC ASSOCIATION
- MINORITY FRONT
- NATIONAL FREEDOM PARTY
- PAN AFRICANIST CONGRESS OF AZANIA

- PATRIOTIC ALLIANCE
- UNITED CHRISTIAN DEMOCRATIC PARTY
- UNITED DEMOCRATIC MOVEMENT
- VRYHEIDSFRONT PLUS
- WORKERS AND SOCIALIST PARTY

## **Limpopo**

- AFRICAN CHRISTIAN DEMOCRATIC PARTY
- AFRICAN NATIONAL CONGRESS
- AFRICAN PEOPLE'S CONVENTION
- AGANG SOUTH AFRICA
- AZANIAN PEOPLE'S ORGANISATION
- CONGRESS OF THE PEOPLE
- DEMOCRATIC ALLIANCE
- ECONOMIC FREEDOM FIGHTERS
- INKATHA FREEDOM PARTY
- LEKGOTLA FOR DEMOCRACY ADVANCEMENT
- MERAFONG CIVIC ASSOCIATION
- NATIONAL FREEDOM PARTY
- PAN AFRICANIST CONGRESS OF AZANIA
- SOUTH AFRICAN MAINTANANCE AND ESTATE BENEFICIARIES ASSOCIATI
- UNEMPLOYMENT MOVEMENT SA
- UNITED CHRISTIAN DEMOCRATIC PARTY
- UNITED DEMOCRATIC MOVEMENT
- VRYHEIDSFRONT PLUS
- WORKERS AND SOCIALIST PARTY
- XIMOKO PARTY

## **North West**

- AFRICAN CHRISTIAN DEMOCRATIC PARTY
- AFRICAN NATIONAL CONGRESS
- AFRICAN PEOPLE'S CONVENTION
- AGANG SOUTH AFRICA
- AZANIAN PEOPLE'S ORGANISATION
- CONGRESS OF THE PEOPLE
- DEMOCRATIC ALLIANCE
- ECONOMIC FREEDOM FIGHTERS
- INKATHA FREEDOM PARTY
- NATIONAL FREEDOM PARTY
- PAN AFRICANIST CONGRESS OF AZANIA

- SOUTH AFRICAN POLITICAL PARTY
- UNITED CHRISTIAN DEMOCRATIC PARTY
- UNITED DEMOCRATIC MOVEMENT
- VRYHEIDSFRONT PLUS
- WORKERS AND SOCIALIST PARTY

### **Western Cape**

- AFRICAN CHRISTIAN DEMOCRATIC PARTY
- AFRICAN INDEPENDENT CONGRESS
- AFRICAN NATIONAL CONGRESS
- AFRICAN NATIONAL PARTY
- AFRICAN PEOPLE'S CONVENTION
- AGANG SOUTH AFRICA
- AL JAMA-AH
- AZANIAN PEOPLE'S ORGANISATION
- CONGRESS OF THE PEOPLE
- DEMOCRATIC ALLIANCE
- ECONOMIC FREEDOM FIGHTERS
- FIRST NATION LIBERATION ALLIANCE
- INDEPENDENT CIVIC ORGANISATION OF SOUTH AFRICA
- INDIGENOUS PEOPLES ORGANISATION
- INKATHA FREEDOM PARTY
- KINGDOM GOVERNANCE MOVEMENT
- NATIONAL FREEDOM PARTY
- NATIONAL PARTY SOUTH AFRICA
- PAN AFRICANIST CONGRESS OF AZANIA
- PATRIOTIC ALLIANCE
- PEOPLES ALLIANCE
- SIBANYE CIVIC ASSOCIATION
- SOUTH AFRICAN PROGRESSIVE CIVIC ORGANISATION
- UNITED CHRISTIAN DEMOCRATIC PARTY
- UNITED DEMOCRATIC MOVEMENT
- VRYHEIDSFRONT PLUS

### **Free State**

- AFRICAN CHRISTIAN DEMOCRATIC PARTY
- AFRICAN NATIONAL CONGRESS
- AFRICAN PEOPLE'S CONVENTION
- AGANG SOUTH AFRICA
- AZANIAN PEOPLE'S ORGANISATION
- CONGRESS OF THE PEOPLE

- DEMOCRATIC ALLIANCE
- ECONOMIC FREEDOM FIGHTERS
- INDEPENDENT CIVIC ORGANISATION OF SOUTH AFRICA
- INKATHA FREEDOM PARTY
- NATIONAL FREEDOM PARTY
- PAN AFRICANIST CONGRESS OF AZANIA
- PATRIOTIC ALLIANCE
- UNITED CHRISTIAN DEMOCRATIC PARTY
- UNITED DEMOCRATIC MOVEMENT
- VRYHEIDSFRONT PLUS

### **KwaZulu-Natal**

- AFRICAN CHRISTIAN DEMOCRATIC PARTY
- AFRICAN NATIONAL CONGRESS
- AFRICAN PEOPLE'S CONVENTION
- AZANIAN PEOPLE'S ORGANISATION
- CONGRESS OF THE PEOPLE
- DEMOCRATIC ALLIANCE
- ECONOMIC FREEDOM FIGHTERS
- INKATHA FREEDOM PARTY
- KINGDOM GOVERNANCE MOVEMENT
- KWA-ZULU NATAL TRANSPORT ALLIANCE
- MINORITY FRONT
- NATIONAL FREEDOM PARTY
- PAN AFRICANIST CONGRESS OF AZANIA
- TRULY ALLIANCE
- UBUMBANO LWESIZWE SABANGONI
- UNITED CHRISTIAN DEMOCRATIC PARTY
- UNITED DEMOCRATIC MOVEMENT
- VRYHEIDSFRONT PLUS

### **Mpumalanga**

- AFRICAN CHRISTIAN DEMOCRATIC PARTY
- AFRICAN NATIONAL CONGRESS
- AFRICAN PEOPLE'S CONVENTION
- AGANG SOUTH AFRICA
- AZANIAN PEOPLE'S ORGANISATION
- BUSHBUCKRIDGE RESIDENTS ASSOCIATION
- CONGRESS OF THE PEOPLE
- DEMOCRATIC ALLIANCE
- ECONOMIC FREEDOM FIGHTERS

- INKATHA FREEDOM PARTY
- NATIONAL FREEDOM PARTY
- PAN AFRICANIST CONGRESS OF AZANIA
- SINDAWONYE PROGRESSIVE PARTY
- UNITED CHRISTIAN DEMOCRATIC PARTY
- UNITED DEMOCRATIC MOVEMENT
- VRYHEIDSFRONT PLUS

### **Northern Cape**

- AFRICAN CHRISTIAN DEMOCRATIC PARTY
- AFRICAN NATIONAL CONGRESS
- AFRICAN PEOPLE'S CONVENTION
- AZANIAN PEOPLE'S ORGANISATION
- CONGRESS OF THE PEOPLE
- DEMOCRATIC ALLIANCE
- ECONOMIC FREEDOM FIGHTERS
- FIRST NATION LIBERATION ALLIANCE
- INDEPENDENT CIVIC ORGANISATION OF SOUTH AFRICA
- INKATHA FREEDOM PARTY
- NATIONAL FREEDOM PARTY
- PAN AFRICANIST CONGRESS OF AZANIA
- PATRIOTIC ALLIANCE
- UNITED CHRISTIAN DEMOCRATIC PARTY
- UNITED DEMOCRATIC MOVEMENT
- VRYHEIDSFRONT PLUS

## Annex 3

### National and Provincial Election Timetable



OFFICIAL TIMETABLE	
25 February	Voters' roll closes
Wed 5 March 2014	Notice: List of addresses of voting stations open for inspection (s64)
	Notice of routes of mobile voting stations (s67)
	Cut-off date: Certification and Publication of Voters' Roll by making it available. (s24)
Wed 12 March 2014	Notifications to CEO of intention to vote outside of the Republic (s33 [3] [4])
	Cut-off date for submission of lists of candidates (s27)
Tues 18 March 2014	Cut-off date - Notice of non-compliance by parties in respect of lists of candidates (s28)
Mon 24 March 2014	Cut-off date for parties to comply in respect of candidates lists (s28)
Fri 28 March 2014	Notice: Inspection of lists of candidates and accompanying documents (s29)
Fri 28 March 2014 & Mon 31 March 2014	Period in which lists of candidates and accompanying documents will be open for inspection (s29)
Tues 1 April 2014	Cut-off date for objections to candidates (s30)
Mon 7 April 2014	Cut-off Date - Commission decisions on objections and notification to objectors and parties (s30)
Mon 7 April to Thurs 17 April 2014	Applications for special votes to the MEO (s33 [1] [a] [b] [c], s33 [2], s33A [1] [a] [b] [c] s33 [2])
Thurs 10 April 2014	Cut-off date for appeals to Electoral Court against Commission decisions re objections to candidates (s30)
Tues 15 April 2014	Deciding of appeals by Electoral Court and notification of CEO and parties involved (s30)
Tues 22 April 2014	Cut-off date - Compilation of lists of parties and final lists of candidates who will contest the election (s31)
Thurs 24 April 2014	Issue of certificates to candidates (s31)
Wed 30 April 2014	Application & casting of special votes at foreign missions (s33 [3], s33 [4])
Mon 5 May 2014 & Tues 6 May 2014	Visitation for purposes of casting special vote (s33 [1] [a] s33A [1] [a])
	Casting of special votes at office of presiding officer (s33[1] [b] [c] s33 [2] s33A [1] [b] [c] s33 [2])
7 May 2014	Election Day

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VOTERS WITHIN SOUTH AFRICA		
25 February		Voters' roll closes
5 March		IEC certifies voters' roll
7 April		<b>Opening date for submission of special votes' applications at local IEC offices</b> You can apply for a special vote if you can't travel to your voting station because you're physically infirm, disabled or pregnant; or you can't vote at your voting station on election day.
17 April	17h00	<b>Deadline for submission of special votes' applications at local IEC offices</b>
5 & 6 May	09h00 - 17h00	Home visits and special votes at voting stations
7 May	07h00 – 21h00	Election Day

VOTERS VOTING ABROAD		
25 February		Voters' roll closes
25 February		<b>Opening date for submission of VEC10 notifications</b> Submit your VEC10 online at <a href="http://www.elections.org.za">www.elections.org.za</a>
12 March	Midnight (UTC+02:00)	<b>Deadline for submission of VEC10 notifications</b>
30 April		Voting day abroad

CANDIDATE NOMINATION PROCESS		
25 February	08h00	<b>Opening date for parties to submit candidate lists and deposits at IEC's national office</b>
12 March	17h00	<b>Deadline for parties to submit candidate lists</b>
18 March	17h00	Deadline for IEC to notify parties of outstanding documents
24 March	17h00	<b>Deadline for parties and candidates to submit outstanding documents</b>
28 & 31 March		IEC opens candidate lists for inspection at IEC's national office
1 April	17h00	<b>Deadline for submission of objections to candidates</b>
7 April	17h00	Deadline for Commission decisions on objections to candidates
8 - 10 April		<b>Appeals to the Electoral Court against Commission decisions re candidate objections</b>
15 April	17h00	Deadline for Electoral Court decisions on appeals
22 April		IEC releases final lists of parties and candidates contesting the elections
24 April		IEC issues certificates to parties