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PRELIMINARY STATEMENT

BY

**HIS EXCELLENCY MR. ENOCK P. KAVINDELE, FORMER VICE PRESIDENT
OF THE REPUBLIC OF ZAMBIA**

AND

HEAD OF THE SADC ELECTORAL OBSERVATION MISSION (SEOM)

TO

**THE 20 DECEMBER 2023 PRESIDENTIAL, LEGISLATIVE, PROVINCIAL, URBAN,
MUNICIPAL AND LOCAL COUNCIL ELECTIONS**

IN

THE DEMOCRATIC REPUBLIC OF CONGO

KINSHASA, 22 DECEMBER 2023

Your Excellencies, heads of observation missions

Your Excellency, Dr. Jakaya Mrisho Kikwete, Chairperson of the SADC Panel of Elders and Former President of the United Republic of Tanzania

Your Excellencies, Heads and Representatives of the Diplomatic Missions accredited to the Democratic Republic of Congo

President and Representatives of the Independent National Electoral Commission (CENI)

Distinguished Representatives of the Government of the Democratic Republic of Congo

Leaders and Representatives of Political Parties

Religious Leaders and Members of the Civil Society Organisations

Representatives of Local Election Observers

Partners from the media

Distinguished Guests

Ladies and Gentlemen

I. INTRODUCTION

On behalf of the Southern African Development Community (SADC), I am deeply honoured to present the SADC Electoral Observation Mission (SEOM)'s Preliminary Statement on the conduct of the 20 December 2023 Presidential, Legislative, Provincial and Local Council Elections of the Democratic Republic of Congo.

I was appointed as the Head of the SEOM to the Democratic Republic of Congo (DRC) by His Excellency Mr. Hakainde Hichilema, President of the Republic of Zambia, in his capacity as the Chairperson of the SADC Organ on Politics, Defence and Security Cooperation. The SEOM comprises members of the Organ Troika, namely the Republic of Zambia (Chair), the United Republic of Tanzania (Incoming Chair), and the Republic of Namibia (Outgoing Chair). The SEOM is supported by members of the SADC Electoral Advisory Council (SEAC), who provide an advisory role to the Head of Mission and Organ Troika on matters pertaining to electoral processes and enhancing democracy and good governance in the SADC Region. The SEAC is established in terms of Article 9 (2) of the SADC Treaty.

Consistent with the *revised SADC Principles and Guidelines Governing Democratic Elections (2021)* (hereinafter referred to as the *SADC Principles and Guidelines*), the deployment of the SEOM was preceded by SEAC's Pre-Election Goodwill Assessment Mission to the DRC from 12 to 20 October 2023. The SEAC Goodwill Assessment Mission was preceded by the SEAC Post-Election Review Mission, which took place in April 2022 and assessed whether recommendations arising from the SEOM held in 2018 were considered and implemented by the respective Congolese Authorities.

The SEOM to the DRC's 2023 Elections comprises 72 observers, 52 of whom were deployed to 14 Provinces of the DRC, namely, Kinshasa, Equateur, Haut-Katanga, Kasai Occidental, Kasai Oriental, Kongo Central, Lualaba, Kwilu, Maniema, North-Kivu, South-Kivu, South Ubangi, Tanganyika and Tshopo. The observers are from six (6) SADC Member States: the Republics of Angola, Namibia, South Africa, Zambia and Zimbabwe and the United Republic of Tanzania.

The Mission engaged various stakeholders, including the presidential candidates and/or their representatives, political parties, the Independent National Electoral Commission (CENI), the Constitutional Court, the United Nation Stabilisation Mission in DRC (MONUSCO), Government Institutions, Civil Society Organisations, Religious Leaders, Members of the Diplomatic Corps, Partners from the Media, and Regional and International Observation Missions, among others.

The Mission observed the 2023 Presidential, Legislative, Provincial and Local Council Elections of the DRC in line with the *SADC Principles and Guidelines* and the country's relevant laws. The *SADC Principles and Guidelines* provide an objective and scientific methodology for the observation of elections and contribute to the consolidation of democracy in the Region by enhancing best electoral practices and making recommendations to address any electoral shortcomings or challenges. The *SADC Principles and Guidelines* are also informed by key instruments of the African Union, such as the African Charter on Democracy, Elections and Governance (2007), as well as relevant Conventions of the United Nations.

At this juncture again, I wish to acknowledge the presence of the SADC Panel of Elders in the country led by its Chairperson, His Excellency Dr. Jakaya Mrisho Kikwete, former President of the United Republic of Tanzania.

This Preliminary Statement covers the Mission's observations of the pre-election, voting day activities, and the immediate post-election period.

II. SUMMARY OF KEY FINDINGS

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(a) Political and Security Environment

The Mission noted that the political and security environment in the country was generally calm and peaceful during the pre-election and voting day periods, except in some parts of the three Provinces of North Kivu, South Kivu and Ituri. The Mission also noted reports that internally displaced persons in these Provinces would be unable to exercise their democratic right to participate in the electoral process.

The Mission noted reports of ethnic tensions and election-related violence in some parts of the country. To this end, the Mission urged security agencies and all other stakeholders engaged during consultations to carefully manage the situation to sustain peace and stability. Stakeholders were also urged to avoid uttering statements that may escalate ethnic tensions.

(b) The Electoral Law

The 2023 Presidential, Legislative, Provincial and Local Council Elections in the Democratic Republic of Congo are regulated by the country's Constitution of 2006 as amended by Law No. 11/002 of 2011. Article 70 of the Constitution states that the President is elected by universal direct suffrage for a five-year mandate, renewable once, upon re-election. In addition to the Constitution are other applicable laws which, *inter alia*, include:

- (i) Law No. 06/006 of 9 March 2006 on the organisation of presidential, legislative and provincial elections as amended by Law No. 11/003 of 2011, Law No. 15/001 of 2015, Law No. 17/013 of 2017 and Law No. 22/029 of 2022;
- (ii) Law no. 04/028 of 2004 on the identification and registration of voters in the Democratic Republic of Congo, as amended by Law no. 16/007 of 2016;
- (iii) Law no. 10/013 of 28 July 2010 on the organisation and functioning of the Independent National Electoral Commission, as amended and supplemented by Organic Law no. 13/012 of 2013 and Organic Law no. 21/012 of 2021; and
- (iv) Organic Law no. 13/026 of 2013 on the organisation and functioning of the Constitutional Court.

In terms of the Electoral Law, as amended in December 2017, Legislators and Provincial governors are elected by direct suffrage for a five-year renewable term upon re-election.

Distinguished Ladies and Gentlemen

The Mission noted that reforms have been undertaken to enhance the electoral processes further to the recommendations of the 2018 SEOM report. Among these are Law no. 22/029 of 29 June 2022-amending and supplementing Law no. 06/006 of 9 March 2006 on the organisation of

elections, and Organic Law no. 21/012 of 2021 to amend and supplement Law no. 10/013 of 28 July 2010 on the organisation and functioning of the CENI.

The Mission also noted the introduction of voting in the diaspora, which aligns with Section 4.1.8 of the SADC Principles and Guidelines. In this regard, the diaspora voting took place in five (5) countries, namely Belgium, Canada, France, South Africa and the United States of America.

To that end, we commend the Government of the DRC for enacting these progressive electoral laws.

Distinguished Ladies and Gentlemen,

(c) The Management of the Electoral Process

(i) The Independent National Electoral Commission (CENI)

The Mission noted that in terms of the Constitution of the Democratic Republic of Congo, the organisation and management of elections are CENI's exclusive competence.

The Mission also noted concerns about the late appointments of the current CENI members, which may have affected its preparation for the 20 December 2023 elections.

The Mission further noted that levels of trust in the CENI may have been affected by, among others, challenges in the delivery of materials, transparency and accountability, as well as limited communication between the CENI and the relevant stakeholders.

(ii) Voter Registration

The Mission noted that CENI registered 43,941,891 voters compared to just over 40 million in the 2018 election. The CENI then made the provisional electoral register available on its website. Notwithstanding the challenges in publishing the final electoral register, the SEOM observed that voters' lists were available at polling stations.

(iii) Voters' Cards

The Mission noted concerns by some stakeholders who complained that a significant number of voters' cards which CENI had distributed during the voter registration process were of poor quality, with some fading over time. Notwithstanding the quality of voters' cards, the mission was informed that voters whose names appeared on the voters' lists would be allowed to vote.

(iv) Nomination of Candidates

The Mission noted the increased number of registered candidates compared to the 2018 Elections. The CENI informed of a total of 26 presidential candidates, and more than 100,000 candidates contesting for the 2020 Elections. However, the Mission learnt that some presidential candidates withdrew and extended support to other candidates. The CENI further informed the Mission that the parties which had withdrawn from contesting for the presidential seat would still feature on the ballot as they had not officially registered their withdrawal with the Commission.

(v) Results Announcement

The Mission was informed by CENI that, in compliance with the Law no. 22/029 of 29 June 2022 (amending Law No. 06/006 of 9 March 2006 on the organisation of presidential, legislative, and provincial elections), it plans to publish the election results per polling station, inclusive of the breakdown on the number of votes attained per candidate, to deliver a more transparent form of result reporting. The CENI further confirmed that they have arranged for the operationalization of a National Results Centre to be based in Kinshasa, where the accredited media, political parties, international and local observers, members of the Diplomatic Corps and members of the public will be allowed to witness the gradual announcing of the results. These measures and mechanisms, respectively, are key in supporting the delivery of a more transparent electoral process.

(vi) Civic and Voter Education

Section 11.4.1. of the SADC Principles and Guidelines highlight that *‘civic and voter education are indispensable to democratic consolidation as they allow for the electorate to make informed choices on who decides on their governance priorities’*. The Mission was informed by CENI that the latter undertook voter education focusing mainly on the voting process, particularly on using new technologies such as the voting machine. However, it was observed that some voters struggled to use voting machines, which may suggest inadequate voter education.

(vii) Funding for CENI

The Mission noted some stakeholders’ perspectives that CENI did not have sufficient time and resources to conduct the elections. Amongst others, they cited a lack of financial and other logistical resources such as airlift capability to deliver voting materials across the country. The Mission further noted the additional support by the United Nations Stabilization Mission in the DRC (MONUSCO) on the distribution of election materials and polling personnel across the country. The Mission also took note of media reports that some African countries had offered logistical support to airlift election materials to the country’s provinces.

(viii) Access to State Media

Article 33 of the Electoral Law no.06/006 of 09 March 2006, as amended and supplemented by Law no.17/013 of 24 December 2017 requires equal access to public media by all candidates. Also, Section 5.1.10 of the Principles and Guidelines requires *reasonable measures to guarantee political parties and other electoral stakeholders, unhindered access to, and to communicate freely with, the media in line with “the Principles of Conducting Democratic Elections”*. In this regard, some stakeholders raised concerns that access to the state media by

the opposition political parties and candidates was limited during the campaign period. Civil Society Organisations also mentioned that they relied on the private media for spreading their electoral messages, particularly on voter and civic education.

(ix) Participation of Women in Politics

The Mission noted that representation of women in elected political positions in the country is low. Data from the CENI shows that the candidates for Presidential Elections were twenty-four (24) males and two (2) females only. There appears to have been little effort by political parties during this election to address this imbalance.

III OBSERVATIONS ON ELECTION DAY

On polling day, the SEOM observed the voting process and the performance of CENI in fourteen (14) Provinces of the Democratic Republic of Congo. The SEOM observed the following at the 237 polling stations visited:

- (i) The environment at the polling stations was calm and peaceful.
- (ii) SADC observers were granted access to the polling stations.
- (iii) Only 2% of the observed polling stations opened on time, while 98% did not, mainly due to the delay of delivery of voting materials, unavailability of presiding officers and delayed setting up of the voting stations. We noted that CENI authorised polling stations that opened late to continue allowing voters to exercise their constitutional rights, up to eleven (11) hours following the actual opening time. CENI also issued a press release on the evening of 20 December 2023 authorising the voting to continue on 21 December 2023.
- (iv) The voters' list was not displayed outside the polling stations observed before the voting day. However, on the voting day, the voters' list was displayed outside at most of the polling stations observed.
- (v) Voting progressed smoothly, notwithstanding issues relating to the publication of the voters' list.
- (vi) In the polling stations observed, voters' identification documentation was checked against the voters' list available.
- (vii) Most polling stations were adequately laid out, and a few were not, due to inadequate space. Some of the polling stations that were observed were congested.
- (viii) At 12% of the polling stations observed, there were posters outside educating voters on the steps of the voting process, while there were no such posters at 88% of the polling stations.

- (ix) The approximate average time taken to process a voter was three (3) to five (5) minutes, mainly due to the unfamiliarity with the voting machine.
- (x) Security Personnel were visibly present at all Polling Stations and acted professionally.
- (xi) Party agents were present in 83.3% of the observed polling stations.
- (xii) The positioning of the ballot booths was such that it did not strictly guarantee the secrecy of the vote at 13% of the polling stations observed.
- (xiii) Most Polling Stations were accessible to all voters, including persons with disabilities, except for 25% of the polling stations where the geographical terrain prevented access to the polling stations by persons with disabilities.
- (xiv) In some polling stations, voters with disabilities, pregnant women and the elderly were given priority to cast their votes, and those requiring assistance were helped.
- (xv) At 85% of the polling stations observed, all registered voters were allowed to cast their ballots, while in 15% of the polling stations, some voters were not allowed to vote, mainly because their names were not found on the voters' list at the polling stations.
- (xvi) Voting machines were available in all the polling stations observed, although some voting machines malfunctioned. Some machines failed due to the power supply.

IV CLOSING PROCEDURES

Closing procedures were observed at 15 polling stations. The closing procedures were generally adhered to except in a few cases in which the following were observed:

- (i) The 15 polling stations observed closed on time.
- (ii) In 11 polling stations observed, the presiding officer reconciled the number of used and spoilt ballots before counting.
- (iii) In 5 of the Polling Stations observed, no announcement was made on the reconciliation of ballots cast.
- (iv) In 6 of the Polling Stations, minutes of the closing of the Polling Stations were not completed.

IV BEST PRACTICE

The Mission noted that CENI organised a presidential candidates' debate for the first time.

The CENI, in compliance with Law no. 22/029 of 29 June 2022 planned to publish the election results per polling station, including the breakdown of the number of votes attained per candidate, to deliver a more transparent form of result reporting.

The operationalization of a National Results Centre in Kinshasa, where the accredited media, political parties, international and local observers, members of the Diplomatic Corps and members of the public can witness the gradual announcement of the results, is commendable.

These measures and mechanisms are vital in supporting a more transparent electoral process.

V. RECOMMENDED IMPROVEMENTS IN THE ELECTORAL PROCESS

While comprehensive and conclusive recommendations will be made in the Final Report, the following are offered for the consideration of relevant authorities and stakeholders in the DRC:

- Extend Diaspora Voting to more countries;
- Increase women's representation in political party structures and leadership;
- The Mission urges the Government, political parties and other stakeholders in the DRC to engage in meaningful dialogue to ensure peaceful co-existence amongst ethnic groups.
- The CENI is further urged to ensure that:
 - In accordance with Law No. 04/028 of 24 December 2004 on Voters Registration in DRC, all verified and registered voters are issued with quality voters' registration cards;
 - The timelines set for publication of the voters' list on polling stations is complied to in future elections; and
 - Voter education is strengthened in the country to ensure the effective participation of the Congolese electorate in the electoral process.

VI CONCLUSION

At this stage, allow me to recall that the SEOM is continuing the process of electoral observation in the post-election phase. As such, the Mission has not rendered its comprehensive and conclusive recommendations or qualifications for the election at this stage.

The SEOM commends the people of the DRC for the generally peaceful and calm manner in which they conducted themselves on the polling days. The SEOM further

wishes to express its gratitude and appreciation to all stakeholders with whom it engaged during its Mission.

The DRC is an important member of the SADC community. In this spirit, we call on all stakeholders to work together to build a stable and peaceful country for the benefit of all its citizens.

The SADC shall, therefore, remain available to assist and support the DRC on outstanding issues.

Following the revised SADC Principles and Guidelines Governing Democratic Elections (2021), the Mission's final report will be issued within 30 days for submission to the Government of the DRC and the CENI, and within 90 days thereafter, the SADC Secretariat shall distribute the report to the relevant national stakeholders.

Muito obrigado
Asante sana
Thank you very much
Merci beaucoup