



## ***FINAL REPORT***

# EUROPEAN UNION ELECTION FOLLOW-UP MISSION TO NIGERIA

10 October – 9 November 2017

*This report was produced by the European Union Election Follow-up Mission to Nigeria.*

*The information and views set out in this report are those of the author(s) and do not necessarily reflect the official opinion of the European Union.*

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**TABLE OF CONTENTS**

List of acronyms.....

Executive summary.....

Introduction to the Electoral Follow-up Mission.....

Electoral context and update .....

    State of play.....

    Election petitions.....

    Off-cycle gubernatorial and parliamentary rerun elections since 2015.....

    EU involvement.....

Current reform initiatives.....

    Status of EU EOM 2015 recommendations.....

    Recommendations by other observer groups.....

    Electoral reform process .....

    Independent National Electoral Commission.....

Challenges ahead of the 2019 polls .....

    Timely passage of electoral reform.....

    Internal party democracy and primaries.....

    Continuous voter registration.....

    Prosecution of electoral offences

    Campaign spending oversight capacity

    Promotion of women’s participation.....

    New technologies.....

    Security.....

Electoral support .....

EFM Recommendations.....

  

Annex 1: List of meetings held .....

Annex 2: EFM press release .....

Annex 3: Grid of EU EOM 2015 recommendations and status of implementation.....

Annex 4: Proposed Constitutional Reform.....

Annex 5: Proposed Amendments to Electoral Act.....

## Acronyms

APC	All Progressives Congress
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CDD	Centre for Democracy and Development
CSO	Civil Society Organizations
CVR	Continuous Voter Registration
DDC	Direct Data Capture (machine)
DFID	Department For International Development
ECES	European Centre for Electoral Support
EEAS	European External Action Service
EEM	Election Expert Mission
EMB	Election Management Body
EPP	Election Project Plan
ERC	Election Review Committee
EU	European Union
EU EFM	European Union Follow-up Mission
EU EOM	European Union Election Observation Mission
ECONEC	ECOWAS Network of Electoral Commissions
ECOWAS	Economic Community of West African States
EUSDGN	European Union Support to Democratic Governance in Nigeria
ICC	International Criminal Court
ICCES	Inter-Agency Consultative Committee on Election Security
ICCPR	International Covenant on Civil and Political Rights
IDEA	International Institute or Democracy and International Assistance
IFES	International Foundation for Electoral Systems
INEC	Independent National Electoral Commission
IPC	International Press Centre
IRI	International Republican Institute
LGA	Local Government Area
NASS	National Assembly
NBC	Nigerian Broadcasting Commission
NDI	National Democratic Institute
NHRC	Nigeria National Human Rights Commission
NIPSS	National Institute for Policy and Strategic Studies
PDP	People's Democratic Party
PLAC	Policy and Legal Advocacy Centre
PU	Polling Unit
PVT	Parallel Vote Tabulation
PVC	Permanent Voters Cards
PWD	Persons With Disabilities
REC	Resident Electoral Commissioners
RERC	Registration and Election Review Committee
SCR	Smart Card Readers
UN	United Nations
USAID	U.S. Agency for International Development
YIAGA	Youth Initiative for Advocacy, Growth and Advancement

## **Executive Summary**

**The European Union Electoral Follow-up Mission’s (EFM) objective** was to assess the current electoral reform process and the extent to which previous EU Election Observation Mission (EU EOM) recommendations were addressed. The EFM findings may be considered when deciding possible future EU actions and support in Nigeria. The Mission was led by Mr. Santiago Fisas, Member of the European Parliament and former Chief Observer of the EU EOM 2015. Mr. Fisas was in Nigeria from 19 to 20 October where he and his team met with a wide range of stakeholders, held a round-table, conducted a Press Conference and issued a press release.

**Following the 2015 general elections**, the Independent National Electoral Commission (INEC) was faced with a number of end of tenure vacancies for National Commissioners and Resident Electoral Commissioners (RECs). The President appointed the current Chairman in October 2015. One Commissioner and 16 of 36 RECs are still outstanding.

**Over 600 election petitions** were filed before the election petition tribunals after the 2015 polls. The Nigeria Civil Society Situation Room undertook a study of 560 of these petitions, offering recommendations for improvement and concluded that a meaningful electoral reform to reduce judicial intervention in the electoral process, including in determination of results was required. There also remains a pressing need to fast track adjudication of electoral petitions in relation to candidacies well in advance of election day.

**INEC organised more than 170 elections** since 2015 with off-cycle governorship elections and legislative and area council elections. A number were a result of elections being nullified due to candidate disqualification. An assessment by Election Monitor noted that, “*the major elections since April 2015 have been determined inconclusive.*” In line with EU EOM 2015 recommendations, INEC was proactive in introducing procedural reforms, such as the merging of the accreditation and voting processes, and the reinforcement of biometric identification checks, which have seemingly reduced manipulation of the accreditation process and streamlined voting. INEC is currently preparing for governorship elections in Anambra on 18 November.

**An indicative assessment of implementation** of the EU EOM 2015 recommendations shows that a number of recommendations are reflected in the on-going constitutional reform process and in proposed amendments to the Electoral Act. Out of the 30 recommendations only four are being implemented by INEC, while seven are considered in the proposed reforms or subject to on-going implementation, 19 are not implemented at all.

**Constitutional reform** commenced in January 2016, with the National Assembly establishing *ad hoc* Committees in the Senate and the House of Representatives. Some proposed amendments to the Constitution bring Nigeria in line with its international obligations such as the introduction of independent candidatures. Other positive proposals include a reduction in the age limit to access elected office and granting INEC the authority to deregister political parties. In July 2017 the National Assembly approved 33 bills, 10 of which are election-related, and all require endorsement by 2/3 of the 36 State Houses of Assembly before they can be submitted for presidential assent.

In a parallel process, the National Assembly worked to **reform the Electoral Act**. Some proposed amendments focus on objective legal mechanisms and procedures that, if adopted could improve the credibility and transparency of elections; INEC would be challenged to ensure implementation of a new framework and adequate training of election staff. The Senate passed the reforms in March 2017 and the House of Representatives Committee is currently harmonising amendments to be sent to the President for assent.

**The timeframe for completion of the current reform is unknown.** Few EFM interlocutors were optimistic that the reform process would be completed by the end of 2017. Late electoral reform could impact negatively by introducing instability and unpredictability, testing INEC's ability to deliver elections that incorporate constitutional and legal provisions.

**Political party primaries need to promote a genuine election process that fosters accountable elected representatives and secures citizens' rights to democratic participation.** Parties need to respect constitutionally-established eligibility requirements for candidates and provisions for nomination of candidates. INEC is challenged in monitoring this process, as it cannot reject any candidate submitted by a political party. To strengthen political party adherence to the requirement for internal democracy and to strengthen INEC's monitoring mandate, there is a substantive proposed amendment to the Electoral Act that includes 26 new subsections aimed at lending greater transparency to party primaries, while safeguarding against undemocratic selection practices. Much will depend on political commitment to building internal party democracy.

Civil society organisations identify improvement in **INEC's external communication strategy**, especially with regular holding of quarterly meetings with the Chairman and Commissioners to update stakeholders. At the same time, the EFM assesses that stakeholders require more details pertaining to introduction of new technologies and procedures, including e-collation and e-tracking of election results. INEC needs to be proactive and clear in its messaging in relation to the use of technology.

Nigeria continues to fall short of its international and regional obligations to **promote women's political participation**. Political parties met by the EFM expressed their intentions to improve women's participation, but this has not been backed by concrete actions such as changes to party statutes to require a women's quota. Women representation in the National Assembly decreased over every general election since 2011, now standing at four percent in the House of Representatives and six percent in the Senate. Ensuring women's equal rights is a collective responsibility and needs involvement of all stakeholders.

**EFM interlocutors highlighted concerns regarding security** and the possible risk for destabilisation of the 2019 polls. Close collaboration between all stakeholders, and respect for the apolitical nature of the armed forces and police is paramount to create conditions for inclusive elections. Efforts aimed at reducing electoral violence against women are crucial in this regard, as is the importance of civic education and peace messages throughout the process. INEC's delivery of electoral services is further contingent to improved security including the security of election officials, infrastructures, voters, and election observers.

**The INEC leadership demonstrated commitment to institutional strengthening** in the early identification of and action to tackle shortcomings and weaknesses within its structure and operational capacities. INEC's Strategic Plan was used in the National Assembly to inform its electoral budget request. The Commission is also mindful that eventual electoral

reforms may require additional resources. Towards more inclusive elections, INEC requires better strategies for voter education programmes around gender, youth and persons with disability. Ensuring an inclusive continuous voter registration, including for internally displaced persons (IDPs) and an effective mechanism for permanent voter card collection is central.

**EU electoral support** (2017-2021) is based on the EU EOM 2015 recommendations and focuses on priority areas marked for improvement. The EFM was informed by interlocutors of the importance of past EU presence and the added value of shared impartial analysis. Four past EU EOMs, as well as an EFM and an Electoral Expert Mission (EEM) in 2014, raises the expectation of future EU presence.

### **Priority recommendations:**

- Proposed amendments to the Constitution and Electoral Act constitute important democratic advancements, their **timely adoption is crucial** to ensure a coherent and uniform application of the new framework.
- If electoral legal reforms adopted, INEC ensure application through **robust training for electoral stakeholders** for uniform implementation.
- INEC work with full transparency, making all **information of public interest immediately and easily accessible**, including decisions, procurement documentation, notifications, voter registration and polling data.
- INEC to **give priority** to a comprehensive, inclusive and transparent planning and implementation of the **collation and transmission of results process**, and be assertive in providing clear messaging in relation to the use of technology for voting, collation and transmission of results.
- Political parties to comply with constitutionally-established eligibility requirements for candidates and **legal provisions for nomination of candidates through party primaries**.
- Political parties be required to have policies and provide regular information on the **promotion of women's political participation** within the party, as candidates, and more widely. Consideration be given to requiring parties to have a minimum representation of women in leadership positions and as candidates, applying a 35 % quota would be in line with the national gender policy and the Beijing Platform for Action.
- **Civilian authorities to respect the apolitical nature of security forces**. State institutions including security forces, take measures to demonstrate their neutrality in all aspects of their work. INEC to engage in closer cooperation and training of security forces for election duty.
- **Political actors to commit to a Peace Accord** before the start of the campaign period; this to be combined with a widespread campaign promoting peace messages.

## **Introduction to the Electoral Follow-up Mission**

The European Union Electoral Follow-up Mission's (EFM) objective was to assess the current electoral reform process and the extent to which previous EU Election Observation Mission (EU EOM) recommendations may have been addressed. Findings of the EFM may be considered when deciding possible future EU support and activities.

The EU EFM was led by Mr. Santiago Fisas, Member of the European Parliament and former Chief Observer of the EU EOM 2015. Mr. Fisas was in Nigeria from 19 to 20 October 2017 accompanied by Pierre Dybman, European External Action Service (EEAS) desk for Nigeria and Milena Yokova from EEAS Election Desk. In addition, two experts were deployed to Nigeria from 10 October to 5 November (Margarida Alves, Electoral /Political Expert, and Alexander Gray, Legal Expert).

The EFM met with the Chair and Vice-Chair of the Senate Committee on Independent National Electoral Commission (INEC), with the Chairperson, Commissioners and department directors of INEC, the Chairman of the National Caretaker Committee of the People's Democratic Party (PDP), the National Chairman of the All Progressives Congress (APC), the Vice-Chairman of the National Peace Committee, civil society representatives, the International Press Centre (IPC), with Plateau State community leaders, technical assistance providers, the EU Delegation, the Diplomatic Community and the media (Annex 1). A round-table with over 26 participants was conducted, which was followed by a Press Conference. A Press Release was issued at the end of the visit that received some media coverage in print media (see Annex 2).

## **Electoral context and update**

### **State of play**

There are currently 46 political parties registered in Nigeria. INEC is presently reviewing applications from over 100 associations that wish to be registered as parties. Some interlocutors mentioned the possibility of the emergence of a new 'mega-party' ahead of 2019 polls, however it is too early to ascertain if that could be the case.

Only 28 of the 46 registered political parties are in compliance with financial disclosure requirements as provided in the Electoral Act. While registration of parties is an administrative issue carried out by INEC, as granted in the Constitution, by contradiction INEC does not have the authority to de-register parties. As such, in cases of non-compliance with constitutional and statutory requirements, the election management body (EMB) lacks adequate tools at its disposal. The Inter-Party Advisory Council (IPAC), working to promote inter-party relations, has been active but has not enjoyed positive engagement by the two larger parties. Under a new leadership and executive committee, the council could play a more pro-active role in encouraging parties to comply with the electoral legal framework.

Some civil society organisations (CSO) are concerned that hate speech, which is a problem that largely persists from previous polls, is bound to increase during campaigning for the 2019 elections. The increased use of social media during elections and the difficulty to monitor these outlets is an additional challenge. The International Criminal Court (ICC) was

a contributor to electoral security in 2015 with its condemnation of hate speech.

The National Peace Committee (NPC) expressed concern that compared to the 2015 polls “... 2019...will most likely present greater existential challenges for Nigeria. The country in many respects is at crossroads because the high hopes that were raised by the government have remained largely unmet.” The NPC highlighted what they see as growing discontentment across the country in instances of resurgence of ethnic nationalism, calls for the restructuring of the country and agitations for greater resource control. “How the federal government responds to these agitations will shape the lead up to 2019. So far, it appears to favour largely military response to the agitations rather than a political solution.”

With specific provisions on elections, the Nigerian Broadcasting Code is currently under revision and the sixth version of this Code may be adopted ahead of the general elections. The National Broadcasting Commission (NBC) monitors compliance with the Code and has in the past been known to shut down offenders.

### **Election petitions**

The EU EOM 2015 final report found that, “*Excessive deference to judicial mechanisms for enforcement and corrective action risks protracted resolution to grievances.*” The result is a litigious electoral process whereby perceived victims clog the courts with cases that are often dismissed for lack of evidentiary facts. Such cases have caused INEC to go to the courts 419 times, including 57 to the Supreme Court. INEC’s 2015 General Election Report reflected that, the number of post-election petitions was a measure of a country’s democratic development inasmuch as there ought to be fewer petitions in a more consolidated democracy.

Following the 2015 general elections over 600 election cases were filed before the election petition tribunals across the country by the losers of the Governorship, Senatorial, House of Representatives and State Houses of Assembly elections. Some of these petitions are still at the Court of Appeal despite a constitutional provision that they must be adjudicated within 180 days. The Nigeria Civil Society Situation Room undertook a study of 560 of these petitions, reviewed the reasons provided by the courts for their decisions, and offered recommendations on how to improve the electoral process.

The study calls on all stakeholders to take collective responsibility for improving elections. It offers recommendations for the legal framework, the judiciary, legal practitioners, political parties, petitioners and INEC. The final analysis is that work needs to be done towards a meaningful electoral reform to reduce judicial intervention in the electoral process, including in determination of results.

Stakeholders informed the EFM that there remains a pressing need to fast track adjudication of electoral petitions in relation to candidacies well in advance of election day. The importance of conducting improved and transparent party primaries combined with INEC’s capacity of a better monitoring of the process is crucial in this regard.

### **Off-cycle gubernatorial and parliamentary rerun elections since 2015**

INEC was faced with a number of vacancies due to end of tenure for National Commissioners and Resident Electoral Commissioners (RECs) at the end of the previous

electoral cycle.<sup>1</sup> President Buhari appointed the current Chairman in October 2015. One Commissioner and 16 of 36 RECs are still outstanding. The Commission is not mandated to appoint its REC's, which also go through Presidential approval. This weakens its oversight and supervisory capacity at State level.

INEC organised more than 170 elections since 2015 with off-cycle elections for governorships in Kogi, Bayelsa, Edo, and Ondo States in 2015, legislative elections in Rivers State and the Federal Capital territory (FCT) area council elections in 2016. Other elections were re-runs for senatorial seats, federal constituencies and state constituencies. A number were a result of elections being nullified due to candidate disqualification. Governorship elections will be held in Anambra State on 18 November, and Ekiti and Osun States in 2018.

INEC was proactive in introducing non-legal procedural reforms throughout the off-cycle polls, notably an all-year-round continuous voter registration (CVR) at local government area (LGA) initiated in April 2017, the merging of the accreditation and voting processes, and the reinforcement of biometric identification checks during polling through voter card and finger print recognition.

### **EU Involvement**

The EU continues to accompany Nigeria's democratic development with support to the election process through a comprehensive technical assistance programme. The presence of EU observation in 2003, 2007, 2011 and 2015, as well as an EFM and an Electoral Expert Mission (EEM) in 2014, raises the expectation of future EU observation. Assessing the degree of implementation of past EU recommendations will be a determining factor in the advisability and usefulness of engaging in further observation.

The 2013 Universal Period Review reported on Nigeria's ratification of several international treaties while many countries recommended adopting laws that coincided with these treaties. Further compliance is outstanding with regard to commitments under the International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), Convention Against Corruption (CAC) and African Charter on Democracy, Elections and Governance.

## **Current reform initiatives**

### **Status of EU EOM 2015 recommendations**

Assessment of implementation of the recommendations reveals that a number of recommendations are reflected in the constitutional reform process and in proposed changes to the Electoral Act. The EFM welcomes ongoing efforts by the National Assembly to push this process forward.

Out of 30 recommendations offered only four are being implemented by INEC, while seven are within the proposed electoral reforms or subject to on-going implementation and 19 are not considered at all. The EFM's assessment is based on stakeholder interviews and INEC practices and preparations in the course of organising elections in the interim period since 2015. (See Annex 3 Grid of EU EOM 2015 recommendations and status of implementation).

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<sup>1</sup> Survey on Public Perception of INEC, (Post-2015 Nigeria General Election), Nigeria Civil Society Situation Room), 2017.

Of the seven EU EOM 2015 priority recommendations four are either included in proposed legal reforms or are already in the planning and/or implementation phase:

- 1) Recommendation 5: INEC introduced a truly continuous voter registration at local government level, expediting registration throughout the year. The CVR includes a monthly display period of the voter register to allow for claims and objections. However, the effective removal of deceased voters from the register remains unaddressed.
- 2) Recommendation 18: The merging of accreditation and voting processes was implemented by INEC for off-cycle elections in the interim period since 2015. Proposed amendments to the Electoral Act introduce a legal basis for the use of new technologies, including the smart card reader for voter identification.
- 3) Recommendation 7: Independent candidacy for all elected positions is included in a proposed constitutional amendment.
- 4) Recommendation 23: The proposed legal reform introduces alterations to include a 180-day timeframe for adjudication of pre-election petitions. This proposed amendment may not go far enough to resolve the issue of post-election disqualification of elected candidates on the grounds that they did not fulfil eligibility requirements or were not the legitimately selected candidate during party primaries.

Three priority recommendations were not considered: *i*) a more inclusive parliamentary mechanism for cross-party involvement in the selection and approval of the INEC Chairperson and National Commissioners and giving INEC direct power to appoint and remove RECs, *ii*) political parties to be required to have policies and provide regular information on the promotion of women's political participation within the party, *iii*) and the National Broadcasting Commission regulatory authority be strengthened. The EFM believes these recommendations remain relevant.

INEC acted promptly on two recommendations, mainly the introduction of early organisational and operational planning and improvements in their electoral cycle planning, and the continued biometric identification checks during polling through smart card readers and finger print recognition. The collection of voter cards to be combined with on the spot biometric testing of the registrant's card and fingerprint is also being practised.

The EFM noted positively that INEC, in response to recommendations, established a committee on the review of the number of polling units and decided to create voting point settlements equal to polling units. Also, INEC is establishing a collation support and results verification system at constituency and local government area collation centres and is studying a results validation mechanism through electronic transmission and collation of results.

### **Recommendations by other observer groups**

A number of recommendations offered by national and international observer groups correspond to those identified by the EU EOM, such as the need to establish an Electoral Offences Commission with special powers to undertake timely prosecution of electoral offenders and increase women's participation in legislative bodies as set out in the National Gender Policy. The International Republican Institute (IRI) recommended developing use of

technologies for real-time transmission of results from polling units to the central database in Abuja, and a long-term, inclusive policy on improved inclusion of Internally Displaced Persons in registration and voting exercises.

It was further recommended that INEC provide measures to avoid disenfranchisement of citizens on election duty and that the Commission be present at political party primaries (gubernatorial, national assembly and presidential party primaries) in order to collect results and certify that primaries were conducted in compliance with the legal framework. The IRI report mentions the need to improve the work of the Inter-Party Advisory Council (IPAC) with a review of IPAC's organisation and conduct of its activities.

The Nigerian Civil Society Situation Room in its report makes reference to changes to the legal framework that should include a clear framework for constituency delimitation, for political party registration and regulations for the prosecution of electoral offences. A number of recommendations focus on improving electoral management and transparency by ensuring greater compliance with election procedures at all levels, introducing robust internal verification mechanisms for the official proclamation of results and the need for a swift publication of elections results per polling unit.

### **Electoral Reform Process**

Constitutional reform commenced early, with the National Assembly establishing *ad hoc* Committees in the Senate and the House of Representatives in January 2016. To avoid the pitfalls of the previous Assembly, when proposed amendments were presented in one single bill, which was eventually rejected by President Jonathan, proposed amendments are in 33 separate bills, 10 of which are election-related (Annex 4). In July 2017, both houses of the National Assembly passed the 33 bills. The approved bills must now be endorsed by 2/3 of the 36 State Houses of Assembly before they can be submitted for presidential assent.

In a parallel process, the National Assembly worked to reform the Electoral Act. The Senate passed the Electoral Act Bill in March 2017 (Annex 5). The House of Representatives subsequently passed the bill in a first reading in July and second reading in October 2017. The House Committee is currently working to harmonise amendments to be sent to the President for assent. If the President vetoes the amendments, it could still become law if both chambers of the National Assembly vote to override the veto.

The constitutional reform process of the previous Assembly (2011-2015), while it failed, was widely praised for fostering a genuine participatory process in which public hearings were held across the country. This inclusive process was in line with Nigeria's obligations under the African Charter on Democracy, Elections and Governance to ensure that any constitutional review involves national consensus. Civil society deplores the fact they were not involved in the current constitutional reform. Although the National Assembly held a public hearing to discuss proposed amendments to the Electoral Act.

Some proposed amendments to the Constitution bring Nigeria in line with its international obligations such as the introduction of independent candidatures. Other positive proposals include a reduction in the age limit to access elected office and granting INEC the authority to deregister political parties. There is a proposed procedure to override the presidential veto, however, this same amendment was largely responsible for President Jonathan rejecting the constitutional amendments bill in 2015. Other amendments, such as the determination of pre-

election matters that bring their adjudication within the parameters of the Constitution are welcome, however, they may not go far enough to address systematic weaknesses in relation to the verification of nominated candidates.

Some proposed amendments to the Electoral Act focus on improving critical stages of the election process and address weaknesses in the electoral framework identified by the EU EOM 2015. They provide for objective mechanisms and procedures that, if implemented could improve the credibility and transparency of elections. They seek to reiterate INECs mandate and oversight, and include accountability measures for election officers who fail to discharge their responsibilities.

The timeframe for completion of the current reform is unknown. These bills have been shared informally with the States and the Conference of Speakers of the State Houses of Assembly already met twice. Concurrently there are apparently endless consultations with state governors.

The Electoral (Amendment) Bill passed its third reading also last July and has since been awaiting harmonisation with the Senate before being returned to the National Assembly. A joint meeting of the Senate and the House takes place twice monthly specifically to discuss electoral reform. Insiders believe there will be few changes made to the bill presented by the Senate. Few EFM interlocutors were optimistic that the reform process would be completed by the end of 2017. INEC and civil society organisations instead referred to a history of late electoral reform within the electoral cycle.

The Policy and Legal Advocacy Centre (PLAC) is promoting civil society engagement in advocating for passage of the amendments to the Constitution. Although the bill has not yet officially reached State Assemblies, CSOs like the Youth Initiative for Advocacy, Growth and Advancement (YIAGA) are looking for creative ways to bring the bill to light, including contacting State Assemblies in advance to encourage them to pass the bill, urging constituents to lobby lawmakers and holding marches to promote the bills.

It is important that amendments be finalised as soon as possible to allow for legal certainty, their broad dissemination and preparations for their practical implementation. Late electoral reform could have a negative impact by introducing instability and unpredictability; it could jeopardise INEC's ability to deliver elections that incorporate all constitutional and legal provisions. Nigeria's obligations under the ECOWAS Protocol on Democracy and Good Governance imply a commitment to make no substantial modification to the electoral laws in the last six months prior to elections.

### **Independent National Electoral Commission (INEC)**

Early development of the INEC Strategic Plan and Strategic Programme of Action for the period 2017-2021, and the development of the Election Project Plan (EPP) for the 2019 general elections reveal a commitment to long term planning. Actions include better use of technology, improvement of elections results management system, incorporation of e-collation and e-tracking, improved operational deployment, establishment of an effective and transparent election complaint and dispute mechanism, development of a database for archiving election results, and better strategies for voter education programmes around gender, youth and persons with disability. Implementation of planned actions will partly depend on adoption of proposed constitutional and legal reform.

Civil society organisations identify improvement in INEC’s external communication strategy, especially with regular holding of quarterly meetings with the Chairman and Commissioners to update stakeholders. This approach started at the beginning of 2017 and is becoming an institutionalised practice. At the same time, stakeholders reported that more details pertaining to introduction of new technologies and procedures are required. INEC needs to be proactive and clear in its messaging in relation to the use of technology.

A sound INEC internal communication strategy, with coordinated, systematic and harmonised reception and action between the federal and state level offices needs strengthening and implementation. Some level of detachment between the national INEC and state-level INEC is discernible. The state Resident Electoral Commissioners, appointed by the President, cannot be removed by INEC in case of misconduct or negligence. Some 2015 election observation reports referred to instances of Election Officers (EO) practices at the 744 local government area levels not being in conformity with INEC regulations.

A full implementation of INECs Election Project Plan (EPP) and of the Electoral Management System (EMS) is central, combined with strict adherence and compliance to election procedures at all levels. The early development and dissemination of guidelines and procedural manuals and sound training of election officials and *ad hoc* staff is essential to ensure good practices.

INEC was found receptive to consultations and cooperation with disability organisations and is planning to include various innovations such as visual aids for Albino voters in polling units during the Anambra polls and the general elections. A clear policy needs to be in place and communicated to include participation of internally displaced persons<sup>2</sup> in the registration and voting processes.

## **Challenges Ahead of the 2019 Polls**

### **Timely passage of electoral reform**

Early adoption of reforms to the Constitution and Electoral Act is pivotal to implementation of many of the EU EOM recommendations. Amendments need to be adopted as soon as possible to allow sufficient time for comprehensive regulation of statutory changes. Implementation will necessarily entail training of INEC staff to ensure uniform application of INEC instructions, regulations and guidelines at all levels of the Election Management Body.

Avoiding changes to the electoral legal framework during a clearly defined time interval prior to elections would constitute good legislative practice and an important safeguard as it would help guarantee legal stability and predictability.

### **Internal party democracy and primaries**

More needs to be done to lend legal certainty to voters’ choice regarding competing candidates. Political parties do not always respect constitutionally-established eligibility requirements for candidates or legal provisions for nomination of candidates. This frequently results in elections being nullified due to candidate disqualification.

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<sup>2</sup> Amnesty International estimates around 2 million internally displaced persons remain in Northern Nigeria with 80 % of them living in host communities and the remainder in camps, Amnesty International Report 2016/2017.

In line with Nigeria's obligations under the African Charter the state has the responsibility to strengthen political institutions to entrench a culture of democracy and peace. Applying this to political parties, the Electoral Act is clear that internal party democracy requires, *"the aspirant with the highest number of votes at the end of voting shall be declared the winner of the primaries of the party and the aspirant's name shall be forwarded to the Commission as the candidate of the party."* The Electoral Act is contradictory in that it provides INEC the competence to monitor primaries for the emergence of candidates, but at the same time it provides that INEC cannot reject any candidate submitted by a political party. As such, INEC is assigned a competence it cannot fully exercise.

INEC could benefit from an administrative mechanism to allow it to preclude nominations for candidacy that do not fulfil constitutional or legal provisions. One way in which INEC could approach this is through provision of primaries results forms to be used by political parties. Once parties submit candidates to INEC, the EMB could verify veracity of the forms against their own copies. To compliment this, INEC could be proactive in immediate publication of the names of those observed to have won primaries. Compliance could be improved if parties released the names of delegates ahead of the primaries. It would also be beneficial to have a longer period between primaries and the holding of elections, to allow for settlement of disputes well in advance of the polls. INEC is encouraging parties to take advantage of its alternate dispute resolution (ADR) department before resorting to the courts.

Party primaries do not always take into consideration issues around gender, youth and persons with disabilities. INEC has signalled its intention to resort to the courts in cases where parties submit candidates who did not win primaries and went on to win the election.

Sharing best practices with neighbouring West African countries that have encountered similar challenges could be helpful. The fact that the INEC Chairman is currently President of the ECOWAS Network of Electoral Commissions (ECONEC) puts the Commission in a privileged position to tackle this issue.

### **Continuous Voter Registration (CVR)**

Introduction of a truly continuous voter registration in April 2017 improves possibilities for citizen's political participation by facilitating the registration at any time. The ongoing exercise has shown successes in its first six months of operation, with well over three million new registrants.

The CVR also highlights areas that require urgent attention to improve the quality of the voter register, such as multiple registrations, no reliable information on deceased registrants, an insufficient mechanism for collection of the currently outstanding eight million Permanent Voter Cards (PVCs), and slowness of a number of the Direct Data Capture machines (DDC). Most CVR equipment is around seven years old and INEC has noticed issues with their continued viability. There is also a need for more processing speed to verify collected biometric information against a database of over 70 million registrants.

INEC will be challenged to address these areas in the lead-up to the 2019 polls and especially when CVR is implemented at the Ward level, but reported it was making concerted efforts to address areas that require improvement.

INEC reported that it started capturing disability data since August this year during the CVR. It is not clear what criteria are being applied, whether it is internationally agreed Washington Group Short Set of Six questions related to disability or other. While this is a positive element that can assist future electoral planning, there needs to be a wider collaboration with national agencies to collect reliable data to ensure accurate statistical information on the number and distribution of people with disability in Nigeria.

### **Prosecution of Electoral Offences**

The Electoral Act outlines electoral offences and sanctions and mandates INEC to initiate the prosecution of offenders through its own legal officers. At the same time, INEC does not have the capacity to investigate or make arrests, and a disconnect between INEC and the police fosters a situation where police file charges under criminal laws instead of referring cases to INEC to initiate prosecutions under the Electoral Act. This results in the election management body having a competence that it cannot adequately exert.

There is a sense that INEC is divided in its opinion as to whether to give up the responsibility to initiate prosecution of electoral offences. Some maintain INEC always held this competence and that there is a need to empower police to get involved, others say this responsibility detracts from the election management body's main focus of organising and implementing elections. INEC is engaging with legislators to promote reforms to set up an Electoral Offences Commission and Tribunal. However, this seemingly does not feature in reforms currently under consideration in the National Assembly, although it was recommended by the Electoral Reform Committee (ERC, established 2007) and the Registration and Election Review Committee (RERC, established 2012).

In advance of the 2015 polls, the Nigeria National Human Rights Commission (NHRC) issued a report and advisory on violence in the electoral period signalling the high number of incidents, casualties, the use of hate speech and incitement to commit gender-based violence. The Commission warned that it had the right to indict and prosecute perpetrators committing any of these actions.

The International Criminal Court (ICC) was also an important contributor to electoral security in 2015 with its condemnation of hate speech. On a visit to Nigeria at the time, the ICC Prosecutor affirmed the institution's "*resolve to prosecute individuals responsible for the commission of ICC crimes, whenever necessary.*" Many Nigerians report that this proactive engagement helped to calm tensions in the lead up to the polls.

### **Campaign spending oversight capacity**

INEC is challenged in its campaign spending oversight capacity. Its failure to initiate prosecution of parties for non-submission of accounts is frustrated by the absence of a sanction for compliance. EFM stakeholders, including INEC and civil society organisations, argue that if an Electoral Offences Commission and Tribunal were established, it could undertake this oversight responsibility.

### **Promotion of women's participation**

Nigeria continues to fall short of its international and regional obligations under CEDAW, ECOWAS and the African Charter to promote women's political participation both within party structures and as candidates, and more widely in the country's political life.

The 2013 Universal Periodic Review reminded that Nigeria had signed and ratified CEDAW. In recent years the National Assembly introduced the Gender and Equal Opportunities Bill aimed at bringing domestic laws in line with commitments under CEDAW and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa. The bill passed readings in the Seventh Assembly (2011-2015) and Eighth Assembly (2015-2019) but has yet to be adopted, thwarting efforts to entrench affirmative action for women.

Nigeria has achieved little towards its 2006 National Gender Policy, based on the 1995 Beijing Platform for Action's call for thirty-five percent representation of women in national legislatures. Political parties met by the EFM expressed their positive intentions to improve women's participation, but this has not been backed by concrete actions such as changes to party statutes to require a women's quota. The All Progressives Grand Alliance (APGA) may be the only political party to have shown action to include women with establishment of a 50/50 gender policy.

INEC has had a gender policy in place since 2014, with a budget line but no funding. The Commission's Strategic Plan includes gender, and some stakeholders reported on the responsiveness of the Commission to gender issues. INEC belongs to the Inter-Agency Committee on Implementation of Gender Policy and attends their quarterly meetings.

### **New technologies**

INEC informed the EFM that the Smart Card Reader (SCR) would be used to implement e-collation and e-transmission of results for the 2019 polls. There are plans to pilot this technology in upcoming elections before implementing it across the country for the 2019 polls. INEC will need support in ICT skill-building for effective implementation of new technologies. Political parties and stakeholders need to be well informed about technologies used in the electoral process.

Pointing to lessons learned from the 2017 elections in Kenya, and in line with EU EOM 2015 recommendations, the election management body reported it would take measures to deepen transparency, starting with a comprehensive display of results at the polling unit level. Also, that the e-transmission and collation of these results would be reconciled with original results forms before announcement of final results. A civil society implemented Parallel Vote Tabulation (PVT) exercise could lend credibility and support to INEC's results announcement.

### **Security**

Security issues are a serious concern and risk the possibility for destabilisation of elections in Nigeria; One of the main political parties reported to the EFM they had signals from all over the country that indicated security could be used to influence upcoming elections.

Close collaboration between all stakeholders, and respect for the apolitical nature of the armed forces and police, as enshrined in the ECOWAS Protocol on Democracy and Good Governance, is paramount to create conditions for inclusive elections. Efforts aimed at reducing electoral violence against women are crucial in this regard, as is the importance of civic education and peace messages throughout the process.

INECs delivery of electoral services is further contingent on improved security including that of election officials, infrastructures, voters, and observers. Ongoing national, state and local level dialogue between INEC and the Inter-Agency Consultative Committee on Election

Security (ICCES) needs to be continued and supported, with the possible inclusion of civil society and media participation. INEC relies to a great extent on the cooperation of around thirty different national security agencies to provide electoral security. INEC's closer involvement in the training of security personnel for election duty could improve election day security.

The need for a closer cooperation between INEC and the security agencies is essential. This was most evidenced ahead of the 2016 Edu off-cycle elections when security officials announced conditions (whether they were political or security related) were insufficient to allow for holding of elections resulting in INEC cancelling the poll just two days ahead of the scheduled date. INEC's Electoral Risk Management exercise, with support from IFES and IDEA, is mapping risks ahead of polls. For the upcoming Anambra elections, steps were taken in advance to mitigate electoral violence.

EFM interlocutors are universal in the opinion that the 2019 polls pose more security challenges than 2015. Off-cycle elections in July and September 2018 could provide a clearer indication of the security environment in the lead up to general elections. Stakeholders identified some security challenges on election day to be monetary inducement of voters, the purchase of voter cards prior to elections, the lack of training and complacency of security agencies to deal with breaches to the electoral process and instances of connivance between politicians and security agents to disrupt polls in areas where they perceive less political support.

## **Electoral support**

International donors, including the EU, UK aid and USAID are providing substantive electoral support to Nigeria over the electoral cycle 2016-2019. Programming through familiar implementing partners, such as European Centre for Electoral Support (ECES), International Foundation for Electoral Systems (IFES), International Institute for Democracy and Electoral Assistance (IDEA), National Democratic Institute (NDI), International Republican Institute (IRI), covers a broad range of interventions.

European Union support falls under the wider EU Support to Democratic Governance in Nigeria (EU SDGN) project, aimed at contributing to reinforce democracy through strengthening democratic institutions. This support in the amount of 26.5 million euro, is anchored in the priorities of the Nigerian government and the recommendations of the EU EOM 2015. The project aims at five objectives: *i*) improve the quality of electoral administration; *ii*) ensure the effective discharge of the National Assembly legislative functions; *iii*) enhance pluralism, tolerance, equality of opportunity and internal democracy in political parties; *iv*) strengthen the media, including radio and social media, to provide fair, accurate and ethical coverage of the electoral process; and *v*) support civil society organisations to enhance the electoral process.

The first component of support, implemented by ECES, is ongoing and includes technical assistance to the INEC Chairman's Office with three permanently embedded national experts. The remaining components are to be implemented by Nigerian organisations, including the Policy and Advocacy Centre (PLAC), the Youth Initiative for Advocacy, Growth and Advancement (YIAGA), the Political Party Leadership and Policy Development Centre of

the National Institute for Policy and Strategic Studies (NIPSS) and the media the Institute for Media and Society (IMS) and the International Press Centre (IPC).

An implementation challenge taken up by ECES involves the ability to adapt to INEC's evolving needs within the framework of the EU SDGN project. For example, the theme of an upcoming ECONET conference was transformed to be centred around e-collation and e-transmission of results. Also INEC's regular coordination meetings with security forces is being prioritised with programming a summit between INEC and security forces.

DFID and USAID developed a complex elections support package with three core areas: IFES's 18.5 million euro project is assisting INEC with new technologies, including permanent voter cards and electronic smart card readers, in addition to voter education activities; NDI and local civil society organisation YIAGA are implementing a 20.5 million euro project training and deploying citizen monitors to follow the three upcoming off-cycle elections with a parallel vote tabulation. NDI is also working with national groups to combat electoral violence against women and promote a *#VoteNotFight* campaign; applications are now open for a 4.5 million euro project to assist political parties to become more representative of and responsive to citizens, and to increase their oversight of government programmes.

The EFM observed donors, implementing partners and national civil society organisations to be actively engaged in electoral activities. In addition to advisors, technical support to INEC includes operational and management support beyond the general elections.

Regular coordination meetings between international donors and implementing partners are held to avoid overlapping of activities. Implementing partners highlight the need for more donors to get involved in targeting specific support activities aimed at, *inter alia*, gender, youth, PWDs and IDPs. They also signalled the need for long-term support to INEC for human resource capacity building.

INEC demonstrates a commitment to building institutional capacity and planning. With support from IFES, INEC developed the 2017-2021 Strategic Plan focussed around the 2015 EU EOM recommendations. Subsequent development of the Strategic Programme of Action enables the institution to create activities towards meeting key outcomes within the next five years.

## **EFM Recommendations**

The EFM finds recommendations made by EU EOM 2015 remain relevant and highlights the following recommendations for consideration:

### **For the National Assembly**

- Proposed amendments to the Constitution and Electoral Act constitute important democratic advancements, their timely adoption is crucial to ensure a coherent and uniform application of the new framework.
- National Broadcasting Commission (NBC) regulatory authority be strengthened (including through the power to grant broadcasting licenses), its monitoring capacities

developed, and requirements be established for NBC public reporting on monitoring findings and sanctions applied.

- The National Disability Bill be reviewed for compliance with the UN Convention on the Rights of Persons with Disabilities (CRPD) with specific provisions for political participation. Also the section of the Electoral Act depriving persons “subject to any legal incapacity” of their suffrage rights be reviewed.

#### **For INEC**

- If electoral legal reforms adopted, INEC ensure application through robust training for electoral stakeholders for uniform implementation.
- INEC work with full transparency, making all information of public interest immediately and easily accessible, including decisions, procurement documentation, notifications, voter registration and polling data.
- INEC to continue efforts to promote full access of voters on election day by consolidating the merging of voter accreditation and voting process.
- INEC to give priority to a comprehensive, inclusive and transparent planning and implementation of the collation and transmission of results process, and be assertive in providing clear messaging in relation to the use of technology for voting, collation and transmission of results.
- INEC to cooperate with political parties, CSOs, and media to ensure effective collection of permanent voter cards; INEC to consider collection points at ward level.
- All results, including composite results from lower levels, be immediately publically displayed at collation centres. Results from all polling sites and collation centres be published on the INEC website before the deadline for submission of petitions against declared results.

#### **For Political Parties**

- Political parties to comply with constitutionally-established eligibility requirements for candidates and legal provisions for nomination of candidates through party primaries.
- Political actors to commit to a Peace Accord before the start of the campaign period; this to be combined with a widespread campaign promoting peace messages.
- Political parties be required to have policies and provide regular information on the promotion of women’s political participation within the party, as candidates, and more widely. Consideration be given to requiring parties to have a minimum representation of women in leadership positions and as candidates, applying a 35 % quota would be in line with the national gender policy and the Beijing Platform for Action.

### **For the Judiciary**

- Pre-election disputes be resolved well in advance of election day, through fast-tracking directives or other practical measure.

### **Government, Political Parties, Security Forces**

- Civilian authorities to respect the apolitical nature of security forces. State institutions including security forces, take measures to demonstrate their neutrality in all aspects of their work. INEC to engage in closer cooperation and training of security forces for election duty.

**Annex 1: List of meetings held**

<b>EU Election Follow-up Mission Nigeria 2017 Meeting List</b>	
<b>Name</b>	<b>Organisation</b>
<ol style="list-style-type: none"> <li>1. Ketil Karlsen, Ambassador</li> <li>2. Richard Young, Deputy Head of Delegation</li> <li>3. Pauline Torehall, Head of Politics, Press and Information Section</li> <li>4. Laolu Olawumi</li> </ol>	European Union Delegation
<ol style="list-style-type: none"> <li>5. David Le Nôtre,</li> <li>6. Wilson Manji</li> <li>7. Isiaka Alada Yahaya</li> </ol>	European Centre for Electoral Support (ECES)
<ol style="list-style-type: none"> <li>8. Shalva Kipshidze,</li> <li>9. Uloma Osuala,</li> </ol>	International Foundation for Electoral Systems (IFES) Nigeria
<ol style="list-style-type: none"> <li>10. Osaro Odemwingie,</li> <li>11. Dominic Williams</li> </ol>	British High Commission (BHC)
<ol style="list-style-type: none"> <li>12. Oliver Blake</li> <li>13. Antonette Grant</li> </ol>	Department for International Development (DFID)
<ol style="list-style-type: none"> <li>14. Cynthia Mbamalu,</li> <li>15. Segun Emmanuel</li> </ol>	Youth Initiative for Advocacy, Growth and Advancement (YIAGA)
<ol style="list-style-type: none"> <li>1. Prof.Mahmood Yakubu, Chairman</li> <li>2. Dr. Adekunle Ogunmola, Commissioner</li> <li>3. Prof. Ibeanu Okechukwu, Commissioner</li> <li>4. Prof. Antonia Okoosi-Simbine, Commissioner</li> <li>5. Okop Umobong, Director International Co-operation and Protocol</li> <li>6. Sam Olumkun, Resident Election Commissioner, Lagos</li> <li>7. Blessing Obidegwu, Director Gender Policy</li> <li>8. Ndeche Okechukwu, Director Planning and Monitoring</li> <li>9. Ngozi Oghuma, Director Alternative Dispute Resolution Directorate</li> <li>10. Prof. Mohammad J. Kuna (special adviser to Chairman)</li> <li>11. Rotimi Lawrence Oyekanmi (special adviser to Chairman)</li> </ol>	Independent National Electoral Commission (INEC)
<ol style="list-style-type: none"> <li>12. Alao Sunday Afolabi</li> <li>13. Nicholas Oniwon</li> </ol>	International Republican Institute (IRI)

14. Clement Nwankwo 15. Aginape Ashang	Policy and Legal Advocacy Centre (PLAC)
16. Aubrey McCutcheon 17. Raymond Esebagbon 18. Francis Madugu	National Democratic Institute (NDI)
19. Adji Fatou Ndiaye	UN Women
20. Olufunke Baruwa	The Nigerian Women's Trust Fund
21. Barrister Dotun Israel	Diplomatic Vista
22. Cleo Wilson	Australian High Commission (AHC)
23. Dr. Arome Salifu	Africa Youth Growth Foundation
24. Olusola Babalola,	Transition Monitoring Group (TMG)
25. Senator Dr. Suleiman Nazif 26. Senator Adeyeye Olusola 27. Osman Ismael, aide	Senate Committee on Independent National Electoral Commission
28. Jacqueline Farris 29. Amara Nwankpa	Shehu Musa Yar'Adua Foundation
30. Audra Degesys Lykos 31. Mirna R. Torres	U.S. Agency for International Development (USAID)
32. Barrister Charles Odenigbo	Lawyers in the Media Forum
33. Idayat Hasan, 34. Yusuf Shamsudeen Adio 35. Musa Sahlagama	Centre for Democracy and Development (CDD)
36. Emma Zopmal,	Middle Belt Youth Council, Community Leader
37. Dilas Yusuf 38. Audu Gwa Irrigwe	Bassa LGA, Plateau, Community Leaders
39. Senator Makarfi, Acting Chairman 40. Senator Ben Obi 41. Victor Usufu Kwon, Barrister	People's Democratic Party (PDP)
41. John Odigie Oyegun	All Progressives Congress (APC) National Chairman
42. Ebitu O. Ukiwe	National Peace Committee (NPC) Vice-Chairman
43. Yemi Adamolekun	Enough is Enough
44. Lanre Arogundade Stella Mwafia	International Press Center (IPC), Lagos

## **Annex 2: EFM press release**

### **European Union Election Follow-up Mission to Nigeria**

#### **PRESS RELEASE**

*Ahead of the 2019 general election, Nigeria is at a pivotal moment that allows the country to take important steps towards the improvement of its electoral process. The European Union (EU) will continue to support the country in this fundamental task and the on-going electoral reform process.*

Since 1999, the EU has been present in Nigeria during all four general elections but also during the whole electoral cycle with different follow-up activities. This is the second Election Follow-up Mission (EFM) deployed by the EU to Nigeria. The mission's objective is to assess the current electoral reform process and the extent to which previous EU Election Observation Mission (EU EOM) recommendations have been addressed. The EU EFM, led by Mr. Santiago Fisas, Member of the European Parliament and former Chief Observer of the EU EOM 2015, met with a wide range of Nigerian and international stakeholders, including the INEC Chairman, Commissioners, political parties, civil society organisations, government representatives and the media.

The Mission welcomes the establishment and ongoing work of the Senate and House of Representatives committees dedicated to constitutional amendments and reforming election legislation. *“For election reform to be effective, amendments need to be adopted as soon as possible to allow sufficient time for implementation well before the next election is called. Inclusive, transparent and credible elections, which enjoy public and political confidence, are crucial for Nigeria’s democracy. A strengthening of the democratic process, I believe, is what we all would like to see,”* highlighted Mr. Santiago Fisas.

The Mission is encouraged to see that proposed constitutional amendment to introduce independent candidates and steps towards achieving earlier adjudication of pre-election cases are envisaged. The mission also appreciates the increasing initiatives made by the Independent National Electoral Commission (INEC), including with regards to an improved continuous voter registration and the merging of accreditation and voting processes for off-cycle elections.

The Mission is equally aware of a number of shortcomings that still require attention. Provisions empowering INEC to sanction campaign violations, increase transparency requirements for the publication of results, and reinforce policies to better promote and integrate women into political life still require additional efforts. Nigeria has time to meet these challenges ahead of the next general elections.

Mr. Fisas emphasized *“This is the moment for electoral reform decisions and consequent actions. Further delays to reform risk recurrence of past problems and missing the opportunities to improve the organisation and conduct of the upcoming general elections. Parties and institutions need to show decisive leadership at this important juncture in Nigeria’s democratic development.”*

*Abuja, 20 October 2017*



**Annex 3: Grid of EU EOM 2015 recommendations and status of implementation**

**Electoral Follow-up Mission to Nigeria 19 – 20 October 2017**

<b>No.</b>	<b>Topic</b>	<b>Implemented</b>	<b>On-going  Considered in Constitutional Amendments and changes to Electoral Act (not yet passed)</b>	<b>Not considered</b>	<b>Status of implementation</b>
1.	More inclusive parliamentary mechanism for Cross-party involvement in the selection and approval of the INEC Chairperson and National Commissioners.			X	The mechanism for cross-party involvement in the selection and approval of the INEC Chairperson and Commissioners was not considered for electoral reform. The appointment of the 36 Resident Electoral Commissioners, who are technically subordinate to INEC but can only be appointed and removed by the President, has not changed. INEC informed the EFM that there is interparty involvement in the selection and approval process inasmuch as the Senate committee that proposes acceptance or rejection of candidates is multiparty;
2.	INEC Organizational and operational planning within INEC be considerably strengthened.	X			INEC introduced early organisational and operational planning and improvements to their electoral cycle planning;
3.	INEC To work with full transparency, making information of public interest immediately and easily accessible.		X		INEC engaged in regular consultations with stakeholders (political parties, CSOs, Media and security services); it plans on issuing press releases after weekly Commissioners meetings, inform public of major decisions. EFM noted that stakeholders

					require clear messaging regarding INECs introducing of technology for e-collation and e-tracking of results; Despite INEC efforts, the EFM believes that there is still room for improvement in this regard;
4.	<b>INEC - Voter Registration</b> To continue biometric identification checks during polling through voter card and finger print recognition,	X			INEC reviewed the smart card reader process functionality, and is checking the permanent voter card quality at collecting points;
5.	<b>INEC - Voter Registration</b> To elaborate a plan for developing and maintaining the voter register, to include improving biometric functionality, removal of the deceased, and extended enrolment of new registrants.	X			INEC introduced a truly continuous voter registration (CVR) at local government level, facilitating the possibility to register at any time. The CVR includes a monthly display period of the voter register to allow for claims and objections. The effective removal of deceased voters from the register remains unaddressed.
6.	<b>Boundary Delimitation</b> The legal framework for boundary delimitation be developed to include provision for consultation and a complaints and appeals mechanism.			X	A national review of boundary delimitation was not considered, and the legal framework remains unchanged. INEC established a committee to study and advice INEC on boundary delimitation. It is unlikely that changes to delimitation are introduced for 2019 elections.
7.	<b>Independent Candidates</b> The Constitution be amended to allow for Independent candidacy for all elected positions		X		Independent candidacy for all elected positions is included in the proposed constitutional amendment.
8.	<b>INEC- Candidate registration</b> INEC be granted powers to reject nominations for candidacy when the applicant does not meet the stipulated objective legal requirements.			X	INEC has not been granted powers to reject nominations for candidacy when the applicant does not meet legal requirement.
9.	<b>INEC – Candidacy Regulation</b> INEC to enforce its regulation requiring parties not to exclude candidate aspirants on the basis			X	The proposed amendment limits the fees, charges or dues to be imposed by political parties on candidates seeking election. With this amendment, political parties can no longer impose arbitrary nomination

	of wealth (through excessive non-refundable fees), in order to promote inclusive politics and reduce the role of money in elections.				fees or charges.
10.	<b>INEC – Political Parties and Campaign</b> INEC be legally empowered to sanction non-compliance with campaign regulations, as stipulated in the Electoral Act and INEC’s Code of Conduct for Political Parties.			X	The proposed amendments do not touch on the issue of empowering INEC to sanction non-compliance with campaign regulations.
11	<b>Political Party Internal Democracy</b> In order to implement the constitutional requirement for “internal democracy within parties”, legislative provisions be adopted to promote transparency and accountability in the internal functioning of parties.		X		This important amendment introduces 26 subsections that aim to strengthen internal party democracy and lend greater transparency to party primaries, while safeguarding against undemocratic selection practices. It further safeguards that eligibility criteria are in line with constitutional provisions, and it also seeks to reduce the informal imposition of arbitrary fees for candidatures. The result aims to achieve a more open and inclusive internal candidate nomination practise.
12	<b>Political Party Internal Democracy</b> In order to implement the constitutional requirement for “internal democracy within parties”, legislative provisions be adopted to promote transparency and accountability in the internal functioning of parties.			X	These are sound recommendations to strengthen equality of campaign opportunities, enhance transparency and accountability in the internal functioning of parties and introduce provisions requiring parties to open dedicated bank accounts for campaign finance, however the Senate bill makes no mention of changes to the campaign finance framework.
13	<b>Campaign Financing</b> The Electoral Act to require political parties and candidates to open dedicated bank accounts for campaign financing and to submit financial reports.			X	

14	<b>Media</b> Federal government-controlled broadcasters be transformed into genuine public service broadcasters enjoying editorial and financial independence from government.			X	The proposed amendments make no reference to strengthening the independence or regulatory authority of the NBC.
15	<b>Media</b> National Broadcasting Commission (NBC) The independence of the National Broadcasting Commission (NBC) be strengthened including through legislative requirements for an open and transparent mechanism for appointment of NBC's board and director,			X	
16	<b>Media</b> NBC regulatory authority be strengthened through the power to grant broadcasting licenses			X	
17	<b>Media</b> Media organizations wishing to air/publish paid for campaign materials be required to publicize their conditions and charges prior to the start of the campaign period,			X	
18	<b>INEC</b> Polling, Counting and Collation Merge accreditation and voting processes on election day for promoting access for voters	X			The merging of accreditation and voting processes was implemented by INEC for off-cycle elections in the interim period since 2015. Furthermore, proposed amendments to the Electoral Act introduce a legal basis for the use of new technologies, including the smart card reader for voter identification.
19	<b>INEC Polling Counting and Collation</b>		X		INEC established a committee on the review of the polling units and decided to create voting point

	Increase the number of polling units, so no subdivision into voting points is required, to improve operational delivery and voter access as well as providing greater transparency.				settlements equal to polling units; This proposal will require political backing over the coming months as INEC works towards achieving consensus.
20.	<b>INEC</b> Polling, Counting and Collation All results be immediately publicly displayed at collation centres. Results forms from all polling sites and collation centres be published on the INEC website before the deadline for submission of petitions against declared results			X	While INEC could implement this recommendation without requiring legal amendments, the proposed legal reform includes improved transparency measures for stronger oversight of the results process. EFM reiterates the importance that all results, including composite results from lower levels, be immediately publicly displayed at collation centres. Results forms from all polling sites and collation centres be published on the INEC website before the deadline for submission of petitions against declared results.
21.	<b>INEC</b> Polling, Counting and Collation The results collation process be strengthened by double-blind data entry, computerized checks, and procedures for dealing with irregularities in the results forms as well as the rules for cancellation of results.		X		INEC is establishing a collation support and results verification system at constituency and LGA collation centres and is testing a results validation mechanism through electronic collation of results and electronic transmission.
22.	<b>Electoral Disputes</b> Administrative complaint mechanisms be established for grievances against decisions and actions of the election administration, at federal and state levels, related to voter registration, the nomination of candidates, the campaign, and the polling and collation process.			X	The Electoral Act do not contemplate introducing administrative complaint mechanisms. However, INEC has an Alternate Dispute Resolution Directorate, at Federal and State level which should have processes and mechanisms in place for non-adversarial mediation of electoral and administrative disputes, including complains mechanisms for grievances against decisions of the election administration, related to voter registration, the nomination of candidates, the campaign, and polling and collation process. The EFM found the federal INEC directorate to be poorly developed, lacking know-how and resources.

23.	<b>Pre-Election Disputes</b> Reasonable and appropriate time limits for the effective filing, hearing and determination of pre-election suits be established in the legal framework in order for cases to be completed well in advance of election day.		X		A proposed constitutional amendment introduces alterations to include a 180-day timeframe for adjudication of pre-election petitions. This amendment does not go far enough to resolve the issue of post-election disqualification of elected candidates on the grounds that they did not fulfil eligibility requirements or were not the legitimately selected candidate during party primaries.
24.	<b>Jurisdiction Pre-Election Disputes</b> The legal framework be amended so there is no overlapping jurisdiction of the Federal and State High Courts on pre-election suits on party primaries, with the Federal High Courts being exclusively mandated.			X	The proposed amendments make no mention of addressing any overlapping in jurisdiction of the Federal and State High Courts on pre-election suits on party primaries.
25.	<b>Post-Election Disputes</b> Voters and civil society organisations be able to file post-election petitions.			X	The possibility for voters and civil society organisations to lodge post-election petitions is not contemplated in proposed amendments.
26.	<b>Electoral Offences</b> INEC be reinforced with an Electoral Offences Unit, to work on the prosecution of electoral offenders and with police officers seconded to this unit during the electoral period.			X	The establishment of an Electoral Offences Unit was not contemplated in the proposed amendments, however, INEC is in support of establishing such a unit, with powers of arrest, investigation and prosecution.
27.	<b>Jurisdiction to trial Electoral Offences</b> Magistrates' Courts be solely responsible for the trial of electoral offences, supervised by the Court of Appeal, through the establishment of Electoral Offences Tribunals.			X	This recommendation was not taken into consideration in the proposed amendments.

28.	<p><b>Civil Society Organisations and Citizen Observers</b></p> <p>Citizen observers, with adequate donor support, undertake more comprehensive and long-term observation of different parts of the process.</p>		X		<p>The EFM noted that a number of civil society organisations are active throughout the electoral cycle, including undertaking early planning for election observation activities. Some were engaged in lobbying for reduction of the age for candidacy, a provision for which is included in the proposed electoral reform.</p>
29.	<p><b>Participation of Women</b></p> <p>Political parties be required to have policies on the promotion of women's political participation. Consideration be given to requiring parties to have a minimum representation of women in leadership positions and as candidates.</p>			X	<p>Political parties continue not to be required to have policies and provide regular information on the promotion of women's political participation within the party.</p> <p>There are no legal requirements for parties to have a minimum representation of women in leadership positions and as candidates.</p> <p>The EFM found that PDP and APC parties expressed readiness to include more women as candidates.</p> <p>Nigeria continues to fall far short of its obligations under CEDAW and the Beijing Convention to better integrate women into public and political life. The Gender and Equal Opportunities Bill public consultation hearing was cancelled due to a lack of quorum of Speakers from the Houses of State.</p>
30.	<p><b>Participation of Persons with Disabilities</b></p> <p>The National Disability Bill be reviewed for compliance with the UN Convention on the Rights of Persons with Disabilities with specific provisions for political participation.</p>			X	<p>No legislation to this effect has been introduced.</p> <p>The INEC is planning to introduce Assistive Tactile Voting Guide (ATVG) for visually impaired voters and to provide magnifying glasses at polling units.</p>

## Annex 4: Proposed Constitutional Reforms

### Proposed constitutional reform bills include:

- i. **Procedures for Overriding Presidential Veto in Constitutional Amendment:** where the president withholds assent to a bill seeking to amend the Constitution, the National Assembly can vote again on the bill, which must be passed by a 2/3 majority of each house. This is to prevent a deadlock where the National Assembly and the State Houses of Assembly have passed amendments to the Constitution, which failed to obtain assent;
- ii. **Presidential Assent:** strengthen the legislative arm of government and ensure timely passage of laws, where the President fails, within 30 days, to assent or withholds assent to a bill, that bill would become law;
- iii. **Provide for Independent Candidature in Elections:** introduces independent candidacy to all elected positions (to be regulated by law to determine procedures, guidelines and qualification for access to the ballot);
- iv. **Political Parties and Electoral Matters:** give powers to INEC to deregister a political party for breach of registration requirements and failure to meet a certain threshold in an election cycle; introducing an extended timeframe for INEC's preparation for run-off elections;
- v. **Restriction of Tenure of the President and Governor:** limits the tenure of any president or governor to two terms regardless of whether they were elected from the very beginning or took over from another to complete an already running tenure;
- vi. **Determination of pre-Election Matters:** bring adjudication of pre-election matters within the parameters of the Constitution, and introduce alterations towards a speedy adjudication of election petitions for minimum interruption of governance;
- vii. **Reduction of Age of Elected Office:** reduce the age qualification for the offices of the President, House of Representatives and the State Houses of Assembly. (House of Representatives and State House of Assembly from 30 to 25 years, and to the office of the President from 40 to 35 years of age);
- viii. **State creation and boundary adjustment:** seeks to ensure that participation in the process of state creation and boundary adjustment is only undertaken by democratically elected local government councils. Removes ambiguities in existing provisions to enhance clarity regarding procedure for state creation;
- ix. **Citizenship and Indigeneship:** guarantee a married women's right to choosing either her indigeneship by birth or by marriage for the purposes of appointment or election;

## Annex 5: Proposed Amendments to the Electoral Act

**Proposed amendments to the Electoral Act (in total 25 proposed amendments) as passed by the Senate March 2017 include:**

- i. **Disclosure of party membership of INEC officials:** amendments to protect the integrity and impartiality of INEC as a non-partisan entity (i.e. deter INEC officials from partisanship);
- ii. **Voter Register:** INEC to keep an electronic central database, introduction of a new timeframe for closing the voter register to at least 60 days before an election, mandated to publish voter register locally and on its website for specified period of seven days, and to consider all complaints to register within 14 days; the final voter register must be published no later than 30 days before a general election; and finally, INEC officers who fail to comply with these provisions could face criminal penalty;
- iii. **Death or withdrawal of a candidate:** in cases of death or withdrawal of a candidate, the affected political party shall hold fresh primaries within ten days. In case of death the INEC Chairman is the competent authority to decide to cancel and reschedule an election;
- iv. **Political parties provided improved oversight:** Political party agents allowed to make audio visual recording of their inspections of election materials before commencement of elections; a presiding officer who prevents such an inspection could face criminal penalty; additionally, political party agents would be guaranteed the opportunity to inspect its identity appearing on samples of relevant electoral materials ahead of its production;
- v. **New technologies:** introducing legal basis for the use of new technologies including the smart card reader for voter identification; also sanctions electronic voting and electronic transmission of results;
- vi. **Over-voting:** an election in a polling unit shall be nullified where the total number of votes cast exceeds the total number of accredited voters in that polling unit;
- vii. **Digital transmission and archiving of results:** in addition to announcing results at polling units and sharing copies with party agents, presiding officers must instantly transmit the votes and results by secured mobile electronic communication to the collation centre and to INEC central data base; non-compliance can result in criminal liability for presiding officers; INEC would be mandated to maintain a digital storage and archiving of election results at its national office;
- viii. **Verification and confirmation of results:** mandates collation or returning officers to verify and confirm that the number of accredited voters corresponds to the number of ballots cast before announcing results. It also specifies the procedure for resolving disputes;
- ix. **Verification of electoral materials:** obliges election officials to record all details of sensitive electoral materials including quantities and serial numbers. Failure to do so shall cause the election to be invalid;

- x. **Internal Party Primaries** (with 26 subsections): this important amendment aims to strengthen internal party democracy and lend greater transparency to party primaries, while safeguarding against undemocratic selection practises. Ensures that eligibility criteria are in line with constitutional provisions, and it also seeks to reduce the informal imposition of arbitrary fees for candidatures. The result aims to achieve a more open and inclusive internal candidate nomination practise;
- xi. **Grounds for election petitions:** to include that in addition to non-compliance with the Electoral Act, any act or omission at variance with INEC regulations constitutes a ground for petitioning an election. At the same time, an election shall not be invalidated if there is substantial compliance with INEC regulations.
- xii. **Grounds for disqualification:** if the winner of an election satisfies the eligibility criteria as provided in the constitution s/he cannot be disqualified;
- xiii. **Regulation of local elections and State Independent Electoral Commission:** this makes the provision of the Electoral Act applicable with equal force to any local government council election conducted by SIECs. Non-compliance with the spirit of the electoral act shall result in said election to being null and void.