

Annex I – B.II

## **Terms of Reference for Core Team members of the EU EOM to Malawi Tripartite Elections 21 May 2019**

*The present terms of reference offer selection criteria for the Core Team (excluding the Deputy Chief Observer whose Terms of Reference are published in a separate call) of the European Union Election Observation Mission to Malawi. In addition to the Chief Observer and the Deputy Chief Observer, the Core Team is composed of seven experts, whose individual terms of reference are outlined below.*

### **Preliminary remarks**

1. *European Union Election Observation Missions (EU EOMs) are independent in their findings and conclusions, but must, at all times, adhere to the standard EU methodology for election observation in both, political/electoral and implementation/security matters, as outlined in the “Handbook for European Union Election Observation”<sup>1</sup> EU EOMs must follow standard guidelines, models and practices as specified by the European Commission. All mission members must follow the EU Code of Conduct for election observation, as well as adhere to the UN “Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers”<sup>2</sup>*
2. *The Core Team is an essential component of EU EOMs. The respective roles and responsibilities of all retained experts is a key element of a successful mission. All members of the Core Team must be experienced in election observation or related activities, fluent in the working languages of the mission, and be able to work cooperatively in a team. Experience and training within EU missions and initiatives will be considered an asset.*
3. *Please note that due to the evolving context of elections, the following Terms of Reference offer a general overview of the requested job profiles that is potentially subject to changes. The final version including the detailed description of the final profiles and responsibilities of each analyst/expert will be provided in the contract.*
4. *All Core Team members are required to participate in EU EOM briefings and debriefings organised by the European Commission as requested. These activities are an integral part of the mission.*

**The working and reporting language of the mission will be English.**

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<sup>1</sup> [http://ec.europa.eu/europeaid/what/humanrights/election\\_observation\\_missions/documents/eu\\_election\\_observation\\_handbook\\_en.pdf](http://ec.europa.eu/europeaid/what/humanrights/election_observation_missions/documents/eu_election_observation_handbook_en.pdf)

<sup>2</sup> [http://ec.europa.eu/europeaid/observer/declaration\\_of\\_principles\\_code\\_of\\_conduct\\_fr.pdf](http://ec.europa.eu/europeaid/observer/declaration_of_principles_code_of_conduct_fr.pdf)

## **CHIEF OBSERVER (CO)**

The CO has the overall responsibility for the EU EOM. S/he is commissioned directly by the European External Action Service (EEAS) and the European Commission. The CO's duties, tasks and responsibilities are detailed in the annex attached to her/his contract.

## **DEPUTY CHIEF OBSERVER (DCO)**

As a Special Adviser to the High Representative for Foreign Policy/Vice President of the European Commission (HR/VP), the role of the DCO is to assist the Chief Observer in the conduct of the EOM and in managing its core team. The DCO also replaces the Chief Observer whenever absent, including in the diplomatic and media contacts essential to the functioning of the EOM. The DCO will be present in the field during the full duration of the mission as well as its preparatory, winding-down phases and final report presentation.

### **(1) POLITICAL ANALYST**

The Political Analyst is responsible for conducting a political assessment of the electoral process and will provide information concerning the historical, cultural and political background on the country as well as on-going developments. S/he will work under the supervision of the CO and DCO.

S/he will:

1. Undertake a comprehensive political analysis of the electoral process and produce benchmarks to assess the genuine competitiveness of the electoral process between stakeholders before, during and after elections.
2. Gain a broad understanding of the historical, cultural, social and political context in which the elections are being held and produce an assessment of historical patterns of political alignment, overall party system, voting patterns and political affiliations.
3. Maintain regular relations with political party coordinators, candidates and political analysts in co-ordination with the DCO throughout the deployment of the mission. Gain official and unofficial insight into the internal workings of the main parties and their consequences to the process, including, inter alia, acceptance of results.
4. Assess the legal, regulatory and administrative framework for conducting political life, including political parties and NGO registration and development. Assess the approach of political parties regarding the participation of women, and politically disenfranchised, ethnic minority and/or socially vulnerable groups.
5. Assess political parties' compliance with the Code of Conduct and the application of enforcement mechanisms.
6. Assess the legal arrangements regarding electoral campaign financing, their implementation and the sufficiency and transparency of party/election financing.
7. Maintain regular relations with local and international political analysts (from civil society organizations, political parties, international organizations, diplomatic missions, media outlets, university departments) and produce a regularly updated electoral conflict/risk analysis overview for Malawi.
8. Assess the overall campaign environment and develop statistical and analytical tools to support rights violation reporting and electoral conflict/risk analysis,

- including data visualization tools, to be included in interim and final reporting.
9. Develop statistical and analytical tools for comparative election results analysis, including data visualization tools.
  10. In relation with the Election Analyst, assess the accuracy and inclusivity of voter lists.
  11. With the Election Analyst, assess the electoral system to determine how inclusive and representative it is including how equally politically marginalised/disenfranchised groups, minority national/ethnic groups, women and socially vulnerable categories can participate and gain representation or potential obstacles to their representation.
  12. With the Legal Analyst and the Election Analyst, assess the legal, regulatory and administrative framework for conducting political competition and election campaigning, including political parties, media and NGO registration and development. Assess the approach of political parties regarding the participation of marginalized/disenfranchised political groups, women and socially vulnerable groups. Contribute from the political perspective to the assessment work carried out on human rights.
  13. Assess the role of the state security bodies in the electoral processes.
  14. With the Media Analyst, Legal Analyst and Election Analyst assess the conduct of the electoral campaign and its content; in particular whether fundamental freedoms are being protected by law and upheld by state actors; the existence of a level playing field, and the general security surrounding the campaign. In addition, attention will be paid to the participation of disenfranchised groups, ethnic/national minorities and women and potential obstacles affecting disenfranchised group, ethnic minority and women candidates.
  15. Liaise with domestic observer groups and other national or international non-governmental organisations engaged in the election process.
  16. Provide assessment, background knowledge and relevant material on a wide range of interlocutors including candidates, political parties, state authorities, military, media groups, journalists, and decision makers in the country.
  17. Produce regular reporting on political developments for core team and observers and provide oral briefings as required.
  18. Ensure that LTOs are kept abreast of political developments. In consultation with the DCO and Observer Coordinator, prepare relevant questions for the LTO weekly reports and process and interpret the responses thereto.
  19. Develop a cultural awareness briefing for mission staff, taking into particular consideration Malawi-specific sensitivities. In conjunction with the SP operations and security experts, brief mission members about culturally sensitive issues and the appropriate behaviour to be observed by all mission staff – including SP - in the course of their activities.
  20. Assess the role and participation of women and politically disenfranchised, ethnic minority and/or socially vulnerable groups in the country.
  21. Support the DCO in developing the analytical framework and in implementing the EU election observation methodology.
  22. Participate in observer briefings, debriefings and team meetings.
  23. Contribute to the preparation of interim reports, to the preliminary statement and to the final report in the mission reporting language. This includes amending/re-writing draft contributions after receiving DCO feedback.
  24. Contribute to the internal report, including suggestions on any methodological improvements and information on possible areas of technical assistance.
  25. Perform any other duty required for the good functioning of the EU EOM.

## **(2) ELECTION ANALYST**

The Election Analyst is responsible for assessing the performance of the “*Malawi Electoral Commission*” (MEC) and its Secretariat, sub-national election administration bodies and other public authorities in the preparation and conduct of the electoral process. S/he will analyse the effectiveness of the relationship between the MEC and other stakeholders. The Election Analyst should co-ordinate closely with the Legal Analyst and share information with the Observer Coordinator, Political, Media, Data Analysts. S/he will work under the supervision of the CO and DCO.

S/he will:

1. Become familiar with Malawian constitutional, legal and regulatory framework for elections; assess the implementation of the legislation by the MEC and other electoral and governmental authorities, District Coordinators, constituency level officials and polling, counting and other officials including those involved in the results management.
2. In co-ordination with the Legal Analyst, assess compliance of Malawi’s legislation with Malawi’s international and regional commitments and obligations for democratic elections.
3. In co-ordination with the Legal Analyst, assess and analyse the activity of the Malawi’s judiciary/election administration, in particular:
  - 3.1. the capability of the judiciary/election administration in implementing the legal framework consistently; - the role of the judiciary/election administration in dispute resolution and election process supervision;
  - 3.2. the conduct and effectiveness of complaints and appeals processes.
4. In co-ordination with the Legal Analyst, monitor and assess the treatment of electoral offences by MEC, the Police and the Courts.
5. In co-ordination with the Legal Analyst, liaise with international organisations and agencies as well as with domestic NGOs specialised in legal issues.
6. Assess the degree of inclusivity and representativeness of Malawi’s electoral system. This also includes assessing its impact on women’s participation.
7. Assess the performance of the election administration and governmental bodies concerning technical preparations for the election. Special attention should be paid to: the system of voter registration and the reliability of the voter register, candidate nomination and registration, recruitment and training of election staff and the measures taken to promote women's participation.
8. If possible, observe sessions of the MEC, follow the issues on its agenda, meet with relevant members of the Secretariat including department heads and other officials who are part of the election management, and provide the EU EOM with information about MEC meetings and complaints brought to the election administration.
9. Assess the performance of the election administration, its capacity and effectiveness in organizing the election, its statutory and functional independence, its impartiality, the transparency of its operations, the degree to which it enjoys confidence of electoral stakeholders, its decision making and the MEC's collegiality.
10. Assess civic and voter education and production and distribution of relevant material and degree to which voters are adequately informed about the election process.
11. Assess the extent to which the electoral system is inclusive and representative.

Assess equality issues in the organization of the elections including if all persons, including: socially vulnerable groups, illiterate voters, persons with disability politically marginalized groups, ethnic/national minorities, women, and special needs groups can access and participate in the process on an equal basis. Assess the extent to which these groups' needs are addressed in the civic/voter education program.

12. Maintain regular relations with election analysts of other international observation missions.
13. Maintain regular relations with election analysts from Civil Society Organisations (domestic and international) – including religious groups – and other international organisations involved in the election process.
14. Liaise with domestic observer groups and other national or international non-governmental organisations engaged in the election process.
15. Support the DCO in developing the analytical framework and in implementing the EU election observation methodology.
16. Ensure LTOs are kept informed of developments in the electoral process. In consultation with the DCO, prepare relevant questions for LTO weekly reports and analyse LTO reporting output.
17. Produce regular reporting on the electoral process developments for core team and observers and provide oral briefings as required.
18. Brief mission members on important issues regarding their area of responsibility.
19. On the basis of templates provided by the EC (EODS project), and with the support of the Data Analyst, prepare election day observation electronic forms for polling stations' opening, voting, closing and counting, and tabulation of results.
20. With the Observer Coordinator develop and co-ordinate a strategy for following up on the collection of election material from the polling stations to the election administration offices. Follow results tabulation. The strategy should include plans on how to systematically collect consistent information on the process and, as far as possible, individual polling stations results.
21. With the Observer Coordinator analyse data from e-day observation forms.
22. Support the DCO in developing the analytical framework and in implementing the EU election observation methodology.
23. Participate in observer briefings, debriefings and team meetings.
24. Contribute to the preparation of interim reports, the preliminary statement and the final report in the mission reporting language. This includes amending/re-writing draft contributions after receiving DCO feedback.
25. Contribute to the internal report, including suggestions on any methodological improvements and information on possible areas that merit technical assistance.
26. Perform any other duty required for the good functioning of the EUEOM.
27. If requested be available for the return visit and roundtable.

### **(3) LEGAL ANALYST**

The Legal Analyst is responsible for providing an analysis of the legal framework governing the elections in the Republic of Malawi in accordance with international and regional commitments and obligations applicable to democratic elections, taking into consideration the country's Constitution and relevant election-related laws and regulations as well as any legislation/regulation governing other aspects of public life and fundamental rights and freedoms impacting electoral processes. S/he will analyse processes related to, among other things, the management and resolution of election

disputes and petitions, political party registration, political finance regulation and enforcement, candidate registration. The Legal Analyst will take into consideration Malawi's international and regional commitments in promoting gender equality. The Legal Analyst should co-ordinate closely and share information with the Election, Political, Campaign Finance and Media Analysts. S/he will work under the supervision of the CO and DCO.

S/he will:

1. Have acquired solid grasp of the legal and regulatory framework for elections, as well as international and regional commitments and obligations applicable to democratic elections. In this context, the "Compendium of International Standards for Elections" is an important background document.
2. Ensure that the Chief Observer and core team members are aware of international and regional commitments and obligations for elections.
3. Comprehensively analyse national legislation, in particular concerning universal and equal suffrage, the right to vote and to stand as a candidate, conditions for the exercise of fundamental freedoms of expression/association/assembly/movement, the right to life, constituency delimitation, election administration, voter registration, political party registration and finance, candidate registration, campaign, media (in conjunction with the Media Analyst), voting, counting and tabulation, complaints and appeals.
4. In co-ordination with the Election Analyst, assess compliance of Malawi's legislation with Malawi's international and regional commitments and obligations for democratic elections.
5. Assess electoral legislation from a gender perspective, in accordance with applicable international conventions, focusing in particular on the participation of women and socially vulnerable people and special needs groups. Assess whether election legislation is respected in practice, allowing all persons to enjoy internationally guaranteed rights.
6. Contribute to the EU EOM assessment of whether the elections are conducted in accordance with the legal framework as set out in national legislation as well as international and regional commitments and obligations for elections.
7. Assess and analyse legal aspects of the activity of the judiciary/election administration, in particular:
  - a the capability of the judiciary/election administration in implementing the legal framework consistently;
  - b implementation of new regulations on campaign finance
  - c the role of the judiciary/election administration in dispute resolution and election process supervision;
  - d the conduct and effectiveness of complaints and appeals processes.
8. Log, categorize and maintain in a database all election-related complaints and appeals, filed by parties, candidates, voters, or other stakeholders.
9. If open to observers, attend important election administration meetings.
10. Maintain, with the active support of the Political Analyst, regular relations with local and international human rights groups and produce regular assessments of – formal and informal - violations of fundamental freedoms, including civil and political rights, throughout the country.
11. Meet regularly with judicial and other relevant bodies and attend court hearings relating to complaints and appeals.
12. In co-ordination with the Election Analyst and the Media Analyst, monitor

- closely any arrests or detentions impacting fundamental rights underlying elections and the circumstances surrounding such arrest/detentions.
13. Monitor and assess the treatment of electoral offences by the Police and the Courts.
  14. Liaise with international organisations and agencies as well as with domestic NGOs specialised in legal issues.
  15. Analyse legal information collected by LTOs and other core team members.
  16. Support the DCO in developing the analytical framework and implementing the EU election observation methodology.
  17. Brief mission members on important legal issues.
  18. Suggest relevant questions to be included in LTO weekly report templates.
  19. Participate in observer briefings, debriefings and team meetings.
  20. Contribute to the preparation of interim reports, the preliminary statement and the final report. This includes amending/re-writing draft contributions after receiving DCO feedback.
  21. Contribute to the internal report, including suggestions of methodological improvements and information on possible areas of technical assistance.
  22. Perform any other duty required for the good functioning of the EUEOM.
  23. If requested be available for the return visit and roundtable

#### **(4) PRESS OFFICER**

The Press Officer is responsible for organising the EU EOM's communication and public outreach strategy. S/he is also responsible for maintaining relations with the media as regards the EU EOM's activity, and for organising EU EOM press conferences. S/he will work under supervision of the CO and DCO.

As Press Officer, S/he will:

1. Advise the CO and DCO on strategies to achieve maximum visibility for the EU EOM in the national and international media.
2. Develop an overall public outreach strategy, making use of community radios, networks of non-governmental organisations, political parties, universities, etc.
3. Establish and maintain contact with the local and international media.
4. Ensure that "EU Visibility guidelines for external actions" are followed.
5. Co-ordinate the Public relations room, train and supervise the assistant to the Press Officer.
6. Co-ordinate the development of the mission website and relevant social media platforms, as well as of mission related audio-visual material, in terms of design and contents, in co-operation with all other mission members and in co-ordination with the European Commission and the EEAS.
7. Prepare a "mission factsheet" to explain the mandate and objectives of the EU EOM to the general public. This document must include reference to past EU EOMs in the country, their recommendations and international/national follow-up efforts.
8. Assist the CO and DCO in the preparation of media interviews, press releases and press conferences, as instructed by CO/DCO.
9. Ensure and oversee translation of public information and documents issued by the EU EOM.
10. Ensure that the public outreach strategy is gender sensitive.
11. Prepare a comprehensive press distribution list for both local and international media.
12. Ensure maximum distribution of EU EOM press releases, of the preliminary

- statement and of the final report both locally and internationally.
13. Prepare the planning of activities to be covered by the Press coverage budget;
  14. Archive all coverage of the mission in the national and international media.
  15. Provide regular updates on social media coverage of the mission.
  16. Participate in briefings, debriefings and Core Team meetings;
  17. With the Observer Coordinators, ensure that EU EOM press releases and statements are communicated to observers and that observers are made aware of any potentially sensitive statement before it is being made public.
  18. If requested, contribute to the drafting of interim reports, of the preliminary statement, and of the final report ensuring that Commission guidelines are followed and that reporting grammar and style are of the highest standard.
  19. Contribute to the internal report, including suggesting any methodological improvements and information on possible areas of technical assistance;
  20. Be available for the return visit and roundtable.
  21. Perform other duties as required for the good functioning of the EU EOM

## **(5) MEDIA ANALYST**

The Media Analyst is responsible for: assessing media coverage during the election period, the overall media landscape and environment, media freedoms, maintaining relations with the media. S/he will work under supervision of the CO and DCO.

As Media Analyst, s/he will:

1. Identify the most important Malawi media outlets to be monitored in terms of coverage, audience, ownership, content, bias, and impact, at the central and regional levels.
2. Assess the overall media landscape in terms of outlets and significance and maintain a database of relevant media outlets, media NGOs and regulatory bodies.
3. As far as possible, assess private media sector structures and ownership and its potential impact on the availability of pluralistic information.
4. Establish the methodological framework for monitoring the most important media outlets to assess the balance and tone of coverage afforded to political contestants and adherence to reporting requirements as established in laws, regulations and the code of conduct. Set up a central media monitoring unit, including both staff recruitment and training, technical set up, management and procedures.
5. With the Observer Coordinator, liaise with LTOs on implementation of media monitoring in their areas of responsibility. Prepare relevant questions for LTO weekly reports and process and interpret the responses thereto.
6. Monitor the media coverage of the EU EOM.
7. In liaison with the Legal Analyst, assess whether existing legislation provides a reasonable framework for the protection of freedom of speech and for a free press; assess whether the media, both public and private, provide balanced coverage of the election campaign in accordance with existing legislation, using both quantitative and qualitative analysis. Assess coverage of women candidates and the manner in which women and socially vulnerable groups are portrayed in the media in relation to the elections.
8. Verify the freedom of the media to carry pluralistic political commentary.



9. In liaison with the Political Analyst, assess cases or allegations of intimidation or violence against journalists.
10. Assess the tone of the media coverage of the campaign by recording any statements that “go beyond acceptable limits” or that may be considered hate speech or incitement to violence. Particular attention should be paid to debates and programs involving participation of the public.
11. In liaison with the Election Analyst assess the quantity and range of official voter information items distributed through the media.
12. Assess the context for producing and broadcasting paid political advertising.
13. Assess legal and institutional mechanisms to adjudicate media related complaints, as well as performance of regulation bodies and/or self-regulation initiatives during the elections, including respect for and enforcement of the Media Code of Conduct.
14. Assess any complaints against the media related to the election and liaise closely with the Political Analyst on all political party-related developments.
15. In liaison with the Digital Communications Analyst, assess how the campaign is presented in the social media and internet; if possible try to monitor it and liaise closely with the Political Analyst on all campaign-related developments.
16. Maintain contact with representatives of the media sector and institutions, domestic or international observer’s groups engaged in media monitoring, especially in regard to public broadcasters and other state-owned media.
17. Prepare (or obtain from another institutions/organisations) a basic daily media digest of political and election related items for the EU EOM.
18. Ensure that media monitoring results are regularly communicated to LTOs.
19. Participate in briefings, debriefings and Core team meetings.
20. Contribute to the preparation of interim reports, of the preliminary statement and of the final report in the mission reporting language. This includes amending/re-writing draft contributions after receiving DCO feedback.
21. Contribute to the internal report, including suggestions on any methodological improvements and information on possible areas of technical assistance.
22. Perform any other duty required for the good functioning of the EUEOM.
23. Be available for the return visit and roundtable.

## **(6) OBSERVER COORDINATOR**

The Observer Coordinator is responsible for coordinating the activities of long term and short-term observers and for providing the link between the field and the core team. S/he will work under the supervision of the CO and DCO.

S/he will:

1. In conjunction with other core team members and the Service Provider (including Logistics and Security experts), ensure high quality of observer briefings and debriefings. If necessary ensure that necessary arrangements are properly prepared: organise meetings, develop session agendas, ensure that observers understand EU observation methodology, identify and select relevant speakers, prepare necessary materials for observers briefing and debriefing sessions, ensuring that observers will be provided with pertinent information on the European Union, its goals, institutions and composition, its foreign policy,

particularly the EU election support policy and the European Commission's role in electoral assistance and election observation.

2. Ensure that observers sign the EU EOM Code of Conduct.
3. Ensure full compliance with EU methodology as outlined in the Handbook for European Union Election Observation.
4. Under guidance of the DCO and in co-ordination with the SP Operations and Security experts, plan and organise the deployment and movement of LTOs and STOs, ensuring representative observation coverage and taking into account geographical, country particularities and security considerations.
5. Co-ordinate with Election, Legal, Political, and Data Analyst in the development of a database for Election Day and provide corresponding information and training to observers on statistical data collection.
6. Provide technical assistance to the Data Analyst in the conduct of statistical analysis of observer collected data.
7. With the DCO, co-ordinate the integration of locally recruited diplomatic STOs (LSTOs), observers from non-EU member states and MEP delegations into the EU EOM.
8. Manage contact with LSTOs, including preparing information, undertaking regular communication, and preparing deployment plans.
9. On E-day be responsible for liaison with observers, collection of qualitative as well as quantitative info, supervises data entry into database, conduct immediate analysis and updates to CO and CT. Throughout the day prepare regular update reports on vote operations, counting and tabulation of results to DCO.
10. Prepare summaries of the main observer findings for the preparation of EU EOM interim reports, of the preliminary statement and of the final report.
11. Conduct the observer evaluation process. Ensure that this is prepared in co-ordination with all core team members; co-sign the evaluations and certificates for observers together with the DCO. Ensure that evaluations follow COM guidelines. Include the evaluations in the roster and sign a letter of confidentiality on the information obtained in the roster.
12. Perform any other duty required for the good functioning of the EUEOM.

## **(7) DATA ANALYST**

The Data Analyst is responsible, in close co-ordination with the DCO, the Election Analyst and the Observer Coordinator, for the design of analytical tools for the treatment of key election findings based on observation data collected by LTOs and LSTOs. S/he will work under the supervision of the CO and DCO.

S/he will:

1. Under the supervision of the Election Analyst, design and prepare an appropriate database system to facilitate the analysis of the demographic, civil registration and voter registration data collected by the mission, assess representation of woman and socially vulnerable categories on the voter register, including access to personal documentation and civil registration.
2. In co-ordination with the Election Analyst and the Observer Coordinator, ensure that LTOs and STOs are briefed on the structures and statistical characteristics of the voter list and on civil and registration procedures.
3. Contribute to the design of an appropriate database to facilitate the analysis of the data collected by observer teams. In co-ordination with the Election Analyst, contribute to the

design and content of EU observer reporting electronic forms, ensuring that the information contained can be processed effectively by the database.

4. Prepare a briefing on election day electronic forms and use of tablets for LTOs from home and if deemed necessary be available for a video conference during LTOs briefing.
5. In co-ordination with the Election Analyst provide input on the electronic system of the tabulation of results, on its integrity and on any data available on the tabulation of results from official or mission sources in terms of potential anomalies.
6. Train and supervise data entry clerk(s) responsible for data entry on E day, if necessary.
7. Attend briefings and debriefings as requested.
8. Perform other duty required for the good functioning of the EU/EOM.