

ELOG Statement on the Supreme Court Decision

INTRODUCTION

On Friday, 1st September 2017, the Supreme Court of Kenya (SCOK) annulled the results of the presidential elections held on 8th August 2017, announced and declared by the Independent Electoral and Boundaries Commission (IEBC) on the 11th Aug 2017. In a landmark ruling, the SCOK annulled the presidential election on three grounds: firstly, the elections were not conducted according to the principles laid down in the constitution; secondly, IEBC committed illegalities and irregularities in managing the process; and, finally, IEBC neglected its responsibilities in discharging its strategic obligations under the law.

COMMENT ON THE RULING BY SCOK ON THE PRESIDENTIAL ELECTION

The Elections Observation Group (ELOG) lauds the bold decision taken by the SCOK. Having consistently observed the electoral processes closely for the last 8 months and shared findings consistently, the ruling gives Kenyans and the concerned institutions another opportunity to conduct elections that will be credible, free and fair and in accordance with the laws of the country.

ELOG PVT PROJECTION AND ELECTION METHODOLOGY

ELOG gave its last statement on 12th August 2017. The statement outlined the observers' findings on the e-day processes and projected the presidential result tallies. ELOG notes that the projection has elicited a lot of reactions both positive and negative especially because they compare favorably with the official results announced by IEBC.

ELOG takes this opportunity to inform Kenyans that the PVT is a proven scientific methodology of projecting the outcomes of elections results worldwide. This has been done in Malawi, Zambia, Nigeria Ghana and the Philippines among others. The PVT uses official results from the polling stations as obtained by specially trained observers who send the information directly to the ELOG Centre for analysis. This information is further validated by verifying the same using the official results forms collected by observers from the polling stations. It is on the basis of this that ELOG made its projections.

Over and above the 1700 PVT observers, ELOG deployed other over 5,000 stationary observers to all the 1450 wards in the country who filed reports that are still being analyzed.

Steering Committee Members

CGD CRECO ECJP IED SUPKEM UDPK FIDA YA CJPC NCKK

In the just concluded election for instance, ELOG could not pronounce itself to the results transmission process and the electronic processing of data since it was beyond the scope of the observation tool. Our e-day reports addressed themselves to the polling day activities which included the opening, voting, closing and counting processes.

However as stated above and having observed the pre-election and the immediate post-election environment, ELOG stated that it was pre-mature to make an evaluation on the credibility of the elections. It further recommended that queries that had been raised both on the transmission of results and the availing of the prescribed scanned results forms to the public be addressed by the IEBC. We also advised that any disputes emanating from the process be adjudicated through the courts.

PREPARATIONS FOR THE FRESH PRESIDENTIAL ELECTION

While we await the comprehensive report of the SCOK verdict, there is a clear indication from the ruling that will require all electoral processes be firmly premised on the constitution and legal provisions, transparency and verifiability. Further, IEBC will be required to properly attend to its obligations both in the management of the election operations but also in engagement with stakeholders on the same.

Going forward, we appeal to IEBC to immediately share a clear framework on the conduct of the presidential re-run within the shortest time possible. We also appeal to the political contestants to conduct their campaigns peacefully and adhere to the electoral code of conduct and refrain from brinkmanship and careless rhetoric that could create tensions in the country in the run-up to the new elections. In this regard, ELOG takes great exception with the utterances of politicians that have cast aspersions on the SCOK ruling and the work of observers.