

ACP-EU JOINT PARLIAMENTARY ASSEMBLY

ACP-EU/100.269/08/fin.

RESOLUTION¹ on the situation in Kenya

The ACP EU-Joint Parliamentary Assembly,

- meeting in Ljubljana (Slovenia) from 17 to 20 March 2008,
- having regard to Article 17(2) of its Rules of Procedure,
- having regard to the valuable role Kenya has played in promoting peace in the region,
- having regard to the African Charter of Human and People's Rights guidelines on the conduct of democratic elections,
- having regard to the African Union Declaration on the Principles Governing Democratic Elections in Africa (2002),
- having regard to the Decision of the Assembly of the African Union on the situation in Kenya following the presidential election of 27 December 2007, at its meeting in Addis Ababa from 31 January to 2 February 2008 (10th Ordinary Session),
- having regard to the Pact on Security, Stability, and Development in the Great Lakes Region, signed on 16 December, 2006 in Nairobi, Kenya, by the Heads of State and Government of the countries in the Great Lakes Region,
- having regard to the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, commemorated at the United Nations on 27 October 2005,
- having regard to the Preliminary Statement of 1 January 2008 of the European Union Election Observation Mission (EUEOM) in Kenya and to the European Parliament resolution of 17 January 2008 on Kenya,
- having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (the 'Cotonou Agreement') and amended in Luxembourg on 25 June 2005, in particular Articles 8 and 9 thereof,
- having regard to the valuable efforts made by the United Nations to find a solution to the crisis,

¹ Adopted by the ACP-EU Joint Parliamentary Assembly on 20 March 2008 In Ljubljana (Slovenia).

- A. whereas the people of Kenya in exercise of their democratic rights turned out in large numbers on 27 December 2007 to choose their presidential, parliamentary and civic leaders, in which nine parties fielded presidential candidates, including President Mwai Kibaki of the Party of National Unity (PNU) and Raila Odinga of the Orange Democratic Movement (ODM),
- B. whereas the whole campaign period and the elections were peaceful and freedom of association, freedom of expression and freedom of assembly were broadly respected; whereas, however, the campaign was also marked by ethno-political divisions, which contributed to the volatile situation in the run up to the elections,
- C. whereas the two major parties, the PNU and the ODM, and their affiliate parties won 103 and 104 seats respectively out of 210 seats in the national parliament,
- D. whereas international and domestic observers concluded that, overall, the election process prior to tabulation was well managed and that the parliamentary elections could be deemed largely successful, but that the presidential election tallying lacked credibility, and therefore expressed doubts as to the accuracy of the results,
- E. whereas the Electoral Commission of Kenya (ECK), in general, managed the electoral process well, but did not demonstrate at the counting stage in the presidential election the impartiality, transparency, confidentiality and, above all, autonomy necessary for organising credible elections,
- F. whereas the resulting tense atmosphere brought about by the announcement of the presidential election results triggered violence and arson with ethnic undertones, leaving over 1 000 dead, more than 300 000 internally displaced and about 10 000 seeking refuge in Uganda, thus causing an enormous humanitarian crisis,
- G. whereas the violence was extremely intense in some areas, not only threatening the safety of hundreds of thousand of Kenyans, but also jeopardising various aspects of daily life, including economic transactions, education and health,
- H. whereas the temporary turmoil in Kenya affected economic activities in the region, with devastating effects on land-locked neighbours; whereas the prices of people's basic necessities are increasing and many employees have lost their jobs,
- I. whereas the efforts of the then African Union Chairman, President of the Republic of Ghana John Kufuor built ground for facilitation of dialogue undertaken by former UN Secretary-General Kofi Annan, assisted by Graça Machel and former president Benjamin Mkapa, to resolve the dispute,
- J. whereas the Government of Kenya and the Orange Democratic Movement embarked on Kenya National Dialogue and Reconciliation talks under the facilitation of Kofi Annan, culminating in a National Accord to create a grand coalition government,
- 1. Hails the maturity of the people of Kenya for embracing democracy, as demonstrated by the peaceful elections conducted on 27 December 2007;

2. Deeply deplores the loss of innocent lives and the critical humanitarian situation brought about by the post-election violence;
3. Condemns all acts of violence that have taken place, for which there can be no impunity, and underlines the need to protect the human rights of all in Kenya, to stop the abuses and gender-related violence and to ensure respect for international humanitarian law;
4. Deeply regrets the death of Melitus Were and David Kimutai Too, two newly elected Members of Parliament, and expresses solidarity with the Kenyan Parliament on the loss of colleagues;
5. Calls for all acts of violence to be urgently and thoroughly investigated through appropriate means and in a way that helps to restore the trust of the Kenyan people in democracy;
6. Also calls on the Government of Kenya to ensure that offences under the Electoral Offences Act are impartially and rigorously investigated and perpetrators held accountable for their actions, and in this regard commends the creation of the Election Inquiry Commission;
7. Further calls on the Kenyan authorities to ensure adequate protection and assistance for all displaced persons, wherever they are, without ethnic discrimination, and to meet their obligations regarding the social and economic rights of those displaced (access to food, health and education services), resettlement and land disputes;
8. Calls on all parties to put in place, and to promote, a sequence of confidence-building measures in order to encourage the safe return and resettlement of the refugees and internally displaced persons;
9. Is deeply concerned at the repercussions of the political crisis, its detrimental effect on the country's socioeconomic development and the economic consequences for neighbouring countries, which depend to a large extent on Kenya's infrastructure and whose humanitarian situation is being undermined by the crisis;
10. Strongly condemns the increase in sexual violence that has occurred as a result of the political turmoil, and is particularly concerned by the plight of women and girls in refugee camps; calls, in this respect, on the Kenyan authorities to ensure appropriate medical care for victims and calls for the police to encourage them to report crimes and to take all reports of sexual violence seriously;
11. Commends the Government of Kenya and the Orange Democratic Movement for embarking on a peaceful search for a solution to the political crisis arising out of the presidential elections of 27 December 2007;
12. Welcomes the National Accord between the Government and the Orange Democratic Movement on power sharing; encourages its ongoing implementation and calls for accelerated assistance in order to consolidate peace and security;

13. Supports the Parliament of Kenya for initiating the legal and constitutional instruments necessary for operationalising the Accord; congratulates it for unanimously approving, on 18 March 2008, the Constitution of Kenya (Amendment) Bill and the National Accord and Reconciliation Bill, to give effect to the power-sharing agreement;
14. Notes the efforts by both parties to return the country to normality through respect for the rule of law, which is necessary for securing calm and security in all parts of the country, and respect for human life and private property;
15. Commends the international community, in particular the ACP-EU institutions, the EU, the African Union, the Intergovernmental Authority on Development (IGAD), the East African Community (EAC) and the Panel of Eminent African Persons including former heads of state, for their great concern and the positive contribution they made during the search for peace;
16. Stresses that their response reflected the internationally agreed and fundamental principle of the responsibility to protect;
17. Welcomes the humanitarian aid provided by the international community;
18. Commends the Government, the people and the President of Uganda, Yoweri Museveni, for welcoming and providing security and humanitarian assistance for the Kenyan refugees; also appreciates the efforts by Yoweri Museveni in his capacity as the Chairperson of the Summit of the EAC and the Commonwealth Heads of Government Meeting;
19. Hails the efforts of Kofi Annan and the Panel of Eminent African Persons in assisting Kenya to resolve the political dispute; also appreciates the critical intervention by the current African Union Chairman, Jakaya M. Kikwete, President of the United Republic of Tanzania;
20. Calls for concrete measures to establish a truly impartial electoral commission which will be better able to conduct free and fair elections in the future and to undertake the necessary judicial, constitutional and institutional reforms;
21. Urges that all national law reviews address the pre-election, election and post-election periods, to allow for credible and effective mechanisms for redress of election complaints;
22. Is concerned at the trend of political pluralism towards ethnicisation within democratisation processes, and calls for a serious study into the issue;
23. Further urges all parties to live up to their responsibilities by engaging constructively and fully in the reconciliation process, working jointly through dialogue on all issues, including electoral, constitutional and gender-sensitive reforms, and to agree on a sustainable and consensual political solution to the crisis;
24. Calls upon Kenyan civil society, religious organisations and the people of Kenya to support and promote the process of reconciliation;

25. Calls upon the international community to render adequate assistance for reconstruction of the affected areas, including the urgent resettlement of displaced persons, with special focus on rural areas and slums;
26. Urges the Kenyan authorities to address the economic disparity between the rich and the poor in order to pave the way for a more balanced distribution of wealth in the country; urges them also to address the underlying issues, such as land ownership, that have undermined governance in the country;
27. Instructs its Co-Presidents to forward this resolution to the ACP-EU Council, the European Commission, the African Union, the Pan-African Parliament, the IGAD, the EAC, the EAC Legislative Assembly and the Government and Parliament of Kenya.