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Elections in Malawi

2020 Fresh Presidential Election

Frequently Asked Questions

Africa

International Foundation for Electoral Systems

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June 18, 2020

Frequently Asked Questions

When is Election Day?.....	1
What is the legal framework governing these elections?	1
Why are these elections important?	2
What is the electoral system?.....	3
What is the structure of the government?	4
What is the election management body? What are its powers?	4
Who are voters casting their ballots for on Election Day?	5
Who can vote in these elections?	5
How was voter registration conducted?.....	6
How many registered voters are there?	7
Where will voters cast their ballots on Election Day?	7
What are the voting procedures?	8
What provisions are in place to support the rights of voters with disabilities?	9
Who is carrying out voter education for this election?	9
Is out-of-country voting allowed?.....	9
Who is managing security on Election Day?	9
How has the COVID-19 pandemic impacted the election?.....	9
What is the election management body doing to safeguard the election and voters during the COVID-19 pandemic?.....	10
Who can observe during Election Day? How can they get accreditation?	10
Where will votes be counted and how will results be transmitted?	11
When will official results be announced?	12
How will election disputes be adjudicated?	12
Resources	13

Disclosure:

These FAQs reflect decisions made by the Malawian elections authorities as of June 18, 2020, to the best of our knowledge. This document does not represent any IFES policy or technical recommendations.

When is Election Day?

Malawi's High Court annulled the results of the May 2019 presidential election, and Malawi is scheduled to hold a rerun election, commonly known in Malawi as the fresh presidential election, on June 23, 2020. The fresh election was initially scheduled to be held on July 2, 2020, which is the end of the court-mandated 150-day period in which the fresh election must be held. The electoral code states that the Malawi Electoral Commission (MEC) has eight days to release the results after an election. If the fresh election were to occur on July 2, 2020, it would not comply with the ruling of the High Court, as it is being interpreted that the winner should be announced within the 150 days.

As such, the election date was subsequently moved to June 23, 2020, following a recommendation from the MEC. This earlier Election Day allows more time for the resolution of any potential electoral complaints before the electoral results are announced, which should take place before July 2 to align with the High Court's ruling. Given this deadline, the election results are expected to be announced by July 1, which is the end of the eight-day period stipulated in the law and one day before July 2, which marks the end of the 150 days mandated by the court.

On May 22, the attorney general of Malawi stated that Parliament has not amended Section 67 (1) of the Constitution to allow for presidential elections to occur on a separate date than National Assembly elections. This is due to the fact that the High Court only annulled the results of the presidential election, and not those of the parliamentary and local elections that occurred on the same day in 2019. Currently, Parliament is working on the necessary constitutional and legal amendments and has officially communicated to the MEC that polling will take place on June 23. The MEC has also declared that date as the official Election Day.¹

The tight electoral timeline is posing significant challenges for the procurement of sensitive electoral materials such as ballot papers, polling booths and envelopes. The newly appointed chairperson, in his press briefing dated June 13, stated that, if absolutely necessary, the MEC might seek an extension to the election date if the procurement challenges are not resolved in a timely manner.

What is the legal framework governing these elections?

Malawi's legal framework governing elections comprises the:

- Constitution of the Republic of Malawi, 1994;
- Parliamentary and Presidential Elections Act (PPEA), 1993;
- Electoral Commission Act, 1998; and
- Political Parties (Registration and Regulation) Act, 1993.

The PPEA has been amended three times – in 1994, 1997 and 1998. The legal framework might still be amended again in the next few days to allow for parliamentary and presidential elections to take place

¹ https://www.marketwatch.com/press-release/malawi-electoral-commission-gazettes-june-23-voting-day---pessimistic-on-holding-credible-election-2020-06-11?mod=mw_more_headlines&tesla=y

on separate dates and to introduce a 50 percent plus one electoral system to align with the High Court's order.

Regionally, the framework governing Malawi's elections comprises the:

- Principles for Election Management, Monitoring and Observation in the Southern Africa Development Community (SADC) region;
- SADC Principles and Guidelines Governing Democratic Elections; and
- SADC Norms and Standards for Elections.

Malawi has not signed or ratified the African Charter on Democracy, Elections and Governance.

Why are these elections important?

The process and aftermath of the 2020 elections are immensely important, as it is only the second time that an African court has overturned the results of a presidential election due to irregularities. Moreover, Malawi is holding this election against the backdrop of the COVID-19 pandemic, which has delayed elections in Africa and beyond. Therefore, the nature of the Malawian elections can serve as an international example both due to its legal nature and the context of a public health crisis.

The election is a rerun of the presidential component of the May 2019 general elections, in which Malawians voted for president and members of the National Assembly and local government. The now voided results of the May 2019 election were as follows: Incumbent President Peter Mutharika received 38 percent of the vote, opposition leader Lazarus Chakwera received slightly over 35 percent and current Vice President Saulos Chilima received slightly over 20 percent.² While the elections themselves were conducted in a peaceful, orderly manner, there were allegations of vote count manipulation, leading Chakwera and Chilima to challenge the results in court.³ While the two candidates filed their petitions separately, they were treated as one by the High Court.

Prior to the court announcing its ruling regarding the legal challenge, incumbent President Mutharika held an inauguration ceremony. This ceremony was denounced by the opposition and resulted in widespread controversy when the chairperson of the Malawi Electoral Commission (MEC) at the time, Jane Ansah, was seen in attendance.⁴ Subsequently, demonstrations occurred until the High Court announced that the results were annulled due to the MEC not meeting multiple statutory requirements.⁵

The court also concluded that the announcement of Mutharika as the winner of the election was improper, as he had not received more than 50 percent of the vote. The Constitution of Malawi reads

² <https://www.eisa.org.za/wep/mal2019results1.htm>

³ <https://www.aljazeera.com/news/2019/08/malawi-top-court-hears-presidential-election-result-challenge-190808160542846.html>

⁴ <https://www.africanews.com/2019/05/28/polls-open-in-malawi-s-tripartite-elections/>

⁵ <https://www.washingtonpost.com/politics/2020/02/04/malawi-court-just-ordered-do-over-presidential-election-heres-what-you-need-know/>

that “The President shall be elected by a majority of the electorate through direct, universal and equal suffrage.” While it does not specify whether this would be a simple majority of first past the post (FPTP) or an absolute majority of 50 percent plus one, the court interpreted “majority” in the Constitution as being 50 percent plus one of the valid votes. The High Court ruled that the FPTP standard that has determined the winner of every presidential election since the return to multiparty electoral competition in 1994 has gone against the “majority” principle in Malawi’s Constitution.

The court called for Parliament to amend the Parliamentary and Presidential Elections Act to explicitly require that winners achieve an absolute majority of 50 percent plus one votes. The court ruling announcing a fresh presidential election stated that only candidates in the May 2019 elections could compete. This court decision was denounced by incumbent President Mutharika, who challenged its legality, but was further upheld by the Supreme Court in May 2020.⁶ On June 8, 2020, the High Court nullified the results for the Mangochi North East seat in Parliament, although it has not been made clear if the election to fill the seat will occur on the same day as the rerun presidential election.⁷

What is the electoral system?

In mid-2017, the Malawi Law Commission (MEC) endorsed the 50 percent plus one system for presidential elections. The commission’s endorsement came three months after the Special Law Commission’s review report of the Electoral Law. The report recommended drastic changes to how general elections would be handled. The recommendation was a sharp departure from the 1994 legal provision that established the first-past-the-post (FPTP) process previously used in Malawi. The proposed change would have amended Section 80 (2) of the Constitution and Section 95(6) of the Parliamentary and Presidential Elections Act (PPEA) to formally change the electoral system.⁸ The 50 percent plus one system maintains that a presidential candidate must acquire 50 percent plus one of the total votes cast to be declared the winner.

The topic of reforming both the Constitution and the PPEA were debated in Parliament over several months. However, the proposed bill to shift from FPTP to 50 percent plus one was defeated following parliamentary debate in December 2017.⁹ Even after the proposal to adopt a 50 percent plus one bill failed, the possibility of amending the electoral system continued to be discussed as late as November 2018. As such, the FPTP system was used for the 2019 general elections.¹⁰

In the aftermath of the 2019 election, the courts ruled that the current FPTP presidential electoral system goes against the tenets of the Constitution of Malawi – which requires a “majority” rather than a plurality for victory. Despite the High Court ruling for Parliament to rectify this discrepancy before the

⁶ <https://www.nyasatimes.com/malawi-electoral-commission-gazettes-june-23-voting-day-pessimistic-on-holding-credible-election/>

⁷ <https://www.nyasatimes.com/justice-mwaungulu-says-law-gives-malawi-electoral-commission-mandate-on-poll-date/>

⁸ <https://www.nyasatimes.com/opposition-hits-malawi-govt-betrayal-blocking-501-bill/>

⁹ <https://www.nyasatimes.com/opposition-hits-malawi-govt-betrayal-blocking-501-bill/>

¹⁰ <https://allafrica.com/stories/202006110222.html>

fresh election, at the time of writing, no electoral amendments have been implemented.^{11 12} Furthermore, the opposition has said that no such reforms are needed, and that they agree that the election should go ahead with the FPTP system.¹³

What is the structure of the government?

The government of Malawi is made up of three branches: the executive, legislative and judiciary.

Executive power lies with the president exercised through a vice president and the Cabinet. The vice president is elected on the same ticket as the president. The Constitution also provides for a second vice president from another party who is appointed by the president. Currently there is no second vice president in Malawi.

Legislative power is vested in the National Assembly, consisting of 193 members representing constituencies directly elected by universal adult suffrage. The tenure of members of Parliament is five years.

Malawi's court system comprises a High Court, a Supreme Court of Appeal and lower courts and tribunals. The chief justice presides over the Supreme Court of Appeal and is appointed by the president and confirmed by two-thirds of the National Assembly. All other judges are appointed by the president on the advice of the Judicial Service Commission, while magistrates are appointed by the chief justice in consultation with the Judicial Service. The Supreme Court of Appeal rules on cases that have already been ruled on by the High Court.

What is the election management body? What are its powers?

The Constitution of Malawi mandates the establishment of an electoral commission that is independent of any external authority (Constitution 1994, Articles 75, 76(4)). The High Court has the right of judicial review over the Malawi Electoral Commission (MEC) to ensure that it acts in accordance with the Constitution and acts of Parliament (Constitution 1994, Articles 76(3), (5)(a)). The National Assembly has the power to confirm the constituency boundaries but is not empowered to alter them, except upon recommendation of the MEC.

The MEC is comprised of a chairperson, who is a judge nominated by the Judicial Service Commission, and at least six other members, who are appointed by the president in consultation with the leaders of the political parties represented in the National Assembly. Members may be removed by the president, on advice of the Public Appointments Committee, for incompetence or incapacity (Constitution 1994, Article 75(1), (4); Electoral Commission Act 1998, 4(1)).

The functions of the MEC are to (Constitution 1994, Article 76(2); Electoral Commission Act 1998, 8(1)):

- Delimit constituencies;

¹¹ <https://allafrica.com/stories/202006100114.html>

¹² <https://mec.org.mw/wp-content/uploads/2019/03/electoral-laws-final.pdf>

¹³ <https://allafrica.com/stories/202006110222.html>

- Determine election petitions;
- Direct and supervise electoral operations including voter registration;
- Ensure the security of elections; and
- Conduct civic education campaigns.¹⁴

Jane Ansah, the former chairperson of the MEC, resigned in May 2020. Some believe that her resignation was a main demand of many popular demonstrations in the lead-up to and following the High Court's decision to annul the 2019 election results. On June 8, 2020, it was announced that High Court Judge Chifundo Kachale would be the next chairperson of the MEC. President Mutharika appointed a total of seven commissioners, two of whom were retained from the previous commission, who took their oath of office on June 9, 2020.¹⁵

Who are voters casting their ballots for on Election Day?

The three main candidates in the 2019 presidential election have registered to contest the June 23, 2020, fresh election under their respective parties.¹⁶ Incumbent Peter Mutharika will run under the Democratic People's Party and his running mate will be Atupele Muluzi, and opposition leader Lazarus Chakwera will run under the Malawi Congress Party (MCP). The United Transformation Movement (UTM), the People's Party, and the Freedom Party have joined with the MCP in a coalition called the Tonse Alliance. As a result, current Vice President Saulosi Chilima of the UTM will be Chakwera's running mate in the fresh election.¹⁷ The third candidate is Peter Kuwani, who is representing the Mbakuwaku Movement for Development, and his running mate will be Archbold Mclenard. In the lead-up to the fresh elections, Mutharika has said that the court's ruling could have negative ramifications on free and fair elections in the future, remarks that could be interpreted as political. Specifically, Mutharika said that the court rulings that nullified the results of the 2019 election and called for fresh elections are "a serious miscarriage of justice and an attack on the foundations of the country's democracy."¹⁸

Who can vote in these elections?

The rulings by the High Court and Supreme Court that annulled the results of the 2019 presidential election mandated that only those who were registered to vote in the 2019 elections are eligible to vote in the fresh election. This means that Malawians who were eligible to vote in the 2019 general elections but were not registered at the time cannot vote in the 2020 elections. Similarly, Malawians who have turned 18 since the 2019 general elections are also unable to vote. While the Malawi Electoral Commission (MEC) had already started voter registration for the upcoming presidential election, it had to stop and comply with the court ruling. Using the voter register from 2019 is due to the fact that the

¹⁴ <https://malawi24.com/2018/12/13/sms-voter-verification-method-secure-mec/>

¹⁵ <https://www.nyasatimes.com/new-mec-sworn-in-to-uphold-constitution-as-malawi-new-presidential-vote-on-june-23/>

¹⁶ <https://www.nyasatimes.com/mec-publishes-3-names-of-presidential-candidates-in-malawi-fresh-vote-chakwera-mutharika-and-kuwani/>

¹⁷ <https://www.nyasatimes.com/chakwera-vows-to-resign-and-let-chilima-rule-malawi-if-he-breaks-law/>

¹⁸ <https://af.reuters.com/article/idAFKBN1ZZOUM-OZATP>

Supreme Court perceives the fresh election as a repeat of the 2019 election. This is also in line with the court's order that only candidates in the 2019 presidential election can run in the upcoming election.

This issue with voters who have recently turned 18 caused some debate in Malawi as, according to Chapter VII (Section 77) of the Constitution, every citizen residing in Malawi who is at least 18 years old by Election Day is eligible to register to vote in an election. However, given that this fresh election is considered a rerun of the May 2019 presidential election, the court maintained that only those who were registered at the time of the original Election Day are eligible to vote.

Additionally, according to Part 3 (16) of the Electoral Act, a voter can register in the area where he or she ordinarily resides, was born, is employed or has business. This provides greater flexibility for voters to register at a polling station that will be most convenient for them on Election Day. An eligible person wishing to register as a voter in an election shall in person state that he is not registered at any other registration center and shall present to a registration officer proof of his or her eligibility, usually by presenting a national identification.¹⁹

Security forces, such as the Malawi Armed Forces and the Malawi Police, are permitted to vote in the polling station where they are serving, provided that they are included on the voter register for that station. If not, they must produce a certificate of authorization to vote elsewhere issued by an officer authorized to do so by the MEC.

According to Article 77 of the Constitution, a person does not qualify for voter registration if he or she:

- "Is under any law in force in the Republic adjudged or otherwise declared to be mentally incompetent;
- "Is under sentence of death imposed by a court having jurisdiction in the Republic, either before or after the appointed day; or
- "Is disqualified from registration as a voter on the grounds of his or her having been convicted of any violation of any law relating to elections passed by Parliament and in force at the time of, or after, the commencement of this Constitution, but such disqualification shall be valid only with respect to registration for the election in question and the person so disqualified shall be qualified to be registered as a voter in the next or any subsequent election."

How was voter registration conducted?

No voter registration was conducted in the lead-up to the 2020 election, as only those registered to vote at the time of the 2019 general election are eligible to vote in the fresh election.

For previous elections, Malawi has always used a paper-based process for voter registration. However, for the 2019 elections the Malawi Electoral Commission (MEC) introduced a new biometric voter registration (BVR) system in June 2018. This BVR system used national identification (ID) cards as the only acceptable document for voter registration. The national ID card system also uses biometric data and is issued by the National Registration Bureau (NRB). In the BVR system, voters' photographs and

¹⁹ <https://mwnation.com/who-will-decide-2019-elections/>

fingerprints are scanned into the voter list. This process aims to prevent duplication, multiple registrations and identity theft to improve the accuracy of the voter list.

This system of using the national IDs to create the voter list created challenges. At the end of the registration period only a little less than 7 million individuals, out of a potential voting population of 16 million, had registered for the election. As such, the MEC worked with the NRB so that citizens who might have lost their national ID cards but whose information was still in the system could register. The MEC and the NRB use the same equipment for BVR.

Technically, the BVR system consists of two parts: registering voters and scanning the voter list for duplicate and fraudulent registrants.

The voter registration process for the May 2019 general elections ended on December 9, 2018. From December 10, 2018-January 9, 2019, the MEC conducted voter registration verification where prospective voters were asked to verify their names and make any corrections or transfers in their polling station, if required. During this time registered voters could verify their personal data in the preliminary voter list by dialing a toll-free verification code, *2019#. ²⁰

Following the announcement that the fresh election would be held on June 23, 2020, the MEC announced that it was deploying voter registers to all of Malawi's 28 districts for 48 hours. This deployment began on June 10 and allows for voters to verify their eligibility to participate in the fresh election. In addition to ensuring that those who were registered to participate in the 2019 general elections can vote in the 2020 fresh election, the register also allows voters to confirm their polling places.

How many registered voters are there?

By December 9, 2018, the Malawi Electoral Commission (MEC) had registered a total of 6,859,570 eligible voters, representing 81 percent of its projection.²¹ Of the total registered voters, 3.7 million are youth, 2.1 million are women and 1.6 million are men.²² The same number of voters registered to vote in the May 2019 general elections will be eligible to vote in the 2020 fresh presidential election, as the voter registration process was not reopened.

Where will voters cast their ballots on Election Day?

As announced by the Malawi Electoral Commission (MEC) on June 14, 2020, there are 9,291 established polling stations in 5,002 polling centers across the country. Subject to Subsection (2) of the Electoral Act, a voter is allowed to vote at a polling station at the registration center where he or she is registered.

²⁰ <http://www.faceofmalawi.com/2018/10/mec-promises-a-smooth-final-voter-registration-phase/>

²¹ <https://mec.org.mw/2019-tripartite-elections/>

²² <https://mec.org.mw/2019-tripartite-elections/>

If he or she cannot vote there, the registration officer of that center or another duly authorized officer may, at the voter's request, grant written authorization to vote at a polling station located in the place where he or she will be present on Election Day. In this case, the polling station officers at the other polling station will record, in the manner prescribed by the MEC, the voter's name, voter registration certificate number and designated registration location.

Part 4 (67) on the Electoral Commission Act states that MEC shall establish polling stations throughout Malawi and there shall be at least one polling station for every registration center established under Section 21 of the Electoral Act. It further states that all polling stations will be established and located in public buildings, including schools, community or social halls or administrative offices of government or local authorities. They cannot be located in military units, police stations, residential buildings, buildings occupied by political parties, premises where alcoholic drinks are ordinarily sold or consumed, places of worship or dedicated to worship, or hospitals or other health centers.

The Electoral Commission Act provide some exceptions, stating that the MEC may establish polling stations at any military unit or police station to enable members of the Malawi Defense Force, Malawi Police Service and members of their families to vote in the two days prior to Election Day.

The Electoral Commission Act also mandates that, before Election Day, the MEC publish in the *Gazette*, in more than one issue of a newspaper in general circulation in Malawi, by radio announcements and by any other appropriate means the names of all places throughout Malawi where polling stations have been established.

What are the voting procedures?

Per the Malawi Electoral Commission's (MEC) electoral procedures, voters will queue outside the polling station. Once a voter is allowed into the station, the voter will head to the identification clerk who will ask for his or her voter registration certificate.

The clerk will then check for his or her name on the voter register and will call out the name verbally so that all in attendance can hear. Even if the voter does not have a voter registration certificate, he or she will still be allowed to vote so long as his or her name appears on the voter register. If the individual's name cannot be found on the polling station's voter register or the list of those transferred out or onto the list of multiple registrants, the individual will not be allowed to vote in the election.

Those individuals on the voter register will head to the inking clerk, who will check the voter's fingers for traces of ink. If there is no ink present, the voter will be allowed to dip his or her finger in the ink before proceeding to the ballot paper issuer. The voter will be issued a ballot paper and the issuer will explain how the ballot paper should be marked without influencing the voter.

The voter will then head toward the polling booth, where he or she will place a mark in the box next to the candidate of their choice before inserting the ballot paper into the ballot box. After depositing their ballot, the voter leaves the polling station. The MEC is putting 19 mitigation procedures in place, such as washing hands and maintaining a safe distance of two meters between those present at the polling station, to ensure the safety of voters and poll workers.

What provisions are in place to support the rights of voters with disabilities?

If a voter with a physical disability cannot mark the ballot paper independently, a registered voter of his or her choice can assist. If this is not possible, then the presiding officer can assist the voter while ensuring the secrecy of the vote. For voters who are blind or have low vision, they can be provided with a special template that allows them to mark the ballot paper in private.

Who is carrying out voter education for this election?

The Malawi Electoral Commission (MEC) usually has a voter education budget that can be utilized ahead of each election. However, given that this fresh election was not budgeted for earlier, there are financial challenges facing the MEC, especially given the COVID-19 pandemic, which requires the procurement of personal protective equipment, adding further budgetary constraints. The MEC is currently conducting some awareness activities while also relying on civil society organizations to carry out voter education efforts. Additionally, international assistance partners such as the International Foundation for Electoral Systems and the National Democratic Institute are supporting different outreach interventions to ensure that electoral information is being communicated to voters.

Is out-of-country voting allowed?

The current Electoral Law does not provide for out-of-country voting and does not allow the Malawi Electoral Commission to conduct external voting or establish polling stations abroad. Malawians living in the diaspora can only vote if they return to Malawi for both registration and voting.²³

Who is managing security on Election Day?

The Malawi Police Service is responsible for security and public order on Election Day. However, the armed forces, paramilitary and uniformed organizations may be present at polling stations if they have been deployed to a station at the request of the Malawi Electoral Commission (MEC) or a polling station's presiding officer to maintain law and order.

Section 71 of the Electoral Commission Act states that presiding officers at polling stations and, in general, the MEC shall be responsible for creating and guaranteeing all necessary and indispensable conditions for security and for the custody, conservation and inviolability of the items specified in Section 70, including the ballot papers and ballot boxes.

How has the COVID-19 pandemic impacted the election?

The COVID-19 pandemic has impacted preparations for the fresh presidential election. The coronavirus prevention measures outlined by the government of Malawi do not allow gatherings of more than 100

²³ <http://allafrica.com/stories/201307210093.html>

people. Despite this mandate, some political parties have held campaign gatherings exceeding this number.²⁴

Malawi imports many election materials from other countries.²⁵ Currently, many countries are on full or partial lockdown in the wake of the COVID-19 pandemic. This has impacted election preparations as the Malawi Electoral Commission (MEC) procures Election Day supplies from both local and international suppliers,²⁶ with some suppliers finding it difficult to transport goods internationally. This has the potential to affect the delivery of important supplies necessary for running the election. The MEC has just announced that the printing of ballot papers is currently taking place in Dubai, and the papers are expected to arrive to Malawi by June 19.

Furthermore, some international observers may not observe the elections due to flight cancellations and health measures stemming from COVID-19.

What is the election management body doing to safeguard the election and voters during the COVID-19 pandemic?

Even though Malawi has not registered as many cases of COVID-19 as other parts of the world, there are still fears that the situation could become unmanageable. As of May 30, Malawi had registered 279 cases of COVID-19 and four deaths.²⁷ With the fresh presidential election expected to happen on June 23, 2020, there is speculation that voters might get infected during the campaign period and on Election Day if no safety measures are established. To mitigate COVID-19 risk, the Malawi Electoral Commission (MEC) has been working to introduce COVID-19 measures before, during and after polling.

Among other measures, the MEC intends to do the following in the fresh election:

- The MEC has appealed to political parties to find innovative ways of campaigning that do not expose voters to COVID-19.
- The MEC is developing COVID-19 procedures and guidelines.
- The MEC will distribute masks, sanitizers and hand-washing liquid to polling staff to ensure that they are well protected.
- The MEC will enforce social distancing during voting.
- The MEC will enforce hand-washing when voters arrive at the polling stations.
- The MEC will raise awareness of COVID-19 through social media and radio messages.

Who can observe during Election Day? How can they get accreditation?

The Electoral Commission Act in Malawi allows for electoral observation, and the Malawi Electoral Commission (MEC) always invites stakeholders to observe elections a year or earlier before Election Day.

²⁴ <https://africa.cgtn.com/2020/05/15/malawi-shifts-to-top-campaign-gear-for-presidential-polls-despite-virus-pandemic/>

²⁵ <https://www.nyasatimes.com/election-materials-arrive-for-malawi-fresh-elections/>

²⁶ <https://www.nyasatimes.com/election-materials-arrive-for-malawi-fresh-elections/>

²⁷ <https://www.voanews.com/africa/malawi-covid-19-cases-rise-citizens-return-south-africa>

Even without the invitation of the MEC, stakeholders willing to observe the polls are free to request accreditation from the MEC.

The MEC values the role of observers in holding free, fair and credible elections. As such, the MEC has waived the accreditation fee. However, electoral observers are expected to comply with the provisions of the electoral laws and other legislation. They are also supposed to abide by the code of conduct for electoral observers and other codes of conduct that have been established to facilitate smooth conduct of the elections. The MEC also provides an observer information kit that can be accessed on its website.

Two categories of elections observers are accredited: international observers and local or domestic observers.

- *International Election Observers:* These include international bodies or organizations, embassies or foreign missions, international charitable organizations, internationally established democracy and governance organizations and foreign media, among others. Diplomats to Malawi who are designated and recognized as international observers may also observe. Given the current COVID-19 pandemic, it is unclear if any international observers will deploy to Malawi.
- *Local or Domestic Election Observers:* These include local charitable organizations, locally established democracy and governance organizations, local media, civil society organizations and faith-based and religious organizations, among others.

In terms of accreditation, the MEC simplified the process to the extent that it can be processed before arrival in Malawi. Processing of accreditation cards is done in Blantyre, at the MEC headquarters. If observation teams send their information and itinerary in time, the secretariat arranges for collection of the identification cards in the regional offices in Lilongwe and Mzuzu.

Previously, observers included the African Union, Institute of Sustainable Democracy in Africa, European Union, Southern African Development Community (SADC) Electoral Commission's Forum and SADC Parliamentary Forum. However, for the 2020 election, it is unclear how the closure of Malawi's borders and limits on international travel due to the COVID-19 pandemic will impact the arrival of international election observers or their willingness to observe the upcoming election.²⁸

Where will votes be counted and how will results be transmitted?

Vote counting will take place in each of the established polling stations across the country. Party agents and observers will have access to copies of the results forms, which will also be displayed in the polling station. Following that, presiding officers will head to the offices of the district commissioners or other larger areas designated by district commissioners for tallying.

Constituency tally centers, previously established by the Malawi Electoral Commission (MEC) to tally results from the different polling stations, have been declared illegal by the High Court. For the upcoming fresh presidential election, results will be aggregated from the different polling stations at the

²⁸<https://www.economist.com/middle-east-and-africa/2020/05/16/covid-19-helps-ballot-dodgers-in-africa>

district level. Once results from the polling stations arrive at the district level, they will be captured and scanned by the biometric kits and then transported to the national tally center. Party agents and observers will also have access to all tallying information at the district level.

When will official results be announced?

The national result of an election should be announced within eight days from the last polling day and no later than 48 hours from the conclusion of the determination of the national results. They should specify: the total number of voters registered for the election, the total number of voters who voted, the total number of null and void votes and the total number of valid votes cast for each classification of votes as specified by Article 99 of the Parliamentary and Presidential Elections Act.²⁹ Given the election date of June 23, the results should be announced by July 1, 2020. The legal framework still does not provide for a runoff. Should Parliament pass the necessary legislation, it is unclear how this will affect the timing of the runoff and subsequently the announcement of results.

How will election disputes be adjudicated?

The Electoral Act provides that any complaint submitted in writing alleging any irregularity at any stage, if not satisfactorily resolved by the chief elections officer or returning officer, will be examined and decided by the Malawi Electoral Commission (MEC). If the irregularity is confirmed, the MEC shall take necessary action to correct the irregularity and its effects.

Section 97(1) states that appeals shall be submitted to the High Court against a decision of the MEC confirming or rejecting the existence of an irregularity. Such appeals should be made by way of a petition, within seven days from the date of the MEC's decision, supported by affidavits of evidence, which should clearly specify the declaration the High Court is being requested to make.

If the court is satisfied that any failure to comply with the Electoral Act did not affect the result of the election, it shall not declare the election void. The court has the power to direct scrutiny and recount of votes if it desires.³⁰

²⁹ http://www.africa.upenn.edu/Govern_Political/mlwi_const.html

³⁰ <http://www.iojt-dc2013.org/~media/Microsites/Files/IOJT/11042013-Enhancing-Capacity-Judges-Resolve-Election-Disputes.ashx>

Resources

- Malawi Electoral Commission
 - [Website](#)
 - [Facebook](#)
 - *Dziko Langa, Chisankho Changa* (My Country, My Choice) voter education campaign
 - [Facebook](#)
 - [Twitter](#)
 - [Instagram](#)
 - [WhatsApp](#)
- Constitution of the Republic of Malawi, 1994
- Malawi Electoral Law