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“The ECC recognizes the importance of the Supreme Court’s Ruling and re-assures the public that it will continue to observe the implementation of the mandates of the Supreme Court”

The Elections Coordinating Committee (ECC) welcomes the Supreme Court’s opinion of December 7, 2017 on electoral petitions and grievances filed by the Liberty and Unity Parties. The ruling sets a new standard, practice and procedures for the conduct of elections in Liberia. The ruling further raises the bar on the burden of proof on political parties and independent candidates seeking legal redress of complaints arising from the conduct of any election in Liberia. The ECC reassures the public that it will continue to observe the implementation of the mandates of the Court.

In its ruling, the Court acknowledged that there were isolated incident of violations associated with the conduct of the October 10, 2017 elections but that the evidence provided by the parties was not within the threshold or magnitude to substantially impact on the results to have a rerun. The ECC observes, however, that the Court did not define what constitutes “magnitude of fraud” that would warrant a re-run of an election.

At the same time, the logical conclusion of the parties’ complaints through the legal process supports the rule of law and consolidates the country’s emerging democracy. By the same token, the ECC commends the political parties and their supporters for accepting the decision of the Court and for conducting themselves in a peaceful manner throughout the legal process. We also applaud the Court for adjudicating the matter within the required Constitutional timeframe.

The ECC wishes to highlight the implications of some of the directives contained in the modification of the Court’s opinion in affirming the decision of the Board of Commissioners.

That the NEC cleans the FRR to comply with the provision of law: It is unclear what “cleaning up” means and calls on the Supreme Court to provide clarity on what it means by “full cleaning up of the FRR. This directive is also unclear as to who is responsible to certify that the cleaning up of the FRR is in compliance with the law and that it is in a satisfactory condition to proceed with the conduct of the second round. At the same time, the NEC is under obligation to inform the public on the scale of the problem and the specific issues on the FRR that it intends to address.

That the NEC is prohibited from permitting anyone whose name is not found on the FRR to vote: It is not clear what the scope of the problems surrounding the FRR. The enforcement

Elections Coordinating Committee (ECC) 2017 Presidential and Legislative Elections



of this mandate would mean that citizens with valid voter cards who are eligible to vote will be disenfranchised thereby infringing on their Constitutional rights in keeping with Liberian laws and the doctrine of Universal Suffrage.

Two legal provisions are of importance:

Article 77 (b) of the Constitution: “Every Liberian citizen not less than 18 years of age shall have the right to be registered as a voter and to vote in public elections and referenda”.

Section 5.1 of the New Elections Law: “Except one who has been judicially declared to be incompetent or of unsound mind, or who has been barred from voting as a result of his or her conviction and imprisonment for an infamous crime which disenfranchised him or her as a voter and has not been restored to full citizenship, a Liberian citizen who has attained the age of 18 years or above with a valid registration card may vote at any election in the voting precinct of the electoral district for which he or she is registered”.

The ECC is of the view that citizens with valid voter cards who wish to vote should not be punished for the negligence and lapses of the NEC. Because we do not know the scale of the problem (the number of names missing from the FRR) no one knows how disenfranchised citizens would react on the day of election if they are not allowed to vote.

That the NEC is ordered to schedule the run-off election in accordance with the Constitution and the New Election Law: In keeping with Article 83 b and c, the ECC calls on the NEC to provide a clear timeline on how and when the mandates of the Supreme Court will be implemented in order to set the date for the run-off.

Going forward:

NEC:

Demonstrate Transparency: Given the fact that a credible FRR contributes to credible elections, the NEC should demonstrate transparency at every stage of the process in cleaning the FRR and that the political parties and the public be provided regular information on progress made to fix the problems.

Verification of FRR: In order to build public confidence in the electoral process, the NEC should identify in consultation with the contending parties, an independent body to certify that the FRR has been cleaned. The ECC is of the view that the IT experts brought in by ECOWAS to assess the NEC’s database can play a meaningful role in this direction.

Develop a solution plan and timeline: That the NEC should inform the parties and the public on its plan to address the problems in the FRR and the timeline and that the public is constantly informed on progress made.

Engage political parties: That the contending parties are engaged at every stage of the planning process leading to major decisions including the setting of the run-off date, cleaning of the FRR and the conduct of other activities.



Political Parties:

Constructive Engagement: That the two contending parties continue to engage with the NEC and other stakeholders and to raise all concerns and issues that need to be addressed but at the same time should do so in good faith and be realistic in what is and is not doable and to make concessions where necessary in the interest of the country.

Recruitment of poll watchers: That poll agents to be recruited are registered voters in the polling places in which they will vote. This is in fulfillment of one of the mandates of the Supreme Court.

Remain Peaceful: We call on political parties to inform their supporters to remain calm while the NEC addresses the Supreme Court's mandates and sets the date for the run-off.

Supreme Court:

We call on the Supreme Court to release the full opinion of the case in order to provide clarity on the mandates to the NEC as contained in the judgment.

Regional and International Bodies:

That the international community continues to regularly meet with the different stakeholders in order to listen to their concerns and issues and collectively find solutions.

The ECC is the largest civil society platform that observes elections in Liberia. It works in partnership with the National Democratic Institute USAID and OSIWA.