

# **Carter Center Preliminary Statement on Tunisia’s Presidential Elections**

**Sept. 17, 2019**

*This statement is preliminary and only covers aspects of the electoral process through Sept. 16. There also is a period for possible filing of challenges. The Carter Center will release additional assessments once the electoral process is concluded. In addition, a comprehensive final report with recommendations will be published four months after the end of the electoral process.*

## **Statement of Preliminary Findings and Conclusions**

### **Political Background**

Headed into the October/November legislative and presidential elections, amendments by parliament to limit the fundamental rights of citizens to stand for office heightened political tensions around the elections in Tunisia. The sudden death in office of President Béji Caïd Essebsi in July 2019 dramatically altered the contest for president. Amendments to the electoral law that would have retroactively banned certain candidates from competing were not enacted because the president did not sign them before his death, and the electoral timeline was significantly shortened.

Before the president’s death, parties planned to use the legislative elections to gain momentum for the presidential election. They were caught off-guard by the change in date, which altered their political calculations. Several parties and independent candidates who were initially not considering pursuing the presidency decided to run in order to prolong the campaign period and promote their parties or lists in the legislative elections.

Following the swift swearing-in of Parliamentary Speaker Mohamed Ennaceur as interim president after President Essebsi’s death, the Independent High Authority for Elections (known by its French acronym, the ISIE) set the date of the presidential polls for Sept. 15. The ISIE accepted 26 of the 97 applications to contest the early presidential election.

Tunisia’s electoral authorities were disheartened by low voter turnout in the 2018 municipal elections, in which independent candidates fared substantially better than the established political parties. The results foreshadowed the subdued interest of Tunisian voters in the country’s current political contest. The low turnout in the presidential election was another sign of the disillusionment that most Tunisians feel toward the current political make-up of the country and the low public trust in the institution of government to improve their everyday lives.<sup>1</sup>

The municipal and presidential elections took place against the backdrop of a turbulent political landscape over the last five years, characterized by internal disputes within the main political parties. Nidaa Tounes, the victorious party in the 2014 legislative elections and party of the president, fractured. More than half of its parliamentarians chose to leave the party, depriving it of a parliamentary plurality. Some of its founding members left and formed their own parties while other loyalists dispersed and allied with other parties. The Popular Front Coalition, a main actor in

---

<sup>1</sup> The national turnout in the first round of the presidential elections in 2019 was 45.02 percent (3,010,980 voters) and in 2014 it was 62.9 percent (3,339,666 voters).

the parliament, also split, leading to the creation of a political party and, separately, a reformulated coalition. In the immediate pre-election period, Ennahda also suffered from internal disputes over the selection of a presidential candidate and the excessive intervention by the party leader in the placement of candidates perceived to be affiliated closely to him on its lists for the legislative elections.

The death of the president put to rest controversial amendments to the electoral law that would have excluded certain rising popular candidates. The absence of a functioning Constitutional Court posed a potential crisis in managing the presidential transition. Although a crisis was averted, the president's death in office highlighted the necessity and urgency of establishing the court so that it can rule on such vacancies.

In late August, authorities detained candidate Nabil Karoui on charges of money laundering and tax evasion. Karoui was one of the presumed targets of failed amendments to the electoral law that would have effectively barred owners of media outlets and charity organizations from running for office. Karoui's appeal for release was rejected on the Friday before the election, and he was deprived an opportunity to cast a ballot in the polls. He announced a hunger strike following the court's decision. His ongoing detention raises the perception that he was arrested for political reasons and casts a cloud over the process. Although his arrest had no bearing on his official candidature, his detention meant that, unlike all other candidates, Karoui was unable to campaign actively. In addition, it is unclear how his detention will affect his participation in the rest of the electoral process.

### **Legal Framework**

According to international best practices, an election's legal framework should be transparent and readily accessible to the public. It should also address all the components of an electoral system necessary to ensure democratic elections.<sup>2</sup> Tunisia's legal framework for presidential elections is generally in alignment with international standards.<sup>3</sup>

The electoral process is governed by the January 2014 constitution, the 2014 electoral law, the law on the ISIE, and the law related to the freedom of audiovisual communication that created the Independent High Authority for Audiovisual Communication.<sup>4</sup> Certain areas of the legal framework could be improved, including by establishing definitive and adequate timeframes for the different stages of the electoral process. Campaign provisions, including those on the use of advertising and posters, are restrictive and difficult for candidates to fully respect, encouraging their violation. In some cases, the sanctions are not proportionate to the severity of the violation.<sup>5</sup>

---

<sup>2</sup> OSCE/ODIHR, Guidelines for Reviewing a Legal Framework for Elections, page 4.

<sup>3</sup> These include: the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Convention against Torture, Inhuman or Degrading Treatment (CAT); the Convention on the Rights of Persons with Disabilities, and the African Charter on Human and Peoples' Rights (ACHPR).

<sup>4</sup> The 2014 law related to elections and referenda as amended on February 14, 2017, and on August 30, 2019 (hereinafter: the electoral law), and the law on the Independent High Authority for Elections, as amended and supplemented on November 1, 2013 and December 28, 2013 (hereinafter: the ISIE law).

<sup>5</sup> Campaigning during the silence period results in fines of 3000-20,000 TND (articles 69 and 155 of the electoral law). Announcing a toll-free phone number is sanctioned by 3000 TND (articles 58, and 158 of the electoral law);

## **Electoral system**

The purpose of an electoral system is to translate the will of the people into a representative government. International standards do not prescribe a specific electoral system.<sup>6</sup> Tunisia's electoral system respects the principles of genuine and periodic elections, and guarantees universal suffrage, the secrecy of the vote, and freedom from intimidation, as well as equality of the vote and fair representation of all citizens.

According to the constitution, the president is elected for five years, in line with international commitments and best practices.<sup>7</sup> If no candidate receives an absolute majority of valid votes cast in the first round, a second round between the two candidates who received the largest number of votes will be held within two weeks of the announcement of the final results of the first round.

The constitution guarantees the right to vote to all citizens who are 18 or older and who are not subject to any cases of disenfranchisement foreseen under the electoral law. The law was amended in 2017 to allow military and security personnel to vote in the municipal elections, though it still prohibits them from voting in legislative and presidential elections, a restriction not in keeping with international standards.<sup>8</sup> Citizens in health care facilities, penitentiaries, and detention centers were not able to exercise their right to vote, as no mechanism for doing so exists in the law, contrary to Tunisia's constitution and international commitments.<sup>9</sup>

## **Candidate Registration**

The right of individuals to participate in public affairs is an obligation under international law.<sup>10</sup> While the right to be elected is a widely recognized principle in both regional and international treaties, it is not an absolute right and may be limited on the basis of objective and reasonable criteria established by law.<sup>11</sup> The Tunisian legal framework allows for an inclusive candidate registration process and is generally in line with international and regional standards.<sup>12</sup> Presidential candidates must be Tunisian by birth, 35 years old, and Muslim. Constitutional requirements regarding the candidate's faith should be reviewed for conformity with international standards.<sup>13</sup>

All nominees are required to pay a deposit of 10,000 dinars (US\$3,508) refundable if the candidate secures at least three percent of the valid votes cast. Furthermore, in order to appear on the ballot,

---

Using the Tunisian flag or the emblem of the republic in electoral posters, is sanctioned by 500 to 1000 TND (articles 61 and 150 of the electoral law).

<sup>6</sup> U.N., International Covenant on Civil and Political Rights; Art 25(b); United Nations Human Rights Council, General Comment 25, para. 21.

<sup>7</sup> ICCPR, Article.25(b); General Comment 25, para.9 and 19; Universal Declaration of Human Rights, Article.21(3); Council of Europe Code of Good Practice in Electoral Matters, sec. I.1.6.

<sup>8</sup> See ICCPR, Article .25: "Every citizen shall have the right and the opportunity [...] to vote and to be elected at genuine periodic elections...." Also, General Comment 25, para. 14: "The grounds for denying suffrage rights to citizens have to be objective and reasonable and must be prescribed by law."

<sup>9</sup> Right to universal suffrage on the basis of equal treatment before the law: ICCPR, Article 25(b); African Charter on Democracy, Elections and Governance, art.3(3).

<sup>10</sup> ICCPR, Article 25(a); ICCPR, Article 21; UNHRC General Comment 25, para. 26.

<sup>11</sup> ICCPR, Article 25; AU, ACHPR, Article 13; Arab Charter on Human Rights, Article 24

<sup>12</sup> ICCPR, Article 25 "Every citizen shall have the right and the opportunity [...] to vote and to be elected at genuine periodic election." See also Article 13 of the African Charter of Human and Peoples' Rights.

<sup>13</sup> ICCPR, articles 2 and 25; UNHRC General Comment 25, para. 15.

presidential candidates must be endorsed either by 10 members of the parliament (Assembly of People's Representatives), 40 presidents of elected local municipal councils, or at least 10,000 registered voters from at least 10 constituencies with at least 500 voters per constituency.<sup>14</sup>

Candidate nomination for this election took place from Aug. 2 to 9, just seven days after the death of the president. Despite the quick timeframe, ISIE staff implemented the registration procedures and informed potential candidates of any deficiencies in their application papers in a professional and timely manner. Ninety-seven candidates applied, 11 of them women. Twenty-six were approved, and 71 were rejected. Candidates who initially failed to submit the proper documentation had the opportunity to correct any deficiencies during the period of registration. Many applicants were not serious about running, as they neither paid the required deposit nor submitted the required endorsements or other documentation. The ISIE published the final list of 26 candidates on Aug. 31, just two days before the start of the electoral campaign. The final list included two women.

The ISIE has not yet provided a detailed justification for rejecting three-quarters of the potential candidates, even those who submitted the required number of endorsements. The ISIE informed The Carter Center that this information could only be obtained from the individual candidates. The failure of the ISIE to fully inform the public of the reasons for excluding potential candidates led to speculation that the rejections were based on considerations, other than a strict application of the law.

Eventually, after civil society organizations urged it to do so, the ISIE introduced an SMS service for voters to check whether their names had appeared on any of the lists of voter endorsements. This service resulted in more than 245 complaints from voters who said that their signatures were used without their knowledge.<sup>15</sup> While the number of complaints filed was quite small compared to the overall number of voter endorsements, the lack of public information could undermine public confidence in the administration of the elections.

### **Election Administration**

An independent and impartial electoral authority, functioning transparently and professionally, is the only effective means of ensuring that citizens are able to participate in genuine democratic elections.<sup>16</sup> An election management body should have sufficient time to implement all parts of the electoral process. State practice suggests that, when scheduling elections, adequate time should be allowed to successfully administer the electoral process.<sup>17</sup> According to the Tunisian constitution, the ISIE is the body that ensures the regularity, integrity and transparency of the electoral process and proclaims the results.<sup>18</sup>

---

<sup>14</sup> The obligation to collect a certain number of signatures in order to stand conforms to the principle of universal suffrage according to the Council of Europe Code of Good Practice in Electoral Matters, which states that signatures required should not exceed 1 percent of voters in the constituency concerned.

<sup>15</sup> The ISIE announced that it will address these complaints, however it has not taken any action to date. According to media reports, several candidates were called in for questioning by an investigative judge concerning alleged fraudulent endorsements.

<sup>16</sup> UNHRC, General Comment 25, para. 20.

<sup>17</sup> U.N., Human Rights and Elections, para. 75

<sup>18</sup> 2014 Tunisian Constitution, Article 126.

Given that the president's death shortened the time period for holding elections, the ISIE carried out its duties to manage the overall process efficiently. In particular, the management of the operational aspects of the election were handled in a professional manner.

The ISIE council is composed of nine members elected by parliament for a single period of six years, and an executive body at the central and regional levels. The mandate of each member of the council is different, according to the date s/he has been elected.<sup>19</sup> The law allows the ISIE to create regional branches, Independent Regional Authorities for Elections (known by their French acronym, IRIE) to assist the ISIE in the fulfillment of its mission. They also coordinate with the regional administrations of the ISIE.

The organizational chart of the ISIE has not been updated since 2014 and does not reflect the current structure. The legal and training department head positions are vacant; the ISIE did not have a head of the legal department during the entire electoral period.<sup>20</sup> The ISIE did not manage their public communications in a consistent manner, with commissioners sometimes making contradictory statements. The ISIE relieved the spokesperson of her duties on Sept. 1, stating that the regulations of the ISIE did not call for such a position and that it was the right of each commissioner to make public statements.<sup>21</sup>

The ISIE created 33 IRIEs (27 in country and six abroad), one in each electoral constituency made up of a maximum of four people with different backgrounds. The ISIE conducted the process of appointing IRIE members transparently and efficiently. There were not enough candidates to fill the vacancies, especially judges. As a result, several IRIEs have only two members and 16 IRIE have three members. Despite the fact that the majority of IRIEs did not have a full complement and were not constituted until two days before the candidate nomination process for the legislative elections began, they implemented their duties in a satisfactory manner.

The ISIE recruited and trained over 55,000 poll workers. Carter Center long-term observers evaluated the trainings and found them well-organized and of good quality.

The ISIE identified one of its biggest challenges as monitoring the electoral campaign for violations of campaign rules. They issued a specific regulation on campaigning that details what parties and candidates can and cannot do, which includes a prohibition on the use of state resources.<sup>22</sup> Unlike in 2014, when the ISIE did not vigorously monitor campaign violations, the ISIE recruited and deployed 1,500 agents to monitor adherence to campaign and campaign

---

<sup>19</sup> Nabil Baffoun (January 2014-January2020), Farouk Bouasker (January2017-January2023), Mohamed Tlili Mansri (January2017-January2023), Hasna Ben Slimane (January2019-January2025), Anis Jarbouï (January2017-January 2023), Belgacem Ayachi (January2019-January2025), Sofiene Abidi (January2019-January2025), Adel Brinsi (January2017-January2023), and Nabil Azizi (January2017-January2023).

<sup>19</sup> The regional administrations are under the supervision of the executive body, while the IRIEs are supervised by the ISIE Council

<sup>20</sup> The ISIE posted an announcement to recruit the head of the legal department with an application deadline of Sep. 20.

<sup>21</sup> The ISIE did not publicly state whether or not they voted on this decision.

<sup>22</sup> On Aug.31, two days before start of the electoral campaign, the ISIE organized an event with representative of candidates and CSOs to explain the rules for the campaign. At the meeting the candidate representatives asked several questions about campaign finance rules.

finance rules. Carter Center long-term observers reported that these monitors were very active in the field.

### **Voter registration**

Voter registration and the establishment of a complete, current, and accurate voter list are recognized as important means to ensure that each citizen has the right to vote. According to the United Nations Human Rights Committee (UNHRC), "Where registration of voters is required, it should be facilitated, and obstacles to such registration should not be imposed."<sup>23</sup> Tunisia's voter registration procedures are broadly consistent with international and regional standards.<sup>24</sup>

Articles 34 and 54 of the 2014 Constitution guarantee all Tunisian citizens who are 18 or older the right to vote. Voter registration is an established best practice to help guarantee the right of citizens to participate in the public affairs of their country, and to determine one's eligibility to vote. There is an international obligation of universal suffrage that requires that broad participation be promoted.<sup>25</sup>

The ISIE conducted a vigorous and successful voter registration campaign in the run-up to the 2019 elections, which resulted in the registration of 1,455,898 new voters out of a possible 3.5 million potential voters, bringing the total number of registered voters to 7,074,565. The ISIE used a combination of mobile and stationary voter registration centers and made a concerted effort to reach out to marginalized voters. The ISIE opened its voter registration campaign for these elections on April 10 and closed it on July 4. The ISIE provided adequate time for voter registration, including posting the preliminary list for public inspection.<sup>26</sup> The public was able to ask for any corrections or make challenges. The ISIE informed The Carter Center that there was an insignificant number of requests for correction filed and that no appeals were made to the Courts of First Instance concerning voter registration.<sup>27</sup>

The total number of registered voters was lower than that announced by the ISIE in July 2019, as moving up the presidential election directly impacted the number of eligible voters. The ISIE deleted all voters who would not be 18 years of age before election day. The Center commends the ISIE for its efforts to reach out to voters, including sectors of the population that have been excluded in past polls, and for increasing the inclusivity of the voter registry.

No stakeholders raised concerns about the voter register and its accuracy to Carter Center observers.

### **Voter Education**

The fulfillment of the international obligation of universal suffrage is partially dependent on effective voter education.<sup>28</sup> The ISIE launched a voter-education campaign specifically focused on the presidential elections two weeks prior to the polls. Although the IRIEs conducted significant voter education during the voter-registration period, civil society organizations (CSOs) reported

---

<sup>23</sup> UNHRC, General Comment 25, "The right to participate in public affairs, voting rights and the right of equal access to public service," para. 11.

<sup>24</sup> ICCPR, General Comment 25, para. 11.

<sup>25</sup> ICCPR, General Comment 25, para. 4 and 11.

<sup>26</sup> The list was published from July 12 to 14 in the IRIEs offices.

<sup>27</sup> The Operations director of the ISIE stated that there were no more than 10 requests for corrections.

<sup>28</sup> ICCPR, Article 25.

that they lacked funds to conduct a comprehensive voter-education campaign leading up the election day. CSOs have in general received less funding for election-related activities such as voter-education and election observation, but the early presidential elections also prevented them from mobilizing additional funds quickly.

The limited ISIE campaign aimed to inform registered voters about the voting procedures and to explain the importance of voter participation. Campaign activities relied on the use of electronic and broadcast media as well as print media.

### **Campaign Environment**

Political pluralism and an open campaign environment that enables genuine choice for voters are critical aspects of democratic elections. Equitable treatment of candidates and parties during an election, as well as the maintenance of an open and transparent campaign environment, are important for ensuring the integrity of the democratic election process. A genuine choice of candidates, a free electoral environment, a level-playing field for contestants, and an open, transparent campaign environment are all critical aspects of democracy. The equal treatment of candidates and parties are essential for ensuring the integrity of the democratic election process.<sup>29</sup>

The death of the president resulted in a shortened campaign period of two weeks. Some contestants were well-known figures, whereas others were relative newcomers. The campaign provided an opportunity for all candidates to make themselves and their electoral programs known to Tunisians. Some presidential candidates ran in order to take advantage of the presidential election campaign period to build momentum for the upcoming legislative elections. The campaign for the legislative election, which will last for 22 days, began on Sept. 14, the day of silence for the presidential campaign. Many candidates, both independents and those belonging to political parties, violated the restriction on early campaigning.<sup>30</sup>

The official campaign for the presidential elections began on Sept. 2, and the rights of freedom of speech and assembly were largely respected. As in previous elections, contestants did not always abide by the rule of notifying electoral authorities of their campaign events 48 hours in advance, and many events that campaigns shared with the IRIE were not carried out. As a result, it was difficult for both IRIEs and observers to monitor all campaign events. Moreover, often candidates provided too little detail about the exact location of their activities, making monitoring especially challenging in larger constituencies. Long-term observers reported that ISIE campaign monitors were visible and active in all regions. Several campaigns complained about the active questioning by these monitors, claiming that they were intrusive.

The campaign began slowly throughout the country, with mostly billboards and ads on social media appearing on the first day. In the second week, the campaign intensified. Most frequently, candidates held rallies, erected campaign tents, and distributed leaflets. Parties and candidates also used other campaign strategies, including posters, door-to-door activities, and social media (mainly Facebook). Candidates spoke mostly about questions of national security and foreign policy, which are within the prerogatives of the presidency. However, many candidates also campaigned on issues that are not within these prerogatives.

---

<sup>29</sup> ICCPR, Article 25.

<sup>30</sup> Article 154 punishes early campaigning with a fine of 5,000 to 10,000 TND.

For the first time, the campaign period included live television debates. Three sets of debates were organized on three consecutive days, two of which featured nine contestants and one of which featured eight. A lottery was held to determine what day the candidates would appear in the debates. There was controversy, however, over the fact that three candidates, who represented the three largest parties in parliament, got to choose the debate in which they wished to be included. Two contestants did not participate, as one of them was in detention (Nabil Karoui) and another chose not to return to the country (Slim Riahi).

The normalization of relations between Ennahda and progressive parties led to a less confrontational and tense campaign environment than in 2011 and 2014. Carter Center long-term observers confirmed that a positive atmosphere existed between the main political parties in different regions of the country, even when they were holding campaign events on the same day in the same area. No major security incidents were reported.

The ISIE identified about 440 violations and received around 22 complaints regarding campaign infringements. The violations were mainly about early campaigning, undeclared campaign activities, posting posters outside of undesignated areas, and using children in campaigns. Carter Center observers witnessed children distributing fliers for candidate Abdel Karim Zbidi in Ben Arous. According to the ISIE, to date, none of the violations are severe enough to affect the results of the elections.

The High Authority for Audio Visual Media (HAICA in French) monitored the national media coverage of the campaign to ensure respect of the principles of equitable time and neutrality. The HAICA banned three TV channels (Nessma, Zeitouna and Quran) from covering the presidential campaign for their lack of neutrality and support for specific parties and candidates.<sup>31</sup> The HAICA monitored the campaign from its beginning and issued warnings and sanctions to several stations. The sanctions ranged from 10,000 to 50,000 TND for specific candidates. TV channels that were subject to sanctions included Nessma TV, the state-owned Al Wataniya TV, Alhiwar Tounsi, and Telvza TV. The HAICA also sanctioned TV stations for having commented or published results of polls related to elections.

Some Carter Center long-term observers reported the use of state resources by candidates who were government officials, including the use of state cars and the use of state resources to bus participants to rallies.<sup>32</sup>

### **Campaign finance**

Democratic elections cannot be held without equitable rules for the financing of electoral campaigns. Electoral legislation should specifically provide for the transparency of donations to campaign activities of the candidates, the standardized presentation of campaign accounts, reasonable limits on campaign expenditure, regular reporting mechanisms, and effective and dissuasive sanctions.<sup>33</sup> The 2014 electoral law expanded the powers of the Court of Auditors to

---

<sup>31</sup> Nessma TV is partly owned by Nabil Karoui, the owner of Zeitouna is considered to be close to Ennahda and the owner of Quran is the head of Erahna Party list in Tunis 2.

<sup>32</sup> The current Prime Minister Youssef Chahed (Tahya Tounes) and the interim speaker of parliament, Abdelfateh Mourou (Ennahdha).

<sup>33</sup> CoE (Committee of Ministers) Recommendations (2003)4, Art. 3(b).



conduct a review of the resources and expenses of political parties and included stricter and more proportionate sanctions against violations than what existed in 2011. Several shortcomings undermined the effectiveness of the legal campaign-funding provisions and should be reviewed, including the failure to require an interim campaign finance report.<sup>34</sup>

The electoral law details expenditure and donation limits and allows private and public funding. According to the decree on campaign financing for the presidential elections, public funding is distributed equitably based on the number of voters at the national level. For the first round, the public funding is 25 TND per 1,000 voters totaling 176,850 TND per candidate (US \$62,052). The ceiling for the total expenditure for each candidate amounted to 1,768,500 TND (US\$620,520). Although the ceiling was increased after the 2014 elections, several stakeholders still considered the ceiling too low to conduct a meaningful and effective campaign, which encourages candidates to exceed the ceiling and to not fully report expenditures.<sup>35</sup> The law prohibits contributions from foreign or unknown donors, as well as from corporations and legal persons. In addition, political parties are not allowed to fund the campaign of their presidential candidates.<sup>36</sup>

Changes in 2017 mean that candidates no longer receive some public funds up front, but instead are reimbursed for expenses after the elections if they obtain at least three percent of the vote. Although the change was motivated by a desire to discourage candidates from running simply to collect the public funding, it raises concerns that the public fund isn't effectively guaranteeing equal opportunities for all candidates.

### **Social Media Monitoring**

The 2014 Constitution guarantees freedoms of opinion, expression, and publication as well as access to information and communication networks.<sup>37</sup> To date, there is no specific legal framework for online media. The decree law on the freedom of press, printing, and publishing lifted most of the criminal penalties for speech offenses. Provisions present in a series of laws, such as the Criminal Code, the Military Justice Code, the Telecommunications Code and the Anti-terrorism law are contradictory to the prevailing constitutional provision and the decree law, which creates uncertainty and hampers freedom of speech, including online speech.<sup>38</sup>

About two-thirds of Tunisians are active social media users, especially on Facebook.<sup>39</sup> Candidates with verified pages on Facebook ran up to a dozen ads per day from their pages. But many other pages whose affiliations were unclear also actively supported candidates during the electoral period, forming a vivid shadow campaign.<sup>40</sup>

The Carter Center observed that most candidates were supported by targeted paid advertising through shadow campaigns, blurring the lines between the sources of funding. Despite some steps

---

<sup>34</sup> United Nations Convention against Corruption, Article 7.

<sup>35</sup> Decree n° 3038 of August 29, 2014 relating to the ceiling of expenditure for the electoral campaign, ceiling of private funding and ceiling of public funding and their conditions and procedures for the presidential elections of 2014.

<sup>36</sup> Art. 76 of the electoral law and art.9 of the ISIE regulation no.20 on campaign finance.

<sup>37</sup> Articles 31 and 32.

<sup>38</sup> Defamation is liable to imprisonment according to the Penal code articles 245 to 248 and the Military justice code, article 91. According to Human Rights Watch, at least nine bloggers have faced criminal charges since 2017 for comments on social media platforms criticizing high public officials.

<sup>39</sup> According to the Afrobarometer 2018, 7,5 million Tunisians are active social media users. Some 6,96 million had Facebook accounts in August 2019, according to Naopleon Cat.

<sup>40</sup> These include fan and unverified pages of the candidates, political party pages and unknown pages.

to increase the transparency of the purchase of political ads, Facebook lacks clear and consistent criteria for identifying political advertisers or political issues on its platform, leading to discrepancies and the lessening of the overall transparency of the campaign online.

Three presidential debates were held under the title “*The Road to Carthage, Tunisia Chooses.*” Social media was heavily used during and after the debates. The debates were broadcast live on TV and radio stations, and candidates’ social media pages were constantly updated with mostly the candidates’ answers to the questions. One candidate, Nabil Karoui, who was in detention during the debates, tweeted that he had been prevented from participating.

The Carter Center observed that on the day of before the election, paid ads supporting a number of candidates were still running on candidates’ verified Facebook pages, as well as on pages with unclear affiliations, which breached the silence period. The Carter Center also observed breaches of the silence period by candidates on Instagram, while at least one campaign team sent SMS messages calling on recipients to vote for its candidate during that period.

The Carter Center and Mourakiboun observers reported some attacks or smear campaigns on the shadow campaign pages. The extent of this phenomenon remains to be established. This will require further attention during the campaign for the run-off and the legislative elections.

### **Citizen and Candidate Observation**

Citizen observation is a critical manifestation of the right to participate in public affairs and to hold governments accountable. Sources of public international law recognize the right to take part in citizen observer organizations and to contribute to voter-education efforts.<sup>41</sup> Both Tunisian civil society and political parties took an active part in observing the presidential electoral processes.

The ISIE accredited approximately 13,000 citizen observers for the presidential election.<sup>42</sup> During the electoral process, many CSOs published reports about their observation of particular parts of the electoral process. Chahed Observatory published reports about voter registration, the League of Tunisian Women Voters (Ligue des Électrices Tunisienne) about the wariness of women to register and vote, especially in rural areas, and I WATCH about campaign and campaign-finance violations. Ofiya, Atide, and I WATCH all conducted projects to monitor social media in the electoral period. Mourakiboun conducted a PVT and published several statements about voter endorsements and their monitoring of the electoral campaign.

### **Electoral Dispute Resolution**

Appeal procedures, and especially the powers and responsibilities of the various bodies involved, should be clearly regulated by law in order to avoid any positive or negative conflicts of jurisdiction. In addition, the right to file such appeals must be granted as widely as possible and be open to every elector in the constituency and to every candidate running in the election.<sup>43</sup>

The guarantee of a timely remedy is integral to the principle of effective means of redress. Despite

---

<sup>41</sup> EISA, Principles for Election Management, Monitoring and Observation in the SADC Region, p.19.

<sup>42</sup> The total number of accredited citizen observers in 2014 for the presidential election was 20,610.

<sup>43</sup> European Commission for Democracy through Law (Venice Commission), Code of Good Practice in Electoral Matters, CDL-AD (2002) 23.

the shortened time limits provided by Article 49 of the electoral law, the administrative tribunal was able to address all complaints and appeals in a timely fashion. However, both the judiciary and the litigants criticized the time constraints as threatening the right to seek redress and judicial review.<sup>44</sup> The tribunal demonstrated impartiality and respect for due process in its decisions.

The electoral law does not allow voters to file complaints about potential malpractice or irregularities at the polling station, thus denying their right to an effective remedy.<sup>45</sup> Also, voters are not allowed to challenge the election results in the courts. Article 124 of the electoral law allows representatives of candidates and observers to record remarks on the voting process in a memo that must be attached to the protocol.

For the early presidential elections, 15 candidates filed appeals with the first level of the Administrative Court challenging ISIE decisions rejecting candidates. The court overturned the ISIE decision in four cases. The ISIE and seven candidates appealed to the General Assembly of the Administrative Court, which upheld the four ISIE decisions and denied all other appeals.

Although the court hearings were orderly and the parties were given the opportunity to represent their cases, the timeline did not allow enough time for lawyers to prepare the case, which affected the parties' ability to support their claims with credible evidence. This problem will be compounded if any challenges to the results of the presidential elections are made, especially because of the shortened timeline to meet the constitutional mandate of electing a new president in 90 days.

### **Election Day**

The voting process is the cornerstone of the obligation to provide the free expression of the will of the people through genuine, periodic elections.<sup>46</sup> The quality of voting operations on election day is crucial to determining whether an election was held according to democratic obligations. It is a core obligation under international law that elections be held by secret ballot; a recognized means of ensuring that the will of the people is expressed freely.<sup>47</sup>

Three days before the election, five IRIEs in the west and center west of the country (Kef, Kasserine, Jendouba, Gafsa, and Sidi Bouzid) announced on Facebook that certain polling centers would operate under shortened hours on election day. On the recommendation of the Ministry of the Interior, the ISIE shortened the voting in these areas by four hours because of security concerns, opening at 10 a.m. and closing at 4 p.m. The ISIE published the revised hours on the eve of the election on its website. After further consideration, the ISIE subsequently reversed its decision for some areas, reducing the number of polling centers and voters impacted. The polling centers that reverted back to the standard polling hours were primarily located in urban areas. Only the Kef IRIE published the revised information. The decision to shorten polling hours affected

---

<sup>44</sup> UNHRC, General Comment 32, para. 19.

<sup>45</sup> ICCPR, General Comment 25, para. 20 and African Union Declaration on the Principles Governing Democratic Elections in Africa, Section IV, Article 7.

<sup>46</sup> ICCPR, Articles 2, 25(a) and 9.

<sup>47</sup> U.N., International Covenant on Civil and Political Rights, art. 25; U.N. Universal Declaration of Human Rights, art. 23. EISA and Electoral Commission Forum of SADC Countries, Principles for Election Management, Monitoring, and Observation in the SADC Region, p. 24.

approximately 112,795 voters, which represents 1.59 percent of registered voters.<sup>48</sup> The shortened hours reduced the opportunity for voters to participate in the elections.

The ISIE also announced a change in the location of 28 polling centers in nine IRIEs on Sept. 11. Some 31,379 voters were affected by this change.<sup>49</sup> The ISIE attributed the changes to poor infrastructure, unfinished construction, and difficulties in accessing certain polling centers because of recent flooding. It is unknown whether voters were aware of the changes and could locate the new polling centers, despite the attempts of several IRIE to inform voters via Facebook.

### **Opening and Polling**

Carter Center observers described the opening process in all 34 of the polling stations visited during poll opening as calm and well-organized, with 100 percent of observer teams evaluating the implementation of procedures positively. The overall assessment of the election environment was positive in 32 polling stations. In several stations, observers reported that queue management was deficient. In one polling center visited, all polling stations opened late because the ISIE did not deliver the election material on time. Furthermore, polling staff at that center had arrived late.

Carter Center observers assessed 317 polling stations during election day. They assessed the overall election environment and implementation of procedures as positive in the overwhelming majority of these. In all but nine places, observers assessed the voters' understanding of procedures as adequate.

Carter Center observers noted a few minor irregularities, including the failure of polling staff to instruct voters on how to cast a ballot as required by the regulations. The instruction was assessed as inadequate or not given at all in 24 observations (7.4 percent). In 94.8 percent of polling stations visited, voters were able to vote in secret.

Candidate representatives were present in nearly all - 309 of the 317 - polling stations observed. Representatives for Mourou, Chahed, and Karoui were present in the majority of polling stations observed. Citizen observers were present in only 60 of the 317 polling stations observed, with Mourakiboun present in 53.

### **Closing and Counting**

The implementation of procedures and the overall election environment was assessed as very good or reasonable in 30 of the 31 polling stations observed for closing. Women made up 42 percent of the polling station presidents but only 9.7 percent of the polling center presidents. All voters waiting in the queue at 6pm when the polling stations closed were allowed to vote.

Counting was observed in 29 polling stations; implementation of procedures and the overall environment were assessed positively in all but one observation. Observers described the process as calm, professional and detailed.

---

<sup>48</sup> Kasserine: 105 centers with 124 PS with 49,940 voters, Jendouba: 40 centers with 68 PS with 29,334 voters, Sidi Bouzid: 28 centers with 46 PS with 18,021 voters, Kef: 47 centers with 50 PS with 5,070 voters, Gafsa: 20 centers with 28 PS with 9,653 voters.

<sup>49</sup> Bizerte (3 PC with 13,403 voters), Siliana (2 PC with 1,216 voters), Kef(1 PC, with 1,656), Jendouba (7 PC with 5101 voters), Monastir(2 PC with 1,473 voters), Ben Arous(1 PC, with 1338 voters), Gafsa (7 PC, with 2,241 voters), Medenine (3 PC with 355 voters), Nabeul1 (2 PC with 4,596 voters).

**Tabulation**

Carter center observers were present in all 27 tally centers. The tabulation process was significantly delayed by the late delivery of election material from the polling centers to the tally centers by the army. Some observers reported that tally center staff restricted their observation to locations that were too far away from the process. Nevertheless, the evaluation of the implementation of the procedures was positive in 26 of 27 observations and the overall assessment of the environment in the tally centers as positive in 25 observations.

**Background:** The Carter Center was accredited by the ISIE to observe the elections and deployed more than 90 observers who visited 317 unique polling stations as well as the 27 tabulation centers. The mission was co-led by Salam Fayyad, former Prime Minister of the Palestinian Authority and Tana de Zulueta, former Italian Parliamentarian. More than thirty nationalities were represented on the observation mission delegation.

The Center has had a presence in Tunisia since 2011. It observed the 2011 National Constituent Assembly elections and the 2014 Presidential and Legislative elections as well as the constitution-making process that culminated in the adoption of the constitution in January 2014.

For these elections, The Carter Center deployed a core team in May 2019 to launch its mission to observe the electoral process. In mid-July, the Center in collaboration with the Electoral Institute for Sustainable Democracy in Africa deployed 16 long-term observers to monitor throughout Tunisia. The core team and long-term observers represent 18 different countries.

The Center will remain in Tunisia to observe the final tabulation process and resolution of electoral complaints. An observation mission will also be sent for the legislative elections and a possible run-off election in October. The objective of the Center's observation mission in Tunisia is to provide an impartial assessment of the overall quality of the electoral process, promote an inclusive process for all Tunisians, and demonstrate support for its democratic transition.

The Carter Center assesses Tunisia's electoral process against the Tunisian constitution, the domestic electoral legal framework, and obligations derived from international treaties and international election standards. The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation.

The Center wishes to thank Tunisian officials, political party members, civil society members, individuals, and representatives of the international community who have generously offered their time and energy to facilitate the Center's efforts to observe the presidential election process.