



# **Elections in Yemen**

## *The February 21 Presidential Election*

Frequently Asked Questions

Middle East and North Africa  
International Foundation for Electoral Systems

1850 K Street, NW | Fifth Floor | Washington, DC 20006 | [www.IFES.org](http://www.IFES.org)

February 17, 2012

## Frequently Asked Questions

Why is an early presidential election being held in Yemen on February 21, 2012? .....	1
What is the GCC Agreement? .....	1
What is the legal framework for presidential elections in Yemen?.....	1
Which institution has the legal mandate to conduct Yemeni elections? .....	1
How is the election administration structured? What is its composition? .....	2
When was the last presidential election held in Yemen? .....	2
What type of electoral system will be used in the February 21 election? .....	3
Who can be a presidential candidate? .....	3
Who is eligible to vote?.....	3
How is voter registration conducted? .....	4
Can a voter who has not actively registered vote in the election? .....	4
How many voting centers will there be for the presidential election? .....	4
Will there be out-of-country voting for the presidential election? .....	4
What are the rules on campaigning? .....	4
What are the rules that the official media should follow during the electoral campaign? .....	5
What are the rules for campaign finance for presidential elections? .....	5
What are the steps for voting? .....	5
Who can be assisted to cast their votes? .....	6
When will counting take place? Who will count the votes?.....	6
What are the basic rules for counting votes? .....	6
Who aggregates the results of voting in the presidential election?.....	6
Who declares the official result of the presidential election, and when?.....	6
Who will observe the 2012 presidential election? .....	6
How will disputes be adjudicated? .....	7
Can the result of a presidential election be challenged? .....	7
What are the main risks at the 2012 presidential election?.....	7
What is the transitional process after the presidential election? .....	8

*Disclosure:*

*These FAQs reflect decisions made by the Yemeni elections authorities as of February 17, 2012, to the best of our knowledge. This document does not represent any IFES policy or technical recommendations.*

## **Why is an early presidential election being held in Yemen on February 21, 2012?**

The early presidential election is being held as a result of President Ali Abdullah Saleh's decision to resign from the presidency under the *Agreement on the Implementation of the Transitional Process in Yemen in Accordance with the Gulf Cooperation Council Initiative* (GCC Agreement).

Although power under the GCC Agreement has been delegated to Vice President Abed Rabbo Mansour Hadi, Saleh still retains the title of President until the February 21 elections.

## **What is the GCC Agreement?**

Following 10 months of protest in 2011, the Yemeni government, under President Saleh, and the opposition agreed to a transition of power brokered by the Gulf Cooperation Council.

Under the agreement, presidential powers have been delegated to Vice President Abed Rabbo Mansour al-Hadi until the election, and a multi-party National Consensus Government has been formed. Paragraph 6B of the GCC Agreement requires the vice president to issue a decree calling for presidential elections within 90 days of the signing of the Agreement.

The ruling party, the General People's Congress (GPC), and the coalition of opposition parties, the Joint Meeting Parties (JMP), are signatories to the GCC Agreement and decided to endorse Vice President Hadi as a joint presidential candidate at the February 2012 election. No other candidate has been nominated.

Whoever is elected as president in February 2012 will hold office until a new president is inaugurated following another presidential election held in accordance with a new constitution that has been approved in a referendum.

## **What is the legal framework for presidential elections in Yemen?**

The two main components of Yemen's legal framework for elections are the Constitution of the Republic of Yemen adopted in 1991 and the General Elections and Referendum Law No. 13 of 2001.

However, paragraph 4 of the GCC Agreement states: "Agreement on the Gulf Initiative and its Implementation Mechanism shall replace any constitutional or legal arrangements in effect, and they shall not be challenged in government institutions."

For example, paragraph 18(b) of the GCC Agreement allowing unregistered voters to vote in the early presidential election overrides Article 5 of the General Elections and Referendum of 2001 as amended in 2010, which requires voters to be registered before they can vote. Additionally, a presidential election with a single candidate, as is the current situation, is contrary to Article 108(d) of the Constitution and Articles 63(a) and 65(d) of the 2001 General Election Law.

## **Which institution has the legal mandate to conduct Yemeni elections?**

Article 157 of the constitution requires a "supreme, independent and neutral committee" to be established to "administer, supervise and monitor" general elections and referendums. The 2001

General Elections Law establishes the Supreme Commission for Elections and Referendum (SCER), sets the number of members of the SCER, their qualifications and the appointment process, and states the SCER's functions and powers to manage referendums and presidential, parliamentary and local council elections.

Paragraph 18(b) of the GCC Agreement requires the 2012 presidential election to be held under the "management and oversight" of the current SCER.

### **How is the election administration structured? What is its composition?**

The current SCER consists of nine members, all of whom are judges. All members were appointed in December 2010. The February 2012 election will be the first for which they will be responsible. Each member of the SCER, apart from the chair and the vice chair, is responsible for one of the SCER's functional sectors. The SCER has about 300 permanent staff in its headquarters in Sana'a, and an additional 200 staff in its offices in the governorates. The SCER engages temporary staff, as needed. Many SCER senior staff have extensive experience in Yemen's elections.

In preparation for an election, the SCER appoints and trains the members of the 21 Supervisory Committees at the governorate level, the 301 Main Committees at the parliamentary constituency level and ballot box sub-committees in each of the 5,620 voting centers. Men and women vote separately, and the number of sub-committees at a voting center depends on the number of male and female voters registered at that center. One sub-committee in each voting center is designated as the First Sub-committee responsible for aggregating the results of all the votes cast within the center.

All three types of election committees consist of a chair and two members. The SCER invites political parties to nominate members of committees, and then manages the distribution of appointments of chairs and committee members in such a way that no party has more than two of the three members of any committee. The SCER ensures committee chairs rotate between parties. When an election or referendum is held, the SCER appoints approximately 110,000 persons to election committees at all levels.

The SCER also appoints the members of voter registration committees, using a similar structure as outlined above. All voter registration committees have a chair and two members.

### **When was the last presidential election held in Yemen?**

The last presidential election in Yemen was held on September 20, 2006. President Ali Abdullah Saleh was re-elected with 77.3 percent of the valid votes. The other four candidates received 22.7 percent, 0.5 percent, 0.4 percent and 0.2 percent of the valid votes, respectively. Turnout was 65.1 percent of registered voters and the invalid votes were 3.2 percent of all votes cast.

## What type of electoral system will be used in the February 21 election?

Article 107 of the constitution stipulates that a run-off election is held if no candidate wins an absolute majority of the votes cast in a presidential election. Since there is only one candidate in the 2012 election, there will be no run-off.

## Who can be a presidential candidate?

Article 106 of the constitution requires a presidential candidate to:

- Be at least 40 years old
- Have Yemeni parents
- Be “at liberty to practice his political and civil rights”
- Be of good character
- Practice Islamic duties
- Have no dishonorable criminal record unless reprieve is granted
- Not have a foreign spouse

Individuals’ applications to be a presidential candidate are received by the speaker of the House of Representatives, and examined by the presidiums of the Shura Council and the House to ensure compliance with constitutional requirements. Rejected applicants have the right to appeal to the Supreme Court. The names of the approved applicants are then forwarded to a joint sitting of the Shura and the House. In order to become a presidential candidate, an applicant must be endorsed by at least 5 percent of the members present at the joint sitting.

## Who is eligible to vote?

Article 63 of the constitution requires that a voter must be a Yemeni citizen aged at least 18 years. The 2001 election law states that a voter must be registered before being allowed to vote. A voter is registered at a voting center for his or her “voting domicile,” which can be a residence, a place of work or a family village.

The whole country is treated as a single constituency for presidential elections and referendums. An amendment to the election law in 2010 requires the SCER to prepare regulations and procedures to allow registered voters to vote in presidential elections and referendums at a voting center other than the center where they are registered.

There will be four categories of voters for the 2012 election:

- **First-time voters:** There are an estimated 2 million first-time voters eligible to participate in the early presidential election. These voters will be able to vote at any polling station in the country as long as they have an approved form of photo identification.
- **Internally Displaced Persons (IDPs):** Approximately 250,000 IDPs are eligible to vote in this election, although it is estimated only 30 percent have an acceptable form of photo identification. The SCER has established 902 special voting centers (SVCs) around the county where IDPs can vote. These SVCs are located in urban areas and close to known IDP camps.

- **Non-resident registered voters:** Due to internal migration movements many Yemenis have changed their residence since the last voter registration update. The SCER will use the 902 SVCs established for IDPs to process these voters.
- **Registered voters resident in the district where they are registered:** This group of voters will vote at the voting center where they are registered.

### **How is voter registration conducted?**

The SCER is responsible for the registration of voters during voter registration (VR) updates normally held every two years as well as before each electoral event. The last VR update was held in 2008-2009, at the conclusion of which there were 10,334,000 registered voters. Due to the short lead time ahead of the February 21 election, no VR update was conducted.

### **Can a voter who has not actively registered vote in the election?**

The GCC Agreement mandates the SCER to implement special procedures to allow an estimated 2 million unregistered eligible voters to register and vote in the 2012 presidential election. The SCER's arrangements for these voters are outlined above.

### **How many voting centers will there be for the presidential election?**

In addition to the special registration and polling centers for unregistered voters and internally displaced persons, there will be 5,620 ordinary voting centers for the presidential election. The numbers of male and female polling stations at each center will depend on the number of voters registered at that center.

### **Will there be out-of-country voting for the presidential election?**

Although the 2001 election law provides for registered voters to vote in a presidential election through Yemen's diplomatic missions in certain circumstances, this has never been done. The SCER has not had sufficient time to implement out-of-country voting for the early presidential election.

### **What are the rules on campaigning?**

The 2001 election law contains a number of specific provisions relating to presidential election campaigns:

- Article 72 obliges each presidential candidate to hold at least one election rally in the capital city of each governorate, and in Sana'a
- Article 73 allows the official media to broadcast debates among presidential candidates during the last week of the campaign
- Article 74 allows each presidential candidate to organize press conferences and forums to present his electoral program

The campaign for the early presidential election, due to the fact that there is only one candidate, has been different from past election campaigns. The political parties who are signatories to the GCC Agreement have created joint campaign committees to mobilize their supporters, and voters in

general, to come out and vote. There is a vigorous voter outreach campaign underway, on behalf of the vice president's campaign, which is being paid for by various Yemeni corporate entities.

### **What are the rules that the State media should follow during the electoral campaign?**

Article 25(c) of the 2001 election law gives the SCER authority over the State media "in matters relating to general elections and referenda." The SCER's Media Sector works closely with the Ministry of Information to develop rules for official media and to monitor compliance with those rules, including non-partisan coverage of the campaign in State media. The SCER also uses State media in its public information campaign about the election.

### **What are the rules for campaign finance for presidential elections?**

Article 40 of the 2001 election law prohibits financing of election campaigns from public funds or foreign sources. Use of public facilities and organizations for election campaigns is also prohibited. However, Article 71 requires that each presidential candidate receive an equal amount of public funds "proposed by the Presidium of the House of Representatives and approved by the House ... to assist him to cover the expenses of his election campaign." There are no provisions in the election law concerning accountability for the use of those funds.

The election law allows presidential candidates to accept donations from "Yemeni individuals or corporations," provided those donations are deposited into a bank account and the candidate provides the SCER with bank statements "on a regular basis" (Article 75). Donations from foreign sources are prohibited. There is no requirement in the law that the SCER publish details of donations received by presidential candidates.

### **What are the steps for voting?**

Articles 99-100 of the 2001 election law prescribe the steps for voting. An outline of the process is as follows:

- The voter presents the chair of the sub-committee with the documentation required to establish his or her eligibility to vote. This is normally the voter's card which contains a photograph of the voter, but the SCER has authorized other forms of identification as acceptable for voting by unregistered voters and IDPs, as outlined above.
- The chair of the sub-committee gives the voter a ballot paper which lists the candidates in order of nomination. Candidates' photographs were on the ballot paper at the 2006 presidential election.
- The voter marks the ballot paper in secret behind a screen or curtain, folds it and places it in a ballot box in front of the chair and members of the sub-committee and any accredited party representatives and observers who are present.
- Once voters have cast their votes, their name is checked off the voter list or on the record of their details made by the sub-committee, their thumb is inked with indelible ink and they must then leave the voting center.

Voting hours are from 8:00 a.m. to 6:00 p.m. The hours can be extended by a maximum of two hours if there are still voters in the polling center who have not voted. Only election officials, voters, party and candidate representatives may be inside a polling station. Security personnel may only enter a voting center or polling station when they are voting or at the request of the committee chair. No firearms may be brought into a voting center or polling station (Article 97).

### **Who can be assisted to cast their votes?**

Article 100(b) of the election law provides that blind or physically handicapped voters have the right to request the assistance of a registered voter to assist them to mark their votes.

### **When will counting take place? Who will count the votes?**

Once voting has ended, each polling sub-committee counts the votes cast in its ballot box, and delivers the results and sealed polling and counting documents to the First Sub-committee for the voting center. The First Sub-committee aggregates the results from all the sub-committees, publicly announces the results and posts a copy on its premises.

### **What are the basic rules for counting votes?**

Each sub-committee decides on the validity of the votes it counts. Article 103(e) of the election law states that votes are invalid if they are cast subject to a condition, are cast for more than the required number to be elected or are not recorded on the ballot paper issued by the Sub-committee. Article 103(e) also provides, however, that "In all events, ballot papers clearly expressing the opinion of voters shall be deemed valid."

### **Who aggregates the results of voting in the presidential election?**

The First Sub-committee sends the aggregated results from its voting center to the Main Committee for the parliamentary constituency, which aggregates the results from all the voting centers within that constituency, posts the results at its premises and sends the results to the Supervisory Committee for the governorate. The Supervisory Committee aggregates the results from all Main Committees within the governorate, posts the results on its premises and sends the results to the SCER.

### **Who declares the official result of the presidential election, and when?**

The SCER aggregates the results from all Supervisory Committees and declares the final result of the presidential election. The SCER is due to announce the official result of the 2012 presidential election by March 2, 2012.

### **Who will observe the 2012 presidential election?**

The SCER is responsible for accrediting domestic and international observers for the election. Over 15,000 domestic observers have been accredited by the SCER for the February election. There are no official international observer missions being fielded for the election, although members of the

diplomatic community in Yemen will be observing the process in main urban areas. Political parties are also allowed to field poll watchers in each polling station, although this number is not expected to exceed a couple of hundred nationwide.

### **How will disputes be adjudicated?**

The 2001 election law allows for voters and candidates to go to court concerning actions by the SCER, by election committees and by individuals. In addition, the SCER revised its complaints and disputes procedures before the 2006 presidential and local council elections. These procedures will apply for the 2012 presidential election.

In brief, any citizen, registered voter or representative of a political party may make a formal written complaint to a Supervisory Committee, Main Committee or sub-committee concerning any action or procedure that is alleged to violate the election law or the SCER's manuals or instructions. Those receiving complaints must treat them seriously and impartially, must investigate and determine the complaint within 48 hours, take any remedial action and notify the complainant of the result.

### **Can the result of a presidential election be challenged?**

Any individual whose application to be a presidential candidate has been rejected by the presidiums of the Shura Council and the House as not complying with constitutional requirements for candidacy has the right to appeal to the Supreme Court.

Article 117 of the 2001 election law provides that challenges to the results of presidential elections must be submitted to the Supreme Court within 72 hours of the SCER's declaration of the election result. A challenge must relate to voting and counting procedures. The Supreme Court forms an assisting body from the Chairmen of Courts of Appeal or their representatives to investigate and advise on the validity of the challenge, and must issue its verdict no later than 10 days from the date it receives that advice (Article 112).

### **What are the main risks at the 2012 presidential election?**

Since the election is not competitive, there is a high risk of very low participation. There have also been reports that some of those involved in the 2011 protests, Southerners or Houthis, may decide to boycott the election. Participation is also likely to be low among marginalized groups such as women, young people and people living in rural areas.

The requirements for unregistered voters to vote are complex and difficult to communicate to the public. This may result in confusion among voters and those standing in queues, resulting in possible conflicts at the special registration and voting centers. The SCER has mounted an extensive public outreach campaign to provide information about this election. The SCER has also tried to simplify the requirements for voting so as to provide maximum accessibility to the process.

The security situation is likely to be difficult in some areas of the country, particularly Aden, Lahij, Shabwa and Dhalea.

## **What is the transitional process after the presidential election?**

The GCC Agreement envisages a transition period until 2014, divided into two phases. Phase I includes the February 2012 presidential election and ends with the inauguration of the new president.

Phase II lasts until 2014; it includes the following:

- The president-elect and the National Consensus Government will convene a representative National Dialogue Conference (NDC) to discuss a range of matters, including: changes to the government structure and the political system; issues relating to the northern and southern parts of Yemen; reforms to the civil service, the judiciary and local administration; national reconciliation and human rights, including those of women and children; and economic and social development. Paragraph 22 of the GCC Agreement seems to require the NDC to complete its work within six months.
- Once the NDC concludes its work, the National Consensus Government will appoint a committee to draft a new constitution within three months. A constitutional referendum will then be held.
- Within three months after a new constitution has been adopted, parliament will enact a law to hold parliamentary elections and presidential elections if required under the new constitution. The SCER will be reformed and a new voter registration system will be implemented.
- It is also possible that local councils will be held at some stage, although this is not explicit in the GCC Agreement.