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Elections in Tunisia

2019 Early Presidential Election

Frequently Asked Questions

Middle East and North Africa

International Foundation for Electoral Systems

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Frequently Asked Questions

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Disclosure:

These FAQs reflect decisions made by the Tunisian elections authorities as of September 11, 2019, to the best of our knowledge. This document does not represent any IFES policy or technical recommendations.

When is Election Day?

After the death of Tunisian President Beji Caid Essebsi on July 25, 2019, the presidential election scheduled for November 17, 2019, had to be cancelled. In accordance with Articles 84 and 86 of the 2014 Constitution, which provides for the organization of early elections within 90 days of the official proclamation of the definitive vacancy of the presidency,¹ the High Independent Authority for Elections decided to organize the first round of the early presidential election on Sunday, September 15 in Tunisia and on September 13, 14 and 15 for Tunisians residing abroad. Polling stations open at 8:00 a.m. and voting ends at 6:00 p.m. The presidential decree calling the electorate to the early election was signed by interim President Mohammed Ennaceur on July 31.

How is the president elected?

In the event that no candidate obtains an absolute majority of votes during the September 15 election, a second round will be held between the two candidates with the highest number of votes. It will take place within two weeks after the release of the final results of the first round, which will be announced by October 4 at the latest. In case of a tie, the older candidate will be declared the president.

What are the powers of the president?

According to the Constitution, the president, along with the prime minister, is the head of the executive branch. The president is the head of state and the symbol of its unity. She or he guarantees Tunisia's independence and continuity. The president is constitutionally mandated to direct defense, foreign affairs and national security policy, after consultation with the head of government, and chairs the Committee of Ministers that deliberates on these issues. She or he appoints the head of government from the political party that wins the parliamentary elections scheduled for October 6, 2019. The president is consulted in the choice of the ministers of foreign affairs and defense.

The president can dissolve the Assembly of the Representatives of the People (ARP) in accordance with the Constitution's provisions. She or he chairs the National Security Council and is the commander-in-chief of the armed forces. She or he declares war and establishes peace, upon the approval by a majority of three-fifths of the members of the ARP.

The president promulgates laws. In the event she or he refuses to sign a law, she or he can decide to send draft laws back to the ARP for a second reading. In such cases, the ARP has to adopt the law with a

¹ According to Article 84 § 2 of the Tunisian Constitution of January 27, 2014: "If the temporary vacancy exceeds sixty days or in the event of the President of the Republic submitting his or her written resignation to the President of the Constitutional Court, of death or permanent incapacity or for any other reason of a permanent vacancy, the Constitutional Court shall meet without delay, record the definitive vacancy and inform the President of the Assembly of the Representatives of the People who shall immediately assume the duties of Interim President of the Republic, for at least forty-five days but not exceeding ninety days." The interim president will exercise the presidential functions until October 23, 2019.

According to Article 86: "During the temporary or permanent vacancy, the Interim President of the Republic shall exercise the presidential functions. She/he may not initiate a revision of the Constitution, resort to a referendum or dissolve the Assembly of the Representatives of the People. During the interim presidential term, a new President is elected for a full presidential term, and no vote-of-no-confidence against the Government may also be presented."

reinforced majority of three-fifths. The president can also decide to resort to a referendum before promulgating a law.

What is the legal framework for the early presidential election?

The rules governing the presidential election are mainly based on the Constitution, the Electoral Law and regulatory decisions.

Articles 74 and 75 of the Tunisian Constitution set out the main conditions for running for president, the voting system and the duration of the presidential term, which is five years and renewable only once. Articles 84 to 86 of the Constitution govern the case of a permanent presidential vacancy due to death or other reasons. They provide for the organization of early presidential elections during the period of exercise of interim presidential power, which may not exceed 90 days.

The main legislative text applicable to the presidential election is Organic Law No. 2014-16 of May 26, 2014, on elections and referendums, as amended and supplemented by Organic Law No. 2017-7 of February 14, 2017 and by Organic Law No. 2019-76 of August 30, 2019 (the "Electoral Law"). The law contains a few rules specific to early presidential elections to allow for the reduction of certain electoral time limits to be able to organize the early election within the constitutional 90-day period. Article 49 of the Electoral Law allows, for example, for the reduction of the time limit for examining candidacy requests from four to two days, the reduction of the time limits granted to the competent court to rule on candidate disputes, and the reduction of the presidential election campaign period from 21 days to 13 days. Article 148 bis, added in the August 2019 amendment, makes it possible to reduce the time limits for disputing results in the event of an early presidential election. Despite these adjustments, in case of a second round, the new president will not be known within the constitutional deadline of 90 days due to mandatory time limits for adjudication of electoral disputes provided for by the Electoral Law. The second important piece of legislation on elections in general, including presidential elections, is Organic Law No. 2012-23 of December 20, 2012, on the High Independent Authority for Elections (ISIE), as amended and supplemented by Organic Laws Nos. 2013-44 and 2013-52.

In addition to the legislative texts, the organization of the presidential election is governed by regulatory decisions adopted and published by the ISIE. These decisions² supplement and detail the provisions of the Electoral Law. In addition to these regulations, a decree setting the ceilings for the financing of the presidential election campaign, its procedures and conditions is adopted by the head of government.

What is the election management body that will organize the elections?

The management of elections is entrusted to the High Independent Authority for Elections (ISIE), a permanent public institution independent of the executive branch. This body was created by Organic Law No. 2012-23 of December 20, 2012, and was established as an independent constitutional body in Article 126 of the 2014 Constitution. The ISIE is responsible for the organization and supervision of

² All regulations are available on the official ISIE website at the following address: <http://www.isie.tn/elections/elections-municipales-2018/cadre-juridique>.

regular, genuine and transparent national elections (presidential and parliamentary), local elections (municipal and regional) and referendums.

The ISIE consists of a decision-making body, the Board of Commissioners (BoC), and an executive branch, the Executive Secretariat. The BoC is made up of nine members, including the president, who are elected by the Assembly of the Representatives of the People by a two-thirds majority for a nonrenewable six-year term. ISIE members must be independent, neutral and have proven experience in their respective professional fields. The BoC adopts all necessary regulations to implement election legislation and takes all appropriate measures to carry out its mandate. The Executive Secretariat is composed of several departments responsible for administrative, financial and technical affairs. It is headed by an executive director appointed by the ISIE BoC.

The ISIE has 27 permanent regional administrations reporting to the Executive Secretariat and headed by regional directors. In addition to regional administrations, the ISIE BoC may, on the occasion of each election, create regional election bodies, commonly called IRIEs. There are 33 regional bodies – 27 based in Tunisia and six based abroad – reporting directly to the ISIE BoC. Their members, whose number may not exceed four, are appointed by the BoC and must meet the conditions of independence, neutrality and competence. IRIEs are therefore temporary bodies with no powers of their own. They shall perform the functions expressly delegated to them by the ISIE BoC.³

In the context of the early presidential election, IRIEs and regional administrations have no role in the reception and validation of candidacies. However, they do have an important role in controlling the conduct of election campaigns and their finances, as well as in organizing voting and counting operations and the tabulation of results.

Who is eligible to vote in the presidential election?

According to the Electoral Law, a voter must have Tunisian nationality, be at least 18 years old on Election Day, and be registered on the voter list with a valid residential address.⁴ The Electoral Law provides for two cases when a citizen cannot vote, which must be confirmed by a court decision. This includes:

- Persons sentenced to a criminal penalty expressly prohibiting them from voting; and
- Persons placed under legal guardianship for continuous dementia.

³ See ISIE Decision, No. 2017-5 of April 11, 2017, on the conditions and procedures for the creation of regional electoral bodies and setting out their prerogatives and operating procedures.

⁴ The valid residential address can be the one:

- The address indicated on the voter's national ID card;
- The voter's habitual residence, if different from the ID card;
- The address of the voter's business or company; or
- The address where the voter pays local property tax.

Unlike the 2018 municipal elections, the Electoral Law does not allow military and national security forces to vote in presidential elections. Voters eligible to vote in the early election are those registered on the final voter list published by the High Independent Authority for Elections on August 15, 2019.

When and how did voter registration take place?

Pursuant to its Decision No. 2017-6 of April 11, 2017, on voter registration, the High Independent Authority for Elections (ISIE) started the permanent voter registration process on September 22, 2018.

In the run-up to the 2019 parliamentary and presidential elections, the ISIE launched a registration drive on April 10, 2019, resulting in the registration of nearly 1,500,000 new voters. Two-thirds of new registrants are under 35 years of age and 54 percent are women. Registration for the presidential election closed on July 4, 2019, two months before the start of the originally scheduled candidate nomination period.

Voters on the electoral register since 2014 for the legislative and presidential elections or 2018 for the municipal elections were not required to re-register, unless they wanted to change their electoral constituency or place of voting. Since registration is voluntary, any person wishing to register was required to contact one of the registration offices – fixed or mobile – and present proof of their valid residential address, age and nationality. Registration is in principle personal, but the Electoral Law allows the registration of spouses, children, parents and grandparents by proxy. Tunisians residing abroad and wishing to vote in the presidential election had the opportunity to apply for registration via a dedicated web platform. The ISIE checked the lists of previously registered voters to ensure that deceased citizens and those who are not eligible to vote in national elections – military and internal security forces – are no longer on the final voter list for the 2019 parliamentary and presidential elections.

How many registered voters are there?

According to official figures announced by the High Independent Authority for Elections, the total number of registered voters eligible to vote in the early election is 7,074,575, including 6,688,512 registered in Tunisia and 386,063 registered abroad. Forty-nine percent are women and approximately one-third are under 35 years of age. This number marks a considerable increase compared to the 5,369,843 registered voters for the 2018 municipal elections and the 5,306,324 registered voters for the 2014 presidential and legislative elections (including 4,926,084 registered voters in Tunisia and 380,240 registered voters abroad).

What are the requirements for presidential candidates?

Per the Constitution (Articles 74 and 75) and the Electoral Law (Articles 40 to 42), a presidential candidate must:

- Be a registered voter;
- Be of Tunisian nationality by birth (the holder of another nationality in addition to the Tunisian nationality must renounce the other nationality if she or he is elected president);
- Be Muslim;

- Be at least 35 years of age on the day the candidacy is submitted;
- Not have been president for two successive or separate terms;
- Be eligible (e.g., not have been criminally sentenced for having received foreign funding during the previous election⁵);
- Be sponsored by a minimum of 10 deputies, 40 presidents of local government councils or 10,000 voters on the electoral register distributed over at least 10 legislative constituencies and with a minimum of 500 voters per constituency. By law, a deputy, mayor or voter cannot sponsor more than one candidate;
- Have deposited a financial guarantee of TND 10,000 (approximately USD 3,400); the guarantee is returned only if the candidate obtains at least 3 percent of the votes cast; and
- Have reimbursed state subsidies provided during previous elections.

How many candidates will be competing in this election?

The application period for candidate nominations began on August 2 and ended on August 9, 2019. At the end of the application period, the High Independent Authority for Elections (ISIE) registered a total of 97 applications. On August 14, the ISIE announced the acceptance of 26 applications, including two women, and the rejection of 71 others. After the adjudication of complaints and appeals by the Administrative Tribunal, the ISIE announced on August 31 that 26 candidates will appear on the ballot.

Can candidacy decisions be appealed to the courts?

Decisions to accept or reject candidate nominations may be challenged before the appeal chambers of the Administrative Tribunal. Judgments rendered by the appeal chambers may be appealed to the Plenary Assembly, the highest judicial panel, of the Administrative Tribunal, whose decisions are irrevocable. Only presidential candidates can file a complaint in first instance, within two days from the High Independent Authority for Elections' decision concerning the applications. An additional two days are granted for appealing the first instance judgement. As this is an early presidential election, the time limits for the Administrative Tribunal to render its judgments are compressed in accordance with the provisions of Article 49 of the Electoral Law.

For the 2019 presidential election, 11 complaints were filed with the Administrative Tribunal to overturn decisions to reject candidates. Of the 11 recourses, four were accepted on merits at first instance and then dismissed on appeal. Finally, none of the contested decisions were overturned by the judge.

What are the differences between the election campaign, the pre-election campaign and the electoral period?

The electoral period includes the pre-election campaign phase, the election campaign phase and the period of silence. The period of silence includes the day before Election Day until the closing of the last polling station in the constituency. For the early presidential election, the electoral period began on July

⁵ Article 163 of the Electoral Law

16, 2019, and will extend until October 4, 2019, the latest date possible for the announcement of the final results of the first round.

The pre-election campaign starts two months before the start of the election campaign. For this election, the pre-campaign period began on July 16, 2019 and ran until September 1, 2019. During this period, neither candidate nor media outlets were allowed to run paid political ads or publish the results of opinion polls in relation to the elections.

The election campaign refers to all the activities conducted by candidates or their supporters to publicize their platform and encourage voters to vote in their favor. Normally, the election campaign begins 22 days before the election and closes 24 hours before Election Day. However, for this election, the campaign period began 13 days before the election. Hence, the electoral campaign will last 12 days. It began at midnight on Monday, September 2, 2019, and runs until midnight on Friday, September 13, 2019.

What are the principles and rules governing the election campaign?

The election campaign, including websites and social media networks, is governed by the following key principles:

- Neutrality of public administration and places of worship
- Neutrality of the national media
- Transparency of the election campaign
- Equal opportunities between all candidates
- Respect for the physical integrity, honor and dignity of candidates and voters
- Respect for privacy and personal data of candidates
- No incitement to hatred, violence, intolerance and discrimination

During the election campaign, public meetings, demonstrations, marches and electoral rallies are allowed but need to be declared in advance to the High Independent Authority for Elections. Electoral propaganda is however prohibited in schools, universities and vocational training centers, and places of worship. Distributing party documents, chanting slogans and delivering partisan speeches are prohibited in public administration and public enterprises. This prohibition also applies to private companies not open to the public. The use of public resources for the benefit of a candidate is also prohibited.

Candidates have the right to use national and electronic media. For presidential elections, political advertising⁶ is not completely prohibited. Indeed, candidates are allowed to use fixed advertisements, such as billboards, or mobile advertising, such as outfitted cars or sponsored links on social media,

⁶ The Electoral Law defines political advertising as "any advertising or propaganda against material countervalue or free of charge, using the methods and techniques of commercial marketing, intended for the public, and aimed at promoting a person, an opinion, a program or political party, with a view to attracting voters or influencing their behavior and choice, through the audiovisual media, written or electronic, or through fixed or mobile advertising media installed in places or public or private property."

during their election campaign. Before the campaign, candidates must provide a list of social media outlets and websites used for campaign purposes to the High Independent Authority for Elections.

What are the rules for financing election campaigns?

The funding of the election campaign is done through self-financing and private financing. Donations from individuals are allowed but capped at 30 times the minimum wage (TND 12,093 TND or USD 4,100). Donations from legal entities – commercial companies, nongovernmental organizations, trade unions, foundations or public entities – and foreign funding are strictly prohibited. Political parties are not allowed to finance their presidential candidates' campaigns.

Public financing takes the form of ex-post reimbursement of election expenses after the proclamation of the final results. The Court of Accounts shall determine for each candidate the amount of the reimbursement, which may in no case exceed the amount of the candidate's self-financing and the allocation of public funding. This allocation is calculated based on the number of registered voters and other variables. For the presidential election, the allocation of public funding is set at TND 177,033 (approximately USD 60,500) for the first round, and TND 106,220 (approximately 36,300) for the second round. The latter amount is subject to a slight variation depending on the number of registered voters for the second round. The expenditure ceiling is 10 times the allocation of public funding, i.e., TND 1,770,330 (approximately USD 605,000) for the first round and nearly TND 1,062,200 (approximately 363,000) for the second round.

To be eligible for reimbursement of election expenses, a candidate must have:

- Received at least 3 percent of the votes cast;
- Filed the financial accounts with the Court of Accounts within the legal deadlines, and published the campaign accounts in one of the Tunisian daily newspapers within two months of the date when the final election results were announced; and
- Complied with the legal requirements related to election campaigns and finances.

Who controls campaign financing and when?

Campaign finance oversight is exercised by the High Independent Authority for Elections (ISIE) and the Court of Accounts. During the election campaign, the ISIE will deploy approximately 1,200 field control agents. These agents attend campaign activities, assess their costs and record possible violations. The ISIE monitors compliance with the rules and means of financing the campaign in collaboration with various public institutions. The ISIE can impose sanctions, such as the full or partial cancellation of results, for campaign violations should these have a substantial effect on the election results based on Article 143 of the Electoral Law. For its part, the Court of Accounts carries out control on the resources and expenditures allocated to each candidate's campaign following the elections. It may impose financial or electoral sanctions on candidates who have violated certain finance rules.

What are the principles and rules governing media coverage of elections?

Throughout the election campaign, the media are required to:

- Be neutral;
- Respect the principle of equality and guarantee equal opportunities for all candidates;
- Respect the physical integrity, honor and dignity of candidates and voters;
- Not infringe the candidates' privacy and personal data; and
- Not disseminate or publish calls for hatred, violence, fanaticism or discrimination.

Throughout the election period, public and private media are prohibited from engaging in political advertising – except in the case of partisan newspapers, which are authorized to engage in propaganda through advertising in favor of the party candidate – and from broadcasting or publishing any media coverage supporting a candidate.

By virtue of a joint decision between the High Independent Authority for Elections and the Independent High Authority for Audiovisual Communication adopted on August 21, 2019, candidates are now prohibited from campaigning through audiovisual media that carry out their broadcasting activities illegally and without a license. Presidential candidates can also benefit from free airtime and participate in political debates that will be produced and broadcast by the public audiovisual media under conditions that guarantee equal opportunities for all candidates. Electronic media must respect the principle of equality between all presidential candidates in all election-related programming.

During the election campaign and the period of silence, the media are prohibited from disseminating or publishing the results of opinion polls directly or indirectly related to the elections. The media are also prohibited from making any partial announcement of election results before the closing of the last polling station.

Presidential candidates are prohibited from campaigning through foreign media.

What are voting centers and polling stations? How many are there?

The High Independent Authority for Elections (ISIE) determines the number and locations of the voting centers and polling stations. For this early election, the ISIE plans to open 4,567 polling centers, including 302 abroad across 45 countries, each consisting of one or more polling stations. In total, 13,446 polling stations will be available for voting and counting. Each polling station is composed of a president and two members. There will be approximately 54,250 poll workers. Each polling station serves a maximum of 600 voters. Citizens can find out which polling station they are assigned to by dialing *195* followed by their national ID card number; they then receive a text message indicating their polling center address and polling station number.

How will voters with disabilities vote?

The Electoral Law enshrines the principles of personal and secret voting for all voters, including voters with disabilities. To this end, it stipulates that polling stations must be set up in such a way as to enable persons with disabilities to access them and exercise their right to vote (Article 131). The law permits the adoption of specific measures and procedures for the benefit of voters with disabilities, especially those who are blind or have low vision and those with physical disabilities that prevent them from writing. On Election Day, these two categories of voters have the right to assistance from a voter of their choice who can assist them to vote if the following requirements are met (Article 33 of High Independent Authority for Elections Decision No. 2014-30):

- The voter presents a handicap card;
- The assistant is a voter;
- The assistant is either the spouse or a relative of the voter with a disability. In addition to the national ID card, the assistant must also present an official document proving the relationship to the voter. The voter may also, in the absence of such an assistant from his or her family, ask the president of the polling station to instruct one of the voters present at the polling station to assist him or her in voting; and
- The same assistant does not accompany more than one voter with a disability.

Braille folders in which the ballot paper will be inserted will be available in each polling center for voters who are blind or have low vision. For the first round, the braille ballot folders will only bear the numbers of the candidates but not their names. The braille folder will be accompanied by a note in braille that will allow the voter to match the name and number of each candidate. In the case of a second round, the braille folder will contain both the number and the full name of each of the two candidates. Polling station staff will be equipped with guidelines on how to welcome, accommodate and assist voters with different disabilities.

How will illiterate voters vote?

The Electoral Law prohibits illiterate voters from using assistants to help them vote. However, the law encourages the High Independent Authority for Elections (ISIE) to carry out sensitization campaigns to explain voting procedures to illiterate voters. The ballot will be designed in color and contain candidates' names in Arabic, candidates' photos and the number corresponding to each candidate. The ISIE will prepare and disseminate videos, flyers and posters to explain the voting procedures step-by-step in a simplified manner to enable illiterate voters to cast their ballots independently.

Where will voting, counting and compilation of results take place?

Voting and counting will take place in the polling stations. The president and members of the polling stations will count and tabulate the ballots immediately after polling stations close in the presence of observers and candidate representatives. When counting is complete, a copy of the results protocol of the counting for each polling station is posted in the voting center. Election observers do not receive a

copy. These protocols must also be published on the High Independent Authority for Elections (ISIE) website.

At the same time, 33 tabulation centers will be opened to compile the results from all polling stations in a given constituency. The consolidated results from each of the 33 tabulation centers are then forwarded to the ISIE Board of Commissioners for verification and proclamation of the election results.

When and how will the preliminary and final results be announced?

The results of the elections shall be announced by the High Independent Authority for Elections (ISIE) Board of Commissioners within a maximum of three days after Election Day. According to the electoral calendar set by the ISIE for this early election, the date set for the announcement of the preliminary results is Tuesday, September 17, 2019. The preliminary results by polling station must be published in detail on the ISIE website and posted at the ISIE headquarters.

Then, once the litigation phase relating to the results of the first round has ended, the ISIE has 48 hours to announce the final results. According to the amended Electoral Law, and should all time limits be used to their maximum, they must be officially announced no later than October 4, 2019. They will also be published on the ISIE website and in the Official Gazette of the Republic of Tunisia.

Who will observe the presidential election? How can they obtain accreditation?

The electoral legislation provides for the possibility of election observation by national and foreign observers and candidate representatives. To carry out their duties, observers must obtain official accreditation from the High Independent Authority for Elections. Applications for accreditation shall close no later than one week before Election Day. Approximately 12,000 domestic and international observers are currently expected.

Can election results be contested?

Only presidential candidates can contest the preliminary results before the Appellate Chambers of the Administrative Tribunal within three days of the publication of the results by the High Independent Authority for Elections (ISIE). The appeal must be filed by the candidate with the help of a cassation lawyer.

According to the new Article 148 bis, the time limits for litigation applicable to the results of the early presidential election have been considerably reduced both at first instance and on appeal. Indeed, the appeal on the preliminary results of the early presidential election must be submitted within two instead of three days of the date of their official publication. An Appellate Chamber will schedule a hearing within two instead of three days of the submission of the complaint. The judgment must be delivered within two instead of five days of the hearing and parties must be notified within 24 hours instead of three days.

The ISIE or a candidate has 48 instead of 72 hours to appeal the rulings of the Appellate Chamber. The appeal will be assigned to the Plenary Session of the Administrative Tribunal and a pleading session will be scheduled within two instead of three days of the date of notification of the first instance judgement. The Plenary Session will pronounce the ruling within three instead of seven days of the pleading session, and the tribunal will notify the parties of the ruling within 24 hours instead of two days of the pronouncement. The decisions of the Plenary Session are final and cannot be appealed.

The litigation phase relating to the results (first instance and appeal) is thus reduced from 29 to 15 days. Article 148 bis also provides for including every weekday, including Saturdays and Sundays, in the calculation of time limits for complaints and appeals, except on national and religious holidays, thus reducing further the duration of the adjudication period. Despite that, and in case of a second round, it is very unlikely that the new president will be known within the 90-day constitutional limit for the interim president to exercise his powers.

How will the election management body disseminate electoral information to the public?

The High Independent Authority for Elections (ISIE) will operate a media center at the Conference Palace in downtown Tunis from September 12, 2019, until the announcement of the preliminary results of the first-round election, i.e., no later than September 17. The Media Center will be open to journalists, observers, guests, diplomatic missions and election officials. The media center will be the main communication channel between the ISIE and journalists, providing real-time information on the elections. Simultaneous interpretation will be provided for conferences and press briefings. The press conferences will also be streamed live on the ISIE Facebook page.

In the run-up to Election Day, the ISIE shared information with the public through its website (www.isie.tn) and social networks, and held meetings with political parties and civil society organizations, including disability rights organizations, on various aspects of the electoral process. These meetings and official ISIE press conferences provide sign language interpretation to make election information accessible to voters who are deaf or hard-of-hearing.

Resources

- Tunisian Constitution of 2014
- Compilation of all legislative and regulatory texts related to municipal elections, compiled by IFES, March 2018 (in French only)
- Decisions, procedural and other manuals published on the ISIE website (in Arabic only):
<http://www.isie.tn>