



IFES Lebanon

# Briefing Paper

October 2007

Updated 12 November 2007

## Electing the Lebanese President

The meeting of the Lebanese Parliament on Tuesday 23 October 2007 to elect a new President of the Republic has been adjourned to 21 November. After earlier attempts to hold the vote failed to take place and without any parliamentary consensus on procedures or candidates, this IFES Lebanon briefing paper outlines some of the key constitutional and procedural issues that may arise.

### Background

The President of Lebanon is indirectly elected by the Chamber of Deputies every six years. The incumbent, General Emile Lahoud, was elected in 1998. His term of office, extended in 2004 by a constitutional amendment, ends on 24 November 2007. An unwritten constitutional convention, established by the National Pact (1943) and the Taef Agreement (1989), requires that the President of Lebanon must be a Maronite Christian. As Head of State, the Lebanese President must act as a symbol of national unity and independence, preside over the Supreme Defence Council and act as Commander-in-Chief of the armed forces.

### Election Procedures

The procedural framework for the presidential election is found in the Lebanese Constitution.

*Article 49 (2) The President of the Republic shall be elected by secret ballot by a two-thirds majority of the Chamber of Deputies in the first session, and in the next voting round an absolute majority is sufficient. [...]*

The timing of the election is governed by a separate constitutional provision:

*Article 73 At least one month and at most two months before the end of the term of office of the President, the Chamber is summoned by the Speaker to elect a new President. [...]*

There are several areas where the Constitution fails to provide a sufficiently clear basis for how the election should be run: e.g. there are no nomination procedures or deadlines by when the election must be completed; theoretically, an election could continue endlessly until one candidate wins a sufficient majority.

The Lebanese Parliament does not have internal rules of procedure that can provide further detail on how it is to run a presidential election. Also, there appear to be no clear precedents from previous parliamentary votes that establish formal rules or guidelines for the procedures that need to be followed. The Constitutional Council, which could clarify these rules, is not currently functioning.

### The Issue of Quorum

A meeting of Parliament to elect a President took place on 25 September but the meeting was adjourned to 23 October, then to 12 November and is now due to take place on 21 November. The pro-government and opposition factions in parliament have expressed different interpretations on how Article 49 requires the election to proceed. The fundamental disagreement is on whether the elected President should come from a contested election, with candidates representing different factions, or whether there should be a 'consensus', non-partisan candidate. This dispute has focused on the issue of quorum and whether Article 49, by its reference to "elected by a two-thirds majority" requires a different, higher quorum than that which is used for general parliamentary business, for which an absolute majority is required for parliament to function. In general terms, a two-thirds quorum would need **86** Deputies for a presidential vote to be held. A standard quorum – where an absolute or simple majority (i.e. more than 50 per cent) is sufficient – would require **65** Deputies to be present.

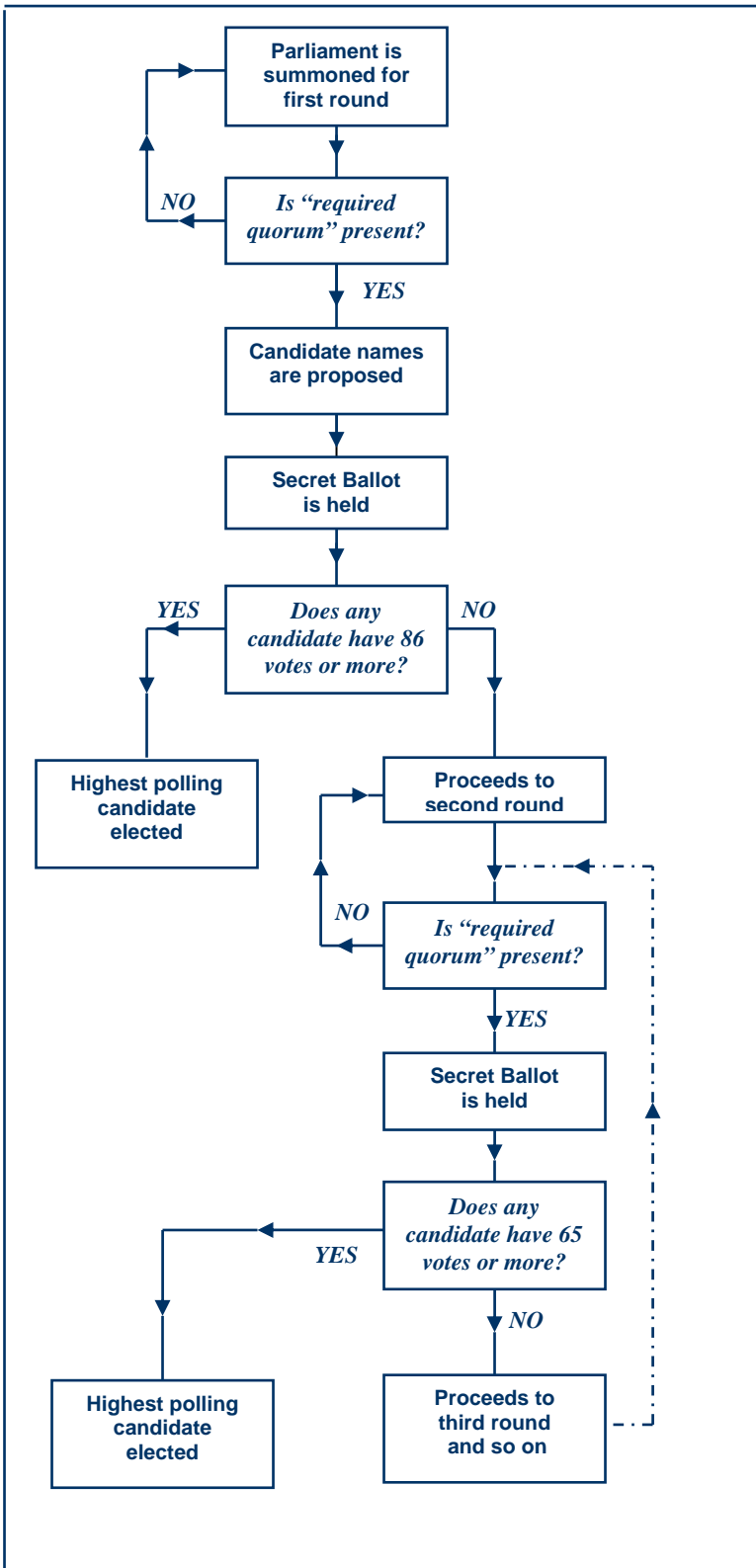
A two-thirds quorum requirement would provide for a broad participation by Deputies in choosing a President and, to that degree, can be seen as reflecting a tradition of consensus politics within Lebanon. However, it also creates a possibility for a boycott which could prevent an election from ever taking place. In contrast, an election held with only a standard quorum increases the certainty for an election to take place even where there is a boycott; however, the credibility of President to act as a consensus figure may be considerably undermined if they had been elected in a contest that saw the participation of only a limited number of Deputies.

### Parliamentary Numbers<sup>1</sup>

Pro-Government ("March 14") Affiliated	Opposition ("March 8") Affiliated	Non-Affiliated	Vacant
<b>68</b>	<b>58</b>	<b>1</b>	<b>1</b>

Based on the current composition of Parliament, it is unlikely that one candidate could win a two-thirds majority of all Deputies unless a consensus, cross-party candidate was nominated. It is possible that a non-consensus candidate, especially one supported by March 14 parties, can win a simple majority.

IFES is a non-profit democracy development organization that works to give people a voice in the way that they are governed. As one of the world's leading providers of election assistance, it has been operating in Lebanon since 2005.



The presidential election process in Lebanon

### Quorum Requirement Scenarios

*If there is a two-thirds quorum requirement in all rounds*

- If at least 86 Deputies are not present in the first round, it will be considered not to have taken place. The first round of the election must take place again.
- If at least 86 Deputies are present for the first round and a candidate wins 86 votes or more, he/she is elected.
- If at least 86 Deputies are present for the first round but no candidate gains 86 votes, it goes to a second round, in which case:
  - If at least 86 Deputies are present and a candidate gains 65 votes or more, he/she is elected.
  - If at least 86 Deputies are not present, the second round is considered not to have taken place and another second round is called.
  - If at least 86 Deputies are present, but no candidate gains 65 votes, it goes to a third round and so on.

*If there is a simple majority quorum requirement in all rounds*

- If at least 65 Deputies are not present in the first round, it will be considered not to have taken place. The first round of the election must take place again.
- If at least 65 Deputies are present for the first round and a candidate wins 86 votes or more, he/she is elected.
- If at least 65 Deputies are present for the first round but no candidate gains 86 votes, it goes to a second round, in which case:
  - If at least 65 Deputies are present and a candidate gains 65 votes or more, he/she is elected.
  - If at least 65 Deputies are not present, the second round is considered not to have taken place and another second round is called.
  - If at least 65 Deputies are present, but no candidate gains 65 votes, it goes to a third round and so on.

*If there is a two-thirds quorum requirement in the first round and a simple majority quorum requirement in further rounds*

- If at least 86 Deputies are not present in the first round, it will be considered not to have taken place. The first round of the election must take place again.
- If at least 86 Deputies are present for the first round and a candidate wins 86 votes or more, he/she is elected.
- If at least 86 Deputies are present for the first round but no candidate gains 86 votes, it goes to a second round, in which case:
  - If at least 65 Deputies are present and a candidate gains 65 votes or more, he/she is elected.
  - If at least 65 Deputies are not present, the second round is considered not to have taken place and another second round is called.
  - If at least 65 Deputies are present, but no candidate gains 65 votes, it goes to a third round and so on.



### Other Potential Procedural Issues

The lack of clear rules on the presidential election process means that several other procedural issues will need clarification before the contest takes place. The decision on these rules will need to be taken by the Speaker with the approval of Parliament.

#### How will quorum be calculated?

A decision will need to be taken on whether quorum is calculated from the total number of seats or the total number of Deputies. As there is currently one vacant seat, this will have an impact on the number of Deputies required to be present.

	Two-thirds quorum	Simple quorum
If calculated from total of 128 seats	86	65
If calculated from current total of 127 Deputies	85	64

The Constitution is ambiguous in its definition of what amounts to the standard quorum for parliamentary business.

*Article 34* The Chamber of Deputies shall not be validly constituted unless the majority of the total membership is present.

In a previous presidential election, Parliament appeared to determine that quorum was calculated from the number of Deputies holding seats; however it is unclear whether this precedent would be repeated as an interpretation of quorum for the current election.<sup>2</sup>

#### How will the majority be calculated?

A decision will also need to be taken on how votes will be counted in order to determine whether any candidate has won a sufficient majority of votes in either the first or second round of voting. In particular, it will need to be decided whether the majority is calculated from the total number of seats/Deputies (see above) or the total number of Deputies who vote in the election. It will also need to be decided whether the majority is calculated from all votes cast or only those votes which are valid (i.e. not blank or spoiled).<sup>4</sup>

	Minimum number of votes needed to win	
	1 <sup>st</sup> round	2 <sup>nd</sup> Round
If calculated from total of 128 seats	86	65
If calculated from current total of 127 Deputies	85	64
If calculated from Deputies taking part in the election:		
▪ and quorum requirement is 86	58	44
▪ and quorum requirement is 65	44	33

It is highly unlikely that the Lebanese Constitution, based on the spirit of national unity, had envisaged that a President of the Republic could be elected with support from only 33 Deputies.

### What has happened so far?

The Constitution requires that Parliament must be formally summoned by the Speaker to elect a President (see *Article 73*). A meeting of Parliament took place on 25 September but the Speaker, Mr. Naibh Berri, ruled that the 74 Deputies who attended did not provide for a sufficient quorum to elect a President. The session was adjourned first to 23 October, then 12 November and now Parliament will now meet on 21 November. The intervening period is being used by political and diplomatic actors to find a political agreement on the procedures to be followed and to identify possible consensus candidates. This has included a series of meetings involving the Head of the Maronite Church, Patriarch Sf

### What happens next?

As soon as the process to elect the president formally begins, the Constitution prevents Parliament from acting in its role as a legislature until the election is completed.

*Article 75* The Chamber meeting to elect the President shall be considered as an electoral body and not a legislative assembly. It must proceed immediately, without discussion of any other act, to elect the President.

The Constitution provides that, if the presidential election process had not started by 14 November, Deputies had the right to organise a presidential election without a formal summons by the Speaker but, so far, this appears not to be been invoked.

*Article 73* [...] However, should it not be summoned for this purpose, the Chamber meets of its own accord on the tenth day preceding the date of the end of the term of office.

Should an election take place but is challenged, the Constitutional Council has the responsibility to resolve any disputes relating to procedures or results. However, the Constitutional Council is not currently functioning as Parliament and the incumbent President have been unable to agree on its composition.

*Article 19* A Constitutional Council shall ... arbitrate conflicts that arise from ... presidential elections. [...]

### What if no president is elected?

If no president is elected by 24 November, it will be presumed that there is a vacancy in the Presidency. The Constitution provides that in this scenario presidential powers are delegated to the Council of Ministers until a new President is elected.

*Article 62* Should there be a vacancy in the Presidency for any reason whatsoever, the Council of Ministers shall exercise the authorities of the President of the Republic by delegations.

Upon a vacancy in the Presidency, the Parliament is obliged to hold immediate new elections.

*Article 74* Should the Presidency become vacant... for any ... cause, the Chamber shall meet immediately and by virtue of the law to elect a successor.

### Update

On 17 October 2007, President Lahoud is reported to have stated that he will not hand over presidential powers to the current Cabinet of Ministers if no new president is elected. There has been some speculation that President Lahoud may seek to appoint a new Cabinet of Ministers before his term of office ends.<sup>3</sup>

### The Candidates

Any Lebanese who is a Maronite Christian may nominate themselves for the Presidency. Candidates must have the same qualifications required to stand as a parliamentary Deputy.<sup>5</sup> The 2000 Parliamentary Election Law states that Deputies must be “Lebanese, registered to vote, twenty-five years of age, enjoy civil and political rights and educated”.<sup>6</sup>

### The Declared Candidates

The following persons have declared their candidacy to become President although no formal candidacy has been put before Parliament. There is no formal procedure for candidates to be nominated.



#### Nassib Lahoud

A former MP. Head of the Democratic Renewal Movement, affiliated to the March 14 pro-government bloc. Distant cousin of the incumbent.



#### Boutros Harb MP

An independent MP affiliated to the March 14 pro-government bloc. Former Minister.



#### General Michel Aoun MP

Leader of the Free Patriotic Movement and head of the Change & Reform parliamentary bloc affiliated to March 8. A former Prime Minister and Head of the Armed Forces.

Others who have declared their intention to stand as candidates include:

- Robert Ghanem MP
- Chibli Mallat
- Joseph Tarabay
- Nayla Mouawad
- Charles Rizk (Minister of Justice)

No person who is a high-level civil or public servant can become President unless they have left office for at least two years.<sup>7</sup> In 1998, an amendment to the Constitution was approved to allow General Emile Lahoud, then the Head of the Lebanese Armed Forces, to become President. This was a one-time amendment and further amendments would be needed for other current public officials who seek presidential office.

### The Possible Candidates

The following persons have been identified as possible ‘consensus’ candidates but who have not yet confirmed their intention to stand. In addition, further candidates may be nominated in a list that may be prepared by Patriarch Sfeir.



#### General Michel Sleiman

Currently the Head of the Lebanese Armed Forces. Has indicated that he will consider heading a transitional presidency. A constitutional amendment will be required for the General to be elected President.



#### Riad Salameh

Currently the Governor of the Central Bank of Lebanon. (CBL) It is not clear in law whether a senior employee of the CBL is considered to be a public official. If he is not, a constitutional amendment will be unnecessary.

IFES Lebanon provides support to initiatives for electoral reform in Lebanon, including advising on the work of the Civil Campaign for Electoral Reform (CCER). See [www.ccerlebanon.org](http://www.ccerlebanon.org)

IFES Lebanon produces briefing papers on a number of key issues on electoral reform in Lebanon. Future topics for briefing papers will include voter registration and the participation of persons with disabilities in elections.

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### Notes and References

<sup>1</sup> Numbers of parliamentary seats by affiliated bloc, as of 1 October 2007.

<sup>2</sup> For the 1982 presidential election, Parliament was recorded as having interpreted that quorum should be based on “living Deputies” only. (See *An-Nahar* September 2007)

<sup>3</sup> See *Daily Star* 19 October 2007

<sup>4</sup> For elections of committee members, blank or invalid votes are excluded from being included in calculating a majority. Rules of Procedure for the Chamber of Deputies, Article 12 (see <http://www.lp.gov.lb/>)

<sup>5</sup> *Lebanese Constitution Article 49(2)* [...] No one may be elected to the Presidency of the Republic unless he fulfils the conditions of eligibility for the Chamber of Deputies...

<sup>6</sup> Law on the Election of the Members of the Chamber of Deputies 2000, Article 6

<sup>7</sup> *Lebanese Constitution Article 49(3)* It is also not possible to elect judges, grade one civil servants or their equivalents in all public institutions to the Presidency during their term of office or within two years following the date of their resignation and their effective cessation of service, or following retirement