



**PRELIMINARY STATEMENT
OF
THE IRI-NDI INTERNATIONAL ELECTION OBSERVATION MISSION
TO TUNISIA'S SEPTEMBER 15, 2019 PRESIDENTIAL ELECTION**

Tunis, September 16, 2019

OVERVIEW OF THE MISSION

This preliminary statement is offered by the joint international Election Observation Mission (EOM) of the National Democratic Institute (NDI) and the International Republican Institute (IRI) to Tunisia's September 15, 2019 presidential election.

Through this statement, NDI and IRI seek to demonstrate the international community's interest in and support for the democratic process in Tunisia, provide an accurate and impartial report on the electoral process to date, and offer recommendations to improve future elections.

This statement builds on observations of the joint mission's long-term observers who have been deployed across Tunisia since late August and a pre-election delegation that visited Tunisia from July 30-August 2 to assess preparations for the polls.

The EOM delegation included 40 observers from 14 countries across the Middle East, Africa, Asia, Europe and North America and was led by Margaret Curran, former Member of Parliament (MP) for the Scottish Labour Party, IRI President Daniel Twining, and NDI Middle East and North Africa Director Leslie Campbell.

The delegation does not seek to render final conclusions on the September 15 election at this time. The official tabulation process and announcement of results were not complete as of midday on September 16. Run-off elections will likely be held; any complaints that may be lodged will have to be properly resolved. This statement is therefore preliminary in nature. The mission will continue to monitor the electoral process through the run-offs and will issue reports as appropriate. The EOM does not seek to interfere in electoral processes and recognizes that it is the people of Tunisia who will ultimately determine the credibility and legitimacy of their elections.

EXECUTIVE SUMMARY OF FINDINGS

Tunisia's September 15 presidential election represents a positive achievement and an important step in the consolidation of the country's developing democratic political system. No matter the outcome of this election, Tunisians should take great pride in their electoral process, which is unique in the Middle East and North Africa and a testament to Tunisia's commitment to its democratic transition. Ultimately, 26 candidates competed for the presidency – demonstrating that the Tunisian political system remains robust – and this election cycle featured televised presidential debates which were viewed by millions in Tunisia and across the region.

The election occurs against a backdrop of citizens' growing unease with the economic situation and disappointment in the pace of reform. Despite their frustrations, citizens have expressed a desire to select a candidate who can improve the lives of ordinary Tunisians. Preliminary, unofficial figures suggest that voters turned out in similar numbers to the last presidential election in 2014, demonstrating their confidence in the integrity of the electoral process. Polls were administered in a smooth and professional manner by a well-trained staff, despite a shortened electoral timeline that put significant pressures on the High Independent Authority for Elections (known by its French acronym, the ISIE), political parties, and other electoral stakeholders. The elections also took place without any significant security incidents.

In a case of unfortunate and controversial timing, one leading candidate, Nabil Karoui, was arrested on August 23 and spent the campaign period incarcerated, although his candidacy remained valid. Another candidate is in self-imposed exile, but also remained on the ballot. The IRI-NDI delegation notes that this situation deprived voters of consistent access to authorized candidates.

Preliminary estimates by election authorities and citizen observers indicate a turnout rate (number of voters compared to those registered to vote) of around 51 percent which is lower than the rate for the 2014 presidential election. However, with approximately 1.5 million more voters registered in 2019 than in 2014, the total number of people voting remained about the same. Even so, more should be done to encourage voter participation in the upcoming parliamentary election and, if needed, a presidential run-off. Election Day featured isolated irregularities that are unlikely to affect the overall result of the vote, but should be addressed by the relevant authorities to ensure long-term confidence in the electoral process. For example, some campaign material remained posted outside polling centers, a small number of polling stations opened late and some voters had difficulties understanding voting procedures. ISIE, domestic observers and candidate representatives also reported instances of active campaigning in violation of the law.

In the event that no candidate receives a majority of the votes, a run-off election will be held between the two leading candidates. Prior to a run-off vote, Tunisian authorities, political advisors and civil society should consider reforms that address the electoral rights of incarcerated candidates, increase outreach to youth, encourage more engaging and relevant policy discussions, and continue public debates between the candidates. In addition, the mission strongly recommends further efforts by the ISIE and civil society partners to educate citizens and mobilize voters to participate.

Once the overall electoral process is completed, Tunisia's new president and other elected leaders must illustrate how democracy can deliver positive change for the people of Tunisia. The newly elected Tunisian president and members of parliament should quickly turn their elected legitimacy into credible and responsive governance that can address economic, security, and other issues that are of great concern to citizens.

CONTEXT LEADING UP TO THE ELECTIONS

The 2019 presidential and legislative elections mark Tunisia's fourth round of democratic elections since the end of former President Zine El Abidine Ben Ali's nearly 25-year reign. Despite continued frustrations with stalled reforms, persistent corruption and an ongoing economic crisis, over seven million Tunisians were registered to vote in this year's elections and 51 percent voted in Sunday's presidential election.

The ISIE originally scheduled the parliamentary elections on October 6 and the presidential election on November 17. However, following the death of President Beji Caid Essebsi on July 25, the presidential election was moved forward to September 15 to comply with constitutional requirements. The transfer of executive powers to the interim president, the scheduling of early elections by the ISIE, and the passage of an electoral law amendment to compress the presidential election timeline were implemented smoothly and without significant delay or controversy. Nevertheless, the accelerated timeframe for the presidential election placed significant pressures on the ISIE, political competitors, civil society organizations, voters and other electoral stakeholders.

In June 2019, Tunisia's parliament, the Assembly of the Representatives of the People of Tunisia (ARP), had passed a controversial electoral law amendment that, if promulgated by President Essebsi, would have, among other things, established a three percent electoral threshold for representation in parliament and a set of exclusionary criteria for candidates. The amendment generated considerable controversy for the lack of parliamentary debate during its passage, the questionable constitutionality of several provisions and, most of all, the timing – just weeks before the opening of the candidate registration period. Although the amendment was left unsigned by the late President Essebsi, the uncertainty created by its passage was a reminder that the fairness of an election is based on a sound legal framework.

On August 23, police arrested presidential candidate and leader of the Heart of Tunisia party Nabil Karoui on charges of money laundering and tax evasion based on a case filed against Karoui in 2016 by the Tunisian NGO IWatch. Karoui, a media owner, was at the time believed to be a top contender for the presidency. He was also among the candidates that would have been barred from running had the proposed electoral amendments been implemented. His arrest was viewed by some political parties as politically motivated. The ISIE declared Karoui's presidential candidacy to be valid despite his arrest, but various stakeholders including the ISIE have called upon the authorities to ensure a level playing field that provides candidates equal opportunities to campaign.

LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The electoral legal framework, which remains largely unchanged since the 2017 amendment of

the electoral law, is generally sound and adequate for the organisation of the 2019 presidential elections. However, the passing of President Beji Caïd Essebsi necessitated an exceptional electoral amendment that effectively shortened the deadlines of the complaints and appeals process to enable a president to be sworn in within the constitutionally prescribed 90-day term limit. (The new timeline, however, does not guarantee that, in the case of a run-off, the new president will be sworn in by the October 23 deadline.) Moreover, given shortened timeframes, concerns remain about the complainants' ability to gather and submit sufficient evidence as well as courts' ability to provide effective legal remedy.

Other campaign-related shortcomings remain unaddressed, such as the lack of a clear distinction between permitted "electoral propaganda" and prohibited "political advertisement," unregulated use of social media in campaigns and restrictive campaign spending limits. A number of political parties have noted that the spending limits are too low and hamper effective campaigning. Similarly, some political parties argue that Tunisia's short campaign periods restrain and prevent many activities that would be regarded as standard campaign activities in other democratic systems, such as candidate media appearances and voter outreach.

ELECTION ADMINISTRATION

The elections are managed by the ISIE, a permanent public institution tasked with guaranteeing democratic, free, pluralistic, fair and transparent elections. The ISIE is represented in each of Tunisia's 27 regional legislative districts, by Regional Independent Authorities for Elections (IRIEs). The IRIEs play a key role in administering various stages of the electoral process, including reviewing legislative candidate lists, posting and reviewing lists of recruited poll workers, overseeing campaign activities and granting observers access to the tabulation of ballots. Since Nabil Baffoun's election as ISIE President in January 2019, the commission has improved its public communications, shown greater openness to civil society, and overseen a largely successful voter registration process. According to a majority of stakeholders, the ISIE and its regional offices (IRIEs) are managing operations with professionalism and have a reputation of neutrality. The ISIE was also widely commended for its highly successful voter registration drive, where it utilized an effective mobile registration campaign to target young, rural voters. Stakeholders also frequently spoke favorably of the professionalism and accessibility of the IRIEs, and expressed confidence that other government institutions that have a stake in organizing and securing the polls, including the Ministry of Education, the army and police, would dedicate the resources necessary to support the electoral process on this shortened timeframe. However, because many senior positions remain vacant, the ISIE's capacities have been stretched by the electoral calendar that was accelerated by the death of President Essebsi, overlapping electoral periods for presidential and parliamentary elections, and the organization of a rolling series of partial elections in municipalities whose municipal councils have disbanded. Despite the compressed timeframe and remaining vacancies within the ISIE, electoral preparations were nonetheless conducted efficiently and within stipulated deadlines.

PRE-ELECTION ENVIRONMENT

Voter Registration

Every Tunisian has the right to vote, provided s/he is listed in the voter register and is at least 18

years on the day preceding the date of voting. Members of the security forces are not allowed to vote in the presidential or parliamentary elections.

Voter registration is active and continuous. Every citizen must voluntarily register, either directly or by proxy (first-degree relative). In 2019, the ISIE organized a large registration exercise from April 10 until May 22 for legislative elections and until July 4 for the presidential elections, after which the voters were not allowed to make any changes to their data. Voters not yet registered were required to register at a registration office, and the ISIE deployed mobile registration centers to target groups that had been under-represented in the voter register, most notably women, youth and rural populations. As a result, 1,455,898 new voters from across the country were added to the voter register, 53 percent of whom were women. The total registered number of voters for the September 15 early presidential election is 7,074,566, including nearly 49 percent women.

Election Observation and Monitoring

Civil society groups actively monitored various aspects of the election process, including voter and candidate registration, candidate campaigns, the media environment and participation of women, youth and persons with disabilities, as well as the complaints and appeals process. These efforts contributed measurably to the integrity of the electoral process. The ISIE reported accrediting some 11,000 observers, including 480 internationals, reflecting high levels of citizen engagement and international interest. One citizen election monitoring group, Mourakiboun, conducted a sample-based observation or parallel vote tabulation (PVT) designed to provide an independent verification of the results declared by the election management body.

Candidate Registration and Campaign Environment

To be eligible as a candidate for the presidency, one has to be at least 35 years old, a Tunisian citizen by birth, and a Muslim. If a candidate holds a foreign citizenship, s/he must abandon it if elected. In addition, candidates must be endorsed by either 10 members of the ARP, 40 presidents of the local councils, or 10,000 voters registered in at least 10 electoral constituencies with no less than 500 voters for each constituency. Out of a total of 97 candidacies received by the ISIE, 26 candidates were ultimately registered, including two women, while 71 were rejected.

The campaign period started on September 2 and ended on September 13. The electoral law prescribes a campaign silence period, starting 24 hours prior to the opening of polls and ending when the polls close. Given that the legislative election campaign period begins 22 days prior to polling day, the revised calendar created an overlap between the silence period of the early presidential elections.

The ISIE trained and deployed some 1,500 campaign monitors and warned government officials about using administrative resources for partisan advantage. By election day, the ISIE had announced that more than 1,000 electoral law violations had been reported, including unauthorized campaign activities, destruction of posters, and unauthorized poster sites. Candidates reportedly have not always honored approved calendars of campaign activities or provided erroneous contact details, preventing the IRIEs from informing them if the activities were approved or not. Additionally, IRIEs and the ISIE accounted for cases of hate speech and minors' involvement in campaigns that were sent to the prosecutor for further action. Domestic observers also recorded several instances of campaign violence. These incidents, however, were mostly limited to verbal

harassment of observers, journalists and voters by campaign workers, although there were several physical attacks on voters, observers, journalists and candidates.

Candidates used various methods to communicate with voters within the compressed timeline, including rallies, door-to-door or neighborhood visits, road shows with campaign buses, posters and billboards in designated areas, as well as campaign tents with party activists engaging in voter outreach. Candidates and their campaigns reported extensive use of Facebook to communicate with the public, announce their platforms, campaign for events, and share updates and opinions about pertinent issues. However, concerns were raised that many of the sponsored activities would not be adequately accounted for in the expense reports. In addition, the dissemination of fake news and hate speech remains a matter of concern, as social media is not properly regulated. The ISIE is yet to release the full results of its monitoring efforts.

Key campaign messages focused on the socio-economic situation and unemployment, as well as anti-terrorism measures and Tunisia's international standing. Candidates also proposed changing the distribution of powers, pointing to the high level of political fragmentation in parliament that makes it difficult to pass much-needed legislation. To this end, candidates went as far as to call for constitutional reforms that would transform Tunisia into a "presidential republic."

While candidates were generally free to campaign, the arrest and detention of one of the leading candidates ahead of the campaign period raised equal-opportunity concerns as guaranteed by the electoral law. Nabil Karoui's request to be released from detention was denied and he was prevented from conducting media interviews, leaving him unable to campaign on equal footing with other candidates.

Campaign Finance

Foreign funding and corporate funding are strictly prohibited, while self-funding and private funding (by physical persons) are authorized. Political parties are also not allowed to finance their presidential candidate's campaigns, and there is a campaign expenditure ceiling of approximately 600,000 USD for the first round and 350,000 USD for the second round.

Monitoring compliance with the campaign finance rules falls under the authority of the ISIE and the Court of Accounts. The ISIE in particular wields significant authority due to its right to declare the partial or total annulment of the results if it is proven that violations of provisions on the campaign and its financing affected the election results in a decisive manner. The electoral, financial and penal sanctions according to the infringements observed are outlined in the electoral law and relevant ISIE decisions. Over 1,500 campaign monitors were deployed by ISIE to assess the cost of campaign activities and full report on their findings is yet to be released.

Media Environment

Tunisians enjoy a pluralistic media environment, with a number of media outlets offering a variety of political opinions. Nevertheless, professionalism, quality of reporting and impartiality of media outlets remain issues of concern.

The Independent High Authority for Audiovisual Communication (HAICA) and ISIE published on August 21 a joint decision on the electoral campaign in the media. Among other issues, the

regulation prohibits the use of a media channel by its owner or one of its shareholders to campaign directly or indirectly in favor of candidates or against their competitors. The HAICA conducted extensive media monitoring and while the complete findings are yet to be released, it has already issued several fines against outlets that were found to be broadcasting political advertisements on behalf of candidates. Furthermore, it warned that candidates appearing on media channels operating without a license are in violation of the law.

Presidential Debates

For the first time in Tunisia and the region, candidates were invited to participate in live TV debates, organized by the national television station Al Wataniya, the HAICA, and the ISIE with the support of the NGO *Munathara*. The debate was broadcast on 11 TV channels and about 21 radio stations. In line with the joint ISIE-HAICA decision on media regulation, candidates were divided into three groups through a lottery system, except the three candidates from the leading parliamentary factions (Youssef Chahed, Abdelfattah Mourou and Mohcen Merzouk), who were given the ability to choose the date of their participation. This was criticized as unfair by other candidates and runs counter to international debate best practices for transparency and equity where all candidates are assigned dates at random.

The three debates, lasting 2.5 hours each, took place on September 7, 8 and 9. Nabil Karoui was not present because of his imprisonment. Another candidate, Slim Riahi, was absent from the debates since he is in self-imposed exile. Authorities explained that allowing him to participate remotely would have prevented them from ensuring that he abides by the same rules as candidates in the studio.

Gender and Inclusion

Tunisia has demonstrated a commitment to improve the inclusiveness of the election process, especially for traditionally marginalized groups, including women, youth, rural and illiterate populations and persons with disabilities. Women represent almost half of registered voters (49 percent), and constitute 54 percent of newly registered voters in 2019. Nevertheless Tunisian women have historically participated at lower rates than men as voters, candidates, party agents, election workers, and observers. Lower literacy rates among women, especially those living in rural areas, hamper their access to information about the election process. Social expectations and cultural barriers dampen their political participation as voters. Although not pervasive, violence and intimidation against women active in politics negatively affects their participation as candidates and elected officials, and their capacity to reach leadership positions in political parties and in the electoral management bodies. No woman has been president or prime minister to date. In this election, only two out of 26 candidates are women and no major party decided to field a female candidate. There is only one woman on the nine-member ISIE council.

Youth have expressed, since 2011, growing disaffection towards politics, which has translated in decreasing turnout in the last rounds of elections. However, youth registration levels this time were high; more than two-thirds of newly registered voters are youth. They also constitute a large part of polling officials, campaign staff and party agents.

In 2019, the election management body introduced a battery of measures to guarantee the accessibility of polling stations to persons with disabilities (PWDs) and facilitate their voting

without assistance, and developed new channels to reach out and inform them on the election process. Video spots were translated in sign language and had subtitles in Arabic for the hearing impaired, while the sound spots with a voice over were produced for the visually impaired. In addition, ISIE worked on facilitating the voting process for illiterate voters, by printing a ballot paper with candidates' color photographs. A braille folder was prepared for the visually impaired in order to avoid the need to bring an assistant. On election day, observers noted that a number of polling centers and stations remained inaccessible to people with limited mobility.

ELECTION DAY OBSERVATIONS

On election day, ISIE reported opening 4,567 polling centers with over 13,000 polling stations and over 50,000 polling staff. Due to security concerns, voting hours were shortened from 10 am to 4 pm in 242 centers with 331 polling stations. These centers are located in Kasserine, El Kef, Jendouba, Sidi Bou Zid and Gafsa. In addition, a number of polling centers in Siliana, Monastir, Ben Arous, Bizerte, Nabeul, Gafsa, Jendouba and Medenin were relocated due to construction work or potential flooding.

NDI-IRI observers witnessed an overall calm and orderly environment in visited polling centers. Polling officials demonstrated a sound level of knowledge and administered election-day procedures in line with the law. Although no campaigning or campaign materials were seen inside the visited polling stations, several instances of candidate posters or banners in the vicinity of polling centers were observed. The ISIE reported that violations identified during the campaign silence period and on election day, such as distribution of campaign materials, were relatively minor, but will be sent to the prosecutor and taken into account before preliminary results are announced.

Participation

The voter turnout figure was reported by domestic monitors to be 50.8 percent (ISIE figures were not available at the time this report was completed). There were significant regional differences in the level of citizen participation, with Tunis and Ariana reaching over 58 percent, and Beja remaining under 23 percent.

Set-Up and Opening Procedures

Generally, observed polling stations opened on time and in line with the procedures. Observers reported that sufficient number of polling officials were present for the opening and that essential materials were mostly provided.

Voting

Election officials seem generally knowledgeable, well-trained and prepared. The secrecy of the vote has been ensured at most polling stations observed. Some observers noted that they have seen voters, particularly the elderly, having difficulties understanding procedures. No major issues with the voter registry were reported at the observed polling stations, although observers noted that some voters were turned away by polling officials when coming to the wrong polling station, having the wrong identification (ID), or for not having an ID. Minor disruptions to the voting process in a few polling stations were efficiently handled by officials.

Security officials were present in all polling centers visited, generally adhering to their legally prescribed role without interference in the election process. No serious security incidents were reported during the day.

Closing and Counting Procedures

Polling stations, in general, closed at 6pm, with voters who arrived by that time being allowed to vote. The closing and counting process was positively assessed, although in a couple of instances officials lacked clear understanding of the procedures. At the observed polling stations, counts were recorded in the official minutes, signed by polling officials and candidate agents; a copy of the official minutes was posted publicly at the polling station entrance and another copy sent securely to the tabulation center. All teams reported being permitted to observe without restrictions, and reported a high level of transparency in the counting process.

Observers and Political Party Agents

Accredited citizen or international observers were present at most polling stations, as were multiple candidate agents. However, in several instances NDI-IRI observers were denied access to polling stations due to overcrowding or reported that the number of observer or candidate agents allowed into a polling station depended on the seats available, which limited the overall transparency.

RECOMMENDATIONS

In the spirit of international cooperation, the mission urges the competent authorities to address immediate and longer-term challenges to inclusive and credible elections.

Short-Term Recommendations

- The ISIE should provide systematic, comprehensive and timely information about any violations detected, complaints received or sanctions imposed.
- The government, courts and election authorities should ensure equal participation of all political candidates who have met the necessary candidacy requirements.
- Candidates should use available legal remedies to address any concerns and ensure that election violations are properly documented and substantiated.
- The ISIE and civil society organizations (CSOs) should enhance voter-education campaigns to encourage increased voter turnout in the parliamentary and runoff elections.
- The ISIE should conduct regular stakeholder meetings with political parties, CSOs, and political candidates to promote public confidence in the process.
- The ISIE should fill all vacant positions within its structure as soon as possible to increase the capacity of its Board of Commissioners to properly administer the electoral process.
- After the next parliament is inaugurated, the members of the ARP should take all efforts to reinstate the Constitutional Court as mandated under the Constitution.
- The HAICA and ISIE should release detailed information about their media monitoring efforts, including any violations detected, the scale and nature of these violations, and sanctions imposed against them.

Long-Term Recommendations

- The electoral framework should be thoroughly reviewed and amended to include revisions to media regulations, campaign finance laws, campaign restrictions and duration and candidacy eligibility, and to address a high number of effectively disenfranchised voters, including prisoners and detainees, home-bound or hospitalized voters, as well as polling officials deployed outside of their registration area.
- The international community should continue its efforts to ensure that Tunisia's democratic transition can be successful in a global climate of political and economic insecurity. This can be accomplished through a range of multilateral and bilateral tools, including economic support, technical assistance, and good governance mechanisms.

About the Mission

The 40-member delegation arrived in Tunis on September 11 and held meetings with candidate representatives, election officials, representatives of nongovernmental organizations, the media, and the diplomatic community. On September 14, 20 observer teams deployed to 23 governorates across Tunisia. On Election Day, the joint EOM observed voting and counting processes in polling stations across the country. The observers reported regularly on developments around the country and returned to Tunis to share their findings.

This delegation builds on the work of a pre-election assessment, which issued a statement of findings and recommendations in August 2019, and a team of 15 long-term election observers and analysts who will continue to observe developments through the run-off elections.

The delegation conducted its activities in accordance with Tunisian law and the Declaration of Principles for International Election Observation, which has been endorsed by 55 intergovernmental and international nongovernmental organizations worldwide.

The mission wishes to express its appreciation to the United States Agency for International Development (USAID), which has funded the work of this delegation and supported IRI and NDI democracy assistance programs in Tunisia.

The delegation consulted with other international delegations, including the Carter Center (TCC) and the European Union Election Observation Mission (EUEOM), as well as Tunisian nonpartisan citizen election monitoring organizations.

The delegation is grateful for the cooperation it received from voters, election officials, candidates, political party leaders, domestic election observers, and other civic activists.

About IRI and NDI

IRI is a nonprofit organization dedicated to advancing democracy worldwide. IRI has supported free and fair electoral processes around the world since 1984. IRI has extensive election observation experience, having conducted more than 207 election observation missions in 57 countries, including in Tunisia, where IRI and NDI observed the 2011 National Constituent Assembly elections and the 2014 presidential and legislative elections.

NDI has more than 25 years of experience in international election observation. It also assists the electoral integrity efforts of political parties and nonpartisan citizen (domestic) election monitoring organizations, which have included large numbers of women and youth in more than 90 countries and territories. NDI has supported Tunisian organizations to observe every election since 2011.

IRI has been registered in Tunisia and has been working to support Tunisia's democratic transition since 2011. IRI helps political parties develop issue-based platforms, works with civil society to educate voters on elections and their civic responsibilities, and conducts public opinion research to inform elected officials of citizens' priorities. As such, IRI has closely followed Tunisian electoral and political developments and developed relationships with elections stakeholders. NDI works with Tunisian organizations to recruit, train and deploy tens of thousands of citizen observers; collect and analyze their findings; and communicate their conclusions. NDI has also worked with members of parliament and staff of the ARP since its inception in 2014 to provide tailored, responsive, technical assistance to help MPs and parliamentary staff advance policy debates and legislation that is based on constituent engagement. The long-term goal of NDI's work in Tunisia is to foster a competitive multiparty system, where citizens are offered a meaningful choice between political parties with contrasting policy proposals.

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