



Carter Center Commends Tunisia on Successful Completion of 2019 Electoral Process

The Carter Center commends the Tunisian authorities and its people on the successful completion of the 2019 electoral process. Electoral authorities, civil society organizations, and political parties made concerted efforts to prepare for and implement the 2019 election cycle, which resulted in competitive polls that were carried out effectively. Although the Independent High Authority for the Elections (ISIE) experienced the added challenge of a compressed timeframe for the elections because of the death in office of the president, it conducted a credible electoral process for all three elections. With the inauguration of the new president on Oct. 23 and the swearing in of the new parliament on Nov. 13, Tunisia set an example for the region and the world in conducting a peaceful democratic transition.

On Nov. 15, President Kais Saied charged Habib Jemli, an independent designated by Ennahda, the party with the largest number of seats in parliament, to form a government. Under the constitution, the prime minister designate has one month within which to form a government and one additional month if he does not succeed. Jemli has been unable to form a government in the first month and has informed the president that he would require an extension, as allowed by the constitution, prolonging the period of government formation until Jan. 15, 2020.

The election of a politically diverse parliament in which no party has enough seats to form a government on its own makes it crucial for Tunisian political leaders to move quickly to form a government. Elected officials must find common ground, setting aside their political and ideological differences and forging a path forward to address the economic challenges that were the root cause of the 2011 Tunisian revolution. In addition, the new parliament and government need to swiftly form the Constitutional Court and other independent constitutional authorities, including by replacing the three ISIE members whose mandates will expire in January.

As a result of the 2019 parliamentary elections, tabulation was ongoing, and the election dispute-resolution process had not been finalized. Following the conclusion of the electoral process, the international election observation mission found that tabulation processes improved progressively from one election to another, and election dispute-resolution processes were conducted within the timelines allowed by law. Although hearings at the Administrative Court were orderly and parties were given the opportunity to present their cases, the short deadlines did not allow lawyers sufficient time to prepare or present their cases, which hindered their ability to support their claims with credible evidence and legal reasoning, and to seek effective legal remedy.

The Tabulation Process

According to international obligations, counting should be transparent and observable. International good practice establishes that observers, candidate representatives, and the media must be allowed to be present and have access to records; results must be transmitted to the higher level in an open manner.¹

Throughout the electoral cycle, Carter Center observers noted that tally centers differed in their procedures for receiving material, conducting recounts, and granting access to observers. The IUIE, which is responsible for these inconsistencies.

After the first-round presidential election, however, the ISIE conducted a two-

an attorney at law who is admitted to practice at the Cassation Court (and by consequence, has at least 10 years of experience). The Administrative Courts of Appeal and the General Assembly of the Administrative Court dismissed a majority of the cases for procedural mistakes, as it did not allow for corrections in documents and strictly applied its procedural rules.

After the announcement of the preliminary results of the first round of the presidential election, the Administrative Courts of Appeal received six challenges. Most claimed that the ISIE had failed to sanction candidates who had committed campaign violations.⁵ All six cases were dismissed. Five complainants appealed to the General Assembly of the Administrative Court, which dismissed the challenges. Although the court hearings were orderly and the parties were given the opportunity to present their cases, the timeline did not allow enough time for lawyers to prepare their cases, which prevented them from presenting evidence and legal reasoning. No challenges were filed to the results of the second round of the presidential elections.

Parliamentary elections. The ISIE announced the preliminary results from the parliamentary elections on Oct. 9. The Administrative Court received 102 challenges to the preliminary results. Even though the number of challenges was low given the total number of candidate lists competing in the elections (1,506), it created noticeable pressure on the Administrative Court. In order to meet the short deadline for deciding challenges, the court heard approximately 75 challenges on one day ó Oct. 17 ó raising concerns about due process.⁶

Attorneys before the court expressed general discomfort about the procedures it adopted to hear the arguments. Those cases heard first enjoyed time to argue their cases orally. However, because of the high volume of cases, the court sharply limited the amount of time lawyers had to

process and deprived the public and election observers of the necessary information to analyze its decisions.

Challenges Facing the ISIE

On Nov. 1, 2019, two ISIE members, Adel Brinsi and Nabil Azizi, made public unfounded allegations of financial and administrative mismanagement at the ISIE, citing corruption and foreign interference.¹¹ In reaction to their statements to the media, the ISIE president announced on Nov. 6 that it had filed a complaint with the public prosecutor at the Tunis-based Court of First Instance over "irresponsible" statements made by two ISIE board members.¹² During an ISIE council meeting on Nov. 8, commissioners discussed whether to ask the parliament to revoke the ISIE mandates. A proposal to refer the matter to parliament for debate failed by a 5-4 vote.

This incident exposed serious internal divisions within the ISIE council that threaten to undermine the ongoing lessons-learned process and the public perception of the body, including public confidence in its ability to conduct future elections according to international standards. It would be difficult for the ISIE to lead electoral reforms based on the lessons-learned exercise without a unified council. The ISIE is also in the process of organizing several municipal by-elections, which will require the council to exercise its decision-making authority. These divisions are compounded by the expiring mandate of three members of the council, including the current president, in January 2020. By law, the newly elected parliament should elect three new members to replace those retiring. The composition may make it difficult to reach the required two-thirds majority.

Together, these dynamics may portend significant challenges for the ISIE to fulfill its mandate as a mandated body.

Background: The Carter Center in Tunisia. The Carter Center has maintained an office in Tunisia since 2011. The Center observed the 2011 National Constituent Assembly elections, the constitution-making process from 2012-2014, and the 2014 presidential and parliamentary polls.

For the 2019 elections, The Carter Center deployed a core team in May 2019 to launch its mission to observe the electoral process. In mid-July, the Center deployed 16 long-term observers and 18 short-term observers represented 18 different countries. The Center deployed a short-term mission to observe each of the 2019

¹¹ In an announcement to the media, two ISIE members expressed concerns about the role played by what they

elections and released a preliminary statement after each election. A comprehensive final report, including recommendations for future electoral reform, will be published in early 2020.

The Center wishes to thank Tunisian officials, political party members, civil society members, individuals, and representatives of the international community who have generously offered their efforts to observe the parliamentary and presidential election process. The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation.