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Observation of the presidential election in Tunisia (23 November and 21 December 2014)

Election observation report

Bureau of the Assembly

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1. Introduction

1. At its meeting on 2 September 2014, the Bureau of the Parliamentary Assembly decided, subject to an invitation to that effect, to observe the parliamentary elections in Tunisia on 26 October 2014 and the presidential election on 23 November 2014, formed ad hoc committees composed of 11 members to observe each of these elections: SOC: 3; EPP/CD: 3; EC: 2; ALDE: 2; UEL: 1, and authorised pre-electoral missions for both elections.

2. On 10 September 2014, the Independent High Authority for Elections (ISIE) invited the Council of Europe to observe the elections.

3. At its meeting on 29 September 2014, the Bureau appointed Mr Jean-Marie Bockel (France, EPP/CD) to the chair of the ad hoc committee to observe the first round of the presidential election.

4. At its meeting on 17 November 2014, the Bureau approved the final composition of the ad hoc committee to observe the presidential election (Appendix 1) and decided to form an ad hoc committee with five members, one being nominated by each political group, to observe the second round of that election (if there was one).

5. At its meeting on 9 December 2014, the Bureau approved the final composition of the ad hoc committee to observe the second round of the presidential election on 21 December and appointed Mr Andreas Gross (Switzerland, SOC) as its Chairperson (Appendix 2).

6. According to Article 15 of the co-operation agreement signed between the Parliamentary Assembly and the European Commission for Democracy through Law (Venice Commission) on 4 October 2004, “[w]hen the Bureau of the Assembly decides to observe an election in a country in which electoral legislation was previously examined by the Venice Commission, one of the rapporteurs of the Venice Commission on this issue may be invited to join the Assembly’s election observation mission as legal adviser”. In accordance with this provision, the Bureau of the Assembly invited an expert from the Venice Commission to join the ad hoc committee as an adviser.

7. Since a mission to observe the parliamentary elections of 26 October 2014 had already been to Tunisia from 23 to 27 October, it was not deemed necessary to organise a specific pre-electoral mission just a month ahead of the presidential election of 23 November.

8. For the observation of the first round of the presidential election, the ad hoc committee met in Tunis from 21 to 24 November 2014. The programme of the meetings appears in Appendix 3, and the declaration published after the first round is set out in Appendix 4. For the observation of the second round of the presidential election, the ad hoc committee met in Tunis from 20 to 22 December 2014. The programme of the meetings is in Appendix 5 and the declaration published after the second round is set out in Appendix 6. The ad hoc committees thank the Council of Europe Office in Tunis for the organisation of the programme and the logistical assistance.

2. Legal framework

9. Following the January 2011 revolution which led to the departure of then President Zine el-Abidine Ben Ali, Tunisia held its first pluralist elections on 30 October 2011 to elect a national constituent assembly. On 27 January 2014, that assembly adopted a Constitution, which had been submitted to the Venice Commission for an opinion beforehand. The Venice Commission did not deliver an opinion on the electoral law.

10. The constituent assembly having completed its mandate, parliamentary elections were held on 26 October 2014, and Mr Gross’s report on the observation of those parliamentary elections reviews the related aspects.¹

11. My report will not recapitulate the information already available in the report on the observation of the parliamentary elections, since the presidential election was largely similar to the parliamentary elections from the standpoint of legislation, administration and the election campaign, but will only deal with the additional aspects specific to the presidential election.

12. As far as the conditions of eligibility for the office of President of the Republic are concerned, the Constitution stipulates firstly that the person must be of the Muslim faith (Article 74). In the same provision, the Constitution lays down a minimum age of 35 years (this was 40 in the final draft of the Constitution) and no maximum age, thus responding to a criticism by the Venice Commission which did not consider usual this second age requirement (75 years at the most, stipulated in the draft). The fact remains that the conditions of candidacy are very vague, which was criticised by the Venice Commission, since Article 74 stipulates that “the candidate must have the support of a given number of members of the Assembly of the Representatives of the People or heads of elected local authority councils or registered voters, as specified by the election law”, the expression “a given number of members” being particularly imprecise.

13. In addition, in its opinion on the draft Constitution, the Venice Commission nevertheless emphasised that the draft Constitution clearly proclaimed the civil nature of the State, the equality of all citizens in rights and duties, and the principles of impartiality and equality of public administration. It found the exclusion of all non-Muslim candidates (men or women) inconsistent with these provisions.

14. The statute in force applicable to the presidential election is the organic law on elections and referenda enacted on 16 May 2014.

15. The President of the Republic is elected by direct universal suffrage with an absolute majority of validated votes. As no candidate gained an absolute majority in the first round of the election, a second round was organised on 21 December between the two candidates who received the most votes.

1. See [Doc. 13654](#).

3. Registration of candidates

16. Twenty-seven candidates stood for the presidential election. After three had withdrawn, the citizens were called upon to vote on 23 November for the 24 remaining contenders. There was only one woman among the candidates.

17. The candidates included, among others, the President of Tunisia, Mr Moncef Marzouki, the President of the Nidaa Tounes party that won the parliamentary elections, Mr Beji Caid Essebsi, the President of the Popular Front, Mr Hamma Hammami, and the President of the former National Constituent Assembly, Mr Mustafa Ben Jaafer.

18. As was the case in the parliamentary elections, the presidential election observers comprised representatives of Tunisian civil society and of international organisations, representatives of the candidates and parties, and representatives of the foreign and national media.

4. Election campaign

19. The official election campaign for the first round was to start on 1 November and finish on 21 November 2014. Thus, electoral silence was to commence on 22 November and continue through polling day until closure of the last overseas polling station. Considering that the overseas ballot was held over three days (21, 22 and 23 November), the election campaign actually started on 30 October and electoral silence commenced as from 20 November 2014.

20. As far as the second round is concerned, the campaign began on 9 December and continued until 19 December.

21. The ISIE published on its website three explanatory notes on the presidential campaign, concerning the use of the premises of political parties, funding of electoral activities abroad and candidates' statements for the foreign press.

22. The first note concerns use by candidates of their party's resources. The ISIE authorised party candidates to use the premises, resources and newspapers of the party to which they belonged on condition that they pay for it at a reasonable rate, deducted from the funds allocated to the campaign.

23. The second explanatory note concerns foreign financing. This kind of financing is strictly prohibited and the ISIE reaffirmed that funding of activities linked with the campaign abroad must be effected by means of transfers from Tunisia, deducted from the funds allocated to the campaign, and according to the arrangements and procedures in force.

24. Finally, the third explanatory note relates to the conditions of communication with the foreign media. The electoral law forbade candidates to campaign using foreign media facilities, and several candidates even refused to make any statement whatsoever. The ISIE nevertheless considered it possible to make statements to the foreign media, on condition that it was occasional or non-recurrent and in a manner not leading to disguised propaganda.

5. Polling day

25. The rules of the ballot were similar to those of the parliamentary elections, and so need not be further discussed in this report.

26. On 23 November, the ad hoc committee split into six teams which observed the ballot and the counting in Tunis and its environs as well as in the governorates of Bizerte, Nabeul, Sfax and Sousse.

27. As to the process and the organisation of the polling day, as in the parliamentary elections, the ballot went well in general. The teams found no significant irregularity. The ballot took place under transparent conditions and in a calm, orderly climate.

28. The results of the best-placed candidates after the first round of the ballot were as follow:

- Mr Beji Caid Essebsi: 39.46% of votes cast;
- Mr Moncef Marzouki: 33.43%;
- Mr Hamma Hammami: 7.82%.

The turnout was 57.73%.

29. At the second round of the ballot on 21 December, Mr Beji Caid Essebsi won with 55.68% of votes cast.

6. Conclusions and recommendations

30. As a sequel to the parliamentary elections, the satisfactory conduct of the presidential election marks a new milestone of democratic transition.

31. The ISIE organised the poll with professionalism, integrity and complete transparency, as was moreover the case during the parliamentary elections.

32. The high turnout of voters in the presidential poll shows that the citizens expect the President who is elected to stand surety for the proper functioning and the stability of the institutions and to enter into beneficial collaboration with the Assembly of the Representatives of the People and the government that stems from it, in order to work for Tunisia's economic and social development.

33. Certain aspects of the electoral process call for improvement, with the possible benefit of the Venice Commission's expertise. The electoral law should in future better regulate the financing of the candidates and of the election campaign, with emphasis on transparency of the sources, use and oversight of this financing. The law should also more effectively guard against misuse of administrative resources during election campaigns.

34. In its subsequent involvement with the Tunisian authorities, the Parliamentary Assembly will continue to actively support the Tunisians in their efforts to consolidate democracy in their country, including within a framework of interparliamentary dialogue and co-operation.

Appendix 1 – Composition of the ad hoc committee for the observation of the first round

Based on the proposals by the political groups of the Assembly, the ad hoc committee was composed as follows:

- Jean-Marie BOCKEL (France, EPP/CD), Chair of the ad hoc committee
- **Socialist Group (SOC)**
 - Josette DURRIEU, France
 - Birutė VĖSAITĖ, Lithuania
 - Maria GIANNAKAKI, Greece
 - René ROUQUET, France
- **Group of the European People’s Party (EPP/CD)**
 - Jean-Marie BOCKEL, France
- **European Conservatives Group (EC)**
 - Robert WALTER, United Kingdom
 - Judith WILCOX, United Kingdom
- **Alliance of Liberals and Democrats for Europe (ALDE)**
 - Alfred HEER, Switzerland
- **Venice Commission**
 - Gaël Martin MICALEFF, Administrator, Secretariat of the Venice Commission
- **Secretariat**
 - Bogdan TORCĂTORIU, Administrator, Interparliamentary Co-operation and Election Observation Division
 - Sevda GÜNDÜZ, Assistant

Appendix 2 – Composition of the ad hoc committee for the observation of the second round

Based on the proposals by the political groups of the Assembly, the ad hoc committee was composed as follows:

- Andreas GROSS (Switzerland, SOC), Chair of the ad hoc committee
- **Socialist Group (SOC)**
 - Andreas GROSS, Switzerland
- **Group of the European People’s Party (EPP/CD)**
 - Şaban DIŞLI, Turkey
- **European Conservatives Group (EC)**
 - Reha DENEMEÇ, Turkey
- **Alliance of Liberals and Democrats for Europe (ALDE)**
 - Tinatin KHIDASHELI, Georgia
- **Secretariat**
 - Bogdan TORCĂTORIU, Administrator, Inteparliamentary Co-operation and Election Observation Division

Appendix 3 – Programme of the ad hoc committee for the observation of the first round (23 November 2014)

Friday 21 November 2014

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| 10:30-11:30 | Meeting with the Secretariat |
| 11:30-12:30 | Meeting with representatives of the media |
| 12:30-13:30 | Meeting with NGO representatives |
| 14:30-15:00 | Meeting with the Mr Nouri Lajmi, President of the High Authority for Audiovisual Communication (HAICA) |
| 15:00-15:30 | Meeting with Mr José Antonio de Gabriel, Deputy Chief Observer, European Union Election Observation Mission in Tunisia |
| 18:00-18:30 | Meeting with Mr Mohamed Chafik Sarsar, President of the High Authority for the Independence of Elections (ISIE) |
| 19:00-19:30 | Meeting with Mr Moncef Marzouki, Incumbent President of Tunisia and candidate |

Saturday 22 November 2014

- | | |
|-------------|---|
| 08:30-09:00 | Meeting with Mr Hamma Hammami, President of the Popular Front and candidate |
| 10:30-11:00 | Meeting with Ms Kalthoum Kannou, candidate |
| 11:30-12:00 | Meeting with Mr Mustapha Ben Jaafer, President of the National Constituent Assembly and candidate |
| 12:30-13:00 | Meeting with Mr Ahmed Nejib Chebbi, President of El Jomhuri and candidate |
| 13:30-14:00 | Meeting with the Secretariat |

Sunday 23 November 2014

Election observation

Monday 24 November 2014

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|-------------|--|
| 08:00-09:00 | Debriefing meeting of the ad hoc committee |
| 11:00 | Press conference |

Appendix 4 – Statement of the ad hoc committee after the first round

Successful first round of presidential elections marks new phase in Tunisia's democratic transition

“Following on from the success of the parliamentary elections, the proper conduct of the first round of this presidential election marks a new phase of democratic transition,” said Jean-Marie Bockel, head of the Council of Europe Parliamentary Assembly (PACE) delegation which observed the first round of the presidential election on 23 November 2014 in Tunisia.

The PACE delegation praised the professionalism of the Independent High Authority for the Elections, which organised the ballot in a spirit of integrity and full transparency. The conditions appear to be in place for all the candidates to accept the results of voting, as was the case for the parliamentary elections.

The high turnout for the presidential elections is indicative of the high expectation of citizens that the president they elect will be the guarantor of the smooth running and stability of the country's institutions and will engage in fruitful collaboration with the Assembly of the Representatives of the People and the government drawn from it in working to advance Tunisia's economic and social development.

The delegation emphasised that certain aspects of the electoral process could usefully be improved, with expert input where applicable from the Venice Commission. The electoral law should lay down tighter guidelines for funding candidates and election campaigning in future, with emphasis on the transparency of sources and the use and supervision of funding. The law should also be more effective in preventing misuse of administrative resources during election campaigns.

The 11-member PACE delegation was on the ground in Tunisia from 21 to 24 November. It held talks with several presidential candidates, the Chair of the Independent High Authority for the Elections, the Chair of the Independent High Authority for Audiovisual Communication, representatives of the media, civil society and international organisations. On polling day, it split into six teams which observed voting in and around Tunis and also in the governorates of Bizerte, Nabeul, Sfax and Sousse.

The Parliamentary Assembly will follow up its involvement in the parliamentary election process by continuing to actively assist its Tunisian partners in their efforts to consolidate democracy in their country. It will debate the reports on the parliamentary and presidential elections at its January 2015 part-session in Strasbourg.

Appendix 5 – Programme of the ad hoc committee for the second round (21 December 2014)

Saturday 20 December 2014

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|-------------|--|
| 11:00-11:45 | Meeting with Mr Taieb Bacouche, Secretary General of Nidaa Tounes, representing Mr Beji Caid Essebsi, President of Nidaa Tounes and presidential candidate |
| 12:00-12:30 | Meeting with Mr Mohamed Chafik Sarsar, Chair of the Independent High Authority for the Elections (ISIE) |
| 17:00-17:30 | Meeting with Mr Moncef Marzouki, President of Tunisia and presidential candidate |

Sunday 21 December 2014

Election observation

Monday 22 December 2014

- | | |
|-------------|------------------------------------|
| 08:30-09:15 | Debriefing of the ad hoc committee |
| 09:30 | Press briefing |

Appendix 6 – Statement of the ad hoc committee after the second round

Presidential election in Tunisia: an exemplary poll

“With the free and democratic election of their President, which was of superlative quality, the men and women of Tunisia have given themselves the finest New Year gift that a democrat can imagine,” said Andreas Gross (Switzerland, SOC) on behalf of the Council of Europe Parliamentary Assembly (PACE) delegation which observed the second round of the presidential election on 21 December 2014.

“The poll went off in an exemplary fashion. The delegation congratulates the Independent High Authority for the Elections (ISIE) and the tens of thousands of persons, officials of the 11 000 polling stations and observers, who contributed to the calm and absolutely proper conduct of this historic ballot.

Thus Tunisia has completed the revolutionary transitional phase by establishing institutions with the greatest possible legitimacy to answer forthwith the citizens’ hopes of building a just society and a flourishing economy in which nobody feels forgotten.

The country which was the source of the Arab Spring has succeeded in garnering the fruit of its efforts, to the delight of the Parliamentary Assembly of the Council of Europe,” said Andreas Gross.