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Observation of the parliamentary elections in Tunisia (26 October 2014)

Election observation report

Ad hoc Committee of the Bureau

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Contents

Page

1. Introduction	1
2. Legal framework	2
3. Electoral administration, registration of the voters lists and candidates	2
4. Election campaign and media environment	3
5. Election day	5
6. Conclusions and recommendations	5
Appendix 1 – Composition of the ad hoc committee	7
Appendix 2 – Programme of the ad hoc committee (23-27 October 2014)	8
Appendix 3 – Statement by the ad hoc committee	9

1. Introduction

1. The Bureau of the Parliamentary Assembly, at its meeting on 2 September 2014, decided to observe the legislative elections in Tunisia on 26 October 2014, subject to receiving an invitation, constituted an ad hoc committee composed of 11 members (SOC: 3; EPP/CD: 3; EC: 2; ALDE: 2; UEL: 1) and authorised a pre-electoral mission.

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

3. At its meeting on 29 September 2014, the Bureau approved the composition of the ad hoc committee (see Appendix 1) and appointed Mr Andreas Gross (Switzerland, SOC) as Chairperson.

4. Under the terms of 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 advisor.

5. As the Assembly’s 4th part-session in 2014 took place from 29 September to 3 October, the organisation of a pre-electoral mission around one month ahead the elections did not prove possible.

6. For the election observation mission, the ad hoc committee met in Tunis from 23 to 27 October 2014. The programme of the meetings is set out in Appendix 2 and the statement published after the elections appears in Appendix 3.

7. The ad hoc committee thanks the Head and the staff of the Council of Europe Office in Tunis for the organisation of the programme and their logistical support.

2. Legal framework

8. Tunisian citizens voted for the Assembly of the Representatives of the People (ARP), to replace the National Constituent Assembly, which was elected on 23 October 2011 and had since acted as both a constitutional drafting body and a transitional legislative body. According to the new Constitution passed on 26 January 2014, members of the ARP will hold office for five years. The ARP will have 217 members, the same size as the National Constituent Assembly.

9. The head of the political party or coalition that wins the largest number of seats in the ARP has to form a government within a month, with the possibility to extend this deadline once.

10. The ARP was elected on a regional, closed-list proportional representation system with the largest remainder method.

11. The Electoral Law required gender parity on the lists, and all candidate lists presented must alternately rank women and men. The law also required youth representation by stipulating that candidate lists in any constituency that has at least four seats must include a male and a female candidate no older than 35 among the first four candidates. The electoral system remained unchanged since 2011.

12. There were 33 electoral constituencies divided between in-country and out-of-country districts: 27 in-country constituencies, and 6 out-of-country constituencies: two in France, one in Italy, one in Germany, one for the Americas and the rest of Europe not represented, and one for the Arab world and the remainder of the world not represented.

13. The Venice Commission was not asked for an opinion on the Electoral law by the Tunisian authorities, but the Venice Commission's experts were invited to participate in exchanges of views with the members of the National Constituent Assembly when the law was being prepared.

14. According to the Electoral Law, any Tunisian citizen at least 18 years of age on the day preceding Election Day and who was on the voters list was eligible to vote, with the exception of persons sentenced to a complementary penalty under Article V of the Penal Code, military personnel, as defined by the General Basic Law for Military Personnel and Agents of the Internal Security Forces (officers of the Internal Security Forces, of the National Guard, of the Civil Protection, of the Prisons and Juvenile Detention Centres, and of the Security Forces for the President of the Republic and Official Personalities) and persons who were placed under legal guardianship on the grounds of insanity, so long as guardianship was effective.

15. The Venice Commission expressed concern over the blanket exclusion of security forces and army personnel from the electoral process.

3. Electoral administration, registration of the voters lists and candidates

16. The election management body in Tunisia is the Independent High Authority for Elections (*Instance supérieure indépendante pour les élections* – ISIE). The ISIE is a permanent commission entrusted with conducting democratic, free, pluralistic, fair and transparent elections and referendums. By law, it is composed of nine independent, neutral and competent members elected by the Assembly of the Representatives of the People for a single six-year term, with one third of the membership being replaced every two years. In addition to the Board of Commissioners, the ISIE is made up of an executive secretariat and regional commissions in each electoral constituency.

17. There were 10 569 polling stations in Tunisia and 405 stations outside of the country for Tunisians living abroad. The polling stations had been distributed so that no station had over 600 registered voters. Each polling station had a president and three additional poll workers entrusted with different tasks and responsibilities.

18. The polling stations were grouped in polling centres. Each polling centre had a president and one or more information officers, depending on the number of polling stations in the centre. The purpose of polling centres was to co-ordinate logistical operations and facilitate the work of polling stations.

19. Voter registration occurred in two phases: phase I took place from 23 June to 29 July and phase II from 5 to 26 August. Voter registration was initially scheduled to end on 22 July, but it was extended by the ISIE due to the low turnout. The ISIE announced that those who registered to vote in phase II could not be nominated as candidates for the parliamentary or presidential elections.

20. 5 285 136 citizens registered to vote for both the parliamentary and presidential elections (first round scheduled for 23 November), including 359 530 out-of-country voters. Of those registered, 50.5% were women. The 4 242 548 citizens who registered for the 2011 National Constituent Assembly elections were not required to register a second time; they could confirm their registration status via an SMS system and change their voting centre online if necessary.

21. The 2014 Constitution states that “the State works to attain parity between women and men in elected Assemblies” and the Electoral Law states that candidate lists must have gender parity and alternately rank men and women on the list. In case of non-compliance, the candidate list is rejected. However, there was no gender parity required for the heads of candidate lists in all constituencies from the same party or coalitions. As a result, out of 1 327 candidate lists, only 145 were headed by a woman.

22. 1 327 candidate lists competed in the election, with 97 lists competing abroad. Of the lists competing in Tunisia, 810 were made up of political parties, 170 were from coalitions and 347 were independent-candidate lists.

23. During the last two years, Tunisia has witnessed a phenomenon of reshuffling and merging among political parties, aimed at preventing the fragmentation that was severely penalised by voters in the 2011 elections.

24. Small parties from across the ideological spectrum remained, however, unable to unite within a polarised political landscape, dominated by the Islamist party Ennahda (which occupied 89 seats out of 217 seats in the ARP, having thus a large majority) and by Nidaa Tounes (“Call for Tunisia”), a secular party launched in 2012 as a potential secular challenger to Ennahda’s dominance and bringing together a large spectrum of political views. Nidaa Tounes had built in 2013 a coalition with other secular parties, including Al Massar, Jomhouri and Afek Tounes, but this coalition split before the elections.

25. While the main competitors were considered to be, without any doubt, Ennahda and Nidaa Tounes, it was also expected that Afek Tounes, Al Massar and the Popular Front (a group of eight parties with orientations including Marxism-Leninism, social democracy and pan-Arabism) would be successful in occupying a certain number of seats in the ARP.

26. Polling stations abroad were open on 24, 25 and 26 October.

27. Observers of the parliamentary elections included representatives from Tunisian civil society and international organisations, agents of candidates and parties, and foreign and domestic media representatives. The ISIE accredited 463 international observers from nine international organisations and 9 142 local observers.

4. Election campaign and media environment

28. The official campaign period lasted from 4 to 24 October, and the campaign period for candidate lists in the electoral constituencies abroad from 2 to 22 October.

29. The Electoral Law contains many prohibitions on the types of campaigning and locations where campaigning can take place. It stipulates that campaigning must comply with fundamental principles such as the neutrality of public administrative offices, places of worship, and the national media, as well as transparency of funding, equality between candidates and non-incitement to violence, hatred and discrimination. It prohibits campaigning and distributing campaign materials at the premises, or by members of public administrative facilities, public institutions, or private institutions not open to the public. The use of State administrative resources is forbidden. Furthermore, it prohibits campaigning in “educational, academic, and vocational institutions”.

30. The Electoral Law was designed to ensure equality of access to public media for all candidate lists. Candidate lists may use national and electronic media for campaigning; however, the use of foreign media is prohibited except when it addresses out-of-country voting. Political publicity, defined as any free of charge and/or paid campaigning means using marketing methods and techniques in support of one candidate with the

intent of obtaining voters' support, is prohibited by the Electoral Law during the entire election period, except for partisan newspapers which may "conduct propaganda" in the form of publicity advertisements for its party or candidate list. The joint decision of the ISIE and the Independent High Authority for Audiovisual Communication (HAICA), of 5 July 2014, decreed that candidate lists would be provided media coverage proportional to the number of candidate lists in that constituency. Candidate lists would each receive three minutes of free broadcast airtime on national radio and television stations.

31. The Electoral Law prohibits any broadcast or publication of opinion surveys that are directly or indirectly related to the election during the electoral campaign period, as well as the day preceding the election. This prohibition extends to studies and journalistic commentaries on such surveys.

32. All forms of campaigning were prohibited on 25 October, the day preceding election day, and on election day itself.

33. The ISIE opened an Elections Media Centre on 20 October, as a point of communication between the ISIE, journalists and the public regarding the parliamentary elections.

34. Electoral campaigns, as stipulated by the Electoral Law, are to be funded by private and public funding, and self-funded. Each candidate list is allocated a grant as public assistance to electoral campaign funding. The public subsidy is not fixed across all constituencies, but is instead determined based on criteria including the size of the constituency, the number of voters and the cost of living. It ranges from 2 250 to 5 850 Tunisian dinars. The total amount of campaign expenditure allowed for each candidate list is five times the level of public funding they were allocated.

35. Any list that receives less than 3% of valid votes and/or does not win any seats must return the entire public subsidy. Half of the grant is provided seven days before the launch of the campaign, and the second half is disbursed within one week after the announcement of the final results of the elections, provided the campaign list presents evidence and transfer account ledgers to the Court of Accounts showing that the first instalment was spent on campaign expenses.

36. The Electoral Law allows private donations from individuals (limited to 20 times the minimum wage, approximately 6 000 Tunisian dinars). It prohibits foreign funding for electoral campaigns, except foreign funding that contributes to campaigns in overseas constituencies. Vote buying and anonymous donations are also prohibited.

37. The ISIE and the Court of Accounts, in co-ordination with the Central Bank and Ministry of Finance, are responsible for controlling campaign financing. All funds received and disbursed must be disclosed to the Court of Accounts within 45 days of the date of the final announcement of election results. Candidate lists must also publish their financial statements in a Tunisian daily newspaper within two months of the announcement of the final results.

38. According to the law, candidate lists and parties found non-compliant will face financial, electoral or penal sanctions depending on the violation. In the case of non-submission of campaign accounts, the Court of Accounts pronounces financial sanctions amounting to up to 25 times the spending limit and the dismissal of the elected candidate. If a party exceeds the electoral expenditure ceiling, the Court of Accounts imposes financial sanctions proportional to the excess. If it exceeds the ceiling by 75%, financial sanctions are accompanied with the dismissal of the elected candidate. If candidates receive funding from foreign sources and they are not a qualified overseas constituency candidate, the Court of Accounts imposes penal sanctions (3-5 years of imprisonment) and dismisses the elected candidate. If vote buying occurs, the Court of Accounts imposes a financial sanction (a fine of 1 000-3 000 Tunisian dinars) and a penal sanction (6 months to 3 years of imprisonment) on whoever attempts to buy votes.

39. The ISIE reported more than 4 500 violations during the electoral campaign (posters being torn down or put in illegal places, the use of political publicity, and unauthorised public campaign events), but the overwhelming majority of them did not have a substantial impact on the electoral process.

40. As a matter of fact, many political parties conducted activities in advance of the campaign period, and considered these activities as being regular ones (going door-to-door, distributing fliers, organising political cafés, setting up tents or tables in strategic locations, etc.). Most large parties released their programmes weeks before the official start of the campaign. Electoral platforms addressed similar issues, from the restoration of the State's authority to the fight against unemployment. The need for a comprehensive strategy for fighting terrorism was also a common denominator among many platforms.

41. Generally speaking, the right to freedom of expression and association was respected. While tensions between parties existed throughout the electoral period, they did not manifest themselves during the campaign; even though many electoral events took place in the same locations simultaneously, this did not lead to altercations.

42. Some interlocutors informed the ad hoc committee about certain citizens' concerns linked to the possibility of terrorist acts on election day and about the possibility of vote-buying, particularly in rural areas. Also, some claimed that audiovisual and printed media covered Nidaa Tounes and Ennadha much more than smaller parties and coalitions.

5. Election day

43. The rules for the voting process were as follows. Upon entering the polling station, voters were checked for traces of ink and asked for identification documents. A poll worker then checked that the voter was registered on the voter list and asked the voter to sign it. The voter then dipped his or her left index finger in ink. Voters were then given a ballot paper stamped on the back in each of the four corners, then guided to an empty polling booth where the voter had to mark one candidate list and fold the ballot paper so that the mark remained secret and the stamp was still visible. The voter then placed the ballot paper in the ballot box.

44. Voters who were blind or had a physical disability that prevented them from writing could be accompanied by a spouse or blood relative who was an eligible voter. If no escort was available, the chairperson had to ask one of the voters present in the voting station to assist the voter. Escorts could not assist more than one voter and were not allowed to influence the choice of the voter.

45. Voting and counting took place at polling stations. Counting was to begin immediately after polling closed and votes had to be counted publicly and in the presence of observers and representatives of the candidate lists. Results from each polling station had to be posted in a publicly accessible place at the polling station and then be transmitted to the relevant centres in bags.

46. The ad hoc committee split into five teams which observed the vote and the counting in Tunis and its outskirts, as well as in the regions of Sfax, Sousse, Ariana, Bizerte, Mateur, Carthage, La Marsa, Kairouan and Cap Bon.

47. Polling was generally positive as regards the process and organisation of election day. The teams did not observe any significant irregularities. Voting was carried out transparently and in a calm and orderly atmosphere.

48. Citizen observers and candidate representatives were present in all polling stations visited, contributing to the transparency of the process. They appeared well organised and knowledgeable about the procedures.

49. Closing and counting was less well organised with some polling staff appearing to be confused about procedures. However, the ad hoc committee members felt that this had not affected the results.

50. The ad hoc committee was particularly impressed by the way in which those who did not win displayed political maturity by accepting the result of the poll, thus helping to move beyond the polarisation of Tunisian society.

51. The final results were announced by the ISIE on 21 November. The number of seats in the Assembly of Representatives of the People are respectively: Nida Tounes, 86 seats; Ennadha, 69 seats; Free Patriotic Union (UPL), 16 seats; Popular Front, 15 seats; Afek Tounes, 8 seats; Congress for the Republic (CPR), 4 seats; Democratic trend, Al Moubadara and People's Movement, 3 seats each; Current of Love (Mahabba), 2 seats; Al Joumhour, Democratic Alliance, Movement of Socialist Democrats, Rad el iitibar, Farmers' Voice Party, Al Majd al-Jerid and National Front of Salvation, 1 seat each.

52. The voter turnout was 67.72%.

6. Conclusions and recommendations

53. The parliamentary elections of 26 October 2014 marked a crucial stage in the post-revolution transition of Tunisia. They were free, inclusive and transparent. The Assembly of the Representatives of the People that has been elected is genuinely representative of the people, with the kind of legitimacy required to take necessary and essential decisions.

54. The ad hoc committee was impressed by the way in which the electoral administration organised its work and by its interaction with observers and civil society in the interest of the integrity of the electoral process. Even though the ISIE had a limited time frame in which to organise the elections, it managed to carry out the process without major irregularities.

55. As no democratic process is ever perfect, the ad hoc committee had some suggestions for possible improvements in future elections, including:

- the media should encourage debate and comparison between the different agendas and policies so that citizens can better understand the challenges, and make an informed choice on polling day;
- the rules on election campaign financing could be revised to allow parties to lawfully increase their spending on elections, while at the same time ensuring absolute transparency regarding the source of their funds;
- policy makers and the various institutions should continue their efforts to encourage young people, women and disadvantaged groups to participate in the electoral process, as the only way of making their voices heard.

56. The Parliamentary Assembly stands ready to continue to work with the country's authorities and the Assembly of the Representatives of the People to support their efforts on the path to democratisation and on fulfilling Council of Europe standards.

Appendix 1 – Composition of the ad hoc committee

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

- Andreas GROSS (Switzerland, SOC), Head of the Delegation
- **Socialist Group (SOC)**
 - Andreas GROSS, Switzerland, Chairperson
 - Ingrid ANTIČEVIĆ-MARINOVIĆ, Croatia
 - Carina HÄGG, Sweden
- **European Conservatives Group (EC)**
 - Reha DENEMEÇ, Turkey
 - Mehmet TEKELIOĞLU, Turkey
- **Alliance of Liberals and Democrats for Europe (ALDE)**
 - André BUGNON, Switzerland
 - Adele GAMBARO, Italy
- **Venice Commission**
 - Serguei KOUZNETSOV, Head of Division, Neighbourhood co-operation
- **Secretariat**
 - Bogdan TORCĂTORIU, Administrative Officer, Interparliamentary Co-operation and Election Observation Division
 - Franck DAESCHLER, Principal Administrative Assistant

Appendix 2 – Programme of the ad hoc committee (23-27 October 2014)

Thursday 23 October 2014

- 14:30-15:30 Meeting of the ad hoc committee:
- Opening of the meeting by Mr Andreas Gross, Head of Delegation
 - Presentation of the recent developments in the field of electoral legislation and of the activities of the Venice Commission in Tunisia
 - Practical arrangements and logistics, by the Secretariat
- 16:00-18:00 Meeting with members of the diplomatic corps
- 19:00 Meeting with representatives of the media
- Dar Assabah, Raja Chaabane
 - RTCI/Courier de l'Atlas, Rached Cherif
 - Le Temps, Zied Dabbar
 - La vie londonienne, Mehdi Jlassi
 - Tuniscope, Abir Feres
 - Radio Shems Fm, Feres Khiari
 - Mosaïque Fm, Hechem Laamari

Friday 24 October 2014

- 08:45 Meeting with Mr Mohamed Moncef Marzouki, President of Tunisia
- 11:00-11:30 Meeting with Mr Rachid Ghannouchi, President of Ennahdha
- 11:45-12:15 Meeting with Mr Ahmed Seddik, Member of the Council, Popular Front
- 12:45-13:15 Meeting with Mr Beji Caid Essebsi, President of Nidaa Tounes
- 13:30-14:00 Meeting with Mr Mohamed Chafik Sarsar, Chair of the Independent High Authority for the Elections
- 16:00-16:30 Meeting with Mr Faouzi Ben Abderrahmane, Co-Founder of Afek Tounes
- 16:30-17:00 Meeting with Mr Samir Taieb, Secretary General, Al Massar
- 17:00 Meeting with Professor Kais Said, professor of constitutional law
- 18:00 Meeting with representatives of NGOs (including domestic election observer organisations)

Saturday 25 October 2014

- 08:30-09:30 Presentation by Mr Nicolas Kaczorowski, Director of the Office of the International Foundation for Electoral Systems in Tunisia
- 10:00-11:30 Meeting with Mr Mustapha Ben Jaafar, President of the National Constituent Assembly
- Meeting with Mr José Antonio De Gabriel, Deputy Chief Observer, European Union Election Observation Mission

Sunday 26 October 2014

Election observation

Monday 27 October 2014

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

Appendix 3 – Statement by the ad hoc committee

The parliamentary elections in Tunisia were exemplary and mark the end of a crucial stage in the post-revolution transition

“I would like to congratulate the Tunisian people on the outstanding quality of the electoral process, marking a crucial stage in the post-revolution transition”, said Andreas Gross, head of the delegation of the Parliamentary Assembly of the Council of Europe (PACE) which observed the parliamentary elections in Tunisia on 26 October 2014. “The elections were free, inclusive and transparent. The Assembly of the Representatives of the People that has been elected is genuinely representative of the people, with the kind of legitimacy required to take necessary and essential decisions, in the national interest,” he added.

The delegation wishes to draw attention to the exemplary nature of the elections and hopes that those who did not win will display the same political maturity as ordinary citizens by accepting the result of the poll, thus not only contributing to the swift establishment of the new legislature but also helping to move beyond the polarisation of Tunisian society.

The delegation was impressed by the way in which the electoral administration organised its work and by its interaction with observers and civil society in the interest of the integrity of the election on 26 October 2014.

Clearly, no democratic process is ever perfect and the PACE delegation has some suggestions for possible improvements in future elections, including notably the following.

The media should encourage debate and comparison between the different agendas and policies so that citizens can better understand the challenges, and make an informed choice on polling day.

The rules on election campaign financing could be revised to allow parties to lawfully increase their spending on elections, while at the same time ensuring absolute transparency regarding the source of their funds.

Policy makers and the various institutions should continue their efforts to encourage young people, women and disadvantaged groups to participate in the electoral process, as the only way of making their voices heard.

The 10-member PACE delegation was in Tunisia from 22 to 27 October. During that time, it met with the President of Tunisia, the President of the National Constituent Assembly, the Chair of the Independent High Authority for the Elections (ISIE), the leaders of the main political parties and also representatives of the media and civil society, the diplomatic corps and international organisations. On election day itself, the delegation was split into five teams which observed the polling in and around Tunis and in the regions of Sfax, Sousse, Ariana, Bizerte, Mateur, Carthage, La Marsa, Kairouan and Cap Bon.

The Assembly will continue to actively assist its Tunisian partners in their efforts to democratise Tunisia. Another delegation will visit the country to observe the first round of the presidential election on 23 November 2014, and the Assembly will debate the two reports on the elections in Tunisia at its January 2015 part-session in Strasbourg.