



**PRELIMINARY STATEMENT OF
THE IRI-NDI ELECTION OBSERVATION MISSION
TO TUNISIA’S OCTOBER 13, 2019 PRESIDENTIAL RUNOFF ELECTION**

Tunis, October 14, 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 presidential runoff election on October 13.

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, and offer recommendations to improve future elections.

This statement builds on observations of the joint mission’s eight long-term observers and seven core team members, who have been deployed since mid-August, the pre-election delegation that visited Tunisia from July 30-August 2 and two delegations of short-term observers that followed the September 15 and October 6 elections.

The 23-member delegation included political leaders, diplomats, former elected and government officials, and regional and electoral experts from 10 countries and was led by Maureen White, a member of the NDI Board of Directors; Scott Mastic, vice president for programs at IRI; and Leslie Campbell, NDI senior associate and regional director for Middle East and North Africa.

The delegation does not seek to render final conclusions on the October 13 election at this time. The official tabulation process and announcement of results are not complete as of midday on October 14 and 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 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 October 13 presidential runoff concludes a remarkable electoral period that included three national elections in four weeks. Although official results have not been announced, exit polls and a parallel vote tabulation conducted by civil society observers suggest that politically independent Kais Saied will be Tunisia's next president. Taken together with the October 6 parliamentary elections where most established parties lost seats, the result has reordered the political landscape.

Approximately four million Tunisians (57.8 percent of registered voters) turned out at the polls, a significant increase from prior rounds. Election officials conducted the polls confidently and knowledgeably, and the day's proceedings were calm and orderly. Observers positively assessed all stages of the election day process, reporting that citizen observers and candidate agents were present in the majority of the polling stations visited. Given the compressed timeframe, this is no small achievement.

Nevertheless, the success of an election cannot be judged by election day alone. Democratic elections rest on a foundation of institutions, laws and principles that ensure that voters and candidates can participate in the process without unreasonable or arbitrary restrictions. The arrest and detention on charges of money laundering and tax evasion of one of the presidential candidates, Nabil Karoui, and his inability to campaign freely was cause for concern. Although Karoui was released and appeared in a debate, the fact remains that his incarceration prevented him from freely seeking votes for most of the campaign period and prevented voters from fully knowing him and his platform.

The delegation is not here to draw conclusions about the legal merits of the case against Karoui, but has based its assessment on the principle of the presumption of innocence until proven guilty. Further, the delegation notes that election officials and even his opponent, Kais Saied, acknowledged that adherence to the requirement for equal opportunities to campaign was in doubt.

Some stakeholders noted that Karoui's candidacy was assisted through his relationship with Nessma TV, which promoted the candidate liberally and was fined multiple times as a result. The delegation urges that media electoral violations should be thoroughly investigated and, where violations have occurred, proportionate sanctions should be enforced.

As of the release of this statement, Karoui has not explicitly declared an intention to contest results, but did criticize a lack of equal opportunity to campaign. In a televised statement, he deferred congratulating his opponent until after final results are published by the Independent High Authority for Elections (ISIE).

As the process concludes, the delegation wishes to reiterate its successes: an independent election

commission that has been praised by observers and competitors alike; the airing of live political debates – watched by millions – that deserves to be replicated in other countries in the region; citizen observers who mobilized by the thousands to ensure the integrity of the polls; and a Tunisian electorate that treated the exercise with enthusiasm and respect.

Whatever the final result of this series of contests, millions of Tunisians have registered their dissatisfaction with the political establishment and the status quo. Going forward, Tunisia's elected leaders must address the social and economic issues that can improve the lives of Tunisians. The delegation calls on all who support Tunisia's continued democratic transition to strengthen the institutions that can ensure and protect the aspirations of the Tunisian people.

PRE-ELECTION ENVIRONMENT

Sunday's presidential runoff was held four weeks after the first round of the presidential election, and one week after legislative elections. The ISIE had originally scheduled the presidential election on November 17 (five weeks after the parliamentary elections), but a snap presidential election was called after the death of President Beji Caid Essebsi on July 25. This change was made so that a new president could be sworn in no more than 90 days after Essebsi's death, in accordance with Tunisia's constitution.

The shortened calendar created significant pressure on all electoral stakeholders. Authorities had to organize parliamentary and presidential elections simultaneously, with less time to train staff and prepare logistics. Political parties and candidates had to cope with an abbreviated campaign period that reduced their time to mobilize voters and complicated the campaign regulatory environment. Citizen observers had to monitor two overlapping campaigns and three election days in four weeks. Shorter campaign periods also limited citizens' contact with candidates.

Out of 26 first-round candidates, two advanced to the runoff – jurist Kais Saied and businessman Nabil Karoui. Both are considered to be political outsiders, and they campaigned as change candidates representing a move away from the status quo. Kais Saied ran as an independent focusing on personal integrity, anti-corruption and rule of law. Nabil Karoui is the founder of the newly established Qalb Tunis party, which has focused on combating poverty and raising the standard of living.

Although Kais Saied is an independent candidate and eschews formal alliances with any political parties, several parties have endorsed him over Nabil Karoui. Ennahdha, Tayar Demokrati, and the Karama Coalition, among others, encouraged their supporters to vote for Saied in the presidential runoff.

On August 23, nearly two weeks before the official campaign period started, police arrested Nabil Karoui on charges of money laundering and tax evasion. The charges originated in a complaint against Karoui filed by the Tunisian NGO IWatch in 2016. Karoui was considered a top contender

for the presidency; at the time of his arrest he ranked first or second in most public opinion polls.

Subsequent legal decisions in the Karoui case shaped the public discourse and electoral environment. The ISIE promptly declared Karoui's presidential bid to be valid despite his arrest, having found no legal grounds for his disqualification. Karoui's lawyers filed several requests demanding his release, but initially courts either refused them or declined to issue a ruling. As a result, Karoui's legal fate was held in limbo while he remained on the ballot. Various stakeholders, including the ISIE and the interim president Mohamed Ennaceur, called upon the authorities to ensure that candidates have equal opportunities to campaign, intimating that in their view, his continued detention was damaging the credibility of the election process.

The Court of Cassation ordered Karoui's immediate release on October 9, overturning the decision of the Indictment Division without referral. Karoui's representatives asked for a postponement of the election runoff in order to provide the candidate the opportunity to campaign, but their request was denied. They also declared plans to challenge the election results in light of Karoui's inability to campaign while held in detention. This contributed to uncertainty about the runoff date and the potential cancellation of the entire process.

Campaign Environment

The campaign period for the presidential runoff started on October 3 at midnight and ended on October 11 at midnight. The electoral law prescribes a campaign silence period, starting 24 hours prior to the opening of polls and ending when the polls close.

Nabil Karoui relied on surrogates to campaign on his behalf up to his release from prison on October 9. After the first round, Kais Saied declared he would suspend campaign activity in order to preserve the principle of equality of opportunity in campaigns as enshrined in the law. However, observers noted that his supporters continued to promote his candidacy throughout this period, particularly online. Saied also spoke to the media on several occasions, including an extended interview on Tunisia's national television on September 25. Karoui was eventually able to give a similar interview to the private Tunisian satellite channel Elhiwar Ettounsi on October 10, after his release.

After the parliamentary elections and Karoui's release on October 9, the campaigns for the runoff picked up. Observers reported varying visibility and intensity of campaigns in different districts. Saied's supporters focused their efforts on social media, door-to-door canvassing, distribution of leaflets and campaign tents to engage with voters on the street, supported by volunteers from other political parties. Karoui made several appearances in the two days between his release and the start of the campaign silence, but his supporters have complained they were not able to conduct a full-fledged campaign due to their candidate's detention and frozen assets leaving them with no funding. Karoui's representatives noted that a requirement to notify the Independent Regional Election Authorities (IRIEs) about campaign activities 48 hours in advance was impossible to

fulfill since Karoui was released less than two days before the end of the official campaign period.

On the final campaign day, both candidates held large rallies in the capital. Karoui addressed supporters asking them to vote on Sunday, while Saied addressed his supporters through a pre-recorded video. Both events, held in nearby areas of Tunis at the same time of day, were notably peaceful and unimpeded.

Campaign Finance

A number of interlocutors raised concerns about the adequacy of campaign finance rules and their implementation. In particular, they noted that the ISIE and the Court of Accounts lack sufficient capacity to ensure that all electoral expenses are reported, that the information about any violations detected is available in a timely manner, and that any sanctions imposed are timely, proportionate and enforced. Court of Accounts representatives also noted the need to provide more detailed definitions of electoral expenses, clearer distinction between electoral propaganda and political advertisement, an appropriate policy regarding social media campaigns, and the timeline for adjudication taking into account the electoral calendar.

Media Environment

Media coverage of elections continued to be an issue of concern for electoral stakeholders. While many credited the public media with professional and balanced coverage of the elections, private media were regularly criticized for political bias. Regulatory authorities have also come under criticism for selective enforcement of the legal code governing elections-related media.

On August 21, the High Independent Authority for Audiovisual Communication (HAICA) and the ISIE banned three media outlets – Nessma TV, Zitouna TV, and Radio Quran – from reporting on the election campaign for broadcasting without licenses. All three have ignored the ban. Throughout the official campaign period, HAICA issued fines against 18 media outlets for violating the rules on election coverage. In the week leading up to the runoff, HAICA fined Zitouna TV 30,000 TND (approximately 10,000 USD) for commenting on public opinion poll results and issued an additional 320,000 TND fine on Nessma TV for repeated political advertising for Nabil Karoui. On Saturday, HAICA fined six other media outlets between 3,000 and 20,000 TND for breaching the campaign silence period.

Following Karoui's release from detention, he was given the opportunity for a TV interview, and a candidate debate took place in the final hours of the campaign period on Friday, October 11. The debate was organized by the national TV Al Wataniya, HAICA and the ISIE with the support of the NGO *Munathara*. An estimated 6.4 million viewers nationwide watched the candidates answer direct questions about their programs and their vision for the presidency.

Social media, especially Facebook, has played an important role in the election process. Candidate representatives reported using Facebook pages to communicate with voters and to recruit poll

watchers. Many of Kais Saied's supporters and activists also stated that they became engaged in the campaign primarily through Facebook groups and used them to plan and coordinate activities. Facebook posts and paid advertisements were used to disseminate information and build support. While it was a principal pillar for campaign sympathizers to communicate and engage with the public, social media was also used for defamation campaigns, hate speech and distribution of false information. The source of these media, along with their impact, is difficult to measure at this stage.

Election Administration

The elections are managed by the ISIE, a permanent public institution tasked with guaranteeing democratic, free, pluralistic, fair and transparent elections. The IRIEs represent the ISIE in each of Tunisia's 27 electoral districts. In the lead up to the presidential runoff, the ISIE conducted a very limited voter outreach, primarily through the media and billboards. Some 300 of the 55,000 polling staff were replaced based on the assessment of their performance in the parliamentary elections or, in several instances, for bias in favor of a candidate. The contracts of about 1,500 campaign monitors were extended to October 15 in order to allow sufficient scrutiny of the runoff campaigns and the silence period. The ISIE has not published full details of the violations detected by campaign monitors, actions taken to sanction them, or its media monitoring efforts.

According to a majority of stakeholders, the ISIE and the IRIEs continued to manage operations with professionalism and in line with the tight electoral calendar. However, stakeholders also noted a need for further transparency regarding campaign violations detected and measures taken to sanction or prevent violations, and a more robust and consistent communication strategy to inform the public about various aspects of the electoral process and the ISIE's work.

Electoral Framework

The electoral legal framework, which remains largely unchanged since the 2017 amendment of the electoral law, is generally sound and adequate for the organization of the 2019 presidential elections. However, the passing of President Essebsi necessitated an exceptional electoral amendment, adopted on August 30, 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, still does not guarantee that, in case the runoff results are contested, the new president will be sworn in by the October 23 deadline.

Complaints and Appeals

Following the first round of the presidential election, six challenges to the preliminary results were submitted to the Administrative Court, mostly concerning the lack of respect for the principle of equal opportunity between candidates or lack of ISIE sanctions for campaign violations in the audio-visual media or online. All six appeals were ultimately dismissed.

By law, all the candidates running in the first round of the presidential election may contest the election results for the first round as well as the runoff. Appeals to the preliminary results of the runoff of the presidential elections can be submitted to the Administrative Court the day after the ISIE announces the preliminary results. Under the parameters of the electoral amendment, the latest date for the announcement of the presidential results would be November 3, assuming two rounds of appeals (appeal of preliminary results and appeal of judgment). If there is only one round of appeals, the final results would be announced by October 26. Both dates fall outside the constitutionally prescribed 90-day term limit for an interim president. Concerns also remain about the complainants' ability to gather and submit sufficient evidence and the courts' ability to provide effective legal remedy under the shortened timeframes.

Citizen Election Observers

Civil society groups continued to actively monitor various aspects of the election process, including candidate campaigns, the media environment and participation of women, youth and persons with disabilities, as well as the complaints and appeals process. They issued regular reports outlining their findings and provided recommendations for improvements. Several observer groups highlighted an increase in verbal and physical attacks on observers, particularly during their observation of campaign events. Many noted that there is a need for more concerted efforts on behalf of the election administration to communicate and cooperate with civil society groups and ensure their full access to various stages of the election process, particularly the tabulation of results.

ELECTION DAY OBSERVATIONS

Overall, the election day was calm and peaceful, although there were isolated reports of tension. Observers deployed by this mission assessed that generally all stages of the election day process were conducted in line with the procedures. Polling officials at polling stations visited by observers worked diligently and professionally. Security officials were present in polling centers visited by observers, and were reported to be adhering to their role of safeguarding the elections without interference. The ISIE held regular press conferences, providing turnout statistics and other information about the election throughout the day.

Participation

More than seven million Tunisians were registered to vote in one of the 13,830 polling stations in Tunisia and abroad. Only voters who arrived in person at the place of registration on election day were given the opportunity to vote. Preliminary voter turnout in Tunisia was reported to be 57.8 percent, with significant differences between districts, ranging from 42.9 percent in Jendouba to 66.3 percent in Kebili. The ISIE is yet to announce the turnout statistics by gender and age, but preliminary data indicates that again more men than women voted. Observers reported that in many polling stations, especially later in the day, it appeared that a significant number of younger voters participated in the polls. Some of the elderly voters were unsure how to properly mark or fold the ballots. Not all polling centers visited by observers were adequately accessible for persons with

disabilities.

Set-Up and Opening Procedures

Polling stations generally opened on time, with no significant delays reported. Opening procedures were mostly followed and observers assessed the process positively in all observed polling stations. In only one observed station, the setup of the polling booth too close to the window raised concerns about the protection of the secrecy of the vote.

Voting

Voting was generally well organized and polling officials administered the vote in a competent and professional manner. The officials reported receiving all necessary materials and demonstrated a solid understanding of the procedures. In a few instances, minor procedural issues were reported, such as stamping the ballots in advance or failing to consistently check for ink on voters' fingers. The secrecy of the vote was usually maintained, with only a few exceptions. While no major problems were reported with the voter registry, observers noted that several centers had no voter lists displayed. They also witnessed a few instances of voters being sent away for showing up at the wrong polling station, not having proper identification documents, or not being on the voter list.

Closing and Counting Procedures

Observed polling stations closed on time and were overall in line with the prescribed procedures. The process was described as transparent and efficient, and the results protocols were publicly posted in all observed polling stations.

Observers and Candidate Agents

The ISIE issued 17,000 observer accreditations, as well as 33,000 accreditations for candidate agents, about 20,000 for Karoui and 13,000 for Saied. Candidate agents were present in the majority of polling stations visited by our delegation observers. In polling stations visited by our delegation, citizen observers were seen adhering to their roles and following the process throughout the day. Several observer groups reported isolated issues with access for observers to polling stations, as well as difficulties in obtaining turnout statistics from polling officials in certain districts. However, the overall election day assessment of citizen observer groups was positive, with fewer violations reported than in the previous elections this year.

RECOMMENDATIONS

In the spirit of the Declaration of Principles for International Election Observation to which IRI and NDI are parties, the mission urges the competent authorities to strengthen future election processes with the following recommendations:

- Given the unique and controversial circumstances of the campaign, the delegation urges the victors of all rounds to move into the next phase of government formation and governance in the spirit of magnanimity and reconciliation.

- All stakeholders responsible for responding to election-related challenges should provide timely information about the nature of any complaints filed and provide documentation of their decisions, including supporting arguments.
- The electoral framework should be thoroughly reviewed and amended to include revisions to media regulations, campaign finance and expenditure rules and restrictions on campaign activities that many stakeholders claim are too onerous. The law should be reviewed through a transparent, open and consultative process.
- Measures should be considered to address a high number of effectively-disenfranchised voters, including: prisoners and detainees; home-bound or hospitalized voters; and polling officials or observers deployed outside of their registration area.
- The international community should continue its efforts to support key electoral bodies, including the ISIE, HAICA, Court of Audits, and the Administrative Court, to improve capacity, coordination and cooperation to ensure timely and effective implementation of electoral laws and regulations, particularly in the post-election period.

About the Mission

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 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

*The **National Democratic Institute (NDI)** is an independent, nonprofit, nonpartisan organization working to support and strengthen democratic institutions worldwide through citizen participation, openness and accountability in government. More information is available at www.ndi.org.*

*A nonprofit, nonpartisan organization, the **International Republican Institute (IRI)** advances freedom and democracy worldwide by helping political parties to become more responsive, strengthening transparent and accountable governance, and working to increase the role of marginalized groups in the political process – including women and youth. More information is available at www.iri.org.*

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