



Recommendations Issued by a Group of Tunisian Civil Society Organizations to Improve the Electoral Process

Six civil society associations—Chahed Observatory, Ofiyya Coalition, IWatch, Jeunesse sans Frontières (JSF), Centre Tunisien Méditerranéen (TU-MED) and Mourakiboun—began in July 2017 to collaborate in their efforts to observe the 2018 municipal elections. We each focused on different aspects of the electoral process and used various methodologies to provide a comprehensive picture of the elections. Collectively, our associations recruited, trained and deployed more than 3,500 Tunisian citizens throughout the territory to witness each stage of the municipal elections process, from voter registration through appeals.

Our associations are committed to conducting objective and impartial observation of Tunisian elections. Through the presence and discipline of our observers, we seek to deter negative behavior while also building Tunisian citizens' confidence in elections. We also gather, analyze and report factual information about the electoral process. Each of our organizations publishes detailed reports containing these findings.

The purpose of election observation goes beyond reporting information. Instead, our associations seek to use our findings to generate ideas for improving Tunisian elections in the future. To do this, we seek to work in an open and constructive manner with those institutions involved in designing and administering the electoral process: the ISIE, ARP, HAICA, Court of Accounts, and Administrative Court, among others.

In this spirit, our six organizations gathered together to elaborate a common set of priority recommendations. This month, we will meet with various stakeholders to further elaborate these ideas and make adjustments as necessary. If adopted by decision-makers, we believe that these recommendations would contribute to well-organized, transparent, credible, and participatory legislative and presidential elections in 2019.

Cross-cutting recommendations:

1. **ARP: elect the three members and president of the ISIE.** The parliament's delays in electing a new president and replacing three commissioners within the ISIE jeopardizes the success of the 2019 elections. Without an empowered president, the ISIE is unable to exercise its regulatory authority to begin to organize the electoral process. Numerous shortcomings were observed during the last elections due to delays in selecting ISIE leaders. It is imperative that the ARP fill these leadership positions immediately, in accordance with Articles 5, 6, 7 and 9 of law n° 2012-23 (December 20, 2012).

2. **ISIE: recruit for vacant positions.** Before the municipal elections, vacant positions within the ISIE—16 positions, of which nine were senior-level, including the executive director—reduced the capacity of the commission to adequately plan the elections, raise the public’s awareness and guarantee the provision of necessary materials. The ISIE must immediately begin recruiting for vacant positions within its executive body. It should review recruitment criteria to ensure that candidates’ skills are prioritized over prior experience with the ISIE.

3. **ISIE: strengthen capacity to monitor offenses and enforce the law.** In the 2018 municipal elections, civil society observed political actors committing a considerable number of violations. Some of these violations—such as conducting campaign activities on the silence day and violence between party supporters on election day—were of a serious nature. The ISIE did not invoke Article 143 of the electoral law to invalidate the results in any district. By improving the training of campaign monitors and polling workers, the ISIE would be able to more thoroughly monitor election violations.

4. **ISIE: provide practical and timely training to all field staff.** ISIE staff who receive timely and high-quality training will be positioned to effectively manage and oversee each stage of the electoral process. In 2018, we found that ISIE personnel—such as voter registration agents, voter education agents, campaign monitors, and polling center workers on election day—had an incomplete understanding of regulations and procedures, often asking election observers for guidance. The ISIE should initiate recruitment sufficiently in advance of elections to ensure that training takes place within a suitable timeframe. The ISIE should undertake immediate efforts to improve the quality of its trainings—for example, by incorporating simulations—and recruit trainers who possess practical field experience.

5. **ISIE: establish new mechanisms for regular engagement with civil society.** We welcome a more consistent and regular interaction between civil society and the ISIE throughout the entire electoral process. Periodic meetings between civil society and the ISIE, like those held in 2014, would provide a valuable platform for exchange. The ISIE could also consider adopting new strategies to receive information and requests from civil society on an ad-hoc basis, throughout the process. During the campaign period, for example, it is inefficient for civil society to communicate with the ISIE through the IRIEs. The ISIE should consider establishing a direct phone line or an online form to receive information from accredited observer groups, and should try to respond to these demands within a reasonable timeframe.

6. **ISIE: guarantee observers’ access to all stages of the electoral process.** While previous elections were transparent and open to observation by civil society, access for observers to certain aspects of the electoral process remained insufficient. The ISIE could take steps to fill these gaps and promote universal access for civil society. In accordance with Articles 4 and 134 of the 2014 electoral law, the ISIE should guarantee sufficient physical proximity for observers to the candidate registration process. In tabulation centers, the ISIE should guarantee observers’ sufficient physical proximity to observe the process in detail.

Voter registration:

7. **ISIE: expand awareness-raising campaign on voter registration.** Only 66 percent of eligible Tunisian citizens were registered to vote in 2018. To raise awareness among the public of the voter registration process, the ISIE should as soon as possible launch a timely, expansive and innovative campaign. Such a campaign must be launched as soon as the electoral calendar is adopted, in coordination with registration agents. Advertisements for the campaign should promote the elections among target populations such as youth, persons with disabilities, illiterate citizens, and residents of rural regions. The ISIE should welcome and pursue partnerships with civil society, who are enthusiastic about the prospect of contributing to voter education and capable of injecting new ideas into such a campaign.

8. **ISIE: update and publish the voter register.** Citizens continue to face challenges in confirming their registration as voters, receiving error messages and contradictory information concerning their voting rights and assigned polling stations. The ISIE should update the voter register based on recent audits and, if necessary, a new audit. To increase the transparency of the voter registration process, the ISIE should publish the voter register in an exploitable format, such as a CSV file. Such a step need not necessarily compromise citizens' personal information; the published register could be modified, for example, to only include the last four digits of each citizens' National Identity Card (CIN) numbers. In addition, the ISIE should publish the results of its three internal audits of the voter register. The ISIE should lengthen the consultation period during which the voter register is posted in municipalities for public review.

9. **ISIE: devote the attention and resources needed to register voters.** During the municipal elections, voter registration agents were under-trained, registration materials were missing and registration offices were closed during working hours. A permanent voter registration process requires advanced planning, well-trained staff and sufficient resources. For the elections that follow those of 2019, the ARP and the ISIE should consider increasing the number of permanent registration sites at the municipal level.

Candidate registration:

10. **Civil society and media: encourage inclusion in candidate selections.** Leveraging legal provisions that support the candidacies of women, youth, and persons with disabilities, civil society and the media should encourage members of these groups to run as candidates. Unlike in 2018, when many citizens—especially women and youth in rural areas—were not aware that they were candidates, it is important to ensure that individuals participating as candidates do so with full awareness and under their own will. Candidates must know the potential financial consequences of their participation, particularly as relates to the performance of their candidate list.

Electoral campaign:

11. **ARP: clarify the legal definitions related to campaign finance.** Unclear definitions and loopholes in the legal framework concerning campaign finance create

opportunities that can be exploited by political actors to expand their campaigns. This undermines effort to create a level playing field for candidate lists and reduces citizens' confidence in elections. The ARP should modify the electoral law to include a precise definition of vote-buying that features specific criteria for incrimination.

12. **ARP: add a reference to social networks in the electoral law.** While oversight of social networks requires considerable resources, the ARP could take a positive step by modifying the electoral law to establish basic rules concerning candidate lists' use of social networks. At a minimum, the ARP should: incorporate social networks under the definition of forms of political propaganda, thereby creating a valid legal basis for the ISIE to exert oversight; require that candidate lists confirm their official pages on social networks; and forbid candidate lists from using multiple official pages.

13. **ARP: clarify campaign regulations.** Despite the distinction between the concepts of "electoral propaganda" and "political publicity" in the electoral law, certain candidate list and political party activities cannot be qualified under one of these two categories, and are therefore open to interpretation. The ARP should reduce the confusion between the activities that fall within the framework of electoral propaganda and political publicity. For example, it is not clear whether activities such as fixing banners, decorating cars, or using sponsored videos on Facebook are legal. The ARP could therefore clarify these terms in the law, or even eliminate this distinction, replacing it with a clear definition of forbidden activities. This would allow political actors to more easily organize campaigns that succeed in soliciting citizens' interest. Clarifying these rules would also lighten the burden on the ISIE and its campaign monitors, who could in turn concentrate on more serious violations such as hate speech, violence, abuse of state resources, and campaigning in places of worship.

14. **ARP: address the legal loophole that encourages pre-campaign activities.** The restrictive rules that govern the electoral campaign encourage candidate lists to organize more visible and widespread activities in the pre-campaign period. Unbound by restrictions that mark the campaign period, the media also refrain from respecting the principles of equity and parity. The ARP can address this gap by extending to the pre-campaign period the rules and media regulations that govern the formal campaign period.

15. **Court of Accounts: provide training ISIE monitors on campaign finance.** Given the ISIE and the Court of Accounts' shared responsibility for monitoring electoral campaigns, the Court could contribute to the ISIE's training of campaign monitors by organizing sessions on campaign finance regulations. This could help to strengthen the relationship between the ISIE and the Court of Accounts during the electoral period and to make trainings for agents more precise. The Court of Accounts could also develop booklets and manuals, targeted to campaign monitors and candidate lists alike, which simplify the financial and accounting rules that apply to electoral campaigns. The participation of the Court of Accounts from the beginning of the electoral process could facilitate monitors' work by contributing to more precise and effective monitoring reports, which would permit the Court to strengthen its overall oversight.

16. **Court of Accounts: establish a committee dedicated to overseeing political finance and financing of electoral campaigns.** Given the importance of political party

finance and its direct effect on the electoral process, it is necessary to reinforce transparency and the effectiveness of the Court of Accounts' oversight. In the long term, the formation of a permanent committee within the Court of Accounts, specialized in overseeing the transparency of the various forms of political finance, could strengthen this oversight. With such a specialization, this committee could adopt a stronger and more effective monitoring methodology. The existence of a permanent committee which would work throughout the electoral process would reduce the burden on the Court of Accounts during this period. During elections, such a committee could also include the ISIE in monitoring electoral campaigns.

17. **HAICA: promote transparency of media financing.** During elections, the relationship between political parties and media outlets is vulnerable to corruption, such as collusion whereby the media commit violations that benefit parties under quid-pro-quo arrangements. The HAICA should ensure effective oversight of media financing during and after the electoral period, as outlined in Articles 27, 29 and 46 of decree-law n°116 (November 2, 2011). In particular, Article 46 authorizes the HAICA to utilize “all means necessary” to ensure that candidates and media respect the law. According to our interpretation, this could permit the HAICA to request bank statements from the Central Bank and to monitor financial transactions between political parties and media.

18. **ISIE: replace the current system of media penalties (under decree n°8 of 2018) with one based on proportionality.** The fourth chapter of this ISIE decision outlines a system of penalties for media during the electoral campaign by establishing a minimum and maximum penalty amount for a range of specific violations. Looking at the reality of the media landscape, we note a profound disparity in the revenues of different media outlets. We recommend that the ISIE replace the current system of minimum and maximum sanctions with a system that sets penalties in proportion to the declared revenue reported by the concerned media outlet to fiscal authorities. In this regard, we recommend that the ISIE invoke the principle of a penalty system based on proportionality, as outlined in the last paragraph of Article 29 of decree n°116 (2011) relative to the establishment of the HAICA.

19. **Media: ensure objective and comprehensive coverage of the electoral process.** Before the municipal elections campaign, the media committed a larger number of violations and were less committed to the principles of equity, parity and impartiality in their coverage. The media should endeavor to maintain an objective and impartial coverage during the pre-campaign period and to dedicate equal time to candidate lists. In addition, we call on the media to fully exercise their role of raising citizens' awareness in ensuring a complete coverage of the electoral process.

Election day:

20. **ISIE: address logistical errors that hinder voters' participation.** The ISIE can make adjustments on election day to remove obstacles to the participation of voters. The ISIE should ensure that the mobile phone-based system for registered voters to confirm their polling stations is completely and consistently operational. The ISIE should undertake effort to guarantee that polling centers and polling stations are clearly identified and accessible to persons with disabilities. In rural areas in particular, the ISIE

should guarantee that polling station agents remain present at their posts throughout the entirety of election day.

Appeals (candidacies and results):

21. **ARP / Administrative Court: facilitate appeals procedures.** Political actors and their lawyers have difficulty following the appeals process due to its complexity, a lack of clear and practical information, short timeframes and geographic constraints. The Administrative Court and/or ISIE can help candidates by publishing and distributing a guide that clarifies the steps of the appeals process for candidate registration and results. The time period for filing appeals to results should be prolonged from three to seven days, which would in turn require extending the overall duration of the appeals period.

22. **ARP / Administrative Court: uphold the principle of access to information concerning appeals.** The Administrative Court should share information on judicial rulings with political actors and the public. To promote consistency across the Court's regional branches, the Court should publish its decisions and disseminate them across these courts. The Administrative Court is also called on to deepen its cooperation with observers representing civil society. The ARP could also grant the Court's 12 regional branches responsibility for handling second-round appeals related to results, which would promote more equal access to the appeals process for candidates located outside of the capital.

For more information concerning these recommendations, please contact obs.tun.elections@gmail.com or 27 456 121.