



Elections in Tunisia:

The 2011 Constituent Assembly

Frequently Asked Questions

Middle East and North Africa
International Foundation for Electoral Systems

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Frequently Asked Questions

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Disclosure:

These FAQs reflect our best knowledge of decisions made by the Tunisian elections authorities as of 13 July 2011. Few decisions are firm, including aspects of the electoral process proscribed by law. Furthermore, the document does not represent any IFES policy or technical recommendations.

Who will Tunisians be electing on 23 October?

Tunisians will be electing representatives to the National Constituent Assembly (NCA). This 218-member body will draft a new constitution for the republic.

The NCA was established by presidential Decree No. 582, released on 20 May 2011. According to the decree, the NCA will meet two days after election results are posted and will have one year to draft a constitution.

What bodies have legal and political authority in Tunisia? What is the election oversight structure?

The transitional government in Tunisia consists of an interim president (Fouad Mebazaa), a prime minister (Beji Caid el Sebsi) and a cabinet. The first transitional government also empowered a High Commission for the Fulfillment of Revolutionary Goals, Political Reform and Democratic Transition to oversee elections and constitutional reform. This Commission is known as the Ben Achour Commission, after its chair, Yadh Ben Achour. The Ben Achour Commission was created by former president Ben Ali before he was ousted. The Ben Achour Commission is comprised of a 150-member political committee and a 16-member technical commission.

The Ben Achour Commission established the *Instance Supérieure Indépendante pour les Élections* (ISIE) to manage elections for the NCA. The ISIE consists of 16 members including one expatriate, two university professors, four lawyers, three judges, a notary, a journalist, two civil society leaders, an accountant and an IT expert.¹ Its chair is Kemal Jendoubi, the expatriate representative, who has recruited his own four-member cabinet of advisors with legal and election management experience.

Per the law, the executive branch of the ISIE is the *Organisme Technique Administratif et Financier* (OTAF). However, the OTAF was never formalized and was disbanded in the past two weeks. This resulted in a restructure of the electoral authority, most notably by giving government ministries a stronger role in electoral administration.

Elections are currently administered as follows:

- The ISIE is generally in charge of legal matters, public communications and observer accreditation.
- The Liaison Committee, recently created by the cabinet and the ISIE, is under the authority of the Prime Minister to provide all logistical support for successful electoral administration under the ISIE. According to standard electoral administration practice, the chair of this committee would be the chief electoral officer.
- The *Centre national de l'informatique* (CNI), a branch of the Ministry of Communication Technologies, supervises voter registration and logistics for the election.
- The Ministry of Education trains electoral officials to register voters and, in the future, poll workers.
- The Ministry of Foreign Affairs is in charge of registration and polling of out-of-country voters.

¹ See the *Resources* section for a list of ISIE members.

- Thirty-one sub-national electoral commissions, *Instances Régionales Indépendantes pour les Élections dans la Circonscription Électorale* (IRIEs), supervise the electoral process at the district level.

The Liaison Committee is led by Ridha Belhadj, 48, a former Deputy Minister who has been promoted to a ministerial position. Belhadj — recently called Mr. Elections by *Leaders*, a local magazine — was very active in establishing the Ben Achour Commission and other provisional authorities after the revolts. In addition to Belhadj, three director generals from the Ministry of Interior make up the committee.

Each IRIE represents one electoral district and consists of 14 commissioners. The ISIE will select these commissioners from a pool of over 4,500 applicants. Under every IRIE there will be a local authority, appointed by the IRIE, for each of Tunisia's 462 sub-districts or *delegations*, of which 264 are municipalities and 198 are non-municipal. Finally, one chair and at least two assistants will staff every one of the 8,000 polling stations, collected into 2,500 polling centers.²

Candidates are allowed to be present at the polling station during the entire polling time. Candidates can also appoint a delegate to monitor the electoral process.

After polls close, each chair will prepare a list of voters who voted. The members of the polling station staff will rule on all disputes that occur during the voting process. They will also maintain order in the polling station and suspend voting as needed.

What is the legal framework for elections in Tunisia?

Several decrees and decree-laws of the interim government provide a legal framework for elections in Tunisia. Decree-laws are first drafted by the Ben Achour Commission and take effect upon the signature of the interim president of Tunisia, Fouad Mebazaa. Consultation between the commission and the president may take place before the final text of a decree becomes law. Decree-laws related to the NCA include:³

- Decree-law 14 (23 March 2011) outlines the provisional division of government authority. Legislative and executive authority is vested in the cabinet and in the interim president of the republic, while judicial authority lies with the existing class of judges.
- Decree-law 27 (18 April 2011) establishes the ISIE, including its membership and responsibilities.
- Decree-law No. 35 (10 May 2011), the "election law," outlines the election process, including voter registration, candidate eligibility, campaigning, Election Day procedure, announcement of results and more.
- Decree No. 582 (20 May 2011) calls for elections on 24 July and establishes the one-year mandate of the NCA.

What electoral system will the election follow?

The election for the Constituent Assembly will follow a closed-list proportional representation system with a parity principle requiring that half the list will be filled by women who will alternate on the list with male candidates in the 27 domestic constituencies and four out-of-country constituencies.

² See the *Resources* section for an organogram of election oversight in Tunisia.

³ Full-text versions of these laws are available in the *Resources* section.

The formula for representation will be the electoral quotient with the largest remainders. By this formula, the number of valid votes is divided by the number of seats allocated to the constituency. Seats are allocated to the different lists where the quotient is applicable. Where the quotient is not applicable, the remaining seats will be allocated to the largest remainders among the different lists, as per Article 36 of the decree-law on elections.

This formula allows a high degree of proportionality, which might, to some extent, favor parties with the largest numbers of votes in cases where they still have large remainders after the quotient has been applied.

How many electoral districts have been established?

Twenty-seven electoral districts have been created in Tunisia. At least one seat was allocated to each governorate. Three larger governorates (Tunis, Nabeul and Sfax) were divided into two districts. Six expatriate districts were also created: two for France, one for Italy, one for Germany, one for the Arab world and one for the Americas. In total, there will be 33 electoral districts, with 27 inside Tunisia and six outside.⁴

What is the current election calendar?

The ISIE published a complete election calendar on its website on 11 July. Most of the dates are stipulated by law. The most important are:

- Voter registration opened as scheduled on 11 July and will close on 2 August, with the possibility of extension at the discretion of the ISIE.
- People with new ID cards, military personnel ending service after 2 August and several other exceptional voters will be able to register until 13 October.
- The ISIE will accept applications for observer accreditation from 11 July to 19 October. Regional bureaus will accredit observers appointed by candidates from 19 September to 19 October.
- The voter register will be available for public scrutiny from 20 to 26 August. It will be available online and at municipal seats, embassies and consulates.
- Candidate registration will be open from 1 to 7 September. Candidates may withdraw their candidacy up to 48 hours before Election Day.
- The electoral campaign will start on 1 October and end on 21 October.
- The ISIE will publish the list of polling places and voters allocated to each by 15 October.
- Election Day in Tunisia is 23 October. Out-of-country voters will begin voting on 20 October.

How will voters register for Election Day?

Registration centers were established in municipal offices where a voter can register by presenting an ID card and checking his or her address against the national ID card database. The database is maintained by the Ministry of Interior. Registration is voluntary and not automatic. Every voter must register in person with his or her own ID card.

⁴ A map of electoral districts is available in the *Resources* section.

Voters may register at any registration center but can vote only in the polling station that corresponds to the address with which they registered. Upon registering, voters are asked to sign a receipt that confirms their address. According to reports from several registered voters, the whole process takes only a few minutes.

Voters are allowed to correct only their address at the voter registration center. Voters must amend any incorrect personal data (name, parents' names, date of birth) with the Ministry of Interior or national police before they can finalize registration.

Election officials encountered serious technical problems on the first day of registration. Most notably, officials could not log into the central server, which prohibited them from collecting required data on voters. These problems were solved in Tunis by midday on 12 July.

How will out-of-country voters register and vote?

Out-of-country voters will be allowed to register in Tunisia or abroad in Tunisian embassies and consulates. According to an ISIE staff member, out-of-country voters seeking to register will be required to present only one official document that lists the national ID number: namely, a passport, national ID card or residency card. According to reports from Facebook, however, there was some confusion on the first day of registration when some voters were required to present all three of these documents.

Registration and voting abroad will be conducted in embassies and consulates in Paris, Marseille, Berlin, Rome, the United Arab Emirates and Ottawa.

On 13 July, the cabinet passed a decree amending the election law to allow out-of-country voters to present only a passport on Election Day. The decree did not mention any changes to voter registration. Additionally, the decree provides that out-of-country voting will open three days before the national Election Day, and that a new public outreach campaign would be targeted to out-of-country voters.

How many voters are likely to register in Tunisia and abroad? How many Tunisians are likely to vote?

There are over 7 million Tunisians of voting age, including around 1 million living abroad. Likely turnout is difficult to anticipate given the uncertainties of registering around 400,000 Tunisians who hold outdated, invalid national ID cards.

Despite these challenges, an April 2011 national poll by the International Republican Institute (IRI) found that 95 percent of Tunisians are either "likely" or "very likely" to vote in the NCA elections. Ninety-five percent of the voting-age population represents 6 million Tunisians, not including Tunisians living abroad.⁵

What steps have been taken to ensure fair representation of marginalized groups in the assembly?

Rural districts were granted a disproportionately high number of seats in the NCA. Two additional seats were allocated to governorates with fewer than 270,000 inhabitants, and one additional seat was allocated to governorates with between 270,000 and 500,000 inhabitants. No district should have more than 10 seats, which is why three large governorates were divided in two.

⁵ "Tunisia Index," International Republican Institute, 10 April 2011, <http://touensa.org/wp-content/uploads/2011/03/2011-April-10-IRI-Tunisia-Index-March-5-18-2011.pdf>. Voting-age data is available from the National Statistics Institute of Tunisia at <http://www.ins.nat.tn/>.

At least half of the candidates on each closed, ranked list are required to be women, and the list must alternate male and female.

What is the state of political parties in Tunisia?

As of June 2011, over 80 political parties have been registered, spanning the political spectrum.⁶ The two best known parties are the Islamist party, an-Nahda, and the Progressive Democratic Party (PDP), a social-democratic party.

The leader of the PDP, Ahmed Chebbi, provided the strongest, though futile, challenge to Ben Ali in the past presidential election. Both parties are expected to win a significant number of seats in the constituent assembly elections. Nahda is the best organized. It has branches in nearly all of Tunisia's municipalities and municipal delegations, whereas the strongest parties have offices only in a few municipalities and municipal delegations.

Who is eligible to vote?

Suffrage is extended universally to Tunisians older than 18 on Election Day. People excluded from voting include active military personnel; people held in custody on Election Day; people whose assets were confiscated after 14 January 2011; and people who have been sentenced to more than six months in prison and have not yet regained their social and political rights.

Who is eligible to run for office?

Candidates for office must be eligible voters older than 23 on the day they present their candidacy. A number of office-holders from the Ben Ali regime who were members of his party, as well as of people who signed petitions that Ben Ali run for president in 2014, are excluded from running for office. A list of these people will be prepared by the Ben Achour Commission.

How much do voters know about the upcoming election? How confident are they in the electoral process?

Many Tunisians do not know what they will be voting for in October. According to a recent IFES national survey,⁷ fewer than half (43 percent) of surveyed adults correctly identified the upcoming election as a constituent assembly election.

Twenty-three percent thought they would be voting for a president, and 31 percent did not know what they would be voting for. Among youth aged 18 to 24, only 38 percent correctly identified the upcoming election. At least 8 out of 10 Tunisians said they needed more information in each key area: voter registration, participating political parties, candidates and campaigns, where and when to vote, voting procedures and vote counting.⁸

It is unclear how the public will respond if progress toward a full democracy does not meet their expectations. For example, when the ISIE announced its intention on 22 May to delay elections from July to October, some

⁶ A visual summary of the major political parties is in the *Resources* section.

⁷ "Tunisia Voter Registration & Voter Confidence Assessment Survey," International Foundation for Electoral Systems, 23 May 2011, <http://www.ifes.org/Content/Publications/Survey/2011/Tunisia-Voter-Registration-and-Voter-Confidence-Assessment-Survey.aspx>.

⁸ Ibid.

Tunisians responded with calls for protests the following Friday. (Later that week, the cabinet reinstated the July date, although they consented to the delay on 8 June.)

Despite the general confusion about basic details of the election, 87 percent of Tunisians expect it to be at least somewhat free and fair.

How will voters learn about candidates and the election process?

The ISIE began a nationwide public outreach campaign on 11 July with advertisements on television, radio, the internet and in newspapers. The campaign explains the voter registration process and the purpose of the Constituent Assembly. In addition, the ISIE launched a website (www.isie.tn) which provides information on the 23 October elections.

According to an April 2011 national poll from IRI, television was the first choice of 69 percent of Tunisians for local news and information. Radio came in second at 33 percent and newspapers third, at 25 percent. Internet placed fourth nationally but first among Tunisians aged 18 to 24 (37 percent) and last among Tunisians aged 44 to 54 (6 percent).⁹

What is the role of the Tunisian judiciary in the electoral process? How will disputes be adjudicated?

In addition to the fact that three judges sit on the ISIE, the judiciary has an important adjudication responsibility on electoral issues. Authorities granted to the judiciary include the following:

- Decisions by the IRIE on voter registration can be appealed to a court of first instance, whose decisions are final.
- During the electoral campaign period, the ISIE is responsible for ensuring abidance to the rules. Violations of the rules may be brought before the ISIE and later appealed to the Appeal Chamber of the Administrative Tribunal, whose decisions are final. During voting, the law states that all disputes will be decided by the members of the polling station and mentioned in the minutes. The law does not specify whether or not decisions are made by majority rule, so it is assumed that decisions by polling officials will be made by consensus.
- Disputed ballots will be separated during the counting process and final decisions on validity will be made by the polling station panel.
- Preliminary elections results will be announced by the ISIE, and any complaint against those results can be appealed before the General Assembly of the Administrative Court within 48 hours. The Court shall make a decision within 5 days starting the day of the appeal, and its decision is final.
- Electoral crimes other than those related to electoral procedures are dealt with by the public prosecutor according to the penal code.

⁹ "Tunisia Index," International Republican Institute, 10 April 2011, <http://touensa.org/wp-content/uploads/2011/03/2011-April-10-IRI-Tunisia-Index-March-5-18-2011.pdf>.

Which international organizations are providing election support in Tunisia?

IFES (which has been funded by grants from the governments of the United States, the United Kingdom and Canada), the European Union and the United Nations Development Program are all providing election assistance to the Tunisian government. The National Democratic Institute (NDI) and IRI are working with political parties. Democracy Reporting International is training Tunisian NGOs in domestic election observation. The American Bar Association (ABA) is preparing to launch a program to promote the rule of law.

Nonetheless, in the past several weeks, elections officials have asked for little assistance from international advisors.

Which of Tunisia's treaty obligations are relevant to elections?

Tunisia may also be subject to treaties and customary law related to political inclusion that could bear on the constitutional drafting process, including the International Covenant on Civil and Political Rights (ICCPR) and the African (Banjul) Charter on Human and Peoples' Rights. Furthermore, in 1991, the United Nations Commission on Human Rights (UNCHR) authorized a specific right to participate in constitution making as a part of public affairs under Optional Protocol I of the ICCPR. Though Tunisia is not a signatory to this treaty, it still could be bound to this obligation through customary international law. Tunisia is a signatory to the 2008 Convention on the Rights of Persons with Disabilities (CRPD), which requires there be no barriers to voting for persons with disabilities.¹⁰

What provisions have been made to accommodate voters with physical or mental disability?

A voter who "clearly suffer[s] from a disability"¹¹ that prevents voting or presenting information to polling officials will be allowed to invite a voter of his or her choice, provided that the helper is not a candidate and that the helper has not assisted any other voter.

Tunisia has an impressive record of working toward political and social inclusion of persons with disabilities. Tunisian law prohibits discrimination against persons with physical or mental disabilities, and Tunisia was an original signatory of the CRPD.¹² All public buildings in Tunisia built after 1991 — presumably including most polling stations — are accessible to persons with physical disabilities.¹³ A robust network of civil society groups defends the rights of persons with disabilities.¹⁴

In 2003, the Ministry of Social Affairs reported that there are over 150,000 persons with disabilities in Tunisia, or about 1.5 percent of the total population. Persons with disabilities live disproportionately in rural areas, and two-thirds are men. About 40 percent (63,000) have a motor disability, about 15 percent (20,000) have a visual disability, and 12 percent (19,000) have an auditory disability.¹⁵

¹⁰ See the *Resources* section for a full list of Tunisia's treaty obligations.

¹¹ See Article 61 of the May 10 elections law.

¹² Article 29 of the CRPD guarantees full voting rights for persons with disabilities.

¹³ "2010 Country Reports on Human Rights Practices: Tunisia," U.S. Department of State, <http://1.usa.gov/tunhrpt>.

¹⁴ For more on Tunisia's disability rights commitment, including a list of relevant civil society groups, see the report to the U.N. Committee on the Rights of Persons with Disabilities, at <http://bit.ly/tundisabled>.

¹⁵ For more detailed demographic data on persons with disabilities in Tunisia, see the report of the U.N. Committee on the Rights of Persons with Disabilities at <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Session4.aspx>.

How do election officials plan to reach out to and accommodate illiterate voters?

The same provisions mentioned above for voters with disabilities have been made to accommodate illiterate voters.

There are 1.9 million illiterate Tunisians over the age of 20, or 19 percent of the total voting-age population. Sixty-eight percent of illiterate people are female; 12 percent of Tunisian men are illiterate, compared with 26 percent of Tunisian women. Older people tend to be less literate. Eighty-three percent of Tunisians aged older than 70 years are illiterate, compared with only 9 percent of Tunisians between the age of 20 and 29.

Geographically, illiterate people tend to live in the interior governorates, where 27 percent of residents are illiterate (18 percent of men, 36 percent of women).¹⁶

What is the National Constituent Assembly? What is its mandate?

The National Constituent Assembly (NCA), according to a 20 May 2011 decree by the interim president of Tunisia, will first meet two days after election results have been posted and. According to Article 6 of Decree 2011-582 calling for the elections, the NCA will have one year to draft a new constitution.¹⁷ The NCA, however, will be sovereign and might set its own timetable for constitution drafting. It will have 218 members, 199 from Tunisia and 19 representing Tunisian expatriates in Europe and North America.

How will the NCA organize its internal leadership?

Questions remain about the role, function and structure of the NCA. Given the size of the assembly, the biggest challenge will be to organize internal leadership in a way that maintains the inclusive process envisioned by the architects of the elections, especially gender equality, representation of the interior and proportional voice for minority parties.

The Ben Achour Commission prioritized the representation of women and rural districts in setting up the October election, but that work will be lost if the executive committee of the NCA is filled with men from the cities. The NCA will have to consider questions about the process by which it makes decisions, such as:

- How will it structure its internal leadership (speaker, party leadership, strong executive committee, decentralized committee structure, etc.)?
- How will it vote (all at once at the end, one at a time on articles, by two-thirds or simply majority, etc.)?
- How will the judiciary be involved (judicial review, impartiality, etc.)?
- How will it hire support staff (administrative support, legal team, etc.)?
- Where will it meet?
- How will it interact with the public (announce timelines, solicit feedback, etc.)?

¹⁶ See the *Resources* section for a map of illiteracy by governorate in Tunisia. These data comes from the 2004 census, according to the National Institute of Statistics.

¹⁷ The decree is available in the *Resources* section.

- Will it be receptive to international assistance?
- Will it pass an interim constitution?
- Will NCA members be able to run for office in the election of a new parliament?
- Will the current decree-laws still carry the force of law? Will the NCA review these laws?

What will be the relationship between the NCA and the Ben Achour Commission?

The NCA, as a constituent body, shall be sovereign to make decisions concerning the future of the Ben Achour Commission.

Will a referendum be required at the end of the drafting process?

A referendum is likely, though it is not required as yet by law.

Will the ISIE continue to exist beyond the NCA elections?

The ISIE will be dissolved after the NCA election results are announced.

Resources

The following resources are available online in a ZIP file (3.8 MB) at <http://bit.ly/tunappendix>:

- Briefings from IFES on the makeup of the ISIE and key challenges for credible elections.
- An IFES-proposed countdown to the 23 October election (English).
- The 11 July ISIE election calendar (French).
- Maps of population and seat allocation by electoral district in Tunisia (French and English).
- Laws related to the elections and the NCA (French, Arabic and English).
- A graphical model of the major political parties (French) and a list of the majority of parties and their ideologies (English).
- Two surveys conducted by IRI and IFES (English).
- An organogram of the electoral administration (English and French).
- Tunisia's treaty obligations (English).
- A report on illiteracy in Tunisia, including a map showing the rate of illiteracy across the 24 governorates.