

## **EISA Election Witnessing Mission to the Presidential Runoff Elections in the Arab Republic of Egypt**

### **Statement on the Post-election Phase**

**28 June 2012**

#### **1. Introduction**

Within the limits set by the Higher Presidential Elections Commission (HPEC), the Electoral Institute for Sustainable Democracy in Africa (EISA) deployed a Mission to the first and second rounds of the 2012 Presidential election held in the Arab Republic of Egypt. Following the departure of its short term witnesses on 19 June 2012, EISA's long term witnesses remained on ground in selected governorates to follow the final stages of the aggregation process, the complaints process, the finalisation and announcement of the results.

In the days between the holding of the runoff election and the official declaration of results, the political environment in Egypt remained tense as the Martial Law imposed by the Supreme Council of Armed Forces (SCAF) before the elections remained in place. The political tensions during this period were further heightened by the SCAF's issuance of the supplementary Constitutional Declaration curtailing the powers of the President of the Republic to be elected and the public demonstrations that followed. The further delay in the announcement of the official results of the election (from Thursday 21 June to Sunday 24 June) and the unofficial declaration of victory by both candidates worsened the tense political climate.

This post-election statement covers the period from 19 June 2012 (following the release of the Mission's preliminary statement on the runoff election) to 26 June 2012 (48 hours after the official announcement of the election results by the HPEC). EISA's assessment of the Presidential election is based on the constitutional, legal and regulatory framework of Egypt; the African Union Declaration on the Principles Governing Democratic Elections in Africa; the Declaration of the Principles on International Election Observation; and the Principles for Election Management and Observation (PEMMO).

On the basis of direct observations by EISA teams, press releases by the HPEC, a meeting with HPEC and EISA mission's consultations with stakeholders during the post-election phase of the presidential election, the EISA Mission made the following findings:

#### **2. The aggregation of the results**

The aggregation of the results is a crucial step in an election and requires a high level of transparency and accuracy to promote the confidence of the contesting parties and other stakeholders in the integrity of the process. Upon completion of the vote count at polling stations, the results from individual polling stations were aggregated by the District General Committees (DGCs). Presiding Judges delivered the results to the DGC of their polling stations. Aggregated results from the DGCs, were thereafter transmitted to the HPEC headquarters in Cairo.

After the vote count on the second day of the elections, EISA witness teams followed the aggregation process in the DGCs in 13 Governorates. The Mission noted with satisfaction that candidate agents, independent witnesses and the media were granted free access to witness the aggregation without any restrictions. The Mission commends the HPEC for creating an enabling environment for easier

witnessing of this crucial stage. This is a welcome improvement on the aggregation process compared to the first round of the presidential election. The Mission also noted the unobtrusive presence of security personnel in all the aggregation centres visited. While the process was seen as generally orderly and conducted with transparency, the aggregation was done manually with calculators in all centres visited, thus leaving room for human errors. The results were announced by the DGCs immediately after completion of the aggregation and candidate agents were provided with copies of the aggregated results.

The Mission however noted the denial of access to candidate agents and independent witnesses to the central aggregation centre located at the HPEC's headquarters in Cairo. As a result, the mission was unable to follow the finalisation of results in Cairo. Denial of access to candidate agents further contributed to the suspicions of foul play by the candidates and their supporters. HPEC should learn from other Electoral Management Bodies as many of them set results centres open to authorised individuals like the media, representatives of political parties and election observers. This contributes tremendously to the transparency of the results tabulation process.

### **3. The complaints process**

In its previous statements on the first round of the presidential election, the Mission emphasised the importance of the resolution of election disputes as an aspect of the election cycle that impacts largely on the outcome of an election. In this regard, the Mission reiterates the need for an independent body to be responsible for the resolution of election disputes.

Candidates' complaints from the different governorates were filed by their campaign headquarters in Cairo. These complaints were addressed by the HPEC whose decisions are final and irrevocable as provided for in Article 28 of the Constitutional Declaration of March 2011.

HPEC officials met by the Mission on Friday, 22 June 2012 on the commission's premises, confirmed that more than 400 complaints were filed by both candidates after the election. The HPEC was therefore faced with the challenge of addressing these complaints within a period of four (4) days as the announcement of results was initially scheduled for 21 June. In view of the number of complaints received and the time required to address these complaints, the official announcement of results was postponed until 24 June.

A panel of four (4) judges was set up to address the complaints received, with each judge tasked to address more than 100 complaints on average. The complaints included alleged illegal campaigning, vote buying, group voting, preventing voters from casting their ballot, discrepancies between the number of ballots cast and the number of voters registered at polling stations, counting errors and discrepancies between the results from polling stations and the aggregated results.

The Mission reiterates its concerns about non-reconciliation of ballots during the counting process<sup>1</sup>. Discrepancies at this level without doubt impacted on the tabulation of the final results. Furthermore, the complaints about discrepancies in the number of votes cast and the number of registered voters in some stations also support the concern raised by the Mission in its preliminary statement about the need to provide copies of the voter register to political parties and candidates.

Each of the complaints were analysed in accordance with the legal framework and comments were submitted to the head of the HPEC for final decision. HPEC reported that complaints about discrepancies between results from polling stations and results after aggregation were resolved by a vote recount. The Commission also announced that complaints about discrepancies in the number of votes cast and the number of voters registered at the polling stations were resolved by cancelling the results from such polling stations. Judges of the HPEC presided over the vote recount process which

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<sup>1</sup> This was highlighted in its preliminary statement on the run-off election.

was done in the presence of candidate representatives. EISA witnesses were also granted access to witness the vote recount on Friday, 22 June 2012 at the HPEC headquarters<sup>2</sup>.

The Mission noted that candidates' agents participated actively in the recount and voiced their objections during the process. While it is commendable that candidate agents and independent witnesses were granted access to the recount, the Mission reiterates that access to the entire aggregation process at all levels should be open to candidate agents and independent witnesses.

#### **4. The announcement and acceptance of the results**

According to Article 28 of the Constitutional Declaration and Article 8 of Law No 174 of 2005 regulating the presidential election, the HPEC is the only institution mandated to officially announce the results of the Presidential elections.

The Mission regrettably noted that before the official announcement of the results both candidates publicly declared the results in their favour, claiming to have won the election. The ensuing victory celebrations by both candidates and their supporters further heightened political tensions that characterised the days before the official announcement of the results.

The official results were announced on Sunday 24 June 2012 by the HPEC. Candidate Mohamed Morsi won the poll with 13,230,131 (51.73%) valid votes against 12,347,380 (48.27%) valid votes for Ahmed Shafiq. Following the official announcement of the results, the President-elect, Mohamed Morsi resigned from the Freedom and Justice Party and explained that this was a gesture towards the citizens of Egypt to assure them that he will respect all sectors of the society. According to the official results, 51.85% of registered voters participated in the second round run-off.

The Mission noted the acceptance of results by the candidates and the festive atmosphere that prevailed after the official announcement of the results. The Mission commends the people of the Arab Republic of Egypt for enthusiastically participating in a crucial election that shapes the future of their country.

#### **5. Recommendations**

In view of the findings mentioned above, the Mission makes the following recommendations:

- **Electoral reforms:** the Mission recommends that the Presidential Elections Law be amended to mandate the electoral authority to avail copies of the voter lists to the contesting political parties and candidates prior to the presidential election.
- **Standard and consistent use of the indelible ink:** to avoid allegations of multiple voting filed by candidates during the complaints process, the Mission reiterates its recommendation on the standardisation and consistent application of the indelible ink and emphasises the need for voters to be checked for indelible ink upon their arrival in the polling station<sup>3</sup>.
- **Reconciliation of ballots:** the Mission also reiterates its recommendation on the need for the reconciliation of ballots received at the polling stations before the vote count. This would address some of the discrepancies that may have led to the cancellation of results from some polling stations.
- **Access to results aggregation process:** the Mission recommends that for the sake of transparency, access to the entire aggregation process at all levels, including the final national level, be open to representatives of the contesting candidates, independent witnesses and members of the media.

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<sup>2</sup> On 22 June 2012, the EISA Cairo team witnessed the recount of votes from the Governorate of Assiut, Police station No 1: polling stations 18 and 21

<sup>3</sup> From its first preliminary statement after the first phase of the People Assembly's election (28-29 November 2011) to its last preliminary statements on the Presidential election, the EISA EWM noted that the ink was not checked prior to issuing the ballot to voters.

## 6. Conclusion

In view of its observations and findings on the first and second rounds of the presidential election and its findings during the post-election phase, the EISA Election Witnessing Mission is of the view that these elections were conducted in a manner which ensured that the outcome of the process reflects the choice of the Egyptian people within the context of the constitutional and political uncertainty in which the elections were conducted.

The Mission also notes the efforts of the HPEC to ensure that both contestants in the elections were satisfied with the electoral process and that the results of the elections reflected the will of Egyptians.

The Mission notes that there remain a number of crucial political and constitutional issues that challenge the mandate of the people given to the President-elect through this election. Namely, the absence of a constitution and a parliament, and the temporary devolution of legislative and key executive powers to the SCAF through the supplementary Constitutional Declaration issued on the second day of the election. The Mission therefore expresses its hope that the people of Egypt, under the leadership of the president-elect, will work constructively towards an inclusive and transparent constitution drafting process. The new constitution should lay the foundation for the rule of law and good governance and guarantee human rights, fundamental freedoms for all and the rights of women and minorities as well as safeguard the separation of powers.

### ***About EISA***

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*Formed in 1996, the Electoral Institute for Sustainable Democracy in Africa (EISA) has established itself as a leading player in the field of elections and democracy in Africa. EISA has evolved from an election NGO servicing Southern Africa into a more diversified organisation working throughout the continent with national, regional, Pan-African and global partners. The Institute's work covers not only elections but also other Democracy & Governance fields like political party development, conflict management, legislative strengthening, the African Peer Review Mechanism and local governance and decentralisation. With its headquarters in Johannesburg (South Africa), EISA has current and past field offices in countries including Angola, Burundi, Chad, Côte d'Ivoire, Democratic Republic of Congo, Kenya, Madagascar, Mozambique Sudan and Zimbabwe, a reflection of its broader geographical mandate.*

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