

# **Polling phase assessment by the EISA Election Witnessing Mission**

## **Submitted to the European Union Delegation in Egypt**

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#### **I. Introduction**

The Electoral Institute for Sustainable Democracy in Africa (EISA) deployed a Mission to witness the historic Presidential elections that held in the Arab Republic of Egypt on 23 and 24 May 2012. The mission was in Egypt from 17 to 26 May 2012.

Led by His Excellency, the Honourable Cassam Uteem, former President of the Republic of Mauritius, assisted by the Deputy Mission leader, Mr Denis Kadima, the Executive Director of EISA, the Mission consisted of witnesses drawn from non-governmental organisations from 14 African countries.

Following a two-day briefing held in Cairo on 17 and 18 May 2012, EISA deployed 17 teams of witnesses on Saturday, 19 May 2012, to witness the elections in 15 governorates, namely: Alexandria, Aswan, Cairo, El Minia, Fayoum, Giza, Ismailia, Luxor, Marsa Matruth, Menoufia, Port Said, Qaliubia, Red Sea (Hurgada), Sharquia and Suez.

The Mission leadership in Cairo met with the Chairperson of the Higher Presidential Election Commission, the Minister of Foreign Affairs and the Heads of other International Election Witness Missions and international delegations.

On election days, members of the EISA mission visited a total of 588 polling stations in 15 governorates to witness the following processes: opening of the poll, voting and counting.

This report presents an assessment of the conduct of the elections.

#### **❖ Constitutional and Legal Framework**

- The Mission notes that the presidential election has taken place before the finalisation of the constitution process. As a result the balance of power between the Executive and the Legislative Chambers are not well delineated at this stage. The Mission hopes that the Egyptian leaders will be able to reach an agreement timeously to avoid a possible political impasse in the future. Holding the elections before the constitution review process poses a potential risk in that the incoming regime may not follow through with the constitution review process thus resulting in a return to status quo.
- The powers and mandate of the HPEC as set out in the Constitutional Declaration grant the Commission the final decision on electoral issues including the resolution of conflicts emanating from the electoral process. In line with international best practices, the Mission recommends that future electoral reforms consider the introduction of appeal mechanisms against the

decisions of the electoral authority, when necessary. It is important to note that the resolution of election disputes is a crucial aspect of the electoral cycle and impacts on the outcome of an election. While an election could have been technically conducted in the right manner, if the complaints arising from the process are not addressed in a manner considered as fair, the outcome of the process may be overturned. A situation where a single body conducts an election and at the same time addresses the complaints arising from the process amounts to a case of being judge and jury in one's case, this system is therefore not fair. To guarantee the fairness of the system and the process, it is necessary that future electoral reforms provide for clear complaint mechanisms.

❖ **The Voters' List:**

- It was noted that the voters' list was available in all polling stations visited on election day. However, it was observed that party/candidate agents did not have copies of the register. It is recommended that the voters' list be made available to contesting parties and candidates well in advance of election day and that parties should disseminate copies to their representatives ahead of election day.

❖ **Voter education:**

- It was observed that a large number of voters were not familiar with the voting procedures, regardless of the fact that there was a graphic presentation of the procedures at the door of all polling stations. This may be attributed to the level of illiteracy in Egypt. It is therefore important that voter and civic education programmes be an area of priority in the future. Specifically, the voter education should be adapted for illiterate voters.

❖ **Party/candidate agents:**

- In all the polling stations visited there were party/candidate agents present. These agents in most cases appeared not to be aware of their role and responsibilities. Furthermore, their presence at the stations was quite passive as there were not very familiar with the required procedures. For instance, the procedures on application of indelible ink. The EISA Mission recommends that party agents undergo training on their role and responsibility as well as in electoral procedures and regulations for the sake of consistent application of electoral rules.

❖ **Voting procedures:**

- It was observed that procedures were not consistently applied in all the polling stations, the process was largely left to the discretion of the presiding judges. Specifically, the procedures for the application indelible ink, presiding judges on their own initiative decided how the ink will be applied. In some stations, voters who presented their passports as a means of identity were allowed to vote in others, judges were strict about the presentation of the national identity card. It is therefore recommended that polling staff be trained and that a procedural manual be produced and disseminated to polling staff, party agents and independent witnesses.

❖ **The ballot and election materials:**

- The introduction of serialized ballot papers and the requirement for voters to verify their voter number by providing the last two digits were steps taken by the HPEC to prevent fraud in the elections. The serialization of the ballot also made it possible to reconcile used and unused ballot. These improvements are commendable.

❖ **Polling officials:**

- As mentioned above, the discretion of the presiding judges is considered overbearing. The Mission recommends that judges should be encouraged to apply the procedures rather than rely on their discretion in administering the poll. The Mission recommends that polling staff wear their identification at all times and calls for more vigorous and uniform training for polling staff.

❖ **Election witnesses:**

- Decree 12/2012 governing International Election Witnessing issued by the HPEC confers upon the HPEC the power to oversee the participation of international non-governmental organisations in witnessing the presidential election. While the Mission is appreciative of the fact that it received accreditation as one of the three accredited international non-governmental organisations, the late accreditation did not allow it to deploy long term witnesses prior to the first round of presidential election. Its assessment of the first round of the election therefore started from the week before the elections.
- The Decree provided guidelines for the conduct of international witnesses during the presidential elections including the requirement that witnesses do not remain at a given polling and counting station for more than 30 minutes, thus limiting the freedom of movement of witnesses and the ability of witnesses to follow the process. The decision to admit witnesses into the polling stations was also left to the discretion of judges on election day. In most of the stations visited by EISA teams during the polling hours, witnesses were granted access without much reference to the 30 minutes limitation. However, when it came to the closing and counting procedures, a number of teams were not permitted to witness the process even for 30 minutes as prescribed. In addition, this Decree sets out guidelines that limit the ability of witnesses to make statements regarding the conduct of the process until the announcement of the results. The EISA Mission is grateful that at a meeting with the HPEC on the eve of the election, it was clarified that witnessing missions could make statements after the closing of the poll on the second day. The importance of granting witnesses the right to issue preliminary statement provides an opportunity to share best election practices and for improving the process along the way. National witnesses were subject to similar restrictions in terms of Decree 19/2012, “Controls Regulating Local Organisations’ Monitoring of the Presidential Polls”.

Election witnesses need to be able to witness the entire voting and counting process without limitations. This will allow the sharing of best electoral practices.

❖ **Counting process:**

- The closing and counting procedures were not consistently applied. At the polling stations where EISA teams were able to witness, the count reconciliation of ballots was not adequately conducted. However, the Mission notes with satisfaction that party and candidate agents were allowed free access to voting and counting and that they were present at all stations visited by the EISA teams. In addition a further positive development was that these agents were provided with a copy of the official results at the polling stations at the conclusion of the count, an improvement on the parliamentary elections.

The Mission recommends that reconciliation of all ballots takes place prior to the commencement of counting. Where discrepancies occur missing ballots need to be traced.

The Mission recommends that the results be posted at the entrance of polling stations after counting.

## **6. Conclusion**

Based on findings the findings of the Mission through consultations, media review and direct observations, its conclusion is that the presidential election held on 23 and 24 May 2012 were conducted in a manner which allowed the people of Egypt to freely express their will.

While there is room for improvements, it is important to note that at a technical level, there were improvements in the conduct of the elections when compared with the parliamentary elections. In terms of the systems and legal framework, there is need for reforms that would improve the fairness of the process as explained above.