



**EUROPEAN UNION  
ELECTION OBSERVATION MISSION**

# **ARAB REPUBLIC OF EGYPT**

## **FINAL REPORT**

**Presidential Election, 26/27 May 2014**



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The European Union Election Observation Missions are independent from the European Union Institutions. This report was produced by the European Union Observation Mission to Egypt and presents the mission's findings on the 26-27 May presidential election. The European Union Institutions do not guarantee the accuracy of the data included in this report, and do not accept the responsibility for any way in which these may be used.



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## Key Abbreviations

CEDAW	Convention on Elimination of All Forms of Discrimination against Women
CO	Chief Observer
CSO	Civil Society Organisation
DC	District Committee
EU	European Union
EOM	Election Observation Mission
HoR	House of Representatives
ICCPR	International Covenant for Protection of Civil and Political Rights
ID	Identification Document
LEPR	Law on the Exercise of Political Rights
MEP	Member of the European Parliament
MFA	Ministry of Foreign Affairs
MoI	Ministry of Interior
OCV	Out-of-Country Voting
OGR	Out-of-Governorate Registration
PEC	Presidential Election Committee
PEL	Presidential Election Law
PS	Polling Station
PCS	Polling \station Committee
UN	United Nations
UNHRC	United Nations Human Rights Committee



## 1. Executive Summary

The 26/27<sup>1</sup> May 2014 presidential election in the Arab Republic of Egypt constituted the second phase of the roadmap decreed by Interim President Adly Mansour as part of the 8 July 2013 constitutional declaration. Two candidates, Abdel Fattah Al Sisi, the former head of Egypt's armed forces, and Hamdeen Sabahi, a veteran Nasserist politician who came third in the 2012 presidential election, contested the election.

While there was broad support for the roadmap, stemming from hopes for future stability, opposition to the roadmap or to the environment in which it was implemented remained. This resulted in the non-participation of a number of political groups, in particular those belonging to the National Alliance for Supporting Legitimacy, undermining universal participation in the election.

While the Constitution protects fundamental freedoms and key political rights, implementation fell short of these constitutional principles. Respect for the freedoms of association, assembly and expression remained areas of concern in this election. Human rights were abrogated by law enforcement authorities by applying disproportional force against peaceful protestors. This had a chilling impact on the expression of political dissent.

Localised and at times lethal militant attacks against military and law enforcement personnel took place. Failures to respect due process and the right to a fair trial, including in the two trials in El Minya in which hundreds of individuals were sentenced to death, created an environment where all human rights protection was tentative. The authorities hold the view that expressing opinions on such cases would affect the independence of the judiciary.

The election campaign was largely calm and peaceful, with only a few isolated incidents, which had a limited impact on the overall conduct of the election. While the Protest Law continued to generate anxiety, its application in the context of the electoral campaign period has been limited with regards to both candidates. At the same time, demonstrations opposing the elections or certain candidates were unreasonably curbed.

European Union (EU) observers were not in a position to follow most part of the campaign outside Cairo. There were cumulative administrative requirements for the release from customs of essential communication equipment for the 30 EU long-term observers who arrived in Cairo on 25 April but were deployed to their areas of responsibility only on 21 May. As a result, the EU election observation mission (EOM) was not in a position to deliver its long term observation mandate in full.

Al Sisi's tightly controlled public profile and the limited resources of the Sabahi campaign impacted on the ability of both campaigns to reach out to voters. Both campaigns engaged

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<sup>1</sup> Voting in the presidential election took place over three days, 26, 27 and 28 May, but reference to this election is made in accordance with PEC Decree 12/2014. The extension of voting on 28 May was established by PEC Decree 34/2014.



significantly on mass and social media. The candidates stressed their adherence to campaign rules regulated by law. The Presidential Election Committee (PEC) notified candidates of two campaign violations and examined another alleged violation, which was not upheld.

The potential to achieve a level playing field for the campaign was prejudiced by insufficient campaign finance regulation, particularly in circumstances where there was evidence that third parties were contributing outside the spending limits set by the PEC. The dominant visibility of the poster campaign of candidate Al Sisi demonstrated a weakness of oversight operating in his favour.

The EU EOM media monitoring indicated that the state media provided approximately equal coverage to both candidates, in line with the law. In the private media, candidate Al Sisi received more than twice the coverage of candidate Sabahi. State and private media outlets were mostly neutral in their coverage of the campaign, but less so in direct interviews. The coverage of women was less than two per cents in all the monitored media. Broadcasters operating within Egypt provided no coverage to opinions opposing the roadmap.

The legal framework for these elections comprised the 2014 Constitution adopted through a popular referendum and the 2014 Presidential Election Law (PEL), in addition to pre-existing legislation. The Constitution explicitly confirmed the force of law of those international human rights standards to which Egypt is a party, including the United Nations (UN) International Covenant for Civil and Political Rights (ICCPR) and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The transitional legal framework, including the PEL, provided an adequate basis for the conduct of the elections overall, although it fell short of applicable standards for democratic elections in several respects, such as the insufficient protection of the right to vote and the right to stand, and the continuing severe underrepresentation of women in public life.

The presidential election was administered by a three-tier election administration comprising the PEC, 353 District Committees (DC) and 13,899 Polling Station Committees (PSC). Overall, the PEC administered the election efficiently and in line with the law. While the PEC sessions were closed to observers, its decrees were published in a timely manner. Electoral logistics were run by the Ministry of Interior (MoI). Legal deadlines were met by both institutions. However, the absence of a right of appeal against PEC decisions appeared to challenge constitutional principles.

A complaints committee was established by the PEC for the purpose of addressing various issues related to the election process. These procedures were difficult to assess as the information disseminated about complaints appeared limited. In the absence of a distinction between electoral offences actually committed and attempts at such offences, the prevalence of heavy and unspecified penalties, and the concurrent applicability of the Penal Code introduced a degree of uncertainty with regard to the prosecution of electoral offences.

Egypt implements a “passive” voter registration system. The voter register was extracted from the national identification documents (ID) database maintained by the MoI and



updated, when an election is called, by the PEC. First time voters were added to voter register, while citizens with restricted voting rights were excluded and the names of the deceased deleted. An estimated 5 million women were not included in the voter list and effectively disenfranchised due to lack of ID. The voter register was concluded on 30 March 2014, with a total of 53,909,306 registered voters.

While women were active in the social movements which brought change in Egypt, their presence in public office was limited. Women held 1.8 per cents of seats in the last parliament and much less than one per cent of judges are female. Among the key barriers to female participation in public life were an absence of political will to promote women, long-standing cultural attitudes and a lack of financial resources on the part of female aspirants.

Legal recognition for both religious and ethnic minorities has been limited in Egypt to date. A number of minority groups have experienced marginalisation and discrimination in the past, with cases of sectarian violence during the last three years against some religious minority communities. While minority groups have traditionally been underrepresented in public life, the new Constitution has generated some expectations of redress.

The PEC accredited 80 domestic and six international civil society organisations (CSO), and 15,549 domestic and some 1,000 international observers and visitors to follow the electoral process. Seven intergovernmental organisations, including the EU, deployed EOMs. Sophisticated requirements for individual accreditation put a considerable burden on domestic CSOs and a right of appeal against rejection was not articulated.

Election days were calm and peaceful overall. EU EOM observers conducted 1,694 visits to PS. They reported that voting, counting and tabulation were administered in an orderly and well organized manner by most of PSC and DC observed, noting a number of procedural issues and a limited amount of violations. The latter included incidental lack of cooperation by PSC officials in 77 cases, the unauthorized presence of military and law enforcement personnel in 63 cases, and obstruction and detention of journalists in 46 cases. EU EOM observers reported the presence of CSO observers in only 15 per cent of the polling stations visited, despite the importance of a robust domestic observation effort.

In the late afternoon on 27 May, while voting was still on-going, the PEC decided to extend voting for a third day. This unpredictable act, while not against the law, caused unnecessary uncertainty in the electoral process. Despite the formal arguments of the PEC regarding this extension, a number of stakeholders saw this decision as an attempt to enhance turnout in the presidential election and therefrom the political legitimacy of its outcome.

Following the three days of voting, the PEC stated that voter turnout was 47.45 per cent of registered voters. It announced that candidate Al Sisi received 96.91 per cent and candidate Sabahi - 3.09 per cents of the valid votes cast, respectively, with 4.07 per cent of votes invalid. On the evening of 3 June, the PEC posted the final results, by PS, on its website.



This report offers recommendations for consideration by the authorities of Egypt and other stakeholders to bring elections fully into line with Egypt's international commitments. The EU stands ready to support Egypt's efforts to further improve future elections.

## **2. Introduction and Acknowledgements**

The EU was invited by the Government and the PEC of the Arab Republic of Egypt to observe the 26/27 May presidential election in Egypt. Memoranda of Understanding between the PEC and the Ministry of Foreign Affairs (MFA), and the (EU) were signed on 13 and 14 April, respectively. The EU deployed the core team of the EU election observation mission (EOM) to observe this election on 18 April. The mission was led by Chief Observer (CO) Mario David, a Member of the European Parliament (MEP) from Portugal.

As scheduled, 30 LTOs arrived on 25 April and were briefed on 26/27 April. However, the deployment of the LTOs to their areas of responsibility across Egypt, initially scheduled for 28 April, had to be postponed until 21 May due to cumulative administrative requirements for the release from customs of essential communication equipment. As a result, the EU EOM was transformed into an election assessment team on 16 May. Its transformation back into an EOM, following the delivery of all necessary equipment, was announced by the CO at a press conference on 19 May.

Following these developments, the EU EOM was not in a position to deliver its long term observation mandate in full. A Delegation of the European Parliament headed by Robert Goebbels, MEP from Luxembourg, joined the EU EOM on 23 May to observe election day procedures. The Chief Observer issued the mission's Preliminary Statement at a press conference on 29 May and the EUEOM was repatriated on 16 June.

The EU EOM extends its appreciation to the MFA and to the PEC of the Arab Republic of Egypt for their cooperation. The EU EOM is grateful to the EU Delegation to Egypt and the EU Member States' diplomatic missions resident in Cairo for their support.

## **3. Political Context**

The 26/27 May 2014 presidential elections constituted the second phase of the roadmap decreed by Interim President Mansour as part of a constitutional declaration issued on 8 July 2013. Two candidates, Abdel Fattah Al Sisi, the former head of Egypt's armed forces, and Hamdeen Sabahi, a veteran Nasserist politician who came third in the 2012 presidential election, contested the election. Both candidates acquired the endorsement of a range of political parties and movements.<sup>2</sup>

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<sup>2</sup> Sisi was endorsed by the Wafd Party, the Free Egyptians Party, the Nour Party, the Conference Party, the Tagamoa Party, the Nasserist Party, the National Movement Party, and the Tamarod movement. Sabahi acquired the support of the Constitution Party, the Karama Party, the Egypt





While broad support for the roadmap, based on a widely shared belief that stability should be a priority, was enduring, opposition to the roadmap, or to the environment in which it is implemented, remained. This resulted in the non-participation of a number of political groups, in particular those belonging to the National Alliance for Supporting Legitimacy,<sup>3</sup> undermining universal participation in the election.

The presidential election followed the adoption of the new 2014 Constitution, the first phase of the roadmap, which was approved in a popular referendum on 14/15 January 2014.<sup>4</sup> While the Constitution contains a wide ranging catalogue of provisions protecting human rights and fundamental freedoms, considerable state practice raised questions as to the implementation of these provisions. Respect for the freedoms of association, assembly and expression, areas of particular concern in the context of this election, fell short of the constitutional principles.

Beyond these specific rights, broader failures to respect due process and the right to a fair trial created an environment where all human rights protection was tentative, with many rights abrogated both by law enforcement authorities and the judiciary. Prosecutions arising from events since 30 June 2013 continued to be adjudicated upon across the country, with heavy sentences being imposed, even upon those who were peacefully expressing their political views. There was, as a consequence, a chilling effect on the exercise of civil and political rights during the electoral process.

The political space for comment and dissent was narrow, with limited accommodation of opposition voices. Civil society organisations (CSO) were restricted in their operation and a number of these adopted the legal nature of not-for-profit entities in order to continue to operate within the law. The raid on the Egyptian Centre for Economic and Social Rights on 22 May underlined the intimidatory effect of such harassment. Interlocutors expressed concerns that draft legislation to further regulate NGOs, currently before the Ministry for Social Solidarity, may restrict their operation even further.

A number of court orders with political impact were issued by the Cairo Court for Urgent Matters, resulting in restrictions on political figures, movements and syndicates. These rulings have raised questions as to their compliance with Egypt's constitutional

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Freedom Party, the Socialist Popular Alliance Party, the Revolutionary Socialists, and the Popular Current movement.

<sup>3</sup> The National Alliance for Supporting Legitimacy includes Freedom and Justice Party (FJP), Building and Development Party, Watan Party, Wasat Party, Authenticity Party, Virtue Party, and Salafist Front. In addition to this coalition, the 'Strong Egypt Party' has also decided not to participate. Representatives of the EU EOM met a number of parties from this Alliance. However, despite several meeting requests to the FJP to which no formal response was received, the EOM was not in a position to meet with the FJP broadly viewed to be the political wing of the Muslim Brotherhood. With most senior leaders of the FJP in prison or exile, representatives of the party did not welcome an EU EOM at any time considering that such a mission would legitimise the outcome of the presidential election.

<sup>4</sup> The percentage of registered voters who turned out was 38.6 per cent with 98.1% of voters approving the new constitution.



guarantees for the right to participate in public life,<sup>5</sup> to freedom of expression,<sup>6</sup> and the independence of the syndicates.<sup>7</sup>

On 28 April, the Court ordered the interim authorities to freeze the activities of the ‘6 April’ Youth Movement due to receiving foreign funding with the alleged aim of sowing discord within Egypt, and to tarnishing the country’s image abroad. On 6 May, the Court barred leaders from the dissolved National Democratic Party from running in presidential, parliamentary, and municipal elections. Finally, on 31 May, the Pharmacists Syndicate was placed under judicial supervision by the same Court based on a case that the Muslim Brotherhood controls the syndicate.

Scattered protests by diverse groups such as students, liberals and supporters of former President Morsi have continued. Freedom of assembly was undermined by the legal requirements of the Law for Organising the Rights to Peaceful Public Meetings, Procession and Protest (the Protest Law),<sup>8</sup> due both to the extensive powers available to suppress gatherings by force including the power to use lethal force and to the severe penalties which have been applied under it. The arrest and detention of peaceful protestors has been widespread pursuant to this law. The number of those in detention was not publicly disclosed further undermining confidence in the respect for human rights by the state.

In spite of wide effort by the authorities to curb militant attacks, an insurgency in North Sinai and other acts of violence continued, often targeting military and law enforcement personnel. Draft counterterrorism legislation potentially offers increased powers of suppression to the authorities. There is a widespread acknowledgement, particularly among civil society, that human rights are being repressed. It remains to be seen what new legal and administrative measures will be put in place to give effect to the principles elaborated in the Constitution.

Court rulings in mass trials, including two in El Minya in March and April 2014, which have recommended the imposition of the death penalty on several hundreds of persons in each trial, were in clear violation of international human rights law and raised serious questions as to the respect for due process and the right to a fair trial. The authorities hold the view that expressing opinions on such cases would affect the independence of the judiciary. These trials, combined with the violations of freedoms of assembly, association and expression, raise major questions concerning Egypt’s compliance with its international human rights obligations in the ICCPR. In addition, the failure to create transitional justice mechanisms to address human rights abuses of recent years has fostered impunity, although accountability and justice are essential to promote reconciliation in Egypt.

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<sup>5</sup> Constitution Articles 75 and 87.

<sup>6</sup> Constitution Article 65.

<sup>7</sup> Constitution Articles 76 and 77.

<sup>8</sup> Law 107/2013.



The last phase of the roadmap will be the election of a new parliament. The Constitution stipulates that preparations for Egypt's parliamentary elections must begin within six months of its ratification, by 18 July 2014. Interim President Mansour promulgated two laws on 5 June 2014 pertaining to the regulation of parliamentary elections.<sup>9</sup>

## 4. Legal Framework

### 4.1 Overview

Egypt is a party to a wide range of international and regional standards, most notably, the UN ICCPR and the UN CEDAW, encompassing fundamental freedoms and civil and political rights, with implications for electoral processes.<sup>10</sup> In the regional context, Egypt has ratified the African Charter on Human and Peoples' Rights. The state is a member of the League of Arab States and a signatory to the Arab Charter on Human Rights, although it is yet to ratify that treaty. Egypt is also a member of the Organisation of Islamic Co-operation, which adopted the non-binding Cairo Declaration on Human Rights.

The legal framework for the 2014 presidential election was underpinned by the new Constitution. The Constitution also explicitly confirms the force of law for those international instruments to which Egypt is a party.<sup>11</sup> Additionally, it embodies new and transitional provisions for presidential elections<sup>12</sup>.

Pending the establishment of a permanent election administration, the Presidential Elections Law (PEL)<sup>13</sup> established the supervising Presidential Election Committee (PEC)<sup>14</sup>. This law also outlined candidacy requirements and procedures, set out the rules on campaigning, including on media coverage of the campaign, on campaign finance, on election day procedures and on penalties for electoral offences.

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<sup>9</sup> These were Law 45/2014 on the House of Representatives (HoR) and Law 46/2014 on Organising the Exercise of Political Rights.

<sup>10</sup> Other conventions that Egypt is a party to include the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), the Convention on the Rights of Persons with Disabilities (CPRD), the Convention on the Political Rights of Women (CRPW), the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMF) and the United Nations Convention Against Corruption (UNCAC).

<sup>11</sup> Constitution Article 93.

<sup>12</sup> Constitution Article 228 provides that until the establishment of the National Elections Commission, Articles 208-210, the PEC existing at the time of the Constitution shall supervise "the presidential election following the effective date of the Constitution".

<sup>13</sup> Constitution Article 143 states that "procedures for electing the President of the Republic are regulated by law". Law N 22/2014, the PEL, was promulgated by a decree of Interim President Mansour on 30 March 2014.

<sup>14</sup> PEL Article 3 provides that the PEC be comprised of 5 senior members of the judiciary and Article 4 assigns it juridical personality.



A number of pre-existing pieces of legislation, including the Law on the Exercise of Political Rights (LEPR)<sup>15</sup>, the Civil Status Law<sup>16</sup> and the Protest Law, also had implications for various aspects of the presidential election process. While this legal framework provided an adequate basis for the conduct of the elections overall, it also fell short of applicable international and regional standards for democratic elections in several respects.

## 4.2 Right to Vote

Notwithstanding constitutional provisions,<sup>17</sup> which describe participation in public life as ‘a national duty’ and accord the right to vote to ‘every citizen’, the PEL facilitated extensive disenfranchisement, in contravention to the ICCPR.<sup>18</sup> It confined the duty to vote in the presidential election to “voters registered in the voters’ database”.<sup>19</sup> By virtue of the fact that the voter database was drawn only from the register of citizens holding a valid ID, over five million citizens were disenfranchised.

In addition, the LEPR, which sets out the categories of voters whose voting rights are circumscribed, was not amended to reflect the new constitutional mandate. As a consequence, further categories of voters who could not vote included citizens of voting age who were bankrupts of five years, members of the armed and police forces, naturalized citizens of less than five years standing, civil servants discharged within five years prior to the elections for breach of honour, and persons under a court order during the period of their interdiction (e.g. potentially including persons subject to a family barring order), also had their voting rights either deprived, suspended or restricted. While military and law enforcement personnel are ‘exempted’ from the duty to vote,<sup>20</sup> the effect is that they do not participate in elections while on active service.

Further, certain voters’ rights were arbitrarily denied. No provision was made by the PEC to facilitate voting by voters being held in detention awaiting trial.<sup>21</sup> A further instance of disenfranchisement arose from the absence of any specific provision enabling citizens who turned 18 up to and including on the election days to be entered on the voter database, with the effect that an unquantified number of voters turning 18 between the calling of the election and election days were not added to the voter register. The absence of significant numbers of citizens from the voter register suggests that the state could have been more proactive in facilitating citizens to fulfil their legal obligation. The absence of tactile ballot papers violated the right to secrecy of voters with visual impairments.

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<sup>15</sup> Law 73/1956 on the Exercise of Political Rights (as amended).

<sup>16</sup> Law 143/1994.

<sup>17</sup> Constitution Article 87.

<sup>18</sup> ICCPR Article 25 (b) grants the right for every citizen to vote and to be elected.

<sup>19</sup> PEL Article 1; PEL Article 43 imposes a fine of 500 Egyptian Pounds (EGP) on a person registered in the voter database who fails to vote without excuse.

<sup>20</sup> LEPR Article 1.

<sup>21</sup> United Nations Human Rights Committee (UNHRC), General Comment 25, paragraph 14.



### 4.3 Right to Stand

The Constitution also grants the right to stand for election to ‘every citizen’.<sup>22</sup> However, that right is limited by a number of provisions both in the Constitution and in the legislation, contrary to the ICCPR.<sup>23</sup> Disqualification from candidacy in the presidential elections on the basis of origin is embedded in the Constitution.<sup>24</sup> This restriction is repeated in the same terms in the PEL, which excludes, as potential candidates, naturalised citizens, citizens who hold or held another nationality and citizens having a spouse or parent who holds or has ever held another nationality.<sup>25</sup>

While a number of further limitations also appear in the PEL, the condition which discriminates on the grounds of education does not accord with the Constitution or Egypt’s international obligations.<sup>26</sup> Further, the imposition of a requirement for aspiring candidates to undergo a medical examination could have the effect of arbitrarily excluding persons with disabilities from seeking candidacy. In this regard, the Convention on the Rights of Persons with Disabilities (CRPD) requires states to guarantee to persons with disabilities political rights, and the opportunity to enjoy them, including protecting the right to stand for election, while promoting an environment in which persons with disabilities have the right to fully participate in public life.

### 4.4 Right to Appeal

The PEL, repeating a provision of its predecessor law of 2012, provides that all decisions of the PEC are final and ‘incontestable by any means’.<sup>27</sup> The basis for the retention of this provision appears to have been grounded in concerns that a right of appeal could have interrupted or delayed the election process. The absence of a right of appeal against PEC decisions appears to challenge the Constitution<sup>28</sup> and falls short of applicable international standards.<sup>29</sup>

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<sup>22</sup> Constitution Article 87.

<sup>23</sup> ICCPR Article 2 requires the rights of individuals in states’ territories to be respected and ensured without discrimination on various grounds including origin. The right and opportunity for every citizen to vote and to be elected is enshrined in article 25(b).

<sup>24</sup> Constitution Article 141 limits the presidential offices to citizens who themselves or their parents or spouse have never held another nationality.

<sup>25</sup> PEL Article 1 and 12.

<sup>26</sup> PEL Article 1 requires candidates to have a higher (university level) education. See also ICCPR Article 2 and 25, as well as UNHRC General Comment 25, paragraph 15.

<sup>27</sup> PEL Article 7 provides that “PEC decisions shall be final, self-enforcing and incontestable by any means and before anybody whatsoever. Its decisions shall not be construed or stayed un-reprieved”.

<sup>28</sup> Constitution Article 97 provides, *inter alia*, that ‘litigation is an inalienable right for all’ and that ‘It is prohibited to immunize any administrative act or decision from judicial review’.

<sup>29</sup> The UNHRC has pointed out that the ICCPR requires each state party to the ICCPR to ensure access to the right to a remedy in the manner provided by the legal system of the state. UNHRC, General Comment 25, paragraph 20, provides that ‘There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and counting of votes’. In January 2014, the



Despite the existence of a comprehensive judicial infrastructure, there was no possibility to challenge PEC decisions, certain of which were seen to cause unnecessary confusion, in particular the PEC's decision to extend voting to a third day. In this context, the absence of a right of appeal might have impacted not only the interests of voters, but also the PEC itself.

## 5. Election Administration

The presidential election was administered by a three-tier election administration comprising the PEC, 353 DC<sup>30</sup> and 13,899 PSC. The DC were in charge of the aggregation of results at district level and their transmission to the PEC. The PSC worked only from the day before the election until the completion of the vote count to administer election day procedures.<sup>31</sup>

The PEC is a temporary body established to administer the presidential election.<sup>32</sup> It is chaired by the President of the Supreme Constitutional Court<sup>33</sup> and includes, as members, the President of the Cairo Court of Appeals; the most senior deputy of the President of the Supreme Constitutional Court; the most senior deputy of the President of the Court of Cassation, and the most senior deputy of the President of the State Council. Overall, the PEC appeared to enjoy the confidence of the participants in the election.

The PEC appointed a general secretariat composed of judges<sup>34</sup> and civil servants to help implement its mandate. A technical committee to support its work included representatives from various Ministries<sup>35</sup> and other state institutions involved in operational issues. Working groups were established to address specific issues. The PEL granted the PEC broad powers to issue decisions and decrees expanding and elaborating both the PEL and its own activities. The PEC issued 35 decrees until the completion of the election process.<sup>36</sup>

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State Council issued an advisory opinion on the draft PEL. Although the EU EOM was not in a position to obtain a copy of this opinion, it would appear that the State Council had recommended the removal of PEL Article 7, prior to promulgation of the law, as reported by the newspaper Al Ahram on 3 March 2014.

<sup>30</sup> One DC was established to manage the out-of-country voting (OCV).

<sup>31</sup> The PEL does not provide for election administration bodies at the 27 Governorates despite the role of the First Instance Courts in the transmission of results to the PEC.

<sup>32</sup> Constitution Article 228.

<sup>33</sup> After the suspension of the 2012 Constitution on 3 July 2013, executive power was vested in the Supreme Constitutional Court, and its president, Mr Adly Mansour, was named acting President. Mr Anwar El Assy, his most senior deputy, became the Constitutional Court's acting Chairman and Chairman of the PEC.

<sup>34</sup> Out of 28 judges, only one was a female.

<sup>35</sup> Including the MoI, Ministry for State Administrative Development, Ministry of Communication and Technology, MFA and the National Information Agency.

<sup>36</sup> PEL Article 10 empowers the PEC to set the start and end date of the elections, without precise limitation. Other exclusive competencies of the PEC are listed in PEL Article 6.



Overall, the PEC operated in an impartial manner and adhered to most legal requirements and deadlines. Decisions were taken by majority vote. Legal enactments, though lacking sufficient detail in a number of cases, were issued in a timely manner and preparations for the presidential vote were performed professionally. All decrees were published on its website without delay. It also published guidelines for voting, counting and aggregation of results. These guidelines, although useful, lacked some detail resulting in non-uniform implementation by the PSC judges. The PEC usefully translated its decrees and other documents promptly into English, which facilitated the work of international observers.

DC were established by the PEC only in the immediate run up to the election day. There was not a legal deadline for their establishment. DC were composed of judges and support staff. They had supervisory powers over the PSC and they aggregated results in their respective districts. EU EOM observers assessed that the DC operated effectively overall as most of their membership had prior election experience. While DC were mandated to adjudicate complaints related to the polling stations' activities, the PEL does not clearly define their jurisdiction and sanctioning authority.

The lowest tier, the PSC, were also chaired by a member of the judiciary supported by a number of civil servants. Neither the chairpersons nor the members received training on voting and counting procedures. This lack of training may have led to procedural errors or non-uniform performance during the election days.

Electoral logistics were run by the Ministry of the Interior<sup>37</sup> under the supervision of the PEC. In order to guarantee the integrity of the vote, ballot papers were printed under conditions of strict security. The number of ballot papers printed was equal to the number of voters included in the voter register, and the ballot papers were delivered to the PS on time. The election authorities did not disclose the ballot layout to the public with a view to prevent potential counterfeiting, although this approach might have affected voters' understanding of the process. Although the PEC is responsible for calling the voters to vote for the election of the President and voter information was broadly available, there was limited evidence of voter education.

One hundred and forty one PS were opened in 124 countries to serve voters abroad. OCV took place from 15 to 18 May and was administered by the MFA under the supervision of the PEC. On 20 May, the OCV DC announced the OCV results during a widely publicised ceremony, approximately a week before the voters in Egypt would cast their ballots. While this action was in line with the legal provisions, it may have affected voters' choices as one of the candidates obtained the vast majority of the OCV votes. Most PS were connected with the PEC with regard to the transmission of electoral data and live images of the voting process.

## 6. Voter Registration

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<sup>37</sup> Except for the update of the voter register and the assignment of judges to the DC and PSC.



Egypt implements a ‘passive’ voter registration system, extracting the voter register from the national identification documents (ID) database maintained by the Civil Status Office of the Ministry of the Interior. Every Egyptian citizen above 18 years of age, holder of a national ID card obtainable at the age of 16 issued from 1994 onwards, is added to the voters list. The register of citizens from which the voter list is extracted is updated throughout the year.<sup>38</sup> The change towards a “passive” system finds its origin in the 19 May 2011 amendments to the LEPR.<sup>39</sup> The voter register used for this election was concluded on 30 March 2014, when the election was called, with a total number of 53,909,306 registered voters.

First time voters, numbering 653,275, were added to the voter register, while 167,454 records were deleted, including citizens who had their right to vote restricted<sup>40</sup> and the names of the deceased. The PEC assigned the responsibility of compilation of the voters’ database to the permanent voter database committee established by Decision 35/2013 of the President of the High Elections Committee.<sup>41</sup> The PEC updates the voter register immediately before an election is called. It is chaired by a judge and comprises representatives of the Ministries of Interior, Communications and Information Technology, and Administrative Development and a number of technical staff.

Citizens who reach 18 years of age between the day of calling the election and election day are not included in the voter register, even though they may have fulfilled their civil obligations for issuance of ID. Such citizens remain disenfranchised. The same applies to those citizens who received their ID in the above mentioned period.<sup>42</sup>

According to representatives of the authorities,<sup>43</sup> an estimated 5 million women and some 375,000 men were not included in the voter list and effectively disenfranchised due to their lack of ID. Further to that, the EU EOM was informed that there was another segment of the population, whose numbers remain unknown, who do not have even a birth certificate and who are thus also absent from the voter register. Finally, there is a category of eligible citizens, holders of an ID, but removed from the voter register because they live abroad and whose national ID was issued without a permanent residence in Egypt.<sup>44</sup>

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<sup>38</sup> LEPR Article 15.

<sup>39</sup> A flow chart, on page 15, demonstrates the evolution of the legal framework for issuance of IDs and voter registration.

<sup>40</sup> Please see Section 4.2 ‘Right to Vote’, above.

<sup>41</sup> PEC Decree 2/2014.

<sup>42</sup> Citizens are legally obliged to apply for an ID within six months after turning 16. For noncompliance, Article 48 of Law 143/1994 on Civil Status provides for imprisonment of up to six months or a fine in the range from EGP 100 to EGP 500. This law also regulates, in Articles 19, 21, 22 and 24, the registration of new born children and failure to comply with these provisions is sanctioned with a fine in the range between EGP 100 and EGP 200.

<sup>43</sup> According to representatives of the Ministry of State Administrative Development.

<sup>44</sup> The PEC estimated their number between 5,000 and 5,500. They are not referenced to in the LEPR.





As in previous elections, voters could vote in governorates other than the ones stated on their ID cards. Voters had to submit an application at registration offices.<sup>45</sup> The registration period ran from April 26 to May 10. This procedure applied only for this election and once the final number of OGR voters was determined, the PEC decided on the final number of PS. The applications electronically recorded were transmitted to PEC by designated first instance courts. The absence of an official awareness campaign resulted in only 67,959 applications for out-of-Governorate registration, which resulted in large demonstration of non-registered voters during the election period and allegedly contributed to its extension.<sup>46</sup>

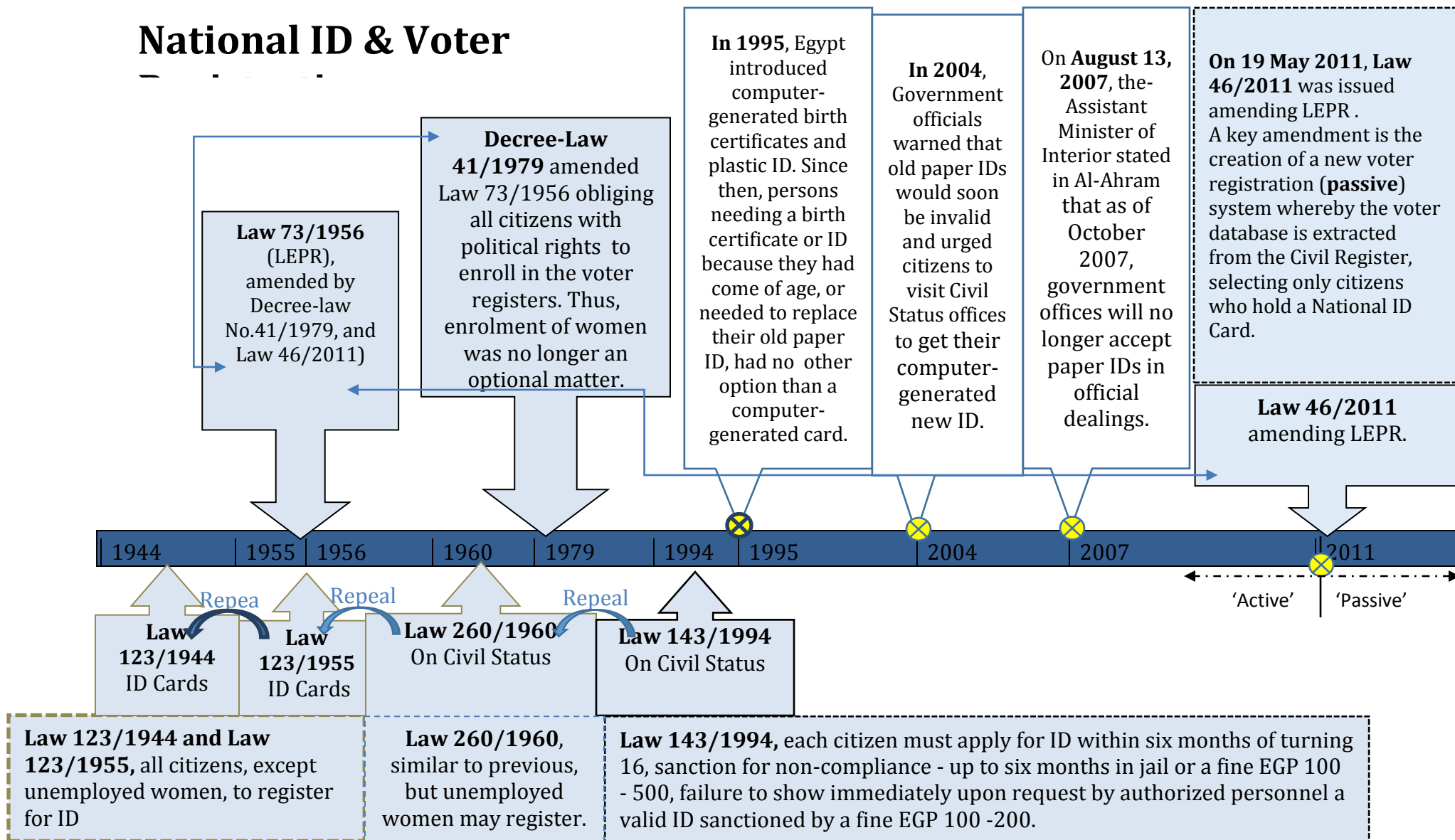
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<sup>45</sup> PEC Decree 8/2014; these were established, most often, in public notary offices, social and sport clubs or in mobile registration units in touristic and industrial areas.

<sup>46</sup> PEC Decree 34.



## National ID & Voter





The EU EOM heard little or no criticism of the voter register and the EU EOM observers detected very few complaints relating to OGV voters, suggesting that the voter register is accurate and well maintained. However, a breakdown of the number of voters removed from the voter register by categories was not provided.<sup>47</sup> Publicising such information would uphold transparency and confidence in the process.

## 7. Registration of Candidates

The Constitution and the PEL offered alternative routes to candidacy based on supporting signatures obtained either from members of the House of Representatives (HoR) or from eligible voters.<sup>48</sup> In the absence of an elected HoR, only the latter option was open to aspiring candidates for the presidential election. This entailed the need for each candidate to obtain at least 25,000 support signatures, 5,000 less than the threshold set for the 2012 presidential election. A key condition attaching to such supporting signatures was that no less than 1,000 signatures had to be obtained from each of at least 15 of Egypt's 27 governorates.<sup>49</sup> Voters could only give their support to a single candidate and were required to register such support on a form, prescribed by the PEC and authenticated before a public notary without charge. In addition, aspiring candidates had to submit documentation to the PEC proving compliance with other conditions of candidacy,<sup>50</sup> together with a refundable environmental bond of EGP 20,000, a financial disclosure, and a declaration of non-conviction for felony, breach of honour or trust.

In at least one instance the registration process appeared to impede a potential candidate. As the PEL gave exclusive authority to the PEC to set the entity responsible for medical examination,<sup>51</sup> it nominated the General Administration of the Specialised Medical Councils in the Ministry of Health in this regard. The decision of the PEC did not ascribe a particular time frame for this process providing only that the decision would take effect after its publication in the Official Gazette.<sup>52</sup> The Ministry of Health, however, limited the period for the sitting of the medical examination without public notification, with the effect that one aspiring candidate was unable to proceed with a completed candidacy application to the PEC.<sup>53</sup>

Two candidates, Abdel Fatah Al Sisi and Hamdeen Sabahi, successfully filed completed applications and were publicly announced along with details of their obtained support

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<sup>47</sup> The information on these numbers provided by the PEC to the EU EOM on 9 June did not provide the breakdown of the deletions except for the deceased.

<sup>48</sup> Constitution Article 142 and PEL Article 11.

<sup>49</sup> PEL Article 2.

<sup>50</sup> PEL Articles 1, 2 and 12; requirements related to the candidate's nationality, parent and spouse nationality, higher education, enjoyment of civil and political rights, no criminal record, exempted from or completed military service, not less than 40 years old, and certified as medically fit.

<sup>51</sup> PEL Article 6 and PEC Decree 3/2014.

<sup>52</sup> The publication was made on 17 March 2017.

<sup>53</sup> See Section 10 'Electoral Offences, Complaints and Appeals', below.



signatures, 188,930 and 31,555 valid endorsements, respectively. After verification of their applications, the final list was declared by PEC Decree 25/2014 on 1 May 2014.

## 8. Campaign and Campaign Finance

The campaign period started after the final list of candidates was officially announced by the PEC on 2 May and concluded two days before the election, on 23 May. A silence period was in place until the days of election had concluded.<sup>54</sup> EU EOM observers were not in a position to follow most of the campaign outside Cairo. In the capital, the campaign was largely calm and peaceful, with only a few isolated incidents, which had a limited impact. The EU EOM observed 12 campaign rallies. While the implementation of the protest law undermines the freedom of assembly, its application in the context of the electoral campaign has been limited with regards to both candidates. At the same time, demonstrations opposing the elections or certain candidates were curbed.<sup>55</sup>

The late issuing of formal electoral programmes did not prevent the candidates from pursuing their respective campaigns.<sup>56</sup> However, Al Sisi's tightly controlled public profile and the limited resources of the Sabahi campaign impacted on the ability of both campaigns to reach out to voters. Due to perceived security risks, Al Sisi chose to hold private meetings with a selected audience instead of public rallies, relying on the campaign's financial clout to reach out to voters through posters, and TV and radio commercials. In contrast, Sabahi's campaign had a more public character, including at least seven rallies attended by the candidate himself. Yet, the campaign's limited financial resources restricted its visibility. Both campaigns engaged significantly on mass and social media.

Both candidates stressed their adherence to campaign rules regulated by law. The PEL contains provisions regulating the basis on which campaigns may be conducted and activities which are prohibited.<sup>57</sup> PEC Decree 13/2014 further established a committee for monitoring and reporting on electoral campaigning. The degree to which these regulations were adequately implemented is unclear. The PEC issued a direction to the Minister of Administrative and Local Development for governorates to take down campaign posters put up before the campaign period.<sup>58</sup> There is no indication that the penalties for such breaches, prescribed by PEL article 18, were enforced against either of the candidates.

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<sup>54</sup> PEL Article 18.

<sup>55</sup> ICCPR General Comment 25, Paragraph 25, stipulates that "full enjoyment of rights protected by Article 25 requires freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas."

<sup>56</sup> Sabahi's electoral programme was published on the campaign's website on 15 May, while Sisi's programme was released less than a week before voting began.

<sup>57</sup> PEL Articles 18, 19 and 20.

<sup>58</sup> PEC Press Release 22.



The PEC notified candidates of a violation on two occasions. On 1 May, the PEC notified candidate Sabahi that a press conference he held the previous day to explain his platform was considered a violation of the campaign rules. On 2 May, upon announcing the final candidate list, the PEC indicated that supporters of one candidate had already put up posters in large urban areas. The PEC ordered the removal of all forms of election propaganda. On 25 May, the PEC announced that it had examined one further possible violation, namely the distribution of energy saving light bulbs to citizens by popular campaigns supporting Al Sisi, but did not hold the candidate accountable for this activity.

The potential to achieve a level playing field for the campaign was prejudiced by insufficient campaign finance regulation, particularly in circumstances where there was evidence that third parties were contributing outside the spending limits set by the PEC. Campaign finance regulations<sup>59</sup> included set spending limits for both first and the possible second rounds, while the maximum expenditure permissible by each candidate for the first round was EGP 20 million which doubled the spending limit for the 2012 presidential election. Further, the law provided that each candidate could receive contributions in cash or in-kind, but only from Egyptian nationals, and limited the value of individual donations to two per cent of the maximum expenditure.

Candidates were required to open a specific campaign account in a bank nominated by the PEC for the deposit of cash donations,<sup>60</sup> with the further stipulation that both candidate and bank report to the PEC daily on all funds deposited and their source as well as expenditure. Campaign spending outside of these accounts was prohibited,<sup>61</sup> although the law did not specifically address the use of in-kind benefits as a form of expenditure. With respect to in-kind donations the law was also silent on the methodology of evaluation, requiring only that candidates attribute their own values to in-kind donations in a written register.<sup>62</sup> Notwithstanding, there was evidence of campaign expenditure by persons other than the candidates. The PEC established a monitoring and reporting committee with responsibility for overseeing campaign finance matters.<sup>63</sup> However, this decree did not spell out in detail the mechanisms for such monitoring, other than according the committee the power to seek and obtain information.

Within 15 days of the announcement of the result, candidates, or notarised attorneys on their behalf, are required to submit to the PEC a statement showing all sums received, the source, the nature and the amount as well as details of expenditure on campaigning. Thereafter, the Central Auditing Organisation (CAO) is nominated to audit the campaign accounts and to report within a further 15 days of the referral of the accounts to it by the PEC. There is, however, no set timescale within which the PEC is required to refer the

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<sup>59</sup> PEL Articles 22 – 26 and PEC Decree 9/2014.

<sup>60</sup> PEC Decree 9/2014 nominated either the National Bank of Egypt or Banque Misr.

<sup>61</sup> PEL Article 49 provides that a fine, between EGP 10 500 thousand, shall be imposed on ‘any person’ who spends on campaigning funds other than those deposited in the assigned bank.

<sup>62</sup> PEC Decree 9/2014.

<sup>63</sup> PEC Decree 13/2014.



accounts to the CAO. In the absence of precise rules, it is also unclear to what extent the CAO will seek to measure or assess in-kind donations divulged by the candidates.

Further, there is no explicit requirement for the audited accounts to be made public, although the PEC has implicit authority to decree such publication.<sup>64</sup> Notwithstanding, there is a lack of precision on the means of the PEC to apply the campaign finance rules in an efficient manner and assure voters of the transparency of the financing mechanisms. The dominant visibility of the poster campaign of candidate Al Sisi demonstrated a weakness of oversight operating in his favour.

## 9. Media

### 9.1 Legal Framework

The Constitution guarantees the freedom of expression of every person.<sup>65</sup> It also guarantees freedom of the press,<sup>66</sup> and of the media, both public and private. It mandates the independence of State owned media and imposes requirements of neutrality in the presentation of content in such media. Press freedom, however, is not unlimited and may be restrained if what is sought to be published is criminal in nature, such as incitement to violence, or is harmful to individuals.

In order to ensure these freedoms, the Constitution provides for a transition from the previously existing media regulatory framework to a new one, establishing two new entities responsible for regulating the media within Egypt. It is envisaged that the upcoming Parliament would establish a National Media Council tasked to “*regulate the affairs of radio, television, and printed and digital press, among others*” and a National Press and Media Association to “*manage state-owned press and media institutions*”.

The media legal framework for this presidential election is comprised in the Constitution, the PEL and PEC Decree 15/2014. The PEC was vested with the regulation of the state media and the press, as well as media accreditation for the coverage of the presidential election. Several local and international media, including BBC Arabic, had their applications for registration rejected by the PEC and were not in a position to cover the presidential election.<sup>67</sup>

To date, notwithstanding the political and constitutional changes since 2011, the Mubarak-era press laws and penal code have remained in place, limiting the independence and ability of the media to criticize and hold the government accountable.

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<sup>64</sup> UNCAC, Articles 3 and 4, requires states parties to consider legislative and administrative measures to enhance transparency in funding of candidatures for elected public office and to strengthen systems that promote transparency.

<sup>65</sup> Constitution Article 65.

<sup>66</sup> Constitution Articles 70-72.

<sup>67</sup> PEC Decree 15/2014; of the 14 media concerned, 13 were rejected on the grounds that they were not registered and the other one because the registration was received after the deadline.



Several articles allow journalists to be prosecuted for their reporting.<sup>68</sup> The interim government has taken measures to lessen the punishment for “insulting the President” by amending the 1996 Press and Publication Law and removing prison sentences but journalists still face fines for defamation.

The Ministry of Information established a Media Monitoring Committee (MMC) on 23 April 2014 to monitor the compliance of broadcast media with PEC regulations and to ensure that the coverage of the candidates’ campaigns is done in a balanced and neutral manner. The MMC did not have the authority to sanction media for non-compliance. Media outlets found responsible for possible violations of the PEC regulations were merely informed about the infringement.

## 9.2 Media Landscape

The private broadcast media has grown strong and vibrant, mushrooming since the state monopoly on the broadcasting sector was lifted in 2001. From 2001 until 2010, 40 companies have created more than 60 cable television channels. Approximately 20 new privately owned television networks have emerged in the post-Mubarak era.

However, the diversity in the media map has vanished after a number of channels affiliated with the Islamic trend were closed, including the Freedom and Justice Party’s newspaper which was considered a Muslim Brotherhood mouthpiece before it was closed down in December 2013.

The most powerful TV network remains the state broadcaster *Egypt Radio and Television Union* (ERTU). Operated by the Egyptian government and affiliated with the Ministry of Information, the ERTU owns 22 television channels, including two national channels.

Due to a complex system of licencing the ERTU preserves a measure of monopoly on the country's airwaves. The ERTU owns 70 stations that belong to eight national networks broadcasting on FM, AM and short wave. There are only two privately owned radio stations, *Nougoom FM* and *Nile FM*, that air mostly music, along with a number of internet radio stations.

Analogue terrestrial private television has not been allowed to develop; therefore, private television is only disseminated by satellite and operates from the 'Media Free Zones'. The most influential satellite television network is owned by a handful of businessmen.<sup>69</sup>

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<sup>68</sup> Articles 302 and 306 of the Penal Code provide for imprisonment of journalists on charges of defamation; Articles 171–201 define several press-related offenses, such as insulting the army.

<sup>69</sup> A former member of the disbanded National Democratic Party and an influential businessman, Mohamed Al Amin, owns not only CBC, but also Al Masry Al Youm, Youm7 newspaper, Al Fagr newspaper, the news agency AUA, parts of Al-Watan newspaper and of Al-Nahar channel. The head of Al Wafd party, Sayed Al Badawi, who is also a pharmaceutical tycoon, owns Al-Hayat channels and co-owns Al Dostour Newspaper. A leading businessman in telecommunication and construction, Naguib Sawiris, owns ONTV and part of Al Masry Al



The press, comprised of state, party, and independent media, is considerably less dominant than electronic media due to the significant illiteracy rates; nonetheless they both exert an important influence in the most populated urban areas. All major newspapers have a strong presence on the web.

The internet is relatively free compared to traditional media due to the absence of internet legislation. Internet penetration is expanding rapidly, reaching more than 36 million people in 2013<sup>70</sup> compared to 20 million in 2009. It is estimated that the Internet penetration rate has reached more than 43 percent of the Egyptian population, which exceeds 85 million.<sup>71</sup> Internet is increasingly used to impart information, especially in urban areas. News outlets that operate solely online are booming. Social media play a key role in spreading news and information.

### 9.3 Media Monitoring

According to the EU EOM monitoring of a selection of media outlets broadcasting within Egypt and abroad,<sup>72</sup> the media presented the election as a major event giving it extensive coverage. The two candidates were allocated about half of the time and space in the vast majority of the media monitored and dominated news programmes, talk shows and other broadcasts. Major channels interviewed both candidates, and state and private media were mostly neutral in their coverage of the campaign but less so in direct interviews. Several presenters shared their impressions and personal opinions in support of one candidate or opposition of the other.

The state media monitored respected the law and provided approximately equal coverage to both candidates. However, in the private media, candidate Al Sisi received more than twice the coverage given to candidate Sabahi. In the media broadcasts within Egypt, there was no coverage of opinions sympathetic to those in opposition to the Egyptian roadmap. The coverage of women was less than 2 percent in all the media monitored. Therefore, large parts of public opinion were not reflected in the media.

Most media outlets were in violation of the professional standards for the publication or broadcast of political advertisements. Media outlets did not inform consistently viewers that such promotional materials were in fact political advertisements. Several opinion

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Youm. Ahmed Bahgat, owner of the real estate Bahgat group, launched the first private channel network called Dream.

<sup>70</sup> According to the data released by the Ministry of Communication and Information Technology.

<sup>71</sup> According to official figures by the state-run statistics body CAPMAS.

<sup>72</sup> The sample included the state-owned Chanel One TV, Radio Masrh and Al Ahram newspaper, as well as the private media ONTV, CBCTV, Al Hayat TV, Al Masry Youm newspaper, Al-Shorouk newspaper, Youm 7 website and the satellite channels Al Arabia, Skynews Arabia and Al Jazeera Mubasher. The EU EOM monitored prime time broadcasts from 3 to 23 May. The results of the media monitoring during the electoral campaign period, in tabular format, were reported in the Preliminary Statement of the EU EOM published on 29 May. Their graphical presentation is available on the next page.



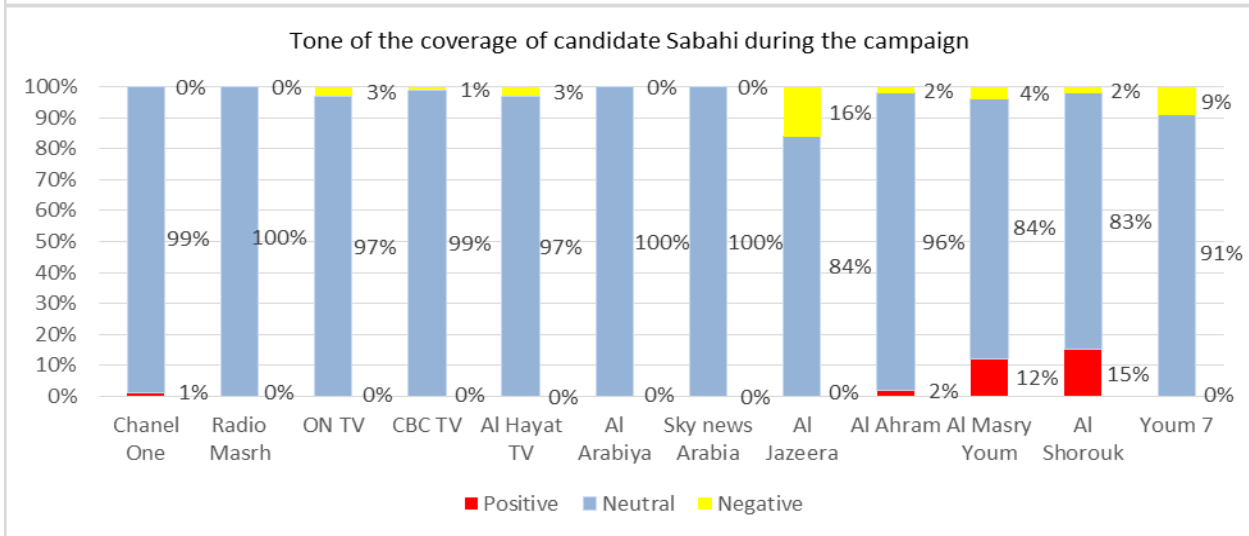
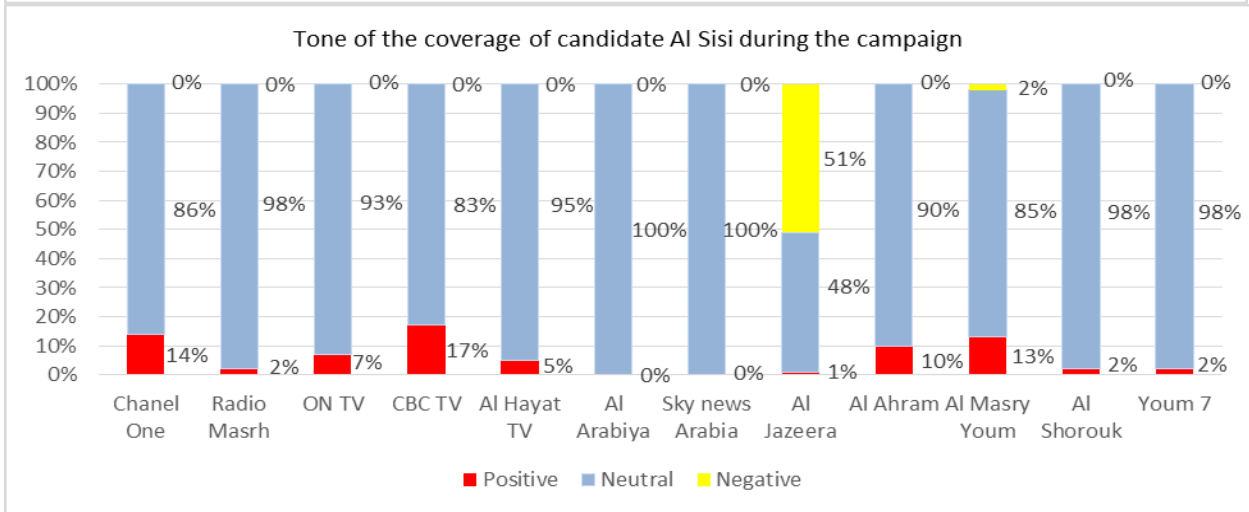
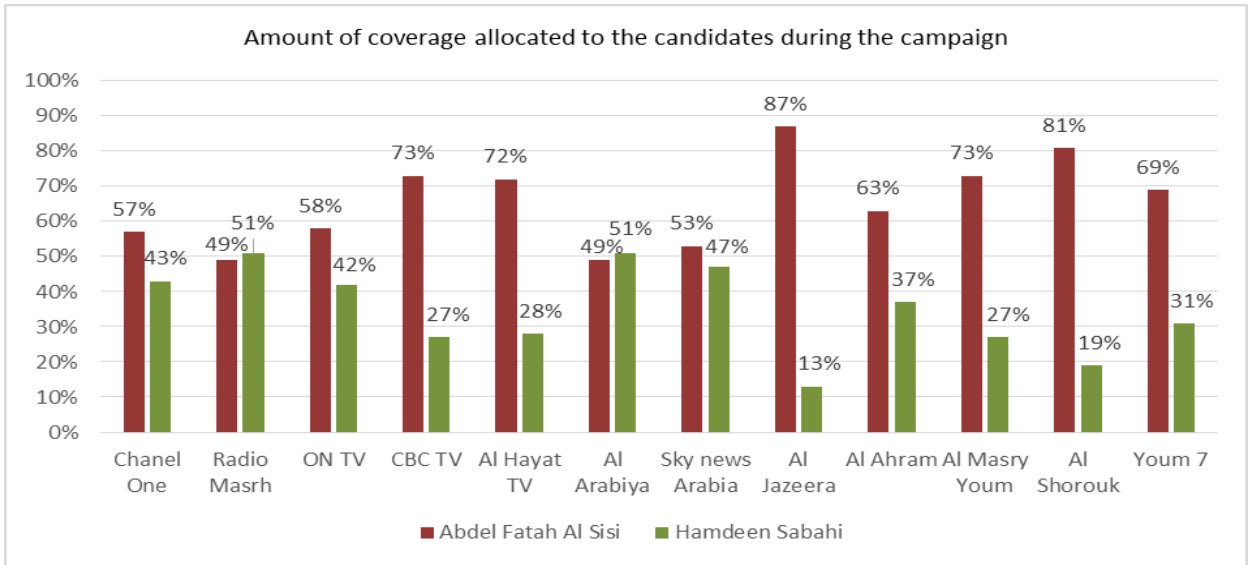


polls conducted during the first two weeks of the campaign did not meet the professional standards required by law,<sup>73</sup> although they were widely publicized by broadcasters.

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<sup>73</sup>

PEL Article 21.





There was limited coverage of voter education, which was confined to a few public service announcements and focused on urging the citizens to participate in the elections under the slogan of “go and participate, Egypt needs your voice”.

Among the three foreign satellites channel monitored, only Al Jazeera Mubasher Misr gave dedicated coverage to the elections, supporting the Islamic political trend that rejects all consequences of the events following 30 June 2013.

EU EOM media monitoring carried out on 24 and 25 May shows that several state and private channels breached the campaign silence period by broadcasting songs and favourable commentary in support of candidate Al Sisi. Newspapers also dedicated numerous editorial columns during this period to personalities who encouraged voters to vote for this candidate, while describing the other candidate as the inevitable loser.

On polling days, 26–28 May, numerous violations of media freedoms were recorded. According to the Journalists’ Syndicate,<sup>74</sup> journalists were detained, arrested or obstructed from reporting at PS in several governorates with at least 46 violations against journalists reported, including the temporary detention of a BBC crew.

After the PEC announced on 27 May the extension of voting for a third day, journalists were unleashed to encourage people to vote. The media’s announcement of preliminary indication figures of the number of voters who participated in the presidential election was in violation of the law regulating the presidential election.

#### 9.4 Freedom of the Media

According to the Freedom Press Index,<sup>75</sup> Egypt’s status on freedom of the press changed from “Partly Free” to “Not Free”. The announcement by satirist Bassem Youssef, citing pressure and harassment, the cancellation of his TV show on MBC Masr channel,<sup>76</sup> and the ban on any further articles by the columnist Nader Al Fergany in the state newspaper Al Ahram, following a series of critical publications underscoring the concerns related to freedom of the media.

Further to that, news media were perceived as close to the Muslim Brotherhood have been closed. These included three pan-Arab channels<sup>77</sup> which have been blocked by the Egyptian telecommunications satellite operator *Nilesat*, and the Qatar-based Al-Jazeera’s Egyptian branch were banned from operating by the Ministry of Investment, Information and Communications Technology.

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<sup>74</sup> The Journalists Syndicate, which has more than 6,000 media practitioners registered, is responsible for defending journalists’ right to a safe working environment.

<sup>75</sup> Maintained by the US based Freedom House.

<sup>76</sup> <http://www.cpi.org/2014/06/prominent-show-canceled-as-egypt-moves-to-monitor.php>.

<sup>77</sup> The Palestine based *Al-Quds* and *Al-Aqsa*, and the Jordan based *Al-Yarmouk*.



A least six journalists have been killed since the ouster of former President Morsi. Journalists affiliated with or perceived as sympathetic to the banned Muslim Brotherhood have been systematically harassed. The imprisonment of four Al Jazeera journalists and the detention of others without charge contributed to fear of a perceived declining freedom of the media amongst journalists.<sup>78</sup> State guarantees for freedom of expression are fundamental to political discourse in a pluralistic environment including during elections.

These concerning developments fall short of the key constitutional principles, including the freedom of thought and belief, freedom of the press and publication, and access to information, etc., provided for in Chapter III of the Constitution.

## 10. Electoral Offences, Complaints and Appeals

The bodies of election related offences were set out in both the PEL and the LEPR, with offences and attempts at offences sanctioned by a wide spectrum of fines<sup>79</sup> and/or custodial sentences.<sup>80</sup> The Constitution prescribes that penalties may only be imposed by a court of law.<sup>81</sup> All electoral offences are deemed to be without prejudice to any more aggravated penalty under any law.<sup>82</sup> The absence of a distinction between offences actually committed and attempts at such offences, the prevalence of heavy and unspecified penalties, and the concurrent applicability of the Penal Code creates a significant degree of uncertainty with regard to the prosecution of electoral offences.<sup>83</sup>

While certain offences are precisely articulated, for example, fines for failing to vote and fines for receiving campaign funds from foreign persons, others are more broadly defined, for example, insulting by words or gestures members of PSC during or due to

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<sup>78</sup> The Cairo Criminal Court denied bail for the detained, including the Al Jazeera correspondent, Abdullah El Shamy. El Shamy has been held without charge for months and has been on hunger strike for more than one hundred days. He was released on medical parole on 17 June and his trial is ongoing. Following the departure of the EU EOM on 16 June, three Al Jazeera journalists accused of conspiring with the Muslim Brotherhood were sentenced to imprisonment between seven and 10 years, less than a month after the election of the new President.

<sup>79</sup> Fines are ranging from EGP 500 to EGP 500,000.

<sup>80</sup> Sentences to imprisonment are ranging from 6 months to 5 years and at times - to unspecified prison terms.

<sup>81</sup> Constitution Article 95.

<sup>82</sup> PEL Article 41 and LEPR Article 39.

<sup>83</sup> In order to guarantee respect of human rights for all citizens on an equal basis, including those relating to due process, freedom of speech, association and press and alleged breaches of the Electoral Code, and to further avoid any pretexts for the perception of military trials as having a political bias, a distinction needs to be drawn between the competencies of civil and military courts. This might be best achieved by assigning jurisdiction in all charges against citizens exclusively to the civil courts, thus amending Article 204 of the Constitution. Further, a constitutional amendment requiring the military and its institutions to uphold such an arrangement as well as the Constitution itself would overcome citizen uncertainty regarding procedures and what crimes come under military jurisdiction, the latter issues being largely left to the HoR at present.



the performance of their duty. A number of arrests of candidate agents and journalists were reported during the course of the elections. A number of these have been the subject of military prosecutions<sup>84</sup> in what appeared to be an overlap of jurisdiction in the context of election day procedures.

Competence for complaints and electoral disputes was confined to the PEC. The procedures for dealing with candidacy applications complaints were set out in PEC Decree 1/2014. While no disputes arose, it is notable that the PEL allowed only two days for appeals against rejection of candidacies. Apart from the PEC's power to reject, it is also notable that only candidates could object to other candidates.

At least two cases were filed before the State Council in matters pertaining, respectively, to the electoral law and candidacy qualifications. The possibility for the EU EOM to follow, observe and obtain information on these cases was limited by administrative restrictions required by the State Council since 6 May. Despite assurances of assistance, information requested by the EU EOM was not forthcoming.<sup>85</sup>

The precise rules and procedures for the PEC's adjudication of other electoral disputes were not fully articulated in the law,<sup>86</sup> which provided only that the PEC would receive appeals from DC and decide on them.

The PEC established a public hotline for the election days and a call centre was set up at the PEC headquarters in Cairo with several staff taking complaints from the public over the course of the three polling days. A complaints committee was also established and assisted by representatives from various government ministries and security forces for the purpose of resolving issues related to various aspects of the election process.<sup>87</sup>

The adequacy and effectiveness of these procedures was difficult to ascertain in circumstances where there appeared to have been a low level of dissemination of information about complaints procedures and options. Many complaints were filed directly at PSC and addressed on an *ad-hoc* basis, without a written record being compiled. Others were lodged or transferred to DC and in some cases to the PEC itself, with instances of complaints being refused. The PEC has addressed at least three alleged breaches of campaign rules by both campaigns, with no further action taken.

## 11. Participation of Women and Minorities

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<sup>84</sup> See the Table of Electoral Offences, Complaints and Appeals, Annex 1.

<sup>85</sup> One aspiring candidate filed a case seeking relief from a ministerial decision to cut the time frame for undergoing a medical examination. The case was adjourned to date. The matter was adjourned to date after the deadline for submission of candidacy applications as a consequence the applicant was unable to proceed with his candidacy.

<sup>86</sup> PEC Decree 12/2014 set the deadline for receipt of appeals from DC by the PEC. This deadline of 29 May was extended in Decree 35/2014 to 30 May after the extension of voting to 28 May.

<sup>87</sup> PEC Decree 29/2014.



The social movements which brought about change in Egypt in recent years have been comprised of women as well as men, with women visible in the public sphere demanding change. The transitional process, however, has been marked by the relative invisibility of women. There was not a single female member of the committee of ten experts which initiated the drafting of the new constitution, and just 5 women among the committee of 50 which finalised the drafting process. Beyond this, women have historically been severely under-represented in public office in Egypt. Just 1.8% of the membership of the last parliament was female. The principal barriers to female participation in elected office are an absence of political will to promote women, long-standing cultural attitudes and the lack of financial resources on the part of potential female aspirants.

There has been some use of quotas to address the historical marginalisation of women, but without success. The People's Assembly Law, as amended in 2009, provided, temporarily, for the allocation of 64 seats for women in the 2010 elections. This was replaced in 2011, with a requirement of at least one woman within each party list, but without a stipulation as to placement on the list. The Constitution now contains a quota for women in local councils, that of a quarter of the membership, but does not contain any quota for the HoR. This is despite the fact that the Committee on the Elimination of Discrimination against Women has urged Egypt to adopt temporary special measures to accelerate the full and equal participation of women in public and political life. Proposals for quotas, of 30% or fewer reserved seats for women, were rejected during constitutional drafting.

Article 11 of the constitution requires the State to “take the necessary measures to ensure the appropriate representation of women in the HoR”. This is part of a broader guarantee of equality between women and men in all civil, political, economic, social, and cultural rights, which also sets out a guarantee of women's right to hold public office, including judicial appointment, without discrimination. The key to promote the participation of women in political life, and thus to enhance gender equality, is now to be found in the drafting of laws to give effect to Article 11. The women's movement has proposed that new electoral law should include effective legal requirements that political parties promote women.

The concept of minority rights has not featured in national discourse in Egypt to any significant degree to date, while legal protection for both religious and ethnic minorities has been non-existent. Facts and figures on the existence of both religious and ethnic minorities are difficult to ascertain, while information on religion and ethnicity has not been elicited in any census conducted in Egypt to date. Different regimes of recognition of these groups exist under the law, and in practice.

The long-standing position of consecutive Egyptian governments has been that the state is homogenous in nature, with an absence of notable ethnic minorities. This was articulated in the last State Report submitted under the UN Convention on the Elimination of Racial Discrimination in 2001 and the Ministry of Foreign Affairs has indicated to the EU EOM that this is the position again articulated in the recently submitted, but yet to be published, State Report of 2014. Ethnic minority leaders have



furnished their own figures to the EU EOM about the size of their communities.<sup>88</sup> While many of these communities have experienced marginalisation and discrimination, there is a widely shared optimism amongst them in relation to the provisions of the new constitution, as it includes, in Article 53, race, colour, language and geographic affiliation as prohibited grounds for discrimination.

The Constitution addresses development and cultural issues of several ethnic groups,<sup>89</sup> inhabiting “border and underprivileged areas, including Upper Egypt, Sinai, Matrouh, and Nubia”, including returning the residents of Nubia to their original territories within a period of ten years. There are no stipulations in the Constitution, however, as to the political representation of these groups, with the groups themselves principally aspiring to representation through the seats in parliament to be nominated by the President. Affirmative action may also be appropriate to ensure the participation of ethnic minorities as full actors in political life in Egypt.

The Constitution states that freedom of religious belief is absolute, but it has continued the pre-existing restriction of the freedom of religious practice to the followers of Abrahamic religions, namely Islam, Christianity and Judaism. Approximately 90 per cent of the population is Muslim, while the Coptic Orthodox Church asserts that it has 13 million followers within the country. There are also many diverse religious groups present in varying numbers in Egypt, from fewer than 50 members of the Jewish community, to thousands of Bahais and perhaps tens of thousands of Shia.

The concept of minority rights is largely absent from the discourse on religious identity in Egypt. The stance of the Copts is that they are Egyptian, and they espouse a shared Egyptian identity rather than a sense of themselves as a minority. The same is true of the Shia, the Bahais, and the Jews, who all eschew the rubric of minorities. Many of these groups have experienced harassment, including sectarian violence, particularly during the last three years.

The Constitution provides<sup>90</sup> that, in elections to local councils, the law must include “a proper representation of Christians”, while “appropriate representation” of Christians is called for in the HoR, but the meaning of these provisions is unclear. As religious minorities have traditionally been under-represented in parliament, the drafting of a new electoral law offers an opportunity to provide redress in the form of adequate representation.

## 12. Election Observation

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<sup>88</sup> They indicate that there are some 3 million Nubians in Egypt, concentrated in particular in Upper Egypt, as well as in Cairo, Alexandria and Suez; that the Amazigh comprise 27,000 who speak Amazigh in Siwa and Beni Soueif, as well as between 100,000 and 2 million who share the ethnicity but do not speak the language; that there are 350,000 Bedouins in Sinai. There are also small groups of Egyptians of Greek and Armenian origin.

<sup>89</sup> Constitution Articles 48 and 236.

<sup>90</sup> Constitution Articles 180 for local councils and 244 for the HoR.



Participation in public affairs, through non-partisan domestic observation, is provided for by the PEL which tasks the PEC to provide a regulatory framework.<sup>91</sup> The law subjects institutional and individual accreditation to legal and professional prerequisites. However, in light of their broad definition, the accreditation procedure would benefit from more transparency. Further to that, a right of appeal is not articulated.<sup>92</sup>

The PEC accredited 15,549 domestic observers from 80 approved national CSOs and some 1,000 international observers and visitors. Six international CSOs were approved to follow the electoral process. In addition, seven intergovernmental organisations<sup>93</sup> deployed missions to follow the polls. The PEC rejected the application of 32 domestic and 7 international CSOs, and of 1,531 domestic and six international observers on technical grounds.<sup>94</sup>

Despite an extension of the deadline for applying for individual accreditation, domestic observer groups expressed concerns about the unnecessary administrative burden stemming from requirements for individual accreditation.<sup>95</sup> While the PEC maintained that all individual permits were issued on time, the EU EOM was informed by a number of domestic CSOs that the permits were issued to them between 1-3 days beyond the 20 May deadline. Notwithstanding that individual accreditation is not necessary to observe the pre-electoral period, sophisticated requirements for individual accreditation put a considerable burden on domestic CSOs, a number of which still faced difficulties in distributing their permits to their individual observers in the governorates on time for election day. While observer groups were permitted, in principle, to observe all aspects of the electoral process, most CSOs indicated that they would focus on observing voting and counting procedures on election days.

A number of provisions relating to the timing of “statements, comments, and statistics,”<sup>96</sup> and the content of the final report, compromise the impartiality and objectivity of these groups in relation to the PEC, although these provisions were not seemingly enforced, with many domestic observer groups issuing statements before the announcement of the results. While Egypt has numerous CSOs participating in public affairs, all interlocutors underlined that their effectiveness is hampered by strict regulations concerning funding.

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<sup>91</sup> PEL Article 6 and PEC Decrees 5 and 6 /2014.

<sup>92</sup> Nonetheless, the PEC acknowledged and granted the appeal of one domestic observer group, the Association for Human Rights Supporters in Alexandria, although the PEC did not elaborate on the reasons for granting the appeal in its Decree 24/2014.

<sup>93</sup> These were the European Union, the African Union, the League of Arab States, the Common Market for East and South Africa, L’Organisation pour la Francophonie, the Arab Parliament, and the Community of Sahel-Saharan States.

<sup>94</sup> The PEC did not provide reasons for rejecting the applications individually, but indicated that the organisations did not comply with the criteria set out in PEC Decrees 5 and 6/2014.

<sup>95</sup> PEC Decree 26/2014 extended the deadline for registering individual observers until 5 May only for international CSOs.

<sup>96</sup> PEC Decree 5/2014.





## 13. Election Days

### 13.1 Overview

Election days were generally calm and peaceful. EU EOM observers assessed positively the work of the DC and PSC. Public prosecutors and judges performed as heads of PSC. Judges were deployed outside the jurisdiction of their court areas, whereas public prosecutors served in PSC within their usual area of responsibility. As much less than one per cent of the judges are female in Egypt,<sup>97</sup> only a very limited number of women served as PSC chairperson. Likewise, females were underrepresented at DEC.

In the late afternoon on 27 May, while voting was still on-going, the PEC decided to extend voting for a third day contrary to its earlier statement of 26 May that voting would not be extended after the Government's initiative to declare 27 May as a holiday for public employees. This unpredictable act of the PEC, while not against the law, caused unnecessary uncertainty in the electoral process with regard, *inter alia*, to potential procedural and logistical implications. Both candidates appealed against the extension and both appeals were expeditiously rejected.

Contrary to early pronouncements,<sup>98</sup> on 27 May a representative of the PEC stated to the media that fines for voters who do not vote would be enforced as provided for by the PEL.<sup>99</sup> However, the EU EOM was not informed of any fines being imposed after the election.

At the same time, the Ministry of Transport announced free transportation tickets for voters wanting to vote in their original electoral domicile, as foreseen in the legal framework.

Despite the formal arguments provided by the PEC regarding the extension, the extended voting period combined with the above circumstances prompted a number of stakeholders to see in this 'last minute' decision an attempt by the PEC to enhance turnout in the presidential election and the political legitimacy of its outcome.

The EU EOM observed several instances of public celebrations including in the vicinity of the PS which appeared as spontaneous campaigning in favour of candidate Al Sisi during election days.

During the presidential election, the PEC, with support from the Ministry for State Administration Development and the Ministry of Communication and Technology,

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<sup>97</sup> The EU EOM was informed that there were 42 female judges in Egypt. Women were included in the annual examinations of jurists to become judges on only two single occasions, in 2007 and 2008. These female judges were certified then.

<sup>98</sup> PEC Press Release 4.

<sup>99</sup> PEL Article 43; please Section 4.2 'Right to Vote', above. Fines for registered voters who did not vote were first introduced in Law 73 of 1956, but they did not have a history of systematic enforcement.



continued the pilot testing of a centralised electronic voter register. The pilot project was conducted in parallel with regular voting procedures where voters were checked against and marked in regular printed voters' lists, and had their fingers inked.

### 13.2 Opening and Voting

In total, 143 observations were made by EU EOM observers during the opening of the PS for the three days of voting. Observed PS opened on time or with a short delay. Observers generally assessed the overall conduct of opening procedures as “good” or “very good” in 52 and 34 per cent of the PS observed. A significant 12 per cent of PS opening procedures were assessed as “bad” indicating that procedural shortcomings were noted, including marking the voters in the pink list in 12 cases, bypassing an important measure to deter potential fraud and failure to announce the serial number of ballot box seals in 24 cases.

In 16 cases, EU EOM observers reported that not all stages of the opening procedures were clearly visible to all persons present and, in seven cases, observers reported that they were restricted in their observations. All PS observed opened on all three days, with 37 per cent of them delayed. The delays generally did not exceed 30 minutes.

EU EOM observers made 1,385 observations during voting hours of all three election days. The overall conduct of the voting was generally assessed as “good” in 45 per cent or “very good” in 51 percent of the PS observed, despite a number of procedural infractions reported. While PSC membership and voters' understanding of procedures was assessed positively, the EU EOM observers noted a number of procedural violations during voting, including the presence of unauthorised persons, mainly army and police forces, in almost 13 percent of the PS visited, people marking ballots together by the voting booth in 55 cases. In 10 cases, voters were allowed to vote despite being unable to produce any of the prescribed ID.

Observers generally reported the absence of long lines of voters. Representatives of candidates Al Sisi and Sabahi were present in 70 per cent and 30 per cent of observed PS, respectively. International and CSO observers were present in only in 15 per cent of observed PS, but in some cases could not inform EU EOM observers which organization they represented. This was despite their stated intentions to focus on election day procedures,<sup>100</sup> and the principle importance of a robust domestic observation effort.<sup>101</sup> The observed relatively low profile of domestic election observation may have challenged the ability of domestic observation to act efficiently as checks and balances in the process.

EU OM observers reported the most widespread procedural violation observed concerned insufficient safeguards against multiple voting, as voters were not always checked for ink on their finger in 39 per cent of the PS visited, although ink was consistently applied. In

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<sup>100</sup> Please see Section 12 ‘Election Observation’, above.

<sup>101</sup> Similar observations were noted in the context of the January 2014 constitutional referendum.



addition, not all voters marked their ballot in secrecy in 16 per cent in PS observed. PSC chairmanship had latitude in arranging the layout of the PS; the PEC guidelines were silent in this respect which resulted in public display of ballot papers, compromising secrecy. EU EOM observers reported 33 and 10 instances of tension outside and inside PS, respectively, as well as isolated cases of attempts to influence voter choices.

EU EOM observers reported that in 30 PS visited, they were not able to carry out their activities without restrictions or were not granted full co-operation by the PSC members thereby reducing the transparency of the process.

Around one quarter of the PS visited by EU EOM observers were assessed as not accessible for voters with disabilities. Observers noted a small, but significant number of instances when the secrecy of the vote was not respected, including at least one case of a voter with a disability being allowed to vote outside the PS but in view of others. On the other hand, considerable numbers of female members of polling station commissions were noted.

### **13.3 Closing and Counting**

Most PS observed closed on time or soon thereafter and voters waiting in line inside the PS premises at 21:00 were allowed to vote. Closing was assessed positively in a large majority of PS observed during the three days of voting. EU EOM observers assessed the closing procedures as “good” and “very good” in 75 per cent of the PS observed, even though minor procedural errors were witnessed in a limited number of these. The late decision to extend voting by one day did not appear to affect the work of the PS, according to EU EOM observers. The PSC had received enough stock of seals from the Minister of Interior to ensure the locking of ballot boxes’ lids. However, judges were obliged to improvise procedures to bypass the lack of adequate protocols for a third voting day.

Altogether, 39 observations of counting procedures at the end of the third voting day were reported by 06.30 on 29 May. Observers assessed the conduct of the counting as “good” or “very good” in 29 of these, although they noted procedural errors in almost 40 per cent of the observed counts. Representatives for candidates Al Sisi and Sabahi were present in 90 per cent and 10 per cent of observed PS, respectively. International and CSO observers were present in 25 per cent of observed PS.

A significant part of PS observed did not perform basic reconciliation procedures. The number of signatures in the voter list were not counted in 27 observations, the number of unused ballot papers was not determined in 24 observations and a crosscheck of data for mathematical consistency was not done in 30 observations. In five counts observed, the number of ballot papers inside the ballot box was higher than the number of voters marked in the voter list as voted and in two PS ballot box seals were not intact.

The vote count generally was conducted in a transparent way. EU EOM observers reported that in three PS observed, they did not have a clear view of the counting. In eight



counts observed, PSC members had difficulties completing the results protocol. Candidates' representatives did not receive copies of protocols in 34 PS where counting was observed. In 35 PS observed, the chairperson did not announce the results protocol as required by the PEC guidelines. All PS observed conveyed the protocols to their respective DC right after the end of the counting.

### 13.4 Aggregation and Announcement of Results

EU EOM observers observed the tabulation process in 39 of the 352 DEC. In 36 of these, the process was assessed as "good" or "very good". Regarding specific aspects of the tabulation, EU EOM observers negatively assessed in particular the transparency of the tabulation. Not all persons present at the DC had clear view of tabulation procedures in almost a quarter of cases, and several observers reported that they were not granted full co-operation from the DC or were restricted in their observation of tabulation processes in five cases. Notwithstanding, EU EOM observers assessed positively the work of the DC overall.

Representatives for candidates Al Sisi and Sabahi were present in 90 and 40 per cents of observed DEC, respectively. Citizen observers were identified in 60 per cent of observations. The presence of unauthorised persons, mainly members of the military, was noted in the tabulation process in four DEC, however, they were not observed to be interfering in or directing the work of the DEC.

Several other procedural shortcomings were noted during tabulation, including discrepancies between the PSC protocols and the figures filled in by the DEC. Those errors were corrected at a later stage by the PEC working groups established to control the quality of the protocols. The PEC, *ex-officio*, ordered a recount in seven PS because of discrepancies in the protocols although results remained unchanged afterwards. The PEC decided to annul the voting in nine PS following the decision of the chairpersons to allow OGR voters who did not pre-register to cast their ballot in PS other than the ones corresponding to their registered permanent residence.

For the first time, all 352 DC were provided with trained clerks operating electronic devices to capture the results from all their PS. Results were transmitted to the PEC, at the same time as protocols were being treated manually. This allowed the PEC to make available voting turnout estimates. The results electronically transmitted by the DC to the PEC were compared by another PEC working group against the hard copies of the PSC results protocols to detect mathematical discrepancies, to be corrected by the working group itself or by the PEC in case of serious errors and establish final results.

The PEC organized a formal ceremony widely broadcasted to announce the final election results on 3 June, within the legal deadline. According to PEC data, the preliminary turnout was 47.29 per cent, later amended to 47.45. Further, the PEC announced that candidate Al Sisi received 96.91 per cent of the valid votes, candidate Sabahi received 3.09 per cent of the valid votes and 4.07 per cent of the votes cast were invalid. The PEC posted the final results, by PS, on its website on the evening of 3 June. While the



publication of detailed results by the PEC is a significant transparency measure, this measure would have been enhanced if preliminary results, by district and PS, were published on the PEC website as they were being received by the PEC from the DEC.

## 14 Recommendations

### 14.1 Overview

The following recommendations are offered for consideration by the authorities, political parties and civil society of the Arab Republic of Egypt with a view to boosting trust in the electoral process, in its entirety, across party lines and to further consolidating the conduct of elections in line with applicable international standards.

The recommendations below are clustered in two groups. The EU EOM holds the view that the Short Term Recommendations could be implemented without amending the legislation promulgated by Interim President Mansour on 5 June 2014. Decrees of the senior election management body appear to suffice based on the experience of the process for the presidential election. Short term measures to enhance gender equality could be implemented on the basis of internal policy decisions of political parties.

Consideration of the Long Term Recommendations and their implementation would require legislative action by the newly elected President or by the HoR anticipated to be elected later in 2014, in accordance with the roadmap. In order to enhance public trust, pluralism and universal participation in the overall political process, and the conduct of the forthcoming elections, the President could initiate a public discussion of the Protest Law with a view to ensuring broad agreement for its urgent review and full respect for the freedom of peaceful assembly.<sup>102</sup>

The legislator could usefully review the new law on the election of the HoR in order to ensure full respect for the right to vote and to be elected for all citizens of the Arab Republic of Egypt, and effectively ensure gender equality in the 2014 parliamentary election. While the choice of an electoral system is a sovereign matter as long as the system ensures compliance with ICCPR Article 25,<sup>103</sup> consideration could be given to enhance pluralism through proportional list representation, rather than apply the ‘winner takes all’ list system.<sup>104</sup> In addition, urgent promulgation of the anticipated law on

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<sup>102</sup> In its Declaration of 5 June 2014, the EU noted that the new President ‘[...] will tackle the serious challenges faced by the country and the new government, among them [...] the deep divisions within society, [...] and the respect of the human rights of all Egyptian citizens in line with international obligations and guaranteed by the new Constitution [...]’, [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/143096.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/143096.pdf).

<sup>103</sup> ICCPR General Comment 25; Paragraph 21 provides ‘Although the Covenant does not impose any particular electoral system, any system operating in a State party must be compatible with the rights protected by article 25 and must guarantee and give effect to the free expression of the will of the electors. [...]’.

<sup>104</sup> Law on the HoR, Article 23, Paragraph 4.



districting for the parliamentary elections<sup>105</sup> should be considered, ensuring the equality of the vote,<sup>106</sup> in order to provide stakeholders with ample time to prepare for the election. Finally, consideration could be given that the implementation of some of these recommendations is likely to require civic education and budget planning.

## 14.2 Short Term Recommendations

1. To further guarantee the right to vote, consideration should be given to providing the opportunity to vote for all, including:
  - (a) Persons turning 18 before and on election day, by ensuring their inclusion in the corresponding extract of the ID database;
  - (b) Persons in detention awaiting trial;
  - (c) Persons with physical disabilities, through making polling stations more accessible.
2. Consideration should be given to further enhancing the secrecy of the ballot by:
  - (a) Issuing detailed guidelines instructing voters to fold their ballot paper before casting them in the ballot box. In addition, clear guidelines should be provided on the layout of polling stations, with the aim of screening the choice of the voter from sight.
  - (b) Providing tactile ballot papers for voters with visual impairments.
3. Consideration could be given to promoting greater inclusion of women in elected office through requiring that political parties integrate women in all party structures and place female candidates in winnable positions, both within party lists and in individual districts.
4. Transparency of voter registration could be enhanced by publishing, in a timely manner, detailed preliminary and final information on the updating process, including a breakdown by category of the numbers of eligible voters added and/or removed from the voter register at the date when the register is closed.
5. Consideration could be given to review of the complaints and appeals procedures within the electoral management framework, with a view to codifying these and ensuring full accountability in decision making between the tiers of the election management bodies.
6. Consideration could be given to developing comprehensive guidelines regulating all procedural and operational aspects of voting, counting and aggregation of results, with a clear assignment of responsibilities to DC and PS members for every aspect of the

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<sup>105</sup> Law on the HoR, Article 4, Paragraph 1, last sentence.

<sup>106</sup> ICCPR General Comment 25; Paragraph 21 provides that ‘[...] The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group [...]’.



process. With a view to ensuring consistency of implementation, these guidelines could be issued by means of a decree of the relevant election committee.

7. Consideration could be given to organising training for all DC and PS members, in order to further enhance their efficiency on election days. A ‘training of trainers’ approach could be an option.
8. A comprehensive voter education campaign by the electoral authorities could be considered, through as many forms of media as possible.
9. A simplified accreditation procedure for domestic election observers should be considered. This could be achieved by discarding individual registration and accreditation requirements, allocating numbers instead to observer organisations for internal distribution, with these organisations obliged to submit lists of those selected to the electoral management body. Decentralisation of these procedures could also be considered.
10. Ensure that domestic and international observers are accredited at the earliest possible stage in the electoral calendar. Inclusion of an appeals process related to accreditation decisions for all observers could be established.

### **14.3 Longer Term Recommendation**

11. Consideration should be given to ensure the protection of the right to vote in line with ICCPR Article 25 (b) and UNHRC General Comment 25 including reviewing the current legal framework with regard to:
  - (a) Ensuring that women are able to and do effectively register their civil status in order to be able to obtain an ID, and exercise their right to vote;
  - (b) Ensure that naturalised citizens enjoy their civil and political rights in full, including the rights to vote, from their effective date of naturalization;
  - (c) Avoid indirect discrimination by removing the requirement for a medical examination as part of candidate application requirements;
  - (d) Avoid discrimination, on grounds of nationality, against naturalised citizens, citizens married to, or the children of, other nationals; and on educational grounds.
12. Consideration should be given to enhancing the participation of women by:
  - (a) Introducing legal obligations to promote greater inclusion of women in elected office through requiring that political parties integrate women in all party structures, and place them in winnable positions, both within party lists and in individual districts.



- (b) Reducing candidate nomination deposits for women, in order to increase the number of female candidates for public office;
  - (b) Increasing the number of women in decision-making roles within the election management bodies, through the appointment of greater numbers of female judges.
13. In order to enhance the political rights of ethnic minorities, consideration could be given to the ratification of ILO Convention 169 Indigenous and Tribal Peoples Convention 1989. In addition, consideration should be given to affirmative action in public policies for ethnic and religious minorities in public life.
14. The content and the operation of the Protest Law should be reviewed in order to promote respect for the freedom of assembly. Consideration should be given to revision of the powers of law enforcement authorities as set out in this law, particularly in relation to the use of force which, when permitted, should always be proportionate. Notice requirements should also be reviewed.
15. Consideration should be given to amending provisions of the law, particularly the Penal Code, to provide greater precision and definition of offences, with a view to ensuring that judicial decisions do not unreasonably restrict the participation of political and civil society stakeholders in public life. Detention without charge should be curtailed, to be used strictly for a maximum period of a few days prior to bringing an accused person before the courts. Criminal trials should also be conducted in accordance with the tenets of justice and fair procedures, ensuring that the right to due process is respected for all of those brought before the courts in Egypt. Additionally, civilians should not be made the subject of military trials
16. In order to promote greater respect for human rights, the capacity of the national human rights machinery could be strengthened. Membership of the National Council for Human Rights could to be reviewed, conferring on civil society the power to nominate representatives.
17. Implementation of constitutional provisions must ensure full respect for fundamental freedoms, in particular the freedom of expression and the freedom to impart information, and harassment of journalists must be curtailed. The media's role as a fourth estate should be supported and independent reporting without self censorship should be encouraged including at political level. Relevant new legislation could be considered to regulate, in line with international standards for freedom of the media, implementation of constitutional provisions to the benefit of society at large.
18. With a view to enhancing freedom for imparting information and pluralistic political debate, including during election campaigns, consideration could be given to undertake further liberalisation of the broadcasting sector, in particular with regard to the terrestrial and radio sectors.





19. Consideration could be given to the development of an independent and efficient media monitoring body, with powers to enforce media compliance with their legal obligations during election periods.
20. Consideration could be given to regulation requiring that paid political advertising carry a standard notice to that effect.
21. Consideration could be given to the revision of campaign finance regulations in order to promote a level playing field. This could be achieved by, in particular, the publication of candidates' accounts after the election, introduction of a system for the valuation of in kind donations, and the enforcement of proscriptions against third party funding.
22. To promote certainty and predictability in the election process, any variations of the electoral calendar should be subject to specific predefined criteria.
23. To ensure compliance with international commitments in relation to the treatment of civilian accused in the trial of criminal matters, accord jurisdiction in all criminal cases to the ordinary criminal courts and amend article 204 of the 2014 Constitution to exclude military jurisdiction in the trial of non-military citizens.



#### 14.4 Table of Recommendations

Area of Assessment	Purpose	Recommendation	Target Institution	Suggested Action	Intl Instrument/ Article	Commitment
<b>POLITICAL CONTEXT</b>	Promote Respect for the Freedom of Assembly by facilitating peaceful protest.	Review the content and application of the protest law, particularly relating to the use of force as well as to notice requirements	Legislative Authorities	Amend Law 107/2013	UDHR, Art 20 ICCPR, Art 21	Right to peaceful assembly
	Safeguard participation of political and civil society stakeholders in public life	Review the Penal Code in order to limit unreasonable impacts on political participation	Legislative Authorities/ Judiciary	Provide greater precision in the definition of offenses impacting on rights of participation, (e.g. Penal Code article 80(d))	UDHR, Art 20 ICCPR, Arts 14 and 21	Right to freely associate; Respect for Rule of Law and Right to a fair trial.
<b>LEGAL FRAMEWORK</b>	Promote universal suffrage	Provide the opportunity to vote for all persons turning 18 up to and including polling days	Electoral management bodies (EMB)	Enshrine mechanisms for registration of such voters on the voter database	UDHR, Art 21 ICCPR, Art 25	Right to Vote
	Promote the political rights of prisoners in detention	Provide procedures / opportunities for detained persons to exercise their right to vote	Electoral management bodies	Establish voting centres in places of detention or mobile polling stations to serve them	ICCPR, Art 25	Right to Vote



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Area of Assessment	Purpose	Recommendation	Target Institution	Suggested Action	Intl Instrument/ Article	Commitment
	Promote secrecy of the ballot for persons with visual impairment	Consider the adoption of tactile ballots	Electoral management bodies	Issue tactile ballots to all Polling Stations	CPRD, Art 29 ICCPR, Art 25	Secrecy of the ballot
	Establish transparent electoral dispute resolution mechanisms	Consider a review of the complaints and appeals procedures to ensure traceability and accountability in decision making and ensuring a right of judicial review	Electoral management bodies	Codification in EMB rules and procedures/ decrees	UDHR, Art 8 ICCPR, Art 2	Right to an effective remedy
	Promote universal suffrage	Provide right to vote for all naturalised citizens	Legislative Authorities	Enshrine the right in election legislation	UDHR, Art 21 ICCPR, Art 25	Right to Vote
	Avoid indirect discrimination	Remove the obligation for candidates to sit medical examination	Legislative Authorities	Exclude provisions such as PEL Articles 1.8, 6.5 and 12.8 from election legislation	ICCPR, Art 25 CPRD, Art 29	Right of participation, Right of persons with disabilities to participate in public affairs
	Avoid direct and indirect discrimination	Remove legal impediments to participation of candidates on grounds of origin (them or their relatives)	Legislative Authorities	Amend Article 141 of 2014 Constitution and exclude provisions such as PEL Articles 1.2, 1.3, 12.3 and 12.4 from election legislation	UDHR, Art 21 ICCPR, Art 2 ICCPR, Art 25	Right to participate in public affairs and without distinction on grounds of origin/race



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<b>Area of Assessment</b>	<b>Purpose</b>	<b>Recommendation</b>	<b>Target Institution</b>	<b>Suggested Action</b>	<b>Intl Instrument/ Article</b>	<b>Commitment</b>
	Promote a level playing field	Review candidate financing rules to include precise procedures for valuing in kind donations, controlling third party contributions and publishing of accounts in a timely manner	Legislative Authorities	For inclusion in elections legislation	ICCPR, Art 25	Genuine elections
	Promote legal certainty in election administration	Limit the possibility of election administration authority to extend polling to specific set of pre-defined conditions	Legislative Authorities	For inclusion in elections legislation	ICCPR, 25	Respect for Rule of Law
	Exclude military jurisdiction in the trial of non-military citizens	Accord jurisdiction in all criminal cases to the ordinary criminal courts	Legislative Authorities;	Legislative Authorities; Article 204 of the Constitution should be amended accordingly	ICCPR, 14	Respect for Rule of Law
<b>ELECTION OBSERVATION</b>	Reduce administrative burden domestic CSOs	Discard or decentralize individual accreditation and registration procedures	Electoral management bodies	Amend future election legislation	UDHR, Art 21 ICCPR, Art 25	Right to participate in public affairs
	Promote transparency and access to remedy	Establish an appeals process of accreditation decisions	Electoral management bodies	Amend future election legislation	UDHR, Art 21 ICCPR, Art 25	Right to participate in public affairs



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Area	Purpose	Recommendation	Target Institution	Suggested Action	Intl Instrument/ Article	Commitment
<b>MEDIA</b>	Promote freedom of expression, freedom to impart information and freedom of the media	Implement constitutional provisions to ensure full respect for fundamental freedoms and curtail harassment of journalists. New legislation could be considered to regulate, in line with international standards for freedom of the media, the implementation of constitutional provisions.	Executive and legislative authorities	Drafting new legislation and sublegal acts.	ICCPR, Art 19	Protection of fundamental freedoms
	Ease restrictions on media outlets to enable a more open political debate during the electoral process.	With a view to enhancing freedom for imparting information and pluralistic political debate, including during election campaigns, further liberalisation of the broadcasting sector is needed, in particular with regard to the terrestrial and radio sectors.	Legislative Authorities	Ease and clarify the licensing of private television channels and radio stations	ICCPR, Art 19;  The OSCE Copenhagen Document (1991), 7.8  The OAU/AU Declaration on the Principles Governing Democratic Elections in Africa (2002), Art 5	Right to freedom of expression



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Area	Purpose	Recommendation	Target Institution	Suggested Action	Int Instrument, Article	Commitment
	Promote media monitoring as an effective tool to control the media's adherence to the legal framework.	Develop an independent and efficient media monitoring body, with powers to enforce media compliance with their legal obligations during election periods.	Legislative Authorities /Electoral management bodies	A media monitoring center with specific responsibilities to undertake monitoring on the behalf of the electoral management body for any future election campaigns, until the effective establishment of the Egyptian media monitoring authority, envisaged by the 2014 Constitution.	The OAU/AU Declaration on the Principles Governing Democratic Elections in Africa (2002), Art 5 Promoting and Consolidating Democracy (General Assembly Resolution A/RES/55/96 [2001]) African Charter on Democracy, Elections and Governance (2007), Chp 7, Art 17.3	Right to to campaign and to express political opinions
	Set basic rules for paid advertising	It is recommended that all paid political advertising would be recognizable as such and therefore carry a standard notice to that effect	Media and billboard agencies	Compelled the media to specified all paid political advertising in a unified and visible way and monitor their adherence	International Best Practice for Genuine and Democratic Elections	Transparency of the electoral process



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Area	Purpose	Recommendation	Target Institution	Suggested Action	Intl Instrument/ Article	Commitment
<b>PARTICIPATION OF WOMEN</b>	Increase the participation of women in politics	Require that political parties include women in party structures & select them as candidates	Legislative authorities/ political parties	Enact legal requirements that political parties promote women	ICCPR, Art 3 CEDAW, Art 4.1	<i>To ensure the equal participation of women in public life, including the right to run for office.</i>
	Increase the participation of women in elected office	Reduce candidate nomination deposits for female candidates	Legislative authorities	Amend electoral law	ICCPR, Art 3 CEDAW, Art 4.1	<i>To ensure the equal right of women to enjoy political rights; affirmative action.</i>
	Increase the number of women as decision makers in the election management body	Appoint more female judges	Legislative authorities	Change rules on judicial appointment	ICCPR, Art 3 CEDAW, Art 4.1	<i>To ensure the equal right of women to enjoy political rights; affirmative action.</i>



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<b>HUMAN RIGHTS</b>	Increase the participation of minority groups in public life	Ratify ILO Convention 169 Indigenous & Tribal Peoples Convention	Legislative authorities	Increase affirmative action for minority groups	ICERD, Art 5	To guarantee political rights to all, without distinction as to race, colour, or national or ethnic origin
	Enhance protection for & enforcement of human rights	Review appointment rules & practices to the National Council for Human Rights	Legislative authorities	Confer on civil society the power to appoint representatives to the NCHR	ICCPR, Art 2	State obligation to ensure respect for human rights
<b>ELECTION ADMINISTRATION</b>	To enhance confidence of stakeholders in the work of the electoral authorities	Publishing detailed preliminary and final information on the updating process of the voter register, including a breakdown by category	Electoral management bodies working group on update of the voter register	Modify the relevant HEC Decree concerning the work of this group.	UDHR, Art 21.3 ICCPR, Art 25	Equal and universal suffrage





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Area	Purpose	Recommendation	Target Institution	Suggested Action	Intl Instrument/ Article	Commitment
	To avoid latitude of interpretation of the electoral authorities instructions at DC and PS level	Issuance of more detailed guidelines for voting, counting and aggregation through a HEC Decree	Electoral management bodies and the judges at DC and PS.	Upgrading the guidelines on the work of the lower layers of the election administration to Decree level	ICCPR, Art 25	
	Enhance the efficiency of the electoral authorities on election days.	Organising training for all DC and PS members.	All the judiciary members and civil servants involved in conduct of elections	Organize “training of trainers” and subsequent “cascade” training	UDHR, Art 21.3	Equal and universal suffrage
	To inform voters adequately about voting procedures	A comprehensive voter education campaign by the electoral authorities could be considered	Electoral management bodies	To spread the messages through as many forms of media as possible.	ICCPR, Art 25	Voter education campaigns to ensure the exercise of article 25 rights by an informed community



**Annex 1**                      **Table of Electoral Offences, Complaints and Appeals as of 15 June 2014**

<b>Institution</b>	<b>Date</b>	<b>Complainant</b>	<b>Issue/ offence</b>	<b>Decision Taken</b>	<b>Result</b>	<b>Follow-up</b>
State Council	29 April 2014	Mahmoud Hossam	Ministry of Health decision to cut timeframe for sitting medical examination	Adjourned to May 23	Case adjourned to date after deadline for submission of candidacy applications	Complainant not pursuing action as no possibility to join candidate list
State Council	29 April 2014	?	Appeal against PEL Article 7	Struck out	Matter heard in - camera	n/a
PEC	1 May 2014	PEC vs Sabahi Campaign	Breach of campaign rules – campaigning (press conference) by Sabahy ahead of calendar	NO action – on foot of apology received by PEC	No Penalty	None
PEC	25 May 2014	PEC vs Al Sisi Campaign	Distribution of Light bulbs	No action taken – as assurance that the distribution stopped and not linked to campaign	No Penalty (See PEC Release 38/2014)	None
PEC	25 May 2014	PEC vs. Unnamed	Theft of ballot papers (PS 49 Assuit)	Referred to civil prosecution	Case pending (See PEC Release 40/2014)	



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PEC	26 May 2014	Public	Hotline and call centre complaints on EDay1 – 2 judges replaced on suspicion of directing voters – locations unspecified	Judges replaced	Press Release 43/2014	
PEC	26 May 2014	PEC v Ahmed Hanafy	Sabahy party agent - Arrested at Polling station in Giza and detained	Military Prosecution	Released but prosecution and counterclaim pending	
PEC	27 May 2014	Sabahy v PEC Al Sisi V PEC	Objections to extension of polling to 3 <sup>rd</sup> Day	Rejected	n/a	
PEC	30 May 2014	PEC vs PS appeal	Polling station no. 1, DC no. 3 of Ras El-Bar at Damietta governorate, there was an error in six votes.	Recounted	Press Release 51/2014	
PEC	30 May 2014	Sabahy	Appeals against PS results	Rejected	Rejected	
PEC	30 May 2014	Sabahy Campaign Fayoum	Fayoum based campaign team appeal to PEC on 16 grounds including refusing entry to agents to polling stations, campaigning at polling stations, security giving voting direction and use of state transports for campaigning	Only a few complaints satisfactorily addressed – at least 2 agents detained or removed from PS	Rejected	
PEC	28 May 2014	Sabahy Campaign Alexandria	Appeals against results in Gomrok and Moharrom Beik  Also – Alexandria District 5 PS4 – voter detained after taking photo of	Rejected  Arrested and detained		



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Military Prosecution	26 May 2014	Mohamed Magdy	Accused of insulting a military officer after taking pictures (allegedly) inside PS (Case 23567/2014 Menzah)	Released with bail of 1000EGP	Prosecution pending	
Military Prosecution	27 May 2014	Ahmed Nabil Mohamed Abu Talib	Accused of taking picture in a PS and being a member of the MB (Case 1977/2014 Karmouz)	Detained in Borg Al Arab	Next date for hearing 9 June 2014	
PEC	26 May 2014	PEC Vs Al Sisi Rep	Removed from PS for r attempting to influence – direct voters	Upheld	n/a	
Military Procecution Sharkia South	26-28 May 2014	Military vs, Various detainees	LTO 04 documented 14 individual cases of arrest and detention for persons accused of MB membership and allegedly taking photos of military or PS. (case numbers 3167, 3166, 3065,3090, 3089)	Prosecutions pending		