

Organic Law Number 23 of the year 2012 dated December 20th 2012 relating to the Independent High Authority for Elections, as amended and supplemented by Organic Law Number 44 dated November 1st 2013 and the Organic Law Number 52 dated 28th December 2013

In the name of the People,

And following its adoption by the National Constituent Assembly,

The President of the Republic enacts the following organic law:

Article One:

A permanent independent public authority named “The Independent High Authority for Elections” is created which shall be legally, financially, and administratively autonomous. Its headquarters are in Tunis.

Article 2:

The Independent High Authority for Elections (ISIE) shall ensure democratic, free, pluralistic, fair, and transparent elections and referenda.

Article 3:

The Independent High Authority for Elections shall be in charge of all the processes related to organizing, administrating, and supervising the elections and referenda according to this present law and to the electoral law and in that framework it shall ensure the following:

1. Hold the voters register and continuously update it;
2. Prepare voter lists for each election or referendum, review them when needed, and publish them on the official website of the ISIE in accordance with the deadline set by the electoral law;
3. Guarantee each voters’ right to vote;
4. Ensure equal treatment between of all voters, all candidates and all stakeholders during the electoral or referendum processes;
5. Set, publish and implement electoral calendars for elections and referenda, in accordance with the Constitution and the Electoral Law;
6. Receive and consider nomination applications for elections according to the provisions of the Electoral Law;
7. Establish the mechanisms of organization, management and control ensuring the integrity and transparency of elections and referenda;
8. Count the ballots and announce the preliminary and final results of elections and referenda;
9. Prepare electoral codes of conduct guaranteeing the principles of integrity, transparency,

impartiality, proper management of public funds and the absence of conflict of interest;

10. Accredite representatives of candidates in polling stations, and accredit national and international observers, guests and journalists to follow the phases of the electoral process. The ISIE defines by a decision of its Council, the criteria and conditions for accrediting international observers, guests, journalists, and interpreters working with them;

11. Train supervisors of the various components of the electoral process;

12. Establish programs of awareness and voter education, and cooperate within this field with all components of civil society active nationally and internationally in the field of elections;

13. Monitor adherence to the regulations and means of election campaigns as set by the Electoral Law, and impose respect for them in accordance to the law and in collaboration with public bodies;

14. Monitor the financing of election campaigns and take the necessary decisions related to it, while ensuring equality among all candidates in public funding;

15. Propose suggestions for the development of the electoral system;

16. Give opinion on all draft texts relating to elections and referenda;

17. Prepare a special report on the conduct of each election or referendum process within a deadline of three (3) months from the date of the announcement of the final results, to be presented to the President of the Republic, the President of the Legislative Assembly and the President of Government. The report will be published in the Official Gazette of the Republic of Tunisia and the official website of the ISIE;

18. Prepare an annual report on the activities of the ISIE in the previous year and its program of work for the following year, and present it to the plenary of the Legislative Assembly on the occasion of the Assembly's vote on the annual budget of the ISIE. The report will be published in the Official Gazette of the Republic of Tunisia and the official website of the ISIE.

Article 4:

The Independent High Authority for Elections (ISIE) shall be composed of a council with decision-making authority and an executive body.

Chapter I: The Council of the ISIE

Article 5:

The Independent High Authority for Elections shall be made up of 9 members chosen as follows:

- A judicial magistrate
- An administrative magistrate
- A lawyer
- A notary or a bailiff

- A university professor: assistant, assistant professor, associate professor or a professor
- An engineer specialized in IT systems and data security
- A communication specialist
- A public finance specialist

All having experience of ten years at least.

- A member representing Tunisian abroad

Article 6:

Members of the council of the Independent High Authority for Elections are elected in accordance with the following procedures:

A special commission is created within the Legislative Assembly and put in charge of reviewing and sorting applications.

The special commission is composed by applying proportional representation on the basis of one (1) member for each ten (10) deputies, with the use of the highest remainders. In case that the remainders of a parliamentary bloc and those of members not affiliated to a bloc are equal, the parliamentary bloc is favored.

The commission is headed by the President or one of the two vice-presidents of the Legislative Assembly without participating in the vote when making decisions.

The call for candidates to the Council of the Independent High Authority for Elections is opened by a decision of the President of the Special Commission and is published in the Official Gazette of the Republic of Tunisia. The decision must contain the deadline for the submission of applications, the formalities of filing, the statutory requirements, and the documents making up the application file, in accordance with the regulations of article 7 of this present law.

The special commission prepares an evaluation grid that will be used during the selection and ranking of candidates. The said grid is adopted by consensus among the members of the special commission and published in the Official Gazette of the Republic of Tunisia when the call for candidates is opened.

The special commission shall examine and deliberate on the basis of the application of each candidate, based on the requirements for Council membership specified in article 7 of this law. For each of the categories referred to in Article 5, the commission shall rank candidates meeting those conditions by order of merit in accordance with the evaluation grid. In the event of a tie between two or more candidates, they will be given the same rank and listed in alphabetical order. The final list of candidates classified by order of merit is published on the website of the Legislative Assembly. Any withdrawal of candidacy after the publication of the said list is inadmissible and does not have any effect on the rest of the election procedures of the ISIE Council.

The president of the special commission passes the final list of candidates classified by order of merit and by category to the Plenary of the Legislative Assembly to elect the nine (9) members of the Council of the Independent High Authority for Elections (ISIE) within a deadline of two (2) days following the expiration of the deadline for appeals.

The election of new (9) members of the Council of the Independent High Authority for Elections

is done in the plenary of the Legislative Assembly by a majority of two-thirds of the members of the Legislative Assembly in a secret vote, category by category, and in successive rounds until the completion of the composition.

Each member of the Legislative Assembly chooses nine (9) members from the list of candidates mentioned in paragraph 8 of this article, using the composition specified in Article 5 of this law.

In case of the resignation of an elected member before the end of the election of the remaining members of the Independent High Authority for Elections, there shall be an election of a replacement from among the remaining candidates in the same category;

The Plenary of the Assembly elects the President of the Independent High Authority for Elections (ISIE) from among the elected nine (9) members.

The Plenary votes to elect the President of the ISIE by an absolute majority of its members in a first round. If no candidate obtains the required majority in the first round, a second round is held where the same majority is required to elect the President among the two (2) candidates with the highest number of votes in the first round.

Article 7:

The conditions for the candidacy for the Council of the Independent High Authority for Elections are as follows:

- A qualified voter;
- 35 years old at least;
- Integrity, independence and neutrality;
- Competence and experience;
- Not being an elected member of any professional authority;
- Had not adhered or been engaged in any political party during the five (5) years preceding the date of the opening of candidacy;
- Have not assumed any responsibility in the dissolved Constitutional Democratic Rally (RCD), or implored the deposed president of the Republic to be a candidate for a new presidential term;
- Not having assumed any responsibility in government or as a Governor, General Secretary of governorate, Head of District or Head of Sector, throughout the reign of the deposed president;

Each candidate provides in his file a statement of honor concerning the conditions listed above.

Each individual who deliberately makes false statements or conceals any prohibition of candidacy prescribed by law shall be punished by imprisonment of six (6) months and a fine of 1000 dinars. This does not exclude that individual being subject to the provisions of the Penal Code.

Article 8:

The elected members shall meet at a first session to choose the vice- president by consensus, and if not by the absolute majority of the members.

Article 9:

The term for each member of the Independent High Authority for Elections Council shall be six (6) years, non-renewable.

The composition of the ISIE Council shall be renewed by one third every two (2) years, in accordance with procedures established in Articles 5, 6 and 7 of this law. The President of the ISIE provides the President of the Legislative Assembly with a list of the members concerned with the renewal and with the date of the end of their term before three (3) months of the end date of their membership.

Members whose term has ended shall perform their duties in the ISIE Council until the new members take office.

Article 10:

Upon appointment, the president and members of the ISIE Council take the following oath before the President of the Republic: *"I swear by Almighty God to fulfill my duties with dedication, honesty and sincerity, to ensure free and fair elections, to perform my duties with full independence and neutrality, and to respect the Constitution and the law, as God is my witness".*

Article 11:

The President of the Independent High Authority for Elections (ISIE) is its legal representative. He is the Chairman of the ISIE Council and the authorizing entity of its budget.

Article 12:

The President of the Independent High Authority for Elections (ISIE) and members of its Council are particularly bound by the following obligations:

- The obligation of neutrality;
- The obligation to be reserved;
- The obligation to attend meetings of the ISIE Council;
- Serving as a full-time ISIE Council member;
- The prohibition to stand in any election during their membership in the ISIE and for the five (5) years that follow the end of mandate;
- A declaration of honor regarding assets in accordance with the procedures prescribed by the law relating to the declaration of honor on assets of members of the government and certain categories of public officials.

Article 13:

The President and the Council members of the Independent High Authority for Elections (ISIE) shall report any conflicts of interest throughout their mandate in the ISIE.

Shall be considered a conflict of interest any direct or indirect interest, or any direct or indirect personal relationship affecting the adherence of the concerned member to respecting the conditions and obligations subject to and affecting the proper functioning of the ISIE.

The member having a conflict of interest must declare it to the ISIE Council and then refrain from participating in meetings, discussions or decisions related thereto, until the ISIE Council

decides on the matter and within ten (10) days after the date of the declaration..

Following the declaration of conflict of interest, the ISIE Council meets and deliberates by the majority of the members and, in the absence of the concerned member. Should it be proven that the conflict of interest is temporary, notification is made to the concerned member, who refrains from attending meetings, deliberations or decisions until the disappearance of the conflict. Should a conflict of interest be proven permanent, the member is notified who must submit his resignation to the President of the ISIE Council within forty-eight (48) hours of his/her notification.

Upon knowing or being seriously informed about a conflict of interest, the ISIE Council, after hearing the concerned member, shall investigate the issue. If it is proven that the concerned member deliberately concealed this conflict of interest, he or she shall be dismissed in accordance with the revocation procedures specified in Article 15 of this law.

Article 14:

The President and the Council members of the Independent High Authority for Elections (ISIE) cannot be prosecuted or arrested for deeds related to their work or in relation with the performance of their duties within the ISIE, until after their immunity is lifted by the Plenary of the Legislative Assembly with an absolute majority of its members, at the request of the concerned member or two-thirds of the members of the ISIE Council or the judicial authority.

The request for lifting the immunity presented by the judicial authority is subject to examination along with the file's case.

Article 15:

Apart from the case mentioned in the fifth paragraph of Article 13 of this law, the President of the Independent High Authority for Elections (ISIE) or a member of its council may be revoked in cases of serious misconduct in the performance of his/her obligations under this law, or if convicted by an absolute judgment for an intentional offense or a crime, or if this member no longer meets one of the requirements for membership in the ISIE Council.

The revocation request shall be submitted by at least half of the members of the ISIE Council and presented to the Plenary of the Legislative Assembly for approval by an absolute majority of the members of the Assembly.

Article 16:

In the case of an urgent vacancy in the ISIE Council due to death, resignation, removal, incapacity or defection of duty, the ISIE Council inspects the case and draws up special minutes that are submitted with other components of the file to the Legislative Assembly. The latter shall then proceed, at the request of the President or half of the ISIE Council members, the filling of the vacancy in accordance with the procedures laid down in Article 6 of this law.

Shall be considered as having abandoned his/her duty, the President or the member whose absence is unjustified for three (3) consecutive meetings of the ISIE Council, in spite of being summoned or warned by means that left a written record.

Article 17:

The President of the Independent High Authority for Elections (ISIE) and members of its council receive salaries charged to the budget of the ISIE. The salary of the president is indexed to the salary of a minister. The salary of the members shall be determined by a decree.

Article 18:

The Council of the Independent High Authority for Elections (ISIE) shall meet at the request of its president or half of its members. The meetings are only held in the presence of two-thirds of the members.

The president of ISIE is responsible for scheduling and calling for, presiding, determining the agenda, managing, maintaining the order of meetings, and taking the necessary measures to carry out the Council's deliberations, in accordance with this law and the ISIE Rules of Procedure. In the event that he/she is prevented from doing so, the vice-president shall deputize.

The ISIE Council's deliberations are published on the official website of the ISIE and in the Official Gazette of the Republic of Tunisia.

The ISIE Council's decisions shall be taken by the absolute majority of its members and are signed by its president.

Article 19:

The Council of the Independent High Authority Elections (ISIE) shall establish the necessary regulations for the implementation of electoral legislation and the tasks assigned to the ISIE. Such regulations are signed by the President of the ISIE and published in the Official Gazette of the Republic of Tunisia.

The Independent High Authority for Elections (ISIE) shall take the necessary measures to enforce respect for electoral legislation by all stakeholders in the process, including non-penal sanctions for electoral offenses.

The regulations issued by the ISIE Council may be subject to appeal lodged in the relevant courts in accordance with conditions and procedures established by law.

Article 20:

The resources of the Independent High Authority for Elections (ISIE) shall consist of annual funds to be charged to the budget of the State.

The budgetary expenditures of the ISIE shall include:

- Operating expenditures of the ISIE;
- Capital expenditures;
- Elections and referenda expenditures.

The budget of the ISIE shall be set based on a proposal from its council. The proposal shall be

submitted to the government for its opinion before its transmission to the Legislative Assembly for approval in accordance with the specific procedures relating to the budget of the State.

Article 21:

The Independent High Authority for Elections (ISIE) can create, on the occasion of elections or referenda, regional authorities responsible for assisting the ISIE with carrying out its tasks as defined in this law.

The ISIE Council shall determine the composition of regional authorities, each of which can not exceed four members.

The candidates are selected the absolute majority of the ISIE Council's members, in accordance with the membership requirements and obligations of the council, as defined in Articles 7 and 12 of this law, and taking into account the stipulations of Article 5.

The ISIE Council may delegate some of its prerogatives to the regional authorities, which shall exercise them under the supervision of the ISIE Council and in accordance with its decisions.

Each regional authority shall prepare, at the end of its mission and each time a request is made, a progress report that shall be submitted to the ISIE Council.

Article 22:

All public administration is called, to the extent possible, to provide the Independent High Authority for Elections (ISIE) with all material and human resources, all databases and information including statistics and data related to the electoral process, and to assist the ISIE in carrying out its mission. In case of unjustified refusal on the part of the concerned administration, an order can be obtained for this purpose from the Administrative Court.

On the occasion of elections or referenda, the Office of the President of the Government shall endeavor to facilitate cooperation between all public administration and the ISIE.

Article 23:

It shall be forbidden to use personal data collected by the Independent High Authority for Elections (ISIE) for purposes other than the electoral process, in accordance with the provisions of the legislation on the protection of personal data.

Article 23a:

It is not possible to appeal before the Administrative Court except in regards to the candidate list, and only by the candidates. The appeals are made by the candidates within one (1) day from the date of publication of the final list of candidates on the website of the Legislative Assembly. The appeal may deal only with the conditions laid down in Article 7 of this law.

In this case, the petitioner shall notify the Legislative Assembly by bailiff with a copy of the petition accompanied by evidence. The appeal must be introduced by a lawyer registered in the Court of Cassation. The petition is justified and accompanied by supporting documents and a copy of the notification that was submitted to the Legislative Assembly.

The legislative Assembly responds to the petition within one (1) day after the date of the notification.

The Registry of the Administrative Court registers the petition and forwards it immediately to the First President who in turn forwards it immediately to the General Assembly of the Court, which shall decide within two (2) days from the date of the reply of the defendant. The General Assembly orders the enforcement of the decision.

The Administrative Court shall notify the parties of its decision by any means which leaves a written record, and within two (2) days from the date of the decision's delivery.

The decision of the General Assembly of the Administrative Court is final and is not subject to any appeal including an appeal in cassation.

In the event that the Administrative Court makes a decision for annulment, the special commission meets within two (2) days from the date of delivery of the decision to revise the final list of candidates. After revision, the list is published on the website of the Legislative Assembly and is transmitted directly by the president of the special commission to the plenary for election of the members of the Council of the Independent High Authority for Elections. The decision of the special commission at this point is final and is not subject to any appeal including the use of *ultra vires*.

Chapter II: The Executive body

Article 24:

The Independent High Authority for Elections (ISIE) shall have an executive body under the supervision of the ISIE Council in charge of administrative, financial and technical affairs and it shall be headed by an Executive Director.

Are created regional administrations related to the executive body of the ISIE and are responsible for the implementation of the tasks assigned to the ISIE, within the territorial boundaries of their jurisdiction and in accordance with the decisions of the ISIE Council.

Article 25:

The Council of the Independent High Authority for Elections (ISIE) shall hire the executive director from among candidates who submit applications and who fulfill the conditions of Article 7 of this law, in addition to the criteria of experience and expertise in the field of administrative, financial and technical management. The members of ISIE Council shall approve the appointment of the executive director by absolute majority. The executive director shall be dismissed by the same majority.

Upon his appointment, the hired director shall take the following oath before the ISIE Council: "*I swear by Almighty God to perform my duties with dedication, honesty and, sincerity, and to respect the law as God is my witness.*"

Article 26:

The executive director shall attend the meetings of the ISIE Council. The executive director has the right to give an opinion but not to vote.

The executive director shall comply with all the obligations under Article 12 of this law.

Article 27:

The executive director shall ensure, under the supervision of the council of the Independent High Authority for Elections (ISIE) and under the control of ISIE president, the proper management of the council in administrative, financial and technical field. He shall be in charge particularly of:

1. Preparing the administrative, financial and technical structure of the Independent High Authority for Elections (ISIE) and submitting it to the ISIE Council for approval by the majority of members;
2. Preparing Rules of Procedure of the ISIE, and submit it to the ISIE Council for approval by the majority of members and publish it in the Official Gazette of the Republic of Tunisia;
3. Preparing the program of ISIE human resources and submitting it to the ISIE Council for approval by the majority of members;
4. Preparing the proposal of the annual budget of the ISIE and submit it to the ISIE Council for approval by the majority of members;
5. Preparing the enforcement program of the tasks of the ISIE, on the basis of what is provided for in Article 3 of this law, and its action program in referenda and election periods, before submitting it to the ISIE Council for approval of the majority of members;
6. Preparing a report of financial and administrative management to be submitted with the annual report to the auditor and to the ISIE Council for approval by the majority of members;
7. The implementation of decisions taken by the ISIE Council related to the entire electoral process;
8. Management of various administrative departments of the ISIE and the coordination between them;
9. The maintaining and keeping of the various records, files and administrative documents;
10. Monitoring the implementation of budget and preparing the procurement files of the ISIE and other different contracts;
11. The management of the ISIE website.

Article 28:

The procurement for the Independent High Authority for Elections (ISIE) shall be made and implemented in accordance with the procedures related to procurement of public companies, as long as they are not in contradiction with the provisions of this law.

Expenditure of the ISIE shall be exempted from prior control of public expenditure.

Article 29:

The Independent High Authority for Elections (ISIE) shall oversee the implementation of an internal control system of administrative, financial and accounting procedures which guarantees the safety, integrity, and transparency of financial statements and their conformity with the applicable laws. An audit and internal control unit shall be created for this purpose. It shall be chaired by a chartered accountant.

This unit shall exercise its functions in accordance with international professional standards of internal auditing, through following an annual plan approved by the council of the ISIE with the goal of improving performance, risk management and control all actions of the ISIE.

The unit of audit and internal control shall report directly and regularly to the ISIE Council.

Article 30:

The financial statements of the Independent High Authority for Elections (ISIE) shall be presented to two (2) auditors registered on the roll of Chartered Accountants and appointed by the ISIE Council for a term of three years renewable once, in accordance with the applicable legislation related to public institutions and companies.

Annual financial statements of the ISIE shall be approved by the ISIE Council in the light of the report of the two (2) auditors. The report shall be submitted to the Legislative Assembly for approval and shall be published in the Official Gazette of the Republic of Tunisia and on the ISIE website by the deadline of 30 June of the following year.

In the case where the financial report is not approved by the Legislative Assembly, the Assembly calls for the creation of a commission of investigation composed of three chartered accountants registered on the roll of Chartered Accountants and appointed by the Legislative Assembly.

The financial statements of the Independent High Authority for Elections (ISIE) shall be subject to a posteriori control of the Court of Auditors.

A special report shall be issued by the Court of Auditors on the financial management for each election or referenda process. The report shall be published in the Official Gazette of the Republic of Tunisia.

Article 31:

The staff regulations of the Independent High Authority for Elections (ISIE) shall be adopted by decree on the basis of a proposal of the Council.

On the occasion of elections and referenda, the ISIE may recruit staff by contract and for a fixed period of time.

Administrative staff of the ISIE shall be bound by the code of conduct and particularly the obligations of neutrality, discretion and respect of professional secrecy.

Chapter III: Transitional Provisions

Article 32:

One third of the members of the ISIE Council shall be renewed every two (2) years. During the first two renewals, the selection of members concerned with the renewal shall be done through a random draw. The ISIE President shall not be affected by the first and second renewals.

Article 32a:

The deadline for submission of applications may be extended by decision of the President of the special commission in accordance with the procedures laid down in Article 6. This provision applies retroactively.

Article 33:

Contrary to the provisions of the fifth indent of Article 3 of this law¹, and as an exceptional case, the National Constituent Assembly shall be responsible for scheduling the next elections and referenda in the light of the schedule proposed by the ISIE.

Article 34:

Until the enactment of an electoral law, the definition of qualified voter stipulated in the first indent of Article 6 of this organic law, shall be in accordance with the provisions of Articles 2, 4 and 5 of Decree-Law Number 35 of the year 2011 dated May 10th 2011 related to the election of a National Constituent Assembly,

Article 34a:

Upon adoption of this organic law², all cases pending before the Administrative Court appealing the proceedings of the selection commission related to the election of members of the Independent High Authority for Elections are transmitted to the Plenary Assembly of the Administrative Court to be decided within three (3) days from the date of adoption.

Article 35:

One (1) or two (2) additional members shall be elected, in accordance with the procedures and requirements of Articles 5, 6 and 7 of this law, from amongst the members of the previous Independent High Authority for Elections (ISIE) that was created by Decree-Law Number 27 of the year 2011 dated April 18th 2011. This is only done exceptionally in the situation where members were not elected from among the candidates to the council of the newly created ISIE.

The mandate of the member or two additional members elected on the basis of this article to the ISIE Council created by this law shall end immediately after the announcement of the final results of the first legislative and presidential elections.

Article 36:

¹ Drafting error in the Arabic text, it is in fact Article 7 and not Article 6 of this law.

² Drafting error in the Arabic text, it is the date of adoption of Law No. 44-2013 of November 1, 2013 amending and supplementing Law No. 23-2012.

Priority for the recruitment of the staff of the ISIE established under this law shall be granted to staff who have worked in the former ISIE established by Decree-Law Number 27 of the year 2011 dated April 18th 2011, in accordance with the needs of the ISIE and mainly to those who are unemployed. The experience of former staff shall be taken into account in an evaluation grid developed by the ISIE Council, which specifies precisely the conditions required at the opening of the candidature window.

Article 37:

The mission of the Independent High Authority for Elections (ISIE) created by Decree-Law Number 27 of the year 2011 dated April 18th 2011 shall be deemed completed on the date of 31 December 2011. That ISIE will be dissolved as soon as the new ISIE established under this law begins to perform its duties, and must transfer to the new ISIE all facilities, equipment, records and documents.

Article 38:

This law shall come into force upon its adoption by the National Constituent Assembly. This organic law shall be published in the Official Gazette of the Republic of Tunisia and implemented as a law of the State.