

### **HEC's Guidelines to Judges Supervising Elections**

#### ***(Mistakes Invalidating Votes and 11 Acts Deemed to be Crimes)***

Important guidelines and instructions have been prepared by the High Elections Commission (HEC) chaired by Judge Mahmoud Abulleil, Minister of Justice, for members of judicial authorities overseeing the People's Assembly elections to ensure effective supervision, credibility and for voters to cast their ballots safely, so that sovereignty is solely for the People, the source of all authorities.

These guidelines emphasized the necessity of the judges to be present at their respective polling stations at 7 a.m. Voting is from 8 a.m. till 7 p.m. Vote counting takes place at the ballot counting centers upon transfer of ballot boxes thereto. The Chair of the General Commission announces the results of each constituency.

Judges will file a report of any electoral crime. The instructions warn of 6 cases that invalidate the vote and identified some facilitation for the visually challenged and the disabled upon voting. The instructions furthermore called for the presence of candidate representatives throughout the voting and counting procedures.

“The legislator introduced the establishment of the High Elections Commission HEC and granted many competencies thereto starting from; setting rules for electoral lists, content, review methods, filtering, and updating; to announcing the general elections results”, stated Counselor Abulleil, Minister of Justice and HEC Chairperson.

“The establishment of the High Elections Commission is a step toward reform that reflects an underlying wish to establish democracy and facilitate the availability of tools to exercise the right to vote in full transparency, honesty, and impartiality. The formation

of the HEC aims to offer guarantees for smooth process and protection against any damage of integrity, true representation of voters' will and achieving effective judicial supervision of the voting process.” “Judges, in appreciation of the confidence entrusted to them by the People, are capable of exercising impartial and honest supervision,” he added. Finally, the Minister stressed that the judges are aware of this great responsibility. The HEC guidelines include clarifications of work-related practical matters.

### ***Constitutional Right***

Counselor Abulleil also stated that the 1971 Constitution secured the right of election, candidacy, and expression of opinion in accordance with the provisions of the law. He stressed that participating in public life is a national duty. The Supreme Constitutional Court in its rulings pointed out that election and candidacy are national duties. The constitutional legislator enabled a safer voting environment through transparent monitoring by members of the judiciary. That is to improve voting credibility, where elected representatives reflect popular choice. The Minister also asserted that the draft decree on the setting up of the Higher Electoral Committee has provided the election process with further guarantees which ensure integrity and avoid ballot-rigging and hence support democracy.

### ***Before Voting***

The HEC instructions and guidelines addressed the procedures to be followed before voting: the polling station Chair has a stamp with his name on it with which to seal envelopes and ballot boxes. The judges are to be present at the Primary Court of the constituency 24 hours prior to the day of election in order to receive all relevant electoral documentation as well as the guidelines. Each candidate may delegate a voter registered within the general commission to represent him before it. Each candidate may also delegate a voter listed in every polling station to represent him there. The polling station Chair will be notified of such act in writing one day prior to the elections.

The polling station Chair will be present at the polling station at 7 a.m. on election day to inspect the polling station's equipment, supplies and identification of the polling center (the building where the polling station and the surrounding open space are located). The subcommittee chair notifies the assigned leader of order-keeping force. The former instructs the latter not to let in the following A) non-voters into either the Association or the nearby space B) voters carrying weapons, C) policemen into the polling station except upon the request by the subcommittee Chair.

Two copies of the voter guidelines shall be pinned up in a visible place at both the polling center and at the gate of the polling station. Once polling station staff and candidate representatives are present, the judge shall open the envelope containing the voter lists (Form U 38) as well as the envelope enclosing the ballot papers in order to verify that they are stamped with the seal of the polling station and the numbers written on the envelopes are consistent with the number of voters and the number ballots. In case of inconsistencies, the Judge will obtain the missing documents from the General

Commission Chair. This incident shall be recorded in the minutes. The Judge shall thereafter inspect and open the ballot box for verification of emptiness, safety and functioning of the keys. The Judge thereupon closes the ballot box and keeps the key. The ballot box may not be opened until the vote count after all votes have been casted. Once two candidate representatives are present, the chair of the polling station shall open a file on (Form U 51). In case the number of representatives is not two, half an hour after the start of the polls opening, the judge may select an eligible representative among the voters who are present. However, if the representatives' number exceeds six and thus a consensus failed to be reached by the candidates, the polling station chair may appoint representatives by lot. In all cases, the polls will open at 9 a. m. regardless of submission of representatives by their candidates or if the Chair could not complete replacement representatives.

### ***Voting***

The guidelines include procedures to be followed during balloting. The Minister emphasized that when it is 8 a.m. and the procedures are completed, the candidate representatives or those appointed will vote first.

Thereupon voters present at the polling center are allowed in. No vote of unlisted voters shall be casted. The voters shall submit the pink voting card stating their number of registration and proof of identity by any means including the recognition of the candidate by his/ her representatives. The vote of those who do not have the voting card shall be accepted if the person is listed the voter list upon presenting proof of his/ her identity.

### ***Invalidity Reasons***

The polling station chair is in charge of making clear to voters the six cases in which their vote is considered invalid: signing on the ballot not using a ballpoint pen; choosing more or less candidates than required; not choosing any of the candidates; writing the voter's name or leaving any sign or mark that may serve to reveal his/her identity on the ballot; voting on a ballot other than the one handed out by the polling station chair; or if the vote expressed on the card is conditional. The instructions emphasize that no one may enter the polling station room except for the Chair, the two secretaries, the voter, and the candidates or their authorized agents or representatives unless with the permission of the polling station chair in person and when necessary. No one is allowed into the room if carrying any weapons. Upon casting his/ her vote, the voter signs his/her own name on the voter's registry either in handwriting or by an index fingerprint after dipping his/her index into indelible ink that cannot be removed for 24 hours. The subcommittee chair signs on the election certificate, confirming that the voter has cast his/ her vote. The Committee secretary signs the voter registry, in front of the voters' name.

### ***The Visually Challenged and the Disabled***

The instructions are also sensitive to those with special needs and are designed to enable the visually-challenged and the disabled to cast their votes. If they happen to come alone, the polling station chair receives his/her vote orally. The secretary records the vote on the

ballot, provided that the room is empty with the exception of the polling station members. The chair signs and then places the card in the ballot box. In case the voter is present in company of a third person, he/she shall be given the freedom to either cast their vote orally or delegate someone who is not necessarily a voter to cast it for them. The act of delegation should be recorded in the minutes.

Maintaining order in the polling station is the responsibility of the polling station chair. If any of the polling station members or secretaries are absent, the Chair appoints a substitute from amongst the voters who are present. The voting process lasts until 7 p.m. Upon sealing the box with wax and with the seal of the polling station chair, the box is transported to the counting committee offices. If the box is transferred under the supervision of the judge and the guardianship of the order keeping force, the judge hands over the box to the counting committee chair. The polling station chair also delivers the voter registry envelope, unused ballots, the polling station meeting minutes, the papers, complaints and telegrams received by the polling station. The delivery notification will be verified in the minutes.

### ***Ballot Counting***

The HEC instructions also include the procedures for ballot counting where the competent committee meets in the offices of the electoral constituency headed by the general commission chair with two polling station chairs as members and the secretary of the general commission. The votes of each polling station are counted in the presence of

the chair judge thereof. Each candidate may delegate a third person to attend the counting in his/her constituency to monitor the counting and record any observations. The counting committee files a report for each ballot box. No ballot box of any polling station may be counted in the absence of its chair, and the given chair may not leave the office of the counting committee after the counting of his/her polling station ballot box has been completed. The counting committee renders a judgment on all election-related issues and the validity of casting a ballot. The deliberation of such committee is in secret and the resolutions thereof are made by absolute majority. In case of a tie, the chair has the deciding vote.

### ***Announcing the Results***

Rules of announcing the winning candidates for membership of the People's Assembly include that a member is elected by absolute majority (half of valid votes + 1). If the 2 candidates winning by absolute majority are not workers and/ or farmers, the one with the higher number of votes is elected. A run-off for the highest two worker and farmer candidates with the largest number of votes is carried out. If an absolute majority is not established for one of the candidates, elections shall be re-conducted amongst the four highest vote winners provided that at least half of them are amongst the workers and/ or farmers. In the run-off, he/she who gains the highest number of votes wins, provided that at least one of the runners is a worker or farmer. If no more than two candidates, of whom at least one is a worker or a farmer, are nominated in a constituency, elections are held on the due date and he/she who gains 10% of the votes wins. If no more than one person is

nominated, he/she wins if he/she gains 10% of the votes, and a supplementary election shall be held to choose the second member. If there is more than one candidate, of whom one is a worker or farmer, he/she wins if he/she gains 10% of the votes and the other member is chosen amongst the remaining. If the candidate does not gain 10% of the votes, supplementary elections are held. The chair of the general commission announces the election results and the number of votes for each candidate. Two members are elected for each constituency at least one of whom is a worker or farmer. The HEC Chair announces the results in a decree within 3 days of the results of the general commission by their respective chairs are made public. The decree is thereafter published in the gazette within 2 days.

### ***Electoral Crimes***

Instructions identified 11 electoral crimes might occur within the balloting rooms:

1. Resorting to force and/or violence with the chair or any of the members of the polling station with the intention of preventing him/her from undertaking the duty assigned thereto or coercing him/her to perform a specific action (felony);
2. Threatening the chair or any of the members of the polling station to prevent him/her from performing his/her duty (misdemeanor);
3. Insulting the chair or any of the members of the balloting committee whether by sign or word during the course of his duty (misdemeanor);



4. Employing means of intimidation to affect the course of the balloting process (misdemeanor);
5. Demolishing or damaging buildings and facilities or means of transportation used in the election (misdemeanor);
6. Embezzlement for distorting truth in the results (misdemeanor);
7. Resorting to force or threat to prevent somebody from balloting (misdemeanor);
8. Personification by the voter of an other or casting his/ her ballot more than once (misdemeanor);
9. Seizing, damaging, or changing the box containing ballots (misdemeanor);
10. Failure to vote with no excuse; and
11. Attempting to commit any of the previous crimes

All crimes are severely punishable by law ranging from fines to life imprisonment. The committee chair has the power of the legal impoundment officers with regards to the abovementioned crimes.