



PRELIMINARY STATEMENT

Well-managed, competitive elections despite low turnout and problematic legal framework

Baghdad, 12 October 2021

This preliminary statement of the EU election observation mission (EU EOM) is delivered before the completion of the entire electoral process. Critical stages remain, including tabulation of results and adjudication of petitions. The EU EOM is now only in a position to comment on observation undertaken to date, and will later publish a final report, including full analysis and recommendations for electoral reform. The EU EOM may also make additional statements on election-related matters as and when it considers it appropriate.

Summary

The early 2021 parliamentary elections, held under the new electoral system were called in response to demands of the mass *Tishreen* protests. The elections were technically well-managed, competitive, and the largely calm electoral campaigns enabled voters to make informed choices. However, the legislation imposes some undue restrictions on electoral rights, unregulated campaign spending negatively affected the level playing field, and freedom of the media and expression was not properly safeguarded during the campaign. The elections recorded low turnout.

- Voting on election day was largely peaceful and orderly. Voters were able to freely express their will, party agents were present in the vast majority of polling stations and voting procedures were largely followed. The overall conduct of the voting was assessed positively in 95 per cent of the polling stations visited by the EU EOM observers. However, the secrecy of the vote was not always ensured and fingerprint verification procedures were not implemented consistently, resulting in some voters being disenfranchised. The officially announced turnout was low, 41 per cent.
- The Constitution guarantees fundamental rights and freedoms necessary for holding credible elections. However, electoral legislation imposes some undue restrictions on electoral rights that run contrary to Iraq's international commitments, such as legal capacity for the right to vote; and age, education and De-Baathification requirements on candidatures. Furthermore, it contains several gaps and imprecisions with many aspects of the electoral process left unregulated, thus compromising legal certainty. In the absence of reliable population data, it is not possible to ascertain whether the equality of the vote is ensured by the current constituency delimitation.
- In total 3,249 candidates, including 951 women (29.3 per cent) contested 329 seats, and there were competitive contests held in each constituency. Grounds for disqualification of candidates between registration and election day are ill-defined in the IHEC regulation to the point of undermining the principle of legality.

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- Campaigning mainly promoted the candidates and political blocs that dominated the previous elections, while most parties affiliated with the *Tishreen* protest movement parties boycotted the elections. Fundamental freedoms of expression, assembly, association and movement were generally respected during the campaign, enabling voters to make informed choices. Violent election-related incidents during the campaign period were rare. However, according to many interlocutors, the potential of party-affiliated non-state armed actors to intimidate both the electorate and candidates may have had effect on voters' choice and turnout.
 - The amount a political party or candidate can spend on campaigning is not regulated, which has had a negative effect on the level playing field for contestants and the competitiveness of the elections. Interlocutors reported that despite explicit prohibition, many holders of public office used public funds for campaigning.
 - Technical electoral preparations were conducted efficiently. The overall performance of the IHEC at national and governorate level was assessed positively, with timely implementation of operational plans. Commendably, an independent audit company assessed the integrity of the electronic counting and results management IT system. However, the results of the audit were not published and stakeholders' trust in the whole IT system remains low.
 - Stakeholders' perception of the IHEC independence varied noticeably. Transparency in the work of the IHEC was limited, despite some recent improvements. Important information, in Arabic only, was available on the IHEC website, however, the systematic publication of the full text of the IHEC decisions, regulations, and instructions in both Arabic and Kurdish language was lacking. Furthermore, public outreach, and especially engagement with stakeholders was found inadequate and nearly all stakeholders pointed to the lack of a robust voter education programme.
 - The final voter register contained 25.2 million eligible voters, with 17.2 million Iraqis biometrically registered. In addition, some 5 million voters could vote using the old non-biometric, electronic voter cards. Since not all biometric voter cards issued were distributed before election day, only some 20 million voters were in possession of a valid voter card required for voting. In the absence of reliable population data, it is not possible to assess the accuracy of the voter registration data.
 - The public media decided not to provide any coverage of candidates and political parties in the news programmes, covering the campaign instead in specific election programmes. This restricted citizen's right to have access to a pluralistic campaign coverage. The campaign on the main private television channels was generally perceived as lively but partisan. Freedom of the media was not properly safeguarded during the campaign, following some death threats to journalists and temporary closures of some television channels. In the Kurdistan Region of Iraq, the case of three journalists recently sentenced to 6-year prison terms negatively impacted the campaign.
 - Freedom of expression online is curtailed by numerous clauses of the Penal Code and vague criminal provisions, such as the ones included in the Kurdistan Region's Law to Prevent Misuse of Communications Equipment. Interlocutors across the board reported rampant

disinformation and manipulative interferences online that disrupt the integrity of the online space. Third parties campaigned on social media, including with paid political ads. Repeated threats, insults, and attacks online hindered the inclusiveness of the political debate. Women candidates appear to have been targeted by online smear campaigns.

- The implementation of the constitutional requirement for at least 25 per cent women representation in the Council of Representatives is hampered by the inherent difficulties of quotas within a predominantly majoritarian system, as well as by the lack of clarity in the relevant legal provisions. Moreover, relevant provisions have been interpreted to implementation of the quota as a maximum rather than as a minimum.
- The electoral legislation is silent on ways to ensure the exercise of political rights by persons with disabilities (PwD), thereby falling short of international commitments. The IHEC failed to demonstrate a proactive approach by following up on proposals that would enable PwD to cast their ballot in a way that would respect the secrecy of their vote.
- The Election Law guarantees nine reserved seats for some national minorities, but its implementation fails to fully achieve their meaningful political representation. Internally Displaced Persons numbers decreased considerably, but their participation remained a challenge, as only a minority of them was registered in camps and could therefore benefit from the special voting provisions.

The European Union Election Observation Mission (EU EOM) has been present in Iraq since 28 August following an invitation from the Independent High Electoral Commission. The Mission is led by Chief Observer, Viola von Cramon, Member of the European Parliament (MEP) from Germany. In total, the EU EOM deployed 101 observers from 22 EU Member States, Canada and Norway across the country to assess the whole electoral process against international obligations and commitments for democratic elections as well as the laws of Iraq. A delegation of the European Parliament, headed by Domenec Ruiz Devesa, MEP, also joined the mission and fully endorses this Statement. On election day, observers visited 268 polling stations in 220 polling centres in 11 of the 18 governorates of Iraq to observe voting and counting. This preliminary statement is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, in particular, the tabulation of results, and the handling of possible post-election day complaints and appeals. The EU EOM remains in country to observe post-election developments and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005.

Preliminary Findings

BACKGROUND

The October polls were the sixth parliamentary elections in the post-Saddam Hussein era and the first ones held before the expiry of a four-year parliamentary term. The snap elections were called to meet demands of the mass *Tishreen* protests led by youth and civil society. The initially announced election day of 6 June was later postponed to 10 October upon request of the

Independent High Electoral Commission (IHEC) which needed more time to complete electoral preparations.

The elections were held under the new electoral system which significantly changed strategies of political parties, amid growing public discontent with political elites and widespread voter apathy. They saw a contest between traditional political entities that have been dominating the Iraqi political scene since 2003. Independent candidates were for the first time allowed to run, but many dropped out due to intimidation and lack of funds, or they were co-opted by the big parties. Much smaller constituencies for these elections favoured both locally known candidates with proven track records in a given constituency, as well as well-organised political entities able to educate their electorate on tactical voting and provide means for the campaign.

LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Restrictions, gaps and imprecisions result in lack of legal certainty and effective protection. It remains unclear whether equality of the vote is ensured by the current constituency delimitation.

Iraq is a State Party to the main international legal instruments pertinent to human rights and the conduct of democratic elections. Key electoral legislation includes the Election Law 9/2020, the Law on the IHEC 31/2019 and the Law on Political Parties 36/2015. While fundamental rights and freedoms are guaranteed by the Constitution, the electoral legislation contains undue restrictions on the right to vote and stand for election that fall short of international commitments. In addition, it contains several gaps and imprecisions.

The right to vote is granted to Iraqi citizens that are at least 18 years in the election year, are on the voter register, in possession of an electronic voting card and specific identification documents. In addition, they must be ‘*fully competent*’, i.e. must have full legal capacity. Such a restriction is contrary to provisions of the Convention on the Rights of Persons with Disabilities (CRPD)¹, especially in light of the Civil Code allowing for a broad deprivation of legal capacity.

The law leaves many crucial aspects of the election process unregulated. Matters pertaining to *inter alia* political party and candidate registration, revocation of candidatures, election campaign in the media, deadlines and procedures for resolution of electoral disputes are largely - and on occasion exclusively - governed by regulations issued by the IHEC. Such practice does not ensure legal certainty, nor does it guarantee effective protection of electoral rights.

The electoral system is one of Single Non Transferable Vote (SNTV), a predominantly majoritarian system with some elements of proportionality, and with reduced size of electoral constituencies. Voters elect 329 members of the Council of Representatives (CoR) by casting a ballot for one candidate in 83 multi-member constituencies.² Out of 329 seats, 83 must be allocated

¹ Article 12 of the CRPD commits State parties to recognise that ‘persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life’ and article 29 requires State parties ‘to guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote’.

² Parties or coalitions can field as many candidates as seats in the constituency. Independent candidatures are also allowed.

to women and 9 to minorities. Legislation does not establish any criteria on constituency delimitation, nor does it define the competent authority to carry out such delimitation. In the absence of a census since 1997 and consequently of reliable population data, ascertaining whether equality of the vote is ensured by the current delimitation is practically impossible.

ELECTORAL ADMINISTRATION

Well-managed elections but limited transparency and engagement with stakeholders undermined confidence in the IHEC.

The IHEC is the constitutional body vested with broad administrative and regulatory powers to administer voter registration and elections. Stakeholders' perception of the IHEC varied noticeably. Distrust of the IHEC independence, the perception of potential exposure to political pressure and interference were concerns expressed by some stakeholders. Still, some political parties noted a higher legitimacy of the new IHEC. The United Nations Assistance Mission for Iraq (UNAMI) was mandated to advise, support and assist the IHEC, as well as to monitor election day by deploying the UN election monitoring mission.

The new IHEC Board of Commissioners (BoC), composed of seven first degree judges and two nominees of the State Council, emphasised its independence and respect for the law. Although all BoC members were chosen by lottery from among the preselected candidates, many stakeholders perceive them as political nominees. Some civil society representatives do not recognise the IHEC as a politically independent institution, but as an election management body whose composition reflects the balance of power in the CoR.

Transparency in the work of the IHEC was limited, despite several recent improvements. Important information, such as the polling station list, candidates' lists and training manuals was available on the IHEC website, as well as an online voter-to-polling station database to verify registration records and assigned polling locations. However, the systematic publication of the full text of the IHEC decisions, regulations, and instructions in both Arabic and Kurdish language on the IHEC website was lacking.

The IHEC public outreach was not effective. Engagement with stakeholders in explaining the IHEC decisions, the use of technologies and the IHEC capacity to manage those technologies was inadequate. Information about software safeguards embedded in the electronic devices, especially regarding the secrecy of the vote and the transmission of results, was not clearly communicated.

An independent audit firm assessed the integrity of the electronic counting and results management IT system. Three simulation exercises were conducted by the IHEC in a limited sample of polling stations in all constituencies. The simulation replicated the election day process including the use of the voter verification device (VVD), the polling count optical scanner (PCOS) and the results transmission device (RTD). Reports on the simulation outcome were not published. In addition, transparency measures, such as the publication of the electronic systems descriptions, including details on the hardware and software technical components, were not implemented, nor were the results of the audit certification made available to the public.

Technical preparations for the special and general vote were conducted efficiently. The overall performance of the IHEC National Office and 19 Governorate Electoral Offices was assessed positively by long-term observers (LTOs), with timely implementation of operational stages of the election process. Despite some challenges, around 350,000 polling staff were recruited and trained, with special attention given to operating the electronic devices and conducting the manual count. The IHEC posted on social media, issued weekly IHEC statements on election preparation, and conducted a few press conferences, nevertheless, all stakeholders pointed to the lack of a robust voter education programme.

VOTER REGISTRATION

Out of 25 million eligible voters, 17 million registered biometrically, with low participation of first-time voters.

Iraq has a passive registration system where voters are not required to register for each electoral event. The voter register and its geographic attribution of voters to locations derives from the Oil-for-Food Programme of the Ministry of Trade. This system was not designed to serve as a voter register; however, in the absence of an updated census, it remains the population data base used by the IHEC. The lack of reliable population data makes it difficult to assess the accuracy of the voter register.

The final IHEC voter register contains 25.2 million eligible voters, with 17.2 million Iraqis (68 per cent) biometrically registered. In addition, some 5 million voters could vote using the old non-biometric, electronic voter cards (EVCs) acquired before the 2014 and 2018 elections. The EVC had to be presented on election day together with two of the three permissible ID documents.

Despite the IHEC efforts, until 5 October only 15.2 million biometric voter cards (BVCs), or 87 per cent, were distributed to voters, including to the registered internally displaced persons (IDPs) living in camps, members of security forces and prisoners. This means that out of 25.2 million eligible voters, only some 20.2 million were in possession of a valid BVC or EVC required for voting. Some 2.6 million youth qualified as first-time voters out of which only 37 per cent registered for these elections.

REGISTRATION OF CANDIDATES

Competitive contests were held in each constituency despite undue restrictions on the right to stand and vague regulations on disqualification of candidates.

The right to stand for election is granted to Iraqi citizens that are ‘fully competent’, at least 28 years old and in possession of a high school diploma and without a conviction for certain crimes. Candidates also must not fall under the provisions of the Law on the Commission for Accountability and Justice.³ Despite some restrictions having been relaxed compared with previous legislation, namely the age and education minimum requirements, the provisions

³ This Commission vets candidates’ credentials against compliance with ‘De-Baathification’ requirements.

regulating the right to stand for election still contain undue limitations and are incompatible with international commitments.⁴

The election law is silent on disqualification of candidates between registration and election day. An IHEC regulation grants the IHEC the right to revoke *ex officio* a candidature due to violations and even bar the candidate from contesting the next or next two elections. The regulation, however, does not define which specific violations would constitute grounds for disqualification nor does it establish any proportionality between violations committed and the severity of sanctions, which could result in arbitrary and discriminatory implementation. Moreover, the regulation invoked in the IHEC decisions that disqualified five candidates is not published on its website. These gaps, imprecisions and lack of transparency undermine legal certainty and the principle of legality.

A total of 167 parties participated in the elections; 109 of them ran individually, while the remaining 58 formed 21 coalitions. There was a total of 3,249 candidates, including 951 women (29.3 per cent). Sixty-seven candidates contested the 9 minority seats. In total 789 candidates ran as independents, 959 within coalitions, and 1,501 candidates ran with parties.

Among the nominations for candidacy, 284 were denied registration by the IHEC (8.1 per cent) during the vetting process based on feedback from various institutions. The significantly lower number of candidates running compared with past elections appeared to be a result of the new electoral system, which forced parties to nominate fewer candidates in order not to split the vote. However, enough plurality was maintained, as there were on average 10 candidates contesting each seat, and competitive elections were held in each constituency.

CAMPAIGN ENVIRONMENT

A calm campaign enabled voters to make an informed choice despite intimidation by armed groups and allegations of misuse of state resources and vote-buying.

The official campaign period lasted from 8 July to 9 October, and the IHEC was responsible for monitoring the compliance of candidates and political parties with its campaign regulation. On 15 September, the Iraqi president convened the leaders of Iraq's main political forces to sign an electoral Code of Conduct which, although being a purely political document, stressed the importance of avoiding conflicts and emphasised acceptance of the election results. Similar signing events of the Code took place in all governorates.

Fundamental freedoms of expression, assembly, association and movement were generally respected during the campaign period, with some reports of intimidation mainly from the Kurdistan Region of Iraq (KRI). Candidates and political parties could present their programmes, enabling voters to make an informed choice. Given the history of political violence in the country, it is noteworthy that there have only been a few acts of election-related violence reported, and most stakeholders stressed the calmness of the campaign. However, according to many interlocutors,

⁴ ICCPR General Comment 25 para 15 states that 'Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation'.

the potential of party-affiliated non-state armed actors to intimidate both the electorate and candidates may also have had a subliminal effect on voters' choice and participation. One of the most controversial campaign issues was groups "with arms not under State control" connected to parties running in the elections despite the legal prohibition. Various interlocutors also deplored that some women candidates faced threats and blackmail intended to force them to withdraw.

Campaigning was less intense than in the last elections and only increased over the last few weeks before election day, featuring party banners, campaign posters and billboards, in their majority promoting the candidates and blocs that already dominated the 2018 elections. According to interlocutors, the tone was less confrontational, with few discourses amounting to hate speech. Many sources attributed the reduced interest of voters during the campaign period to the lack of alternatives to the traditional parties and the ethno-sectarian power-sharing quota system – *muhasasa* – they represent. This system was criticised by the *Tishreen* movement; however, most recently founded *Tishreen* parties decided to boycott the elections. The reasons quoted were: assassination of several leading figures, alleged threats, lack of time and resources and the intention "not to legitimise the current system". The independent candidates and newcomers only accounted for a small percentage of campaign advertisement, as they lacked funds. Their preferred strategy was door-to-door canvassing combined with small-scale neighbourhood meetings. Campaigning in traditional media decreased in importance in contrast to the rise of social media. Vandalising posters was reported to be the most common violation of electoral regulations.

Tribal networks based on ties of descent and tradition were more important for campaigning in rural areas, where leaders reportedly have control of their people and parties generally lack structures, but they also mattered in cities. The importance of tribes vis-à-vis political parties and candidates increased with the introduction of the SNTV system, as in the newly established smaller electoral constituencies, candidates often relied on the ability of sheiks to mobilise their loyal voters in exchange for some offered benefits. LTOs reported cases of sheikhs from different regions approaching candidates to "sell" them the votes of tribe members.⁵

Most interlocutors reported to LTOs that state resources and public funds were frequently misused by incumbent candidates, resulting in an unlevel playing field. Repeatedly mentioned examples were infrastructure works, such as road paving, water or electricity supply starting shortly before election day in the candidate's constituency, although they were long since due. Use of official vehicles and promises of public employment were also repeatedly mentioned to LTOs around the country. Distribution of food, gifts and sometimes money was reported to be common during rallies, which is a violation of provisions against vote-buying.

Campaign Finance

Campaign financing is regulated by the Political Parties Law no. 36/2015, which permits campaigning without unreasonable limitations. Parties or candidates may not receive donations from foreign interests and anonymous donors; they may not use state resources; donations need to go through the banking system; parties and candidates may not receive donations from corporate bodies with government contracts or partially owned by the government.

⁵ The amount per vote was reported by LTOs to be 25 – 40 USD in rural areas, but far higher in urban constituencies.

The amount a political party or independent candidate can spend on campaigning is not regulated, and therefore there are no campaign spending limits in place. According to the law, political parties should receive direct public funding, however interlocutors state that in practice government neither funds parties nor allocates money for electoral campaigns. Political parties must submit an annual report on their finances; however, interlocutors point out that despite its legal obligation to scrutinise party funds and expenditures, government does not sufficiently monitor how parties and candidates obtain money to finance their campaigns. The financial reports of the parties are not published, thus hindering the overall transparency of campaign finance.⁶

There are several other lacunae in the campaign finance legislation: there is no limit on the amount or in-kind contribution a donor can give to a political party or candidate; it remains unclear if donors may later participate in public tender/procurement processes;⁷ and finally, sanctions are not a sufficient deterrent, as the only immediate sanction for political finance infraction is the initiation of a multi-step legal process, which after a decision of Iraq's Supreme Court of Justice may eventually lead to deregistration of the party.

MEDIA

A strongly polarised media scene allowed for a vibrant but mostly partisan coverage of the campaign; however, serious concerns for freedom of expression persist.

The Iraqi media scene, which counts 70 licensed television channels and radio stations, is rich and vivid but remains deeply polarised across sectarian and ethnic lines, with few independent media. Whereas the Constitution guarantees freedom of expression, the Penal Code contains numerous vague provisions and definitions, including on defamation, insults, false and biased information, that can be also used to curtail the media freedom including during election periods.⁸

According to the Baghdad-based Iraqi Journalists Syndicate since July, “at least 10 to 15 journalists” investigating “corruption cases” and “political parties”, have been threatened by “unknown sources” and were consequently forced to flee, including abroad. Reporters Without Borders reported that a few Baghdad-based television channels have been recently subject to temporary closure due to alleged criticism of the Popular Mobilisation Forces (PMF).⁹ In KRI, freedom of expression was also under pressure following an Erbil court decision in February to pronounce six year-prison sentences against three journalists accused of seeking to undermine the security and stability of the State, and after a number of recent significant incidents.¹⁰

⁶ UNCAC, art. 7(3), “[...] enhance transparency in the funding of candidatures for elected public offices [...]”

⁷ According to a majority of interlocutors, participants in public tender/procurement processes allegedly have to pay commissions, which serve as incumbent politicians’ campaign funds.

⁸ E.g., Penal Code articles 202, 210, 211, 433 and 434.

⁹ According to RSF, since June, Al Taghier and Al Baghdadia television channels were subject to temporary closures because of being critical of PMF.

¹⁰ According to major media non-governmental organizations two other journalists were recently sentenced respectively to 7-year and 2-year jail terms for defaming or criticising the KRI authorities; in July, Sulaymaniyah-based iPlus television channel was closed by security forces described as affiliated with PUK. Also, a number of journalists, not working for KDP or PUK-affiliated media, recently reported that they were intimidated and arrested by KRI police.

Media coverage of elections was mainly regulated by the IHEC Mass media regulation no. 4/2020 which requires the media to cover the candidates “fairly” and refers dealing with violations by the media to the Communication and Media Commission (CMC), the media regulatory body. On 12 September, the CMC stated that it had issued warnings for alleged breaches of campaign rules to some ten media outlets, without imposing any sanctions. The names of these media outlets were not published. There is a lack of transparency in the work of the CMC, as it does not publish the warnings issued and sanctions imposed on its website.

One significant case of violation of campaign regulation happened during a live debate broadcast on 15 September by iNews television channel. It was dealt with by the IHEC on 19 September when two candidates were deprived of their right to stand for election because they had criticised the independence and the integrity of the judiciary.¹¹ Although the IHEC decision did not sanction iNews, it was perceived as a clear warning to all broadcast media to avoid defamation-type accusations against high officials when hosting candidates. On 29 September, the IHEC also confirmed its intention to refer to courts alleged cases of campaign regulation violations, including defamation, related to three other television channels: the leading private broadcaster Al Sharqiya, Dijlah and UTV.

On 31 August, the Iraqi Media Network (IMN), the public media operator, announced that, during the campaign, access for candidates and political parties would not be granted in the news programmes “in order to maintain balance and objectivity”, but would be ensured through dedicated election programmes, including debates and interviews on Al Iraqiya News, the main public television channel.¹² Although the IMN advocated that it was providing “everyone with equal opportunities to explain their electoral programmes”, the decision restricted citizen’s right to have access to a pluralistic coverage during the main news programme, in order to make an informed decision. Also, the free airtime slots were offered to the candidates in the afternoon instead of prime time on Al Iraqiya News.¹³

The campaign on the main private television channels, including news coverage, debates with candidates and leaders of political parties, and paid political ads, was generally perceived as lively. Many broadcasters in Iraq are described as partisan because of their political or religious affiliation, and this applied as well to their coverage of the election campaign.¹⁴ Similarly, in KRI, the main television channels also supported specific candidates on political grounds, with some rare exceptions.¹⁵

¹¹ One of the candidates accused the Head of the High Judicial Council of being corrupt.

¹² Al Iraqiya News offered daily, from 10 September to 8 October, several hours of interviews and debates with candidates and political parties (9 p.m. to 12 a.m.), plus voter education-related content (11 a.m. to 12 p.m.).

¹³ Free airtime slots of 1 to 3 minutes each were offered daily at 2.45 p.m. and 4.15 p.m. from 10 September onwards during the campaign on Al Iraqiya News public channel, to “all candidates”, according to the IMN.

¹⁴ As assessed by EU EOM media monitoring of a significant sample of Arabic private television channels: Al Sharqiya News, Al Ahad, Alsumaria TV, Dijlah, from 23 September to 9 October,

¹⁵ As assessed by EU EOM media monitoring of a significant sample of Kurdish private television channels: Rudaw, K24, KurdSatNews, NRT, from 23 September to 9 October.

On 22 September, the IHEC decided to extend the election campaign period, which started on 8 July, until 9 October, 6 a.m., allowing two additional days of campaign in the media.¹⁶ On 1 October, the IHEC, in the same way as for the 2018 elections, decided to allow only 133 polling centres, out of a total of 8,954 countrywide, to host the broadcast media for their coverage of polling on 8 and 10 October.¹⁷ This limitation, criticised by major media representatives, restricted the freedom of the media and questioned transparency of the process. On 9 and 10 October, some television channels violated the silence period, broadcasting political ads or election related content in favour or against political parties and coalitions.¹⁸ Such violations were not observed on Al Iraqiya News public television channel.

Media monitoring

According to the EU EOM media monitoring, apart from the news programmes, the bulk of election-related programmes during the campaign were debates and interviews with candidates and party leaders and other political actors.¹⁹ On Al Sharqiya News, the main Arabic private television channel, the lead trio in terms of airtime allocation in these programmes was the National Progress Alliance coalition (18.5 per cent), Kurdistan Democratic Party (KDP, 8.6 per cent) and the National State Forces coalition (7.8 per cent). On Rudaw, the main Kurdish private television channel, KDP (28.6 per cent) was in the lead, followed by the Kurdistan Coalition (25 per cent) and Kurdistan Social Democratic Party (5.5 per cent). On Al Iraqiya News, the main public television channel, the Azm Coalition (9 per cent), the State of Law Coalition (7.75 per cent) and the Kurdistan Coalition (7.25 per cent) were leading among a myriad of other coalitions, political parties and candidates.

As for the paid political ads, on Al Sharqiya News, the National Progress Alliance coalition had the biggest share (43 per cent), whereas on Rudaw, KDP was leading (68 per cent) ahead of the Kurdistan Coalition (32 per cent). On Al Iraqiya News, in the prime-time news to which candidates and political parties had no access, the prime minister and president, both of whom were not running, were awarded 17.5 and 5 per cent of the total coverage respectively, mostly in their institutional role and in a neutral tone.

¹⁶ This decision effectively cancelled the silence period in the media for the special voting that took place on 8 October, with potential media influence on security forces, prison inmates and IDP vote difficult to assess.

¹⁷ According to the IHEC this was done in order to minimize disturbances and strengthen security, and all accredited journalists without video and photo equipment were allowed to enter all polling centres in Iraq.

¹⁸ According to EU EOM monitoring - on 9 October: Al Ahad TV broadcast a 5-minute programme on PMF at 9 a.m.; KurdsatNews TV broadcast a political ad in favour of Kurdistan Coalition from 6 a.m. until 6.09 a.m.; on 10 October: political ads in favour of New Generation and against KDP/PUK-dominated KRI authorities were broadcast on NRT TV at 9.55 a.m. and 10.30 a.m., and other similar ads were again broadcast at 10.52 a.m. and 11.54 a.m.

¹⁹ The EU EOM conducted a quantitative media monitoring from 25 September, 6 p.m. until the end of the campaign on 9 October, 6 a.m., with a team of six Arabic and Kurdish-speaking media monitors supervised by a national media assistant and an international media analyst. The programmes of the main public television channel, Al Iraqiya News, and the two main private Arabic and Kurdish television channels, Al Sharqiya News and Rudaw respectively, were recorded daily from 6 p.m. to 12 a.m. and analysed, following the EU EOM media monitoring methodology.

DIGITAL COMMUNICATION AND SOCIAL MEDIA

Lively online campaign marred by pervasive disinformation and manipulative operations.

The Constitution guarantees freedom of expression using all means, as well as freedom of assembly and the right to privacy. There is no regulation on online content. This leaves the decision-making process on issues such as the removal of online content at the discretion of the CMC, the regulatory body also for online content, which results in a lack of transparency and accountability.²⁰

Freedom of expression online was curtailed by numerous clauses of the Penal Code and vague criminal provisions included in the KRI's Law to Prevent Misuse of Communications Equipment.²¹ Several interlocutors reported that this results in routine arrests of journalists, bloggers, and social media users for online comments perceived as critical of the government policies. Moreover, the prevalence of online surveillance and harassment by state and non-state actors over the last two years has endangered social media users and led to self-censorship.

There are some 25 million social media users in Iraq in 2021.²² While Facebook is the most popular platform, Twitter, YouTube, Telegram, as well as messaging platforms were all used to reach out to voters. Interlocutors across the board reported rampant disinformation and manipulative interferences online, including by political stakeholders and groups affiliated to foreign countries, that debunking initiatives have regularly exposed.²³ Several interlocutors reported the usage of cyber armies by contestants, to attack or threaten opponents and fabricate false narratives.²⁴ On 1 September, the prime minister announced several arrests linked to a Telegram channel, The Lady of the Green Zone, allegedly spreading disinformation and trying to rig the elections. Such campaigns disrupt the integrity of the online space and create disbelief by default. They risk impacting the turnout and interfering with voters' formation of an electoral opinion.²⁵

Contestants largely used social media for campaigning. The EU EOM monitoring of Facebook showed that only a limited number of contestants' posts depicted actual programmes of candidates or parties. Instead, they largely showed candidates touring their constituencies, calling voters to vote. Closer to the elections, the posts showed candidates from government parties inaugurating new universities, factories, electricity transformers and roads newly paved. The EU EOM identified several third parties' pages running political ads on Facebook. The current regulation

²⁰ The draft cybercrime law, that was criticised for its vague definitions and overly broad restrictions on electronic communication, was suspended by the Parliament in February 2021, until further amendments.

²¹ Articles 210; 211, 434; 435 of the Iraqi Penal Code on the publication of false news or provocative propaganda, on defamation, and insults; Article 2 of the Kurdistan Region's Law to Prevent Misuse of Communications Equipment.

²² Iraq Data Reportal, February 11, 2021, <https://datareportal.com/reports/digital-2021-iraq>

²³ False and misleading information included a report by Al-Etijah satellite channel, owned and operated by an Iran-backed groups, on the interference of international observers from the European Union and the United Nations in the Iraqi elections (Iraqi Network for Social Media, 23 September); the usage of fake accounts and bots by the Hoquq Movement to boost its online support (The Al-Basheer show, 10 September); and multiple election-related false or misleading pieces debunked by Tech for Peace, including on women candidates (Tech for Peace).

²⁴ Reported by LTOs in Babylon, Baghdad, Basra, Maysan. Two parties informed the EU EOM that they lodged official complaints to the police for threats online, that are yet to be answered.

²⁵ 3 ICCPR, HRC GC 25, at para 19: "Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind."

does not foresee third parties spending, hindering the overall transparency of campaign finance online.²⁶ Moreover, numerous ads ran without disclaimers on Facebook, contrary to the platform community standards. Multiple candidates and third-party pages continued sharing campaign posts and ads on Facebook during the campaign silence.

At least three contestants launched campaign apps that required users to share personal data, and one of them used a Telegram bot.²⁷ Interlocutors reported multiple examples of Facebook pages or groups that have been allegedly bought by contestants ahead of the elections and had their name changed, as well as the usage of text and WhatsApp messages to reach out to voters, including without their consent.

The official social media pages of the IHEC shared information until 2 October in Arabic only, limiting access of non-Arabic speakers to election-related information.²⁸ Women candidates appear to have been targeted by online smear campaigns. The EU EOM observed repeated instances of insults and attacks against women candidates, journalists and human rights activists, that together with existing barriers to freedom of expression online impaired the inclusiveness of the political debate online.

PARTICIPATION OF WOMEN

Legal framework ensures 25 per cent women quota, but this is interpreted as a maximum.

The Constitution requires a representation of at least 25 per cent of women in the CoR, a principle reiterated in the Election Law. One seat in each of the 83 constituencies is reserved for women. The IHEC regulation requires that if no woman gets elected in a constituency, the male candidate that has won a seat with the least votes must give up the seat in favour of the woman that obtained the most votes among the female candidates. The law is silent on the eventuality of no female candidates in a constituency or of female candidates not obtaining any of the votes cast.²⁹

The predominantly majoritarian SNTV electoral system poses several difficulties for meeting quota requirements and the law contains gaps and contradictory wording. On one hand, it repeats the constitutional requirement of at least 25 per cent, but on the other hand both the law and the regulation interpret the quota as a maximum rather than a minimum. For instance, the Election Law states that if a woman does not take or loses the seat in the CoR, it is not required that another woman replaces her, unless it impacts the quota on constituency level.

²⁶ UNCAC, art. 7(3), “[...] enhance transparency in the funding of candidatures for elected public offices [...]”

²⁷ Sadrist party, Ammar al-Hakim, Hana al-Fatlawi launched campaign apps, while Al-Fatah Alliance opened a Telegram channel operated by a bot to inform voters about the Alliance candidates in each constituency.

²⁸ Article 4 of the 2005 Iraqi Constitution states that Arabic and Kurdish are the official languages of Iraq.

²⁹ IHEC Regulation 6/2021 attempts to ensure the presence of female candidates in constituencies requiring parties to have at least one female candidate if they field more than three candidates in more than one constituency. The Regulation does not take into account the independent candidacies permitted under the current electoral system, and does not therefore fill all gaps in the legislation.

PARTICIPATION OF PERSONS WITH DISABILITIES

Legislation is silent on political rights of persons with disabilities. No significant efforts undertaken to reduce hindrances to their participation on election day.

There are no reliable official data available on persons with disabilities (PwD) in Iraq. Civil society organisations (CSOs) estimate their number to be between four and ten million.³⁰ Legislation in general, including electoral legislation, is silent on the topic of political rights of PwD, therefore falling short of commitments under the CRPD. No provision compels the IHEC to take special measures in order to ensure and facilitate the exercise of their rights.

PwD faced challenges firstly in reaching the polling station and secondly in casting their ballot. The election day procedures gave PwD priority in the queue and also foresaw the possibility that PwD get help from the polling station manager or a relative when casting their vote. However, the IHEC did not demonstrate a proactive approach and failed to even acknowledge or respond to CSO proposals on mechanisms that would enable PwD to vote independently and with the secrecy of their vote respected, such as Braille jackets for ballot papers or hiring of sign language interpreters on district level.

PARTICIPATION OF MINORITIES AND IDPs

The law guarantees reserved seats for some minorities, but largely fails to achieve their meaningful representation. IDP numbers decreased but their participation remains a challenge.

The Iraqi Constitution recognises the existence of various components, nationalities and minorities within Iraq and calls for their inclusion and representation. In the absence of recent census data, no reliable demographic data on minorities are available.

The Election Law guarantees reserved seats for some of the minorities: five for Christians, one each for Yazidis, Sabean Mandaean, Shabaks and Fayli Kurds. The constituencies for these seats are larger than the regular ones to take into account the geographical distribution of each minority. Since the voter register makes no distinction based on ethnicity or religion, the system allows any voter to vote for a minority representative. While in accordance with international standards, the system is considered inadequate by most stakeholders belonging to national minorities, as it allows for the outcome of reserved seats races to be determined by voters and political parties which do not belong to those minorities, in an apparent contradiction to the spirit of the law and to the notion of meaningful political participation and representation.

While IDPs are estimated to represent around 3 per cent of Iraqi population (down from some 6 per cent in 2018), IDP voters represent only 0.5 per cent of the total registered voters. The Election Law gives IDPs the right to vote in the place of their current residency for the constituency they were displaced from. In line with established procedures, 120,126 IDP voters were biometrically registered in the camps by the IHEC, and allocated to 309 dedicated polling stations situated in their proximity. The IDPs voted on special voting day on 8 October.

³⁰ This number is based on World Health Organization (WHO) estimates that set the number of PwD to be at least 15 per cent in every country, coupled with the recent history of Iraq that has seen years of armed conflict and terrorism.

However, 85 per cent of the total IDP population lives outside camps. While they could *de jure* participate in the elections as regular voters, many of them were probably *de facto* disenfranchised, since due to security concerns and logistical difficulties they might not have been able to return to their home locations on election day.

DOMESTIC OBSERVERS

Despite limited funding, citizen groups deployed large number of observers across Iraq and contributed to increasing the transparency of the process.

Domestic election observers are recognised and regulated by the IHEC Law No. 31/ 2019 and the IHEC regulations and they are bound in their activities by a Code of Conduct. Accreditation procedures are reasonable, known by stakeholders, and do not unduly limit domestic observation. Despite difficulties in securing the necessary funding, the four main domestic observer coalitions – Shams, Tammuz, Al Ain and Nuraqib – together with some smaller groups deployed more than 10,000 observers throughout all 18 governorates and contributed to the transparency of the process.

ELECTION DAY

Largely peaceful and orderly voting process with rather low participation of voters.

The EU EOM observers visited on election day 268 polling stations in 11 of the 18 Iraqi governorates. The overall conduct of the voting was assessed positively in 95 per cent of the polling stations visited and voting procedures were largely followed. In 94 per cent of polling stations observers reported no long queues of voters throughout the day. The officially announced turnout was low, 41 per cent.

Voter cards were checked in 99 percent of stations visited, with 60 per cent of voters presenting an electronic voter card. In 31 per cent of polling stations some voters were turned away, mostly because they were not found on the voter list or for failing to present the required identification documents. The polling station layout was in 97 per cent of cases adequate and sufficiently protecting the secrecy of the ballot. However, secrecy of vote was not always ensured in 32 per cent of polling stations observed, as some voters introduced the ballot paper into the optical scanner facing up and therefore possibly revealing their choice.

Voters were processed in an orderly fashion, with no disruptions reported. In 13 per cent of polling stations voters were seen voting together in the same polling booth, and in 8 per cent a voter was seen voting on behalf of another voter. Some 78 per cent of observed polling stations were accessible for voters with reduced mobility, and 87 per cent were offering a suitable layout for such voters. Women were mostly employed as ballot paper issuers and ballot box monitors.

Voting procedures were generally followed, with the exception of the fingerprint verification procedures which were not implemented consistently. Observers noted that some voter verification devices and optical scanners malfunctioned, however technical issues were in most cases resolved and voting resumed at the affected polling stations.

In 98 per cent of polling stations candidates, party agents and domestic observers were able to observe the voting process without undue restrictions. Candidate and party agents were present in 91 per cent of polling stations, while domestic observers in 30 per cent of polling station visited. In 12 per cent of polling stations observers noted an unauthorised person inside the polling station. These were mostly uninvited security personnel.

ELECTORAL DISPUTES

Gaps in legislation and lack of transparency in administrative practice undermine legal certainty and the right to effective legal redress.

The IHEC BoC examines and resolves disputes pertaining to all stages of the electoral process; its decisions can be appealed further at second and final instance to the Electoral Judicial Panel (EJP) comprising three judges.

The electoral legislation lacks provisions to regulate most aspects of the electoral dispute resolution process, including critical ones, such as deadlines for submission and adjudication of complaints and sanctions. These gaps undermine legal certainty and the right to effective legal redress. The IHEC has issued two pertinent regulations on complaints that overlap in certain topics and contain several ambiguities and gaps. Only one of these regulations on election day complaints is published on the IHEC website.

Up to election day, the IHEC informed the EU EOM about 189 complaints on candidate registration and 183 complaints on campaign violations. Furthermore, the IHEC campaign monitoring teams recorded 174 cases of campaign violations. Some 180 fines were issued to candidates for violating the campaign rules.

An electronic version of this Preliminary Statement is available on the Mission website (iraq2021.eueom.eu). For further information, please contact:

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