



Winner All But Guaranteed: Presidential Elections in Tunisia After Kais Saied's Power Grab

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SUMMARY

- Tunisia's presidential election is set to take place on October 6 in such a repressive environment that it will not be a fair election.
- President Kais Saied's co-optation of the Independent High Authority for Elections has led to the approval of only three candidates, including the incumbent President, while many political opponents are behind bars on dubious charges or prohibited from running.
- Many Tunisians are calling for an electoral boycott due to the current lack of civil and political freedom.
- Tunisian authorities should end their crackdown on the political opposition, civil society, and media and immediately release all those wrongfully detained for exercising their right to free expression.



President Kais Saied meets with speaker of parliament Ibrahim Bouderbala, a staunch supporter of Saied, one day after the parliament passed a controversial law to strip courts of power over the election authority, September 28, 2024. Photo: Tunisian Presidency/Facebook

INTRODUCTION

On October 6, 2024, Tunisians will head to the polls to elect their next president for the third time since the fall of former autocrat, President Zine El Abidine Ben Ali, on January 14, 2011.¹ The election will also be the first time Tunisians vote for a president since President Kais Saied's 2021 power grab, marking a critical moment for the future of the country's democracy.

This policy brief offers an overview of the repressive context in which the 2024 presidential election will take place, marred by arrests of the political opposition, restrictions on the media, and crackdown on civil society, and makes recommendations on steps the Tunisia government should take to end its assault on free expression, allow diverse public debate, and bring back political plurality.

The election will take place in the most repressive political environment since the country's 2011 revolution. Tunisia's democratic transition has not just stalled since July 25, 2021, when Saied declared a state of emergency, repealed the 2014 constitution, and suspended the parliament, but reversed back into autocracy. In 2022, Saied swiftly pushed through a new constitution which significantly weakened the legislative branch and divided parliament into the Assembly of People's Representatives (Tunisia's lower house) and the National Council of Regions and Districts (Tunisia's upper house). Ultimately, the Assembly of People's Representatives was elected in 2022 with an official voter turnout of less than 12 percent.²

Saied has also passed legislation that restricts free expression and debate. This includes Decree 54 on cybercrimes, which has instilled fear among media organizations and journalists, political

1. "Tunisia's Electoral Commission Approves Two Candidates and Incumbent Saied for Presidential Elections," France 24, August 11, 2024, <https://www.france24.com/en/africa/20240811-tunisia-electoral-commission-accepts-two-opposition-candidates-for-presidential-election-kais-saied>.

2. Lilia Blaise, "Ultra Low Turnout in Tunisia's Parliamentary Elections Deepens the Political Crisis," Le Monde, January 31, 2023, https://www.lemonde.fr/en/le-monde-africa/article/2023/01/31/ultra-low-turnout-in-tunisia-s-parliamentary-elections-deepens-the-political-crisis_6013863_124.html.

activists, lawyers, and other groups active in Tunisia's civic space. Dozens of people have been imprisoned under this decree for expressing opinions that authorities deem offensive to the president, government ministers, the electoral commission, or other state institutions.³ Decree 54 has also been used to silence robust political debate about the presidential election.

Unlike the 2014 and 2019 presidential elections, Tunisia's electoral commission, the Independent High Authority for Elections (known by its French acronym ISIE), is no longer independent, following a decree Saied issued in 2022 granting himself the power to replace most of the commission's members. In the run-up to the October 6 election, the ISIE, now composed of seven members all nominated by Saied, filed complaints and disqualified the majority of the potential candidates who had announced plans to run for president. Ultimately, only three candidates were approved to run: incumbent President Saied; Zouhair Maghzaoui, the Secretary-General of the People's Movement; and Ayachi Zammel, Azimoun Movement chief, who is currently in prison. As a result, many Tunisians are calling for an electoral boycott as it has become clear this will not be a fair election.⁴

LEGAL, ADMINISTRATIVE, AND SECURITY RESTRICTIONS TARGETING CANDIDATES

Unlike previous Tunisian presidential elections in 2014 and 2019, this election is set to take place in a vastly more constrained political environment with a weakened and disrupted political party system. The election follows a string of trials, arrests, and imprisonments of prominent opposition political figures, including Abir Moussi, leading opposition figure and head of the Free Destourian Party; Lotfi Mraïhi, president of the opposition Republican People's Union; Ghazi Chaouachi, the former secretary-general of the Democratic Current Party; and

Essam Chebbi, the secretary-general of the Republican Party. In a further escalation, Ayachi Zammel, one of only two candidates cleared to run against Saied in the election, was arrested on September 2 and imprisoned on charges of paying bribes to obtain citizen endorsements.⁵

After Saied appointed new members in 2022, the ISIE filed legal cases against several politicians and activists who had criticized the way the electoral commission organized the constitutional referendum in July 2022 and the 2022-2023 parliamentary elections.

The ISIE's blatant partiality has reached the point where it has refused to comply with the legally binding decisions of the Administrative Court to allow three additional candidates to participate in the presidential election that the ISIE had previously disqualified. The General Assembly of the Administrative Court, the highest judicial body in administrative justice, issued decisions on August 27, 29, and 30 to allow Abdellatif Mekki, Mondher Zenaidi, and Imed Daïmi back on the ballot. The ISIE, however, has refused to implement these rulings, and on September 2, published a final list of only three candidates whose applications were accepted: Kais Saied, Zouhair Maghzaoui, and Ayachi Zammel.

The ISIE has also unilaterally and without legal authority altered the age, nationality, and criminal record requirements to run for president in line with the 2022 Constitution—despite the fact that Article 89 of Tunisia's constitution stipulates that candidates are regulated by Tunisia's electoral law, which has not been amended since the 2022 Constitution came into force.⁶

In addition, while cracking down on potential candidates and refusing to uphold the Administrative Court's rulings, the ISIE has ignored the violations from the Saied campaign such as Saied's use of state resources for

3. Stratton March, "Ahead of Tunisia's Elections, Media Freedom Eroding," IJNet, May 17, 2024, <https://ijn.net/en/story/ahead-presidential-election-tunisia-media-freedom-eroding>.

4. Bassam Khawaja, "Tunisia's Electoral Commission Paves the Way for Saied's Second Term," Human Rights Watch, September 4, 2024, <https://www.hrw.org/news/2024/09/04/tunisia-electoral-commission-paves-way-kais-saieds-second-term>.

5. Bassam Khawaja, "Tunisia's Electoral Commission Paves the Way for Kais Saied's Second Term," Human Rights Watch, September 4, 2024, <https://www.hrw.org/news/2024/09/04/tunisia-electoral-commission-paves-way-kais-saieds-second-term>.

6. Amin Mafouz, "[How the Date of the Next Presidential Election is Set]," *Al-Sharaa Al-Maghribi Magazine*, Issue 393, February 6-12, 2024, <https://acharaa.com/wp-content/uploads/2024/02/maghreb-street-n393.pdf>



A protestor holds an anti-coup sign at a protest against President Kais Saied's sweeping power grab in Tunis, October 10, 2021. Photo: Dodos Photography/Flickr

his personal campaign promotion. Notably, Saied announced his candidacy on the official Facebook page of the Presidency of the Republic, as well as posting campaign visits, promotional videos of himself vowing not to hand power to “traitors and [foreign] agents,” and Tunisian citizens endorsing him.⁷ This misuse of public resources goes against basic principles of electoral fairness, and further skews an election already marred by restrictions on the activities of Saied’s political rivals, the jailing of journalists, and threats to prosecute media organizations over their editorial lines.

Saied has also weaponized other state institutions, not least the ministry of interior, to target opponents and infringe on the fairness of the

election. The ministry, for example, delayed providing candidates with their criminal records needed to complete their applications to run in the election. A number of candidates, including Moussi, Imed Daïmi, Abdellatif Mekki, and Mondher Zenaidi, denounced these practices, as well as the ministry’s legally unjustifiable requests for additional documentation upon application for their criminal records.⁸ The People’s Movement, which had nominated its Secretary-General Zouhair Maghzaoui to run in the election, was even prevented from holding party meetings on August 25. The party issued a statement accusing security forces from the Ministry of Interior of preventing its activists from completing the necessary preparations for the gathering.⁹

7. During a meeting with the Minister of the Interior on August 23, Saied said that, “The Tunisian people will never accept a traitor or agent at the head of the state.” Tunisian state television removed the clip from Youtube a few minutes after it had been posted. To view the removed clip: https://www.facebook.com/story.php?story_fbid=3907921869490383&id=100008178243195&mibextid=WC7FNe&rdid=OOoIn9joiB3ejnOM

8. “Tunisia: Prospective Presidential Candidates Barred,” Human Rights Watch, August 20, 2024, <https://www.hrw.org/news/2024/08/20/tunisia-prospective-presidential-candidates-barred>.

9. Announcement of the Postponement of the Regional Conference for its Executives and Structures in the Regions of Monastir, Mahdia, Sousse, and Kairouan,” the People’s Movement, August 24, 2024, <https://www.facebook.com/100050175502909/posts/1073215347694305/?mibextid=WC7FNe&rdid=ky5FiX2LFdh8MMPL>



A woman votes for a constituent assembly on October 23, 2011 in Tunis, in the first elections following the Arab Spring. On October 6, Tunisians will vote for a new president for the first time since Saied's 2021 sweeping power grab. Photo: Ezequiel Scagnetti/European Parliament

THE WEAKENING OF CIVIL SOCIETY

As the election approaches, civil society institutions—including associations, media outlets, and independent bodies—have been severely restricted. Civil society in Tunisia is facing the harshest clampdown it has experienced since the 2011 revolution. Saied and some members of parliament have repeatedly accused organizations that receive funds from abroad of seeking to undermine Tunisia's national sovereignty. Tunisian authorities have even imprisoned migration and refugee rights activists on allegations of money laundering, criminality, and posing a risk to Tunisia's territorial integrity.¹⁰

Recently, the ISIE filed a lawsuit against anti-corruption monitoring group IWatch for publishing opinion polls during the election period.

The ISIE alleges that the organization published a report that is not technically an opinion poll and featured the electoral promises Saied had fulfilled and failed to fulfill.¹¹

In the media, opposition political parties and politicians have been prevented from appearing on public television, which has become a mouthpiece of Saied's government. Prominent journalists and commentators critical of the country's political trajectory have faced prosecution.¹² In the same context, the ISIE has tasked itself with supervising the Tunisian media, despite lacking the human and technical resources needed to monitor media coverage of the election. This has transformed the ISIE into a punitive watchdog that intimidates media organizations and journalists by filing court cases and issuing warnings against the media for allowing political criticism, an act protected

10. Rihab Boukhayatia, "President Saied's Migration Alibi Paves Way for Repression," *Nawaat*, May 17, 2024, <https://nawaat.org/2024/05/17/president-saieds-migration-alibi-paves-way-for-repression/>.

11. IWatch organization hearing after complaint from the Election Commission, *IWatch*, August 21, 2024, <https://www.iwatch.tn/ar/article/1045>.

12. "Tunisia: Authorities Intensify Repression Against Media and Freedom of Expression," *Amnesty International*, May 30, 2024, <https://www.amnesty.org/fr/latest/news/2024/05/tunisia-authorities-escalate-clampdown-on-media-freedom-of-expression/>.

under the constitutional right to freedom of expression. The ISIE even withdrew one journalist’s accreditation and prevented her from covering the election and visiting polling stations, accusing her of lacking impartiality and violating the electoral law.¹³

THE ROLE OF ONLINE PLATFORMS IN ENSURING A FREE PLURALISTIC DIGITAL PUBLIC SPACE

Amid shrinking space for free and open public discourse, social media platforms—especially Facebook and TikTok—have played an important role as forums for public debate during the presidential campaign. Social media platforms are some of the few places where political actors have the space to lay out their policies and try to influence public opinion. These platforms, however, are not doing enough to address attempts to influence public opinion through coordinated and opaque campaigns in violation of their platforms policies,¹⁴ nor are they adequately ensuring transparency over the ads and the beneficiaries of various pages¹⁵ which frequently turn them into spaces for manipulating public opinion.

There is no evidence that these online platforms are proactively cooperating or coordinating with the authorities at the expense of Tunisian citizens. In 2023, for example, Meta rejected 67 requests by the Tunisian government for data.¹⁶ This lack of cooperation with the Tunisian authorities, including the ISIE, is understandable due to the government’s lack of respect for human rights. However, these factors should not deter social media platforms

from living up to their responsibility to tackle disinformation and to counter campaigns that defame candidates, opposition figures, and civil society activists, especially during election campaigns.

Accordingly, sufficient information should be published about the amount of money spent on certain accounts and the sources of the funding. These platforms should collaborate with experts and civil society organizations to better understand the national context, publish reports on decisions they take to remove certain content or suspend certain accounts, and improve their algorithms so as not to fuel the dissemination of misleading news or information that undermines the integrity of the electoral process or the expression of a plurality of views.¹⁷

13. “No to limiting freedom of expression...No to guardianship over the media,” Statement from the National Union of Tunisian Journalists, August 24, 2024, <https://www.facebook.com/share/p/hTQzYBfNGTNZxkAG/?mibextid=WC7FNe>.

14. One such campaign is the so-called “Instalingo affair,” where a company was accused of running several pages, both from within and outside Tunisia, that produced misleading and reputation-damaging content through the attribution of false information and forgery of documents with the aim of influencing public opinion. See: <https://www.mosaiquefm.net/ar/%D8%AA%D9%88%D9%86%D8%B3-%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1-%D9%88%D8%B7%D9%86%D9%8A%D8%A9/1104240/%D8%AA%D8%B3%D9%84%D8%B3%D9%84-%D8%A3%D9%87%D9%85-%D8%A3%D8%AD%D8%AF%D8%A7%D8%AB-%D9%82%D8%B6%D9%8A%D8%A9-%D8%A3%D9%86%D8%B3%D8%AA%D8%A7%D9%84%D9%8A%D9%86%D8%BA%D9%88>. Also see: <https://www.businessnews.com.tn/laffaire-instalingo-de-nouveau-devant-le-tribunal-de-premiere-instance-de-sousse-1,520,138273,3>

15. The Court of Audits confirmed in a report on the 2019 presidential and legislative elections that there had been a lack of financial transparency around social media accounts and pages. The report is available (in Arabic) at: http://www.courdescomptes.nat.tn/Ar/%D8%A5%D8%B5%D8%AF%D8%A7%D8%B1%D8%A7%D8%AA_59_3_0_0_0000_0000_eeeeeee-eeeeee-eee-eeeeee-eeeeee-eeeeee-eeeeee-eeeeee-eeeeee-eeeeee-eeeeee-eeeeee-eeeeee-eeeeee-2019-eeeeeee-eeeeee-eeeeee_61.

16. “Government Requests for User Data: Tunisia,” META Transparency Center, <https://transparency.meta.com/reports/government-data-requests/country/TN/>.

17. In this context, see Article 19, “Seven priorities for online platforms during elections,” March 25, 2024, at: <https://www.article19.org/resources/seven-priorities-for-online-platforms-during-elections/>.

POLICY RECOMMENDATIONS

- Tunisian authorities should respect the constitution and their international human rights obligations by immediately ending their crackdown on political opponents, journalists, and others trying to exercise their fundamental freedoms, which has already disrupted this election and freeing those wrongfully detained.
- The ISIE should reverse its targeting of media outlets and journalists, stop filing judicial complaints and issuing warnings over peaceful political opinions, and end its use of Decree 54 to pursue individuals simply for exercising their right to freedom of expression.
- Tunisian authorities should uphold the freedom of association, end its attacks against civil society, and preserve the right of Tunisians to engage in political debates.
- After the election, social media platforms should publish transparent reports on political ads related to the election and on their decisions to remove content or accounts.



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