



IFES West Bank & Gaza

3 Al Zuhur Street,
PO Box 4015, Al Bireh
phone: +972 (2) 2402462
fax: +972 (2) 2402465
vpran@ifes.org

Electoral Framework for Elections of the PLO's Palestinian National Council Overview

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Vladimir Pran

This brief seeks to provide an overview of the electoral framework for the elections of representatives in the Palestinian National Council (PNC), the legislative body of the Palestine Liberation Organization (PLO).

The PNC's electoral framework consists of three components:

- A) the "**presidential decree**" issued by Mahmud Abbas;
 - B) the "**Bylaw on the Elections of the Palestinian National Council**" and
 - C) the "**general elections law from 2007**".
- A) President Abbas issued the presidential decree on 11 August 2007 in his dual role as the President of the Palestinian National Authority (PNA) and Chairman of the PLO's Executive Council. The decree was issued exclusively to introduce the proportional closed-list system of representation to elections for PLO institutions, including the PNC.
- B) The bylaw serves as a centerpiece that defines the PNC electoral framework; as such it provides enough details for implementation of the electoral process. The bylaw is currently in its **third version** of the draft. This third draft of the bylaw substantially differs from the version that was presented to the PLO's Central Council in November 2008. At the time this brief was being prepared, the third draft's status as well as its enactment timeframe remained unclear. It appears that the third draft has not yet been widely shared across the PLO. It is equally uncertain whether the draft will be subjected to further modifications before being ratified by the PLO Executive Committee.
- C) The elections law issued in September 2007 by Presidential decree provides a framework for the administration of elections for institutions of the Palestinian National Authority.

Translations of the presidential decree, the previous two versions of the draft bylaw and the 2007 elections law have been translated by IFES and are available on www.ifes.org/westbankgaza. Accompanying briefing papers can also be found at the above website.

ELECTORAL SYSTEM & SYSTEM OF REPRESENTATION

The decree and the bylaw establish a proportional system of representation. The bylaw provides further details of the electoral system that include direct and secret voting, two electoral districts (constituencies) and closed electoral lists (list of candidates). The bylaw also establishes that elected officials are to serve a four-year term in office.

In the bylaw, “*electoral districts*” does not only refer to the occupied Palestinian territories; Indeed, the bylaw establishes a single electoral district for the “*Palestinian Territories*”¹, and a single district for the Diaspora.

The PNC is composed of 450 representatives: 400 elected directly and 50 others appointed by the elected representatives. The Palestinian Territories and Diaspora districts each elect 200 representatives. The 50 appointed members are supposed to *represent the areas or the communities whose participation in elections was not possible*; however the bylaw does not go into further details on this subject.

Lists do not have to exceed a threshold of valid votes to be eligible for allocation of seats. All of the electoral lists are eligible for allocation of seats regardless of the number of votes it obtained. The allocation will be implemented with the Sainte-Laguë method, what will in practice exclude lists that obtained only few percent of votes.

ELECTORATE & ELIGIBILITY

The bylaw does not restrict the PNC elections to the members of the PLO or to PLO member organizations – elections are indeed open to the general Palestinian public. The eligibility requirements are similar to those in the Law for Elections of the President and the Palestinian Legislative Council (PLC) of the Palestinian National Authority (PNA).

Eligible voters (electorate) are defined as Palestinians who are registered in the voters’ list for a specific registration/polling center, and who are 18 years of age or older. A voter is considered Palestinian if:

- a) He/she or his/her ancestors were born in Palestinian Territories or British mandate Palestine;
- b) He/she or his/her ancestors was/were entitled to Palestinian nationality under the laws in place at the time of the British mandate;
- c) He/she is a spouse of a Palestinian, according to the Palestinian citizenship law².

The main difference between the PNA and the PLO electorate is that the PLO electorate is extended to Palestinians living in the Diaspora, and outside Palestinian Territories, with the exception of those living in Jordan which are explicitly excluded from the Diaspora.

While the Palestinians who are Israeli citizens are not excluded in principle, the requirement to be registered at the specific registration/polling center in “*an area where he/she resides*” limits participation of “*Israeli Arabs*” in practice. It would be difficult to imagine Israel granting approval for establishment of registration and polling centers for the PLO elections west of the Green Line.

CANDIDATES & ELECTORAL LISTS

The electoral system is designed for competition of closed-lists of candidates (electoral lists), and while in principle the system is not designed for competition between individuals, the bylaw requires an unusually small minimum number of candidates in the list – only three.

Surprisingly, the bylaw contains **no** restriction as to who has the right to register an electoral list; anyone can do it, not just the PLO factions. Indeed, “*a faction or a party or a coalition of factions or parties, or a group of voters, which meet the requirements of candidacy in either or both districts*” can register a list. This effectively opens the PLO elections to any Palestinian group. There is one caveat:

¹ Defined as The Palestinian territories under the jurisdiction of the Palestinian Authority (The West Bank, including Jerusalem, and the Gaza Strip)

² It must be noted that Palestinian Citizenship Law does not exist per se except in its 1995 draft

the list must “*recognize the PLO as the sole legitimate representative of the Palestinian people and comply with its political program and the Declaration of Independence*”³.

The technical requirements for registering an electoral list are minimal - 1,000 registered voters and deposit of USD 10,000. The PLO factions do not need to submit signatures.

Each list must include female candidates. They have guaranteed places in the list to avoid clustering of female candidates at the bottom of the electoral list. The female candidates must be placed within first three places in the list and thenceforth after every four male names.

AUTHORITY & ADMINISTRATION OF ELECTIONS

Authority over the elections is divided between A) the PLO Executive Committee, B) the existing Central Elections Commission of the Palestinian National Authority and the new institution: C) the Supreme Supervision Commission (SSC). The judicial role is assigned to the PNA Elections Court and to another new institution: the Supreme Judicial Tribunal.

A) The role of the PLO Executive Committee is to call for the elections, to form the Supreme Supervision Commission and to approve all of the regulations. The Executive Committee has also a role in the establishment of the Supreme Judicial Tribunal.

B) The role of the Central Elections Commission is to administer elections in the Palestinian Territories according to the “*Law by Decree of 2007*”; the disputed law for the elections of the President and the Palestinian Legislative Council of the PNA⁴. This in practice means that the electoral process for the PNC in the Palestinian Territories would resemble the elections for the PLC. Potential conflict between the procedures in the bylaw and the PNA elections law are reconciled by article 14.1 of the bylaw: “*in case of contradiction between the PNC bylaw and PNA elections law, the PNC bylaw prevails*”.

C) The Central Elections Commission has no authority over elections conducted in the Diaspora. This authority is assigned to new institution, The Supreme Supervision Commission (SSC). The SSC is to be formed by the Executive Committee (EC). The EC determines the number of commissioners, the length of the term to be served and finally appoints the commissioners.

The SSC’s role is not limited to the administration of PNC elections, but also to the supervision of elections in “*national institutions, central popular unions, popular and civil society organizations, NGOs, and any elections concerning Palestinian communities in the Diaspora*”.

The SSC is to be established as a permanent body with administrative and financial independence and an allocated budget supported by the Palestinian National Fund. The Commission has administrative and financial independence and should be legally incorporated. However, the Executive Committee effectively maintains the control over the formation of the Commission, appointments of the Commissioners, approval of Commission’s regulations and indirectly through the appointment of the judges to the Supreme Judicial Tribunal.

To administer elections, the SSC establishes field offices and is in charge of staffing these offices. Field offices recruit registration/polling center staff, but the final approval of the staff appointments falls under SSC’s authority.

³ “*Declaration of independence*” is *de facto* recognition of two-state solution and a non-starter for Hamas

⁴ The law has been enacted by the decree of the President Abbas under the rule of “*emergency government*”. To be legally valid, it should be confirmed by the PLC. Translation and the overview of the 2007 elections law available at www.ifes.org/westbankgaza

In the Diaspora, locations of the registration/polling centers are to be negotiated by the PLO and the host country. The bylaw provides neither specifics on these arrangements nor details on countries where Diaspora elections will be conducted.

CAMPAIGNING

The campaign financing limitations are minimal. The bylaw prohibits campaign contributions from “*non-Palestinian*” sources and caps the campaign expenditure to USD 1,000,000 per list. In principle, the contribution should be completely disclosed a month after the elections, but the bylaw does not tackle the issue of penalties for lists failing to abide by the rules.

PLO and PNA executive bodies should refrain from campaigning and the election campaign should not be conducted in public institutions and mosques. The bylaw explicitly prohibits political speeches and sermons in mosques.

JUDICIARY AND APPEALS

The judicial role is shared between the Elections Court of the Palestinian National Authority⁵ for the elections in the Territories and the Supreme Judicial Tribunal, for the elections in the Diaspora.

The Supreme Judicial Tribunal (SJT) is a new institution to be formed by the PLO Executive Committee and ratified by the PLO’s Central Council. The SJT can establish so-called “*sub-tribunals*” that are formed by “*Palestinian judges and lawyers*”. However, the sub-tribunals must be chaired by a SJT judge.

The SJT has no authority over challenges to the Central Elections Commission; it is limited to cases against the Supreme Supervision Commission.

Cases under authority of the PNA Elections Court are not described in the bylaw as they fall under the domain of the Elections Law of 2007.

OUTLINE OF THE ELECTORAL CALENDAR

- *Call for Elections*
Elections are called by the President of the PLO at least 150 days before polling.
- *Voter Registration*
Voters register by presenting themselves (or their proxy) at the registration/polling centers. The deadline for the production of the Final Voters’ List in the Territories is 90 days prior to polling. Registration must be also conducted in the Diaspora and the period between registration and exhibition of the Preliminary Voters’ List (PVL) must be 30 days. The PVL of the Diaspora must be published 30 days before the period for registration of candidates.
- *Registration of Candidates (electoral lists)*
Registration of candidates starts the day after the publication of the Final Voters’ List and lasts for 21 days. Lists can be withdrawn up to a day before the start of the election campaign.
- *Elections Campaign*

⁵ The court that is established by the Law for Elections of the President and the Palestinian Legislative Council.

The elections campaign period starts 30 days before and ends 24 hours prior to polling. Campaigning on polling day is not allowed.

- *Polling*
Polls open at 7 AM and close at 7PM the same day. Ballots are counted at the polling center.
- *Challenges to results*
Challenges are adjudicated within 5 days.
- *PNC convention*
The chairman of the Executive Committee calls for the PNC to meet after 2 weeks from the announcement of the results. During the first meeting, the Council elects the Speaker, four deputies and the Secretary General.