Libya: Political situation ahead of elections

Since the overthrow of Muammar al-Qaddafi in a 2011 uprising, Libya has been mired in a civil war that has divided the international community and set several internal factions against one another. The ceasefire proclaimed on 23 October 2020 opened a path for a political process wherein an interim government led by Prime Minister Abdul Hamid Dbeibah was able to lead the country to agreed presidential and parliamentary elections, to be held on 24 December 2021. These elections will be the first since the civil war between the forces of the Government of National Accord and the Libyan National Army began in 2015. The challenge is the growing risks linked to legal processes, security, and the legitimacy of some leading candidates, among them Dbeibah, Khalifa Haftar and Saif al Islam Muammar al-Qaddafi.

Political context

The ceasefire agreement signed by the Government of National Accord (GNA, headed by Fayez al-Sarraj) and the Libyan National Army Movement (led by Khalifa Haftar) on 23 October 2020, advanced the launch of the Libyan Political Dialogue Forum (LPDF), which was held on 9 November 2020, under the auspices of the United Nations Support Mission in Libya (UNSMIL).\(^1\) The LPDF presented the political roadmap 'For the Preparatory Phase of a Comprehensive Solution', which is intended to foster conditions for political reconciliation and stabilisation in the country. The roadmap was based on United Nations Security Council (UNSC) Resolution 2510 (2020) and the conclusions drawn during the first Berlin Conference, held in January 2020. The Berlin Conference called for the creation of a presidency council and an effective government of national unity, to pave the way to ending Libya's transitional period through free, transparent and credible presidential and parliamentary elections. The roadmap also imposes some other conditions, such as the drafting of a new constitution and electoral laws, and the departure of foreign fighters.

Situation ahead of the elections

In April 2021, the adoption of UNSC Resolutions 2570 and 2571 (2021) called on all parties involved in the Libyan civil war to comply with the ceasefire agreement and demanded the 'withdrawal of all foreign forces and mercenaries without further delay'. Following the second Berlin Conference on 23 June 2021, Libyan parties agreed to move ahead with constitutional reform before the December 2021 elections. However, absent an agreed constitution, only two main laws related to the elections have been adopted. House of Representatives (HoR) Speaker Aguila Saleh Issa issued a law on presidential elections by decree on 8 September, without a formal vote in the parliament's plenary. On 4 October, the HoR approved the law, which regulates legislative elections.

The High National Elections Commission (HNEC) opened registration for all candidates on 8 November; with deadlines for applications for presidential candidates on 22 November, and for parliamentary candidates on 7 December. Security, constitutional and legal challenges are the most important risks, as noted during the Paris Conference on Libya on 12 November 2021. As UN Special Envoy and UNSMIL Chair Ján Kubiš mentioned, the electoral process is moving forward, but tensions are rising over the eligibility of some high-profile presidential candidates, along with fears of armed confrontation or the possibility that the current constitutional framework may revert the country to authoritarianism. These internal risks are compounded by Special Envoy Kubiš’s rather untimely decision to resign only one month ahead of the crucial elections. On 6 December, UN Secretary-General António Guterres appointed UN diplomat Stephanie Williams to lead mediation efforts in Libya as his special envoy.

Challenges ahead

Legal challenges

As the final statement of the Paris Conference on Libya notes, the international community, including the European Union (EU), intends to cement support for the planned December vote and efforts to remove
foreign forces from the country. The EU also provides technical support to the HNEC. Leaders equally reiterated the importance of accepting electoral results. Nonetheless, not everyone is so supportive. Even though the Russian Federation supports the December elections, Foreign Minister Sergey Lavrov remains cautiously realistic, ‘as they [Libyans] also scheduled elections for a specific date a few years ago and failed’. Internally, the Libyan High Council of State (HCS) remains opposed to holding elections under what is viewed as an inadequate and illegitimate legal framework. The HCS Chair, Khalid al-Mishri expressed his concerns on 3 November, noting that the absence of an amended constitution before the elections might lead to a ‘coup in Libya’. Al-Mashri added that the HCR is refusing to allow ‘dual nationals and military personnel to run for president’, proposing to postpone the elections. While the roadmap and UNSC Resolution 2570 indicated 24 December 2021 as the date for simultaneous presidential and legislative elections, the final electoral calendar had not been formally announced at the time of writing (15 December).

On 11 December, the HNEC delayed the publication of the definitive list of presidential candidates. While publication of the final candidate list was supposed to mark the formal start of the election campaign, the HNEC did not give a new date for issuing this list. The most likely scenario is that polling day will be postponed; or that only the first round of presidential elections will be held on 24 December.

**Legitimacy of some candidacies**

On 22 November 2021, the HNEC closed registration for the presidential elections. A total of 98 presidential candidates were registered (including two women). Following a preliminary vetting process, 73 were considered valid and 25 non-eligible. Among the contested candidates were current Prime Minister Dbeibah (due to his personal commitment at the start of his mandate that he would not run); Khalifa Haftar (on the basis of his role in the 2019 civil war) and Muammar al-Qaddafi’s son, Saif al-Islam Muammar al-Qaddafi (wanted by the International Criminal Court for alleged war crimes).

However, the Sabha court rejected the HNEC decision and ruled in favour of al-Qaddafi. The Tripoli appeals court approved both Haftar and Dbeibah’s candidacies. Contesting these legal decisions, military leaders from the town of Misurata announced they would not accept 'criminals' Haftar and al-Qaddafi's participation in the presidential elections, warning that the country could enter an endless cycle of violence as a result.

**Security challenges**

Experts posit that the legitimacy of the December elections could be at stake should they be accompanied by outbursts of violence or terrorist attacks leading to closure of electoral facilities, particularly in regions that are dissatisfied with the approved candidates, the modalities of how the electoral laws were amended, or the absence of a new constitution. In the past, the electoral process was jeopardised by a terrorist suicide attack on the HNEC in Tripoli, for which the Islamic State militant group claimed responsibility; any security breaches may postpone the December elections. Failed elections, in turn, might render the region vulnerable to Islamic State and other terrorist groups. This could have far-reaching consequences for countries in the region, as well as for the security and economic interests of the EU and the USA.

**European Parliament position**

The European Parliament supported the political solution to the Libyan crisis under UN leadership and the Berlin process, as well as the implementation of the UN arms embargo on Libya and the launch of the military operation EUNAVFOR IRINI in the Mediterranean, under the EU Common Security and Defence Policy. Parliament’s President David Sassoli (S&D, Italy) met with Fayez al-Sarraj, former Chair of the Presidential Council of Libya and Prime Minister of the GNA, on 8 January 2020.

A European Parliament resolution on human rights violations by private military and security companies, in particular the private security company, the Wagner Group, was adopted on 25 November 2021, condemning foreign interference and involvement in the Libyan conflict, notably by Russia and Turkey, as also documented in the report of the October 2021 UN Fact-finding Mission in Libya. According to the UN, there are around 20 000 foreign fighters in the country, including Russians from Wagner, Chadians, Sudanese and Syrians.

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1 This note focuses on the political situation ahead of the 24 December elections. For the assessment of the first Berlin Conference and the civil war period, please consult the EPRS briefing by Stanicek, B., Libya: Geopolitics of protracted civil war in the western Mediterranean, April 2020.