



Executive Summary of

The Work of the Advisory Committee

Options for moving forward to
hold elections and end the
transitional period

Unofficial Translation

May 5, 2025

Tripoli

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Introduction

On 4 February 2025, the United Nations Support Mission in Libya (UNSMIL) announced the establishment of an Advisory Committee comprising 20 Libyan personalities of experience in law, constitution and electoral matters, with the aim of submitting implementable options to address the contentious issues hampering the elections. The formation of the Committee is a step in the political process unveiled by UNSMIL during the Security Council briefing on 16 December 2024, which aims to end the ongoing political impasse while laying the foundations for addressing the longstanding drivers of the conflict and helping the country move beyond the open-ended transitions.

The task of the Committee consists of coming up with options that are “*technically sound and politically implementable*” to address the contentious issues marring the electoral laws and pave the way for the elections to take place in the nearest time possible. The tasks of the Committee also include coming up with guarantees and clear timelines, as well as defining the mandate and priorities of a new government, the establishment of which shall be agreed upon.

The Committee has a purely consultative nature. It is neither a decision-making body nor a dialogue forum. Its purpose is to submit options to UNSMIL to be built on in the subsequent stages of the political process.

I. Grounds for the Establishment of the Advisory Committee

UNSMIL has established the Advisory Committee as a starting point for a new political process following an assessment of the Libyan situation that has led to the following conclusions:

- The status quo is not sustainable, and the seeming stability is fragile.
- The political and institutional division has become a threat to the unity, sovereignty and territorial integrity of Libya.
- The political polarization, unilateral decisions and absence of a clear project for a permanent governance system only aggravate the fragility of the transitional institutions, hindering progress towards national reconciliation and heralding an imminent economic fallout.

UNSMIL has opined that denying the right of the Libyans, 2.8 million of whom had registered in the electoral lists, to choose their representatives has become a source of growing public discontent.

II. Framework of the Advisory Committee

The political framework governing the work of the Advisory Committee is defined by the Constitutional Declaration and existing Libyan laws and agreements, such as the

Libyan Political Agreement, the Libyan Political Dialogue Forum Roadmap, the 6+6 electoral laws, and Constitutional Amendment 13 that paved the way for the latter.

The work of the Committee is also grounded in paragraphs 2 and 5 of Security Council Resolution 2755 (2024). Paragraph 2 underlines the Security Council's "full support for UNSMIL, in particular its mediation and good-offices role to further an inclusive political process, building on the basis of the Libyan Political Agreement and the Libyan Political Dialogue Forum (LPDF) Roadmap, and building on the updated electoral laws." Paragraph 5 "urges the Libyan political institutions and key stakeholders to resolve the outstanding politically contentious issues pertaining to the elections as soon as possible," and "to engage fully, transparently and in good faith" in the political process in order to deliver free, fair, transparent and inclusive national elections, aiming inter alia to form a "unified Libyan government able to govern across the country and representing the whole people of Libya."

III. Guiding Principles of the Work of the Committee

The Committee has striven to impart advice to UNSMIL, ensuring that it is implementable from both technical and political perspectives. In carrying out its task, the Committee was asked to heed the following considerations and principles:

- Preserving the unity and stability of the country.
- Ensuring Libyan ownership of the political process.
- Unifying institutions and restoring their legitimacy.
- Inclusivity of the process to all segments of the Libyan society through well-balanced geographical representation and active presence of women and cultural components.

The Committee was also asked to build on the lessons learned from past Libyan experiences that have led to the current political impasse and prevented an exit out of the endless transitional arrangements or breaking the vicious circle of the conflict.

IV. Timeline for the Work of the Committee

The Advisory Committee was bound to complete its work within 3 months at the latest. Given the gravity of the situation and the magnitude of the task, members of the Committee have worked full-time to impart the sought advice with utmost commitment and rigor.

From the second week of February until early May 2025, the Committee convened more than twenty meetings, at UNSMIL HQ in Tripoli and UN Hub in Benghazi. At the beginning of its meetings, the Committee laid down a code of conduct and rules of procedure. It also carried out preliminary discussions on the contentious issues marring the constitutional and legal framework of the elections, whereas the remaining meetings have embarked on in-depth examination of those issues and their technical and political repercussions, as well as probing various scenarios to address them. On 1 May, the

Committee concluded its work and tasked a drafting team comprised of five members with preparing the final report for endorsement on 5 May, after which it will be formally submitted to UNSMIL, for the latter to build on during the subsequent stages of the political process.

First: Diagnosis of the Current Electoral Framework

The Committee conducted a thorough analytical review of Constitutional Amendment 13, Law 27 (2023) on Election of the National Assembly, and Law 28 (2023) on Election of the Head of State. The Committee worked to assess the extent to which these laws can provide robust legal grounds for holding free, fair and inclusive elections. It also worked to identify the strengths that one may build on, as well as the loopholes that need to be addressed to ensure the integrity and success of the electoral process.

I. Methodology

Besides analyzing the legal and constitutional framework of the elections, the Committee considered the provisions of the Libyan Political Agreement, the LPDF Roadmap, and the relevant Security Council Resolutions, particularly Resolution 2755 (2024). It also reviewed the applicable Libyan laws related to the electoral process.

The Committee sought to benefit from technical and political discussions on the electoral process by examining the proposals of various stakeholders and political actors. Under the auspices of UNSMIL, the AC organized two hearing sessions with the 6+6 Committee that prepared the electoral laws and the Board of High National Electoral Commission (HNEC).

Throughout this process, the Committee sought to pinpoint the most salient shortcomings in the current electoral framework, define the contentious issues that obstruct the elections, and propose amendments and legal and institutional remedies for those issues. It also examined the scenarios associated with each option, compared the alternatives and opted for the most optimal of the lot to end the political impasse.

With such methodology, the Committee's aim was to offer a well-balanced vision that heeds the overlapping constitutional, legal and political tracks, along with the requirements for credible elections. Furthermore, the AC has ensured steering clear of reductionist approaches that confine solutions merely to reshaping the executive or legislative authorities, rather than addressing the underlying political environment of the conflict. Conversely, the AC sought to propose a comprehensive package that includes holding presidential and legislative elections, forming a unified government and establishing permanent constitutional institutions, besides introducing mechanisms and guarantees that prevent the disruption of these processes or regression to yet another set of transitional periods.

II. Categorization of the Contentious Issues in the Electoral Framework

The preliminary diagnosis has led to categorizing the contentious issues within the constitutional and legal frameworks into three groups:

- Issues related to the provisions of Constitutional Amendment 13.
- Issues related to the two electoral laws 27 and 28 (2023).
- Issues beyond the constitutional and legal framework.

Analysis of these issues has led to their classification according to their nature and topic, as well as the definition of the elements that may obstruct the electoral process and diminish the chances for its results to be accepted. The issues are divided into two main axes:

- **Issues of legal nature:**

- The results of the legislative elections are linked to the completion of the presidential elections (Article 30 of Constitutional Amendment 13). This poses an unjustifiable dependency between two functionally separate electoral tracks.
- Strict synchronization of the three elections. This lack of procedural flexibility complicates logistical and technical aspects and could lead to large-scale procedural disputes.
- The provisions associated with the eligibility criteria, such as non-Libyan citizenship requirement, resignation from office and final ruling are worded in a manner that gives ample room for equivocal interpretations and further judicial challenges.
- Lack of practical framework for the establishment of a new government, be it in terms of the criteria, term in office or interim mandate, which renders this legal requirement vague.
- Inadequate regulation of the electoral challenges, in terms of the timelines for announcements and rules of jurisdiction, in a manner that fails to ensure sufficient balance between the adjudication speed and right to litigation.
- Complications related to the requirement of collecting endorsements, which could create serious challenges for candidates in the current conditions.
- Insufficient representation of women and cultural components and its relevance to the allocation of seats.

- **Issues of institutional nature:**

- Persistent security and institutional divisions and absence of a unified framework for the election security.
- Unsolved legal status of HNEC.
- Absence of independent funding for HNEC, which compromises its ability to prepare for the elections with utmost impartiality and independence.

Second: Analysis of the Contentious Issues in the Electoral Framework and Proposal of Remedies

I. Contentious Issues linked to Constitutional Amendment 13

The Committee has discussed the issues directly stemming from the provisions of Constitutional Amendment 13, particularly the linkage between the outcomes of the electoral tracks and imposition of rigid synchronization of electoral timelines.

A. Presidential and Legislative Elections Link

Article 30 of Constitutional Amendment 13 conditioned the completion of the legislative elections to the success of the presidential election, as it stipulates, *“In the event that it is not possible to hold the presidential elections for any reason, all procedures related to the electoral process shall be considered null and void.”* The same provision, with like effect is replicated in Article 6/4 of Law 27 (2023) on Election of the House of Representatives as well as Article 12/4 of Law 28 (2023) on Election of the Head of State.

The Committee deemed this provision as establishing an unwarranted overlap between two functionally and substantially separate electoral processes, creating an abnormal situation lacking constitutional or political justification. Conversely, the Committee viewed retaining this linkage an infringement on the right to run for office and to vote, as it ties legitimacy of the legislative council to presidential elections that may fail for reasons unrelated to the voters' will or candidates' qualifications. This constitutes a compromise to the legal statuses of the candidates and the credibility of the electoral process altogether, in addition to being a potential gateway to deliberate obstruction amid a politically polarized context.

The Committee concluded that holding the elections across multiple processes does not necessarily require the interdependence of their results. Conversely, each process is built on its own conditions and results, rather than using the failure of one as a pretext to justify the cancellation of the other. The AC perceived the de-linkage between the two tracks as a legal and constitutional imperative, necessary to uphold the will of the voters, safeguard the independence of elected institutions and preserve the legitimacy of the electoral process.

B. Simultaneity between Presidential and Parliamentary Elections

The Committee considered the simultaneous holding of presidential and parliamentary elections an extension of the principle of interconnection established in Article 30 of Constitutional Amendment 13. Upon examining the procedural arrangements of the two processes, it transpired that imposing simultaneous voting for more than one election on a single day does not meet good organizational requirements, does not take into

account the capabilities of HNEC, and does not respect the specificity of each type of elections. The overlap in electoral timeline could result in physical congestion due to the multiple ballot boxes, which may reach six in some polling stations. This could negatively affect voter efficiency of voting and place HNEC under pressure beyond its operational capacity. This is not to mention the complexities involved in counting, sorting and announcing results.

Simultaneity also creates legal implications that blurs the distinction between different electoral operations during the appeals period. A challenge to the procedures at one polling station may result in the complete invalidation of the election procedures at that station, regardless of the election targeted by the challenge.

The Committee considered that the condition of simultaneity does not mean identical voting times. It argued that achieving it is procedurally possible through a well-organized schedule that balances the electoral load while preserving the specificity and procedural integrity for each election.

Based on the above, the Committee recommends amending Article 30 of Constitutional Amendment 13 and repealing the provisions that impose simultaneous voting and link the announcement of the results of legislative elections to the success of presidential elections.

It also recommends conducting presidential and legislative elections in stages according to a reasonable timeframe proposed by HNEC. While the Committee maintains the possibility of simultaneous announcement of results, it recommends announcing the results of the legislative elections if the presidential elections fail for any reason.

II. Contentious Issues in Electoral Laws

The Committee reviewed a range of issues that may arise from the application of the provisions of Laws 27 and 28 (2023), especially with regard to the eligibility criteria, electoral appeals, and the formation of the new government in charge of supervising the preliminary stage and implementing the electoral process.

A. Eligibility Criteria

1. Nationality Requirement for Candidacy

The Committee noted that the legislature established the principle that only a Libyan national may assume the presidency of the state, as Article 15/3 of Law 28 stipulates that "he shall not hold the nationality of any other country if he is running for the second round of the elections." However, the law regulates procedures that ensure that candidates who advance to the second round renounce their other nationality as specified in Article 17/2, which requires candidates to "submit to HNEC, within two

weeks of the announcement of the final results of the first round, a written declaration certified by a notary public stating that he does not hold the nationality of a foreign country." In the event that the candidate who qualifies for the second round holds the nationality of another country, the same Article requires the candidate to submit, within the same period, "a statement certified by the embassy of the granting country proving the submission of a final request to renounce its nationality." Therefore, the provisions of the law allow a Libyan who holds a second nationality to run for the presidential elections, provided that he renounces the other nationality upon qualifying for the second round. The Committee considered that the legislator adopted a personal standard based on the idea of verifying the candidate's will to renounce his second nationality by proving the submission of a relinquishment request.

The Committee noted that allowing dual nationals to run was what prompted the legislature to impose a mandatory second round and not to consider an absolute majority as a criterion for winning the elections in the first round, making the second round a stage for fulfilling the citizenship requirement.

After extensive discussion, the Committee concluded that the eligibility of dual nationals to run for office to be maintained, provided that they disclose and pledge to renounce their dual nationality as a condition for accepting their candidacy papers. The deadline for fulfilling the requirement to renounce their second nationality would be postponed until after the announcement of the preliminary results and resolution of appeals thereon when the results indicate a clear winner.

If the winner by absolute majority fails to submit evidence of his request to renounce his other nationality within the legal timeframe, a new presidential election is to be held, and HNEC will be authorized to announce the final results of the National Assembly elections.

The Committee considered that this approach satisfies the condition that only a person with Libyan nationality may assume the presidency of the country, and eliminates the need for a second round, as it allows winning to be decided in the first round when one of the candidates obtains the majority of (50% + 1).

However, some members expressed reservations about this direction, arguing that the nationality requirement should be met as a condition for candidacy, rather than a subsequent requirement for assuming the duties of the head of state.

2. Final Judgment Condition for Nomination

The Committee discussed Article 15/7 of Law 28 on election of the President of State, which stipulates that one of the conditions for candidacy is "not to have been convicted by a final judgment for a felony or misdemeanor that violates honor or trust." It also discussed the corresponding text in Law 27 on Election of the House of Representatives, which includes the same condition, but explicitly allows for an exception in the case of "rehabilitation."

The Committee noted the absence of a "rehabilitation" exception in the law on Election of the Head of State, interpreting it as an essential safeguard due to the nature of the sovereign position, rather than a violation of the principle of equality. It concluded that the current wording in the Laws achieves a reasonable balance by upholding the presumption of innocence while preventing political exclusion based on unresolved legal issues. This provision also provides the electoral process with a legitimate tool to protect the position from potential administrative or political complications that might arise from electing a candidate with a legally ambiguous situation. Accordingly, the Committee recommends retaining the provisions of the final ruling in the two laws without amendment.

3. Endorsement of Candidates

The Committee examined the condition of endorsements required from the candidate for the presidential elections, as stated in Article 15/8 of Law 28 (2023) on Election of President of the State. This clause stipulates that the candidate must submit "a non-repeated endorsement from ten thousand voters registered in the voter database of the 13 main electoral districts). The committee acknowledges that endorsements constitute an essential legal requirement; however, the text regulating this condition contains several loopholes:

- The absence of any clarification of what is meant by the "thirteen main electoral districts" (contrary to what is stated in Law 27 on Election of the National Assembly), could lead to conflicting interpretations or appeals, especially since presidential elections are legally held within a single national electoral constituency.
- The lack of specified minimum representation for each district, which makes the condition meaningless.
- Mandating endorsements from all districts may prevent candidates from competing due to factors unrelated to their qualifications, such as difficulties in gathering endorsements in certain districts due to security, political, or social issues.
- The absence of any legal regulation to protect the data of endorsers, which may expose them to potential pressure or threats in some constituencies.

The Committee recommends amending the legal text to require candidates to submit no less than ten thousand (10,000) unique endorsements from voters registered in the same 13 electoral districts annexed to the National Assembly Election Law. These endorsements should cover no less than 7 main electoral districts distributed across the 3 electoral regions for the Senate elections as provided for in Article 7 of Constitutional Amendment 13, with a minimum of 300 endorsers in each district.

Thus, the Committee recommends enabling HNEC to select the method of submitting endorsements, whether through traditional or electronic means, while establishing rules to verify the validity of endorsements and ensure the protection of endorsers' data.

4. Resignation Requirement for Office Holders upon Candidacy

The Advisory Committee reviewed resignation from public office as a condition for candidacy, as it intersects with the principle of ensuring institutional neutrality and

equal opportunities, and the right to participate in public life. The Committee noted that it was stated in two different forms in both Law 27 on Election of the National Assembly, and Law 28 on Election of President of the State.

Article 18 of the National Assembly Election Law states: "It shall not be permissible to accept the candidacy documents of personnel of the armed forces, police, general intelligence and the like, and members of judicial bodies before submission of resignation from their positions. The resignation shall be considered accepted from the date of submission."

In contrast, Article 17/5 of the Head of State Election Law states: "a candidate for the presidential elections whether civilian or military, shall be considered to have resigned from position by the force of law after his/her candidacy is accepted. In the event of not winning the elections, he/she shall return to his/her past position."

Article 15/9 of the same Law also stipulates that the candidate to the position of Head of State must: " Submit an acknowledgement of his/her resignation from his/her position, in accordance with the present Law as well as the relevant applicable legislation."

The Committee did not view this discrepancy as a legislative flaw, but rather as a reflection of the difference in the nature of the two positions and their sovereign and representative functions. However, the Committee believes that the absence of a clear procedural framework for implementing these provisions, particularly with regard to the right to return to office, could lead to inequalities in implementation and ambiguity in legal status.

The deliberations of the Committee led to an agreement to maintain the existing provision, with the addition of an explicit regulatory guarantee allowing unsuccessful candidates to submit a request to return to their jobs after the announcement of the final results, provided that this request is considered in accordance with the laws and regulations in force in the sector to which the job belongs. The Committee sees no need to amend Article 18 of the National Assembly Election Law.

B. Voting and Candidacy of Military Personnel

The Committee addressed the issue of participation of military personnel in the electoral process, whether through voting and candidacy, recognizing it as a contentious issues where constitutional considerations intersect with the requirements of institutional neutrality. The Committee studied the relevant legal texts as stated in Laws 27 and 28 (2023) and concluded that the current legislative framework does not explicitly prohibit the military personnel from exercising their political rights. It, rather, regulates these rights within parameters that ensure respect for public office and the requirements of a civil state.

The Committee examined the Military Penal Code 37 (1974) and found no provision preventing military personnel from running for office or voting. Instead, it imposes

regulatory restrictions that allow for accountable if procedures are violated without resigning.

Accordingly, the Committee believes that voting and running for office are an inherent right of all citizens, including military personnel, provided they are exercised within clear legal and regulatory frameworks that guarantee the neutrality of military institutions and prevent their involvement in the electoral fray as an unbalanced voting bloc.

In this context, the Committee calls for military voting to be regulated through procedural arrangements established by HNEC to maintain the neutrality and the integrity of the electoral process.

C. Mandatory Second Round of Presidential Elections

In connection with the aforementioned principles of linkage and simultaneity, the Committee discussed at length the requirement to hold two mandatory rounds in the presidential elections, as stipulated in Law 27 (2023) on Election of the National Assembly, and Law 28 (2023) on Election of President of the State. Article 6/1 of the First law stipulates that: “The elections for the President of the State shall be held in two rounds, with the first and second highest vote-getters advancing to the second round, regardless of the percentage achieved by each candidate.”

Article 17/1 of the Second Law stipulates that: “The presidential elections shall be held on the basis of a single electoral district for the entire country in two rounds, regardless of the percentage or number of votes obtained by the candidate in the first round.” Article 15/3 also refers to the mandatory second round when discussing the condition of renouncing foreign citizenship.

The Committee considers that imposing a mandatory second round, even with an absolute majority, represents an unjustified restriction on voters' right to decisive action, entails an unjustified confiscation of the public will, and deviates from a well-established rule in democratic systems.

In alignment with its recommendations to separate the interconnections and simultaneity between presidential and legislative elections, and addressing the citizenship requirement, the Committee concludes that respecting voters' will requires declaring the candidate who obtains an absolute majority (50% + 1) in the first round as the winner. A second round should only be held if no candidate achieves this majority. The Committee recommends amending all relevant provisions accordingly.

D. Forming a New Government

The Committee discussed in detail the requirement of a new unified government as an essential condition for holding elections, as stipulated in Article 90 of Law 27, and Article 86 of Law 28. The discussions concluded that an executive government capable of

extending its authority over all Libyan territory, and guaranteeing the neutrality of state institutions, is not only a legal requirement, but a political and functional necessity to ensure equal opportunities among candidates, and to enable citizens to vote in a safe and stable environment.

- **General Framework for the Work of Government**

The Committee emphasized that the formation of a new government is not sufficient to achieve electoral goals unless it is coupled with a regulatory framework that governs its political and administrative conduct throughout the preparatory phase. This framework should ensure that the government remains a tool for enabling elections, rather than an additional party to the political conflict.

The Committee outlined a set of principles for the next government, including:

- Adherence to the legislative and political frameworks governing the transitional phase.
- Pledge to preserve the unity and sovereignty of the country.
- Respect and promotion of civil and political rights of citizens.
- Protect public funds from waste.
- Respect Libya's existing international obligations while refraining from entering into any new long-term commitments.

As for the responsibilities of the government, the Committee recommended limiting its scope to two main areas. The first relates to **preparing the electoral environment**, which includes all forms of financial, administrative, logistical, technical, and security support that HNEC needs to carry out its duties independently and efficiently. The second involves **ensuring the continuity of the public service and the provision of basic needs**. This includes ensuring the minimum necessary basic services in vital sectors, controlling public spending, and empowering local authorities to manage their affairs while ensuring equitable distribution of resources, abstaining from making major structural or institutional changes that would affect existing legal positions, and refraining from making decisions or concluding contracts that entail long-term obligations until power is transferred.

- **Term of Office for the Government**

The Committee reflected on lessons learned from the absence of a precise mechanism to control the expiration of the government's term in past experiences, which led to the continuation of transitional governments beyond the scope of their establishment and contributed to prolonging the political crises. Consequently, the Committee proposes that the term of the transitional government be limited to a maximum of twenty-four (24) months, starting from the date it officially assumes its duties, and ending with the completion of the electoral process and the handover of power to an elected government in accordance with the constitutional requirements. It also recommends establishing an evaluation mechanism that allows for the termination of the government's duties in the event that the start of the electoral process is delayed beyond its specified date without objective justification, i.e. eight months before the end of the two-year period.

- **Form of Government**

The Committee chose to examine all envisaged perceptions for resolving the executive authority dilemma, whether presented in the form of official proposals or expressed through public statements. It analyzed the degree to which each option conformed to the requirements of institutional neutrality, functional competence, and national consensus necessary for successful elections. The following is a presentation of its conclusions in this regard:

- **Holding elections under two governments:** The Committee concluded that this option does not represent an effective solution to the existing division but rather reproduces it in a new institutional form characterized by poor cohesion and multiple chain of command. Instead, it exposes the electoral process to serious risks related to the lack of coordination and absence of unified executive guarantees. The Committee also considered this option to represent a limited procedural approach that ignores the broader role assigned to the executive authority during the preparatory phase, particularly with regard to maintaining public stability, ensuring the continuity of public services, and providing a minimum level of coherence and effectiveness in state institutions. This cannot be achieved in light of the duality of power and the absence of single executive authority.
- **Merging the two existing governments through a political agreement:** The Committee considered that this option is based on the premise that involving active political and security forces within a single government could reduce the likelihood of obstruction and lower tensions during the preparatory phase by providing a unified political umbrella. However, the Committee concluded that this model fails to provide sufficient institutional guarantees to achieve executive neutrality or enhance the administrative stability required to create a fair and secure electoral environment. It also noted that this option is mostly based on ad hoc political arrangements built on the logic of power-sharing rather than on the foundations of a cohesive national partnership, which undermines trust in the intentions of the participating parties and threatens internal unrest should disputes arise between the components of the unified government. The Committee also noted the limited popular and political acceptance of this model, along with the ambiguity surrounding the distribution of executive powers and the absence of a clear framework that would guarantee the unity of administrative decision-making during the preparatory phase. Therefore, the Committee deemed this option unsuitable for leading the transitional stage and does not meet the objective and administrative conditions necessary for the success of the electoral process.
- **Distribution of executive power among three regional governments with the establishment of a central government:** This proposal is based on the assumption that addressing the crisis of confidence and geographical inequality in the distribution of executive power can only be achieved through extensive decentralization of governance. However, the Committee deemed it inappropriate for organizing the preparatory phase due to the lack of a constitutional basis to support it, and the potential for conflicting executive powers between the center and the regions, particularly with respect to managing the electoral process and resources distribution. Furthermore, the Committee considered that this model entails the risk of dividing power along geographical lines, threatening, thus, the

unity of the state and undermining the confidence of the people in the political process. It recommended excluding it for the aforementioned reasons.

- **Formation of a single, new executive authority/ government with a defined mandate:** The Committee considered that the formation of a new government with a defined term and mandate is a direct response to the existing legislative framework and is consistent with Security Council resolutions. It also ensures the impartiality of the executive authority as a prerequisite for any electoral process. However, the Committee cautioned that addressing the issue of "changing the government" without considering the status of the Presidential Council could result in a duality of authority and weaken the integration between the two components of the executive authority.

Based on this analysis, the Committee recommends adopting a phased political mechanism to address the issue of the executive authority. This should involve a negotiation process among key parties, facilitated by UNSMIL, leading to an agreement on the final form of the executive authority charged with leading the preparatory phase (whether it is a new government only or a combined presidency and government). If an agreement cannot be reached within 6 months of submitting this report, the political dialogue mechanism included in the Libyan Political Agreement should be activated as a guarantee to ensure the continuity of the political process and prevent any disruption to the electoral process.

E. Electoral Appeals

The Committee paid special attention to the issue of electoral appeals, as it was among the most influential issues in the 2021 elections, and because it was included in the current electoral laws through vague provisions that need to be amended so that the appeals do not become an obstacle to the electoral process or enabling contenders to access justice.

The recommendations of the Committee in this regard include granting HNEC the jurisdiction over procedural appeals to ease the burden on the judicial system and the parties involved, defining the territorial jurisdiction for appeals, and abolishing any referral within the electoral framework to the Code of Civil Procedure to expedite the adjudication of ongoing cases. The Committee's recommendations also call for updating the laws to regulate appeals against the nationality requirement after announcement of preliminary results and resolution of appeals thereon.

In view of the technical and legal details of electoral appeals, and in recognition of their importance and repercussions on the electoral process, the Committee urges the lawmakers to engage HNEC and legal specialists in reviewing the electoral appeals. This should ensure alignment with legal provisions while taking into account the special nature of electoral laws and the technical aspects deemed necessary by HNEC for conducting the elections.

F. Representation of Women

Article 31 of Constitutional Amendment 13 allocated 20% of the seats in the House of Representatives to women but did not establish a similar percentage in the Senate, only

providing for 6 fixed seats. However, this provision is not accompanied by clear regulatory procedures to ensure its implementation, especially in electoral districts that adopt the individual competition system, as stipulated in Articles 12 to 14 of Law 27 (2023) on Election of the National Assembly.

The legislator has attempted to remedy this shortcoming through Article 87 of the same Law, which stipulates that HNEC undertakes the task of "compensating for the shortfall" by adjusting the order of names on the winning lists, according to guidelines to be issued later. However, this procedure, in addition to lacking a clear mechanism, increases the burden on HNEC and exposes it to accusations of overstepping its authority and circumventing the will of the voters.

The Committee believes that the 20% quota meets neither the aspirations of Libyan women nor the required balance and recommends increasing the percentage of women representation in both House of Representatives and the Senate to 30%, alongside amending the relevant constitutional text, and allocating a greater number of seats to women in constituencies of individual competition, to ensure direct representation.

G. Representation of Cultural Components

Law 27 on Election of the National Assembly prescribes sub-districts to enable cultural components to compete, while 6 seats are allocated to them in the Senate, with 2 seats for each component. The Committee considers that this distribution insufficient to reflect the weight of these components and guarantee their meaningful representation, especially in light of the adoption of the individual competition system that may exclude their representatives in favor of larger social blocs.

The Committee emphasizes that fair representation of components is essential for achieving electoral justice, consolidating national unity, and preventing the recurrence of marginalization or exclusion. It recommends amending the Constitutional Declaration and related provisions to raise their representation in the Senate to no less than 15% and taking into account the geographical distribution of the areas where these components are concentrated.

H. Right to Vote for holders of Administrative Numbers

The Committee examined the issue of "holders of administrative number" as an issue where law, identity, and integrity and security of the electoral process intersect. The Committee notes that the current executive authority has not made any progress on this issue, even though the LPDF Roadmap stipulates in Article 1, as part of the second objective of the Preparatory Phase, the need to "address the issue of administrative numbers in accordance with applicable Libyan legislation."

Given that electoral laws stipulate that the right to vote and run for office is contingent upon possessing a national ID number, the Committee warns that the inclusion of any group without national ID number in the electoral process, whether by voting or running, constitutes a clear violation of the law and jeopardizes the integrity of elections. It deems the electoral context inappropriate for addressing this sensitive issue.

Accordingly, the Committee recommends that registration and candidacy be limited to holders of a national ID number, and that the new government be tasked with addressing the situation of non-holders of a national number in accordance with applicable Libyan legislation, away from any electoral or political interference.

I. Allocation of Parliamentary Seats

Article 4 of Constitutional Amendment 13 stipulates that the composition of the National Assembly must be based on both population and geographical criteria. The constitutional text allows for the election of one representative for every 30,000 citizens, or for every part of this number that exceeds half of it, with the necessity of taking into account the geographical distance between populated areas, and that the representation of constituencies should not be less than what it was in the 2014 elections, in order to ensure the protection of the minimum parliamentary representation for all regions.

In its review of the approved allocation, the Committee notes that the electoral laws do not fully adhere to these principles, both in terms of the proportionality between population and seats, and in terms of ignoring some of the geographical considerations stipulated in the constitutional article. This has led to a clear disparity in the representative weight of some regions compared to others.

To address this imbalance, the Committee recommends reconsidering the allocation of seats in the two chambers of the National Assembly to ensure the precise and balanced application of the constitutional principle, and that its recommendations to included increasing the percentage of women and cultural component representation to enhance the credibility of the upcoming National Assembly, and the inclusiveness and fairness of the electoral process.

Third: Implementation Aspects of the Electoral Process

The Committee thoroughly examined the overall environment in Libya to determine the needed technical, institutional, and political conditions to ensure a fair and credible electoral process. Discussions focused on the legal status of HNEC and the mechanisms for funding and securing the electoral process.

I. High National Elections Commission (HNEC)

The Committee examined the status of the HNEC Board, which comprises only four members out of the seven stipulated in Law 8 (2013) on the Establishment of the Commission. The demand to reconstitute the HNEC Board has been present in all Libyan political frameworks, starting with the 2015 Libyan Political Agreement (Article 15), the LPDF Roadmap (Article 4/B/5), and ending with Amendment 12 of the Constitutional Declaration (Article 30/10). However, the House of Representatives and the High Council of State have not made any progress toward reconstituting the HNEC Board.

To address this situation and prevent its possible misuse to challenge the integrity of the electoral process, the Committee recommends the reconstitution of the Commission's Board according to the mechanism provided for in the Libyan Political Agreement, or at the very least, complete the membership shortfall and appoint a chairperson.

The Committee believes that the failure of HoR and HCS to reach an agreement on this matter would be an indication of their unwillingness to build a political process towards successful elections. This would amount to an obstruction that warrants resorting to the dialogue mechanism provided for in the LPA.

II. HNEC Funding

The Committee examined the challenges faced by HNEC due to the lack of consistent funding, and its repercussions on the Commission's freedom of executive decision-making and its ability to implement its operational plans free from administrative or political obstruction. The Committee notes that the absence of a legal guarantee to allocate an independent budget to the Commission places it in a subordinate position within the power hierarchy and may make it vulnerable to blackmail or threats in a politically and institutionally divided environment

Based on this, the Committee affirms that strengthening the Commission's independence necessarily requires ensuring its financial independence, through explicit legal provisions that allocate an exceptional electoral budget disbursed directly to the HNEC and based on its needs for implementing the electoral process. This budget should not be tied to the general financial cycle or subject to the usual spending arrangements, without prejudice to the requirements of subsequent oversight prescribed in the law.

III. Electoral Security

The Committee believes that achieving electoral security is not merely a technical requirement to protect the polling stations, but rather an institutional condition that precedes the holding of elections. It goes beyond the concept of physical protection to include providing a safe environment that enables voters, candidates, and employees to exercise their rights without threat, thereby reinforcing confidence in the electoral process.

After examining the challenges associated with electoral security in Libya, the Committee has concluded that the electoral process faces a dual threat: the physical threat and the risk of political exploitation of security as a pretext. Based on this, the Committee calls for this issue to be given the importance it deserves by placing it among the priorities of the new government. It also calls on the latter to enhance the capacity of the parties involved in securing the elections and ensure coordination among them and with HNEC.

Fourth: Guarantees

The Committee believes that a safe path toward elections requires a package of guarantees. Some of these are mentioned in the report, while the rest must be agreed upon as part of the anticipated political settlement. These guarantees can be summarized as follows:

1. Link the transitional phase tasks to specific timeframes, whether for institutions or elections.
2. Establish alternative mechanisms to end the mandate of transitional institutions or to activate the dialogue mechanism in the event that the parties fail to reach an agreement or backtrack on their commitments.
3. Ensure political recognition, nationally and internationally, of the new government as the sole executive authority charged with preparing for elections.
4. Limit the government's tasks to managing vital public services and supporting election preparations, preventing it from entering any international contracts or long-term financial arrangements.
5. Set a clear timeframe for completion of government tasks and establish a periodic evaluation mechanism that allows for the conclusion of its mandate before the end of its term.
6. Adopt a national electoral code of conduct that commits all political actors to refrain from using violence or incitement, and to avoid security or financial pressure on candidates and voters.
7. Assign an independent national entity to monitor the elections and submit regular reports on state institutions' commitment to integrity and neutrality.
8. Establish a rapid national arbitration mechanism among the political parties, to be activated only in the event of disputes arising over the implementation of Roadmap obligations, to be determined during the political settlement.

Fifth: Advisory Committee Options for Moving Forward

After examining all possible scenarios to end the current situation and put Libya on the path to free and fair elections, the Committee decided to present to UNSMIL a number of options that could serve as a roadmap toward the permanent phase. The Committee considers that, regardless of which roadmaps is adopted, there is an urgent need for a comprehensive political settlement that provides the necessary requirements for the success of any electoral process:

- Reconstitution of the HNEC Board
- Amending the constitutional and legal framework for elections in accordance with the recommendations contained in the Committee's report.
- Forming one executive authority/ government with a mandate of specific tasks and timeframe.

Below are possible options for a roadmap towards holding elections and ending the transitional phase.

I. Roadmap towards Presidential and Legislative Elections

This option is based on a preliminary phase established by a political agreement, beginning with the new government/executive authority assuming its responsibilities and ending with the holding of presidential and legislative elections. This will be followed by a transitional phase governed by a clear framework, continuing until a permanent constitution is adopted for the country.

• Preliminary Stage – Pre-elections

The political parties are given a specific deadline from the date of submission of this report to UNSMIL to reach a political agreement to complete the basic requirements for a conducive electoral environment. This includes:

- First: Reconstituting the HNEC Board within one month of the beginning of negotiations between the parties. If political settlements fail to do so, it will indicate a lack of political will to end the status quo. Consequently, the dialogue mechanism prescribed in the Libyan Political Agreement, will be activated.
- Following HNEC reconstitution, the constitutional and legal framework will be amended in accordance with the recommendations contained in the Committee's report.
- A law is adopted to guarantee the independent funding of HNEC.
- Once these requirements are met, a new government or executive authority will be formed to manage the transitional phase for a period not exceeding 24 months. Its duties will be limited to overseeing preparations for the electoral process and providing the minimum necessary for the operation of facilities and public services, without expanding powers or engaging in decisions that entail long-term obligations.

- These requirements are addressed as one package, and any failure to agree on any of them will constitute a valid reason to invoke the dialogue mechanism.

This phase will remain in effect until the presidential and parliamentary elections are held and power is handed over to elected institutions. During this period, the government may be reconstituted if it is proven ineffective in preparing the electoral environment, without having to wait until the end of its term. This is measured by having eight (8) months in its term without HNEC beginning to prepare for the elections.

- **Transitional Phase – Post-Elections**

This phase begins with the transfer of power to the elected institutions and continues until a permanent constitution is adopted, thereby serving as a legitimate extension of the political process under institutions elected by the will of the people. This phase will be governed by constitutional guidelines, including:

- The term of each legislative session is set at four years, with elections automatically held eight months before the end of the term, using the electoral laws in force, unless a new constitution is adopted, and corresponding electoral legislation is issued.
- If, for any reason, it is not possible to elect a President of the State after the completion of the National Assembly elections, the President of the Senate will temporarily assume his duties until a President is elected, adhering to the legal rules governing presidential elections, without modification or disruption.
- The powers of the head of State with respect to declaring the state of emergency, war, or martial law, are restricted in a manner that ensures the continuation of the political process and does not deviate from the Political Agreement signed during the preparatory phase.
- The National Assembly may not make changes to the interim constitutional framework that could affect transitional arrangements, particularly with regard to the obligation to complete the constitutional process. It also may not change the duration of the parliamentary term, set at four years, or the mechanism for holding automatic elections at the end of that term.
- The transitional phase ends with the adoption of the permanent constitution.

II. Roadmap towards Electing a Legislative Council followed by Adopting a Permanent Constitution

This option is based on a preliminary phase established through a political agreement on the constitutional framework for managing the pre-legislative election period, new electoral laws, and the formation of the executive authority. This will be followed by a transitional phase with specific tasks and objectives, leading within (24) months to the election of a bicameral legislative council. The elected Senate will be entrusted with drafting and adopting a new constitution before the end of the four-year legislative term, which will automatically renew through new elections. All electoral elections,

thereafter, including presidential elections, will be conducted under the new constitution.

• **Preparatory Phase**

Based on an analysis of the requirements for electing a parliament with legislative and constituent tasks, and considering the shortcomings in the existing constitutional and legal framework as well as the Libyan landscape marked by political polarization and division, the Committee believes that laying the foundations for the success of this option requires providing the following requirements:

- Reconstitution of the HNEC Board.
- Adopting an interim constitutional framework that governs all arrangements for the transitional phase, including the sequence of tasks (legislative elections and adoption of the new constitution).
- Adopting a new legal framework for conducting legislative elections, which is politically and technically implementable.
- Agreeing on a new executive authority (presidency and government), with specific tasks, timeframes, and guarantees.

If the parties fail to reach an agreement on any of these requirements within 6 months from the date of submission of this report to UNSMIL, the dialogue mechanism included in the Libyan Political Agreement will be activated as an alternative.

Once the government assumes its duties, the preparatory phase begins and extends for twenty-four (24) months, ending automatically after the legislative council elections. The term of the executive authority - both presidential and governmental - may be terminated before this deadline and replaced according to the same mechanism by which it was formed, if it becomes apparent that it has not fulfilled its mandate or failed in the task of preparing for the legislative elections. This matter is decided within a time frame beginning after 16 months, i.e. 8 months before the start of the electoral process.

• **Transitional Phase**

This phase begins after the election of the Legislative Council and adopts a timeframe consistent with a four-year legislative term that is automatically renewed through elections. The following arrangements must be taken into account in managing this period:

- Legislative Council elections to be held in accordance with the legal framework agreed upon in the political settlement. The term of the House of Representatives and the Senate to be set at four (4) years to ensure institutional and legislative stability, after which new legislative elections to be held automatically in accordance with the constitutional framework in force.
- The elected legislative authority decides the fate of the executive authority, maintaining the same tasks and priorities determined during the preliminary phase.
- In addition to the powers granted to it under the interim constitutional framework, the Senate is entrusted with the task of drafting a constitution by consensus and adopting it by a two-thirds majority before the end of the legislative term.

- The Legislative Council may not make changes to the interim constitutional framework that would affect the transitional arrangements, particularly with regard to the obligation to complete the constitutional process. It may also not change the four-year duration of the parliamentary term and the mechanism for holding automatic elections at the end of that term.

This period, along with all transitional phases, ends with the adoption of the permanent constitution. All subsequent national elections, including presidential and legislative elections, will be held in accordance with the provisions of the adopted constitution.

III. Roadmap towards adopting the Constitution before going to the Elections

This option is based on adopting a constitutional basis prior to holding general elections, whether through a referendum on the draft constitution completed in 2017, amending it, or preparing a new draft constitution. The Committee recognizes that having a constitution in place before elections is one of the pillars of building lasting legitimacy for the institutions and reducing the risk of future disputes over the powers of the authorities.

Adopting this option requires reviewing a number of political, legal, and technical considerations that might hinder it. These can be summarized as follows:

- The need to reach a comprehensive political settlement that leads to the unification of institutions, before engaging in any constitutional process.
- Addressing the issue of the constitution within an integrated package of transitional solutions that foster a cooperative environment for any subsequent constituent process.
- Resolve the status of the Draft Constitution of 2017: 1) Can the draft be considered a political basis for renegotiating some of its controversial provisions?; 2) Is it a constitutional basis ready to be submitted for a referendum?; 3) or is it no longer invalid following the Constitutional Amendment 12 and abolishing by Constitutional Amendment 13 of the entire constitutional process, including the Constitutional Drafting Assembly (CDA).
- Assessing the potential repercussions of the existing political climate on the safe progress of this path, as it may turn into an additional arena of conflict instead of being an entry point for building national consensus.
- Estimating the timeframes that this option might dictate on the mandates of existing bodies, should they remain, and exploring safe alternative options for replacing them within the constitutional process.

IV. Roadmap towards a Constituent Path

This option presents a "last chance solution" by activating the dialogue mechanism based on Article 4 of the Constitutional Declaration, and in implementation of Article 64 of the Political Agreement and its supplementary agreement emerging from the Libyan

Political Dialogue Forum (LPDF) in Geneva. According to this mechanism, a political dialogue committee is formed and tasked with establishing a "constituent assembly."

This option requires, first, a political settlement that leads to the simultaneous withdrawal of all conflicting institutional actors from the scene, ensuring that they do not obstruct the anticipated constituent process. The political settlement includes:

- Agreement on a temporary constitutional basis to regulate the transitional phase.
- Forming a unified executive authority with defined mandate and a specific period.
- Provision of the legal and technical requirements necessary to prepare the country for legislative elections.
- Mechanism for selecting members of the dialogue committee.

The Political Dialogue Committee is committed to forming the "Constituent Assembly" within a pre-determined timeframe, provided that:

- It consists of sixty (60) members of competence, integrity, complementary specializations, and fair representation of various segments of society.
- It assumes legislative powers temporarily until a legislative council is elected.
- It adopts an interim constitution that regulates the constituent phase preceding the permanent constitution.
- It forms an executive authority whose members enjoy integrity and competence and works to provide a safe environment for holding legislative elections.
- It prohibits its members from running for the subsequent elections.
- It works towards unifying state institutions and activating their role to perform their duties efficiently, transparently, and with good governance.
- It works to complete the national reconciliation project, initiates community dialogue, and addresses the effects of the transitional stages.
- It restructures the High National Elections Commission (HNEC).

The term of the Constituent Assembly extends for four years, ending with the election of a new legislative authority in accordance with the constitutional framework in force.

Conclusion

In concluding this executive summary of its work and recommendations, the Committee affirms that ensuring a peaceful and orderly transition to elections requires more than just drafting implementable laws. It necessitates the commitment of all parties to a spirit of consensus and the creation of an inclusive political and institutional climate in which trust is strengthened, participation is guaranteed, and competition is transformed from a tool of division into a means for peaceful democratic transfer of power.

The Committee calls on the parties to the political process and key actors to work with UNSMIL, leveraging the contents of this report to build a comprehensive political consensus that will put an end to the ongoing collapse of state institutions and meet the aspirations of Libyans for security, stability, and prosperity. The report of the Committee is the culmination of a sincere national effort, aiming not only to provide interim solutions, but also to establish a strategic vision for building the state on a new foundation of consensus and legitimacy.

In light of the above, the Committee renews its call to all political parties to rise to the level of this historic moment, and to prioritize the supreme interest of the Libyan state over all else. The Committee emphasizes that the state-building project can only be achieved by transient alignments and through engagement in a comprehensive national process that rises above division, fostering mutual trust and genuine convergence among the various components of the nation.

As the Committee submits its report to UNSMIL on 5 May 2025, its members express their appreciation for the renewed confidence that the Special Representative of the Secretary-General, Ms. Hanna Tetteh, and her Deputy for Political Affairs, Ms. Stephanie Khoury, have placed in them by calling on the Committee to continue its mission until the parties reach a political settlement.

The Committee agrees to continue its duties, in accordance with the mandate granted to it, as a contribution to accompanying the national and international efforts towards a comprehensive settlement and lasting stability, placing its expertise and the outcomes of its work at the service of the nation and its path to salvation.

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