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Egyptian Coalition for Human Rights and Development Election Observatory

Deaths During National Elections Legal Rules - Treatment Methods

Position paper

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The sudden death of Dr Gamal Haggag, head General Authority for Health Insurance in Qalyubia Governorate and the winning candidate for a parliamentary seat for Banha's constituency and Kafr Shukr (Republican People's Party) has stopped the final result of the first round of voting for the second phase announced by the National Elections Authority by resolution No. 86 for the year 2020. Its initial article states that the announcement of the election of the Messrs described in the attached statements of members of the House of Representatives 2020 (individual and lists) for the first round of the second phase. The door is wide open in the face of controversy and differences of positions on the legal path to address this situation. Will the run-off elections be held between the next two candidates in the votes? In the absence of full membership by not being sworn in? Or are there by-elections for the seat? In that case, is the candidacy limited to the contenders in the current round? Or does it open the door to running again for those who want to compete?

The case of the candidate of the Republican People's Party winning a seat from the constituency of Benha and Kafr Shukr was not the only case in which the death interfered with the data and executive procedures of the general elections as it was repeated in many constituencies and various electoral stages, especially with the fact that national electoral processes are taking place under a global Covid-19 pandemic, which the world still stands unable to reach a vaccine or a decisive cure for despite the high rates of deaths resulting from its spread among the candidates in the general elections or among the citizens themselves.

According to the numerical monitoring of deaths associated with deputies or potential candidates during the executive procedures of the general elections since the beginning of the 2020 Senate elections and to date, there have been 13 deaths, two of which were during the 2020 Senate elections and 11 during the 2020 elections of the House of Representatives divided between the individual system with nine cases and two others for the list system. The cases were geographically distributed among 10 governorates of which three (Ash Sharqiya – Gharbia - Cairo) witnessed two death cases. On the other hand, seven governorates (Giza – Dakahlia – Menoufia – Assiut - Beni Suef – Matrouh - Red Sea) witnessed the death of one candidate.

Detailed Data of Candidates who Died During Electoral Processes

- Candidate Dr Shaaban Abdel Alim (Al-Nour Party) in Beni Suef governorate constituency after reaching the run-off round of the 2020 Senate Elections.
- Candidate Essam el-Din Barakat (Nation's Future Party) in Assiut governorate constituency after reaching for the run-off in the 2020 Senate Elections.
- Potential candidate Samia Zine El Abidine (Mn Agl Masr National List) Assiut governorate and central Delta constituency in the 2020 Parliamentary Elections.
- Potential candidate in the list system Mona Munir (Mn Agl Masr National List) Giza and North, Central and South Upper Egypt constituency in the 2020 Parliamentary Elections.
- Candidate Ismail Ali Decrooni (The Generation Party) in Halaib and Shalatin of Red Sea governorate constituency before closing the door to run in the 2020 Parliamentary Elections.
- Candidate Khairi Saeed Abdel Ghani (independent) in The Belbes constituency of Ash Sharqiya governorate before the start of the voting process in the first round of the second phase of the 2020 Parliamentary Elections.
- Candidate Hassan Sadiq Ibrahim Ramadan (Humat Al Watan) in Zagazig constituency of Ash Sharqiya governorate before the start of the voting process in the first round of the second phase of the 2020 Parliamentary Elections.
- Candidate Major General Mohammed Ibrahim Mohammed (independent) in Qalyoub and Al Qanatir Al Khayriyyah constituency in Qalyubia governorate before the start of the voting process in the first round of the second phase of the elections of the 2020 Parliamentary Elections.
- Candidate Mohammed Heidar Baghdadi (independent) in al-Gamalia constituency of Cairo governorate during the voting process for the second day of the first round of the second phase of the 2020 Parliamentary Elections.
- Candidate Abdel Khaleq Abdel Samae Senoussi (independent) in Matrouh constituency of Marsa Matrouh governorate after the end of the voting process and before the announcement of the results in the first round of the first phase of the 2020 Parliamentary Elections.

- Candidate Mustafa Mahrous Abdo (Nation's Future Party) in Al-Manzala constituency of Daqahliya governorate after the announcement of the results and his exit from the first round of the second phase of 2020 Parliamentary Elections.
- Candidate Munir Mohammed Mahmoud Mandour (independent) in the Quwaysna constituency of Menofia governorate after arriving for the run-off in the first round of the second phase of the 2020 Parliamentary Elections.
- Candidate Gamal Abdel Qadir Mahmoud Hggag (Republican People's Party) in Banha constituency of Qalyubia governorate after announcing his victory in the first round of the second phase of the 2020 Parliamentary Elections.

Legislative Texts Governing the Death of Candidates and Deputies

The issue of the imbalance in the numbers of candidates resulting from death or waiver is a major gateway to national legislation to address emergency positions resulting from electoral competitiveness as a guarantee of the constitutionality of the formation and not to leave gaps resulting in a violation leading to the unconstitutionality of the Council and may require a judicial ruling of nullity resulting from the defects in its formation.

Article 108 of the 2014 Constitution, therefore, stipulates that if a House of Representatives member's seat becomes vacant at least six months before the end of his term, the vacant position must be filled in accordance with the law within 60 days from the date on which the vacancy is first reported by the House, which was explained in article 25 of the Law on the House of Representatives Act No. 46 of 2014 stating that if the seat of a member elected under the individual-seat system becomes vacant at least six months before the end of his/her term, a by-election shall be held. If the vacated member was elected under the list system, the seat shall be filled by a substitute candidate with the same designation as the vacated member, in accordance with the order of ranking of substitute names, to complete the required number of members. In the event that the place of the substitute with the same designation is vacant, the substitute with the highest-ranking shall fill the seat regardless of his/her designation. In all cases, the vacant seat must be filled within a maximum of sixty days from the date the House of Representatives resolves that the seat is vacant. The term of the new member shall be the remainder of the term of his/her predecessor.

This was applied to 14 death cases of members of the House of Representatives in 2015, however; it was suspended in the case of MP Mona Munir because the death occurred less than six months before the end of the legislative term.

As for the vacancy of a candidate's place during the periods of candidacy resulting from an emergency situation, article (21) of Decree-Law of the President of the Arab Republic of Egypt No. 46/2014 on promulgating the Law on the House of Representatives stipulates that in the event of a vacancy occurring in any list prior to the date of the start of the election by at least fifteen days due to withdrawal, death or enforcement of a judicial ruling, it shall be filled by a substitute candidate with the same designation as that of the vacated candidate in accordance with the order of ranking of substitute candidates so as to complete the required number of candidates. The name of the new candidate shall be posted within two days of his/her candidacy. The rules provided for in article 17 of this law shall apply with regard to appeals against his/her candidacy.

The representative of the list shall present the name of a substitute candidate with the same designation as that of the vacated candidate so as to complete the required number of substitute candidates in the constituency within a maximum of two days. The new substitute candidate shall be placed after the last candidate with the same designation in the ranking of that electoral list. In the event of a vacancy occurring after the above-mentioned date and before the election takes place due to one of the reasons mentioned in the first clause, the election shall take place on time notwithstanding that the above-mentioned list does not meet the required number of candidates. If the elections result in the victory of an incomplete list, the required number shall be completed by substitutes with the same designation as the vacated candidate. If no such substitute exists, the substitute with the highest-ranking shall fill the place regardless of his/her designation

As for the bylaw of the House of Representatives issued by Law No. (1) of 2016, it sets the procedural rules regulating this practice in accordance with Article (392) which stipulates that the minister of interior informs the speaker of the death of any of its members within three days from the date of death. The president notifies the council in the first following session to memorialize the deceased member and announce his vacancy. If the seat of a member becomes vacant by ruling to annul his membership, to resign, to revoke his membership, or for other reasons, the chairman of the council announces his vacancy

in the circuit in the session in which the council was notified of the invalidity of one of its members' membership or a decision to accept the resignation or revoke the membership was issued, and the president of the national commission shall be notified for elections, the place shall be vacant within seven days from the date of this announcement in the council to take the necessary measures.

Deaths Before the Final Names of Candidates are Announced

According to previous texts and facts, this case has been repeated twice, once in the seats allocated to the individual system of candidate Ismail Ali Decroni and the other for the potential candidate in the list system Samia Zine El Abidine, as it was stipulated that in such cases the individual system (excluding) the name of the candidate must be removed from the final lists of candidates in the constituency. However, in the list system, the committee receives applications and follows the electoral process in the constituency. The provisions of the law state that the deceased candidate is replaced by one of the reserve candidates in the order in the reserve names to complete the specified number. In this case, and the representative of the list must submit a name to another reserve candidate of special status to complete the number of reserves in the constituency within two days to meet the constitutionally established ratios in favour of the primary care groups.

Deaths After the Announcement of the Final Names of Candidates and Before the Voting Process

This situation was repeated three times in the competition for the seats allocated to the individual system candidate Khairi Saeed Abdel Ghani (independent) in the Belbes constituency of Ash Sharqiya governorate, candidate Hassan Sadiq Ibrahim Ramadan (Humat Al Watan) in Zagazig constituency of Ash Sharqiya governorate and candidate Major General Mohammed Ibrahim Mohammed (independent) in Qalyoub and Al Qanatir Al Khayriyyah constituency in Qalyubia governorate, where the law prohibits a change in the list of candidates after 48 hours of the period of concessions and the announcement of the final names of the candidates. Therefore, the electoral process takes place without a change in the names contained in the ballot paper with the commitment of the general committee of the electoral constituency and all its sub-committees to announce the death of the candidate in an apparent place in

the committees and alert voters to that change. No votes granted to these candidates affect the overall outcome of the electoral constituency or the determination of the winners.

Deaths During the Voting Process or Before the Results are Announced

This situation was repeated twice within the competition for the seats allocated to the individual system with candidate Mohammed Haidar Baghdadi (independent) in al-Gamalia constituency of Cairo governorate and candidate Abdel Khaleq Abdel Samae Senoussi (independent) in Matrouh constituency of Marsa Matrouh governorate. Baghdadi's death occurred during the voting while the latter died before the announcement of the final result of the constituency. The rules stipulate that dealing with these cases is related to the number of votes obtained by the candidate as if he is alive. If the candidate did not qualify to run in the run-off or to declare his victory, the procedures are completed as they are unchanged. However, if those votes qualify him to run in the run-off, the result of the following candidate will be announced. If the votes indicate the candidate's victory, the seat is declared frozen until the council convenes and declares a vacant seat until supplementary elections are held in accordance with the specified procedures.

Deaths of Candidates Running in Run-off

This case was repeated three times within the competition for seats allocated to the individual system, two of which were during the 2020 Senate elections; candidate Dr Shaaban Abdel Alim (Al-Nour Party) in Beni Suef governorate constituency who died the day after the end of the vote in the first round and before the official announcement of the results and candidate Essam el-Din Barakat (Nation's Future Party) in Assiut governorate constituency who died during the period of publicity allocated to the run-off. The same incident was repeated during the 2020 elections of the House of Representatives where the candidate Munir Mohammed Mahmoud Mandour (independent) in the Quwaysna constituency of Menofia governorate died after reaching the run-off in the first round of the second phase, which was organised by the legal text and the established rules through escalating next in the number of votes for candidates who are running in the run-off to replace the deceased candidate.

In the context of organisational and administrative behaviour to deal with this situation, the decision of the National Electoral Commission No. 50 for 2020 indicates announcing the result of the Senate elections for the first round with the escalation of candidate Ahmed Sorour Suleiman (independent) instead of the deceased candidate Dr Shaaban Abdel Alim (Al-Nour Party) for the run-off round of the constituency No. 9 for Beni Suef governorate. This was followed with resolution No. 51 for 2020, including in its first article the escalation of candidate Ehab Helmy Rizkallah Awad (independent) instead of the deceased candidate Essam el-Din Barakat (Nation's Future Party) to run in the run-off of the 11th constituency in Assiut governorate. Munir Mohammed Mahmoud Mandour (independent) in Quwaysna constituency of Menofia governorate.

As for the individual candidate for the House of Representatives from the constituency of Quwaysna in Menofia governorate, the decision of the National Elections Authority No.87 for 2020 escalates the candidate Hisham Mohammed Abdul Wahid (Nation's Future Party) instead of candidate Munir Mohammed Mahmoud Mandour to run in the run-off of the second phase.

Deaths of Candidates Declared Winners of the Individual System

The case of candidate Gamal Abdel Qadir Mahmoud Haggag (Republican People's Party) in Banha constituency of Qalyubia governorate after the announcement of his victory in the first round of the second phase of the 2020 elections of the House of Representatives is the only one. Rules stipulate that with the death of the winning candidate in the individual seat and once the final announcement of his victory, his seat gets frozen and the National Authority does not legally deal with this situation in accordance with the rules on the absence of the seat for deputies were stipulated by the article 392 from the bylaw of the House of Representatives which states that (the minister of interior informs the speaker of the death of any of its members within three days from the date of death. The president notifies the council in the first following session to memorialize the deceased member and announce his vacancy... the president of the national commission shall be notified for elections, the place shall be vacant within seven days from the date of this announcement in the council to take the necessary measures.) This means that at the end of the swearing oath legal session for the next council membership, a seat will be declared

vacant in the constituency of Benha and Kafr Shukr so that supplementary elections will be held for it, opening the door for candidacy for all the voters whose names are registered in the national database.

Deaths of Candidates on the Winning Lists

This case organised the possibility of the death of one of the candidates of the list system after the end of the period of amendment or replacement in the lists of candidates, which was determined by the legislator, 48 hours after the announcement of the final lists of candidates and their publication in two widely spread daily newspapers, where Article (21) of Parliament Law No. 46 for the year 2014 that (in the event of a vacancy occurring after the above-mentioned date and before the election takes place due to one of the reasons mentioned in the first clause (withdrawal, death or enforcement of a judicial ruling), the election shall take place on time notwithstanding that the above-mentioned list does not meet than the required number of candidates. If the elections result in the victory of as incomplete list, the required number shall be completed by substitutes with the same designation as the vacated candidate. If no such substitute exists, the substitute with the highest-ranking shall fill the place regardless of his/her designation). This means that when there are cases of death of candidates on the list system after the end of the period of concessions and appeals, that list is not entitled to include names of new candidates but elections are held according to the incomplete lists. If the list wins, the House declares the seat empty after its opening session and notifies the National Elections Authority to escalate the reserve candidate (of the same status) in accordance with the rules and procedures stipulated.