



PRELIMINARY STATEMENT

**The Afghan people resolutely engaged with the democratic process,
despite security threats.**

Kabul, 7th April 2014

Summary

The first round of the Presidential election was held on 5th April, as per the Constitutional timeline. Eight candidates and their respective running mates had engaged in vibrant campaigning. Candidates, both presidential and provincial, were able to campaign and offered diverse political and societal options in an open contest. The Provincial Council elections which also took place on the same day saw 2,595 candidates contesting.

Afghan voters showed remarkable determination to uphold their constitutional right to freely choose their leadership by voting peacefully and did so in unexpected high numbers, undeterred by threats of violence. Violent and deadly incidents took place, both before and during Election day. But the electoral timetable remained unchanged and on Election day most polling centres were open.

The EU Election Assessment Team deplores the violent incidents and loss of life and wishes to underline the motivation and courage of Afghan voters, as well as of all those involved in the organization of these elections, in particular the staff of the Independent Election Commission (IEC) and the Independent Electoral Complaints Commission (IECC) and the security forces. Civil Society Organizations (CSO) observing the electoral process and the media reporting on the elections, often at great risk, contributed to the transparency of the process.

The Afghan Parliament adopted two key laws in 2013 establishing a clearly defined legal structure for the conduct of all elections in Afghanistan: The Electoral Law and the Law on the Structure, Duties and Authorities of the IEC and the IECC replaced the previous ad hoc system of election specific Presidential decrees. Together with comprehensive regulations, they provided a solid framework in line with Afghanistan's international obligations and human rights provisions.

Mainstream media offered the electorate a broad range of viewpoints and the ability to scrutinise the candidates. However, the level playing field in the media was weakened by the IEC Media Commission's reluctance to take resolute action against outlets which violated campaign regulations, despite collecting comprehensive data on the broadcasters' performance. Freedom of speech was affected by a number of attacks on journalists.

The absence of a comprehensive, sustainable and centralized voter roll impacted the IEC's ability to conduct electoral preparations based on a detailed knowledge of the size and distribution of the electorate. The current system of estimating populations makes planning for the correct number of ballot papers per polling station challenging.

Women remain underrepresented within the electorate, both in active and passive capacity, particularly in provinces affected by security threats. Social limitations and an absence of local infrastructure also decreased participation of women.

Afghan Civil Society Organisations demonstrated increasing interest as well as methodological improvements in election observation. Given the difficulties of access because of security, the domestic observers shared information among themselves in order to gain a broader visibility and to crosscheck information from the field.

The IEC showed improvements in structure, technical capacity and communication. The aggregation of results, treatment and adjudications of complaints are ongoing and the EU EAT will continue assessing the compliance of these key steps of the election process with the Afghan legislation. The EAT encourages the election authorities to continue carrying out their duties with the maximum transparency.

The European Union Election Assessment Team (EU EAT) has been present in the Afghanistan since March 15th, following an invitation from the Afghan Government and from the Independent Election Commission. The Mission is led by Chief Observer, Thijs Berman, Member of the European Parliament (Netherlands). In total, the EU EAT deployed 16 experts from 13 EU Member States, to assess the key stages of the electoral process against Afghan laws as well as the international obligations and commitments for democratic elections. The EAT in particular focused its attention on the legal framework, the performance of election authorities, the campaign in particular in the media and will closely follow the procedures for aggregating results and the handling of complaints. On Election day, the EAT also deployed a few observers to assess voting procedures in a limited number of locations. The EU EAT remains in country to observe post-election developments and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process.

The EU EAT is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005.

Preliminary Findings

POLITICAL ENVIRONMENT

The presidential election is paving the way for the country's first-ever democratic transfer of power as President Karzai is constitutionally barred from standing again. In spite of the security challenges, the on-going insurgency and threats by the Taliban to disrupt the election, the Constitutional timetable to hold the election has been adhered to.

Eleven candidates were originally registered and included on the ballot paper, though prior to the election day three submitted their formal withdrawal to the Independent Election Commission (IEC). As a result, there were eight options for voters to choose between, which represented a diverse range of views, opinions, ethnicities and backgrounds. Each candidate ran on a ticket with two vice presidential candidates. Only one woman ran for election, as a second vice president.

State authorities, political parties and civil society expressed strong commitment to the democratic process. However, armed opposition groups attempted to sabotage and delegitimise the election in the eyes of the electorate. In the final fortnight of the campaign, the Taliban claimed responsibility for attacks against high profile civilian targets in the capital, such as the hotel housing international election observation missions, the IEC HQ and also the IEC Provincial Office. Three days prior to the election the Taliban also claimed responsibility for an attack on the Ministry of Interior. The violence

resulted in a number of deaths and the partial departure from the country of some international observation missions. While the militant attacks in Kabul took most of the headlines, other targets across the country were also hit.

Legal Framework

Afghanistan has ratified the International Covenant on Civil and Political Rights (ICCPR), the Convention of the Elimination of all forms of Discrimination Against Women (CEDAW) and the International Convention on the Elimination of all forms of Racial Discrimination (CERD). The obligation to adhere to these instruments is acknowledged in the 2004 Constitution and throughout the electoral legal framework. As such, from a legislative perspective, Afghanistan is in line with its international obligations and international human rights standards.

In 2013 two key laws were passed establishing a clearly defined legal framework for the conduct of all elections in Afghanistan: The Electoral Law and the Law on the Structure, Duties and Authorities of the Independent Election Commission (IEC) and the Independent Electoral Complaints Commission (IECC). These two laws replace the previous ad hoc system of election specific Presidential decrees. The new laws create a complete legal structure for all elections in the country. Subsequently 15 regulations were adopted providing a comprehensive and well defined framework, with extensive powers granted to the Commissions re-enforcing their independence.

To date it is understood that 3,004 pre-election day complaints have been received by the IECC. Of those 2,828 were dismissed and 12 upheld and 164 referred to the judiciary. On the 1st of April the IECC held its first public hearing on 10 complaints relating to allegations of illegal campaigning on the part of Presidential candidates Gul Agha Sherzai and Zalmay Rassoul. Both candidates were found to have breached rules and were fined. A separate case concerning campaign financing against Abdullah Abdullah, Gul Agha Sherzai and a number of provincial council candidates was postponed to an unspecified date. In the week before the election the IECC broadcast TV and radio spots encouraging people to submit complaints if they have any. By the conclusion of polling 1,269 Election day complaints had been received, 1,107 by telephone and 162 were filed at PIECC offices. The deadline for the submission of Election day complaints is the evening of the 7th April.

Election Administration

The security threats and violence which targeted IEC offices and personnel affected polling preparations in some provinces and segments of the electorate through the closure of polling centres (PC). The EU EAT would like to salute the IEC staff for their commitment and dedication to conduct their duties in such a difficult environment.

The IEC showed improvements in structure, technical capacity and communication. Its five year strategic planning and the endorsement of a comprehensive electoral framework, provide a long-term perspective for its functioning.

A mixed appointment mechanism of the IEC board was introduced, which strengthened its independence while the confirmation of the Commission remained under the authority of the President.

Voter awareness was intensively conducted by the IEC through TV and radio, with 600 spots in the pre-election week alone. Messages focused on voters' mobilization. However, more emphasis on the number of educational tools and the capacity of IEC staff to reach all rural districts would have been necessary. Also, the frequency and quality of messages was not sufficient to improve voters' understanding on all stages of the process.

The IEC was not able to provide a complete list of PCs until 30th of March due to the necessity to reassess the capacity to secure the polling locations by the respective Ministries¹. On Election day, varying sources reported up to a maximum of 400 security incidents on 5th April affecting approximately 280 polling centres. In total the proportion of closed PCs represent over 14% of polling locations².

The late endorsement of relevant procedures affected the systematic handling of all sensitive materials at the Provincial Independent Electoral Commissions (PIECs). This is a missed opportunity to apply additional anti-fraud measures. The mechanism for recount of the ballot papers in case of quarantine for some results forms at the provincial level is also not comprehensively outlined in the legally binding procedures.

Voter Registration

The Afghan electoral system does not have an accurate voter roll. This absence of this crucial safeguard, which weakens the entire system, resulted in an over emphasis on other anti-fraud measures. The voter registration system is the sum of a series of exercises carried out in 2003 and 2004, with top-up phases conducted in 2005, 2008, 2009/2010 and 2013/2014³. The last top-up exercise started on 26th May 2013 and closed on 1st April 2014⁴, when 3.8 million additional voter cards were issued. All these exercises together resulted in the distribution of 21 million voter cards issued for a total estimated population of 27 million inhabitants as of 2013⁵. According to the IEC, voting age population (VAP) is estimated at 13.5 million.

The absence of a comprehensive and centralized voter roll, added to an absence of an accurate civil register, diminished the IEC's ability to conduct the electoral preparations based on reliable information on the size and geographical location of the electorate. The current system of population estimates makes planning for the correct number of ballot papers per polling station challenging⁶.

1 The tripartite PCs threat assessments regularly updated by the Ministry of Interior (MoI), the Ministry of Defense (MoD) the Department of National Security (DNS) reduced the number of proposed 7,168 PCs to a final list of 6,423 open PCs.

2 Zabul and Nuristan provinces were particularly affected by the closures losing respectively 58.1% and 82.8% of designated polling stations. The number of PCs were reduced by over 20% in 11 provinces. Sources include IEC and UNDSS.

³ Top-up registration exercises target voters who reached the age of 18, who have lost their previous voting card, who returned to the country, transferred from one constituency to another, and voters not previously registered.

⁴ Two initial phases were planned at the provincial level from 26th May to 26th July 2013 with an additional exercise in provincial capitals and 399 other locations in the districts from 27th July to 17th September 2013. Phase II was extended until 10th October 2013. 41 voter registration centres continued to operate until 1st of April 2014.

⁵ The Central Statistics Office of Afghanistan estimated in 2012-2013 that the settled population was 25.5 million with an additional 1.7 million kuchis. The total population estimate is 27.2 million inhabitants.

⁶ cf. Electoral Law art. 5: the PC Manager can request the Provincial IEC Office to open additional polling stations should a shortage of ballot papers occur, if the Centre is located less than one hour from the Provincial Capital and the request is sent by 13:00. According to the IEC, the contingency plan launched in the early afternoon of 5th April comprised 533 locations. 15 million ballot papers were produced for an estimated 12 million voting population.

Registration of Candidates

Candidate qualification is governed by article 13 of the Electoral Law for the Presidential elections and article 15 for the Provincial Council elections. Qualification is accessible with an age limitation being the main provision for Presidential candidates while Provincial Council candidates must have a minimum level of education. Government employees must resign their seats prior to standing for election but will be allowed to regain their positions should their electoral bid fail. This provision is to be welcomed as it removes a significant obstacle from those wishing to stand but hampered by economic insecurity.

Candidate vetting was conducted during the nomination process in order to verify that candidates do not command or belong to unofficial military forces or armed groups. Responsibility for vetting candidates was shared between the Vetting Commission and the Electoral Complaints Commission. Objections to candidatures have been received by the IECC which has decided 339 such cases. This resulted in the inclusion of 77 previously excluded candidates into the process and disqualified 39, while the remainder of the objections were dismissed.

Campaign Environment

The IEC issued a Regulation on Managing Campaign Financing during the 2014 Presidential election, under Article 79 of the Electoral Law. It states that Presidential candidates are limited to Afghani 10,000,000 (EUR 130,000) in electoral expenses. Campaign teams have expressed to the EU EAT that this sum was too small and therefore not a realistic ceiling for a countrywide campaign.

From a relatively timid start, the official two-month campaign period became lively and energetic as candidates criss-crossed the country for rallies with reported significant turnouts in comparison to previous elections. In spite of security threats issued by the Taliban, none of the big rallies witnessed insurgent attacks. Perception surveys published in the weeks before the election indicated that potential fraud, as well as insecurity were primary concerns for the electorate.

Broadcasters allocated up to 16% of their prime-time programming to the election. The campaign teams of Abdullah Abdullah, Ashraf Ghani Ahmadzai and Zalmay Rassoul placed nearly double the number of advertisements than others candidates in the mainstream media. Some candidates standing for Provincial Council elections also placed paid-for advertisements in the broadcast media with nationwide reach, yet their impact was much lower if compared with presidential candidates.

Media & Communication

The media sector is governed by the Media Law prohibits censorship and guarantees the rights to seek, receive and impart information which is in line with the ICCPR Art.19. However, the lack of imperative safeguards, including predictability of the budget and the transparent appointment of IEC Media Commission (IEC MC) weakens the independence of state/public media. As such, the spirit of the ICCPR GC 34 remains unfulfilled⁷.

Mainstream media has further developed since the last elections and in 2014 offered the Afghan electorate a range of standpoints and the ability to scrutinise the candidates. However, a handful of broadcasters have a defined political preference and state-owned TV still favours the President, narrowing the campaign coverage to the news bulletin on the week of the election.

⁷ ICCPR GC 34, paragraph 16 "State parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their independence and editorial freedom."

While the regulatory framework for campaign coverage provides a level playing field, the provisions were compromised by the lack of action by the IEC Media Commission (IEC MC) against broadcasters who allotted more than 95% of the airtime to one candidate. Abdullah Abdullah, Ashraf Ghani Ahmadzai and Abdul Rasoul Sayyaf benefited from this kind of programming. The EU EAT media monitoring also unveiled several deviations from the legally binding, equitable coverage policy. In the last week before Election day, the most viewed Pashtu broadcaster *Shamsad TV* virtually excluded Abdullah Abdullah's appearance on air.

EU EAT noted several violations of the campaign silence, including a round-table with candidates' representatives. Campaigning also continued in social media which, coupled with the strong wording before the silence period, confirmed the need for legally binding requirements for on-line media⁸. The IEC MC, noting 600 violations issued a statement reminding the media of the regulations.

The Constitution provides for freedom of expression. However, deficiencies in the primary legislation coupled with the deteriorating security situation, curbed the freedom of press. Journalists were killed and wounded throughout the election period including Election day⁹.

During the campaign silence period several hundred SMSs were sent to the electorate in the names of Abdullah Abdullah and Zalmai Rassoul. This action resulted in the suspension of SMS services from 4th April which ended on 5th April at 16.00. Both teams denied wrongdoing; the situation will be reviewed by the IECC.

Participation of Women

Women represent 35% of newly registered voters, a decrease from the 2008/2009 exercise when 39% of women registered¹⁰, but corresponds at the same time with percentages observed during the initial 2003/2004 registration process. Security concerns are one of the main impediments for female registration and were attributed to the low level of female registration in nine out of the ten provinces which registered less than 10% of women voters. This phenomenon is also linked to lower access to the registration exercise by women in rural areas. Other contributing factors include social limitations and an absence of local infrastructure.

On Election day out of 2,595 candidates for the Provincial Council elections 299 were female, which is 11%. Female candidates were under-represented in the media, particularly in the state-owned outlets. State-owned RTA allocated only 2% of the political communication within prime-time programming to female political actors. With the exception of the privately-owned Tolo News, which allotted 6% of air time to female candidates, other commercial broadcasters followed the RTA pattern. In the last week of the campaign there were no tailored editorial programmes for female voters or candidates.

⁸ To date, social media regulation is in a legal limbo.

⁹ One afghan (20/03), two foreign journalists killed (11/03 and 04/04); two beaten up (10/03 and 05/04) and a radio station blown up (24/03) within 2 weeks prior to Election day.

¹⁰ The national percentage of women registrants is 35%. Only two provinces show the registration of over 45% of women: Daykundi (48%) and Paktika (47%). Conversely, 7 provinces show under 30% of women registered (Badghis, Farah, Kandahar, Khost, Kunduz, Logar, and Wardak) and three provinces under 10% (Hilmand, Urozgan, and Zabul).

Civil Society and Citizen Observation

Electoral Observation

Citizens' observation is an essential safeguard against fraud. More than 67 Civil Society Organizations (CSOs) representing over 11,000 observers were accredited to observe the polling, counting and tabulation of the results, according to most recent IEC information. This figure is below the over 20,000 national observers¹¹ expected. The slow delivery of accreditation cards and the attack on IEC headquarters on 29th March disrupted the accreditation process.

A growing interest and methodological improvement on the part of the Afghan CSOs has been observed based on their pre-electoral reporting. Due to the security environment and the difficulties to observe in rural areas and at night, the main observer organisations are sharing information in order to gain more information from the field.

Candidate/Party agents

As the presence of candidate representatives throughout polling and counting increases the credibility of the process, a large number of Provincial Council candidate agents were indeed present in the polling stations¹². However, the Presidential candidate representatives had less visibility due to the limited number of accreditations requested¹³.

International Observers

International observers were directly affected by the attack against the Serena Hotel on 20th of March. The EU EAT would like to pay tribute, Luis Maria Duarte, member of the National Democratic Institute (NDI) observation team, whose loss was felt throughout the electoral community.

Polling and Counting

The EU EAT assessed the conduct of opening, polling, closing and counting as well as tabulation procedures through the deployment of over 65 European locally recruited Short Term Observers (STOs) deployed in the Kabul, Balkh and Samangan provinces.

Election day is just one component of the observation exercise as a whole, which also includes pre-election stages as well as post-electoral tallying, the complaints process and certification of results. Therefore elements collected during the limited observation of Election day procedures are part of the EAT qualitative assessment, but do not necessarily reflect the countrywide situation.

In the same spirit, the EU EAT will continue its long-term assessment of the next stages of the electoral process and will closely follow the national tallying process, the management of complaints and will analyse all results.

An electronic version of this Preliminary Statement is available on the Mission website:

<http://www.eueat-afghanistan.eu>

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¹¹ 61 CSOs received accreditations for a total number of 11,357 observers. It shows an increase in comparison with 2009 elections when 21 CSOs accredited 9,000 observers.

¹² 2,028 out of 2,595 provincial councils' candidates registered 219,395 agents to represent them on Election Day.

¹³ Seven Presidential candidates accredited 75,510 agents for a total number of 20,795 polling stations.