



ISLAMIC REPUBLIC OF AFGHANISTAN

FINAL REPORT

Presidential Election
5 April and 14 June 2014

EUROPEAN UNION ELECTION ASSESSMENT TEAM

This report is produced by the Election Assessment Team of the European Union (EU EAT) and presents the findings of the Mission on the Presidential Election in Afghanistan. This report should not be relied upon as the opinion of the European Union. The European Union does not guarantee the accuracy of the data in this report, nor does it accept liability for any use made thereof.

| | |
|---|-----------|
| I. SUMMARY | 3 |
| II. INTRODUCTION | 6 |
| III. LEGAL FRAMEWORK | 7 |
| <i>Universal and Regional Standards</i> | 7 |
| <i>Overview</i> | 7 |
| <i>Electoral Framework</i> | 8 |
| <i>Suffrage Rights</i> | 9 |
| <i>Electoral System</i> | 9 |
| IV. ELECTION ADMINISTRATION | 10 |
| <i>Composition and structure of the Independent Election Commission (IEC)</i> | 10 |
| <i>Transparency and accountability</i> | 11 |
| <i>Budget and finance of the electoral process</i> | 12 |
| <i>Election preparations</i> | 13 |
| V. VOTER REGISTRATION | 15 |
| <i>Voter registration system</i> | 15 |
| <i>Civil Registry</i> | 16 |
| <i>Voter registration exercises</i> | 16 |
| VI. REGISTRATION OF POLITICAL ENTITIES AND CANDIDATES | 17 |
| VII. ELECTORAL CAMPAIGN | 17 |
| <i>Campaign environment</i> | 17 |
| <i>Campaign finance</i> | 18 |
| VIII. VOTER INFORMATION AND CIVIC EDUCATION | 18 |
| IX. MEDIA | 19 |
| <i>Media landscape</i> | 19 |
| <i>Legal framework of the Media</i> | 20 |
| <i>Legal Framework for the Campaign Coverage in the Media</i> | 20 |
| <i>The EU EAT monitoring the media coverage of the election</i> | 21 |
| <i>Post-electoral Media Monitoring</i> | 22 |
| <i>Media monitoring throughout the full-scale audit process</i> | 22 |
| X. PARTICIPATION OF WOMEN | 23 |
| <i>Women as voters</i> | 23 |
| <i>Women in the campaign</i> | 24 |
| <i>Women in the organization of elections</i> | 24 |
| XI. CIVIL SOCIETY ORGANISATIONS AND ELECTION OBSERVATION | 24 |
| <i>Domestic observers</i> | 24 |
| <i>Candidate/Party agents</i> | 25 |
| XII. COMPLAINTS AND APPEALS | 25 |
| <i>The Independent Election Complaints Commission</i> | 25 |
| <i>Electoral Offences</i> | 26 |
| <i>Complaint filing</i> | 26 |
| <i>Adjudication of Complaints related to First Round Election day, Counting and Tallying</i> | 26 |
| <i>Adjudication of Complaints related to Second Round Election day, Counting and Tallying</i> | 27 |
| <i>Adjudication of Complaints related to the full-scale audit of the presidential run-off results</i> | 27 |
| XIII. ELECTION DAYS | 28 |
| <i>Opening, polling, closing and counting</i> | 28 |
| <i>Security of the electoral process</i> | 29 |
| XIV. AUDITS OF THE RESULTS | 30 |
| <i>Tallying of the results and of the sensitive materials</i> | 30 |
| <i>Audit of the first round presidential election results</i> | 31 |
| <i>Presidential election run-off results - audit No 1</i> | 32 |
| <i>Presidential election run-off results - audit No 2</i> | 32 |
| <i>Presidential election run-off results - audit No 3 (full-scale audit)</i> | 33 |
| XV. ELECTION RESULTS | 43 |
| XVI. RECOMMENDATIONS | 46 |
| XVII. ACRONYMS | 51 |
| XVIII. ANNEXES | 52 |

I. SUMMARY

1. At the invitation of the Government of Afghanistan and of the Independent Election Commission (IEC), the European Union deployed an Election Assessment Team (EU EAT) for the Presidential and Provincial Councils elections of 5 April, including the Presidential run-off on 14 June 2014. The EU EAT Afghanistan 2014 was led by Mr Thijs Berman, a member of the European Parliament. Mr Berman visited Afghanistan five times. Sixteen election experts from 12 Member States of the European Union (EU) were deployed in Kabul, Balkh and Herat, in order to assess the electoral process against Afghan laws and the international obligations for democratic elections. The EAT concentrated exclusively on the Presidential election. Given the limited geographical deployment due to security considerations, the EU EAT has focused mainly on the analysis of legal and regulatory framework, the electoral campaign in the media, the performance of election administration, the tabulation of results and the handling of complaints. For the observation of the audit, the EU EAT was reinforced by 410 observers, including 100 Long Term Observers, as well as observers seconded by EU diplomatic missions on the ground and EUPOL Afghanistan. The EU EAT is independent in its conclusions and adheres to the UN Declaration of Principles for International Election Observation.
2. The 2014 Presidential elections pave the way to the country's first-ever peaceful transfer of power. Afghan voters demonstrated a determined commitment to democracy, undeterred by violence and insecurity. The process took place in a highly challenging security environment and polling workers, voters, domestic observers and Afghan National Security Forces are to be commended for their efforts to contribute to the electoral process.
3. The constitutional and legal framework generally complies with international obligations for democratic elections, and contains adequate measures to protect civil and political rights, including rights of universal suffrage, right of political participation, freedom of expression and association. These human rights provisions are comprehensive and clearly stated, leading to a clear set of defensible rights.
4. The Parliament adopted a comprehensive legal framework in 2013 aimed to reform the organization of the elections and improve the functioning of the election administration. A number of recommendations formulated by previous EU EOMs had been addressed in the new election framework. However, although the Independent Election Commission (IEC) showed consistent technical and operational improvements in the run-up to elections, its credibility was undermined because of unsatisfactory implementation of anti-fraud measures, contradictory decisions, a general lack of transparency on the results and audit conclusions, and the absence of comprehensive investigations and actions to address accusations of fraud.
5. The lack of a comprehensive voter registration system is a major impediment for the IEC to administer efficiently the electoral process without full knowledge of the electorate distribution. The absence of this essential safeguard resulted in an over-emphasis of other anti-fraud measures, it weakened the system in general and led to considerable irregularities. The project of biometric identity cards (E-Tazkira) could address some of the concerns, but suffered several delays and it has not been possible to introduce this for the 2014 elections.
6. The campaign started 60 days prior to the first round of the Presidential election and 21 days prior to the run-off. Freedom of assembly was generally respected, with only a few isolated incidents aimed at the violent disruption of campaign activities. Starting timidly in early February, the campaign picked up momentum with lively and vibrant rallies across the country, a few weeks before the election. The campaign was not marked by serious ideological cleavages; rather it re-confirmed the personality-centred nature of Afghan politics, which nevertheless provided for a competitive election. The run-off campaign was characterized by numerous endorsements across the political landscape and strong statements targeting opponents becoming paramount in every public address.
7. The Electoral Law contains a number of provisions on the campaign funding and limits presidential candidates' expenditures to 10,000,000 Afghanis (around 130,000 euro). The accountability measures, including the opening of the designated bank account, are further detailed in a IEC regulation. Yet, the low expenditures' ceiling, coupled with the vague candidate financial report

validation mechanism, undermined the principles of equality and transparency.

8. The first round of the Presidential election was held on 5 April 2014. Election day was marked by Afghan voters' determination to freely choose their leadership by voting in unexpected high numbers. However, the absence of reliable data on the distribution of the electorate has led to shortages in some areas and over-distribution of ballot papers in others, and many voters were confronted with the IEC difficulties in providing the necessary election material throughout the country.

9. The absence of systematic controls of the sensitive materials used on Election Day, and the lack of stable and comprehensive standard audit procedures, were the main impediments for the election institutions to be able to prevent the alteration of the results of the first round. This could have been an opportunity to review the anti-fraud measures designed for this election, but this was not taken. However, the gaps between the two main candidates and the others were large enough to lead to a wide acceptance of the results. Likewise, it was clear that no candidate reached the required absolute majority .

10. The Presidential run-off was characterized by a significant increase in polling locations, raising voters' opportunities to participate in this democratic exercise. However, confronted by widespread allegations of fraud, but also by a significant increase in the reported participation and inconsistencies in the evolution of the vote, the IEC vacillated on how best to manage the controversy and present results being generally accepted. The silence of the election administration and the absence of partial results reinforced uncertainty and produced an information vacuum that fuelled speculation and brought stakeholders to a political deadlock.

11. The decreased pertinence of the standard audit procedures in the second round of the presidential election resulted in 90% less investigations being conducted by the IEC, emphasising the institution's difficulties in identifying and excluding fraudulent votes. Confronted with widespread allegations of fraud, the IEC decided to declare Preliminary Results, disregarding a political agreement between the candidates to conduct further investigations. Subsequently, the country plunged into a long political deadlock. The need to address the sincerity of the results led to a final mediation by the United Nations (UN) and the United States Secretary of State, resulting in the decision to conduct a new audit of all the run-off results in Kabul under the guidance of the UN.

12. The full-scale audit of all 8.1 million votes of the run-off brought to light that large scale fraud had been committed. The audit started without proper procedures having been defined. Indeed, the candidate teams had a central role in the design of the audit procedures, which led to their late endorsement and to a large number of discussions in the initial phase of the audit, which diminished the constancy and clarity of the exercise. The format of the audit process resulted in a transfer of the responsibilities on audit recommendations to the UN, in the absence of agreements between the two candidate teams, putting UN advisors in a difficult arbiter position. Moreover, the lack of drastic measures to exclude results showing indications of fraud, and the proposed exercise to isolate invalid votes within problematic polling stations led to increased tensions. This was followed by the withdrawal of Dr Abdullah from the audit on 26 August, and soon after, on the advice of the UN, also of Dr Ghani.

13. The political agreement reached on 21 September 2014 between the two candidates for the formation of a national unity government offered a political conclusion to the electoral process. At the time of reporting, upon request of both candidates, the IEC has still failed to present public and detailed conclusions of the audit, as well as Final Results. The absence of comprehensive conclusions has not provided Afghans with a full and transparent outcome from the poll and has not enabled stakeholders to submit complaints based on all due evidence. However, the EU EAT notes that the reform of the electoral institutions and of the related legal framework is part of the political agreement and gives an opportunity for further improvements.

14. Throughout the electoral process, the IECC respected the legal framework, resolved the complaints within the legal timeline and granted the candidates the access to remedy. However, the IECC inconsistently used its legal powers to initiate investigations and to challenge the IEC decisions on its own accord. The assessment of the extent to which the candidates' right to effective remedy

was respected, is hampered by the scant information available on the reasoning behind the IECC decisions on each individual complaint.

15. Freedom of the press has generally been respected throughout the electoral period. Yet, the deteriorating security situation, particularly on both election days, curbed freedom of reporting. The legal framework grants a level playing field in the media. Media monitoring by the EAT indicates that up to 10% of private media were biased in favour of one candidate. The State media adhered to the electoral legal framework. However, by shrinking the electoral coverage in the news, State media failed to fulfil their specific duties as publicly owned broadcasters and did not provide the electorate with comprehensive information on which they could form an informed choice on Election day.

16. Despite legal improvements and dedicated activities by the electoral administration to foster women's participation, women remain under-represented in decision-making and executive positions, as well as in the media and in the campaign. While women represent 49% of the electorate, their full participation is limited due to insecurity, social restrictions, and lack of infrastructures. Moreover, the misuse of women's registration and votes to enable fraud is a persistent feature of Afghan elections. Whilst the IEC conducted significant actions in favour of women's participation, no comprehensive anti-fraud mitigation measures were put in place to fully protect the votes of women.

17. Domestic observers and candidate agents are essential safeguards to guarantee a balanced observation of all steps of the electoral process. There appears to be a growing interest and a methodological improvement on the part of the Afghan Citizens Observer Groups and candidate agents. The variety of domestic observer organizations very actively engaged in the monitoring of the elections led to a fruitful contribution to the process. Some misinterpretations on their role in the first round have been observed, through the misuse of their findings by the election administration to initiate invalidations of results. Observers and candidate agents reported recurrent restrictions in accessing the polling and counting activities, as well as security constraints severely affecting their geographical coverage, thus depriving the process of these essential safeguards in several areas.

18. The full recommendations of the EU EAT are detailed at the end of this report. They are addressed to the authorities of Afghanistan. The EU EAT would like to draw attention to the most important ones, namely:

I. Reforms could be introduced to ensure that all electoral actions by the election management bodies are in line with the principles of impartiality and transparency at all levels, through an accountability enhancement programme that would include the nomination of the all IEC and IECC Commissioners by an independent board, together with the establishment of a governance strategy to coordinate the appointment of the executive officials and to coordinate their functions. The introduction of an investigation mechanism of electoral offences and corruption that could include the systematic transfer of information to the Attorney General's office or designated jurisdiction in charge, with the investigation and adjudication integrated into the legal framework.

II. A sustainable civil register could be gradually implemented in prevision of a full execution for the next presidential election. Subsequently, the related voter register extracted could be available for public display and used as the only voter list available at the polling stations. This civil register would exploit the multipurpose biometric ID card (E-Tazkira) data base.

III. In order to further protect the integrity of the vote of women, measures could be introduced to ensure their access to secured and appropriate polling locations, led by female staff. Organisations involved in the defence of women's rights could participate in the mapping of the polling locations. Additional safeguards could be designed to guarantee their free and safe registration and vote. Civil society organizations promoting women's rights could be encouraged to take part to the national observation of the polling and counting activities in female polling stations.

II. INTRODUCTION

Political Background

The 2014 Presidential and Provincial Council elections were the fifth consecutive elections since the fall of the Taliban in 2001. Notably, the presidential elections paved the way for the country's first-ever democratic transfer of power, as the Constitution barred the incumbent President Hamid Karzai from standing for re-election for a second time. The political landscape remained centred around personalities rather than ideologies. As a consequence, the majority of political parties lack a functional internal structure, neither presenting coherent and alternative programs to electorate, nor fielding candidates with nationwide support base. This led to reliance on candidates' personal reputation and on traditional and ethnic loyalties.

On-going insurgency and internal security threats caused by non-State actors, the Taliban in particular marred the preparation phase for these elections. However, the State's response to the Taliban's attempts to disrupt the election process appeared to be sufficient to enable the fulfilment of Afghans' rights to participate in the election and to be elected.

Political landscape before the first round of election

Eleven candidates, representing a broad spectrum of the Afghan political class and coming from various ethnic backgrounds, were approved on 20 November 2013 by the IEC to stand for election. Each of them introduced their candidature in a ticket with two vice-presidential candidates with a different ethnical, economical and geographical background, thus amplifying their appeal among potential voters. Three candidates' withdrew from the race in favour of one of the three leading candidates, Dr Ashraf Ghani Ahmadzai, Dr Zalmay Rassoul and Dr Abdullah Abdullah. The group of candidates that eventually entered the race created conditions for competitive elections

If compared with 2009 election, when 44 candidates were striving for the Presidential office, in 2014 there were only 11 candidates. Political actors focused on the formation of pre-election alliances. The negative track record of elections was an underlying factor that dented the confidence in the election process from the outset with concern for a possible fraud during the election.

Political landscape before the run-off

More than in past elections, many ethnic constituencies were split between the two candidates with people placed in both camps. This led to considerable doubt about the outcome, and it also shows how Afghan voters increasingly choose between candidates and programmes, with a decreasing influence of regional/ethnic considerations.

A suicide attack targeting Dr Abdullah on 6 June killed several members of his campaign team, yet this incident failed to deter both candidates' teams from continuing their campaign efforts.

Political negotiations concurrent with the audit

After 25 days of political deadlock, on 12 July a political agreement has been brokered by the US Secretary of State John Kerry. The candidates agreed on the creation of a national unity government and in auditing 100% of the run-off results. However, the absence of a precedent for such a complex and fully comprehensive audit added to the difficulties of reaching a swift way out of the political impasse. The audit and the political negotiations on power-sharing had to be conducted in parallel, under high political tension.

As the audit was approaching its end, the decision with the most far-reaching consequences was Dr Abdullah's withdrawal from the audit, announced on 26 August, followed by the withdrawal of Dr Ghani the next day, on UN recommendation. As the absence of both candidates' representatives further affected the credibility of the audit, the final withdrawal of Dr Abdullah from the political talks strengthened the need to conclude a political agreement, even without waiting for the assessment of the voters' intentions.

On 21 September the political agreement was signed by both candidates, before the Final Results of the election were announced. The agreement foresaw the formation of a national unity government, established the post of Chief Executive Officer (CEO) and outlined the modalities of power sharing between the President and the CEO. However, whereas the position of CEO has to be created by

presidential decree, the Constitution will need to be amended in order to allow the transformation of the CEO position into one of an executive Prime Minister.

By the signature of the 21 September agreement, Dr Ghani committed himself to convene the Loya Jirga within two years to consider the creation of a post of Prime Minister. However, whereas the position of CEO has to be created by presidential decree, the Constitution needs to be amended in order to allow the transformation of the CEO position into one of an executive Prime Minister.

The agreement prescribes profound electoral reforms, through the formation of a Special Commission for the Reform of the Electoral System. This Commission would have as its mandate, among other things, to propose amendments to the legislation even before the 2015 parliamentary elections. Both the President and the CEO committed themselves to undertake the necessary urgent changes in order to rebuild the electoral framework and restore trust in the system.

III. LEGAL FRAMEWORK

Universal and Regional Standards

The Islamic Republic of Afghanistan (IRoA) has ratified the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1979 Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the 1966 International Convention on the Elimination of all forms of Racial Discrimination (CERD), the 2006 Convention on the Rights of Persons with Disabilities (CRPD) and the 2003 United Nations Convention against Corruption (UNCAC). These instruments protect primary electoral rights “to vote and to be elected at genuine periodic elections [...] by universal and equal suffrage [...] by secret ballot”¹ reflecting Article 21 of the UDHR, further confirmed by the General Comment No. 25². Afghanistan is also a member of the Organisation of Islamic Conference and has ratified the Cairo Declaration on Human Right in Islam (1990) confirming freedom of expression.

The obligation to adhere to these instruments as well as to the UN Charter and the 1948 Universal Declaration of Human Rights (UDHR) is acknowledged in Article 7 of the 2004 Constitution. The principles are further embodied in Chapter Two of the Constitution and throughout the Electoral legal framework.

Overview

The Constitutional and electoral legal framework has facilitated an inclusive electoral process in line with international obligations. The legal framework is structurally sound being both comprehensive and well balanced between law and regulation, allowing for both certainty and flexibility as technology changes in the future. Human rights provisions are comprehensive and clearly stated. The Constitutional legal provisions for the IEC and IECC enshrine the independence of the Election Commissions and regulate the ability to define and investigate electoral fraud and order remedial action, including the rescinding of electoral results. The law provides for universal equal franchise through secret, direct and transparent elections. Of the 7 legal recommendations presented by the EU EOM in 2009 the majority have been implemented indicating a significant improvement of the legal framework as a whole.

However, a number of problematic provisions remain, including the inability of the IECC to investigate cases where more than 80% of votes in one ballot box are cast for one person where there is no complaint. The provisions relating to the possible death of a candidate are of a concern as it is possible that these provisions could be exploited to halt the electoral process. Finally, some ambiguity could be lifted relating to timelines throughout the process.

¹Article 25 of the ICCPR.

² 12/07/96. CCPR/C/21/Rev.1/Add.7.

Electoral Framework

The 2014 election cycle is the first following the Bonn Agreement in 2001 to be regulated by legislation adopted by Parliament as opposed to Presidential decree, affording a greater level of political participation and legitimacy to the electoral framework. Augmenting article 156 of the Constitution, in 2013 the Government of the Islamic Republic of Afghanistan (GIROA) adopted 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).

The IECC adopted one regulation on the Assessment of the Validity of Votes. While most regulations were produced in a timely manner, it is notable that the Regulation on Cancellation and Invalidation of the Votes as a Result of the Audit and Investigation was not adopted until 17 April, during the audit process. The Regulation itself has significant gaps: while it outlines instances when audit should be undertaken, it does not actually detail how audits should be conducted. This information was also missing from the 'Guidebook on Adjudicating Complaints'. Moreover, the Regulation does not link the quarantine process with the complaints process, leading to some confusion as to which quarantine orders were applicable in the first round.

The law contains many positive provisions; both the IEC and IECC can order the quarantine and investigations of suspect ballot boxes. In addition, the IECC has the power to investigate votes on its own initiative, invalidate votes, order recounts, issue fines and remove nominated candidates. However, the framework has not been applied consistently. Rather, it has even been systematically disregarded during this electoral process. Adequate penalties provisions have not been applied either, leading to an overall absence in enforcement and deterrence. In addition, a number of problematic provisions remain, which adversely impacted the 2014 electoral process.

Of all the Articles in the Election law, Article 59 is possibly the most problematic. It states that the allocation of more than 80% of votes for one candidate in a ballot box, without additional evidence of the presence of suspicious votes, does not automatically trigger anti-fraud provisions. This provision appears to affect the general power of the IECC to investigate violations in the absence of objections or complaints³. The IECC has interpreted the clause conservatively, publicly stating that additional claims are needed to trigger investigation into ballot boxes which contain up to, but not over, 100% of ballots for one candidate. An alternative limit could have been placed instead, such as 'above 90% of votes cast for one single candidate 'would trigger automatic investigation. The IECC could also have chosen to exercise its powers to investigate on its own initiative, under article 62 of the Election law. Neither approach was taken, thus impacting the ability of the IEC and IECC to effectively address fraud.

As previously noted by the 2009 EU EOM, the provisions relating to the decease of a candidate during the electoral process remain problematic. Reflecting article 61 of the Constitution, article 20 of the Election Law provides that should a presidential candidate pass away during the electoral process, prior to the final announcement of results, a new election should take place within 30 days. While intended as a disincentive to political assassination, it calls a halt to the election process. As this provision is contained within the Constitution, it remains to be seen how it could have been omitted from the legal framework. However, it is problematic, as some may seek a paralysis of an electoral process and would obtain this upon the decease of a candidate. This should be addressed in the near future.

The timeline for the electoral period has proven to be somewhat inadequate at key points throughout the process, resulting in extensions beyond the legal provisions. The most obvious example of this has been the extension of the interim period between the first and second rounds from the legally mandated two weeks, to one month. Delays were also experienced during the complaints process.

The Election Law states that initial polling day complaints should be registered within 48 hours from Election Day. Provincial Independent Electoral Complaints Commissions (PIECCs) then have 10 days to investigate complaints. This is then followed by a 72 hour period from the publication of the decisions in which an appeal can be lodged. In all cases these deadlines were correctly applied and

³ Election Law article 62

did not have to be extended. However, a separate deadline of 24 hours is applied in relation to the publication of results. These appeals focus on the decision to quarantine or allow ballot boxes into the announced results. While the IEC announced Preliminary Results and verbally ‘published’ them, the detailed results on which complaints would be based were not provided at the same time, making it impossible to appeal. As a result, the IECC extended the deadline to allow for filing complaints.

The appeal deadlines in the earlier phase of the complaints process are clear. However, as the process continues clarity diminishes with an absence of direct timelines for appeals against results. The IECC would benefit from the adoption of a clear timeline which addresses each section of the process in detail, with the capacity to legally adjust timelines in the case of necessity.

The law is also silent on campaign provisions between the rounds. Article 48 of the Election Law provides 60 days for Presidential elections. The law does not distinguish between the first and second rounds and is at odds with article 61 of the Constitution, which states that the second round shall take place within two weeks of the announcement of the first round results.

Suffrage Rights

As per article 33 of the Constitution, citizens of Afghanistan have the right to elect and be elected. All citizens “*both men and women*” who are 18 years of age have the right to participate in “*free, universal, secret, direct, fair and transparent elections*” with national provisions fully upholding obligations under article 25 of the ICCPR. There are no exceptions to voter equality: the law prohibits “*imposing any type of direct or indirect restriction on voters and candidates on the basis of language, religion, race, gender, clan, region, residency and social or occupational status*”. Refugees, diplomats stationed abroad, military personnel and prisoners all have the right to vote⁴. However, voting provisions for these groups were not provided.

The stipulations for those who can stand in presidential elections are clear-cut. Candidates must be Afghan citizens, and not citizens of another country. They must be over 40 years old and not convicted on charges of crimes against humanity, criminal acts or deprivation of civil rights by a court. There are no restrictions based on gender, religion, ethnicity or social status.

Electoral System

There is single national constituency for the election of the President. The presidential term lasts for five years, expiring on the 22 May in each election year. The voting system is Two Round System (TRS), while the broader electoral system is Two-Tier. Should no candidate achieve more than 50% of votes in the first round, a second voting round will be conducted with the two top ranked candidates competing. For the first time since the adoption of the current Constitution in 2004, the Two-Tier system has been actually been implemented for the 2014 Presidential election, as in 2009 the second round was foreseen, but eventually cancelled.

The electoral timeline dictates that the first round should be held within 30 to 60 days prior to the end of the presidential term. In this instance, the first round election was held on 5 April, 46 days before the expiry of the term. In relation to the second round, the Constitution states that the run-off election should take place within two weeks of the final announcement of the results from the first round⁵; this announcement took place on 15 May. The conduct of the second round on 14 June has taken the electoral calendar beyond the envisaged Constitutional timeline. The delay was due to the technical inability of the IEC to print election materials and distribute them within the legal timeline. This highlighted the impracticality of the existing provisions.

⁴Article 5 & 6 Election Law

⁵Article 61 of the Constitution.

IV. ELECTION ADMINISTRATION

Composition and structure of the Independent Election Commission (IEC)

Created in January 2005 by a Presidential Decree, the IEC is the only body in charge of “administering and supervising all types of elections and referenda” under article 159 of the Constitution. The endorsement of a comprehensive legal framework in 2013⁶ not only reformed the organization of the elections, but also the functioning of the election administration and provided an improved ground for the institutions to conduct the elections in accordance with the international instruments ratified by the Republic of Afghanistan.

The election administration⁷ is comprised of a decision making body, with a Board of nine Commissioners, and an executive branch, the IEC Secretariat, led by a Chief Electoral Officer (CEO) supported by nine departments⁸. The Secretariat has a field structure consisting of 34 provincial offices, headed by provincial electoral officers (PEOs). The executive branch is in charge of implementing IEC Board decisions, providing technical support, advising the Commission and technically carrying out all the stages of the election cycle. All other staff, at the regional, district, polling centre (PC) and polling station levels, was temporarily hired according to the election timetable.

The newly adopted legal framework also introduced a two-step appointment procedure for the IEC Board, with a pre-selection stage by an independent selection committee⁹. In this manner, the Commissioners were appointed on 29 July 2013 for a six-year term, and represent different provinces and various political hues. Nevertheless, these structural improvements did not provide sufficient basis for the full independence of the institution¹⁰, since the President of the Republic sanctioned the final appointments of the Commissioners and directly nominated the executive staff of the IEC, which reputation was later tarnished by accusations of fraud.

The observed hesitations and at times contradictory decisions of the IEC affected the credibility of the institution, particularly when facing audit procedures and mechanisms. The Board of Commissioners repeatedly expressed concerns on external interferences in the conduct of their duties, impeding the full implementation of decisions endorsed by the Board. Moreover, some Commissioners openly defined gaps between the decision-making mechanism of the institution and their concrete implementation by the Secretariat as a challenge to their full independence.

The credibility of the run-off was marred by a crisis of confidence in the IEC Secretariat’s impartiality, directly impacting the leadership of the executive branch. Dr Abdullah team requested from both President Karzai and the IEC Chairman the replacement of the IEC CEO ahead of the run-off. In response, the IEC reiterated its support for the executive, based on the rationale of avoiding the difficulties connected with a possible departure of a key electoral staff at that stage of the process. From 22 June onwards, the publication of videos and audio recordings of alleged conversations involving the IEC CEO in potential irregular recruitments and actions in nine provinces¹¹ eroded the institution’s credibility, while facing contested turnout figures and accusations of large scale fraud by one of the contenders. Despite the announcement by the IEC Chairman of the establishment of a special investigation team to examine this case, the IEC CEO himself contradicted this decision on 21 June by announcing that it would be the IECC handling the matter. The IECC debated how to face the allegations, but finally no legal or internal investigations undertaken on these cases, nor on the new recruitments of staff between the two rounds. The IECC eventually dismissed all charges against the

⁶ The Election Law and the Law on Structure, Duties and Authorities of the IEC and the IECC were enacted in July 2013.

⁷ cf. Annex No 1.1 – *structure of the Independent Election Commission*.

⁸ Departments: support, IT, external relations, public outreach, field operations, training, legal, administration, planning.

⁹ The Law on the Structure, Duties and Authorities of the IEC establishes in its article 8 a pre-selection process of 27 shortlisted names by a Selection Committee comprising representatives from both Lower (Wolesi Jirga) and Upper (Meshrano Jirga) Houses of the National Assembly, the Supreme Court’s High Chief, the Head of the Independent Human Rights Commission, the Head of the Independent Commission for oversight of the implementation of the Constitution and a representative of the CSOs.

¹⁰ In reference to the ICCPR, art. 25 UNHRC, General Comment 25: “An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant”.

¹¹ Badakhshan, Wardak, Ghazni, Nimroz, Laghman, Faryab, Paktya, Paktika, and Nuristan.

IEC CEO, citing that no formal complaint to the institution and transmission of the related video and audio recordings had been submitted.

As a consequence of this crisis, the IEC CEO resigned on 23 June 2014, followed by political talks on his replacement eventually not being able to result in nominating a new permanent head of the Secretariat, having Dr Ahmad Jawed Habibi's nominated as acting IEC CEO on 13 August.

This overall crisis of confidence in the institutions led to the introduction of a reform project as part of the political agreement reached on 21 September 2014¹², including the formation of a dedicated commission for structural improvements to be implemented before 2015 parliamentary elections.

Transparency and accountability

Whereas the Election Law offers sufficient provisions for the IEC and IECC to carry out transparent elections, some of their actions were not in line with the related international recommendations¹³. The pending ratification of the Freedom of Information Bill would represent a first step to oblige all involved institutions to deliver the necessary information for a full awareness of the voters and to enable candidates to complain, if needed, with full knowledge and full consent¹⁴.

The late publication of detailed results of the first round of the presidential election, the absence of communication on the full-scale audit conclusions, the announcement of Final Results providing only the outcome of the election but not the results, do not fulfil national and international obligations in this domain, the political situation notwithstanding. Additionally, the right to information of the voters about the election results in their respective polling stations (PSs) was not respected, due to a late decision to provide the only two copies of the results available at each PS to the two respective candidate representatives.

Despite general shortcomings in transparency, the IEC showed significant improvements in the communication of the policy-making procedures through the regular publication of the IEC decisions and procedures, as well as consistent information on the activities of the institution.

While international and domestic observers were provided with wide-ranging information and regular meetings were held, candidate representatives did not enjoy the same treatment and suffered serious limitations to their right to receive institutional response from the IEC¹⁵.

As per article 12.3 of the Law on the Structure, Duties and authorities of the IEC and the IECC¹⁶, the plenary sessions of the Commission should be open to political parties, civil society, media, national and international observers. Upon request of candidate teams and observers, a series of audit decision-making meetings were organized at the end of the audit of the results of the first round of the presidential election, and one public session on the audits of the results took place for the run-off. On the occasion of the full-scale audit of the run-off, conducted under the guidance of the UN, nine public audit decision-making sessions were held. However, instead of using those sessions to discuss or to investigate the cases, the sessions were used only to deliver previously reached conclusions.

¹² "To ensure that future elections are fully credible, the electoral system (laws and institutions) requires fundamental changes. Immediately after the establishment of the government of national unity, the President will issue a decree to form a special commission for the reform of the electoral system in accordance with Article 7 of the Political Framework [...] The objective is to implement electoral reform before the 2015 parliamentary elections".

¹³ UN General Assembly Resolution A/Res/55/96 article 1f,i: "[...] improving the transparency of public institutions and policy-making procedures and enhancing the accountability of public officials". The Organization of the Islamic Conference 10 years programme of action, art. VIII.1: "Seriously endeavour to enlarge the scope of political participation, ensure equality, civil liberties and social justice and to promote transparency and accountability [...] in the OIC Member States".

¹⁴ UN General Assembly Resolution A/Res/55/96 article 1d,iv: "[...]ensuring through legislation, institutions and mechanism [...] the transparency and fairness of the electoral process".

¹⁵ Following a series of 6 letters, between 16 and 26 June 2014, sent by Dr Abdullah's team to the IEC, the institution answered on 25 June by providing linear legal references to the candidate, not addressing the main concerns expressed and not providing the documents requested. The withdrawal of Dr Abdullah representatives from the audit process on 18 June was a reaction to the absence of comprehensive answers to requests transmitted to the institution since Election day.

¹⁶ Article 12.3 of the Law on the Structure, Duties and Authorities of the IEC: "the sessions of the Commission shall be held openly in instances, such as review of the documents and competence of candidates, investigation of justifiable complaints regarding fraud in ballot boxes, vote counting, certification and announcement of the results. Representatives of political parties, civil society, mass media and national and international monitors and observers can attend these sessions".

The Election Law describes electoral offences and related penalties¹⁷. Reports from candidate teams, national observers, but also IEC officials and PEOs on irregularities, interference in the electoral process, restricted access to the polling and counting as well as cases of corruption were neither addressed by the electoral institutions nor by the judiciary. The IECC recommended the dismissal of a total of only six IEC staff between the two rounds, based on article 66 of the Election Law.

To counter alleged interference by IEC staff and governmental officials in the process, the IEC announced the removal of 6,000 staff allegedly engaged in misconduct in the first round. The IEC blacklisted 5,388 low level staff for misconduct and around 440 for underperformance¹⁸. Nonetheless, no referrals to the Judiciary were undertaken, in contradiction with the provisions of the Law, officially due to lack of evidence. While the IEC Chairman, at the announcement of the Preliminary Results of the run-off on 7 July 2014, publicly accused the “*security forces, some Governors and the media to be involved in the fraud*”, the IEC never took any action against the IEC staff and officials, nor ordered investigations, although it faced candidate teams’ allegations against IEC staff¹⁹. The IEC lacks an effective internal investigation mechanism in this regard.

Relying on articles 8 and 9 of the Election Law, two Presidential Decrees were published for the presidential run-off calling for the non-interference in the electoral process by governmental bodies and security forces, and presenting a code of conduct for the security forces involved in the process²⁰, whose violation led to the dismissal of 12 security officers after the election. The concerned staff was blacklisted and cannot apply for governmental positions, but these cases were not transmitted to the Judiciary and no further legal action was foreseen. Moreover, high level security officials, identified by the candidate teams as involved in electoral offences, were not affected by any investigation or judicial action.

Budget and finance of the electoral process

The international community entirely financed the 138 million US dollars of election costs²¹ related to the 2014 Presidential and Provincial Council elections²². In addition, the organisation of the full-scale audit process of the run-off, based on the political agreement reached on 12 July 2014, represented a total direct cost of 11 million US dollars, financed by USAID.

In parallel to the election and audit dedicated budgets, the Afghan Ministry of Finance (MoF) contributed approximately four million US dollars out of the 10 million initially foreseen for the institutions regular staff, operations and construction expenses. The IEC created a separate bank account for international contributions which enabled them to receive direct contributions. However, an agreement with the MoF on direct budget formula is still pending, which would facilitate the donors’ assistance to be conveyed through the existing UNDP Direct Implementation Management (DIM). The IEC could substantially develop its financial independence by increasing direct Afghan contributions, which would significantly raise the autonomy of the institution and its independence.

While a National Implementation Management (NIM) arrangement was applied since 2012, the financial autonomy of the IEC is still limited to the direct implementation of 33.7 million dollars, as it

¹⁷ Election Law, articles 66, 67, 68, 69, and 70.

¹⁸ The 5,388 blacklisted staff corresponds to 525 polling stations incriminated either through the IEC audit or the IECC complaint processes. All the concerned staff is non-permanent, working as District field coordinators, and PS of PC staff.

¹⁹ Dr Abdullah team complained on potential involvements of the IEC CEO in large scale fraud through two letters to the IEC and UN SRSG on 25 June 2014, and in several face to face meetings. Dr Abdullah team complained about seven IEC staff’s potential political bias in approaching the audits on 21 July through a letter to the IEC.

²⁰ Presidential decrees were published in the Official Gazette before each round of the Presidential election: on 6 August 2013 and 2 June 2014: “[...] on code of conduct of security forces in the second round of the Presidential elections 14 June 2014”, and “[...] on non-interference of the officials and workers of the government institutions in the run-off [...]”.

²¹ Before a final reconciliation of the total cost of the 2014 election cycle, as of 20 September 2014, the provisional expenditure report represented 137,778,670 million US dollars. The main costs are related to the electoral operations (85 million US dollars), voter registration (approximately 20 million), public outreach, gender, and external relations activities (17 million), electoral dispute resolution (15 million) and the Media commission representing 604,209 US dollars.

²² According to UNDP, out of the 138 million US dollars provisional costs, the election expenditure by 18 September 2014 are distributed as follows among the donors: the EU and the EU Member States financed 41.6% (UK DFID 16.7%. EU 8.9%, Germany 4.8%, Netherlands 4.3%, Denmark 2.6%, Sweden 2.6%, France 1.3%, Italy 0.4%), the US cooperation 35% (USAID 34.1%, USA 0.9%), Japan 10.7%, Norway 5.4%, Australia 5.3%, Korea 1.1%, Turkey 0.6%, and Switzerland 0.4%.

needs further capacity building, particularly in election procurement. The IEC is not entitled to fully administer the budget, as its structural capacities and internal control mechanisms are still to be developed. For the 2014 election process the election administration implemented 24.5% of the budget, within the 25% limit recommended by the last assessment mission present in 2013²³.

In view of staff certifications leading to the required authorizations on the level of procurement which can be further undertaken, the IEC still needs to start providing comprehensive provisional budgets and publish its own annual budget reports in line with its transparency and accountability strategy, as well as with the article 7.3 of the Convention against Corruption.

Election preparations

Administration of the elections

On the operational front, the IEC demonstrated consistent technical improvement and increased capacity in comparison with previous elections. More specifically, the election administration long-term vision²⁴ as well as the regular identification and application of remedial actions throughout the electoral process allowed the IEC to complete organizational and logistical preparations on time for both rounds, despite a necessary delay in the run-off preparations.

According to article 20 of the Electoral Law, the IEC had two weeks to organize the run-off after announcing the Final Results from the first round, while technically the preparations could not be conducted in such a short period of time. In addition, legal ambiguity regarding the run-off campaign period led to uncertainty, as clear provisions on such a situation are not anchored in the Law. The run-off, originally due to take place on 30 May, was postponed to 14 June, which allowed the IEC to carry out the necessary technical preparations.

The Board of Commissioners published 67 decisions, 16 regulations and six procedures for the 2014 electoral process, facilitating the preparations of the elections. However, some crucial decisions were not approved by all the Commissioners or in a timely manner²⁵, such as a clear mechanism for the audit of the results in the first round of the presidential election²⁶.

Mapping of the polling locations

In the absence of a comprehensive voter roll and without precise knowledge of the geographical distribution of voters, the election administration was not able to accurately anticipate the level of participation in the election and ultimately decided to deliver 600 ballot papers per PS. The mapping was based on a broad spectrum of information, including the 2010 population estimates, 2009 and 2010 voting patterns, the voter registration database as well as the historical security and fraud patterns.

The mapping of the polling locations was designed through a two-step validation mechanism. Before the first round, the IEC proposed a draft mapping of 21,730 PSs to the Election Security Committee²⁷, who assessed the possibility to secure the polling based on a Security Threat Assessment carried out in December 2013²⁸. The mapping for the first round was finalized after numerous exchanges of data between the two institutions. It was decided to close 979 PSs before Election day²⁹ and further 805

²³ A Grant agreement and risk assessment mission (GARMIN) recommended, in June 2013, a maximum of 20-25% of the budget advanced for direct procurement by the IEC. In December 2013, a micro capacity assessment mission concluded that the IEC lacked structural capacities and staff diploma/trainings to fully implement the budget, and proposed a mid-term strategy to improve the IEC staff capacity in this regard.

²⁴ An annual operational plan, part of a five-year strategic plan has been formulated.

²⁵ Article 12 of the Law on structure, duties and authorities of the IEC.

²⁶ The Regulation on "*Cancellation and invalidation of the votes as a result of the audit and investigation*" was endorsed on 17th of April 2014, after the announcement of first Partial Results.

²⁷ Led by the Head of the Afghan National Police, in cooperation with the ANSF, MoD, NDS, and with the assistance of ISAF.

²⁸ *cf.* Annex No 4.1 – *District level Security threat assessment of December 2013.*

²⁹ A security assessment concluded in January 2014 that 414 PCs (1,114 PSs, 5% of the initially proposed mapping) should be inactivated due to security issues and logistical constraints. Additionally, the Election Security Committee inactivated 6 more PCs (18 PSs) and the IEC 350 PCs (899 PSs) in March 2014. The total of inactivations before Election represented 776 PCs (2,045 PSs), 9.4% of the initial mapping. In the meantime, the Molhas reactivated 24 PCs (72 PSs) and the IEC opened 330 new PCs (994 PSs) in three phases, representing a total of reactivated PCs before Election of 354 PCs (1,066 PSs).

PSs³⁰ faced both direct attacks and threats during the polling, resulting in additional closures or suspension of the voting, disenfranchising 483,000 potential voters. In total, the security situation affected 1,784 PSs, representing 8.2% of the initial polling locations proposed by the IEC.

To counter criticism after the first round on the high number of closed PSs, shortages of ballot papers and on the contrary no votes cast in some PSs³¹, the IEC revised the mapping prior to the run-off, increasing the number of polling locations by 12.1%³². As the institution took into consideration lessons learned³³ from the first round, the IEC incorporated an increase of 5% of PSs across all provinces. This step addressed the encountered shortages³⁴ but also needlessly augmented the overall amount of ballot papers, while having no safeguards in place to prevent their over-distribution in some provinces. In addition, some requests were not addressed, such as the consequences of the recent floods³⁵, not allowing the re-registration of the many voters who lost their cards and not adapting the mapping of the affected PSs.

Out of the 23,313 PSs that the IEC proposed for the run-off, the Election Security Committee decided to close 506 PSs. This decision was again followed by negotiations between the two institutions and the final mapping was endorsed only three days before the election and allowed the opening of 23,136 PSs³⁶. During the run-off, out of the 23,136 opened PSs, 579 PSs faced security threats or were attacked and polling could not take place³⁷, while 299 remained closed due to the lack of sensitive materials. With 878 closed PSs and 22,778 PSs effectively opened, the final number of the PSs open for the run-off represented a 21% increase over the first round. In total, 6,161 PCs, covering 22,778 PSs, were open on the run-off Election day.

The late production of the final list of polling locations did not allow for the publication of the voter roll as stipulated in the legal framework³⁸ and complicated the deployment of observers and candidate agents. The timely publication of voter lists would have allowed all stakeholders to assess registration, and for observers and agents to be deployed accordingly. Last minute changes also affected operational preparations through the re-shuffling of sensitive materials.

Distribution of ballot papers

The IEC designed a contingency plan that allowed the release of additional polling's kits on Election day to offset ballot paper shortages³⁹. Shortages were mainly attributed to the existence of uncharted urban areas, lower security risks in provincial and district capitals, unexpectedly high turnouts, the absence of a proper voter register and as a consequence, the incapacity of the IEC to sufficiently determine the voting-in-age population and its location⁴⁰. Nevertheless, possible fraud

³⁰ The closings of PSs on 5 April represented 3.9% of the initial mapping. Numerically, Nangarhar was particularly affected with direct attacks on 129 PSs, as well as Wardak (101 PSs), 73 in Faryab, Herat 71, and Logar 54. In proportion to the total PSs available, Wardak and Logar electorate were particularly exposed with respectively 26% and 17% of planned PSs.

³¹ In Southern provinces, no votes were cast in numerous PSs: Logar (55 PSs results show zero votes cast), Helmand (52), Kandahar (48), Paktika (44), Khost (34) during the first round.

³² In total, the IEC proposed to open 23,313 PSs for the run-off. The increase of PSs varied from 6% to 35%. Nevertheless, the revised mapping favoured Zabul (35%), Baghlan (29%) and Uruzgan (25%) but did not fully adapt the new mapping with the needs noted in the first round such as in Nuristan (15% of 600 votes cast versus an increase of 11% of new PSs).

³³ For the run-off 2,540 PSs were added in three categories to the first round mapping: i) to add 2010 PSs excluded from the 2014 mapping (1,024 PSs), ii) to integrate the new PSs opened on 5 April by releasing contingency kits (202 PSs), iii) in addition, 1,110 PSs were added manually 5% across the country. *cf.* Annex No 5.2: *PS mapping for Presidential run-off.*

³⁴ Out of 15,121,200 ballot papers, the contingency plan included 5% at the IEC (519 PS kits) and in the provinces (1,168).

³⁵ The floods affected approximately 17,864 families in Northern provinces out of which over 3,656 were displaced. As of 21st of May, OCHA reported a total number of 7,794 houses destroyed, affecting 17,864 families mostly in Jawzjan (4,532), Faryab (2,950), Sar-e-Pul (2,770), Balkh (1,582), Baghlan (1,534), Badakhshan (1,308) and Samangan (1,120).

³⁶ The MoI proposed the closure of 506 PSs, followed by the reopening of 61 PS. To this, the IEC added 29 new locations. In total, the Election Security Committee together with the IEC revised the draft mapping by closing only 177 PSs.

³⁷ Security incidents stopping the polling impacted, in terms of number of PSs: Ghazni (98 PSs), Nangarhar and Herat (80), Faryab and Logar (64 and 62). In proportion of the electorate, Zabul was particularly impacted (20% of all PSs), followed by Nimroz (19%), Logar (16%), Uruzgan (13%), and Laghman (11%). *cf.* Annex No 4.3: *security impact on the polling – run-off.*

³⁸ Electoral Law, article 7.

³⁹ In the first round, out of 15,121,200 ballot papers received, the contingency plan included 6.7% of the stock distributed between the IEC (519 PS kits) and provinces (1,168). In the run-off, 1,295 contingency kits were planned, representing 5.2% of the ballots available, including 5% contingency in each province, plus 50 more in Herat, 30 in Balkh, and 20 for Nimroz.

⁴⁰ In the first round, shortages of ballot papers were reported in 377 PCs (2%). The IEC responded by releasing 50% of the contingency plan and 546 contingency kits were used. Yet, some CSOs reports showed that these measures were not

could also explain some of these shortages, as reported and observed in the early stages of the polling in both rounds of the election.

Despite the IEC's efforts to improve the ballot paper distribution in provinces with a substantial population growth⁴¹ before the first round, the ballot paper distribution remained unbalanced when compared with the estimated population⁴². Panjshir and Paktika showed a significant surplus of ballot papers in comparison to the estimated population, namely over 100% of ballot papers were distributed for the 2014 elections. Eight provinces saw an under-delivery of ballot papers⁴³. However, these provinces did not face any significant shortages and thus did not release a significant number of contingency kits on Election Day. This phenomenon is linked to the insecurity impacting voters' capacity to both have a free access to the voter registration and to the voting. The under-distribution of ballots in Kabul and Faryab was explained by voters moving from rural areas to main cities. Moreover, in Kabul, uncharted areas and rapid population growth curbed the IEC ability to register new voters accordingly.

However, the significant increase of opened PSs for the run-off did not prevent the shortages of ballot papers⁴⁴, as still 511 contingency kits⁴⁵ were needed, released and used on Election day. This confirms the negative impact of an uncontrolled voter registration system and of the absence of a reliable census.

V. VOTER REGISTRATION

The voter registration system is the sum of a series of exercises carried out in 2003/2004, with top-up phases⁴⁶ conducted in 2005, 2008, 2009/2010 and 2013/2014. The initial 2003/2004 voter-registration exercise estimated the voting-age population (VAP) at 12 million voters and was used by the IEC as a reference for operational planning.

Permissive procedures resulted in the distribution of 20.7 million voter cards for a total estimated population of 27.2 million inhabitants as of 2013⁴⁷. The lack of a comprehensive voter register partially explains the observed shortages of ballot papers in certain areas, the over-delivery of ballot papers in others, and the inability of the IEC to generate accurate voter lists. The absence of this essential safeguard for the integrity of the election resulted in an over-emphasis on other anti-fraud measures, thus weakening the entire system.

Voter registration system

The Afghan electoral system so far does not rely on an accurate voter roll. Although the initial voter registration was entered into the IEC database, successive improvements of the data collected and of the software did not result in an effective detection of duplicate registrations.

The voter registration system suffers from the absence of a link between the voter and a physical location or domicile. This impacts the capacity of the IEC to identify the distribution of the electorate and to deliver sensitive materials accordingly, particularly ballot papers. While the new registration forms included a space for the voter location, the gaps in the data provided by the voter registration centres (VRC) officers did not permit the reliable entry of this information into the database.

sufficient to meet the needs, particularly in the North. The IEC justified this gap as some chairpersons did not inform about shortages or the requests came after 13:00. *cf.* Annexes No 5.4 and 5.5: *contingency distribution on Election day*.

⁴¹ The IEC identified possible shortages before the first round in seven provincial capitals facing increases of its population (according to CSO projections) such as Balkh (additional 13% PSs incorporated after the initial mapping), Bamyan (48%), Herat (28%), Nimroz (38%), Baghlan (7%), Daykundi (44%), and Samangan (9%). This realignment reflected CSO's projections with the exception of Bamyan and Daykundi, where the IEC relied on previous 2010 experience.

⁴² *cf.* Annex No 6.1: *distribution of ballot papers – first round*.

⁴³ With an average of 52% of ballots in comparison with the estimated population, some provinces showed gaps: Wardak (31% out of estimated population), Zabul (34%), Kapisa (37%), Kabul/Faryab (38%), Uruzgan, Parwan, and Laghman (39%).

⁴⁴ *cf.* Annex No 5.5: *- distribution of contingency kits per province – run-off*.

⁴⁵ A total of 570 additional PSs contingency kits were authorized by the IEC to be sent and used on E-day across the country out of which 511 were used and 59 were not used and came under category of those PSs opened yet not voted in.

⁴⁶ Top-up registration exercises targeted voters who reached the age of 18, who have lost their previous voting card, returned to the country, transferred from one constituency to another, and voters not previously registered.

⁴⁷ The CSO estimated as of 2012-2013 the settled population of 25.5 million, and additional 1.7 million Kuchis.

In the absence of a population census or civil registry, the IEC was unable to fall back on other reliable data for the preparation of polling. The last incomplete census exercise was carried out in 1979. While the Central Statistic Organization conducts surveys producing an estimate of the population by province and by gender, it does not provide information on the voting-age population.

The large number of voter card duplicates in circulation and the poor controls over them enable candidates to deceptively fulfil the criteria to run for elections based on a very high number of voters cards attached to their applications⁴⁸. As a consequence, the subsequent over-representation of the electorate hampered the IEC's capacity to organise the polling in a satisfactory manner, and the filling of the lists of voters at the PSs did not guarantee that only registered and unique voters cast their votes, while the use of multiple cards remained undetected. Women's registration was particularly jeopardised by the use of their cards for proxy voting⁴⁹.

Civil Registry

Following the 2009 election lessons learned process, the IEC agreed on the implementation of a new voter registration system through the multipurpose project of new biometric ID cards (E-Tazkira). This project aims to establish in the mid-term a civil registry extracted from the E-Tazkira data base and subsequently to produce appropriate voter rolls linked to the voters' residence. A Presidential Decree accompanied this decision⁵⁰ in 2013, allowing the distribution of the E-Tazkira to be implemented from 21 March of the same year, reflected in the endorsement of the appropriate Election Law amendments. This project of voter registration (VR) system reform included a Ministry of the Interior (MoI)-led programme⁵¹.

However, the project was slowed down by parliamentary discussions on the draft law and especially on the question of the collection of the ethnicity and on the mention of "Afghan" on the ID cards, challenged by some communities. In addition, the project faced institutional challenges, in the absence of executive order to launch the printing of the first biometric E-Tazkira cards. The project also faced financial limitations as the first tranche of funds remained partially blocked due to the political deadlock.

Despite these impediments, a first identification campaign started in June 2014⁵². At the time of writing, the enrolment already covered 10,000 individuals through the deployment of 40 registration teams in Kabul. This phase of registration received pledges for the financing of 25 million USD out of a global provisional estimated cost of 120 million.

The EU EAT notes that both candidates affirmed their willingness to integrate the E-Tazkira project as one of the points of the political agreement on a national unity government by committing to "*complete the distribution of electronic identity cards [...] as quickly as possible*".

Voter Registration exercises

The 2013/2014 top-up exercise started on 26 May 2013 and closed on 1 April 2014; 3.8 million additional voter cards were issued. The IEC requested a number of deadline extensions, due to the slow processing of registrants⁵³. During the initially foreseen four-month period voters could register at the provincial capitals and for further two months at the districts. 41 VRCs were opened in the 34 provinces and 399 in the districts. The second phase of registration at the districts was extended until 10 November, while the 41 provincial VRCs remained open until 1 April 2014, four days before Election day. The EU EAT notes the lack of registration units at the polling locations, which would have fostered enrolment close to the voters' residence.

⁴⁸ For presidential candidates, 100,000 cards are needed to support a candidacy, from a minimum of 20 provinces (20% of each province). For the Provincial Council candidates, 200 to 600 cards have to be provided depending on the population.

⁴⁹ cf. section – *women participation in election*.

⁵⁰ President Decree No 66- 77 signed on 31 January 2013.

⁵¹ The provisional budget of MoI-led project was estimated at 120 million dollars. The first phase dedicated to the enrolment was estimated to cost 25 million USD, out of which the State contributes with 15 million and the European Union and USAID provide among them the remaining 10 million USD. This project is led by the MoI in coordination with the IDLG, the MoCIT, the NDS, and the CSO, supported by the IOM through the technical cooperation.

⁵² The enrollment has been piloted since June 2014 in Kabul City. The MoCIT signed a contract in 2010 with Grand Technology Resources to put the required system in place, including data centers and identity card printing centers.

⁵³ cf. annex No 2.3 – *2013-2014 Voter registration timetable*.

This exercise showed discrepancies in the voter registration rates between different provinces. Contrary to previous registration instances, North-eastern provinces showed higher registration rates⁵⁴, correlating with lower security threats⁵⁵ and a lower number of incidents targeting the electoral process.

Since 2003, the number of voter cards issued during each top-up phase has decreased. Out of over 3.8 million new voters registered for this election 2.4 million voter cards could be attributed to voters who reached 18 years of age since the previous elections, while around 1.4 million additional cards could be classified in the categories of the voters who have lost their cards, were never registered before, returnees or those who changed their domicile since the previous exercise.

The comparison of the total number of voter cards in circulation with the actual population estimates shows a low level of registration in Kabul and Herat if contrasted with the estimated population increase due to the exodus of rural voters to these cities. On the other hand, in seven provinces⁵⁶ over 100% of the estimated population has been granted cards since 2003. These provinces present a high risk of fraud, through an over-representation of the real electorate, and have shown significant indications of fraud during the full-scale run-off audit.

VI. REGISTRATION OF POLITICAL ENTITIES AND CANDIDATES

Candidate qualification is governed under article 13 of the Electoral Law for the Presidential elections. The provisions are not onerous, with an age limit being the core limitation for presidential candidates. 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 fetter from those wishing to stand but are hampered by economic insecurity.

As for the presidential candidates, each must provide 100,000 signatures originating from at least 20 provinces. This provision is an attempt to ensure broad support beyond immediate tribal/ethnic affinity.

VII. ELECTORAL CAMPAIGN

Campaign environment

The campaign is primarily governed by the Election Law and further specified by the IEC regulations. The IEC regulation on Election Campaign describes the campaign modalities, including prohibition of the use of public properties and government logos, and precludes government officials from the participation in campaign activities. The campaign for the presidential election lasts 60 days.

Despite the relatively competitive political environment, the campaign started timidly, with very few large-scale electoral rallies where the candidates defined their stance and status in this Presidential race. The activities gradually increased to pick up momentum a few weeks prior to the election, with candidates criss-crossing the country for rallies with reportedly significant turnouts, if compared to the 2009 campaign. While reports of all 11 candidates holding public meetings were received, Dr Abdullah, Dr Ghani and Dr Rassoul held the most well attended political public events. Prior to the first round, all three focused their efforts mainly on their historical strongholds, in order to secure both high participation and lead position there. Dr Abdullah's strongholds⁵⁷ were concentrated around Northern and Western provinces with a predominantly Tajik population. The geographical political strongholds of the other two frontrunners, Dr Ghani and Dr Rassoul, generally overlapped.

Whereas the campaign started with the candidates' spreading generic promises on issues such as corruption, sustainable economic growth, healthcare reform and inclusive participation of men and women in public life, during the last two weeks prior to the first round, the candidates' political standpoints became more defined. Additionally, while the President Karzai was repeatedly refusing

⁵⁴ cf. annex No 2.4 – *Voters registered in 2012-2014.*

⁵⁵ Out of 14 provinces with registration rates over 16% of the estimated population, 11 are located in areas considered as representing a 'normal' or 'low' security threat.

⁵⁶ cf. annex No 2.2 – *Comparison of three voter registration exercises.*

⁵⁷ cf. annex No 7.6 – *Preliminary Results per province.*

to sign the Bilateral Security Agreement with the United States, all frontrunners promised to sign it as soon as they would take office.

With Election day approaching, it became more evident that the main concern was to secure the second place for the run-off, as Dr Abdullah's ability to gain enough votes to enter the second round was commonly expected. Thus, the campaign's focus turned to Dr Ghani, representing 'change', and Dr Rassoul, representing the 'status quo' since he was perceived as President Karzai's favourite. Moreover, Dr Rassoul was endorsed by President Karzai's brother Qayum Karzai, when the latter dropped out of the presidential race in early March. The close competition for securing votes in swing provinces led to the change of tone from impartial to offensive and accusatory. This tendency was mirrored in the campaign through audio-visual media with Dr Ghani and Dr Rassoul literally outrivaling each other in both pungent remarks in paid-for spots targeting the opponent and in the number of spots aired per hour. Each of them purchased three times as much advertisement air time as Dr Abdullah.

Prior to the second round, the campaign environment and modalities substantially changed and there were fewer large-scale rallies. Both teams were well organized from the start of the official three-week campaign period, yet both found it more difficult to top up their campaign funds or raise further credit for the run-off. Additionally, both camps applied new vote securing strategies by focusing on deal-making with defeated candidates and fixing endorsements from other power brokers. To offset the limited ability for physical campaigning, presidential candidates purchased paid-for time in the media; Dr Ghani was able to pay for as twice as much air time on television as his contender. The same truculent messages were present during the run-off.

Campaign finance

In line with international obligations for transparency, accountability and in light of the United Nations Convention Against Corruption (UN CAC), article 7⁵⁸, the Election Law lists campaign funding provisions and establishes the campaign spending ceiling for the contestants⁵⁹. The IEC regulation on Managing the Campaign Finance further details who can contribute to the candidates' campaign, how donations should be recorded and describes accountability measures, including the opening of bank accounts designated solely for campaign purposes. The regulation was valid for both rounds and limited presidential candidates' expenditures to 10,000,000 Afghanis (around 130,000 euro).

Both campaign teams expressed their concerns about the low expenditure ceiling that in their view does not provide sufficient funding room for a full-scale nation-wide campaign. Moreover, media outlets failed to submit monthly financial reports on income from political advertisements to the IEC Media Commission, as stipulated in the regulatory framework. Hence, the system lacked transparency safeguards and accountability checks in line with ICCPR GC 25⁶⁰.

VIII. VOTER INFORMATION AND CIVIC EDUCATION

The IEC developed two main programmes to conduct civic education and voter information through field activities of civic educators, combined with a media campaign by broadcasting a large number of TV and radio spots. These efforts encouraged a broader participation, despite challenges for the IEC to reach rural districts.

Field activities mainly relied on face-to-face meetings, briefings and voter information sessions facilitated by the deployment of 1,428 civic educators to all provinces of the country. The educators were provided with various materials for conducting voter information campaign, such as leaflets and posters. However, insufficient logistical and security arrangements resulted in restricted access to some areas. The low number of staff involved and the limitations they faced, resulted in a varied

⁵⁸ United Nations Convention Against Corruption (2004), article 7, paragraph three "Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties".

⁵⁹ 1 million Afghanis for the presidential candidates and 50,000 for the provincial council elections.

⁶⁰ ICCPR GC25 paragraph 19 "Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party."

impact, perceived as insufficient by the CSOs involved in civic education in the most rural districts, affecting in particular the Southern and South-eastern provinces.

Whereas the mainstream media represented an opportunity to disseminate effectively voter information, CSOs deployed in the districts recommended a reinforcement of the other channels of communication already used by the IEC, such as local and religious leaders. The inclusion of local leaders, religious figures and elders has been effective in carrying voter information messages and reaching areas otherwise inaccessible for the civic educators.

In spite of recommendations in this regard after the first round, the IEC continued to focus on mass media information campaign and launched the programme late, coinciding actually with the start of the political campaign. This caused a more limited awareness on the results of the polls and on the organization of the second round.

In order to address the security and geographical constraints, the IEC designed a public outreach strategy for the mainstream media to facilitate the information of voters. The messages disseminated in the audio-visual media encompassed a wide range of issues, including Election day procedures, security as well as participation of women and minorities. In the week prior to the first round, the IEC placed 414 PSAs with broadcasters' prime-time programming,⁶¹ monitored by the EU EAT. Before the run-off, the daily number of PSAs broadcast doubled in comparison with the first round, covering also the reasons for holding the run-off. On average, with the exception of TOLO News, broadcasters devoted 22% of their prime-time election related coverage to PSAs⁶².

IX. MEDIA

Media landscape

Over the last five years, the Afghan media has witnessed a further diversification and enjoys a larger degree of freedom of reporting than before the 2009 and 2010 elections. However, this relative freedom of speech was undermined prior to both rounds of the election, when numerous attacks on journalists occurred with impunity⁶³. None of the perpetrators have been brought to justice.

Despite the security concerns, a vibrant and vocal media offered the audience a wide range of opinions and scrutiny of candidates throughout the electoral period. Moreover, during the post-electoral period and during the full-scale audit, the media were actively involved in shaping the political agenda. Most broadcasters with a nation-wide reach were keenly vying for a larger audience share and applied in their editorial policy a pluralistic approach. However, up to 10% of commercial TV and radio stations had a clearly defined political bias, with more than 75% of prime time allotted to a specific presidential candidate during the campaign period⁶⁴. The editorial dividing lines and favouritism were even more evident after the run-off, most importantly during the three weeks of political and electoral deadlock and during the subsequent full-scale audit. Media outlets were no longer bound by the equal coverage policy, thus one-sided speculations and conjectures conquered the media landscape.

As of March 2014, the State-owned broadcasters Radio and Television Afghanistan (RTA) and Radio Afghanistan, as well as 89 commercial TV and 173 radio stations were operational. More than one hundred private print media are published on a daily, weekly or a monthly base, including two State-subsidized newspapers. Even though radio is the most widespread source of information⁶⁵, like it was during the previous elections, in the market-driven media environment of 2014 television has emerged as the primary source of information, particularly in respect to the election matters.

⁶¹ Audio-visual media monitored by the EU EAT - State owned RTA and Radio Afghanistan, commercial TV and radios – Ariana TV, Shamsad TV, Killid FM and radio Salam Watandar.

⁶² *cf.* Annex 13 1.2. Full statistical report on the fines introduced by the IEC Media Commission

⁶³ With the two weeks prior to the election, one Afghan (20/03), two foreign journalists murdered (11/03 and 04/04); one beaten up (10/03) and a radio station blown up (24/03). On 5 April two journalists were beaten by Dr Ghani supporters in Logar, two journalists were attacked by Qayoum Karzai supporters in Kabul and two different ones by the members of the ANA in Nangarhar. Two journalists faced abduction attempt in Kabul.⁶³ On 14 June five journalists were assaulted, harassed by candidates' supporters or arrested by the police while reporting on election and a local radio in Paktiya was attacked.

⁶⁴ *cf.* Annex 13. Fines introduced by the IEC Media Commission.

⁶⁵ 73% of the population has access to the radio; <http://data.internews.org/af-media/>.

Growing Internet accessibility⁶⁶, particularly through mobile phones, made social media an important platform for campaigning and mobilisation of youth⁶⁷. Facebook, alongside with Twitter was of particular importance after the run-off, when bellicose posts blanketed social media calling for action in order to protect the “genuine votes” of Afghans. It was particularly evident immediately after the announcement of Preliminary Results of the run-off. Social media’s importance was proven again during the audit when the political negotiations were heading towards a deadlock and powerbrokers from both camps used social media to test the public reactions on messages that were balancing on the border between the personal insult and the incitement to violence.

Legal framework of the Media

The fundamental principles of freedom of expression and freedom of the press are enshrined in the Constitution⁶⁸ and further elaborated in the Mass Media Law that prohibits censorship and guarantees the rights to seek, receive and impart information in line with the ICCPR. Nevertheless, the Freedom of Information Bill has not been ratified yet, thus the commitments listed in the ICCPR General Comment (GC) 34; paragraph 19 are not fully respected. Legislative shortcomings were visibly exposed between both rounds of the election and after the run-off, when the IEC did not publicise comprehensive and up-to-date information on its official website, and its televised live updates were neither factual nor coherent. As a consequence, media disseminated numerous projections potentially misleading electorate.

The Mass Media Law determines the modalities of the media sector, including the formation, the financing and the governance of the State-owned media. Lack of imperative safeguards such as predictability of the budget and transparent appointment of the Governing Board undermines the editorial independence of state media and leads to complimentary coverage allotted to the President and the government. Thus, the spirit of ICCPR GC 34 remains largely unfulfilled⁶⁹. The need for strengthening the State media’s editorial independence was demonstrated ahead of both rounds when the President and cabinet ministers were by far the most featured political actors within the state-owned RTA and Radio Afghanistan prime time election-related programming. Moreover, the tone of coverage towards the executive was always positive.

Legal Framework for the Campaign Coverage in the Media

The electoral legislation, IEC regulations⁷⁰ and Codes of Conduct list a number of requirements for the media’s conduct during the campaign. In line with the ICCPR GC 25, the framework stipulates equal access for all contestants; calls for impartial, non-partisan reporting and requests that both journalists and candidates refrain from the use of abusive language. The legislation does not provide for free-of-charge air-time and space in the State-owned media for candidates.

In December 2013, in order to oversee media’s conduct during the campaign period, the IEC appointed a temporary, five-member Media Commission (IEC MC) which carried out a comprehensive media monitoring. Before the first round, the IEC MC monitored 55 national and regional media outlets; the sample was extended to 60 prior to the run-off. Even if this sample correctly mirrors the Afghan media landscape, the Commission acknowledged that due to the lack of funding, some important regional media were not monitored. This supports the IEC MC’s proposal that consultations between the IEC and the MC Commissioners should take place before the budget is allocated.

Throughout the campaign period, the IEC MC published weekly reports on the allocation of time and space in the media, thus providing for full transparency and accountability. However, even if the IEC

⁶⁶ Internet penetration is 5%; 1.3% are active on Facebook; <http://www.internetworldstats.com/asia.htm#af>.

⁶⁷ Dr Abdullah, Dr Ghani and Dr Rassoul teams created 55, 48 and 14 interconnected Facebook pages, respectively.

⁶⁸ Article 34, The Constitution of Afghanistan.

⁶⁹ 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. They should provide funding in the manner that does not undermine their independence."

⁷⁰ IEC Regulation on Election Campaign Period; Regulation on the Mass Media Activities during Elections.

MC had an extensive dataset that clearly showed grave breaches⁷¹, no timely and resolute remedial actions followed⁷². Nevertheless, it is worth acknowledging that between the two rounds the IEC MC's performance significantly improved by pro-actively engaging with the media houses in order to secure a level playing field, yet it yielded little difference. Out of 14 media outlets fined after the first round, only three amended their editorial policy and provided both candidates with equitable coverage prior to the run-off. In total, Dr Abdullah benefited from biased coverage in seven media outlets; Dr Ghani in 13⁷³. This proves that the temporary nature of the IEC MC is an obstacle to the sustainability of the commission's decision-making strategy. Furthermore the MC is not perceived by many media owners and editors as an institution worth respecting.

The campaign silence period commenced 48 hours before Election day, and both media outlets and candidates were legally bound to respect it. Moreover, the IEC MC issued special guidelines⁷⁴, enumerating issues media should not report on during the campaign silence period and on Election day. Even if the majority of the restrictions on content could be considered as reasonable, some oddities, like the prohibition to broadcast interviews with experts on the candidates' manifestos or report on "topics that result in inciting feelings as well as the psychological security of voters", unnecessarily curbed the freedom of press.

During the silence period for both rounds, the IEC MC noted several hundreds⁷⁵ of violations and in total 13 media outlets were fined for neglecting the campaign silence period⁷⁶.

The legal framework prescribes a two-level complaint resolution mechanism for media-related electoral disputes and empowers the MC to adjudicate media-related complaints. During the electoral period, the IEC MC examined only a few complaints of a minor nature. The Election Law also foresees that the MC, with the approval of the IEC, can "refer the perpetrator for the prosecution"⁷⁷ and withdraw the media organisations' accreditation. There were two such cases⁷⁸.

The EU EAT monitoring the media coverage of the election

Over the electoral period, the media⁷⁹ provided the voters with a vivid issue-oriented election-related coverage, applying different genres and using a great variety of professional tools. Also in terms of programming-share media devoted a meaningful amount of time to election-related issues. During the first round, the total time allotted to the election related coverage reached up to 15%, during the run-off it grew up to 22% of total prime time programming. The news proportion within the election-related communication also rose before the run-off⁸⁰. Unlike before the first round, prior to the run-off many political publicity events, including endorsement ceremonies and both candidates' public addresses, were televised live without being subjected to critical analysis. Notably, before the second round not a single presidential debate was conducted, as one of the candidates refused to participate in a live face-off. As a consequence, the electorate was deprived of the possibility to compare both standpoints directly.

The State-owned RTA and Radio Afghanistan complied with the legally binding equitable coverage policy, yet failed to fulfil specific duties as publicly owned broadcasters. The total time allocated to the President and Ministers exceeded the time allocated to the candidates⁸¹. Moreover, the

⁷¹ Already after the two weeks of media monitoring, the IEC MC had data on 17 broadcasters allotting more than 75% of the total time devoted to the political communication to only one presidential candidate and his team. The same situation was observed during the run-off.

⁷² Fines were introduced to the media outlets only after the elections⁷³ cf. Annex Nr. 13. Fines introduced by the IEC MC

⁷³ cf. Annex No. 12. Media Monitoring

⁷⁴ On 14 April 2014 for the first round and on 24 July for the second round of election.

⁷⁵ In total 700 violations for the first round and 600 violations for the second round (200 during the silence period, 400 on Election day).

⁷⁶ 13 media outlets after the first round; 11 media outlets after the run-off.

⁷⁷ The Election Law, Article 61, paragraph 3.3.

⁷⁸ The Balkh province's largest broadcaster Mehr TV continued to report on election-related subjects even after the cancellation of the IEC accreditation. cf. Annex Nr.13 Annex Nr. 13. Fines introduced by the IEC MC

⁷⁹ The EU EAT monitored prime time programming (from 18:00 to 24:00) of RTA, Tolo News, Ariana TV, Shamsad TV. Radio Afghanistan, Killidi Radio and Radio Salam Watandar (from 7:00 to 10:00 and from 18:00 to 24:00) and daily coded four newspapers – Arman-e-Milli, Weesa, Anis and Hewad. From 27 March to 3 April and from 22 May to 11 June.

⁸⁰ From 21% to 57% during the first round and from 29% to 59% during the run-off.

⁸¹ cf. Annex Nr. 12. Media Monitoring

Executive was granted an excessive share of the direct speech within the news, 79% within the Radio Afghanistan's and 43% within RTA's news bulletins. Additionally, before both rounds the RTA limited its election-related coverage merely to the news. By not providing comprehensive election coverage, the State media failed to comply with the Media Law. If the State-owned media's editorial independence is not strengthened prior to the next electoral cycle, it might risk repeating an alarming situation from the 2009 Presidential election as the incumbent President will have an undoubted advantage over his rivals in terms of tone and time-share on State-owned media.

The balance of electoral coverage in the privately-owned media varied according to the owners' political preferences and to the audience's languages. The latter is demonstrated by comparing the allocation of time on the most widely watched Dari and Pashtu commercial broadcasters. While TOLO News and Ariana TV (Dari) divided the total time equally among Dr Abdullah's and Dr Ghani's teams and afforded Dr Abdullah himself a slightly higher share of the direct speech before both rounds, Shamsad TV (Pashtu) virtually excluded Dr Abdullah from the political communication about a week before the first round of the election and prior to the run-off, affording Dr Ghani's team twice as much airtime as Dr Abdullah's team⁸².

The print media monitored by the EU EAT mirrored the tendencies observed in audio-visual media. State-owned newspapers generously featured the President and Ministers not just in the news, but also provided the executive with a lavish visual coverage. At the same time, the liberal private daily Arman e-Melli, equally divided the space between Dr Ghani and Dr Abdullah within the news, yet in more than 90% of the photos illustrating the articles Dr Abdullah was in focus.

Post-electoral Media Monitoring

During the post-electoral period, both mainstream and social media engaged pro-actively in the shaping of political agenda, provided the audience with a large spectrum of viewpoints, particularly about how to end the political deadlock, and featured the events across the board. 19 press conferences by the IEC and IECC⁸³ were televised between 14 June and the announcement of the Preliminary Results. Notably, those press conferences did not contain comprehensive and factual information, thus fuelling vigorous speculations in the talk-shows and even in the news on political back-door deals and orchestrated fraud. This proves the need for the Freedom of Information Bill.

A remarkable feature of the post-electoral period was the broadcasting of political public events aired live during the electoral deadlock. Four public statements by Dr Ghani and 12 by Dr Abdullah and their respective teams were aired live on at least nine different commercial TV channels. In the absence of a legal ceiling for post-electoral expenditures, the equality of the candidates was undermined and the ability to raise sufficient funding to pay for the airtime prevailed over content. This also falls short of the overall spirit of the CAC article 7.3⁸⁴. Moreover, it confused the audience since there was no clear-cut distinction between editorial features and *de facto* advertising.

Media monitoring throughout the audit process

Similarly to the post-electoral period, the media were a pro-active actor in the lengthy political talks that took place alongside the audit process. Since 17 June to 21 September, the media offered live coverage of both candidates' press conferences. Dr Ghani team's live statements were broadcast at least five times; Dr Abdullah's at least four times. Daily IEC's updates were also telecasted live throughout the process. Those announcements lacked accurate information and were mainly meant to elate the electorate by promising a swift flow of the audit.

Additionally, media were broadcasting daily political talk shows, where a wide range of Afghanistan's possible future scenarios were discussed, including the installation of the interim government, fully-fledged presidency by Dr Ghani and a parallel government formed by Dr Abdullah. As a consequence, the electorate faced the situation where each media outlet offered a different perspective on the country's immediate future. Groundless speculation on the state of affairs was a

⁸² On Shamsad Dr Ghani and his team gained 74% of total airtime while only 20% were granted to Dr Abdullah.

⁸³ The IEC had 13 press conferences and live up-dates from 15 June to 7 July; IECC – 6 press conferences and live up-dates from 15 June to 8 July.

⁸⁴ CAC, art 7.3 "Each State Party shall also consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public office."

common practice, yet since the audience had a freedom to choose among a broad spectrum of media, by and large the public's right to comprehensive information was respected. The tone and content became synchronized only on 21 September with the signature of the agreement on the national unity government.

X. PARTICIPATION OF WOMEN

Women as voters

Women represent 40% of the registered voters, broadly in line with the 2013 CSOs estimate of 48.8% of women out of the total Afghan population. However their participation in the polling remains slightly lower with 36% and 37.6% respectively in the first and second rounds of the Presidential election.

The IEC invested renewed efforts to foster women participation through its gender unit ensuring a global strategy in all institution's activities. Regular gender coordination meetings, a dedicated public outreach strategy, training and seminars in the provinces, and the reinforcement of a network of local actors facilitated a broad approach towards women participation issues. These actions are in line with international commitments⁸⁵ reinforced by national legislation.

However, women are still curtailed in their ability to access polling in some provinces⁸⁶ due to social limitations, lack of security, and infrastructure. Security concerns are one of the main impediments for their participation. Five out of the six provinces⁸⁷ affected by low participation rates are classified as 'high threat' by the December 2013 MoI Security Threat Assessment.

The generally lower participation of women in the last registration exercise⁸⁸ combines an increase in previously lower levels of registration in more secured areas in the North⁸⁹, with a significant decrease in Eastern and Southern provinces associated with possible normalization after the over-use of women's registration in organized fraud during the last elections. The registration rates of women in urban areas improved significantly in the 2013-2014 top-up exercise. On the other hand, in more rural areas the lower level of participation also corresponds to more limited access to education, particularly higher education⁹⁰, and difficulties experienced by women in gaining access to registration centres in rural areas, due to cultural constraints and the absence of local infrastructure.

The use of women registration to facilitate fraud in previous elections particularly impacted six provinces⁹¹. Some provinces already showing an over-representation of women voters continued to over-register them⁹², not explainable by factors such as internal migration or rural exodus. This could be linked to systemic fraud and the larger proportion of recounts and audits of female PSs compared to male PSs⁹³. The misuse of female registration/voting to enable fraud is a persistent feature of all Afghan elections. No comprehensive anti-fraud mitigation measures were designed to fully protect the votes of women⁹⁴.

⁸⁵ CDHRI, art. 6 "Woman is equal to man in human dignity and has rights to enjoy and duties to preform"; CEDAW, article 7 "State parties shall take appropriate measures to eliminate discrimination against women in political and public life".

⁸⁶ Helmand, Uruzgan and Zabul show global registration rates of 11%, 30%, and 35% versus the estimated population.

⁸⁷ Farah, Helmand, Uruzgan, Zabul, Wardak and Kabul. cf. annex No 3.1 - 2003-2014 women voter registration.

⁸⁸ For 2013-2014 top-up, 35% of the registrants were women, versus 42% for 2003-2005 and 41% for 2009-2010 exercises.

⁸⁹ Baghlan, Balkh, Bamyan, Daykundi, Herat, Jawzjan, Kabul, Kunar, Parwan, Sar-e-Pul, and Nimroz showed an improvement of the number of registrants in comparison with the 2009-2010 exercise. With the exception of Kunar, all these provinces represent a low or normal security threat according to December 2013 MoI security risk assessment.

⁹⁰ According to CSO 2005-2007 literacy rates estimation (with a sample of 6 years old and above): Zabul, Uruzgan, Paktya, Paktika, Logar, Kunar, Khost, Kandahar, Farah, Wardak, Nangarhar, and Helmand show literacy rates inferior to 15%.

⁹¹ During 2009-2010 exercise, over 50% of women were registered in Badghis (54%), Khost (64%), Logar (74%), Nuristan (70%), Paktika (63%), and Paktya (54%). When compared to the estimated female population, the total number of cards in circulation reaches over 100% in Paktika (161%), Paktya (131%), Laghman (106%), Kunar (103%), and Nuristan (156%).

⁹² In Paktya, Paktika, Khost, Kunar, Laghman, and Badakhshan over 76% of women out of the total estimated female population has registered since 2003 with a continual registration of over 2.1%.

⁹³ For the first review of the results of the run-off, 59% of the recounts and 45% of the audits were related to female PSs.

⁹⁴ Measures such as requesting the name of the father and grandfather to counter the absence of photographs on female voter cards did not sufficiently guarantee a registration in person.

Women in the campaign

Throughout the electoral period, female political actors were evidently underrepresented in mainstream media, particularly in State-owned media. The debates merely skirted the issues of female engagement in public and political life and election related editorial programmes were not tailored to address the female electorate. Since Afghan society traditionally confers upon women discretion in public life, negligence by the media has a further negative effect. This undermines the State's compliance with a number of international commitments which Afghanistan has ratified.

In the first round, commercial broadcasters, with the exception of Shamsad TV, did not grant female political actors more than 4% of the total time allotted to candidates⁹⁵. Coverage before the run-off showed a similar pattern, not justified by the fact that none of the aspirants had a female vice-presidential candidate because, whenever a female opinion leader, CSO or youth organization's representative was endorsing a candidate, media featured the candidate or the event's male participants. For the run-off, out of 25 debates monitored, only one was devoted to issues affecting women.

Women in the organization of elections

The IEC showed considerable commitment to reinforce women's involvement in the organization of the elections, a key strategy in this area. The IEC Board itself saw the nomination of three women as Commissioners, above the two seats recommended by the Law⁹⁶. The participation of women in voter information activities also slightly improved, reaching 33% of female participation. However, balanced gender representation was not reached in all institutions.

In the field, women's involvement suffered from severe difficulties affecting the work of female staff on Election day. The late payment of salaries to female staff after the first round, due to difficulties determining their attendance, and threats against female searchers complicated the recruitment of women for the run-off. On 10 June, an IEC decision⁹⁷ facilitated the recruitment of elders in case the Commission could not recruit female staff, which eventually represented 20% of the locations opened on Election day⁹⁸. This particularly affected Paktya and Paktika provinces, with respectively 84% and 81% of the female PSs led by men. The use of elders to ensure the functioning of the PSs, while allowing their opening, equally undermined women's participation and represented a risk of potential fraud.

XI. CIVIL SOCIETY ORGANISATIONS AND ELECTION OBSERVATION

Domestic observers

The variety of domestic observer organizations engaged in the monitoring of the electoral process and their level of involvement was a positive aspect of the election. Their presence increased significantly between the first and the second round, from 11,000 to 18,000 observers from 68 organizations⁹⁹. There appeared to be a growing interest and a methodological improvement on the part of the Afghan CSOs as indicated, for example, through their pre-electoral reports. The observation of the voter registration and audit processes allowed them a broader assessment of the electoral cycle. However, post-electoral statements and findings mainly focused on statistics and did not provide a complete overview by connecting all the information from the long-term observation.

Despite accreditation shortcomings in the first round due to technical and time constraints, the IEC provided all the necessary support to the CSOs and comprehensively cooperated with them through regular communication and meetings. The inability to reach isolated districts and PCs were also a challenge for their comprehensive nationwide coverage. Observers were concerned by the lack of

⁹⁵ cf. Annex No 12. Media Monitoring.

⁹⁶ Law on the Structure, Duties and Authorities of the IEC, article 8.

⁹⁷ Decision 19-2014, endorsed on 10 June 2014, on "female PSs for which recruitment of female staff was not possible [...]". cf. Annex No 3.5 – Female polling stations affected by a lack of female staff – presidential election run-off.

⁹⁸ cf. Annex No 3.5 – PSs affected by a lack of female staff in the Presidential run-off.

⁹⁹ Five organizations represent the quasi-totality of the observers with a national coverage: Free and Fair Election Forum of Afghanistan (FEFA), Transparent Election Foundation of Afghanistan (TEFA); and regional organizations: New Line Organization (NLO), National Participation Association (ANPO), Youth National & Social Organization (AYNSO).

security that particularly hampered their efforts to observe the counting and tallying at night, mostly in female PSs, and constraining their geographical coverage¹⁰⁰. Moreover, observers were still frequently prevented by polling staff in certain areas from entering polling locations.

After the first round, domestic observers analysed the shortcomings of the electoral administration and played an active role in providing a series of recommendations to the electoral administration with a view to improving the second round. CSOs issued a large number of good quality public declarations throughout the electoral crisis, particularly when calling for a new audit of the run-off results after their rejection by one candidate, or by assessing the full-scale audit conducted under UN guidance.

For the run-off, domestic observer organisations improved their reporting, particularly by providing preliminary statements at a later stage in the process and relying on more comprehensive observation. However, similarly to candidate agents, observer groups reported difficulties in accessing polling and counting.

CSOs promoting women rights did not participate in the electoral observation and no national organisation was able to comprehensively assess the access of women to polling and present recommendations in this regard. It also deprived the process of one additional safeguard.

Candidate/Party agents

Candidate and party agents are an essential safeguard guaranteeing a balanced surveillance of all steps of the electoral process. Despite a facilitated accreditation exercise by the IEC many presidential candidates were still under-represented in the first round and only two had nationwide coverage. The presence of a higher number of candidate agents during the first round is explicable by the deployment of the provincial council candidate representatives, while the effective presence of presidential candidate agents was more limited¹⁰¹. In the run-off, the renewed efforts of the IEC to increase the presence of candidate agents by issuing a large number of additional accreditation cards and extending the accreditation period, resulted in a sufficient representation.

The absence of detailed results per PS published by the IEC in the first round of the election¹⁰² impacted candidate capacity to complain within the legal timeline allocated. In the run-off, the candidate teams reported difficulties to access the PSs¹⁰³ in certain areas and it directly affected their capacity to collect copies of the results despite significant improvements in their capacity to tally and analyse them.

The IEC did not provide sufficient answers in a timely and comprehensive manner to the written and verbal requests submitted by the candidate teams. The existing legal framework does not provide for a full enjoyment to the right to information, and does not guarantee the right to seek remedy in a timely manner against the refusal to disclose information of public interest.

XII. COMPLAINTS AND APPEALS

The Independent Election Complaints Commission

The IECC was established by the 2013 Election Law and the Law on the Structure, Duties and Authorities of the IEC and the IECC. To be eligible for membership of the Commission candidates must be Afghan citizens, above thirty five years old, with a minimum of a bachelor's degree in Law or Jurisprudence and no criminal record. Membership of a political party during tenure is forbidden. Selection of the Commission is initially conducted by a formally appointed Selection Committee identical to the one in charge of short listing the IEC commissioners. The Committee draws up a list of 15 candidates which is presented to the President who in turn appoints five Commissioners, one

¹⁰⁰ *cf.* Annex No 12 – National observers.

¹⁰¹ In the first round, candidate agents were present in 98% of the PSs observed by the EU EAT, out of which 43% were representing presidential candidates and 47% provincial council candidates.

¹⁰² *cf.* section - *Results*.

¹⁰³ Dr Ghani's agents reported difficulties to access the PSs in Kunduz, Badakhshan, Nangarhar and Kapisa, and Dr Abdullah's agents mostly in Paktya, Paktika and Khost.

of whom must be a woman. Appointments are for six years. Membership can be revoked on a defined basis, but critically who makes that decision or how it is made is not outlined.

Electoral Offences

The provisions for electoral offenses are contained in article 68 of the Election law and are extensive, addressing the electoral process as a whole, from voter registration to tallying and counting. Offences include multiple registration, impersonation, voter registration fraud, illegal use of documents, violence, intimidation, bribery and destruction of materials.

While the IECC can refer issues to the Judiciary, in turn, any judicial ruling which may arise will not affect the final results or the votes of the accused candidate. How this provision will be applied is as yet an open question, but it is an unusual provision which seems to provide that votes for a convicted candidate will stand regardless of the findings of a criminal court.

Complaint filing

The IECC undertook a public information programme via television, radio and print media encouraging voters to file complaints. Complaints could be filed at PSs, PIECCs, IECC Headquarters and by telephone. Filing by telephone was the single most popular method in the first round with 1,345 complaints submitted in this manner. Conversely, complaints were filed in PSs in only 17 Provinces and then in very low numbers; PSs filed complaints totalled 297 throughout the whole country in the first round. No complaints were filed in PSs in 17 provinces¹⁰⁴. Providing reasons for this pattern would be largely speculative, however contributing factors included general insecurity, an absence of awareness of the complaints process on the part of the voters and possible issues of credibility relating to IEC staff. In the second round 183 complaints were filed by telephone with only 31 complaints submitted in PSs in four provinces, in line with very low levels also seen during the first round. This pattern does not follow the experience in previous elections in Afghanistan which saw a high rate of filing of complaints in PSs. The IECC has stated that they repeatedly requested transmission of PS complaints from the IEC but their requests were not addressed, highlighting problems of communication between the two Commissions.

Adjudication of Complaints related to First Round Election day, Counting and Tallying

The IECC received 2,133 Election day complaints, of these 921 were classified as category 'A' meaning that the allegations, if proven, would have affected the results. The IECC subsequently announced the initial quarantine of 1,248 PCs. The first round complaints process was initially characterized by a general lack of cooperation and communication between PIEC and PIECC teams. Both Commissions viewed themselves as independent and the IEC did not automatically implement quarantine ordered from the IECC, claiming that their own Board needed to authorise IECC orders. This led to at least one public statement from a PIECC head complaining about IEC conduct. Initial investigations were also hampered by the absence of a detailed audit regulation, which was finally adopted on 17 April. However, both Commissions made a concerted effort to address problems as quickly as possible leading to smoother operation in the latter phase of the process.

Following the conclusion of the investigation period the IECC held public open hearings for the presidential complaints on 30 April and subsequently from the 4 to 7 May. On 8 May challenges to the Preliminary Results were addressed. Following the presentation of the cases, candidate representatives were invited to address the Commission in order to counter allegations of fraud. The hearings were televised and well attended by observer groups and representatives of the candidates, providing an opportunity to understand the nature of the complaints and the basis on which quarantine decisions were made. In total 102 category 'A' complaints, 173 quarantine, and 52 appeals cases were presented. In addition 65 complaints were heard on the preliminary results. In a separate action appeals were invited relating to the exclusion of 444 PS in Herat. IECC findings were transmitted to the IEC on 13 May. Following the final announcement of the Presidential election first round final results on 15 May, the IECC published details of 331 PSs which they had recommended for exclusion. The complaints process was characterised by a general lack of organisation and low

¹⁰⁴ Logar, Laghman, Khost, Bamyán, Paktika, Kunar, Nuristan, Ghor, Uruzgan, Zabul, Khandhar, Jawzjan, Faryab, Helmand, Badghis, Farah and Nimroz

levels of capacity on the part of officials. The majority of complaints were summarily dismissed. While many complaints will indeed have been frivolous the inability of the PIECC's to conduct substantive investigations in the first round was noted. The investigations that did take place were largely conducted by the IECC Board in Kabul.

Following the completion of the first round, the IEC and IECC identified the need for the adoption of a common approach in relation to quarantine orders, the IEC issued quarantine orders based on PSs while the IECC issued such orders incorrectly based on PCs, and the general strengthening of communication systems between the organisations. The lessons learned exercise highlighted a number of areas for improvement including the need to issue schedule information in a timely manner, deadline extensions where applicable, and the overall increased need for transparency in the operations of the complaints process including the earlier holding of hearings.

Adjudication of Complaints related to Second Round Election day, Counting and Tallying

The IECC recorded a total of 2,558 Election day complaints for the second round, an increase of 20% on those received during the first round. 1,550 complaints were registered at PIECCs and 1,008 at the IECC. The complaints filing period closed on 16 June. The complaints broadly addressed four main themes. 991 complaints were registered against IEC staff members, 507 complaints were registered against other government officials, mainly security sector and local political figures, 664 complaints were registered against Dr Abdullah and his supporters and 573 complaints were registered against Dr Ghani.

The highest number of complaints was registered in Kabul with 514, followed by Kandahar 115, Kunduz 113 and Herat 104. Conversely no complaints were registered in Panjshir with very low numbers recorded in Kunar, Helmand, Paktika and Logar. Public investigation sessions were held by PIECCs in 22 provinces. In five provinces open sessions were suspended due to security concerns, these cases were subsequently transferred to Kabul for investigation. The PIECC investigation period expired on time on 25 June at 00.00. 2,194 cases were dismissed by the PIECCs, fines were issued in 27 cases, and 59 cases were decided in which results have been invalidated. The appeals deadline concluded on 30 June, two days later than the originally declared timeline.

In order to ensure that the right to appeal was effective the PIECCs called all complainants to ensure that they received the decisions in a timely manner and uploaded decisions on to the IECC website. A total of 135 appeals were filed. The IECC conducted open hearings from the 6 to 10 July. However, in response to the imminent audit exercise the IECC suspended the issuance of decisions in these cases, choosing instead to refocus on the audits. PIECC capacity to investigate complaints improved in the second round assisted by intensive between-round training. However, dismissal of complaints by PIECC's was again the observed pattern. Overall appeal rates also diminished in this round.

Adjudication of Complaints related to the full-scale run-off audit

In its nine hearings, the IECC adjudicated on 209 complaints challenging IEC Board's decisions on the invalidations of results. All complaints were lodged by Dr Ghani. Together with the announcement of his withdrawal from the audit process, voiced on 26 August, Dr Abdullah announced that he would not challenge a single decision of the IEC Board. Furthermore, the IECC did not use its legal powers to contest the IEC Board decisions *ex-officio*. The IECC justified its inaction by the fact that the IECC's representatives were present during the audit sessions and had raised all relevant concerns with the IEC already. However, although this passivity was caused by the lack of role allotted by the 12 July agreement to the Complaints Commission, this inaction while present during the whole audit, made the IECC fall short of its obligations and contributed to the ensuing lack of public confidence in the integrity of the institution.

All complaints were arbitrated in open sessions in the presence of the IEC, the complainant, national observers and the media. Nonetheless, the decisions on the merits of each case were taken behind closed doors. Neither during the open sessions nor during the announcement of the IECC decisions was there sufficient comprehensive and factual information provided on each case. Thus, it was not possible to fully assess the quality of the adjudication. In this regard, fundamental principles of transparency and accountability were undermined by withholding this information from the general public. This also hampered the EU EAT's analysis of complaints adjudication.

In its sessions, the IECC rejected the exclusions of 30 PSs decided by the IEC, encompassing 14% of the total number of complaints filed and 0.1% of the total number of PSs invalidated by the IEC Board audit decision sessions. In total, the IECC reintegrated into the results 10,708 votes for Dr Ghani and 835 votes cast in favour of Dr Abdullah. In 20 of the above-mentioned PSs, according to the Preliminary Results, the votes cast for Dr Ghani exceeded 90%. The majority of the PSs invalidations reversed by the IECC belonged to the provinces of Laghman, followed by Paktika and Takhar. The highest number of IEC decisions contested by Dr Ghani concerned Kandahar, followed by Paktika and Khost. In total 11, 543 votes were reintegrated by the IECC.

The IECC did not review a single IEC decision on partial invalidations. In such cases, the IECC claimed to have detailed information on the number of votes invalidated per PS, yet was not considering reviewing those IEC decisions, again due to the fact that the IECC representative was present at the audit unit and, by signing the IEC checklist, it had acknowledged the partial invalidation. Moreover, even if information on the partial invalidation was not available to the public, the IECC was convinced that the candidates were able to exercise their right to remedy. However, it is questionable given the 24 hour deadline for filing the complaints and the scant information available on the grounds for partial invalidation established by the IEC. The IEC used its legal powers and challenged the IECC decision on three occasions.

XIII. ELECTION DAYS

Opening, polling, closing and counting

Due to security constraints, the EU EAT was mandated to assess the process and provide recommendations, through a long-term cooperation with all stakeholders. However, and in order to have a better understanding of the polling and counting activities, the EU EAT deployed experts in Herat and Balkh provinces, joined on Election day by over 65 locally recruited short term observers. The EU EAT assessed the opening, polling, and closing procedures through the observation of 155 and 310 PSs¹⁰⁵, located mainly in secured urban areas, in the first and second rounds respectively.

The EU EAT observation of the polling was limited to Kabul, Samangan and Balkh for security reasons. It does not provide for a nationwide assessment of the opening, polling, counting and closing activities. The EU EAT took into the consideration the observation carried out, but did not rely on its findings to assess the electoral process as a whole.

The vast majority of the PSs observed opened on time¹⁰⁶, yet in 3% of the PSs visited for the run-off, incoherence in the location and/or the codification were noted¹⁰⁷. The attendance of polling staff was high¹⁰⁸, the staff conducted their duties largely in a professional manner and according to the procedures. Their performance improved during the run-off¹⁰⁹.

Essential materials were present in the majority of the PSs observed. During the first round, in numerous cases the list of voters was not delivered to the PS¹¹⁰, while for the run-off some tamper evident bags (TEB) were missing¹¹¹. However, in both rounds of the election omissions recorded did not have an impact on the conduct of the polling process. It should be noted though, that the lack of the TEBs might have weakened the tallying process nation-wide.

The level of transparency of the process was high¹¹², and polling was generally conducted in a calm atmosphere¹¹³. The secrecy of the vote was respected in most of the PSs observed¹¹⁴. The EU EAT

¹⁰⁵ In the first round, 70% of the observed were male and 30% female PSs, increasing to 38% in the run-off observation.

¹⁰⁶ Level of PSs which opened on time: 97% in the first round and 98% for the run-off.

¹⁰⁷ These PSs were opened in other locations than planned or their codes did not match with the list published by the IEC.

¹⁰⁸ Observed attendance of the staff: 97% in the first round and 96% in the election run-off.

¹⁰⁹ Observers assessed positively the staff understanding of the procedure by 97% in the first round and 99% in the run-off.

¹¹⁰ In the first round, the essential materials were present in 91% of the locations visited with the exception of the list of polling-day voters in 80% of the PSs with missing materials reported (13%).

¹¹¹ In the run-off, tamper evident bags were missing in 6% of the PSs lacking essential materials (87 in total).

¹¹² In the first round, the process was assessed transparent in 96% of the visited PSs, and in 100% of the PSs in the run-off.

¹¹³ The atmosphere was reported as calm in 91% of the PSs in the first round and 98% in the run-off.

¹¹⁴ The secrecy was assessed as sufficient in 99% of the PSs visited in the first round and 98% in the run-off.

noted the high level of unauthorized people present inside the PCs in both rounds¹¹⁵. However, that presence interfered with the polling only in a limited number of PSs¹¹⁶.

Shortages of ballot papers were observed at the early stages of polling in the first round, in Balkh and Samangan provinces, disenfranchising a significant number of voters. While no shortages were observed in Kabul in the first round, some were observed in one district for the run-off by 11:00, which led to demonstrations of voters in front of the IEC gates. In the first round, the decision by the IEC to extend voting by one hour had no major effect on the observed PCs in Kabul, whilst in Balkh and Samangan provinces the PCs visited by the EU EAT remained closed during the extended polling. In the run-off, the IEC did not order the extension of polling hours.

According to the EU EAT observations, staff and agents' understanding of the procedures and of their role, as well as the level of transparency, increased positively between the two rounds¹¹⁷.

Security of the electoral process

Incidents and threats against the electoral process directly affected the electorate, disenfranchised from voting due to polling location closures or limited voter mobility. Insecurity also modified voting patterns, including the electorate's movement to more secure provincial capitals on Election day¹¹⁸.

Incident reports on Election day vary depending on sources. The IEC registered 109 election related incidents in the first round and 139 in the run-off, while the United Nations Department of Safety and Security (UNDSS) reported a double number of incidents. The EU EAT relied on UNDSS data due to the more detailed nature of their reports when compared to other sources.

In the first round, out of 406 incidents reported, 284 were election related and directly affected the polling process or the retrieval of the materials, leading to the closure of 299 PCs. The majority of security incident reports were received from Nangarhar, Laghman, Kunar, and Herat¹¹⁹. Nine provinces faced incidents exclusively targeting the polling process¹²⁰. In contrast, six provinces reported no incidents¹²¹ and only a limited number of PSs were closed. In the first round, even where the security situation was relatively calm, lower voter participation was observed in five provinces¹²², affected by the endemic volatile security situation as classified by the MoI. On the other hand, in Logar, where the overall security risk was classified as lower, the high number of incidents within the first hours of polling discouraged voting¹²³.

The level of insecurity was comparable in both rounds, with UNDSS reporting on 408 incidents on 5 April and 488 incidents during the run-off. However, the volatile security environment had a reduced impact on the second round with only 277 election-related incidents, versus 284 during the first round¹²⁴. The most affected provinces were Nangarhar and Herat¹²⁵. No incidents were reported in five provinces¹²⁶. The joint efforts of the security forces and of the IEC enabled the opening of more polling locations for the run-off. Moreover, attacks against PSs had a reduced effect on voting. Reportedly, a large number of preventive security interventions were conducted ahead of the run-off and 20,217 additional security agents were deployed on Election day.

¹¹⁵ In the first round, 14% of unauthorized persons were identified, and in 21% of the polling locations for the run-off.

¹¹⁶ Interference on the environment of the polling was reported in respectively 9% and 2% of the cases.

¹¹⁷ 96.4% of the PSs visited were assessed as good or very good in the first round, reaching 99.5% in the run-off.

¹¹⁸ *cf.* Annex No 5.7: *Map of contingency kits released and closed polling stations in Herat province.*

¹¹⁹ 45 incidents reported in Nangarhar, 29 in Laghman, 19 in Kunar, and 17 in Herat.

¹²⁰ *cf.* Annex No 4.2: *Election related incidents in the first and second round.* All the incidents recorded were targeting the electoral process: Badakhshan, Farah, Ghor, Herat, Kapisa, Laghman, Logar, Nuristan, and Uruzgan.

¹²¹ Daykundi, Helmand, Nimroz, Panjshir, Samangan, and Takhar.

¹²² Farah (32%), Helmand (27%), Khost (31%), Uruzgan (17%), and Zabul (20%).

¹²³ 21% turnout in Logar in the first round.

¹²⁴ *cf.* Annex No 4: *Security of the election.*

¹²⁵ 58 election related incidents reported in Nangarhar, 49 in Herat, 19 in Jawzjan and Faryab, and 17 in Kunar, while the security situation improved in Laghman with only 7 incidents reported on Election day.

¹²⁶ Bamyan, Daykundi, Helmand, Nimroz, and Panjshir.

XIV. AUDITS OF THE RESULTS

Tallying of the results and of the sensitive materials

The framework of the tallying process was endorsed in a timely manner¹²⁷ and the National Tally Centre (NTC) did not suffer delays in its opening. The conditions leading to recounts and audits were predominantly relying on the information contained in the results forms, their reconciliation being the main instrument in view of further investigations. Other sources of information such as PS chairperson, DFC reports or lists of voters were inconsistently used as a wider range of indicia.

The procedures included the necessary controls and measures guaranteeing the reconciliation of results, through a seven steps process¹²⁸. While technically the tallying process did not suffer major challenges, the decision mechanism¹²⁹ was not accessible to observers and candidate agents and their findings lacked clarity and transparency. In addition, candidate teams were never granted a read only access to the national results data base, during the tallying, to conduct counterchecks with their own data, guaranteeing that the results reflected precisely the physical retrieval observed.

The retrieval of the results showed a low number of missing forms in the first round, as 117 were not found¹³⁰ out of which 0.5% only were declared lost. In the run-off, and despite an increase of 12% of PSs opened on Election day, the IEC did not suffer missing results, but reported however 149 PCs officially closed on Election day, and 42 PSs results forms not retrieved in the absence of votes cast.

Whereas the national tallying of the results was precisely designed, the procedures to be followed by the PIECs lacked clarity and efficiency. The collection of data in a dedicated provincial intake application, foreseen by the procedures was not used by the staff in charge and could never be assessed. The legal framework and procedures do not foresee any quality control of the sensitive materials such as unused and used ballots, the lists of voters or on the status of the retrieved ballot boxes so as to assess the integrity of the results. This also represented a missed opportunity to apply the anti-fraud measures designed before the election¹³¹, using the control of the related barcodes.

In the first round, the tallying process illustrated the IEC's difficulty in adapting to a transparent operational model. Despite the strong engagement of observers and candidate agents¹³² to monitor this process, their representatives were limited to a secluded area, reducing considerably candidate representatives capacity to countercheck the results, as well as being guaranteed that the information contained in the forms were correspondingly entered into the database.

Following strong criticism, and between the two rounds, the IEC tackled the transparency issues and opened the tallying to all stakeholders, providing an improved ground to observe this process. However, the lack of access to the decision making, and the delays to respond to the candidate requests in a timely and comprehensive manner led to a crisis of confidence diminishing the impact of those efforts with the withdrawal of Dr Abdullah team from the tallying process on 18 June 2014.

¹²⁷ Regulation on "Tallying, certification and announcement of Election Results", endorsed on 11 February 2014; decision 1393-19 on 10 June 2014 on "the establishment of the Management Committee of the NTC"; decision 1393-20 on "the manner of investigating the issues related to recount, audit and invalidation of votes as result of audit and all other issues related to tallying results for June 14, 2014 presidential run-off election"; procedures on "the National Tally Centre operations", and "guidelines for entry to the IEC and observation of the NTC".

¹²⁸ i) intake, ii) forms preparation, iii) scan, iv) double blind data entry, v) review/correction, vi) quality control, vii) archive.

¹²⁹ The clearance section as well as a verification team provided information on problematic cases to the NTC management team, for further investigations or decisions. The NTC management team provided recommendations to the IEC board of commissioners and could be requested to conduct further investigations.

¹³⁰ In the decision 1393-11 endorsed on 6 May 2014, the IEC confirms that 91 PS results were not retrieved in the absence of vote cast, and 26 PS results were reported as missing or unknown, requesting the invalidation of the concerned results.

¹³¹ Anti-counterfeit reproduction features included the use of unique serial numbers for ballot papers, packs, result forms, and transparent evident bags.

¹³² The two candidate teams as well as national observer groups (FEFA, and TEFA), and international observation missions (EU EAT and DI) observed the tallying, audit and recount processes after the first round of the election.

Audit of the first round presidential election results

The audit of the first round results started two days after the election, without relying on a mechanism known to all actors. In the absence of audit procedures, the IEC and the IECC announced one million fraudulent votes¹³³ and decided to quarantine over 1,248 PC results. These investigations were based on the reports provided by some domestic observer organizations¹³⁴, thus blurring the role of observer organizations vis-à-vis the institutions¹³⁵. Despite an informal agreement between domestic observer groups and the IEC, the CSOs faced strong criticism from the candidate teams and expressed as a consequence their disagreement on the use of their reports as sole criteria for invalidations. In reaction, the IECC reversed previous decisions, due to the incongruity of this mechanism, but also based on the unreliability of the information, and used observer data only when correlated with complaints, basing therefore their decisions on a range of indicia.

A series of decisions related to the audit mechanism was endorsed by the IEC after the audit process already started¹³⁶, and the criteria for invalidation were published on 17 April¹³⁷ after the announcement of first Partial Results¹³⁸. As a consequence, the IEC had to apply rules retrospectively and deduct invalidated results and closed PCs already included in the announced results.

The audit procedures were adapted to counter the main types of irregularities reported, such as the inappropriate use of contingency kits¹³⁹, the retrieval of the results in non-conform envelopes¹⁴⁰ or odd distributions of the votes by hundreds. Whereas this showed the IEC adaptability in upgrading procedures, the conclusion of the audits showed a low level of implementation of these criteria. Moreover, when confronted with results exceeding the ceiling of 600 ballot papers available per PS, the IEC instructed recounts if over 101% of the ballots were reconciled, in contradiction with international principles¹⁴¹. Notably, the IEC did not reject these results but requested audits, leading to the reintegration of results showing an over-use of ballot papers into the Final Results¹⁴².

In total, the IEC investigated 3,226 results¹⁴³, representing 17.1% of the PSs open on Election day. The outcomes of the audit led to the invalidation of 525 results by the IEC and of 64 additional cases after the Preliminary Results announcement¹⁴⁴. As a result, 234,674 votes were invalidated, representing 3.6% of the votes cast in the first round of the presidential election.

¹³³ IEC/IECC Press Conference on the 9th of April: IECC Chairman and IEC CEO announced 1 million frauds to be *'filtered'*.

¹³⁴ FEFA, TEFA and the Afghan Civil Society Forum Organization (ACSFO) provided lists on 9 April including i) allegations of frauds, voters intimidations, access restrictions, ii) shortages of ballot papers, and iii) other violations such as underage voting, campaign activities, etc. FEFA provided a list of approximately 3,000 reports and TEFA around 1,500 cases.

¹³⁵ As per art. 62 of the Election Law, the IECC can investigate any electoral issue; but observers cannot complain as such.

¹³⁶ IEC Decision 1393-02 on *"audit and recount of suspicious PCs and PSs"* endorsed on 12 April 2014; IEC Decision 1393-03 on *"results without stamp and signatures of PS chairpersons and agents"* endorsed on 15 April 2014, and IEC Regulation 1393-05 on *"nullifying and invalidating votes as a result of audit and investigation"* endorsed on 12 April 2014.

¹³⁷ IEC regulation on 17 April 2014: *"cancelation and invalidation of the votes as a result of the audit and investigation"*.

¹³⁸ 8% of the results (506,843 votes) were announced before the audit procedures and invalidation criteria were endorsed.

¹³⁹ The IEC included a systematic audit of these ballot boxes in rural areas and of the kits delivered by 12:00 in urban areas. The IEC estimated in its factsheet on *"ballot papers and contingency plans"* that *"experience indicates that processing 600 voters should require about 9 hours; that PS should do so in a much shorter time is, considered an irregularity."*

¹⁴⁰ The procedures foresaw the retrieval of the results in tamper evident bags; however the IEC was confronted with large numbers of result recovered in non-secured brown envelopes. In order to limit the impact of large scale invalidations, the IEC decided to investigate these cases on an individual basis. In contradiction with the procedures, most of the results received in irregular envelopes were accepted in both rounds, after their investigation.

¹⁴¹ UNHRC GC 25-2: *"The principle of one person, one vote, must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another"*.

¹⁴² The Final Results included 84 PS results showing over 600 vote casts, representing a total of 53,498 votes, out of which 44 PS results represented over 606 votes cast for a total of 29,400 votes.

¹⁴³ The IEC ordered 1,972 PS results audits as per detailed data provided (publicly, the IEC confirmed the investigation of 1,964 PS results), the recount of 810 PSs, and further 444 PSs investigated after the announcement of Preliminary Results.

¹⁴⁴ The IEC announced results before finalizing the audits, resulting in 444 pending cases at the date of the announcement as follows: i) 291 PS results were cleared, ii) 91 PS had not voter turnout and no result forms attached, iii) 36 PS retrieved their results on common papers, iv) 26 PS results were still missing. As the IEC had not any longer the capacity to invalidate results, the IECC accepted the IEC's final recommendations on these cases and declared the invalidation of 64 results.

Presidential election run-off results – Audit No 1

The IEC endorsed an amended audit regulation¹⁴⁵ before Election day, addressing observer groups' recommendations after the inconsistencies reported in the first round. However, the audit mechanisms endorsed varied in their approach¹⁴⁶, and the IEC missed the opportunity to maintain the same level of investigation. Central criteria used in the first round did not apply in the run-off, and the control of the over-use of ballot papers suffered substantial modifications.

As an apparent improvement, the IEC decided to order recounts for all PSs showing over 100% votes cast, excluding the 1% tolerance applied in the first round. However, the new procedures spoke of votes cast, disregarding the total number of ballots reconciled as valid, invalid, unused, and spoiled¹⁴⁷, thus impeding the identification of excess above the ceiling of 600 ballots made available at each PS. In the same spirit, the audit of contingency kits was not conducted, despite concerns over the renewed need of 511 contingency kits, in addition to the 12% increase of the PSs opened.

As a consequence of the lower quality in the implementation of criteria, the number of audits fell drastically to only 1.3% of the total number of PSs opened on Election day¹⁴⁸, and so did the invalidations, with a decrease of 74% in comparison with the first round. Taking into consideration an increase of 18% of valid votes in the second round, this lack of audit added to the political crisis, raising questions as to the veracity of the results, before the end of the tallying and of the audits.

Facing such low level of invalidations, the IEC took measures on 23 June to counteract accusations of large scale fraud, by announcing a new audit of 10% of the results selected at random in five provinces¹⁴⁹, together with the resignation of the IEC CEO. This reinforced the speculation of abnormal turnouts in Eastern and South-eastern provinces, which corresponded with over-registration of voters in the provinces of Paktya, Paktika, and Nuristan¹⁵⁰, while Khost and Wardak showed significant increases of the turnout between the two rounds¹⁵¹. Dr Ghani team contested this approach, questioning the reliability of the population estimates, and rejecting the principle of auditing specific provinces, which led to a proposed extension of the audit to all provinces¹⁵².

Presidential election run-off results – Audit No 2

On 30 June, the IEC retracted on all previous proposals by implementing a new audit of PSs showing over 599 votes cast (99.8% turnout and higher)¹⁵³. This sole criterion¹⁵⁴ was an indication of the extremely high level of questionable votes tabulated during the presidential run-off; it affected 8.5% of all results, from polling stations mainly located in the same provinces previously identified by the IEC as problematic¹⁵⁵. Whereas this second audit increased the investigations conducted¹⁵⁶ and made use of new sources of information, such as the use of IEC staff field reports¹⁵⁷, it led to a marginal level of exclusions¹⁵⁸. In addition, some Commissioners criticised this new audit as they

¹⁴⁵ IEC Decision 20-1393 on “the manner of investigating the issues related to recount, audit and invalidation of votes as a result of audit and all other issues related to tallying results for June 14, 214 presidential run-off” endorsed on 12 June.

¹⁴⁶ cf. Annex No 8 – Criteria applied for audits, recounts and invalidations.

¹⁴⁷ Regulation foresaw recounts “in case the total of votes recorded on a result form for both candidates is more than 600”,

¹⁴⁸ As per detailed data provided by the IEC, 290 PS results were audited for the run-off (299 PS announced publicly).

¹⁴⁹ The IEC proposed to audit of the following provinces: Paktika, Paktya, Ghor, Nuristan, and Khost.

¹⁵⁰ Over-registration represented in Paktika (148% of the estimated population), Nuristan (145%), and Paktya (128%).

¹⁵¹ In the run-off, Khost province showed a turnout of 91%, 62 points increase in comparison with the 29% recorded in the first round. Wardak province showed 25 points increase between the two rounds from 60% to 85% turnout.

¹⁵² Following a meeting with Dr Ghani on 25 June, the IEC retracted to propose a partial audit in all 34 provinces.

¹⁵³ IEC Decision 24-1393 on “audit of all PSs in which 599 or 600 ballots have been used” endorsed on 29 June 2014.

¹⁵⁴ 1,930 PS results matched the criteria of 599 and 600 votes cast.

¹⁵⁵ The number of PSs showing 595 or 600 votes cast was particularly concentrated in Nuristan (63.7% of the total number of PSs opened in the province), Paktya (41.62%), Paktika (38.25%), Wardak (37.23%), Ghor (29.35%), and Khost (20.09%).

¹⁵⁶ The IEC audited 2,229 PS results at the occasion of the second audit, representing 9.7% of the PSs open on Election day.

¹⁵⁷ Out of 280 DFC reports investigated on irregularities and fraud observed during the process, the IEC confirmed without precision around 100 invalidations without providing detailed conclusions (the IEC mentioned the invalidation of results based on reports through the decisions four decisions No21, 22, 23, and 26-1393 for a total of 13 PS results invalidated). The EU EAT was not communicated any additional decision on further invalidations relying on reports.

¹⁵⁸ 135 PS results were excluded, representing 0.6% of the PSs open on Election day.

described it as the result of interference in the IEC decisions¹⁵⁹; these contradictory positions did not contribute to the IEC's overall credibility.

Out of the 2,229 problematic PSs audited, 299 in the first audit and 1,930 in the second one, only 135, representing 25,200 votes, were excluded from the Preliminary Results, announced by the IEC on 7 July 2014, despite an agreement reached between the candidates the same day¹⁶⁰ to conduct further audits.

PRESIDENTIAL ELECTION RUN-OFF RESULTS – AUDIT No 3 (FULL-SCALE AUDIT)

The sincerity of the Preliminary Results was questioned by the candidates and in particular by Dr Abdullah¹⁶¹; the IEC Chairman himself acknowledged that fraud had been committed¹⁶². This led to political tensions and public demonstrations. Discussions between the two candidates were mediated by UNAMA, in the presence of the IEC and a representative of President Karzai, and led to an agreement¹⁶³ facilitated by the visit of the United States Secretary of State on 11 and 12 July 2014. The agreement involved a full audit of the results covering all 23,000 PSs and the candidates further committed to form a government of national unity upon the declaration of the Final Results of the Presidential election. An audit framework was agreed, involving the transportation by ISAF of all ballot boxes to Kabul where they were to be audited under international supervision.

The UN recommended the audit to be conducted by the IEC in the full presence of international and domestic observers, candidate agents, the media and UN supervisors. Any dispute was to be referred to the UN for advice. Ultimately the IEC had to adjudicate on the audit recommendations. The agreement set therefore new procedures outside the existing legal framework for standard audits. Detailed audit procedures, including invalidation criteria, had to be laboriously negotiated with the candidates, causing delay and confusion throughout the process.

The full-scale audit conducted on all 8.1 million votes cast brought to light that large scale fraud had indeed been committed with apparent impunity, corroborating the EU EAT first conclusions on the Preliminary Results¹⁶⁴. However, the late endorsement of audit procedures, the significant number of needed clarifications and the difficulties to segregate valid and invalid votes within the same ballot box tarnished the credibility of the process. As a consequence, the IEC failed to present public and detailed conclusions in the absence of a political acceptance of the outcome of this exercise.

Observation of the audit process

International observer deployment

The EU EAT fully participated to the observation of the audit process through the mobilization of 410 observers¹⁶⁵ from 18 July to 13 September. 10,788 PSs results were audited in presence of EU EAT observers, representing 47.3% of the total number of audited ballot boxes from all 34 provinces¹⁶⁶.

A total number of 564 international observers participated to the audit process. In coordination with other international observer groups, the US coordinated the deployment of five observer groups with a total of 142 observers mobilized all along the process. In addition, ANFREL participated to the observation since 6 August with the deployment of 12 observers.

Domestic observers

¹⁵⁹ On 30 June, the IEC commissioner Mohammad Aziz Bakhtiari declared to *jomhorne.com* that: “the IEC already decided to conduct audits in 5 provinces, then changed this decision [...] the international community is interfering in the process”.

¹⁶⁰ Both candidate teams agreed, under UN mediation, on criteria for a new audit, including results matching 595 votes and over for one candidate, female PSs staffed by male workers, female PS results showing higher turnout in comparison with the respective male PSs located in the same PC, results showing distribution of votes by hundreds and fifties, and all PSs created between the two rounds. These criteria represented 8,050 PS results (35% of the PSs), and 3.5 million votes (44%).

¹⁶¹ While Dr Abdullah pointed to fraudulent votes when publicly rejecting the Preliminary Results in his allocution on 8 July 2014, Dr Ghani team expressed also concerns on the sincerity to the EU EAT despite public communications in this regard.

¹⁶² The IEC Chairman publicly stated at the occasion of the announcement of the Preliminary Results that “security forces, some Governors as well as the media were responsible for the fraud observed on Election day”.

¹⁶³ cf. Annex No 10: *political agreements*.

¹⁶⁴ cf. EU EAT Chief Observer Press statement on 10 July 2014: http://www.eueom.eu/files/pressreleases/english/eueat-press-release-10072014_en.pdf.

¹⁶⁵ cf. Annex No 11.3 – *International and national observer deployment plan for the full scale audit process*.

¹⁶⁶ cf. Annex No 11.2 – *Percentage of audits observed by the EU EAT per province*.

In the first communications following the signature of a political agreement on the conduct of a full-scale audit of the run-off election results, domestic observers were not mentioned, leading to their strong reaction and demand to be fully integrated in the process. As a consequence of their mandatory presence, stemming from of the political agreement signed on 12 July 2014, four domestic observer groups¹⁶⁷ assessed the audit and mobilized 378 observers.

However, the IEC refused to authorize officially the presence of domestic observer groups within the Audit Committee (see below). As a large number of decisions and clarifications were endorsed at the occasion of these meetings, domestic observer groups faced difficulties to pass the needed information on a daily basis to their observers. As a partial consequence, the EU EAT observers reported a lack of understanding of the procedures by the domestic observers in 13% of the observed audits, proving the need to provide all the necessary tools and information to all the stakeholders involved.

Transparency of the process

The EU EAT enjoyed full access to the audit process, and received the necessary information from the involved actors in 92% of the cases. The IEC external relations department provided all the support needed by issuing daily updates and several focal points were appointed to facilitate the activities of the international observer groups. However, the audit conclusions on each polling station did not provide adequate information, thus¹⁶⁸ impeding observer groups to provide a comprehensive analysis of the process.

Format of the audit process

The agreement designed the technical framework of the audit process, including the main principles applicable, such as a full audit of 8,109,493 votes¹⁶⁹, to be conducted in Kabul according to an agreed audit checklist. Within this framework, the candidates requested a reinforced role of the UN as well as the mandatory presence of international and domestic observers¹⁷⁰. Additionally, the presence of IECC and media representatives was seen as an increase in the transparency of the process.

The full-scale audit was designed without a complete agreement among the candidates on the criteria governing it, thus increasing its duration. During the audit, most indications of fraud were concentrated in the same key provinces and emphasized tensions between the candidate teams at the audit site, which caused the repeated postponement of their scrutiny. In order to both reduce the length of the process and guarantee that the most problematic results would be audited in a timely manner, the UN discussed with the two candidate teams from 6 to 14 August, and reached an agreement to organize a special scrutiny of the results of 6,000 PSs, to be identified by the two candidates in equal numbers.

The prominent role granted to candidates' representatives in the audit process was prompted by the need to address their lack of confidence in the IEC's impartiality. In practice, this reinforced role led to the need to reach an agreement on each audit conclusion, slowing down the process, fuelling tensions and, when no agreement could be reached, transferring the responsibility of the final recommendations on each audited PS results to the UN advisors. Additionally, the competences of the IEC board of Commissioners on the detailed rules governing the audit were transferred to the candidate teams, through an Audit Committee which, on a daily basis, made procedural and methodological clarifications, without systematic IEC regulations endorsed as a consequence.

The nature itself of audit led to significant debates; eventually, as per Dr Ghani team interpretation, it was limited to an examination of the ballots boxes and did not entail a systematic recount of all votes. However, the audit checklist comprised questions implying the assessment of the ballot papers, and therefore the need to carry out recounts or random checks of ballot papers¹⁷¹ that often remained unaddressed. This situation led to further tensions and needed clarifications.

¹⁶⁷ FEFA, TEFA, ANPO, and AYNSO.

¹⁶⁸ cf. Section "audit conclusions".

¹⁶⁹ This included the audit of all 22,828 PS results, comprising the ones already excluded from Preliminary Results.

¹⁷⁰ Dr Abdullah particularly requested the mandatory presence of international observers and UN guidance.

¹⁷¹ Audit checklist questions 10: verify if the ballot papers comprised the IEC verification stamp; 11: assess that the ballot papers were marked in accordance with the procedures, and question 12: identify similarly marked ballot papers.

First series of audits in the absence of procedures (from 17 July to 3 August 2014)

Following the political agreement reached between the two candidates, the IEC endorsed the main rules applying to the full audit of the results through five decisions¹⁷². However, whereas the audit started on 17 July, the procedures and criteria applying for invalidations and recounts were endorsed only on 30 July, and completed on 16 August by the scheme of the adjudication process¹⁷³. Despite an agreement on the procedures being reached on 26 July 2014, Dr Abdullah team's requested to increase the number of criteria leading to invalidations¹⁷⁴, and to be guaranteed a full implementation of additional criteria and statistical comparisons to be applied to the results. Following a UNAMA press statement released on 3 August¹⁷⁵ reassuring Dr Abdullah's team that their requests would be further discussed and taken into consideration, Dr Abdullah re-engaged in the process. However, the invalidation criteria requested by Dr Abdullah were not integrated in the standard procedures and the additional criteria foreseen by the political agreement were dealt through a special scrutiny of the most problematic results identified by both candidate teams.

Until 3 August and the implementation of agreed procedures, the EU EAT observers reported a lack of clarity in audit conclusions, and assessed audit conclusions as clear and well documented in 88% of the cases observed. There was a further improvement after the implementation of procedures with 92% of positive assessments. This absence of procedures did not only impact the quality of the audit, but also led to tensions, reported in 22% of the audits observed during this period and to the interruption of the process in 24% of the cases¹⁷⁶.

Audit procedures

The audit procedures endorsed on 30 July 2014 were accompanied by an IEC decision defining the criteria leading to recounts and to partial and total invalidations¹⁷⁷. It also described the functioning of the process, the staff involved and their respective roles, the necessary steps of the audit, and included a short description of a conflict resolution mechanism. Notably, the audit checklist was accompanied with a wide range of clarifications and guidance for the auditors.

The audit checklist comprised 16 questions, referring to the integrity of the election material via the inspection of the ballot box, its origin, and the verification of the integrity of the seals. The checklists also included a comparison of the results form received by the IEC with its copy found in the box. The control of the integrity and veracity of the ballot papers was subject to a random check of 200 ballot papers distributed among the two candidates.

The five criteria proposed by the UN and included in the checklist recommended to use the additional information available through the Polling Station Journal and the list of voters. The use of available field information in the context of the audit was a positive step. However, the sole question

¹⁷² IEC Decisions 27-1393 on "Endorsement to audit 100% of polling stations of the Presidential run-off election" and 28-1393 on "approval of the operational plan for the audit of 100% of polling stations of the Presidential Run-off election" endorsed on 14 July 2014. IEC Decisions 29-1393 on "transport of all ballot boxes from the provinces to IEC HQ in Kabul for the purpose of auditing 100% of polling stations of the Presidential Run-off election", 30-1393 on "the audit check list for the audit of the 100% of polling stations of the Presidential Run-off election", 31-1393 on "establishing the commence date of the audit process of 100% of polling stations of the Presidential Run-off election" endorsed 15 July 2014.

¹⁷³ IEC decision 33-1993 on "Criteria for recount and nullification of votes for audit of all run-off election PSs" endorsed on 30 July and 37-1393 on "Decision-making on audit and recount results of run-off election ballot boxes" on 16 August 2014.

¹⁷⁴ On 27 July, Abdullah Campaign Manager sent an official letter to UNAMA SRSG recommending to revise the procedures by adding the following criteria for invalidations: i) if the list of voters is missing, is empty, if 10 sequential voter card numbers are recorded on the list and at the same time if this trigger is combined with 90% or above of the votes cast in favour of one candidate; ii) when combined with one criteria of the check list, if the turnout is different from the first round (100% difference), and 90% of these votes were cast in favour of one candidate; iii) if combined with one criteria of the checklist, if the total number of votes cast reaches 600 or over; iv) if some results entered into the data base do not match with any PS or ballot box; and v) if the ballot box is missing or lost.

¹⁷⁵ <http://unama.unmissions.org/Default.aspx?tabid=12254&ctl=Details&mid=15756&ItemID=38211&language=en-US>

¹⁷⁶ After the endorsement of the procedures, the tensions decreased to 12% of the audit units observed, and led to the interruption of the process in 21% of the cases.

¹⁷⁷ IEC Decision 1393-33 on "criteria for recount and nullification of votes for audit of all run-off election polling stations".

16¹⁷⁸ was open to interpretation that led to a crisis of confidence, in the absence of direct implementation.

Criteria for invalidation

The procedures foresaw two sets of criteria leading to either partial or total invalidation of results¹⁷⁹. However, the candidate teams had different views on the classification of invalid votes such as ballot papers marked with the voter fingerprint or with a signature. Whereas this led to various interpretations until clarifications improved the decision-making, despite clear IEC counting procedures, in line with international standards¹⁸⁰. However, a large number of invalidations occurred during the audit process which did not respect the article 4 of the Election Law prescribing to respect the will of the voters, notably by invalidating ballot papers marked with the voter fingerprint. The EU EAT observers estimated that in 11% of the partial invalidations observed, the will of the voter was not respected.

The identification of similarly marked ballot papers was also a reason for partial invalidations. The audit procedures recommended to include into the modified results *“15% of all obviously similarly marked ballots per station into the vote count process which will equally include ballots of both candidates”*. The EU EAT estimates that this decision endangers the equality of the vote by putting fraudulent votes on the same level as genuine ones when confronted to large numbers of similar markings within the same polling station. Such criteria would have needed further legal clarifications to assess their impact on the veracity of the results.

The criteria for total invalidation mainly focused on the integrity of the ballot boxes and the reliability of the list of voters therein. However, EU EAT observers reported a general lack of attention to these criteria as auditors concentrated their efforts to identify similar markings and neglected to adequately verify the integrity of the seals, of the ballot box and the reliability of the lists of voters. While the IEC totally invalidated 5% of the ballot boxes, EU EAT observers reported that the reliability of the lists of voters was questionable in 11% of the cases observed, that the seals serial numbers were not matching with the form found in the box in 15% of the cases, and that the ballot boxes were not intact in 2% of the audits observed.

Criteria for recounts

The large numbers of criteria leading to recounts were adapted in the course of the process through seven clarifications. Complex and repeatedly amended, their implementation suffered inconsistencies and the guidelines put in place by the UN on similar markings directly impacted the level of recounts conducted¹⁸¹. 32.1% of the regular audits were subject of recounts and 87% of the special scrutiny audits, despite the agreed systematic recounts of these particular cases.

Clarifications of audit procedures

The endorsement of detailed procedures on 30 July could have benefited the standardisation of the audits, but the process was hampered by inconsistencies in their implementation and by the need for further clarifications. These clarifications were endorsed, on a daily basis, by a dedicated Audit Committee, composed of representatives of the IEC Secretariat, candidate teams, UNDP and UNAMA, which was open also to EU EAT and US observer groups. 19 meetings were held, and 23 procedural and organisational clarifications were issued throughout the process.

Whereas this forum permitted the solution to several issues and largely resulted in the improvement of the process, the high number of decisions created confusion for their implementation. Dr Ghani

¹⁷⁸ Question No 16 of the audit checklist: *“Do ballot boxes register results that, according to best international practices, require special scrutiny (e.g., when there are significant differences between first and second round tallies)? If yes, then such ballot boxes will receive particular attention from international and domestic observers and agents.”*

¹⁷⁹ cf. Annex No 8 – *Criteria applied for audits, recounts; and invalidations.*

¹⁸⁰ The IEC procedures prescribed the invalidation of *“ballots on which additional writing is done or signed”* and *“ballots in which the purpose of the voter is not clearly marked”*. ICCPR art. 25– UN GC 25-25 indicates that the *“States should take measures to guarantee the requirement of the secrecy of the vote during elections. [...] voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process. Waiver of these rights is incompatible with article 25 of the Covenant.”*

¹⁸¹ cf. Annex No 11.4 – *Daily follow-up of the audit process.*

team refused any additional clarification or modification of the procedures from 19 August onwards, to preserve the homogeneousness of the audit mechanisms. Indeed, the lack of a daily reporting and training of the audit staff on these decisions was one of the main impediments to a uniform implementation of the audit procedures. The EU EAT observers noted that 13% of the audit units did not implement the agreed decisions, mainly correlating with the lack of understanding of the procedures also reported in 13% of the audits observed.

Implementation of the procedures

General inspection of the ballot boxes

The IEC managed to retrieve nearly all ballot boxes to be audited, with only 37 boxes missing; the audit thus covered 99.8% of the polling stations open on Election day. The verification of the integrity of the ballot boxes took place without particular difficulties. EU EAT observers confirmed that 99% of the ballot boxes corresponded to the official format used in the presidential run-off election, confirmed their integrity and that the PC and PS codes matched in 98% of the observed audits. The EU EAT notes the comprehensive logistical management of this process, and the IEC capacity to gather all the election materials with the support of ISAF, the US forces and UNAMA¹⁸².

Verification of the seals

The sealing of the ballot boxes, a crucial indicator of the integrity of the results, was assessed through three criteria¹⁸³. EU EAT observers noted that this specific control was not adequately carried out as the seals serial numbers were not automatically compared with those in the form found in the box, and the verification of the seals was not systematic. For this reason, in approximately 6% of the audits, EU EAT observers were not able to assess the implementation of this procedure. The observation revealed that the integrity of seals was endangered in 8% of the cases. The serial numbers did not match with the form found into the box in 15% of the cases, showing a high level of inconsistencies in the application of the procedures, but also possible manipulations of the sensitive materials at the provincial level.

Results forms

While the audit of the result forms confirmed the large presence of the mandatory copies within the ballot boxes¹⁸⁴, their countercheck with the available original forms revealed discrepancies in 7% of the audits observed, and with the ballot papers found in the boxes in 11% of the cases. The reconciliation between the ballot papers and the results was inconsistently applied.

Ballot papers

The control of the ballot papers, was carried as a random check of 200 ballots, distributed between the two candidates¹⁸⁵. EU EAT observers reported few cases of ballot papers marked and still attached to their stubs (3%). The presence of the IEC stamp on the backside of the ballots was reported as missing in 10% of the audits observed.

Similar markings

The identification of similar markings on the ballot papers was a central criterion to assess possible fraud by ballot stuffing. This sole trigger monopolized the discussions throughout the process and suffered four different procedural changes.

According to the initial procedures, recounts were foreseen in case of identification of at least 20 similarly marked ballot papers from different patterns. However, the implementation of this criterion was limited first by unclear translation of the procedures from English, as noted by the candidate teams and by a lack of clarity on the thresholds to be used. Therefore, a threshold of 20

¹⁸² All ballot boxes were retrieved to Kabul. These operations were undertaken jointly by ISAF, the US Special forces and the United Nations, representing approximately 100 movements at an estimated cost of 3.5 million US dollars.

¹⁸³ Audit checklist questions No 4: "how many seals does the ballot box lid have and how many of them are intact?"; No5: "can the seals of the ballot box be opened with the force of hand?"; No 6: "are the serial numbers of the seals similar as given on the seals serial number recording form found inside the ballot box?"

¹⁸⁴ Only 2% of the yellow copy of the results was missing in the ballot box audits observed.

¹⁸⁵ In case of high scores in favour of one candidate, the four bundles of 50 ballots had to be distributed accordingly. In presence of all votes cast in favour of one candidate, the 4 bundles from a single candidate should have been scrutinized.

similar markings from a single pattern was introduced on 8 August 2014, accompanied by a UNDP guideline giving strict indications to identify similar markings¹⁸⁶ to reduce UN advisors difficulties when facing similar markings and minimising the subjective judgement of each auditor, inevitable in such an exercise. However, the strict criteria contained in the guidelines impacted the number of recounts: the percentage of immediate recounts fell, from a daily average of 42% to 23%¹⁸⁷. In the politically charged environment, some stakeholders expressed doubts that these measures were aimed at speeding up the audit process and limit the level of investigations, which led to a further modification of the thresholds on 13 August¹⁸⁸.

While the EU EAT recognises the difficulties to isolate problematic from genuine votes within a same ballot box, the endorsed procedures stipulated that similar markings had to be separated. This principle led to recurrent tensions and deadlocks, requiring the intervention of UN advisors as prescribed by the political agreement governing the audit.

The approach on similar markings significantly affected the conclusions of the full-scale audit process. Whereas the EU EAT observers reported identical or significant patterns of the same markings in 29% of the audits observed, only 56.4% of these cases were subject to an immediate recount.

List of Voters

The audit of the lists of voters was one of the most neglected criteria. EU EAT observers were not able to access or could not observe any control in this regard in 13% of the observed audits. On 16 August, clarifications and improvements on the minimum number of voter card serial numbers to be logged sequentially¹⁸⁹ in order to trigger full recounts were provided thus improving the assessment of this criterion. EU EAT observers reported the absence of the lists of voters in 6% of the audits observed and found serial number logged sequentially in 11% of the cases.

Overall assessment of the implementation of the procedures

The overall conduct of the audits was assessed positively in 83% of the audits conducted in presence of EU EAT observers. However, this general assessment shows disparities throughout the process, with 87% of positive assessments at the opening of the process, to 83% after the endorsement of the audit procedures, and to only 77% after the candidate teams withdrew from the process.

Special scrutiny of PSs results identified by the candidates

The audits facing recurrent postponements when approaching the most problematic provinces, both candidates agreed, under UN mediation, on a special scrutiny of 5,970 PS results¹⁹⁰ selected by the candidates, to be fully investigated. While Dr Ghani team identified mainly PS results according to their Election day reporting, Dr Abdullah's applied criteria on high scores and variation of the turnouts between the two rounds¹⁹¹. However, both camps adjusted their findings to point at the other candidate in 97% of the cases for Dr Abdullah team and 88% for Dr Ghani's.

Relying on the provisions of the question 16 of the audit checklist, the UN provided a "special cases plan" describing the format and the main principles of this specific process, without an IEC formal

¹⁸⁶ UN guidelines on similar markings included the cumulative patterns to as follows: i) similar shape of the mark, ii) similar size of the mark, iii) same location of the marks, iv) identical handwriting style, and v) same colour and type of ink.

¹⁸⁷ cf. Annex No 11.4 – *Daily follow-up of the audit process*.

¹⁸⁸ The clarification agreed on 13 August defined 10 similar markings per pattern as threshold to propose invalidations, and 20 similar markings from one or two patterns as sufficient to launch an immediate recount of all ballot papers of the PS.

¹⁸⁹ The audit procedures endorsed on 30 July 2014 foresaw 10 voter card numbers lodged sequentially to launch an audit. Since 16 August, new criteria were settled to launch an immediate recount: i) if the same voter card numbers are lodged 10 times or more, and if ii) ten similar serial numbers are lodged with only one digit changed.

¹⁹⁰ Dr Abdullah provided a list of 3,109 PSs with a total of 1.7 million votes (96.6% favouring DrGhani) mainly related to Khost (86.7% of the province PSs), Kunar (52.6%), Paktya (50%), Paktika (40.4%), and Wardak (36.5%). Dr Ghani provided a list of 2,984 PSs with a total of 1.4 million votes (87.6% in favour of Abdullah) mainly related to Kapisa (87.2%), Ghor (61.6%), Badakhshan (51.6%), Daykundi (39.3%), and Nuristan (35%). The presence of duplicates between the two lists totalling 6,903 PSs resulted in a final list of 5,970 PS results.

¹⁹¹ Dr Abdullah applied triggers such as over 90% in favour of a single candidate (94% of the selected boxes), and high turnouts translating into over 540 votes cast representing 90% for a single candidate (79% of the selected ballots boxes).

decision endorsing these procedures. The special investigations were conducted in areas separated from the regular audits, with limited access, facilitating a more appropriate environment.

The principle of systematic recounts of these selected boxes was agreed. Nonetheless, during the implementation of these measures, Dr Abdullah team claimed that specially designated PS results were processed as regular audits, leading to recurrent withdrawals of his team in the first days of special scrutiny and to larger scale incidents. In total, 11.1% (664 PSs) of these special cases were not fully investigated as agreed. After finishing the audits on 4 September 2014, the IEC refused to further scrutinize these 664 cases, and the conclusions were processed without special scrutiny.

The EU EAT observers reported on 45.7%¹⁹² of the special scrutiny process. Their assessments reveal that these ballot boxes were marked by significantly higher instances of fraud, when compared to the ballot boxes processed under the regular audit¹⁹³. The decision making mechanism on these cases was assessed as more problematic, with each camp pushing for final recommendations in his favour¹⁹⁴. Therefore, the intervention of UN advisors in the decision making was significantly higher than throughout the regular audit process. Additionally, EU EAT observers reported that this special scrutiny was speeded up at the end of the audit process.

Similarly signed results sheets

Dr Abdullah team alleged, in a public declaration on 26 August, that a large number of result forms were showing evidences of similar PS chairpersons and candidate agents' signatures as well as some instances of lack of stamps or signatures. This complaint was formalised to the IEC on 2 September 2014, followed by the endorsement of dedicated decision and procedure¹⁹⁵. The IEC and the UN invited Dr Ghani team to provide any similar complaint with the corresponding evidence; therefore the team presented its list of results forms to be investigated on 8 September 2014.

The process was conducted under the UN guidance and in presence of international observers. The framework designed foresaw the classification of the complaints in three categories¹⁹⁶. A visual comparison of the results forms presented with the ones entered into the IEC data base, as well as the collection of information¹⁹⁷, were conducted¹⁹⁸. A specific review panel and a management committee were set up to analyse the auditors' findings and present recommendations.

The Commissioners were reluctant to conduct this investigation, as similar signatures might be justified by both local practices and security situations leading Polling Centre Managers or District Field Coordinators to collect and sign the results at the district level. The UN therefore proposed to include security reports and any further information for the IEC to assess each case. Despite these precautions, the IEC decision included restrictive criteria¹⁹⁹, limiting the impact of these investigations.

¹⁹² 2,728 observation forms were retrieved by EU EAT observers on special scrutiny out of the 5,970 PS results identified.

¹⁹³ Similar markings were identified in 57.9% of the cases (62.2% in Dr Abdullah team list and 53% in Dr Ghani's), versus a 29% average; voter card serial numbers were observed as logged sequentially in 15.3% of the cases (19.8% in Dr Abdullah's team list, and 10.2% in Dr Ghani's) versus an average of 11%; EU EAT observers noted that the seals serial number did not match in 21.6% of the cases (22.6% from Dr Abdullah team lists, and 20.4% from Dr Ghani's) versus a process wide average of 15%.

¹⁹⁴ Out of the special audits observed by EU EAT observers, candidate teams did not agree with the final decision on 5.4% of the cases (Dr Abdullah's agents contested the audit recommendations in 6.4% of the cases and Ghani representatives in 4.2% of the observed audits), versus a global average of candidate teams objection of 3% process wide.

¹⁹⁵ IEC Decision 1393-45 on "review of results sheets from specified groups of PSs from the 2014 Presidential Election run-off", and procedure "for the review of claims of similarly signed results sheets" endorsed on 7 September 2014.

¹⁹⁶ Category A1: similar signatures on result forms from the same district; A2: similar signatures on the result forms from the same polling centre; A3: result forms showing a lack of stamp and/or signature.

¹⁹⁷ The following information was entered in a specifically designed data base: i) mandatory information: similar PS chairpersons signatures, similar handwriting in the results or in the PS information, similar signatures of the candidate agents/observers; ii) information for the review panel: stamp, signature or bar code missing, location of the recount, security situation and/or incident reports, and problem with the results, results of the audit.

¹⁹⁸ Four tables including each 2 IEC, 2 UN and 1 other UN advisor to enter the conclusions

¹⁹⁹ The IEC decision limited the invalidations when: i) at least one of the ballot boxes has already been excluded following an IEC decision, and ii) at least one-third of the ballot boxes have been recounted pursuant to the audit process.

In total, 1,683 problematic result forms were investigated²⁰⁰. The claims were particularly concentrated in Paktya, Wardak, Paktika, Khost, and Logar²⁰¹. After investigation, the review panel recommended the invalidation of 78 PSs results, representing 4.6% of the cases raised.

Withdrawal of candidate representatives from the audit process

The first IEC audit decision session, held on 25 August, showed a general lack of transparency on the audit conclusions and decision making mechanism. Both candidate teams condemned the lack of information on the audit conclusions through the media²⁰², and Dr Abdullah team held a press conference on 26 August²⁰³ to contest the IEC decisions endorsed, in their view, in contradiction with the political agreement. In the same declaration, Dr Abdullah team indicated that unless all its requests were immediately implemented, they would withdraw from the political discussions, which he did the next day, on 27 August. The withdrawal of Dr Abdullah team was followed, upon request of the UN, by the withdrawal of Dr Ghani's agents in order to allow a balanced approach to the last stage of the audit process.

The withdrawal of the candidate teams from the audit process created a calmer atmosphere. However, the absence of candidate agents resulted in deterioration of the transparency, as well as of the accuracy of the process. This assessment is confirmed by the reporting of the observers showing a significant decrease in the general qualitative assessment of the process²⁰⁴, and notably in the last days of audits assessed as of poor quality, with a general lack of transparency, and low implementation of the procedures.

Organization of the audit process

Organisation of the audit units

The audits started on 17 July 2014. The physical investigations were completed on 4 September and the process finished by 14 September, after the last checklists were processed into the database. The process benefited from logistical and operational measures subsequently improving the conduct of the audits²⁰⁵. Auditors were provided with sufficient material to conduct their tasks in 99% of the units observed, and both IEC auditors and UN advisors were present in 96% of the cases. The UN mobilized a total of 128 advisors, in order to fulfil the tasks set out by the political agreement.

Impartiality and accountability of the stakeholders

The process suffered from recurrent tensions, challenges to the procedures, and incidents including occasional physical violence. This impacted directly on the audit process through five interruptions. Out of 49 days of ballot boxes physical investigations, 11 days faced closures. These interruptions were explained by withdrawals of candidate teams from the process due to procedural challenges, but also due to five major incidents between the two candidate teams.

EU EAT observers assessed the impartiality and neutrality shown by all stakeholders in the conduct of the audits as positive in 86% of the cases. A decrease of the impartiality was observed after the

²⁰⁰ Abdullah team provided 52 cases (1,445 PS results from 50 districts) and Dr Ghani's 23 cases (202 PSs from 19 districts).

²⁰¹ cf. Annex No 11.9 – IEC invalidations of result forms showing similar signatures.

²⁰² On 25 August, Mr Daud Sultanzoy, member of Dr Ghani team, declared to the press: "we urge the IEC not to take dumb decisions and their decisions in the future should be clearer [...]". On 26 August, Dr Abdullah team held a Press conference stating that: "we will leave the process if there is no change in the procedures that are applied during the IEC decision sessions; there is no will to remove the fraudulent votes from the results; the UN has failed to fulfil its role".

²⁰³ Dr Abdullah team denounced in their allocution "example[s] of the proposals that [the team] submitted to the UN and to which no attention was given", and stated that: i) "the audit procedure was built in a one-sided manner and the majority of [the team] points of views which were presented to ensure better transparency were not taken into account"; ii) "about the procedure of invalidation, the UN had agreed to take into account [the team] views, which did not happen"; iii) similar signatures were identified by the team on over thousand PS results in several districts of the country, iv) "hundreds of result sheets have no stamp and no signature"; v) the team requested unfolded ballot papers to be considered as a criteria for investigations, vi) "hundreds of cases in which result sheets of PSs are mixed with each other", and vii) "184 closed on election day, out of which 190 PSs showed ballot papers from these PSs".

²⁰⁴ EU EAT observers report a significant decrease of the general qualitative evaluation of i) the level of transparency decreasing to 39% in comparison with the overall average of 46%, ii) the overall conduct of the audit process very positive assessments decreased from 28 to 23% after candidate agents withdrawal, as well as iii) the impartiality and neutrality in the conduct of the audits decreasing from an overall average of very positive assessments of 37 to 32%.

²⁰⁵ On 3 August, two additional hangars were opened for a total of five, and a cooling system was installed at this occasion.

final withdrawal of the candidate teams, with an overall negative assessment of the neutrality and impartiality of the auditors reaching 20% of the audits observed during that period.

The audit procedures endorsed on 30 July 2014 included a short description of the minimum required behaviour from the stakeholders, without specifying precise rules to be respected and the related sanctions applying. A first code of conduct for candidate agents was endorsed on 14 August²⁰⁶, including a referral to the Judiciary in case of violation of the law and all codes applicable to UN advisors, IEC staff and candidate agent were signed on 17 August. According to the IEC, some cases involving physical violence were transmitted to the Attorney General's office.

Dr Abdullah's complaint to the IEC on 21 July, alleging political bias on the side of seven IEC officials, was not followed by any IEC actions or investigation brought to the attention of the stakeholders.

Dispute resolution mechanism on recommendations

A dispute resolution mechanism²⁰⁷ was endorsed for the two candidate representatives to agree on recommendations at the audit unit. Agreements were not reached when facing similarly marked ballot papers, requiring the permanent intervention of the UN advisors to decide on the final audit recommendations for the audited PS results. This phenomenon led to the low implementation of this mechanism, UN advisors taking the lead on the final recommendations. EU EAT observers confirm this trend, when only 47% of the recommendations were agreed by both candidate representatives.

Data entry and reconciliation of the findings

The reconciliation and data entry of the audit checklists was based on a framework endorsed on 16 August 2014²⁰⁸, and benefited from previous experience and improvements of the National Tally Centre. Officially launched on 14 August, the first checklists were processed on 16 August.

The data entry software was designed and developed by UNDP while the IEC proposed the same operational concept as was already implemented for the tallying process. This software captured data recorded in each checklist. In accordance with the IEC Decision 33-1393 on criteria for invalidation or recount, and once consolidated, the data indicated which results were identified as valid, invalid, partially invalid or requiring further investigations. The capture of the data represented a challenge at the beginning of the process, the software being designed in such a way so as to make further tabulation impossible if a question was not answered. Therefore, a systematic rule was implemented: to tick by default as positive any question not necessitating further details, and as negative any requiring figures or comments.

The operators integrated final UN or IEC recommendations as well as candidate agent remarks. Candidate agents signed 76% of the audit conclusions²⁰⁹, and lodged complaints in 9% of the cases observed by the EU EAT. However, the absence of signature by candidate agents and complaints were eventually not taken into consideration for the adjudication and totally disregarded by the IEC.

During the audit process, 10,546 PS results were modified in the following instances: if the audit of the ballot papers showed discrepancies which had to be rectified or if a recount was conducted and led to a partial invalidation of the votes cast. The IEC failed to inform the stakeholders on the number of votes affected by these modifications of results, which did not allow the EU EAT to assess the impact of the recounts on the Final Results.

This process reflected the quality of the audits conducted. Indeed, the dedicated software played its role of safeguard, by blocking inconsistent findings entering the results, and by identifying weaknesses in the implementation of the procedures. In this regard, 2,560 different problematic

²⁰⁶ IEC Decision 36-1393 on "*Code of conduct for candidate agents in the audit process*" endorsed on 14 August. The code of conduct included 4 levels of sanction: i) verbal or written warning, ii) temporary or permanent restriction to participate in the process, iii) temporary or permanent access restriction, iv) the cancelation of the accreditation badge.

²⁰⁷ The two candidate representatives had to agree on recommendations at the audit unit level. If not, the candidate team supervisors at the hangar level and then at the IEC level were invited to find a common agreement. UN advisors were therefore supposed to propose mediation and a final recommendation in case of persisting dispute.

²⁰⁸ IEC Decision 37-1393 on "*decision making on audit and recount results of run-off election ballot boxes*", and "*audit checklist data entry procedures*" endorsed on 16 August 2014.

²⁰⁹ It refers to the whole audit process, including the period without candidate agents' presence.

cases²¹⁰ were identified, leading to the recommendation of 276 invalidations. Nevertheless, these cases were not subject to further investigations as the IEC refused to resume recounts after 4 September 2014. The EU EAT deplors that the most problematic cases were not systematically scrutinized.

The transparency of the data entry process was assessed positively by EU EAT observers in 96% of the shifts covered. EU EAT observers have not experienced any limitation to their observation, but lacked information on the detailed breakdown and impact of the partial invalidations. The two candidate teams were provided dedicated computers with a read-only access allowing them to assess the data collected as well as to conduct counterchecks with their own data bases.

Adjudication of the audits recommendations

The IEC Board held nine decision-making sessions in the late stages of the audit process²¹¹. During these sessions, the IEC published in advance and systematically the cases introduced to each session as well as the conclusions by the IEC Commissioners. This guaranteed the transparency and the presence of the stakeholders and media during the sessions. However, the electoral administration announced or published general decisions providing only the number of PSs results validated, totally or partially invalidated or for which further investigations were requested.

The EU EAT regrets the lack of transparency on the final conclusions, in the absence of details regarding the votes affected per PS, and on the rationale for the respective invalidations. The absence of information on partial invalidations did not allow an assessment of their impact on the results. One candidate team used its right to complain, as per article 58-3 of the Election Law, but candidates were not provided with sufficient information to complain with full knowledge and consent.

The IEC decided the full invalidation of 1,039 PS results, representing 4.6% of the total number of results audited. The level of partial invalidations confirmed by the IEC was extremely high and affected 46.2% of the ballot boxes audited²¹², reflecting the lack of drastic measures and the preference given to invalidation of votes instead of exclusion of the results when addressing potential fraud.

²¹⁰ The software identified that 1,181 recounts were conducted in the absence of sufficient criteria leading to a recount; ii) on the contrary, the system identified the need for recounts as the checklists matched the criteria. 414 cases were concerned; iii) 664 special scrutiny cases were not subject to full recounts in contradiction with the agreement; iv) the software identified 316 duplicates which had to be excluded from the system, and 75 checklists did not have the necessary references to be integrated, v) 262 checklists were reported as missing.

²¹¹ The IEC board held nine decision meetings on 25, 27, 29 and 31 August, and 02, 04, 08, 12, and 14 September 2014.

²¹² The IEC pronounced partial invalidation of 10,546 PS results.

XV. ELECTION RESULTS

The IEC announced results in different steps: partial, Preliminary and Final Results throughout the tally and audit of the results, and after the completion of the complaints process, as per article 4 of the Electoral Law²¹³. The election administration clarified the timeline of these announcements, with the exception of the full-scale audit due to the specificity of this process. Obligated by law to announce the Final Results after the adjudication of all related complaints²¹⁴, the only restrictions for announcing the results are linked to the death of one contesting candidate; the timeline for the winning candidate to take office is calculated from the announcement of the Final Results²¹⁵.

First round of the presidential election

The IEC announced partial results in various stages, opting to publish limited numbers compared to those already tallied. The IEC did not provide pertinent explanations for this approach, fuelling speculations among stakeholders of possible political motivations. After the run-off, the IEC addressed this shortcoming by fixing the percentage of results to be processed at the time of each announcement²¹⁶.

The IEC partially released results forms available online as scans in the first round. The scans did not provide sufficient information to enable matching with declared results. As such, it was not possible for stakeholders to verify the results as announced.

The IEC did not regularly update the results available online, and did not publish detailed results per PS, at the time of each announcement, in contradiction with the Law²¹⁷. The publication of detailed results took place thirteen days after the legal deadline for the submission of complaints²¹⁸, curtailing the candidates' possibility to challenge the results within the 24 hours prescribed by the Law. However; the IEC never communicated detailed audit conclusions such as the criteria applied for the excluded results or a breakdown of the invalid votes and the spoilt ballots.

The IEC announced the Final Results of the first round on 15 May 2014 and declared 6,604,546 valid votes from a total of 19,431 PSs opened on Election day. 218,907 votes were declared invalid as well as 40,476 votes corresponding to the votes cast in favour of the three candidates who withdrew before Election day. The two frontrunners, Dr Abdullah and Dr Ghani, received 77 % of all votes cast. In addition, the audit and recounts led to the invalidation of 234,674 votes.

The analysis of the results revealed low participation in Southern provinces²¹⁹ while high turnouts were mainly observed in Central and Northern provinces²²⁰. The frontrunners could enjoy high scores in some provinces, such as Khost for Dr Ghani, receiving 74.5% of the votes, and Panjshir where Dr Abdullah received 87.3%. Nonetheless, this high level of participation observed did not correlate with high scores in favour of a particular candidate, observed only to a certain extent in the

²¹³ Election Law, article 4-18: *"Initial Results, figures that are announced after the end of the polling at a counting center"; "Partial Results: Figures which are announced by the Commission from time to time during tallying results"; "Preliminary results, figures which are announced and published by the Commission after the completion of tallying and before the adjudication of the complaints"; and "Final Results, figures that are certified, announced, published and implemented by the Commission after being verified and decided upon by the Complaint Commission".*

²¹⁴ Electoral Law, article 59-3: *"the Commission is obliged to announce and publish the final election results after the completion of the counting process, and the adjudication of all the polling and counting related complaints [...]"*

²¹⁵ Election Law, art. 20-5: *"in case one of the presidential candidates dies during the first or second round of voting or after the elections and before the announcement of the election results, new elections shall be held among the remaining candidates within a maximum of 30 days in accordance with the provisions of this law"; and 6: "the winning person begins his/her work [...] 30 days after the announcement of the results and after obtaining the certificate from the Commission".*

²¹⁶ IEC Decision No 18-2014 endorsed on 9 June: *"Partial Results [...] shall be announced in the course of three phases. 35% in 1st phase, 70% in 2nd phase and 100% in 3rd phase or last phase and the 3rd one is considered to be preliminary results."*

²¹⁷ Electoral Law, article 57-2: *"the Commission is obliged to announce the results of the vote count, making a distinction between a station, centre and constituency."*

²¹⁸ The deadline for the candidates to complain expired on 28 April by 18:00 and the publication of incomplete PS results, aggregated per PC, took place on 7 May, with non-detailed conclusions of 444 cases audited *a posteriori*. Upon request of the candidates and observers, a detailed list of the results per PS, was finally released on 13 May 2014.

²¹⁹ *cf.* Annex No 7.2 – *turnout, comparison in the two rounds of the presidential election*. Khost (39% of votes cast out of the ballot papers available), Zabul (30%), and Logar (22%).

²²⁰ *cf.* Annex No 7.2 – *turnout, comparison in the two rounds of the presidential election*. Nuristan (96%), Ghor (91%), Faryab (80%), Samangan (75%), Ghazni (73%), or Balkh (69%).

provinces of Panjshir, Faryab and Khost²²¹. Due to the security situation, but also due to socio-cultural limitations in some instances, some Southern provinces registered a high level of PSs showing no votes cast²²².

The results showed that ethnic lines had less impact on the vote than in the past, even if ethno-regional affiliations still prevailed. By handpicking ethnically diverse charismatic leaders as vice-presidential candidates, the leading aspirants were able to slightly alter Afghanistan's political map, if compared to 2009.

Dr Abdullah, widely perceived to be the ethnic Tajik candidate, won 19 of the country's 34 provinces, across the Northern and Central districts. This was a significant increase if compared to the 2009 election when Dr Abdullah won only 11 provinces in the predominantly Tajik districts²²³. In Balkh and Kunduz, results indicated that Dr Abdullah's popularity has on the other hand decreased since 2009. First round's results revealed Dr Abdullah's ability to secure support in Hazara areas, including over 75% in Daykundi and 67% in Bamyan. This could be attributed to the fact that his vice-presidential candidate is Mohammad Mohaqqiq, a charismatic Hazara leader, who in Bamyan and Samangan is still remembered as the leader of the Hazara resistance forces. The only province where Dr Abdullah was able to overcome the historical ethno-regional loyalty pattern was in Pashtun dominated Ghazni.

Dr Ghani, an ethnic Pashtun, won in 13 provinces predominantly in the South-eastern areas of the country. In 2009 all those provinces supported Hamid Karzai. The first round also exposed a split among the Pashtun vote, as neither Dr Ghani, nor Dr Rassoul enjoyed the same level of support among the Pashtun communities as Karzai did in 2009²²⁴. Similarly to Dr Abdullah, whose running mates secured him victory in their respective strongholds, Dr Ghani's vice-presidential candidate, Mr Rashid Dostum, granted him a clear-cut victory in predominantly Uzbek populated Faryab and Jawzjan, again proving the personality-centred nature of the voters' choice.

Presidential election run-off

In contradiction with the Election Law and the regulations endorsed, the IEC did not communicate any partial result for the presidential election run-off, leading to an information vacuum that fuelled speculation and brought stakeholders to a political deadlock. All debates and negotiations relied on unofficial and partial data gathered by the candidate teams²²⁵.

The first signs of Dr Abdullah's intention to reject the run-off results became evident one day after the election, when the IEC announced an estimated turnout of over 7 million votes. Dr Abdullah's official withdrawal from the process changed the tone in public communications and rearranged the priorities in the political agenda, which shifted from the outcome of the polls to the IEC's ability to present genuine results and to the political elite's ability to end the deadlock.

The Preliminary Results published on 7 July²²⁶ showed a comfortable advantage of Dr Ghani, receiving 56.4% of the votes²²⁷, but also confirmed an increase of the participation of 10.7% between the two rounds representing over 1.3 million additional valid votes. At the same occasion, the IEC acknowledged that the results contained fraud, pointing Governors and local stakeholders, and referred to the IECC for further investigations. Dr Abdullah rejected immediately the results²²⁸.

²²¹ cf. Annex No 7.9.2 – *High cores for one candidate*. Panjshir (52.4% of the PSs showing over 90% of the votes cast for a single candidate), Faryab (38.6%), Khost (33.5%).

²²² Logar (21.9% of the PSs showed no votes cast), Paktika (8.6%), Helmand (8.3%), and Khost (6.9%).

²²³ The results showed an increase by 9% points on average, in proportional support, in 9 out of 11 districts won in 2009.

²²⁴ The only provinces where Dr Ghani scored higher percentage than Karzai were Paktika, Khost and Ghor.

²²⁵ Dr Abdullah team gathered approximately 50% of the results, lacking results from Khost, Paktya, Paktika or Surobi district (Kabul province), while Dr Ghani team reached 70% but still misses data from Badakhshan, Takhar, Kunduz and Samangan. The lack of results is mainly due to a restricted access to polling locations.

²²⁶ cf. Annexes No 7.4 and 7.5 – *Comparative results, first and second rounds of the presidential election*.

²²⁷ Dr Ghani received 4,485,888 votes and Dr Abdullah 3,461,639 from a total of 22,778 PSs opened on Election day.

²²⁸ Dr Abdullah held a Press conference in presence of 3,000 supporters on 8 July 2014, rejecting the results and calling for further discussions under the mediation of the international community before announcing his own government.

Contrary to the first round, detailed results were published immediately after their announcement²²⁹. Whereas this substantially added to the transparency of the exercise, candidate teams conducted analysis and the high number of indications of fraud led to a deeper political crisis.

The EU EAT applied criteria to the preliminary results, such as very high turnouts, high scores in favour of one candidate, odd repartitions of the votes by hundreds, or vote patterns in female PSs²³⁰. Whereas the invalidations pronounced by the IEC in the first round audits reduced problematic PS results, identical criteria applied to the run-off showed a significantly higher number of problematic PSs affected. The correlation of these criteria showed a high concentration of fraud indicators in Paktya, Paktika, Khost, Nuristan, Ghor and Wardak.

All things considered, the Preliminary Results displayed a swing in the voters' preferences in five provinces. In the ethnically diverse, mainly rural, Sar-e-Pul, where Dr Ghani secured more than 13,000 additional votes in the run-off, Dr Abdullah lost more than 12,000 if compared with the first round. Similar pattern, just with a larger gap between gained and lost votes, is observed in multi-ethnic Kunduz²³¹. The third province where Dr Abdullah lost his leading position was Wardak, with one of the highest turnout increases countrywide. Dr Ghani lost his leading position in the Pashtun dominated province of Farah where the overall turnout increased by 33%. Dr Abdullah was able to secure 22,000 extra votes, while Dr Ghani's electorate increased only by 12,000.

The changes in the voting patterns find their explanation partly in the scattered nature of the Afghan political landscape. The role of power-brokers in the electoral race has not been decisive. The most evident example is Kandahar, which voted for Dr Rassoul in the first round, while in the run-off granted Dr Ghani a victory, even if Dr Rassoul himself endorsed Dr Abdullah. This shows how the alliances were constructed shortly before the election and were based on anything but ideological standpoints, and therefore were unable to add much in terms of total number of votes to the teams they endorsed.

The IEC pronounced Dr Ghani elected on 21 September 2014, however at the time of writing, public and detailed Final Results incorporating the conclusions of the audit were not presented. This can be considered a failure of the process, which has not provided Afghans with a full and transparent outcome from the poll. The political agreement reached on 21 September 2014 has provided a conclusion to the electoral process, in the face of an unsatisfactory technical solution.

²²⁹ The IEC published detailed results per PS, the list of excluded results per PS, the disaggregated results between male and female PSs, a full picture of the status of the PSs, completed by the detailed list of contingency kits.

²³⁰ *cf.* Annex No 7.9 – *some criteria applied to the Preliminary Results.*

²³¹ Dr Abdullah lost 19 thousand, while Dr Ghani gained 29 thousand votes extra.

XVI. RECOMMENDATIONS

| No | KEY INTERNATIONAL PRINCIPLE | RECOMMENDATION | CHANGE IN LEGAL FRAMEWORK required : <i>C = constitution</i> <i>PL = primary legislation</i> <i>D = desirable to be secured in Law</i> + Primary responsibility for implementation | CONTEXT |
|---|--|---|--|---|
| STRENGTHEN THE OVERALL LEGAL FRAMEWORK | | | | |
| 1 | ICCPR article 25(b): “to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors “ | <p>The limitation in Article 59 of the Afghan Election Law removes one of the primary investigative triggers from the IECC, namely the identification of unusual or irregular voting patterns as a catalyst for investigation.</p> <p>As a complementary safeguard to the investigations conducted by the IEC, the IECC requires reform in order to protect the integrity of the ballot through the elimination of fraud, thus determining its own triggers leading to further investigations of the Preliminary Results.</p> | PL + D: Parliament + IEC + The President | <ul style="list-style-type: none"> •The existing provision states that the allocation of more than 80% of votes in a ballot box for one candidate shall not be deemed as reason for the declaration of fraud. This has been interpreted by the IECC to mean that the allocation of 80-100% of votes in a ballot box for one candidate will not trigger investigation. |
| 2 | ICCPR article 2.3: “to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy [...] to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority [...], to ensure that the competent authorities shall enforce such remedies when granted.” | A review of the roles and responsibilities of the IECC should be undertaken to ensure that the institution i) guarantees all stakeholders the necessary information by the electoral institutions to complain with full knowledge and consent, ii) in an appropriate timeline, including a sufficient delay for the candidates to gather information and complain accordingly. In addition, appropriate and effective communication systems be adopted to improve the interaction between the IECC and the IEC. | Lessons learned review and institutional change | <ul style="list-style-type: none"> •The election process has been characterised by a lack of communication between the IEC and IECC particularly in relation to quarantine and investigation exercises at times severely hampering the efficiency and capacity of the institutions to address fraud. • The restrictive delay of 24 hours for the candidates to complain hampers their capacity to collect, analyse the information and prepare their complaints in a satisfactory manner. •The lack of information on the electoral process provided by the IEC compromised an effective remedy. |

REINFORCE THE NEUTRALITY AND IMPARTIALITY OF THE ELECTION ADMINISTRATION

3 ICCPR GC 25.20

“An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially [...]”

CAC article 7.1

“[...] adequate procedures for the selection and training [...] for public positions considered especially vulnerable to corruption and the rotation, where appropriate, [...]”.

UN General Assembly A/RES/55/96 article 1f,i:

“[...] improving the transparency of public institutions and policy-making procedures and enhancing the accountability of public officials”.

The IEC and IECC should develop measures to ensure their actions are in line with the notions of neutrality and impartiality, at all levels, through an accountability enhancement programme including i) an internal governance strategy to reinforce the coordination between the decision making and executive tasks, ii) a nomination process designed by the IEC board of commissioners to appoint directly all IEC executive officials at the national and provincial levels after a vote of the Commission, iii) the final appointment of IEC Commissioners by the designed independent board; iv) an IEC investigation mechanism on alleged electoral offences and cases of corruption be designed including the systematic transfer of information and evidences to the Attorney General office or designated jurisdictions in charge, v) the mechanism of investigating and adjudicating electoral offences be integrated into the legal framework, including the Penal Code, and decisions be public, vi) the obligation to report on electoral offences and the related penalties for passive complicity be legalised, and vii) these actions be reinforced by appropriate trainings to the IEC staff on reporting electoral offences, including the notion of passive complicity.

PL + D: IEC + IECC + NA + President + Government CEO

•Modify the legal framework to:

i)enlarge the independent nomination process to executive officials,

ii) confer final appointments of the IEC Commissioners by the designed independent committee,

iii) design the internal investigation mechanisms on fraud and corruption,

iv) design the transmission of conclusions/information to the Judiciary,

v) designate the appropriate institution in charge of adjudicating electoral offences, independent from the election institutions,

vi) determine the notion of passive complicity in electoral offences and the related penalties.

•The IEC and the IECC take actions to:

i) investigate all offences and fraud reported throughout 2014 elections,

ii) transmit to the Judiciary the related information; conclusions be published.

•Specific trainings and awareness should sensitize i) on the legal consequences of fraud or passive observation; ii) on the obligation to conduct the polling/counting in presence of representatives of various political hues.

•The Law on the Structure, Duties and Authorities of the IEC and IECC introduced a pre-selection of the IEC Commissioners with a shortlist compiled by an independent committee. The late inclusion of a member from civil society in this committee and the final appointments by the President did not fully improve the perception of neutrality of the institution.

•The repeated allegations of fraud and corruption at the provincial but also at the national levels and the impunity observed, deteriorated the image of the IEC.

•The 100% audit of the presidential run-off revealed large scale fraud conducted with impunity. No further investigations were carried out in link with the allegations and evidence of fraud observed.

•Candidate teams and observers were not granted detailed information in a timely manner, reducing candidate’s capacity to complain in full knowledge and full consent.

GUARANTEE THE TRANSPARENCY OF THE PROCESS

| | | | |
|---|--|---|--|
| <p>4 ICCPR article 19 "freedom to seek, receive and impart information".</p> <p>ICCPR GC 34, para 19 "State parties should proactively put in the public domain [...] information on public interest [...]."</p> <p>CAC article 7.4 "Each State Party shall [...]maintain and strengthen systems that promote transparency".</p> <p>UN GAA/RES/55/96 art. 1f,i: "[...] improving the transparency of public institutions, policy-making procedures and enhancing the accountability of public officials".</p> | <p>The IEC designs a strategic plan on 'transparency measures' through i) the publication of disaggregated data per polling station at the time of each announcement of results or audit/recount conclusions, ii) the comprehensive communication of factual and timely information on the current status of the process, iii) IEC Plenary sessions and meetings in the presence of the candidate/party representatives and observers, the minutes be available to the public immediately afterwards, iv) a comprehensive communication mechanism with the candidates and stakeholders, and the entry into force of the requirement to respond, v) the guarantee for the stakeholders to complain with full consent and full knowledge of the results and audit conclusions.</p> <p>The Freedom of Information Bill be passed and subsequently an efficient system that obliges to proactively i) put in the public domain detailed information of public interest immediately, ii) guarantee a timely remedy against State institutions' decisions, iii) oblige to respond to stakeholders according to internal mechanisms, timelines and actions monitoring.</p> <p>The IEC communicates in a timely manner on the polling station locations:</p> <ul style="list-style-type: none"> •for the electorate to identify their respective polling stations; •for observers and candidate agents to organize their deployment accordingly. | <p>PL + D: IEC/IECC + NA + President + CEO</p> <ul style="list-style-type: none"> •The fundamental right to access the information be incorporated into the legislation obliging to proactively put the information in the public domain. •The Freedom of Information Bill be passed and approved, including: <ul style="list-style-type: none"> i) an independent body overseeing the access to the information, and the right to an effective remedy; and the requirements to: <ul style="list-style-type: none"> ii) respond equally to all stakeholders in a timely and comprehensive manner, iii) publish in a timely manner detailed information on the status of the election process, results and audit conclusions, iv) publish the minutes of the Commissions Plenary sessions, and grant the access to the stakeholders. | <ul style="list-style-type: none"> •The electorate is deprived from its right to receive comprehensive, factual and timely information on the current status of the process. •Existing legal framework does not guarantee the rights to information, and the right to seek a remedy against the refusal to disclose the information of public interest or in a timely manner. •The IEC is not in line with the international instruments on transparency and accountability, in the absence of election detailed results and audit conclusions. •Candidate and stakeholders are not secured response from the administration in a timely and comprehensive manner. The lack of detailed results and the limited time to complain (24 hours) obstructed their right for appeal. |
|---|--|---|--|

REINFORCE ANTI FRAUD MEASURES

| | | | |
|---|--|---|--|
| <p>5 ICCPR GC 25.20</p> <p>"There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that the electors have confidence in the security of the ballot and the counting of the votes".</p> | <p>The audit mechanism be detailed, stabilised and published. This mechanism integrates i) the systematic control and audit of the election materials, ii) the collection and countercheck of all implemented anti-fraud measures (bar codes, PC/PS references, serial numbers, control of the voter lists, etc.), iii) the mandatory compilation of field election staff reports, and the summary of these reports and conclusions be published, iv) the criteria applied to the compiled results, and v) measures to exclude results showing evidences of tampering or alteration.</p> <p>A permanent scrutiny of the process by candidate representatives of various political hues and observers be guaranteed for all the steps of the process and be reinforced by a dedicated training of the polling staff.</p> <p>Remedial actions be designed to i) abandon gradually the recourse to contingency kits through the deployment plan of voter rolls extracted from the multi-purpose E-Tazkira project, and ii) counter the use of the contingency kits in the early stages of the polling, if still applicable in accordance with the deployment plan of the E-Tazkira project.</p> | <p>PL + D: IEC + IECC + NA + President+ Government CEO</p> <ul style="list-style-type: none"> •Include in the Election Law: <ul style="list-style-type: none"> i) the format of the systematic audit of the election sensitive materials at the provincial and/or national levels during the retrieval process, ii) a control mechanism of anti-fraud measures, and related reporting system, iii) the provisions guaranteeing the presence of candidate representatives, observers at all steps of the election process (reinforcement of the existent prescriptions); iv) the systematic handling of field reports, and the investigation and adjudication mechanism applicable. | <ul style="list-style-type: none"> •The absence of systematic controls of the sensitive materials used on Election days the main impediment to guarantee the sincerity of the results. •The audits conducted during the 2014 election cycle varied in their approaches. The lack of clarity on the criteria applied and on their conclusions did not lead to a general acceptance of the results. •Anti-fraud measures were stymied by the lack of audit on the related safeguard. •The full-scale audit revealed the presence of large scale fraud conducted with impunity. |
|---|--|---|--|

DEVELOP A COMPREHENSIVE VOTER REGISTER

| | | |
|--|---|--|
| <p>6 ICCPR-HRC GC 25 para 21 <i>"The principle of one person, one vote, must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another".</i></p> <p>ICCPR Art 25 <i>"Every citizen shall have the right and the opportunity without unreasonable restrictions: to vote [...] at genuine periodic elections which shall be by universal and equal suffrage."</i></p> | <p>A sustainable civil register be implemented gradually in prevision of a full execution for the next presidential election. Subsequently, the related voter register extracted be available for public display and used as the only voter list available at the polling station.</p> <p>This civil register exploits the multipurpose biometric ID card (E-Tazkira) data base. The institutions guarantee that all provisions are endorsed for voters to attest their eligibility with the sole E-Tazkira, when available at the provincial level.</p> <p>The IEC determines before the next election, the priorities in the deployment plan of the E-Tazkira project, in coordination with all technical actors, focusing on the provinces particularly affected by endemic fraud. A first partial implementation be foreseen for the next election cycle.</p> <p>In parallel of this long-term project, anew and accurate voter registration at the location of voter's convenience be conducted for the next electoral cycle if the civil register is still in process. Voters be registered per PS, or at least at the district level, and their access to the polling limited by their effective registration on a dedicated PS voter roll. The voter register be available to the electorate and other stakeholders in a timely manner.</p> | <p>D: IEC + IECC + Mol + IDLG + MoCIT + NDS + AN + CSO + President + Government CEO</p> <ul style="list-style-type: none"> •Since the initial voter-registration, top-up phases were based on permissive procedures, resulting in the distribution of 20.7 million voter cards for a total estimated population of 27.2 million inhabitants as of 2013. •The absence of unique database and crosschecks do not allow the production of voter rolls. •The absence of link between the voter and a location, does not allow the IEC to identify the electorate distribution and deliver the material accordingly, resulting in shortages or over-distributions. •The absence of a census impede the IEC to rely on other data. <p>•The IEC participate actively to the implementation of this project and provide all the technical necessary concourse to foster the deployment of the E-Tazkira,</p> <ul style="list-style-type: none"> •The related Law entered into force and related to the distribution of 'computerized national identity cards' be known to all actors, •Design and implement a full voter registration exercise and develop a unique database. •Voter data to be linked to the domiciliation and attached to a specific location/polling station. |
|--|---|--|

FREEDOM OF EXPRESSION

| | | |
|--|--|---|
| <p>7 ICCPR article 19 " <i>Everyone shall have the right to freedom of expressions through any other media of his choice.</i>"</p> <p>ICCPR GC 25, para 25 " <i>free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential</i>"</p> <p>ICCPR GC 34, para 13: " <i>The public also has a corresponding right to receive media output</i>"</p> <p>ICCPR GC 34, para 16" <i>State parties should ensure that public broadcasting services operate in and independent manner.'</i></p> | <p>The temporary IEC Media Commission be transformed into a permanent body with an inclusive remit and with a permanent representative in in the provinces. The commission be granted with effective sanctioning powers that allows to undertake timely and resolute measures as soon as the media outlets' noncompliance with the legal and regulatory provisions is established by the commission's Media Monitoring.</p> <p>State-owned medias' editorial independence and financial autonomy be further fostered by amending the legislation the way that enables the State media to plan and conduct a comprehensive and inclusive election coverage to foster the electorate's ability to make an informed choice on the Election day.</p> | <p>PL +DL: NA + IEC + IEC MC + Ministry of Information + Journalist associations + Media owners + State media.</p> <ul style="list-style-type: none"> •The freedom of expression securing equitable coverage for all candidates is infringed. The IEC MC lacks effective sanctioning powers to introduce meaningful and timely sanctions against the media violating the provisions. •The temporarily nature of the IEC MC does not provide for a sustainable multi-level strategy to enforce its decisions. •State media lacks editorial independence, favouring the president-in-power and subsequently the government. •Lack of financial means compromises the quality of election coverage. |
|--|--|---|

ENHANCE THE ROLE, THE PARTICIPATION AND THE REPORTING OF DOMESTIC OBSERVERS

| | | | |
|---|---|---|--|
| <p>8 ICCPR, Human Rights Committee</p> <p>General Comment 25-8</p> <p>"Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves."</p> <p>General Comment 25-20</p> <p>"There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes."</p> | <p>The domestic observer groups be granted a systematic attendance to the election institutions plenary sessions and open meetings. The IEC and IECC develop a coordination mechanism including regular meetings with the domestic observers, and an improvement plan based on the recommendations formulated by domestic and international observer groups, and candidate/party representatives.</p> <p>A specific training is designed and integrated in the electoral preparations on the necessity for the staff to conduct their duties in the presence of representatives of various political representatives and of the civil society during the polling preparations, opening, closing, counting, and retrieval of the results and of the sensitive materials. Related obstructions of the right to observe the election activities be sanctioned, and the related penalties known to all actors.</p> <p>Domestic observers enhance their coordination mechanisms to increase their national coverage and communications all along the observation of the election cycle. The election institutions and security forces provide, through a coordination mechanism, all the necessary support to facilitate their deployment and access to all the stages of the process.</p> | <p>Lessons learned review and institutional change.</p> <p>IEC and IECC procedures and internal mechanisms be modified accordingly to fully integrate and promote the provisions foreseen by the Election Law in this regard.</p> | <ul style="list-style-type: none"> •Domestic observers were not granted a systematic access to the IEC Plenary sessions and open meetings such as the audit committees. •Domestic observers and candidate/party representatives faced limited access to the polling preparations, opening, closing, and counting or during the retrieval of the sensitive materials and results. •Domestic observers faced security issues, and lack of infrastructures limiting their deployment in certain districts. |
|---|---|---|--|

REINFORCE WOMEN PARTICIPATION AND SECURE THE INTEGRITY OF WOMEN VOTES

| | | | |
|--|--|--|---|
| <p>9 CEDAW article 7</p> <p><i>"States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country"</i></p> | <p>The participation of women in the election be reinforced by a larger representation in top executive positions, through a balanced nomination within the IEC decision board (4 to 5 female Commissioners be appointed). More visibility of women in the mainstream media, and in the State-owned in particular be facilitated.</p> <p>Comprehensive measures be identified to protect the integrity of the vote of women, through secured and appropriate polling locations, led by female staff. Organisations involved in the defence of women's rights be involved in the mapping of the polling locations. Necessary safeguards be designed to guarantee the registration and the vote of women in person.</p> <p>Civil society organizations promoting women's rights be encouraged to take part to the national observation of the polling and counting activities, to act as additional safeguard, as well as to provide a detailed assessment and recommendations to preserve the integrity of the vote of women.</p> | <p>PL +DL: NA + IEC + IECC+ Media</p> <ul style="list-style-type: none"> •Promote the access to top electoral positions; •The legal framework be amended to promote an equal balance between women and men within the top official positions; •Measures be implemented such as adapted transportation and security measures for polling/counting activities; •State media allocate a defined time share for female actors within its prime time programming, and tailored programmes addressing gender equality issues; •CSOs to observe and present an assessment of women participation, and related recommendations to improve further election activities. | <ul style="list-style-type: none"> •Women are underrepresented in top executive positions. The recruitment of female staff is a challenge, due to a low attendance, security concerns and social limitations. •The CSOs promoting women's rights do not participate in the observation of the election, and no assessment/recommendations were released on women participation in the process. •The use of female registration to facilitate fraud is a persistent feature. •There is a lack of debates and tailored editorial programmes addressing the gender equality issues and female political actors are barely featured in media. |
|--|--|--|---|

XVII. ACRONYMS

Electoral terms

| | | | |
|-------------|-----------------------------|--------------|--|
| BP | Ballot papers | PIEC | Provincial Independent Election Commission |
| CEO | Chief Electoral Officer | PIECC | Provincial Independent Election Complaints |
| DFC | District Field Coordinator | PS | Polling Station |
| EMB | Election Management Body | PSA | Public Service Announcement |
| FPTP | First Past The Post | TEB | Tamper Evident Bags |
| NTC | National Tally Centre | VAP | Voting-age population |
| PC | Polling Centre | VR | Voter registration |
| PEO | Provincial Election Officer | VRC | Voter Registration Centre |

National and international institutions/administrations/governmental bodies

| | | | |
|---------------|---|----------------|--|
| ANFREL | Asian Network for Free Elections | MOF | Ministry of Finance |
| CSO | Central Statistics Organization | MoHE | Ministry of Higher Education |
| DI | Democracy International | Moi | Ministry of Interior |
| EAT | Election Assessment Team | NDS | National Directorate of Security |
| EU | European Union | OIC | Organization of the Islamic Conference |
| GIRoA | Government of the Islamic Republic of Afghanistan | OSCE | Organisation for Security and Cooperation in Europe |
| HRC | Human Rights Committee | RTA | National Radio Television of Afghanistan |
| IDLG | Independent Directorate of Local | SW | Salam Watandar Radio |
| IEC | Independent Election Commission | UN | United Nations |
| IEC MC | Independent Election Commission - Media Commission | UN SRSG | United Nations Senior Representative of the Secretary General |
| IECC | Independent Election Complaints Commission | UNAMA | United Nations Assistance Mission in Afghanistan |
| IOM | International Organization for Migration | UNDP | United Nations Development Programme |
| ISAF | International Security Assistance Force | UNDSS | United Nations Department of Safety and Security |
| MFA | Ministry of Foreign affairs | UNHCR | United Nations High Commissioner for Refugees |
| MoCIT | Ministry of Communications and Information Technology | UNOCHA | United Nations Office for the Coordination of Humanitarian Affairs |
| MoE | Ministry of Education | USAID | United States Agency for International Development |

Civil Society Organizations

| | | | |
|--------------|---|-------------|---|
| ACS | Afghani Citizen Society | CSOs | Civil Society Organizations |
| ACSFO | Afghan Civil Society Forum Organization | FEFA | Free & Fair Election Foundation for Afghanistan |
| AIHRC | Afghanistan Independent Human Rights Commission | TEFA | Transparent Election Foundation of Afghanistan |
| ANPO | Afghan National Participation Organization | NLO | New Line Organization |
| AYNSO | Afghan Youth National and Social Organization | | |

International legal provisions

| | | | |
|--------------|--|---------------|--|
| CEDAW | Convention on the Elimination of all forms of Discrimination Against Women | ICCPR | International Convention on Civil and Political Rights |
| CRPD | Convention on the Right of Persons with Disability | CAC | United Nation Convention Against Corruption |
| A/RES | Assembly Resolution | NIM | National Implementation Management |
| GC | General Comment | UDHR | Universal Declaration of Human Rights |
| DIM | Direct Implementation Management | GARMIN | Grant Agreement and Risk Assessment Mission |
| CERD | Convention on the Elimination of all Forms of Racial Discrimination | CDHRI | Cairo Declaration on Human Rights in Islam |