

جمهوری اسلامی افغانستان  
کمیسیون شکایات انتخاباتی



د افغانستان اسلامي جمهوریت  
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Islamic Republic of Afghanistan  
Electoral Complaints Commission

## Press release

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Kabul City - July 1<sup>st</sup>, 2010.

1. The Electoral Law bans members of illegal armed groups from candidacy for election to the Wolesi Jirga and mandates a commission, chaired by the IEC and composed of representatives of the Ministry of Defence, the Ministry of the Interior and the National Security Directorate, to identify candidates that are so disqualified. These names are then passed on to the ECC which formally orders their removal from the list of candidates.
2. This Vetting Commission initially listed 89 (later corrected to 83) disqualified persons but the ECC was not prepared to order the removal of their names without their having been given an opportunity to challenge their disqualification. On the instructions of the ECC, these persons were then afforded an opportunity to make representations in defence of their candidacy to the security agencies within a period of five days and, surprisingly, each and every one of them produced a letter certifying that he was indeed innocent.
3. The Vetting Commission chose not to decide whether or not the persons were indeed disqualified but instead expressed its surprise and dissatisfaction at this total about-face and passed on the list and the letters of exoneration to the ECC. The ECC insisted that the Vetting Commission perform its legal duty and decide one way or the other. The IEC then convened further meetings of the Vetting Commission and some time later produced another list, this time of 13 names.
4. Once again the ECC insisted on newly identified persons being afforded five days in which to defend their constitutional right of eligibility, although the IEC's time for completion of the final list of candidates was running out. Some of these newly identified persons made successful representations, but the names of those who did not were ordered to be removed.
5. Then, some considerable time later and well after the scheduled finalisation of the final list of candidates, yet another list, which included 26 newly identified names, was submitted to the ECC by the Vetting Committee, which mentioned in its covering letter that it would be unreasonable to afford these persons an opportunity to defend their candidacy as the decision identifying them was final. The ECC nevertheless adhered to its decision not to order the removal of the name of any person who had not been given at least some opportunity to assert his constitutional rights. The ECC checked with the IEC that any further extension of the deadline for finalisation of the final list of candidates beyond 48 hours from the date of the Vetting Commission decision would jeopardise the electoral timetable. Accordingly the ECC, striking a

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balance between the interests of the individual candidates concerned and the interests of the country, decided to afford the newly identified candidates 48 hours to make representations and requested the Vetting Commission to ensure that timely notice was given.

6. The ECC unfortunately has no power to reject a list produced by the Vetting Commission, however dubious it might appear, but has refused – and still refuses – to order the removal of the name of any person who has had no chance to defend himself. Although the law does not expressly afford candidates affected by this disqualifying provision any right of defence or appeal, the ECC has consistently ordered that they be given as much time as seemed possible to defend themselves. In this instance the time allowed was agreed with the IEC in order to preserve the integrity of the election timetable. If the IEC were to indicate that a longer period can be afforded to these persons, the ECC would obviously be pleased to extend the period for representations.

**Electoral Complaints Commission**

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