

Islamic Republic of Afghanistan
Electoral Complaints Commission

October 18, 2009

Dr. Azizullah Ludin
Chairman
Independent Election Commission of Afghanistan
IEC Compound, Jalalabad Road
Kabul, Afghanistan

Re: ECC Order regarding IEC quarantined ballot boxes

Dear Dr. Ludin,

On 7 September 2009 the Independent Election Commission (IEC) issued Decision 61-388 in which it quarantined 447 polling stations on the basis of audits it had conducted in a number of provinces. The ECC understands that these audits were based on particular IEC triggers that the IEC believed were strong indicators of fraud. Following this decision the IEC decided to refer these polling stations to the Electoral Complaints Commission (ECC), and provided information on its audit findings for these stations.

On 12 September 2009, by its Decision 62-1388, the IEC placed an additional number of polling stations in quarantine because they met any one of the following three criteria:

1. Where vote totals in the polling station were 1,000 or more;
2. Where the number of votes recorded for a polling center overall were greater than the number of ballots issued by the IEC; and
3. Where vote totals were received by the IEC from polling stations that were not open on election-day.

On 23 September 2009 the ECC received from the IEC a comprehensive list of all polling stations quarantined by the IEC that were covered by the aforementioned decisions, and for which the votes were not included in the final Preliminary Results. The total number of polling stations in this list was 646. In its decisions the IEC requested the ECC to decide on the issue of the quarantined ballot boxes.

The ECC notes that the IEC does, in fact, have authority to decide on these matters as established in the Constitution and Election Law. However, given the formal request made by the IEC on 7 and 12 September 2009 the ECC reviewed the information provided about the quarantined polling stations and has made the following decisions:

1. Quarantined stations containing 1,000 or more votes. The total number of ballot boxes included in this category is 57. The ECC concurs with the IEC decision to keep these ballot boxes out of the results and orders them to be invalidated.

2. Quarantined stations where the number of votes recorded in the center exceeded the number of ballots issued to it by the IEC. The number of polling stations in this category is 41. The ECC concurs with the IEC decision to keep these ballot boxes out of the results and orders them to be invalidated.
3. Quarantined stations where tally sheets were received by the IEC but the corresponding stations were not open on election-day. The number of polling stations included in this category is 51. The ECC concurs with the IEC decision to keep these ballot boxes out of the results and orders them to be invalidated.
4. Quarantined stations audited by the IEC. The total number of polling stations in this category is 497. The ECC has already ordered the invalidation of 84 stations, as per the attached Annex. The ECC also notes that the IEC found clear and convincing evidence of fraud in at least 192 stations, and the ECC orders that the votes cast at these stations be invalidated as per the attached Annex. This includes the votes cast at the 13 stations for which the boxes could not be found by the IEC.

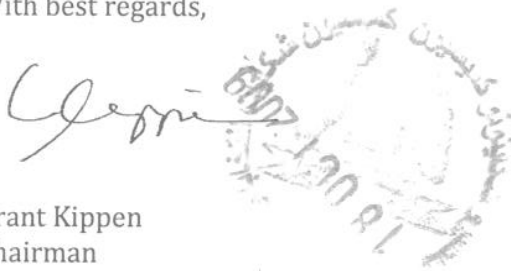
The ECC further notes that the IEC did not find conclusive evidence of fraud in 18 stations indicated in the attached Annex, and subject to any further information the IEC may have, the ECC believes the votes from these stations may be released into the preliminary result.

With respect to all other stations in the IEC quarantine, the ECC concludes that the IEC acted in accordance with its authority and procedures in not including them in the preliminary results for the presidential election.

Finally, the ECC notes that in accordance with the Electoral Law and the IEC's regulations and procedures, electoral results must be published as preliminary and be subject to public review before they may be included in the final certified results. The ECC further notes that its order of 8 September 2009 applies to all preliminary results. Consequently, the relevant coefficients established by the ECC on the basis of the audit and recount process must be applied to all results of stations meeting the criteria of the ECC order that may be released from the quarantine, if any. This means that, should the IEC decide to release additional results from the quarantine, these may not be certified unless and until the relevant coefficients have been applied and the results adjusted accordingly by the IEC.

Please note that two other decisions are being communicated to you with respect to the certification of results, which must also be implemented before certification may occur.

With best regards,



Grant Kippen
Chairman
Electoral Complaints Commission