



**AFGHANISTAN**

**PARLIAMENTARY  
AND  
PROVINCIAL COUNCIL ELECTIONS  
18 September 2005**

**EUROPEAN UNION  
ELECTION OBSERVATION MISSION**

**FINAL REPORT**

## **Table of Contents**

<b>I. EXECUTIVE SUMMARY.....</b>	<b>1</b>
1. Main Findings .....	1
2. Key Recommendations .....	3
<b>II. INTRODUCTION.....</b>	<b>6</b>
<b>III. ELECTIONS TO THE WOLESI JIRGA AND PROVINCIAL COUNCILS</b>	<b>7</b>
1. Political Background.....	7
2. Legal Issues.....	9
3. Voter Registration.....	12
4. Election Administration.....	15
5. Election Campaign.....	19
6. Media Environment .....	21
7. Participation of Women in the Electoral Process .....	24
8. Participation of Civil Society.....	26
9. Election Day.....	27
10. Counting and Tabulation.....	29
11. Complaints and Appeals .....	32
12. Announcement of Results .....	34
<b>IV. RECOMMENDATIONS.....</b>	<b>35</b>
1. Legal Framework for Elections .....	35
2. Voter Registration.....	36
3. Election Administration.....	37
4. Voting and Counting Procedures .....	37
5. Complaints and Appeals .....	38
6. Media Sector .....	39
7. Participation of Women in the Electoral Process .....	39
8. Domestic Observation.....	40
9. Civic Education.....	40
<b>V. ANNEXES .....</b>	<b>41</b>
1. Seats by Province for Wolesi Jirga and Provincial Council Elections .....	41
2. Media Monitoring Results .....	42
3. EU EOM Observation on Election Day.....	51
4. Counting and EU EOM Observation .....	54
5. Selected Statements and Press Releases Issued by the EU EOM.....	56

*This report was produced by the EU Election Observation Mission (EU EOM) and presents the EU EOM's findings on the Parliamentary and Provincial Council elections in Afghanistan. These views have not been adopted or in any way approved by the Commission and should not be relied upon as a statement of the Commission. The European Commission does not guarantee the accuracy of the data included in this report, nor does it accept responsibility for any use made thereof.*

## **I. EXECUTIVE SUMMARY**

### **1. Main Findings**

Following the presidential election of October 2004, the parliamentary and provincial council elections held on 18 September 2005 were an important step in a transition process designed to put in place a representative government and thereby to help bring peace to Afghanistan after a quarter-century of conflict. The elections were held in extremely difficult conditions, and to a timetable that was very tight. Afghanistan is still emerging from decades of war and destruction, which have devastated its economy, infrastructure and human capital.

Overall, given their complexity and the operational challenges, the elections are an accomplishment, although there were notable shortcomings which will need to be addressed for the future. Pre-election preparations were generally good and voting on Election Day was largely peaceful. Although the turn-out was markedly lower than in 2004, millions of Afghan voters and thousands of candidates took part often in a challenging security environment. However, post-Election Day developments revealed significant deficiencies in the wider electoral process. Irregularities and fraud cast a shadow over the integrity of the elections in a number of provinces, a worrying development that should be honestly analysed and effectively addressed in the future.

The legislative framework can generally be considered to provide for the conduct of future elections and fundamental rights to participate (to elect and be elected) were largely safeguarded. However, the implementation of parts of the legal framework such as candidate certification was controversial due to the lack of consistency, contributing - in part at least - to the decrease in the voter turn-out rate and possible problems with the legitimacy of the outcomes.

The Joint Electoral Management Board (JEMB) was considerably more transparent compared to 2004 in terms of its openness to scrutiny, though various aspects of its decision-making process will require further improvement. The JEMB Secretariat (JEMB-S) faced a daunting logistical challenge in organising the elections, which it met in a largely satisfactory way. However, Provincial Election Commissions (PECs) were weak in most parts of the country and burdened with unnecessary functions. Voter education was inadequate as was the training of electoral staff, although this was partly due to the difficult circumstances. Subsequent events in the count centres demonstrated the need for a more substantial international presence throughout the electoral process in terms of administration.

Voter registration was one of the weakest points of the electoral process, as it failed to remedy the high levels of multiple and proxy registration 'inherited' from the 2004 registration process. Regrettably, this phenomenon was further entrenched and a Final Voters List was again not produced after two consecutive elections, with the result that there was no voters list in any polling station on Election Day. While the registration of returnees was a positive development, the decision not to hold an out-of-country registration and voting was never properly communicated to those concerned.

The election campaign was generally subdued and in certain areas impeded by serious security concerns. Tragically, eight candidates were killed during the electoral process as were a number of election workers, clerics and others. Female candidates and voters faced more limitations than men, and the regulatory framework did not ensure a level playing field between candidates in terms of resources used during the campaign. Intimidation of voters and candidates was common in some areas of the country.

Media legislation and the accompanying regulatory framework established a set of principles for the media's coverage of the elections. A free access scheme for candidates to have access to the media was established by the JEMB and benefited approximately 53% of candidates. However, in general, the role of the media was limited during the official campaign period. There was a lack of critical analysis and an absence of wide ranging coverage of candidates and election related debate.

Women's participation in the elections was marked by a higher share of female voters (44.4%) compared to 2004. Surprisingly, however, the highest increase in the rates of female registrants took place in provinces which happen to be among the most socially conservative areas of Afghanistan, which may be an indicator of considerable proxy registration in these provinces. Female candidates accounted for some 10% of the total and some of them had an impressive showing, but these were exceptions rather than the rule. While the share of women in the newly elected institutions is encouraging by any standards, some ambiguity over whether or not female candidates can win more than the reserved seats for women remains and should be addressed in the future.

The involvement of NGOs in the public outreach campaign was not entirely vindicated by the poor results of the programme. The Afghan Independent Human Rights Commission (AIHRC) remains the principal point of reference in the fight for the protection of human rights in the country, through the publication of reports on the verification of political rights produced jointly with the United Nations Assistance Mission to Afghanistan (UNAMA). The Foundation for Free and Fair Elections in Afghanistan (FEFA) deployed a large number of observers on Election Day, but will need to improve its methodology and reporting at future elections.

Election Day was largely peaceful and voting proceeded smoothly in the vast majority of the 1,100 polling stations visited by EU observers. Polling station officials generally performed their duties satisfactorily, however a number of irregularities mostly due to poor training were observed. The intake of materials at count centres was administratively chaotic in most provinces. Subsequently, reconciliation and counting revealed a worrying failure of the JEMB Secretariat staff to fully safeguard the integrity of the process. Such was the pressure to maintain the original timelines for the announcement of provisional results that many questionable decisions were taken to include suspect ballots in the count. Some 3% of polling stations were excluded from the counting process, and demonstrations by candidates and their supporters - though peaceful - were held in approximately one-third of the 34 provinces. Analysis of the reconciliation and counting procedures points to serious flaws in polling in a number of provinces, such as ballot stuffing, proxy voting, possible voter intimidation, etc.

Tabulation in certain areas of the country was also marred by cases of fraud as well as organisational bottlenecks.

The Electoral Complaints Commission (ECC) was institutionally weak at critical junctures and clearly under-resourced. The performance of the Provincial Election Commissions (PECs) as first-instance bodies was generally disappointing. Due to their inability to adjudicate, they referred to the ECC a considerable number of all the complaints lodged at provincial level. Confusion was caused by the time lag between various stages of the process of result announcement.

## **2. Key Recommendations**

The following recommendations to improve the electoral and wider democratic process are offered by the EU EOM for consideration and action by the Afghan authorities and civil society and by the international community:

### ***Legal Framework for Elections***

As the Single Non-Transferable Vote (SNTV) system, apart from its political and financial consequences, places huge burdens on the electoral administration, the relevant authorities should give serious and urgent consideration to adopting a more suitable electoral system. If the SNTV system is retained, the IEC should undertake a process of consultation with relevant electoral stakeholders, including international donors, to assess all the political and financial implications.

The Electoral Law should be amended in a number of areas to (i) specify the role of the judiciary in the electoral process, and; (ii) establish rules for the use of state resources and the conduct of public officials in the campaign period, with clearly defined sanctions against the breach of such rules. Further, the continued existence of illegal armed groups (IAGs) is a serious issue which needs to be addressed. However, important as the goal of disarmament is, there are risks in attributing such a prominent role to electoral institutions in pursuing disarmament goals. In particular, public confidence in electoral institutions and the wider electoral and democratic process may be damaged if the outcome of disarmament is felt to be insufficient or not even-handed. Therefore, the IAG ground of exclusion from candidacy should be part of a wider disarmament strategy including an array of actors and means, and relevant provisions in the legal framework for elections should be consistently applied by the electoral authorities.

The possibility of imposing an additional penalty (e.g. deduction of votes from candidates) to the range currently available to the ECC should be considered. Given that irregularities and fraud can still be expected in future elections, such a penalty could usefully act as a deterrent short of disqualification. It might be applied in cases of proxy voting, ballot stuffing, intimidation, etc.

### ***Voter Registration***

The EU EOM strongly recommends that a census or civil registration be performed, possibly by an international agency, to be combined with a totally new voter registration. Following a census or civil registration, the Independent Electoral Commission (IEC) should establish a credible mechanism for the creation of localised voter lists, at polling centre level. Substantial efforts should be made to ensure voters are made aware of the polling centre to which they have been assigned. Consideration should be given to running a pilot programme to ensure the feasibility of the proposed mechanism before it is applied nationally.

A more effective procedure for the exhibition of the register of voters should be developed, based on the public display of voter lists for each polling centre at district level. Efforts should be made to increase awareness amongst electoral stakeholders to challenge the inclusion of names of ineligible voters. Greater steps should be taken to prevent voting by proxy.

### ***Election Administration***

The IEC, which is to take over from the JEMB, should remain a permanent body. However, the method by which members of the IEC are appointed should be revised in order to strengthen confidence in their independence and impartiality. Further, the IEC should establish a clear hierarchical structure for the administration of elections that stipulates the jurisdictional powers of the IEC and its Secretariat, including regional, provincial and district administrators. The IEC should prepare a comprehensive operational plan with achievable and realistic budget estimates, and should also seek verified long-term commitments to funding by donors.

### ***Voting and Counting Procedures***

The training for counting centre staff should be considerably improved. Sufficient time should be envisaged for training programmes and all areas of the country should be effectively covered. Anti-fraud measures must be considerably strengthened at count centre level. Consideration should be given to the establishment of specially trained anti-fraud teams operating in the count centres. Procedures for quarantine of suspect ballot boxes and other sensitive materials should be developed and publicised well in advance of the count to allow greater understanding amongst agents and observers.

### ***Complaints and Appeals***

The financial and human resources of the ECC should be considerably increased to enable it to effectively process and adjudicate complaints in a thorough and timely manner. The ECC should stand outside the administration of the candidate certification process, which should be left to the IEC, and only function as an appellate body in relation to IEC decisions on the eligibility of candidates. It is recommended that the administrative function of the PECs should be undertaken by bodies exclusively acting as provincial structures of the IEC. The adjudication of complaints should be assigned to 'Provincial Complaints Commissions' set up as provincial branches of the ECC, not to be confused with the provincial structures of the

IEC. The prosecutorial authorities of Afghanistan should treat electoral offences much more seriously and should devote appropriate resources to investigation and prosecution.

### ***Media Sector***

The media and election laws should provide for clearer regulations establishing the role that the media should play in the official campaign period to ensure the population has access to debate and information about the candidates. A scheme that grants access to the audiovisual media for candidates on an equitable basis should continue to be encouraged, set down in legal measures and developed into a framework with clear guidelines. Efforts should also be made to ensure that candidates whose constituents do not have access to audiovisual media are granted a parallel set of resources in the absence of access to radio and television.

### ***Participation of Women in the Electoral Process***

Substantial efforts should be made to promote the role of women in political parties and as candidates in the electoral process. Further efforts should be made to improve the participation of women as voters, especially in the regions where the registration and turn-out of women appears to be particularly problematic. Reserved seats for women should be retained, until women can access the political system on an equal footing with men. The provisions of the Electoral Law should be amended to clarify whether or not female candidates can move beyond the minimum number of seats reserved for women.

### ***Domestic Observation***

Support should be provided to civil society groups seeking to promote voter participation in the election, especially domestic non-partisan observer groups. The capacity of domestic observers to monitor throughout the country should be strengthened, with stress to be laid on improving the quality of their observation methodology and reporting. Training should also be provided to candidate representatives and political party agents, so that their participation contributes to the transparency of the electoral process in a more meaningful way.

### ***Civic Education***

The IEC, with the support of international advisors, should prepare and implement a large-scale public awareness campaign across the country to inform voters effectively about the institutions emerging from elections. In addition, the IEC should establish special programmes for areas that are rural and/or where institutional reach has traditionally been limited; elements in these regional programmes could include earlier and more carefully monitored recruitment of civic educators, more thorough training for polling and count staff, specially tailored voter education, etc.

### ***Concluding Remarks***

The EU EOM would like to recognise the efforts and commitment demonstrated by the Afghan people, the Joint Electoral Management Body and its Secretariat as well the majority of the 160,000 officials who administered the elections.

The EU and wider international community should continue to assist the authorities and civil society of Afghanistan in further improving its electoral process.

## II. INTRODUCTION

Following an invitation from the Government of Afghanistan, the European Union (EU) took the decision to deploy an Election Observation Mission (EU EOM) for the 18 September 2005 election to the Lower Chamber of the National Assembly (*Wolesi Jirga*) and Provincial Councils. The EU EOM was not mandated to observe the indirect elections to the Upper Chamber of the National Assembly (*Meshrano Jirga*) which took place in November 2005, after the Mission ended.

Commissioner Benita Ferrero-Waldner appointed Emma Bonino, Member of the European Parliament, as Chief Observer and the EU EOM was deployed on 7 July 2005. The Core Team comprised: Deputy Chief Observer, Plamen Tonchev (Greece); Election Expert, Maria Espinosa (Spain); Legal Expert, Andrew Caldwell (UK); Security Expert, Tom Karl Bil (Germany);<sup>1</sup> Deputy Security Expert, Peter McMahon (Ireland); Observer Coordinator, Lars Tollemark (Sweden); Deputy Observer Coordinator, Roberto Lora (Italy); Media Expert, David Ward (UK); Press Officer, Filippo di Robilant (Italy); Operations Expert, Martim Freire (Portugal); Country Expert, Lucy Morgan Edwards (UK); Democratisation Expert, Katarina Ammitzboell (Denmark).

The International Organisation for Migration (IOM) was selected as the Service Provider, and supported the Mission in all its operational activities.

The key objectives of the EU EOM were to undertake a comprehensive analysis of the entire electoral process and to provide an impartial, balanced and informed assessment of the elections. In making its assessment of the electoral process, the EU EOM took account of international standards for elections (based on Article 21 of the UN Declaration of Human Rights and Article 25 of the International Covenant of Civil and Political Rights) and good observation practice (see Handbook for European Union Election Observation Missions). In order to ensure a comprehensive and consistent analysis, the EU EOM also adopted the EU framework criteria for election assessment as set down in its Communication on Elections (2000), representing the key electoral elements to be considered:

- The degree of impartiality shown by the Election Administration;
- The degree of freedom for political parties and candidates to assemble and express their views;
- The fairness of access to state resources;
- The degree of access for political parties and candidates to media, in particular public media;

---

<sup>1</sup> Initially, Arild Nodland (Norway).