



Islamic Republic of Afghanistan
Independent Election Commission

Decision of the Independent Election Commission

No.	103- 1398
Subject:	Candidates campaign finance report and introduction of violator candidates to Electoral Complaints Commission (ECC)
Implementing authority:	IEC Secretariat
Date and venue of the meeting:	28 Mizan 1398 [October 20, 2019], IEC HQ
Members present	Ms. Hawa Alam Nuristani, Mr. Sayed Esmatullah Mal, Mr. Musafir Qoqandi, Mr. Mawlana Mohammad Abdullah, Mr. Awrangzeb, Mr. Mohammad Hanif Danishyar, Ms. Rahima Zarifi, Mr. Ahmed Issack Hassan, and Ms. Ivilina Verginova Aleksieva Robinson

Pursuant to articles 77, 78, Sections 5,11,31 and 35 of Paragraph (1), and Sections 4,6,15,18 of Paragraph (2) of article 98 of the Election Law; Provisions number 2 and 3 of article 425 of Penal Code; and according to articles 15, 16 and 18 of Candidates Campaign Finance Regulation,

the Independent Election Commission decided that:

1. Presidential candidates' campaign finance report, attached to this decision, shall be published on the IEC's website.
2. Eligible voters, mass media, observer and monitoring organizations may refer to ECC if they find out that the candidates campaign finance report does not match their finding or in case of having evidence/proof on candidate(s) not submitting correct report.
3. List of violator candidates should be published on IEC website and they shall be introduced to ECC too.

Against the decision	Names of members	In favor of the decision
	Ms. Hawa Alam Nuristani	Signature
	Mr. Sayed Esmatullah Mal	Signature
	Mr. Musafir Qoqandi	Signature
	Mr. Mawlana Mohammad Abdullah	Signature
	Mr. Awrangzeb	Signature
	Mr. Mohammad Hanif Danishyar	Signature
	Ms. Rahima Zarifi	Signature

Report on:

Campaign Finance of 2019 Presidential Candidates

Report sent by: Candidates Campaign Finance Management Section (under the supervision of Legal Department)

Report received by: IEC chairperson

Introduction

Article four of the Constitution states that “national sovereignty” shall belong to the Afghan nation, which is currently manifested through “election”. Election is a process as a result of which people’s representative(s) are elected through free, general, secret and direct vote the people. The elected will occupy the elected seat within the legal term and govern on behalf of and in the interest of people. Election is a tool for exercising national sovereignty and facilitating peaceful transition of power which is conducted according to the effective laws and regulations, through which people also take constructive and effective part in determining their fate.

Considering the key role of election, this process should be lawful and be conducted following internationally accepted norms related to election. Some of the principles include free, direct, general and secret vote that determine the legitimacy and acceptability of election. Transparency is another principle that should be observed in election. However, transparency covers a broad area, composed of various aspects, one of which is financial transparency and determining the limits for expenditures and (financial) contributions in electoral process. Therefore, the election law has required the candidates to the elected seats to report on their campaign finance to IEC.

In order to prevent the overwhelming role of money in influencing other standards and values in election process, the role of money should be regulated and controlled. The limit for campaign expenses by presidential candidates considering the number of eligible persons to vote, the area and geographical location of the relevant electoral constituency, is set to (441.783.555) Afs in Regulation on Candidates Campaign Finance; While the general ceiling for contributions received by candidates is not determined, they may not receive from natural and legal persons more than two hundred thousand (200,000)Afs and One million Afs (1000,000), respectively. Crossing this limit for campaign expenditure and receiving contributions from natural and legal persons shall be considered as violation of the Campaign Finance Regulation.

Legal Framework

Legal framework is a set of legal instruments that govern reporting on as well as management of candidate campaign finance. These legal instruments include, Election Law, Candidate Campaign Finance Regulation, internal procedure of Candidate Campaign Finance Management Section, and guideline on presentation of candidate campaign finance reports, as described in below:

A) Election Law:

The Election Law has been adopted in accordance to provisions of articles 33 and 156 of the Constitution to manage the affairs related elections. Based on article 77 of Election law, presidential candidates are required to report to IEC on electoral campaign finance. The mentioned article reads:

(1) The limits for expenses by the candidates of Presidential, Wolesi Jirga, Provincial Councils, District Council, Village Council, Mayoral and Municipality Councils elections shall be determined taking into consideration the number of the persons eligible to vote, area and geographical location of the relevant electoral constituency, in accordance with procedures enacted by the Commission.

(2) The candidates for the elected seats referred to in paragraph (1) of this article shall be obliged to accurately report to the Commission on their funding sources and limits and areas of expenses in their electoral campaigns.

(3) The candidates referred to in paragraph (1) of this article may not accept or receive financial assistances from foreign citizens or states and/or diplomatic missions of the foreign countries based in Afghanistan.

(4) The media including audio, visual, printed and electronic shall be obliged to report to the Commission the amounts of money that they have received from the candidates stated in paragraph (1) of this article during their electoral campaigns.

- **Candidates' Campaign Finance Regulation:** Pursuant to article 108 of the Election Law, for the purpose of better implementation of the provisions of Election law, the Commission shall enact and publish separate regulations, procedures and guidelines that shall not be in contradiction with the provisions of the Election law. Similarly, according to paragraph (4) of article 78 of the Election Law, (4) The electoral campaign financial affairs and their reporting shall be regulated by a separate procedure(regulation). Taking into consideration paragraph (4) of article 78 and considering provisions of article 108 of the Election Law, relevant regulation, procedure, guideline and forms have been prepared and approved for regulating the financial affairs of candidates. The Candidates Campaign Finance Regulation has been approved through decision no. 48-1398 of the IEC, under 21 articles. Financial affairs of candidates is regulated according to the mentioned regulations.
- **Internal Procedure of the Candidates Campaign Finance Management Section:** this procedure has been approved in line with candidates' campaign finance regulation and determines the activities of candidates campaign finance management section. This procedure and candidates' campaign finance forms are approved through decision (57-1398). According to article 3 of Candidates' Finance Regulation, the Candidates' Campaign Finance Management Section is created temporarily for the elections under the Legal Department. This section is composed of 5 contracted employees responsible for managing the financial affairs of 2019 presidential candidates.
- **Guideline for Submission of Candidates Campaign Finance:** this guideline has been prepared under article 108 of the Election Law and the relevant regulations and procedures. It describes the manner of reporting the financial affairs of candidates. As the time period for giving report is limited, candidates were expected to submit their financial reports to IEC within this timeframe, a document was needed that could guide candidates to provide a complete and flawless report. Thus, this document is the needed guideline which was distributed to finance representatives of candidates before start of campaigns and on the day of training together with the package of

campaign finance regulation and reporting forms. These documents were also shared with the finance representatives of candidates by email.

B) Penal Code

Chapter six from Part four of Penal Code which contains articles 422 to 437, is related to electoral crimes. Article 425 of Penal Code is related to “changing of electoral documents or receiving assistance”. According to sections 2 and 3 of this article, “receiving funding from illegal sources” and “receiving or accepting financial assistances in cash or in kind from foreign citizens or states or diplomatic missions of the foreign countries based in Afghanistan” respectively are considered crime and punished to medium-term imprisonment of up to three years. Rule no. 3 of article 425 of the Penal Code is also stipulated in paragraph (3) of article 77 of the Election Law, and paragraph (5) of article 6 of the Candidates Campaign Finance Regulation.

Candidates’ Campaign Finance Reports

Candidates’ finance includes expenses and contributions (less or more than one hundred thousand Afghanis) which is spent on electoral activities and campaign. Loans received for electoral activities are also considered as contributions. Apart from report on electoral expenses and contributions, candidates provide information to IEC on finance representative, bank account, bank account statement, expenses bill, receipts of contributions more than one hundred thousand Afghanis, surplus (contributions more than expenses) and deficit (contributions less than expenses) and checks issued for receiving money from bank account through forms which were provided beforehand.

According to section 1 of paragraph (1) of article 76 of Election Law, the electoral campaign period for presidential election candidates is set as 60 days. During this period– July 28 to September 25, 2019- candidates are required to provide the IEC with following two reports on their campaign finance:

- 1. First Report:** according to article 11 of Candidates’ Campaign Finance Regulation, the first report should be submitted within days 30-35 of electoral campaign. These days are equivalent to August 26-30, 2019.
- 2. Second/final Report:** the second or final report should be submitted during silence period (within 48 hours before the election) which is on September 26 and 27 of 2019. Beside information which are submitted in the first report, this report shall also include information on bank account statement, surplus and deficit.

Final list of 2019 presidential election candidates that was approved through IEC decision number (14-1398) is outlined below:

- 1) Rahmatullah Nabil; 2) Sayed Noorullah Jalili; 3) Dr. Faramarz Tamana; 4) Shaida Mohammad Abdali; 5) Ahmad Wali Masoud; 6) Noor Rahman Lewel; 7) Mohammad Shahab Hakimi; 8) Mohammad Ashraf Ghani; 9) Dr. Abdullah Abdullah; 10) Mohammad Hakim Torsan; 11) Gulbuddin Hekmatyar; 12) Abdul-Latif Pedram; 13) Noorulhaq Olomi; 14) Haji Mohammad Ibrahim Alokzay; 15) Professor Dr. Ghulam Farooq Nejrabi; 16) Enayatullah Hafiz; 17) Mohammad Hanif Atmar; 18) Dr. Zalmai Rasul.

Due to some reasons, Mohammad Hanif Atmar did not engage in electoral campaign or submit campaign finance report to IEC. Atmar did not officially inform IEC about his withdrawal from election, thus, he was

considered as a candidate who had to submit campaign finance report to IEC. Shaida Mohammad Abdali, Noorulhaq Olomi, Haji Mohammad Ibrahim Alokozay and Dr. Zalmay Rasul are the four candidates who officially withdrew from candidacy from their candidacy , whose withdrawal was approved through IEC decision number (94-1398). These candidates are also required to submit their campaign finance report of the period prior to their withdrawal.

First Report

According to article 11 of Candidates' Campaign Finance Regulation, the submission date of first report is days 30-35 of electoral campaign (August 26-30, 2019). The submitted reports of this phase comprise of the following details:

Table 1: Candidates who have submitted their first report on time and complete

No	Candidate Name	Report Receival Date	Report Status	Total of Loan & Contribution	Total of Expenses
1	Mohammad Hakim Tursan	Aug 26, 2019	Complete	826,510	867,360
2	Ghulam Faruq Najrabi	Aug 27, 2019	Complete	Doesn't have	96500
3	Mohammad Ashraf Ghani	Aug 29, 2019	Complete	Doesn't have	84,728,503
4	Mohammad Shahab Hakimi	Aug 30, 2019	Complete	950000	712,131
5	Dr. Zalmay Rasul	Aug 30, 2019	Nil	Nil	Nil

Table 2: Candidates who have submitted their first report on time but incomplete:

NO	Name of the Candidate	Report Receival Date	Report Status	Total of Loan and Contribution	Total of Expenses
1	Noorulhaq Olomi	Aug 28, 2019	Doesn't have bank account	760,000	1,338,000

Noorulhaq Olomi has submitted the incomplete documents (expenditure bill and bank account statement) after the given time and the report is complete now.

Table 3: Candidates who have submitted their first report incomplete and after the deadline:

NO	Name of the Candidate	Report Receival Date	Report Status	Total of Loan & Contribution	Total of Expenses
1	Abdul Latif Pedram	Hasn't opened bank account, doesn't have contribution receipt and bank account statement	Sep 1, 2019	764,880	806,840
2	Dr. Abdullah Abdullah	Doesn't have expenses bill and bank account statement	Sep 2, 2019	11,060,000	10,283,745
3	Noor Rahman Lewel	Doesn't have expenses bill and bank account statement	Sep 2, 2019	5,000	468,009

4	Sayed Noorullah Jalili	Doesn't have expenses bill and bank account statement	Sep 2, 2019	Doesn't have	6,784,000
5	Enayatullah Hafiz	Doesn't have aid receipt and bank account statement	Sep 27, 2019	5,030,000	2,939,500

Enayatullah Hafiz has submitted both the first and second reports at the same time on September 27, 2019. The report is completed after the submission deadline.

Table 4: Candidates who have not submitted their first report:

NO	Name of the Candidate	Report Receival Date	Report Status	Total of Loan & Contribution	Total of Expenses
1	Dr. Faramarz Tamana		Not submitted		
2	Mohammad Hanif Atmar		Not submitted		
3	Gulbuddin Hekmatyar		Not submitted		
4	Ahmad Wali Masoud		Not submitted		
5	Rahmatullah Nabil		Not submitted		
6	Mohammad Ibrahim Alokozai		Not submitted		
7	Shaida Mohammad Abdali		Not submitted		

Second/Final Report

According to article 11 of Candidates' Campaign Finance Regulation; candidates were obliged to present the second or final report during silence period (September 26-27, 2019). This report in addition to points in the first report covers information about bank account statement, total of expenses and contributions for two months of electoral campaign with brief explanation on spending surplus amount or compensation of the deficit amount. The second/final reports of candidates are as below:

Table 1: Candidates who have submitted their second/final report on time and complete:

NO	Name of the Candidate	Report Receival Date	Submission Time	Report	Total Loan & Contributions	Total Expenses
1	Mohammad Hakim Torsan	Sep 26, 2019	On time	Complete	2,364,500	2,415,979
2	Ghulam Farooq Nejrabi	Sep 26, 2019	On time	Complete	Doesn't have	90,000
3	Noorulhaq Olomi	Sep 27, 2019	On time	Complete	Doesn't have	1,635,810

Table 2: Candidates who have submitted their second/final report on-time but incomplete:

NO	Name of the Candidate	Report Receival Date	Report Status	Total Loan & Contribution	Total Expenses
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1	Dr. Abdullah Abdullah	Sep 27, 2019	Incomplete bank statement and there is no travel allowance documents of more than One hundred Thousand Afs	9,970,000	10,713,900
2	Enayatullah Hafiz	Sep 27, 2019	Doesn't have contribution receipt and bank statement and most forms are filled incorrectly	790,000	955,875

Candidates in the Table 2 have completed their reports after the given time.

Table 3: Candidate who have completed the second/final report but presented it after the deadline:

NO	Name of the Candidate	Report Receival Date	Report Status	Total Loan & Contributions	Total Expenses
1	Mohammad Ashraf Ghani	Sep 28, 2019	Complete	200,000	116,432,010

Table 4: Sandidate who have presented an incomplete report after the deadline:

NO	Name of the Candidate	Report Receival Date	Report Status	Total Loan & Contributions	Total Expenses
1	Abdul Latif Pedram	Oct 9, 2019	Doesn't have bank statement	500,000	432,128

Table 5: Candidates who have not presented their second report:

NO	Name of the Candidate	Report Receival Date	Status	Comments
1	Dr. Famarz Tamana		Not submitted	
2	Mohammad Hanif Atmar		Not submitted	
3	Gulbuddin Hekmatyar		Not submitted	
4	Ahmad Wali Masoud		Not submitted	
5	Rahmatullah Nabil		Not submitted	
6	Mohammad Ibrahim Alokoyay		Not submitted	
7	Shaïda Mohammad Abdali		Not submitted	
8	Mohammad Shahab Hakimi		Not submitted	
9	Sayed Noorullah Jalili		Not submitted	
10	Noor Rahman Lewel		Not submitted	
11	Dr. Zalmai Rasul		Not submitted	

Frist and Second Report

Table: Candidates who have submitted their first and second report:

NO	Name of the Candidate	Report Status	Total of Loan & Aid of both reports	Total of Expenses of both reports
1	Mohammad Ashraf Ghani	First and Second	200,000	201,160,513
2	Dr. Abdullah Abdullah	First and Second	21,030,000	20,997,645
3	Mohammad Hakim Torsan	First and Second	3,191,010	3,283,339

4	Noorulhaq Olomi	First and Second	760,000	2,973,810
5	Enayatullah Hafiz	First and Second	5,820,000	3,895,375
6	Ghulam Farooq Najrabi	First and Second	0	186,500
7	Abdul Latif Pedram	First and Second	1,264,880	1,238,968

Table 2: Candidates who have only submitted the first report:

NO	Name of the Candidate	Report Status	Total of Loan & Aid	Total of Expenses
1	Mohammad Shahab Hakimi	first report only	950,000	712,131
2	Noor Rahman Lewel	first report only	5,000	468,009
3	Dr. Zalmai Rasul	first report only	0	0
4	Sayed Noorullah Jalili	first report only	0	6,784,000

Table 3: Candidates who have not submitted report:

NO	Name of the Candidate	Report Status	Comments
1	Dr. Faramarz Tamana	Not submitted	
2	Mohammad Hanif Atmar	Not submitted	
3	Gulbuddin Hekmatyar	Not submitted	
4	Ahmad Wali Masoud	Not submitted	
5	Rahmatullah Nabil	Not submitted	
6	Mohammad Ibrahim Alokozay	Not submitted	
7	Shaida Mohammad Abdali	Not submitted	

Problems, Constraints and Challenges:

There were many problems, barriers and challenges in reporting and the Candidates Campaign Finance Management Section, some of which are outlined below:

1. Absence of a strong and unique executive guarantee to presidential election in the Election Law;
2. Lack of communication or timely communication by candidates in case of replacing their finance representatives;
3. Violation and non-observation of provisions of Candidates Campaign Finance Regulation by candidates in several occasions.
4. IEC reliance on the information and report submitted by candidates on their assets, contributions and expenses. And absence of an effective mechanism to control and confirm the veracity and falsity of the reports.
5. Absence of a specific mechanism to ensure funding sources of candidate campaign expenses and observation of paragraph (3) of article 77 of Election Law and paragraph (5) of article 6 of candidate campaign finance regulation.
6. Lack of effective cooperation of some mass media agencies in sharing with IEC the amount of money that they receive to broadcast electoral messages of candidates.

Achievements:

Despite the existing problems, constraints and challenges, the Candidate Campaign Finance Management Section have some achievements as well some of which are outlined below:

1. Maintaining relative financial transparency in the presidential election process of September 28, 2019.
2. Gaining useful experience for better management of campaign finance in the future elections;
3. Reduction in cases related with concealment of expenses by candidates as a result of increase in limits of electoral expenses according to the criteria envisaged in paragraph (1) of article 77 of Election Law; and
4. Prevention of candidates from expenses and contributions beyond the limit specified in the Candidates' Campaign Finance Regulation.

Suggestions:

Taking into consideration the existing problems, constraints and challenges related with reporting process, to ensure better performance of IEC in this regard in the future elections, the below points are suggested:

1. Prediction of a strong executive and unique guarantee, considering the importance of presidential election in the Election Law;
2. Creation of an effective and efficient mechanism for controlling and addressing candidates campaign finance affairs and ensuring the veracity and falsity of reports submitted by the candidates;
3. Constructive and efficient cooperation and coordination of other stakeholders with IEC to ensure monetary transparency in election process;
4. Continuous and comprehensive information dissemination to people and other election-related partners to monitor the candidates campaign finance affairs; and
5. Creating a transparent finance (income and expenses) for elites of society in different sectors.

Conclusion:

In accordance to sections 5, 11, 31, and 35 of paragraph (1) of article 98 of Election Law, late submission of report or submission of incomplete report, expenses more than the set limit, using government assets, resources and facilities and non-observation of electoral regulations and procedures are considered electoral violation. From the above categories, only those candidates who have submitted complete and timely are not considered as perpetrators of electoral violation. The rest of candidates who have submitted incomplete reports, late reports, or incomplete and late reports are considered as violators. According to provisions of article 18 of candidates' campaign finance regulation, IEC will publish the list of such candidates at the same time with the preliminary results and introduce them to ECC.

According to paragraph (4) of article 77 of Election Law, mass media are obligated to report to the Commission, the amount of money that they receive from candidates during the election campaign. The Media Committee has requested in writing tens of audio, visual and print media to share with IEC the amount of money that they receive from candidates for broadcasting/publication of their electoral messages. From among tens of media entities, only few have submitted the copy of their contracts with candidates to IEC. The report of these amounts was already shared with IEC by candidates as part of their expenses report.

Considering the submitted and non-submitted first and second reports related with campaign expenditures of 2019 presidential election, the following deficiencies and shortcomings are mentioned;

- 1. Rahmatullah Nabil:**
 - Has not submitted the first and second report.
- 2. Sayed Noorullah Jalili:**
 - Submitted the first report incomplete after the deadline;
 - Has not submitted the second report;
 - Has not used any specific bank account.
- 3. Dr. Faramarz Tamana:**
 - Has not submitted the first and second report.
- 4. Shaida Mohammad Abdali:**
 - Has not submitted the first and second report.
- 5. Ahmad Wali Masoud:**
 - Has not submitted the first and second report.
- 6. Noor Rahman Level:**
 - Incomplete and late submission of the first report;
 - Not submitted the second report;
 - Not used a specific bank account.
- 7. Mohammad Shahab Hakimi:**
 - Has not submitted the second report; and
 - Has not used a specific bank account.
- 8. Mohammad Ashraf Ghani:**
 - Has not submitted the second report on time.
- 9. Dr. Abdullah Abdullah:**
 - Has not submitted the first report complete and on time;
 - Has not submitted the second report complete and on time;
 - Has not used a specific bank account.
- 10. Mohammad Hakim Torsan:**
 - Has not used a specific bank account.
- 11. Gulbuddin Hekmatyar:**
 - Has not submitted the first and second report.
- 12. Abdul Latif Pedram:**
 - Has not submitted the first report complete and on time;
 - Has not submitted the second report on time; and
 - Has not used a specific bank account.
- 13. Noorulhaq Olomi:**
 - Submission of the first report incomplete; and
 - Has not used a specific bank account.
- 14. Haji Mohammad Ibrahim Alokzay:**
 - Has not submitted the first and second reports.
- 15. Professor Dr. Ghulam Faruq Nejrabi:**

- Has not used a specific bank account.

16. Enayatullah Hafiz

- Incomplete and late submission of the first report;
- Incomplete submission of the second report; and
- Has not used a specific bank account.

17. Mohammad Hanif Atmar:

- Has not submitted the first and second report.

18. Dr. Zalmi Rasul

- Has not submitted the second report; and
- Has not used a specific bank account.