

DRAFT AS OF 7 SEPTEMBER



INDEPENDENT ELECTION COMMISSION

PROCEDURES FOR THE REVIEW OF CLAIMS OF SIMILARLY SIGNED RESULTS SHEETS

2014 Presidential Run-off Elections

Introduction

On 2 September 2014, the Independent Election Commission accepted delivery, via the good offices of the United Nations, of a letter dated 30 August 2014 from the Reform and Partnership Campaign. The letter contains a series of complaints, with supporting documentation, alleging fraudulent tampering of results sheets from specified groups of polling stations for the presidential election run-off. The letter requested that the IEC investigate these complaints.

In particular, the complaints allege that the results sheets within each specified group of polling stations displays a similar signature or other handwriting mark. It is claimed that the similar signature is proof of a fraudulent act to falsify results from a polling station, and should lead to the invalidation of the results from all polling stations that are linked by the presence of a similar signature on the results sheet. The complaints also include other allegations related to the results sheet (such as the absence of a stamp) or claims that the results sheet is from a polling station that was not open for the presidential election run-off.

In accordance with Articles 58 and 59 of the Election Law and other decisions of the IEC relevant to the conduct of the 100 per cent audit, the IEC will establish a formal mechanism for reviewing the claims made by the Reform and Partnership Campaign and other similar claims that may arise in due course.

Legal Basis

Pursuant to Article 13 of the IEC and IECC Duties and Structure Law, Articles 58 and 59 of the Election Law and the Afghan Presidential Election Technical Framework agreed to by the two Presidential Run-off candidates with the mediation of the United Nations, and with reference to the following decisions:

- IEC Decision # 27 on an Audit of hundred percent of all ballot boxes of presidential run-off election,
- the IEC Audit and Recount Procedure for the 2014 Presidential Run-off Elections,
- IEC Decision # 33 on Criteria for the Recount and Invalidation of the Ballots of the 2014 Presidential Election Run-off,
- IEC Decision # 37 on Decision-making in regard to the Audit and Recount of the Ballot Boxes of the 2014 Presidential Election Run-Off,
- and the IEC Audit Procedure Clarifications dated 8 and 18 August 2014,

The Independent Election Commission decided on 4 September 2014 to initiate a mechanism for the review of the claims made in the 30 August 2014 letter and other similar claims that may arise in due course.

The IEC decided on XX September 2014 on Decision Number XX that provides a legal framework for the mechanism to be established.

These procedures were agreed by the IEC on XX September 2014 to enable the implementation of the said mechanism.

Receipt of claims

The IEC will review claims that have the following factors:

1. The claim relates to the alleged presence of one or more similar signatures or other unusual similarities on the results sheets from a specified group of polling stations across different polling centres.
2. The claim provides supporting documentation such as a copy of the results sheet or other information by which the code number of the affected polling stations can be identified (such as by providing a table listing polling centre and polling station code numbers). Supporting documentation is required for the IEC to locate and review the official copy of the results sheet from each polling station.

Establishment of a Review Management Committee and Review Panels

The IEC will establish a Review Management Committee composed of the IEC Chief Electoral Officer, the IEC Legal Advisor and the IEC Chief of Operations, supported by the United Nations Special Adviser to the IEC and the UNDP Chief Technical Adviser for the ELECT project or their designates.

The Review Management Committee will establish one or more Review Panels to undertake a comprehensive review and investigation of the claims made in relation to similar signatures. Each Review Panel will consist of two IEC senior staff, supported by two UN advisors. Each Review Panel will also have two data-reporting officers, one from the IEC and one from the UN. The Review Management Committee will supervise the work of the Review Panels.

The Review Panel will be chaired by an IEC Team Leader, supported by an IEC Panel Member and an IEC reporting Assistant.

The Review Management Committee will assign cases to each Review Panel. Review Panels will review, investigate and report on each claim assigned to them based on and recorded in an agreed electronic checklist. The findings of the Review Panel will be based on consensus and upon the advice of the UN advisors.

The Review Management Committee will supervise the work of the Review Panels. Based on the findings of the Review Panels, the Review Management Committee will recommend to the Commission on the course of action to be taken in relation to each claim. The recommendations of the Review Management Committee to the Commission will be based on consensus and upon the advice of the UN advisors.

The Commission shall take a decision on a claim based on the recommendations of the Review Management Committee.

Case management of a claim

Each claim relates to a specified group of polling stations from across different polling centres. Each claim will be given a case number by the review panel based on the code of the province and the sequential number of the claim from that province (e.g. a claim in Kabul will receive the number 01.01, a second claim in Kabul will receive the number 01.02, etc.).

All claims will be entered into a database that records the following data:

Case Number	Province	District	Polling Centre	Polling Station	Basis of claim
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An example of how the database will look at the beginning of the review process is as follows:

Case Number	Province	District	Polling Centre	Polling Station	Basis of claim
01.01	Kabul	District A	PC 567	PS 567 – 1	Similar signature of electoral officials
				PS 567 - 2	
			PC 568	PS 568 – 1	
				PS 568 - 2	
01.02	Kabul	District B	PC 678	PS 678 - 1	Similar handwriting in results entry
				PS 678 - 2	
			PC 679	PS 679 - 1	
				PS 679 - 2	

The Review Management Committee will work closely with the IEC Data Entry Centre to ensure all relevant information for the work of the Review Panels (such as polling station results forms and the decisions related to Audit Process) is made available.

The Review Management Committee will also liaise with other relevant agencies to ensure related information is made available to assist the work of the Review Panels to reach their findings.

Meetings of the Review Panels

The Review Panels will meet at the IEC Premises. They will function from 0800 to 20:00 daily.

The meetings of the Review Panel will be open to accredited national and international observation groups and representatives of the media. The presence of observers and media is subject to the same Code of Conduct that applied to the Audit Process.

Review Panel Procedures

The Review Panel will adhere to the following procedural steps in relation to their review of a claim.

1: Confirmation that there is a case to review

In the case that a claim relates to a specified group of polling stations within one polling centre, the Review Panel will recommend that the claim should be dismissed on the basis that there is a procedural basis that may properly explain the presence of a similar signature on results forms from within one polling centre.

In the case that a claim is made without providing supporting documentation such as a copy of the results sheet or the polling centre and polling station code numbers, the Review Panel will recommend that the claim should be dismissed because of the lack of supporting evidence to verify the substance of the claim.

In the case that a claim does not refer to a similar marking but instead relates to other alleged irregularities in the results sheet, the Review Panel will make a recommendation on whether the complaint has any substance.

In the case that the a claim does relate to a specified group of polling stations across different polling centres, and that there is supporting evidence, the Review Panel will move to the next step.

2: Verification of Similar Signatures and Handwriting

The Review Panel will review the results forms for all polling stations referred to in the claim and note the following

- i. Is the signature in the space for the polling official similar across all results sheets?
- ii. Is the handwriting in the space for results similar across all results sheets?
- iii. Is the handwriting in the space for polling station data similar across all results sheets?
- iv. Is the signature in the space for candidates' agents similar across all results sheets?

The presence of four similarities will be seen as a prima facie indicator of fraud unless the Review Panel finds that there is an explicable reason for similar signatures to be present.

The presence across all results sheets of (i) a similar signature and/or (ii) similar handwriting in the space for results will be seen as a prima facie indicator of fraud unless the Review Panel find that there is an explicable reason for similar signatures to be present.

Similar signatures of (iv) candidate agents is not an indicator of fraud in itself but will be seen as a prima facie indicator of fraud in the case that the signature of a polling official is absent from all results sheets.

Similar handwriting in (iii) is not an indicator of fraud in itself.

In the case that a similar signature or other similar mark is not present on a results sheet from an individual polling station within the specified group, the polling station will be removed from the claim. The claim will continue for all those polling stations where a similar signature or handwriting is determined.

The process for identifying a similar signature or handwriting will use established practices for recognising similar markings utilised in the audit process. In determining whether a signature or handwriting is found to be similar, the Review Panel shall consider whether the mark appears reasonably similar because of the presence of similar characteristics (such as shape, size, style). Such a determination on the similarity of the signatures or handwriting does not require that the signatures or handwriting are found to be identical.

3: Verification of other similarities

The Review Panel will review the results forms for all polling stations referred to in the claim and identify if there are similarities in the following:

- i. Is the mark of the polling station stamp/seal missing?
- ii. Is the signature of the polling official missing?

These items are not to be considered in isolation as indicators of fraud but they may have value as supporting evidence in the case that other similarities are identified, and will be assessed in the context of other circumstances.

4: Determining whether there is an explicable reason for the presence of similarities

In the case where a similar signature or handwriting is found across different polling centres, a Review Panel will ascertain whether there is a procedural or factually credible basis to justify the

presence of similar signatures of electoral officials or similar handwriting on the different results sheets through reference to official information held by the IEC or other agencies. A procedural or factually credible basis that may explain the presence of similar signatures on different results sheets includes that there is an official record that the vote count for those polling centres was held at the District Elections Commission or Provincial Election Commission offices because of security instructions.

The Review Panel will report on its findings on whether there is evidence that proves a procedural or factually credible basis to justify the presence of similar signatures of electoral officials or similar handwriting on the different results sheets. If such a basis is found, the Review Panel shall recommend that the claim be dismissed unless the Review Panel also finds that at least one of the affected polling stations in that group was later invalidated by a decision of the Commission during the recent full audit. In the case there is at least one polling station within the group that was invalidated for a serious case of fraud, the Review Panel then shall undertake further investigations on the circumstances of the voting and counting at the specified group of polling stations in order to identify if there is other evidence of fraud that connects those polling stations.

In the case that:

- (a) the Review Panel does not find any procedural or factually credible basis to justify the presence of similar signatures of electoral officials or similar handwriting on the different results sheets, or
- (b) a further investigation by the Review Panel identified that there is other evidence of fraud that connects the group of polling stations

the Review Panel will then assess whether there is corroborative evidence of fraud in that specified group of polling stations, namely that at least one of the affected polling stations was invalidated by a decision of the Commission during the recent full audit because of an act of serious fraud and/or that one-third of the polling stations in that group was found to have serious irregularities or malpractice during the audit and recount process.

5: Determination on whether the recent full Audit Process identified indicators of fraud within the specified group

At the request of the Review Panel, the IEC Data Entry Centre shall provide information on the decisions of the Commission in relation to the Audit Process on each of the affected polling centres and polling stations. This information shall include:

- whether the polling station was invalidated;
- whether the polling station was subject to a recount, and for which reason;
- in the case that the polling station was recounted within the Special Scrutiny lists, whether the database records other data that shows the audit of that polling station would have triggered a recount;
- any other information contained in the Audit Checklist that may indicate serious irregularities at that polling station.

The decisions of the Audit Process will be recorded in the electronic checklist prepared by the Review Panel.

6. Submission of Review Panel Report

Each Review Panel will prepare a written report based on its electronic checklist and will identify its findings in one of the following categories:

- A. The review found that the claim does not relate to polling stations across different polling centres
- B. The review found that the claim does not relate to similar signatures.
- C. The review found that there are no similar signatures across different polling centres.
- D. The review found that that there are similar signatures across different polling centres, and that there was a procedural or factually credible basis for the similar signatures, and that there was no other corroborative evidence of fraud.
- E. The review found that
 - (a) there are similar signatures or handwriting across different polling centres, and that there was a procedural or factually credible basis for the similar signatures, but that further investigation identified other evidence of fraud connecting the affected polling stations, or
 - (b) there are similar signatures or handwriting across different polling centres, and that there was no procedural or factually credible basis for that similarity.

and that there was other corroborative evidence of fraud related to the claim, namely that the Commission had decided to invalidate the results of at least one of the polling stations in the specified group because of a finding of serious fraud, and/or at least one-third of the polling stations in the group had other indicators of serious irregularity or malpractice that would have required a recount to take place.

7. Submission of the Recommendation of the Review Management Committee

The Review Management Committee will consider each report from the Review Panel. If necessary, the members of the Review Panel will be asked collectively to give further explanations on how they reached their findings.

Based on their considerations of the findings of the Review Panel, the Review Management Committee will submit a report to the Commission for each claim, recommending an appropriate course of action from the following list:

- A. The claim does not relate to polling stations across different polling centres; and on this basis the claim should be dismissed.
- B. The claim does not relate to similar signatures; and on this basis the claim should be dismissed.
- C. The claim did not prove that there are similar signatures across different polling centres; and on this basis the claim should be dismissed..
- D. The claim proved similar signatures across different polling centres, and that there was a procedural or factually credible basis for the similar signatures, but that there was no other evidence of fraud in the affected polling stations; and on this basis the claim should be dismissed.

- E. The claim proves there are similar signatures across different polling centres, and that there was a procedural or factually credible basis for the similar signatures, but that there was sufficient corroborative evidence of fraud in those polling stations; and on this basis the claim should be upheld.
- F. The claim proves that there are similar signatures across different polling centres, and that there was no procedural or factually credible basis for the similar signatures, and that there was sufficient corroborative evidence of fraud in those polling stations; and on this basis the claim should be upheld.
- G. Any other course of action deemed appropriate to the circumstances related to the claim.

Commission Decision-Making

Based on the recommendations of the Review Management Committee, the Commission will meet in public session to decide upon the claims received. In the case that it decides that a claim is upheld, the Commission will decide on the invalidation of all polling stations within the group affected by the presence of a similar signature or handwriting.

The decisions of the Commission shall be published on the IEC website and a written copy shall be provided to the candidates. The decision may be subject to challenge to the Independent Election Complaints Commission.