

**IEC HQ Detailed Response on  
the letter of Stability and Convergence Electoral Ticket/Office  
15 December 2019**

**Introduction:**

With expressing best compliments, we write you the following in response to the letter number 123, dated 10 Dec 2019 of stability and Convergence electoral ticket:

The IEC HQ, by taking into account the sensitivity of the election process, for coordination with all the electoral teams of all the candidates is always ready and have had meetings with them in the premises of the IEC HQ. Among all the electoral teams, sufficient time has always been given to the stability and Convergence team and numerous separate meetings have been held with the them accordingly.

In the electoral information meeting, held on 08 Dec 2019, all the agents of the presidential candidates, political parties, civil society organizations, media, and other stakeholders were invited. After presenting the required information by the members of the commission, 3 minutes time was being given to all the participants to raise their questions and opinions, while for the stability and convergence team firstly two times chance was given to speak and secondly in every chance more minutes were given to them to speak rather than the rest of the participants. however, they could have presented their issues in less than the given time.

The commission has not taken its decision based on the guess and assumption, while the decisions of the commission has accurate legal and technical basis which all of them were presented in detail during the meeting.

The commissions believes, that if the candidates and their monitors had objection and complaints over the voting process and counting of the votes, according to the approved rules and procedures of the IEC HQ, they should have referred to the IECC representative during the voting and counting process and have registered their complaints accordingly, moreover, according to the paragraph 2 of article 91 of the Election Law, they could have registered their complaints in the PECC or IECC HQ within two working days after the election, in case such complaints are registered, the candidates should have been informed that the commission has addressed the complaints, otherwise, after the announcement of the preliminary results, the candidates, according to the provision of law, can write their complaints and objection to IECC. It is expected that the explicit provisions of the Election Law should be observed by the candidates and allow the IEC to proceed with the completion of issues related to the announcement of the preliminary results.

Given the issues mentioned in your letter, the below is being written accordingly:

1. Presenting information on the decision letter 105, which referred 2423 PSs to special audit and recount
2. Presenting required information on 102012 biometric information, which has been reported out of the timeframe.

3. Presenting required information on 137630 biometric information, that due to the processed voters' information and biometric have made difference in IEC HQ.
4. Information on the GPS of the PCs.
5. Acceptance of 1 up to 5 difference in biometric information and vote based on the procedure of DAVE system.

**Presenting information on decision letter 105, in which 2423 PSs have been considered to the audit and recount**

Based on the field reports, The IEC according to the decision letter 105-209, and in order to collect sufficient documents and reports on validation or invalidation of the votes, has considered 2423 PSs to special audit and recount that were open on E-day, but due to some reasons either their biometric information has not been transmitted, or their result form of E-day and complete information have not been received.

**Description of the Matter:**

The IEC HQ, according to the provision of paragraph 2 of article 19 of the modified Election Law, used the biometric technology on E-day. In order to use the biometric machines, the commission has specified some points in the election's regulations and procedures.

As per the provisions of article 86 of the Election Law, The Commission is obliged to quarantine the relevant ballot boxes containing ballot papers in case of justifiable complaints or presence of visible signs of perpetration of violation or crime on the ballot boxes. And the provision of paragraph 2 of this article has obligated the commission to investigate the quarantined boxes. And article 9 of procedure of tabulation of vote has stipulated that in case of doubtful results, visible signs of fraud, change in the numbers of the results or the presence of justifiable complaints on the counting of votes or the result forms, the commission, based on the provisions of law, regulations and procedures, can issue the order on the audit and recount of all the ballot papers or some of the ballot papers in the relevant PSs, PCs, districts, or province, prior the announcement of the final results of the presidential election.

As well as in the procedure of audit, recount and invalidation of votes, it has been mentioned that one of the reasons that the votes are being invalidated is the ballot paper which lacks the biometric registration QR Code. In addition, in part 11 of article 9 of audit, recount and invalidation of votes, stipulates that the votes of a PS will be invalidated "If all the ballot papers inside a box lack the QR Code, If the voters' list is not the list which is prepared by the Commission or is blank, however, votes are recorded on the results form, and the biometric information of voters is not registered"

The IEC, considers the non-transmission of the biometric information in the HQ server of this commission as a visible sign of perpetration of violation, negligence and fraud and for the purpose of implementing the provision of article 86 of the Election Law and as well as the provisions of the procedure for tabulation of votes, has considered the PSs for audit and recount where their biometric information has not been received and the commission has obligated the relevant PSs to provide the report to the commission on audit and recount of the votes of the mentioned PSs along

with the report on other assessments in terms of election, non-transmission of biometric information to the server, to take decision based on the provisions of the law accordingly.

Meanwhile, further assessment and audit and recount are being conducted in the PSs in order to ensure that based on the provision of the relevant procedures, the ballot papers inside the box have QR Code or not? Or how is the reporting of E-days about these PSs before and after election? so that based on the findings, the commission simply takes decision accordingly.

We should add that part 11 of article 9 of the procedure for audit, recount and invalidation of votes, is a general concept and for the purpose of invalidating the votes, that does not have biometric information, there should be other evidences and documents as well. Therefore, the assessment, audit and recount avail this sufficient evidences and documents to the commission to take decision.

It should be added, that the commissions, in all its regulations, procedures have considered the use of biometric votes and the validity of the biometric votes as a principle and will take decision accordingly and the decision of IEC on further assessment does not mean to validate the votes of the PSs. Such as the decision letter 113-2019, based on which 1179 PSs votes were invalidated based on these reports.

It is worth mentioning, the that IECC perceives the concerns of organizations and candidates and reciprocally expects that the organizations and the candidates should also abide by the decisions of the commission and try to cooperate with commission through their monitors and observers in every step and implement their legal obligation accordingly.

Therefore, the commission, based on the article 86 of the Election Law and provisions of relevant regulations and procedures have referred the 2423 PSs to the special audit and recount, out of which 1179 PSs' vote, after receiving the special report was invalidated based on the decision letter 113-2019. As per the provision of the Election Law, regulations, and procedures on the dubious PSs, the commission is obliged to refer to the ballot boxes to find out the reality and conduct overall assessment and then it will decide on the validation or invalidation of the votes of the PSs.

**Presenting required information on 102012 biometric information, which has been reported out of set timeframe by Darmalog, however the mentioned company has not taken the responsibility on the arrangement of time in the biometric devices**

The IEC, in order to ensure the transparency, accuracy and speed in the election process, has used the technology based on the law. With no doubt, the functioning of the technology is based on the defined indicators. To regulate activities, at different stages, there is a need for software and different devices. The commission has mentioned 10 indicators to be implemented with Darmalog company for ensuring transparency:

1. Limit a timeframe from the inception till end of voting on E-day.
2. Registration of biometric information of biometric officer in the beginning and end of voting.
3. GPS services will be described on the last page

Making the special software for the first two indicators, required more time, given the impossibility of postponing the 28 presidential election, there was no luxury of time to make the software of the two mentioned indicators. The commission raised the issue with the stakeholders in numerous meetings. In the meeting with political committee of political parties (Mr. Saadati, vice president of Dr. Abdullah's team, representing the Islamic Unit Faction, Mr. Akhlaqi Technical Manager of Dr. Abdullah's team representing Jamiat-e-Islami Faction, Mr. Nateqi current member of Dr Abdullah's team representing Islamic unity of Afghanistan people faction, representative of National Movement Faction, who is a member of Dr. Abdullah' team, Mr. Humayon Jareer , representing Hezb-e- Islami) were present. After a two days discussion, a joint memorandum of understanding was signed between IEC, Darmalog Company, and political committee of the factions. The copy of the memorandum is attached to this letter. The purpose of this memorandum was to better use the technology in the 28 September Election.

The two abovementioned indicators, after overall discussion and lack of time was left to be embedded in the memorandum. Therefore, a specific device to regulate and stopwatch the time (from the inception of the voting till end of voting) does not exist.

#### **Description of the matter:**

Based on the contract and at the request of the Commission, after voters' biometric information was transferred to the server, the Darmalog company started analyzing the information; the company reported that 102012 biometric data transmitted from the biometric machines to the server indicating time disruption. The Commission requested Darmalog to provide them with accurate information on the data registered out of the set timeframe, however the Darmalog Company did not take responsibility for the adjustment of timing in biometric devices through the letter dated ..... Also, in a letter dated December 4, 2019, Darmalog has written that the biometric devices while receiving security certificate, could not receive the exact local time from the server, the date and time were manually set in the devices.

The biometric device receives the exact local date and time if it is online. Also, based on the actual experience of the Commission's technical team, the installation of the SIM card had no effect on the automatic time and date setting on the device. On the other hand, the SIM cards were being activated a day before the election, while packing had begun a month before election day.

These time irregularities have affected 7354 PSs and show the time interval from 27 Jan 2019 to 28 Nov 2019 in 34 provinces. However, the Software related to the election day was finalized on 29 August 2019 and then installed on the devices. How is it possible that the software and the device that have not external presence but show operation and activity? And also on 23 Oct 2019, the transfer of biometric information was finalized the server was closed, while the mid Sep 2019, report shows that the information was transferred on 28 Nov 2019. How is it possible to report that activity and operation of a future time that has not come so far, in a present time?

To clarify the case, it is necessary to raise the followings:

1. According to detailed field reports of the commission, elections were held at all 7,354 PSs on the Election Day.
2. All of these PSs have been reported open by the commission and security forces, and security forces had been assigned there on the election day.
3. For all these PSs, staff were recruited by the PIECs and the staff were present on Election Day and have held the elections accordingly.
4. The monitors of the Candidates, Election Complaints Commission, observers were present. They have signed in the results forms and journals.
5. The start and end time of the voting have been recorded in the journals.
6. In the PSs, where the report indicates that biometric information was recorded during the night. The recorded pictures of the Voters are on the day.
7. In all these PSs, all the characteristics of the voters (fingerprint, photos, registration number) is recorded.
8. In all these PSs, the different candidates, have different votes.
9. The complaints of the candidates' monitors have not been registered on the voting out of the set timeframe.
10. In some of these PSs, the monitors' complaints have been registered on other issues of negligence and violation which have been addressed by the IECC.
11. There are no valid and legal documents proving voting out of set timeframe.

In view of the above points, it is clear to all that the voters in these PSs have cast their vote on the election day. However, due to technical problems in time and date setting of biometric devices, the Commission cannot invalidate the actual votes of the people. On the contrary, the Commission is required by law and its obligation to protect the votes of the people. Nowhere in the law, regulation and procedures of the commission and other legislative documents this has been mentioned to punish the voters and invalidate their actual votes for the sake of unpredictable technical problems and negligence of polling staff on Election Day. However, the commission has referred the 262 PSs containing 13,949 biometric information, where there were the sings of time irregularities, for special audit and recount.

It is worth mentioning that the Commission has introduced all the staff to relevant authorities, who have in any means committed violation and negligence to find out the reality and punish the perpetrators, the commission is serious at this end. The decision letter 107-2019 has been specially issued accordingly.

To the stability and convergence and any other presidential election team that has objection in this regard, we would like to mention that based on the provision of article 91 of the election law, they should have registered their complaint on time, which means either on the voting day in the relevant PC or PS, or after two days in PECC and IECC. While your monitors have signed in the journals and result forms of the election day.

**Thus, the biometric information of 102012, which is related to 7354 polling stations in 34 provinces belongs to the voters, who have cast their ballots on Election Day and there is no solid and justifiable evidence and document displaying that this information was not actually recorded on Election Day. There are dozens of technical and legal reasons that are**

**mentioned in the description part show the validity of this issue. The commission is obliged to protect the actual votes of the people. However, any polling staff, who may have committed violation or negligence will be introduced to the relevant authorities for punishment.**

### **Presentation of the required information on 137630 biometric data, that due to processed data and registered biometric information has made difference in the HQ server**

The Darmalog Company, after analyzing the voters' information, through letters exchanged with the commission has clarified that the overall ceiling of the registered information of the voters in the HQ server is 1929333. Of this, 86226 biometric voters' information was reported repetitive based on repeated finger prints, photo and sticker number. And 5141 voter's information that was repeated multiple times and that the number of voters in some PSs was more than set voters, or even those showed 700, was excluded. But the misunderstanding on 137630 biometric information that was established for some presidential candidates' team was due to the fact that the overall biometric information recorded on the HQ server was 1929333, but the voter-processed information on the website made by Der Darmalog for the candidates were 1,791,703.

### **Description of the matter:**

First, to proper understands, it is necessary to clarify two terms (number of the voters processed and voters' biometric information):

- 1. Number of voters processed:** The numbers processed are the numbers of the voters, which have been processed in a biometric device, and Darmalog company has arranged this in the software. These numbers are a single and non- decomposable number stored in the device's internal memory and also while registering information of the results forms in the digital forms, can be transferred with the results from the device (Digital form, and picture of the result form).
- 2. Voters' Biometric Information:** Biometric information that includes face photo, photo of ID, fingerprint, QR Code, etc., is electronically stored in the SD card of the biometric device from each voter during the process. This information is transmitted to the server after submitting the results (digital form and picture of the result form), and most of this information has been transferred from the HQ.

It should be noted that the processed numbers are a single and non-decomposable number, while the biometric information of the voters are decomposable. As well as, the processed numbers are stored in the device and can be transferred with digital results, while the biometric information of the voters are stored in SD cards and after sending the digital results can be separately transferred.

Based on the regulations and procedures of the Commission, those votes are valid which have biometric basis. There is no mentioning on the number of the processed voters in any election's

regulations and procedures, now, at the request of an election ticket, it is not the time to add this issue in the regulations and procedures. Therefore, voters' biometric information is the principle and base, not the processed numbers of the voters.

The overall difference is 168,238, which has taken place at 4,563 polling stations. The number of processed voters is not equal to the number of biometric information; at 1,466 polling stations, the number of processed voters is more than the number of biometric information transmitted to the HQ server. The total difference is 30,608 votes. At 3,097 polling stations, the number of processed voters is less than the biometric data transmitted to the HQ server, this difference is 168,238. As mentioned, based on the regulations of the commission, the biometric information of the voters is the base not the numbers processed. Therefore, the commission, in its decision letter 108-2019, has validated only 137630 biometric information.

### **Issues that have caused the difference:**

Although this number corresponds in most PSs, but the differences are due to the below points:

1. Submission of the picture of result form without registration of result forms' information in the digital forms: In this case, the number of processed voters is being shown zero.
2. Based on the technical problems, for the collection of biometric information of one PS, multiple devices have been used: in this case, the last device shows the number of the processed voters.
3. Based on technical problems, using of one device to transfer the results of multiple PSs: In this case, it transfers the same number of the processed voters.
4. Missing Information (Missing Result forms, Missing SD Cards, or Complete loss of Data): In this case, the number of processed voters is accurate, but the biometric information is missing.

As mentioned, the option of processed votes is only an informative option, the website page is also being considered as an information page and cannot invalidate the votes. The basis of the Commission's work is biometric information, which is governed by the relevant provisions of law, regulations, and procedures.

For further clarity, the below points are being mentioned:

1. The information that requires discussion, belongs to the PSs that were open on E-Day, and security forces were assigned to ensure its security.
2. In all these PSs, elections have been held and voters have cast their vote.
3. Monitors and observers have been present at these PSs and PCs and signed on the results forms that indicate the number of used, valid or invalid sheets are used.
4. No complaints on invalidity of the votes of these PSs have been registered. In case of other violations or negligence, if any complaint is registered, the relevant authorities will investigate them.
5. There is no issue recorded in the journal of these PSs that would undermine the credibility of the votes.

6. Sometimes, the polling staff, that has used another device due to the fact that the first device was not working, according to the procedure they should have changed the SD card of the first device into the second one and then should have started the process with the new device. In some cases, they have not done so. This is a negligence; serious action will be taken against the perpetrators. But due to a very minor administrative negligence, we cannot punish the voters and invalidate his/her vote.
7. The basis for the decision of the commission is law, regulation and procedures, not the informative website.

The Independent Election Commission (IEC) held numerous technical meetings for more clarity with all parties involved. A special meeting was held for the candidates' representatives twice. In addition, all necessary information has been forwarded to the presidential election teams and other stakeholders. Moreover, the decision letters have been published on the Commission's website.

It is noteworthy that the Commission has always provided proper and accurate information to the election tickets, even the un-analyzed information has been provided to all candidates though the website established by Darmalog; this excessive flexibility of the commission has even led to these misunderstandings that is being raised by you today. All your arguments and claims are based on the same information provided by the Commission (website, declarations, presentations and information sessions). The claim that the information was not shared with you is same as we consider the sun both bright and dark at the same time.

Therefore, the claim on the invalidation of 137630 voter biometric information that differs from the processed numbers mentioned in the informative website, does have a legal basis, therefore, the information of the voters is valid.

### **Information on GPS in the PCs**

Darmalog company has written in its letter dated 14.12. 2019, that the GPS services were available on the devices, but given that GPS connection takes place via satellite, and connections with satellite can be maintained in the open area, however the biometric devices were used inside the building in a covered area on the E-Day. Therefore, using the biometric device in the building has prevented the device from connecting with the satellite. Therefore, the biometric device was not able to register the different areas of its operations. As well as, this issue was discussed while signing the MoU with the political committee of the parties, however the Darmalog company considered its arrangement difficult through satellite in the 28 Sep election and therefore that was left to be echoed in the MoU. To discuss and emphasize on this is not logical.

## **Acceptance of 1 to 5 Differences in Biometric information and Voting in the procedure of DAVE system**

In all countries where elections are being held, there is a principle of flexibility for a possible error. Most countries have reflected this as a percentage in their law, regulations, and procedures. Given the use of new technology, on the E-Day, has stipulated this issue in article 17 of the DAVE procedure.