



Procedure for Addressing the Media related Violations in the Electoral Process

Basis

This procedure has been endorsed and ratified by the Independent Election Commission, pursuant to the provisions of articles (61) and (67) of the Elections Law and Media Law.

Objective

This procedure regulates affairs related to addressing complaints pertaining to the mass media violations originating from reporting, broadcasting of electoral campaigns and/or other violations associated with the objectives, policies and procedures of the mass media.

Terminology

Article 1:

Definition of the terminologies:

- The Media Commission:** It is the Commission, established temporarily by the Independent Election Commission, based on the article (61) of the Elections Law, for the purpose of monitoring reporting and fair broadcasting of the electoral campaigns and adjudicating the complaints related to media negligence and violations during the elections.
- The Mass media:** both governmental and private means of dissemination of messages and information through print and electronic media outlets.
- Disciplinary measures:** it is referred to the executive guarantee of this procedure, which includes publication of the decisions, recommendation of cancellation of the accreditation letter, issuance of warning, and order for making correction, paying cash fine and referral of the violator to the relevant authorities for judicial prosecution.
- Violation:** perpetration of any act against the elections law, as well as the regulations and procedures of the Independent Election and the Media Commission during the electoral process.

5. **Negligence:** unintentional occurrence of an action in contradiction to the regulations and procedures enforced; by a candidate, electoral worker, agent, observer, media outlets and others involved in the electoral process.
6. **Warning:** it is an official notification issued by the Media Commission aimed at drawing attention of the negligent and violator media, and ordering it for making correction.
7. **Order for correction:** it is an order of the Media Commission to the media for broadcasting the reply, rejection of the allegation, and seeking apology.
8. **Cash fine:** it is an order to the violator and negligent to deposit certain amount of cash into a specific governmental bank account within 72 hours following the decision declared by the Media Commission.

Media related violations

Article 2:

1. Breach of the obligations, stipulated in article (61) of the Elections Law.
2. Publishing of unauthentic and unrealistic issues and information which incite emotions of the citizens of the country against a person or a group of persons.
3. Broadcasting and publishing of issues and information deemed as violating the personal reverence and dignity of the candidates.
4. Broadcasting reports in an unfair, unbalanced and partial manner.
5. Publishing and broadcasting of baseless statements and defamatory subjects;
6. Non-observance of the decisions and resolutions of the IEC, Media Commission and Electoral Complaints Commission in media related affairs;
7. Broadcasting and publishing of unrealistic news and reports;
8. Broadcasting candidates' campaigns prior to the formal period of the electoral campaigns.
9. Broadcasting of manifesto, objectives, policies and other instances during the silence period, which may be one way or the other useful or harmful for the candidates;
10. Illegal utilization of television programs and other mass media programs by the candidates, who have jobs as facilitators or anchorpersons in those Medias.
11. Broadcasting and publishing of programs by the state-run media in favor or against those provincial council candidates who serve as the members of the administrative board, and members of the Meshrano Jirga;
12. The Media Commission holds the authority of addressing violations referred to in this procedure, and/or other violations related to the objectives, policies and procedures of the mass media.

Method of Addressing the Complaints

Article 3:

A. Filing complaints

- (1). The complaints should be provided to the Media Commission, IEC and/or IEC provincial offices within 72 hours after the occurrence of a violation.
- (2). The Media Commission communicates the subject matter of the complaint to the person or entity that is subject to a complaint.
- (3). The person or entity against which a complaint has been filed should submit their reply to the Media Commission within 72 hours after receiving information of a complaint being filed.
- (4). The Media Commission may, through its own initiative and in the absence of any complaint, adjudicate the matters that fall within its mandate.
- (5). The Media Commission may immediately reject complaints lacking legal ground.
- (6). If the Commission ascertains that the violation has taken place, it will take the following actions:
 - a. Assess and investigate the matter;
 - b. Holds hearing session;
 - c. Makes decision regarding the mentioned violation.
- (7). The investigations regarding the complaint shall be undertaken by the enquiry officer of the Media Commission and he/she shall respond in writing to the complainant in the specified time, given the decision of the Media Commission.

B. Hearing sessions

- (1). The Media Commission may convene hearing sessions for adjudication of complaints and hearing of testimonies of the witnesses.
- (2). While holding the hearing sessions, the Commission may:
 - a) Ask the witnesses to give their testimony;
 - b) Demand, receive evidences and proofs related to the subject matter.
- (3). To the extent possible, will ensure opportunity of presence of the complainant and the respondent in the hearings.

C. Decisions

All decisions of the Media Commission that are made in compliance with the Regulation for the Establishment of the IEC Media Commission, shall:

- (1). be recorded and after that a written copy be issued to the complainant and the respondent;
- (2). be published on the Commission's website for the public awareness.

D. Assessment of the Media Commission Decisions

- (1). The affected person or party may appeal to the IEC against the decision of the Media Commission through a written application within 48 hours after the announcement of the decision by the Media Commission.
- (2). The IEC, pursuant to the provisions of article 61 of the Elections Law and provisions of the articles referred to in this procedure, reserves with it, within its mandate, the right of addressing, considering and reviewing any type of appeal that results from the decisions of the Media Commission regarding the violations of the Code of Conduct for the Mass Media or other violations.
- (3). The Independent Election Commission may reject immediately any appeal that lacks any legal base.
- (4). Decisions of the IEC which are taken unanimously regarding appeals to the Media Commission are final and are communicated and referred to the Media Commission for further undertakings.
- (5). If the Independent Election Commission finds out that the decision of the Media Commission has been made based on legal error and negligence and/or apparently the decisions are not based on facts, it in this case may:
 - a) Refer the matter again to the Media Commission together with instructions for a review.
 - b) And/or make a decision by itself regarding the matter.

All the decisions related to the appeals to the Media Commission, are required that:

- a) A written copy of the decision is sent to both the appellant and the respondent.
- b) The decisions need to be taken within 3 days after the appeal session is convened.
- c) The decisions be published on the Commission's website for public awareness.

Cooperation of the institutions and persons

Article 4:

Relevant governmental and non-governmental organizations and persons shall, in accordance with the article eight of the Elections Law, cooperate with the Media Commission and observe and implement the decisions taken by this Commission within its mandate.

Disciplinary measures

Article 5:

After ascertaining a negligence and violation, the Media Commission may undertake the following measures, given the level of severity and mildness of the negligence or violation:

1. issue order for correction of the negligence;
2. issue warning;
3. propose to the Independent Election Commission the rejection of the accreditation letter issued by the Media Commission;
4. issue order to the media outlets to publish decision of the Media Commission;
5. Impose cash fine of up to One Hundred Thousand Afghanis as per the conditions;
6. Refer the natural and legal person subject to violation to the relevant authority for judicial pursuit following approval by the Commission;

The Media Commission may through its own initiative identify the media violations and negligence and take necessary actions to address them.

Enforcement:

Article 6:

This procedure shall enter into force and published from the date of approval.