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The EU and Election Observation Missions to Afghanistan (2004-2014)

Author: Dario Intini

Supervisor: Prof. Kalliope Agapiou-Josephides

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List of Acronyms

AIHRC	Afghanistan Independent Human Rights Commission
AoR	Area of Responsibility
CAPD	Cooperation Agreement on Partnership and Development
CC	Carter Centre
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CFSP	Common Foreign and Security Policy
CO	Chief Observer
CRPD	Convention on the Rights of Persons with Disabilities
CS	Commonwealth Secretariat
DCO	Deputy Chief Observer
DI	Democracy International
DESM	Democracy and Election Support Mission
EAT	Election Assessment Team
EC	European Commission
ECHO	European Commission Humanitarian Office
EEAS	European External Action Service
EEM	Election Expert Mission
EIDHR	European Instrument for Democracy and Human Rights
ELECT	Enhanced Legal and Electoral Capacity for Tomorrow

EOM	Election Observation Mission
EMB	Election Management Body
EP	European Parliament
EU	European Union
EUPOL	European Union Police Mission
EUSR	European Union Special Representative
ExM	Exploratory Mission
FPI	European Commission Service for Foreign Policy Instrument
GII	Gender Inequality Index
HR/VP	High Representative for Foreign Affairs and Security Policy and Vice-President of the Commission
IAEC	Interim Afghan Electoral Commission
ICCPR	International Covenant on Civil and Political Rights
IEC	Independent Election Commission
IECC	Independent Electoral Complaints Commission
IfS	Instrument for Stability
IGO	Inter- Governmental Organisation
ISAF	International Security Assistance Force for Afghanistan
JEMB	Joint Electoral Management Body
LEVAW	Law on Elimination of Violence Against Women
LOTFA	Law and Order Trust Fund for Afghanistan
LTO	Long Term Observer
MoU	Memorandum of Understanding

NAP	National Action Plan
NDI	National Democratic Institute
INGO	International Non-Governmental Organisation
OAS	Organisation of American States
ODIHR	Office for Democratic Institutions and Human Rights
OEF	Operation Enduring Freedom
OSCE	Office for Security and Co-operation in Europe
SRSG	Special Representative of the UN Secretary General
SNTV	Single Non-Transferable Voting
STO	Short Term Observer
TMAF	Tokyo Mutual Accountability Framework
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNAMA	United Nations Assistance Mission in Afghanistan
UNSCR	United Nations Security Council Resolution

Abstract

The aim of this work is to contextualise and analyse EU Election Observation Missions to Afghanistan for the period 2004-2014. In so doing, I will answer the following research questions: a) What has been the EU's assessment both of the electoral process and the human rights situation surrounding elections in Afghanistan between 2004 and 2014? b) Which hypotheses may be raised to explain the EU's overall assessment of the electoral processes in Afghanistan? Does the assessment of the electoral process in Afghanistan reflect the EU's character both as a normative and strategic actor? This research work is mainly build on the theoretical and analytical framework of Judith G. Kelley and on the systematic study of both the preliminary statements and final reports of the election observation mission. This work suggests that in its election observation missions in Afghanistan, the EU has acted both as a normative and as a strategic actor.

Introduction

“While democracy must be more than free elections, it is also true ... that it cannot be less”.¹

Election observation has become a widespread activity worldwide since the end of the twentieth century and a primary instrument of democracy promotion.² Its objective is to assess the integrity of the electoral process in line with domestic law and international standards of elections enshrined in the main international and regional human rights instruments.³ Moreover, election observation serves to deter fraud; to monitor the human rights situation; to improve the electoral process by providing recommendations; and to gather statistical data.⁴

Many international and regional organisations (IGOs), such as the Organisation for Security and Co-operation in Europe (OSCE) and the Organisation of American States (OAS), and non-governmental organisation (NGOs) such as the Carter Centre (CC), National Democratic Institute (NDI), Democracy International (DI), and so forth, deploy election observation missions in many countries throughout the world every year. European Union (EU) is also an important transnational actor involved in this field and has observed elections in more than one-hundred and twenty countries across Africa, Latin American, the Middle East, Asia, and Oceania since 2000.⁵

EU election observation missions represent a practical tool in line with the EU external action’s values, namely promotion of human rights, democracy, and rule of law. Election observation is considered a crucial instrument for the EU’s foreign policy agenda. In fact, the Common Foreign and Security Policy (CFSP) of the EU deems the promotion of democracy as one of its main strategies which ensures the economic and

¹ Secretary-General Kofi Annan, “One of the greatest challenges to humankind in new century will be

² Kelley, Judith G., *Monitoring Democracy. When International Election Observation Works, and Why It Often Fails*. Princeton: Princeton University Press, 2012.

³ *Compendium of International Standards of Elections*. Third Edition, Brussels: European Commission, 2007.

⁴ Ibid.

⁵ European Union External Action, “All the Missions”, available at: http://eeas.europa.eu/eueom/missions/index_en.htm (consulted on 10 July 2016).

trade relationships between EU and its partners being characterised by the development of democratic institutions and respect of human rights.⁶ Nevertheless, the EU has been criticised to focus predominantly on elections, neglecting other aspects of democratisation.⁷ In fact, although they remain one of the most important components of a democratic society, elections are not the only activities which can be associated with democracy and that the conduct of elections does not guarantee the progress of democracy.⁸ The example of many transitional countries has shown that although the EU has deployed election observation missions in a particular country several times, the improvement of the electoral process has not always been the case, or at least, has been partial.⁹ It should be pointed out, however, that in most of cases there has been at least coherence between the EU's declarations on elections and the EU's foreign policy and findings.¹⁰ Nevertheless, there have been also cases in which EU election observation missions' findings and conclusions were not only different in respect to other monitoring organisations, but also a great deal distorted from the real outcome of the electoral process.¹¹ This has raised the questions to what extent election observation missions entail the construction of a narrative¹² and which factors influence the assessment of an election-monitoring organisation.¹³

The thesis aims to examine the case of EU election observation missions deployed in Afghanistan between 2004 and 2014. The EU has always been very focused in civil and political affairs in post conflict contexts, and hence, observing elections in challenging countries in transition to democracy. Afghanistan is not an exception. After

⁶ EODS, *Handbook for European Union Election Observation*. Third Edition, Brussels: European Union, 2016, p. 16.

⁷ Meyer-Resende, Michael, "EU Election Observation. Achievements, Challenges", Policy Department External Policies, Directorate General for External Policies, Briefing Paper, Brussels: European Parliament, June 2008, p. 5.

⁸ Kelley, 2012, p. 4.

⁹ Meyer-Resende, 2008, pp. 4-5.

¹⁰ Ibid., p. 4.

¹¹ Kelley, Judith G., "The More the Merrier? The Effects of Having Multiple International Election Monitoring Organizations", pp. 59-64 in *Symposium in Perspectives on Politics*, Vol. 7/No. 1, March 2009.

¹² Van Donge, Jan Kees, "The EU Observer Mission to the Zambian Elections 2001: The Politics of Election Monitoring as the Construction of Narratives", pp. 296-317 in *Commonwealth & Comparative Politics*, Vol. 46 Issue 3, 22 p, 3 Charts, July 2008.

¹³ Kelley, Judith G., "Election Observer and Their Biases", pp. 158-172 in *Journal of Democracy*, Vol. 21, Number 3, July 2010.

the fall of the Taliban in 2001, the international community committed itself in the support of the rebuilding of the country and of its democratic institutions following decades of civil war, violence, and massive human rights violations. Despite the enormous progresses, nowadays the security in Afghanistan is still a crucial issue due to the recurring Taliban's attacks in the capital Kabul and in other areas of the country. Human rights also continue to be a big matter – particularly involving women and children - as for the strengthening of democracy and the rule of law.

It has been argued that Afghanistan is “the largest beneficiary of EU assistance in the world” receiving “more than €1 billion a year in aid from the EU and Member States”.¹⁴ For this reason, the EU holds a big responsibility in the promotion and protection of human rights, in the building and consolidation of democratic institutions, and in the strengthening of the rule of law in Afghanistan since it represents one of the major donors.¹⁵ The EU signed an agreement with the government of Afghanistan in 2014 providing up to €1.4 million in development assistance for the following seven years aiming at the support of, *inter alia*, health, education, rule of law, and democratisation.¹⁶ In addition to bilateral assistance, Afghanistan also benefits from EU's funds through different programmes and instruments such as the European Instrument for Democracy and Human Rights (EDIHR), which is also the financial mechanism supporting EU election observation mission.

0.1 The Scope of the Thesis, Research Questions, and Methodology

The thesis aims at analysing four election observation missions carried out by the EU in Afghanistan between 2004 and 2014. However, the EU also deployed a mission composed of a small team¹⁷ to observe the 2010 Parliamentary election, but a Final Report has not been published. Particularly, the main objectives of this research work

¹⁴Council of the European Union, “Council Conclusions on Afghanistan”, Luxembourg, 23 June 2014, available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/143322.pdf (consulted on 10 July 2016).

¹⁵ Delegation of the European Union to Afghanistan, “Cooperation for Development”, available at: http://eeas.europa.eu/delegations/afghanistan/eu_afghanistan/development_cooperation/index_en.htm (consulted on 10 July 2016).

¹⁶ Ibid.

¹⁷ European Union External Action, “EU democracy and election support mission to Afghanistan in 2010”, available at: http://eeas.europa.eu/eucom/missions/2010/afghanistan/index_en.htm (consulted on 10 July 2016).

are primarily to study the EU's assessment in observing elections in Afghanistan and whether the human rights situation and democratisation process have improved in Afghanistan thanks to EU's recommendations. In order to fulfil these objectives, each EU election observation missions' Final Report will be examined and compared with each other; I will consider the structure of the various missions deployed, the political and human rights situation monitored, the findings, the conclusions, and the recommendations provided for by the EU election observation's team. In this way, the thesis explores not only to what extent the Islamic Republic of Afghanistan has followed EU's recommendations and committed itself in developing its own electoral legal framework on the basis of them, but it also studies the EU's behaviour in observing elections in Afghanistan. Therefore, the main research questions that this research work addresses are as follows:

- 1) What has been the EU's assessment both of the electoral process and the human rights situation surrounding elections in Afghanistan between 2004 and 2014?
- 2) Which hypotheses may be raised to explain the EU's overall assessment of the electoral processes in Afghanistan? Does the assessment of the electoral process in Afghanistan reflect the EU's character both as a normative and strategic actor?

These research questions are supported by several sub-questions: Is the human rights situation surrounding elections and the quality of the electoral process improved? Did the Afghan government follow EU election observation missions' recommendations? Have EU election observation missions to Afghanistan been useful, feasible, and advisable? What has been the follow-up to the EU election observation missions' conclusions? Did EU election observation missions' team monitor elections accurately and objectively?

In order to answer the research question addressed in this thesis, I primarily use qualitative methods, which include primary sources (e.g. EU's Press Releases, Preliminary Statements, and Final Reports), and secondary sources (e.g.. briefing

papers, newspaper articles, and case studies). Additionally, I also rely on quantitative methods by analysing statistics, charts, and tables, which, in combination with qualitative methods, allows to illustrate the political, social, and economical factors which may influence the EU's behaviour in monitoring elections.

0.2 Theoretical and Analytical Framework

In order to answer the research questions that this research work address, this thesis is mainly based on Judith G. Kelley's theoretical and analytical framework of election observation,¹⁸ but I will be also using insights of Susan D. Hyde,¹⁹ Michael Meyer-Resende,²⁰ and Jan Kees Van Donge.²¹

Kelley examines the impact of international election observation, whether “monitoring boosts voter confidence, improve election logistics, deters fraud, alleviates violence, and spreads international electoral norms”, and its “adherence to professional standards”.²² In the same way, I will evaluate whether in the case of Afghanistan, EU election observation missions have boosted voter confidence, improved the quality of the electoral process, and deterred frauds. Regarding to the “adherence to professional standards”, however, Kelley argues that when different monitoring organisations are deployed to the same country, they sometimes reach different conclusions about a given elections, or they endorse flawed elections, or they produce contradictory statements since they would be guided by factors “other than the quality of an election”.²³ Although elections in Afghanistan have been also monitored by other organisation such as, for instance, the OSCE, NDI, Democracy International, etc., this thesis takes into account only the EU's assessment of elections in Afghanistan.

In one of her studies, Kelley makes a classification of different kinds of assessment of an electoral process produced after an election observation mission which will help me to answer my first research questions: 1) the assessment about the free and fair character of an election representing the will of people; 2) an ambiguous and

¹⁸ Kelley, 2012.

¹⁹ Susan D., Hyde. “Catch Us If You Can: Election Monitoring and International Norm Diffusion”, pp. 356-369 in *American Journal of Political Science*, Vol. 55, No. 2, April 2011.

²⁰ Meyer-Resende, 2008.

²¹ Van Donge, 2008.

²² Kelley, 2010, p. 158.

²³ Ibid., p. 159.

unclear assessment; 3) the assessment that the election does not represent the will of people and that was not free and fair.²⁴ In so doing, I will give an overview of the EU's findings on elections in Afghanistan focusing on election administration, voter registration, women's political participation, and Election Day; and through the comparison among the conclusions of different EU election observation missions to Afghanistan, I will examine whether the quality of the electoral process is improved under the recommendations of the EU, as well as for the human rights situation.

In order to answer my second research question, I will frame my discussion within Kelley's argument that the assessment of an electoral process firstly depends on the level of "obvious irregularities" observed in the pre-electoral period, on Election Day, and in the post-electoral period; secondly, it also depends on "the degree of autonomy that a monitoring organisation enjoys".²⁵ In order to examine in depth EU's assessment of Afghan elections, and to identify which hypotheses may be raised to rationalise EU's behaviour in observing elections in Afghanistan, I will then bear in mind Kelley's argument concerning the nature of transnational actors whose assessment may sometimes be affected by the political and economic interests of certain states, or donors, observing elections in a strategic country. Particularly, this interest, or tendency, can be explained by the fact that transnational actors, like the EU, "are both normative and strategic"²⁶, and that transnational actors observe elections in particular countries not only for the objective "to report the quality of elections" according to the electoral norms enshrined in the main universal and regional instruments of international law, but also to promote and defend particular organisational policies.²⁷ In this regard, besides the argument that the assessment of the quality of elections is just carried out according to electoral norms,²⁸ Kelley develops five *hypotheses* which explain when, why, and how, a monitoring organisation may be inclined both to endorse and/or to condemn flawed elections in a particular country. The first one refers to *Irregularities hypotheses* that deals with the fact that a monitoring election organisation is less likely to endorse

²⁴Ibid., p. 162.

²⁵ Ibid., p. 164.

²⁶ Kelley, Judith G., "D-Minus Elections: The Politics and Norms of International Election Observation", pp. 765-87 in *International Organization* 63, Fall 2009.

²⁷ Ibid., pp. 767-768.

²⁸ Ibid., p. 766.

elections where the number of irregularities are high and obvious.²⁹ This hypothesis will be considered in the analysis of this research work in order to understand whether the EU has condemned, or praised, Afghan elections before evident cases of cheat against international standards, and for some political purposes. The second one is *Organisational hypotheses*, which speculate that intern-governmental organisations (IGOs) generally endorse elections more than international non-governmental organisation (INGOs), particularly when some of IGOs member states are less democratic. Observers may be limited in their assessment by less-democratic IGO members in order “to protect their regime from future criticisms”.³⁰ This hypothesis is less likely to be applied to the EU case, since it is an actor whose conditions for membership are based on “stable institutions guaranteeing democracy, the rule of law, [and] human rights”.³¹ The third one is *Political hypotheses* according to which the assessment of an election observation mission may be influenced by IGO member states and donors, which have political interests in a particular country. However, a monitoring organisation is more likely to promote elections in countries, which are trading partners, populous, or receive foreign aid.³² In case of supported flawed elections in Afghanistan by the EU, this hypothesis may be highly relevant to the analysis of this thesis since, as I previously said, the EU is one of the leading donors in Afghanistan and has been providing development aid to this country for many years. In fact, as will be seen, the EU largely funds not only projects and programmes aiming at the development of democratic governance, but also at the improvement of health, agriculture, human rights, and justice system.³³ The fourth one is *Progress hypotheses* where monitoring organisations endorse “transitional or first multiparty elections” or “elections showing improvement relative to the prior election” because they want to avoid to create lack of trust towards “long-standing programs” and they want to urge “positive long-term

²⁹ Ibid., p. 768.

³⁰ Ibid., pp. 769-770.

³¹ European Neighbourhood Policy and Enlargement Negotiations, “Conditions for membership”, last update 12 October 2015, available at: http://ec.europa.eu/enlargement/policy/conditions-membership/index_en.htm (consulted on 10 July 2016).

³² Kelley, 2009, p. 770.

³³ European Union External Action, “EU relations with Afghanistan”, available at: http://eeas.europa.eu/afghanistan/index_en.htm (consulted on 10 July 2016).

momentum towards democracy”.³⁴ Kelley urges to evaluate whether endorsing elections which show improvements, promote limit, or spur “further progress in the long-run”.³⁵ This hypothesis constitutes a valuable tool in order to understand whether there has been a real progress in the quality of the electoral process in Afghanistan thanks to EU election observation missions. The fifth and last one is *Pre-election violence hypothesis*, which speculate that the odds for an organisation of endorsing an election with a pre-election violence are high, since pre-election violence is in most of the times followed by post-election violence. For this reason, signs of pre-election violence may convince observers to denounce or endorse irregularities in order to avoid instability and to fuel the socio-political context.³⁶ Regarding this hypothesis, I will analyse whether the EU has been less critical towards certain flawed Afghan elections carried out in a context of pre-election violence in order to avoid post-election violence and guarantee stability.

Overall, in order to achieve the two objectives of this research work, I seek to apply to the Afghan context what the Dutch scholar Jan Kees Van Donge investigates in the case of the EU EOM to Zambia in 2001, that is whether the EU has assessed Afghan elections on the basis of a “reasoned judgment based on observation” or by a “constructed narrative”³⁷ “that could easily have been the opposite”³⁸ due to one or more hypothesis raised above.

0.3 Organisation of the thesis

The research thesis is divided four chapters:

- Chapter One outlines a literature review of the main scholars who have produced works on election observation.
- Chapter Two explores the role of the EU in carrying out election observation missions worldwide. According to this, the various sections of this chapter deal with the history of EU election observation missions; the methodology implemented for each missions according to the international standards of

³⁴ Kelley, 2009, p. 771.

³⁵ Kelley, 2010, pp. 169-170.

³⁶ Kelley, 2009, pp. 771-772.

³⁷ Van Donge, 2008, p. 308.

³⁸ Ibid., p. 297.

election; the various types of election observation missions which may vary according to the context and scope of the mission.

- Chapter Three gives a brief historical and political overview of the relationship between EU and Afghanistan since the fall of the Taliban regime, and the role that the EU plays in this country by providing a description of the programmes and activities promoted, and of the main EU's thematic areas of concern.
- Chapter Four analyses EU election observation missions carried out in Afghanistan between 2004 and 2014, and it reports the findings, assessment, and conclusions. The missions deployed within this timeframe are five and are as follows: Presidential Elections in 2004; Parliamentary and Provincial Council Elections in 2005; Presidential and Provincial Council Elections in 2009; Parliamentary Elections in 2010; and Presidential Elections in 2014. Parliamentary elections were also planned to occur in September 2015, but they have been postponed.

Chapter One

Literature Review

Although still lacking, it is arguable that there is an increasing interest and number of scholarly works in relation to election observation. I have already aforementioned Judith G. Kelley as one of the leading scholars in studying election observation, particularly focusing on the role of transnational actors in this field. Kelley has devoted most of her studies on this issue arguing how election observation is not only inspired by the objective of assessing the quality of elections according to international standards and norms of elections, but may be also influenced by other factors.

In “The More the Merrier? The Effects of Having Multiple International Election Monitoring Organizations”,³⁹ Judith Kelley examines the impact of monitoring elections by different international election monitoring organisations. Kelley explains that different monitoring organisations deployed for the same election observation mission may “operate in different ways” (e.g. “umbrella system”, “cooperative agreements”) although in most of times they work independently.⁴⁰ Then, Kelley explores whether election observation carried out by many organisations brings “benefits” or “costs”. Kelley pinpoints several benefits such as the coordination “to expand their coverage of polling stations, hold joint conferences to discuss the election process, and even seek to arrive at mutually supporting conclusions and align their public statements” and to prevent “deadlock and paralysis”.⁴¹ On the other side, Kelley argues that there are also some “costs” which are mostly regarded not only in the competition, the lack of coordination, and information among different monitoring international organisations and non-governmental organisations, but also in the different

³⁹ Kelley, 2009, pp. 59-64.

⁴⁰ Ibid., p. 60.

⁴¹ Ibid., p. 61.

“political agendas, capabilities, methodologies, and standards” the different actors have.⁴²

In “Assessing the Complex Evolution of Norms: The Rise of International Electoral Monitoring”,⁴³ Kelley seeks to answer several questions 1) why states allow international organisation and non-governmental organisation to interfere; 2) why international electoral monitoring spread quickly; 3) why countries invite monitors and nevertheless cheat. In order to answer the first question, Kelley argues that inviting international electoral observation has become a norm for governments. This practise may be related to the purpose of seeking legitimacy by many countries (and cheating governments) in transition to democracy that would consider their reputation at stake if they refused to allow election monitoring. In addition, the promotion of democracy started to be seen since the 1990s as a tool for strengthening a political system rather than its weakening. Hence, norms such as freedom of expression, self-determination, and principles of periodic and genuine elections began to prevail over the principle of sovereignty and non-intervention.⁴⁴ Answering the second question, Kelley speculates which factors have influenced the development of election observation. The first speculation is that the increasing number of international electoral observation missions may be related to an increasing number of countries in democratic transitions.⁴⁵ However, if this was the case, international election observation would have been largely characterised the 1970s and the 1980s. The second speculation is that the development of international election observation may be connected to “a change in the global normative environment about elections and human rights”.⁴⁶ However, in this regard Kelley argues that this speculation also presents some lacks since the fact that governments invited monitors organisations in the 1990s and still cheated, shows that governments “were not driven entirely by norms about elections and human rights”.⁴⁷ Overall, the emergence of international election observation is due to the dissemination

⁴² Ibid., p. 62.

⁴³ Kelley, Judith G., “Assessing the Complex Evolution of Norms: The Rise of International Electoral Monitoring”, pp. 221-255 in *International Organization* 62, Spring 2008.

⁴⁴ Ibid., pp. 226-229.

⁴⁵ Ibid., p. 224.

⁴⁶ Ibid.

⁴⁷ Ibid.

of norms related to human rights, democracy, and elections, and to instrumental mechanisms and changes in the international system.⁴⁸ The third question is answered stating that the act of refusing monitors means that the government is clearly willing to cheat and then that its reputation would be put at stake at international level. However, inviting monitors can conceal this willingness since cheats might not be detected from election observers, or if detected, they would just get criticism from the monitoring organisations which would sound less thorny than the criticism that governments would get if they did not invite monitors.⁴⁹

Besides Judith Kelley, Susan D. Hyde is another scholar who extensively researched on election monitoring. For instance, in “Catch Us If You Can: Election Monitoring and International Norm Diffusion”,⁵⁰ Hyde investigates how and why inviting election monitoring became an international norm, and in particular, how international norms developed without the presence of incentives for international cooperation. Hyde states that international election observation was set up by means of “a diffusely motivated process” and “as a signal of a government’s commitment to democratization” particularly in non-established democracies where the respective leaders would consider the promotion of elections as the acquisition of “democracy-contingent benefits”, which has to be intended as foreign aids and development assistance⁵¹. Hence, it can be explained the development of the norm with which “democracy promoters”(e.g. Western states, international organisations, foreign investors, and so forth) regard as “true-democrats” (i.e. those respecting electoral law) all the actors inviting international observers, and as “pseudo-democrats” (i.e. those cheating elections) all the actors not allowing international election monitoring. However, the author mentions that also “pseudo-democrats” may invite international observers, with the expectation that cheats would not be detected and for the purpose of maintaining “some positive probability of gaining democracy-contingent benefits”. Thus, Hyde explains the reasons why states invite international observers and the diffusion of the norm (i.e. whether an actor is considered either “true-democrat” or

⁴⁸ Ibid., p. 226.

⁴⁹ Ibid., p. 231.

⁵⁰ Hyde, 2011.

⁵¹ Ibid., p. 358.

“pseudo-democrat”, and the availability of democracy-contingent benefits) by developing three hypotheses. The first hypothesis speculates that a non-well established democratic government will likely invite international observers. The second hypothesis deals with the fact that if democracy-contingent benefits increases, also the number of countries inviting international observers increases. The third hypothesis argues that if the idea that democracy-contingent benefits increases and that “true-democrats” are those inviting international observers, then “more pseudo-democrats should invite observers”.⁵²

Although there is an increasing production of works concerning international election observation, the EU election observation mission still remains an underrepresented field. However, it is arguable that only the European Parliament has produced a more detailed study on EU election observation missions. For instance, in “EU Election Observation. Achievements, Challenges”,⁵³ Michael Meyer-Resende gives a general overview about the strengths and weaknesses of EU Election Observation Missions (EU EOMs) and provides for some recommendations for their future improvements. The author argues that although it has been developing its foreign policies according to the EU EOM’s findings in the last years, the EU still lacks a well-defined strategy on democracy promotion.⁵⁴ In fact, he is critical in assessing that the EU mostly deals with elections in its role of democracy promotion, neglecting other aspects of democratisation, such as the strengthening of state institutions, which in some circumstances may need a major focus than elections. Nevertheless, by giving an overview of the history of EU election observation mission and of its methodology, Michael Meyer-Resende explains that the EU’s engagement in the deployment of election observation missions is basically due to the application of two criteria which are “consistency and complementarity with other EU democratisation and crisis management initiatives” and addition of “a specific value”.⁵⁵ This means that countries in transition to democracy are those predominantly targeted by the EU, although other factors may influence the choice of observing elections in a particular country (e.g.

⁵² Ibid., p. 361.

⁵³ Meyer-Resende, 2008.

⁵⁴ Ibid., pp. 4-5.

⁵⁵ Ibid., p. 7.

strategic importance and geographical balance). The author acknowledges the strengths of EU election observation mission in covering issues which the bulk of monitoring organisations neglect, such as the media analysis.⁵⁶ However, he finds controversial that the EU usually start (six weeks before E-Day) when the voter registration is already closed and electoral reforms are already carried out; and finish two weeks after Election Day without monitoring “post-election complaints and appeals”. Moreover, he also states that there is not a “rigorous observation of counting and aggregation of votes” which sometimes go un-observed.⁵⁷ In this regard, Meyer-Resende underlines that the long-term political and technical commitment of OSCE and the Council of Europe in the promotion of electoral reforms in particular countries show that the quality of election is improved in those countries.⁵⁸ Another crucial issue that Meyer-Resende arises is related to security. In fact, he raises the question how the assessment of an election observation mission can claim to be comprehensive if it cannot be deployed throughout the country for security concerns (e.g. Afghanistan, Pakistan, Nigeria).⁵⁹ Yet, the effectiveness of the EU's recommendations are also taken into account in this report. In fact, the author underlines that in the bulk of cases, recommendations are not followed-up neither by governments nor by the EU.⁶⁰ The author stresses that EU election observation missions should give an impartial assessment of the electoral process and that their findings should not be changed for the sake of conflict-prevention.⁶¹ Last, Meyer-Resende speculates that EU election observation missions are not always the best solution in order to improve the electoral process, but that other tools should be considered, such as the support of domestic civil society groups, which would subsequently promote EU's recommendations.⁶²

⁵⁶ Ibid., p. 9.

⁵⁷ Ibid., pp. 10-11.

⁵⁸ Ibid., p. 15.

⁵⁹ Ibid., p. 12.

⁶⁰ Ibid., p. 13.

⁶¹ Ibid., p. 23.

⁶² Ibid., p. 15.

In another article, “Following-Up on Recommendations of EU Election Observation Missions”,⁶³ Manuel Vally argues that the follow-up of EU's recommendations to a particular country should be verified by the EU Delegation to the specific country and by a European Parliament Standing Delegation. This study suggests that EU institutions should have “an internal archival infrastructure” in order to monitor the status of recommendations of a particular country and whether they are “active” or “resolved”.⁶⁴ In this regard, Vally makes an example about the fourth EU EOMs to Zambia in 2011 where the recommendations issued by the EU did not take into account the status of recommendations provided for in the previous EU EOMs and “taking significant risk of contradicting earlier recommendations”.⁶⁵ In this way, the EU can make a list of priorities and develop strategies for future missions in particular countries.

Some articles have been written focusing on EU election observation missions to relevant elections. For instance, in “The EU Observer Mission to the Zambian Elections 2001: The Politics of Election Monitoring as the Construction of Narratives”,⁶⁶ Jan Kees Van Donge explains that, along with the general belief that presidential election in Zambia in 2001 were flawed, the EU election observation mission to Zambia reported serious irregularities in the electoral process, but on the basis of a “constructed narrative” rather than on a “reasoned judgment based on observation”. In fact, although some issues about the Zambian elections were assessed with a general approval by EU observers, some concerns, some of which may have not affected the electoral outcome, were raised in the final report.⁶⁷ According to the author, indeed, many events and information, not always linked to the observation, were selected and used to draw conclusions which would have not necessarily affected the electoral outcome.⁶⁸ For example, Van Donge explains that the EU Final Report raised a crucial issue concerning the outcome of the elections which may be affected according to the fact that “twenty-

⁶³ Vally, Manuel. “Following-Up on Recommendations of EU Election Observation Missions”, Directorate General for External Policies of the Union, Briefing Paper, Brussels: European Union, 2012.

⁶⁴ Ibid., p. 17.

⁶⁵ Ibid.

⁶⁶ Van Donge, 2008.

⁶⁷ Ibid., p. 308.

⁶⁸ Ibid., p. 311.

two constituencies show a difference of 900 votes or more between the turnout for the Presidential and Parliamentary elections” and then that around 50,000 votes were involved in this matter.⁶⁹ Considering that the final result of the presidential election shows a difference of about 34,000 votes between the election winner, Mwanawasa, and the other main candidate, Mazoka, and considering that Mazoka could have won the presidential election “if 34,001 of those 50,000 votes were for him”, Van Donge highlights that EU observers did not consider that the twenty-two constituencies were located in areas of the country where Mazoka traditionally had less support in respect to other regions.⁷⁰ Hence, the author’s argument is that 34,001 votes for Mazoka in those constituencies were unlikely, and that EU observers’ interpretations and conclusions may be dangerous for the neutrality and impartiality of the mission without concrete evidences. By highlighting the intrinsic political nature of election observation activities, the author argues that election observation entails “the creation of a narrative by selecting salient facts”. For supporting his study, Van Donge borrows Michel Foucault’s theory concerning the creation of discourses which aim at creating social order.⁷¹ By using this theoretical framework, the author states that EU EOM’s negative conclusions referring to the Zambian presidential election were built by a constructed narrative “that could easily have been the opposite”⁷² and that could have legitimised “some political positions and not others”.⁷³

On the other side, studies dealing with election observation missions to Afghanistan have not been largely produced until now. However, many scholarly works have dealt with the political and social impact of elections in Afghanistan since 2004, including the role of domestic and international electoral observers.

For instance, in “The 2005 elections in Afghanistan”,⁷⁴ Bernd Burwitz focuses on the parliamentary and provincial elections in Afghanistan in September 2005. Overall, Burwitz assesses the 2005 elections as “the successful completion of a ‘mission

⁶⁹Ibid., pp. 310-311.

⁷⁰Ibid., p. 311.

⁷¹Foucault, Michel, “The order of discourse”, pp. 48–79 in *A Post-structuralist Reader*, R. Young (Ed.) Untying the Text. Boston: Routledge and Kegan Paul, 1981.

⁷²Van Donge, 2008, p. 297.

⁷³Ibid., p. 314.

⁷⁴Burwitz, Bernd, “The 2005 elections in Afghanistan”, pp. 196-231 in *Notes on Recent Elections/Electoral Studies* 26, 2007.

impossible” since they were conducted on time, without major incidents, and in an insecure environment. Moreover, he praises United Nations’ ability to deal with the conduct of election in post-conflict situation against the lack of “basic infrastructures” and security.⁷⁵ Nevertheless, the author also mentions some disputed aspects in relation to the 2005 elections, such as the candidacy of former warlords, “the sheer number of candidates” (many of whom were not aware of the task they were running for), and the length of the ballot paper due to the electoral system (i.e. Single Non-Transferable Vote).⁷⁶ Another problem he addresses in his article is the excessive number of electoral observers. In fact, there were not set limits in the number of accredited electoral observers, accounting for about 220,000 electoral observers out of 26,240 polling stations spread throughout the country, so creating overcrowded polling stations (e.g. in Kunar province, 10,191 party observers were deployed in 107 polling stations).⁷⁷

In “Elections and Conflict in Afghanistan”,⁷⁸ Shaharзад Akbar and Zubaida Akbar give an overview of the political and social situation in Afghanistan surrounding the 2009 presidential and 2010 parliamentary elections. They argue that Afghanistan still face many challenges, which still does not make elections a stable democratic procedure. For instance, some of these challenges are: security which affect the electoral participation; weak state institutions which encourage manipulation and create impunity; lack of mechanisms for encouraging party participation; and lack of universal impartiality of the state institutions such as the Independent Elections Commission and the Electoral Complaints Commission. Moreover, these challenges have not only a civil and political ground, but also a social and economic nature. In fact, illiteracy, poverty, and women’s discrimination in society are factors, which strongly affect the success of elections in Afghanistan. In fact, while illiteracy prevents “meaningful participation in the election process and a clear understanding of it”, poverty enlarges the gap between youth and government.⁷⁹ Moreover, the participation of women in the electoral process as a stakeholder (e.g. electoral worker, observer, voter, and candidate) is still lacking

⁷⁵ Ibid., p. 215.

⁷⁶ Ibid., p. 217.

⁷⁷ Ibid., p. 218.

⁷⁸ Akbar, Shaharзад & Akbar, Zubaida, “Elections and Conflict in Afghanistan” in *International Policy Analysis*, Berlin: Friedrich Ebert Stiftung, March 2011.

⁷⁹ Ibid., p. 2.

and this aspect jeopardises the universal and fair character of elections. Nevertheless, the authors also point their fingers against the international community for their “chaotic and confusing role” by sending “conflicting messages about the independence and integrity of the process”.⁸⁰ Moreover, international election monitoring whose purpose is to deter fraud “are less effective in the Afghan context where security limits their observation and movements”.⁸¹

In “Afghanistan’s Political transition”,⁸² the non-governmental organisation *International Crisis Group* provides an overview of the political context surrounding the 2014 presidential election in Afghanistan. This report shows that the 2014 presidential election represents the first of this kind conducted “under laws passed by an elected assembly”.⁸³ The report also touches on the Taliban’s attack to the Serena Hotel in Kabul during the election campaign period that ended with the killing of eight people, among whom, one long-term international electoral observer from the National Democratic Institute (NDI), which consequently called off its mission. The first round was characterized by a great enthusiasm “which encouraged observers to overlook sign of frauds”.⁸⁴ On the other hand, tensions and armed clashes between camps arose in the second round when sign of frauds became evident and widespread. In order to settle the rising of violence among camps within the country, the dispute between the two candidates (i.e. Ghani and Abdullah) ended with the necessity to seek help from international mediation and the start of an audit process. The report highlights that, while at the end of the first round the EU Election Assessment Team (EAT)’s press release reported that with this election “The Taliban have lost”,⁸⁵ after the audit process the EU EAT pointed out that “the audit process had been unsatisfactory”.⁸⁶ The report shows that there was a widespread view in Afghanistan that a successful election would have “showed weakness among insurgents”, and that, despite the evidence of cheats, there was the willingness to build “a narrative of success” concerning the electoral

⁸⁰Ibid.

⁸¹Ibid.

⁸²*International Crisis Group*. “Afghanistan’s Political transition” in *Crisis Group Asia Report* No. 260, Brussels, 16 October 2014.

⁸³Ibid., p. 1.

⁸⁴Ibid., p. i.

⁸⁵Ibid., p. 10.

⁸⁶Ibid., p. 21.

outcome and Afghanistan's progress towards democracy.⁸⁷ In fact, it is pointed out that while the Taliban claims to have launched around 1,000 attacks on Election Day, western analysts reported only 400-500 incidents.⁸⁸ Lastly, the report emphasises that the aftermath of the 2014 presidential election led many Afghan voters to feel disappointed and unconfident for future electoral processes and unfaithful towards democracy.

⁸⁷Ibid., p. 10.

⁸⁸Ibid.

Chapter Two

The EU and Election Observation Missions

“The support to democracy worldwide is not just consistent with the European Union’s fundamental principles: it is our clear interest, and a crucial tool for our foreign policy”.⁸⁹

The High Representative of the Union for Foreign Affairs and Security Policy’s words, Federica Mogherini, in the preface of the third edition of the *Handbook for the European Union Election Observation Mission* (hereinafter the *Handbook*), show how EU election observation missions are taken seriously in the European External relations.

According to the *Handbook*, the aim of an EU election observation mission is to provide a “comprehensive, independent, and impartial assessment of an electoral process”, to enhance “transparency and accountability”, and to promote public confidence and political participation.⁹⁰ The *Handbook* also underlines that an EU election observation mission aims at making “a positive contribution to the process” without interfering or validating the results.⁹¹ EU election observation missions are activities in line with the EU core values enshrined in its own fundamental legal instruments such as the Treaty on the European Union (1992).⁹² In fact, article 6 of this treaty points out that “The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law”⁹³. For this reason, the EU is an actor strongly committed in promoting, supporting, and consolidating democracy worldwide, and election observation is one of its main practical tools.⁹⁴ However, it should be remarked that election observation is also one of the instruments which regulates the political and economic relationships between the EU and its partners. Indeed, as mentioned in the introduction, the promotion of

⁸⁹ *Handbook for European Union Election Observation*. Third Edition, Brussels: European Union, 2016, p. 9.

⁹⁰ *Ibid.* p. 17.

⁹¹ *Ibid.*

⁹² European Union, *Treaty on European Union (Consolidated Version)*, *Treaty of Maastricht*, 7 February 1992, Official Journal of the European Communities C 325/5; 24 December 2002.

⁹³ *Treaty on European Union*, 1992, article 6..

⁹⁴ *Handbook*, 2016, p. 16.

democracy is one of the policies fostered by the EU through its Common Foreign and Security Policy (CFSP) and “relations between the EU and its partners are established in recognition that the consolidation of democratic institutions and human rights is of joint value and common interest”.⁹⁵ This can be shown by the inclusion of a human rights clause in “all EU agreements with partner countries”.⁹⁶ For example, article 9 of the Cotonou Agreement – a treaty signed by the EU with partner countries in Africa, Caribbean, and Pacific - states that “Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development”.⁹⁷ Furthermore, international election observation carried out by the EU is also considered a tool for ensuring peace and stability and complementing “other EU crisis management and peace-building initiatives in partner countries”⁹⁸. The EU’s commitment has been reiterated after the Lisbon Treaty with the *Council Conclusions on Democracy Support in the EU’s External Relations* in 2009⁹⁹ and with the *Neighbourhood Communication* of May 2011.¹⁰⁰

2.1 International Human Rights Standards in relation to Elections

EU election observation mission’s approach in assessing the electoral process is in line with international human rights standards, such as the 1948 Universal Declaration of Human Rights (UDHR)¹⁰¹ and the 1966 International Covenant on Civil and Political Rights (ICCPR),¹⁰² which both enshrine provisions regarding the promotion and defence of political participation, equality, and non-discrimination. Particularly, the UDHR fosters the right of people to participate to the political life of the state under

⁹⁵Ibid.

⁹⁶Ibid.

⁹⁷*Cotonou Agreement*. Signed in Cotonou on 23 June 2000. Revised in Luxembourg on 25 June 2005. Revised in Ouagadougou on 22 June 2010, article 9.

⁹⁸*Handbook*, 2016, p. 17.

⁹⁹ Council conclusions on Democracy Support in the EU’s External Relations. 2974th External Relations Council meeting Brussels, 17 November 2009.

¹⁰⁰ “A New Response to a Changing Neighbourhood. A Review of European Neighbourhood Policy”, Joint Communication by the High Representative of The Union For Foreign Affairs And Security Policy and the European Commission. Brussels, 25 May 2011.

¹⁰¹ UN General Assembly, *Universal Declaration of Human Rights*, 217 A (III). 10 December 1948.

¹⁰² UN General Assembly, *International Covenant on Civil and Political Rights*, United Nations, Treaty Series, vol. 999, 16 December 1966, p. 171.

article 21, and that “the will of people shall be the basis of the authority of government [and that] this will shall be expressed in periodic and genuine elections”.¹⁰³ The ICCPR reiterates this concept under article 25 stating that “Every citizen shall have the right (...) to take part in the conduct of public affairs, (...) [and] to vote and to be elected at genuine periodic elections”.¹⁰⁴ Furthermore, connected to article 25 of ICCPR, it is of particular importance, in relation to the right to participate in public affairs and to vote, General Comment no. 25 on article 25 issued in 1996.¹⁰⁵

Other rights and freedoms included in this international instruments which are strictly under the concern of an EU election observation mission are freedom of opinion and expression (article 19 UDHR; article 19 ICCPR); freedom of peaceful assembly (article 20 UDHR; article 21 ICCPR); freedom of association (article 20 UDHR; article 22 ICCPR); freedom of movement (article 13 UDHR; article 12 ICCPR); freedom from discrimination (article 2 UDHR; articles 2 and 3 ICCPR); and the right to an effective legal remedy (article 8 UDHR; article 2 ICCPR).

EU election observation missions are also focused on monitoring other human rights surrounding elections (e.g. women’s participation, rights of national minorities, etc.) which are also included in other human rights treaties such as the International Covenant on the Elimination of Racial Discrimination (CERD),¹⁰⁶ the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),¹⁰⁷ and the Convention on the Rights of Persons with Disabilities (CRPD).¹⁰⁸

The reference to international standards and best practises for democratic elections helps an EU election observation mission to assess whether the electoral process is in accordance with these standards and which areas of them need to be improved.

¹⁰³ UDHR, 1948, article 21.

¹⁰⁴ ICCPR, 1966, article 25.

¹⁰⁵ UN Human Rights Committee (HRC), *CCPR General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote)*, *The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service*, 12 July 1996, CCPR/C/21/Rev.1/Add.7.

¹⁰⁶ UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, United Nations, Treaty Series, vol. 660, 21 December 1965, p. 195.

¹⁰⁷ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, United Nations, Treaty Series, vol. 1249, 18 December 1979, p. 13.

¹⁰⁸ UN General Assembly, *Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly*, 24 January 2007, A/RES/61/106.

2.2 History of EU Election Observation Missions

The history of EU election observation missions can be distinguished in two phases: before and after 2000.

The first phase (1993-2000) of EU election observation's activities should be framed not only into the establishment of the European Union with the Treaty of Maastricht in 1992, but also into a “combination of normative and systemic changes” which characterised the international community since the early 1990s.¹⁰⁹ The EU deployed its first election observation mission in the first free general election to the Russian Federation, after the collapse of the Soviet Union, in 1993 (Table 1). In fact, although until that moment election observation missions had been sporadically carried out by some organisation such as the United Nations (UN), the Organisation of American States (OAS), the Commonwealth Secretariat (CS) during the twentieth century, election observation was a rare, small scale, and short-term activity until the late 1980s.¹¹⁰ Since the early 1990, the interest towards election observation grew due to what the scholar Kelley considers the development of an accepted “new norm” with which governments are encouraged to invite monitoring organisations to observe elections, as well as monitoring organisations are more interested in observing elections.¹¹¹ Kelley tries to explain how “this interest” developed and she shows how several changes in the international community contributed to the spread of this norm.¹¹²

Firstly, the normative change was the result of a synthesis concerning an increasing criticism towards the UN – mainly from developing and transitional states - which defended the principles of sovereignty, non-intervention, and non-interference, against those states which on the other side supported UN’s endorsement. This ideological battle was characterised by a debate transposed into a set of “elections resolutions” countered by “sovereignty resolutions” adopted at the UN since the end of the 1980s. This “debate” ended with the prevalence of supporters towards the “elections

¹⁰⁹ Kelley, 2012, p. 19.

¹¹⁰ Ibid., p. 16.

¹¹¹ Ibid., p. 18.

¹¹² Ibid.

resolutions”, and then the predominance of “democracy and human rights norms against traditional sovereignty norms”.¹¹³

Secondly, the geopolitical change within the international community following the collapse of the Soviet Union, and then the end of the Cold War, also had a strong impact in the spread of election observation. Now, the failure of autocratic regimes urged many transitional states to push for a democratic change and to support election monitoring in order to “convince citizens that the domestic institutions were reliable”.¹¹⁴ In other words, many states turned to be willing to invite monitoring organisations in order to seek legitimacy in domestic affairs, to strengthen the credibility of democratic institutions, but also to avoid suspects of likely cheats.¹¹⁵

In the case of the new established EU, it should be also pointed out the interest in carrying out election observation missions considering the relationship between foreign aid, trade and commercial policy and promotion of democracy according to the Common Foreign and Security Policy of the EU.

Since 2000, the EU has started to develop a comprehensive methodology in these activities after the issue of the European Commission *Communication on EU Election Assistance and Observation*¹¹⁶ (hereinafter the 2000 Communication) – also endorsed afterwards by the Council and the European Parliament - which establishes “a systemic and consistent approach” to its work in these fields.¹¹⁷ In fact, before the 2000 Commission Communication the credibility of EU election observation missions had not a strong basis, as witnessed by the perplexity of civil society organizations in Nigeria and Mozambique in 1999 where the EU quickly left the country after the elections.¹¹⁸ Thus, the 2000 Communication introduces a “strategic approach” with the purpose of creating a bridge not only between the act of monitoring elections and “EU initiatives on human rights and democracy”, but also in partner countries and where “the EU is engaged in post-conflict stabilisation”.¹¹⁹ For example, thanks to the EU’s

¹¹³ Ibid., p. 25.

¹¹⁴ Ibid., pp. 26-27.

¹¹⁵ Ibid., p. 27.

¹¹⁶ *Communication from the Commission on EU Election Assistance and Observation*, COM(2000)191.

¹¹⁷ *Handbook*, 2016, p. 17.

¹¹⁸ Meyer-Resende, 2008, pp. 5-6.

¹¹⁹ *Handbook*, 2016, p. 18.

positive assessment of the 2008 election in Rwanda, the EU decided to grant development funds of Euro 290 million for the period 2008-2013.¹²⁰ With the 2000 Communication, the concepts of impartiality, neutrality, and independence in line with the international standards of elections are strengthened, as well as more concern is devoted to the long-term assessment of the electoral process and to the condition that an EOM is deployed only in cases would bring an “added value” and contribution to the electoral process.¹²¹

Between 2000 and 2015 (see Table 2 and 3), the EU has carried out more than one hundred EOMs to seventy-five countries throughout Africa, Asia, Oceania, and Latin America, but not to those countries part of the Organization for Security and Cooperation in Europe (OSCE), another leading election monitoring organisation. In fact, since each EU Member States is also part of the OSCE, the EU does not organise election observation missions to participating states of the OSCE, which instead are led by the OSCE Office for Human Rights and Democratisation (ODIHR).¹²²

Table 1: EU Election Observation Missions before 2000

2000	Zimbabwe	Tanzania	Sri-Lanka			
1999	Timor-Leste	Nigeria	Mozambique	Indonesia	Azerbaijan	Armenia
1998	Togo	Paraguay	Cambodia	Bosnia-Herzegovina	Azerbaijan	
1997	Yemen	Pakistan	Bosnia-Herzegovina	Albania		
1996	Russian-Federation	Palestinian-Territory	Nicaragua	Bangladesh		
1995	Russian-Federation					
1994	Ukraine	South-Africa	Mozambique			
1993	Russian-Federation					

¹²⁰ European Commission, “European Union deploys Election Observation Mission to Rwanda”, in *Press Release Database*, IP/08/1231, Brussels, 1 August 2008, last update 22 October 2015, available at: http://europa.eu/rapid/press-release_IP-08-1231_en.htm?locale=en (consulted on 10 July 2016).

¹²¹ *Handbook*, 2016, p. 18.

¹²² *Ibid.*

Table 2: EU Election Observation Missions between 2001 and 2007

2001	2002	2003	2004	2005	2006	2007
Bangladesh	Cambodia	Cambodia	Afghanistan	Afghanistan	Bolivia	Ecuador
Guyana	Congo	Guatemala	Indonesia	Burundi	Congo	Guatemala
Nicaragua	Ecuador	Mozambique	Malawi	Congo	Fiji	Indonesia
Peru	Kenya	Nigeria	Mozambique	Ethiopia	Haiti	Kenya
Sri-Lanka	Madagascar	Rwanda	Sri-Lanka	Guinea-Bissau	Indonesia	Mauritania
Timor-Leste	Pakistan			Lebanon	Mauritania	Nigeria
Zambia	Sierra-Leone			Liberia	Mexico	Sierra-Leone
	Timor-Leste			Palestinian-Territory	Nicaragua	Timor-Leste
	Zimbabwe			Sri-Lanka	Palestinian-Territory	Togo
				Venezuela	Uganda	
					Venezuela	
					Yemen	
					Zambia	

Table 3: EU Election Observation Missions between 2008 and 2014

2008	2009	2010	2011	2012	2013	2014
Angola	Afghanistan	Afghanistan	Chad	Algeria	Guinea	Afghanistan
Bangladesh	Bolivia	Burundi	Congo	El-Salvador	Honduras	Egypt
Bhutan	Ecuador	Ethiopia	Nicaragua	Libya	Jordan	Guinea-Bissau
Cambodia	El-Salvador	Guinea	Niger	Malawi	Kenya	Kosovo
Ecuador	Guinea-Bissau	Iraq	Nigeria	Senegal	Kosovo	Malawi
Ghana	Ivory-Coast	Ivory-Coast	Peru	Sierra-Leone	Madagascar	Maldives
Guinea-Bissau	Lebanon	Nicaragua	Sudan	Timor-Leste	Mali	Mozambique
Maldives	Malawi	Sudan	Tunisia	Togo	Nepal	Tunisia
Nepal	Maldives	Tanzania	Uganda		Pakistan	
Pakistan	Mozambique	Togo	Zambia		Paraguay	
Rwanda	Niger				Swaziland	
Zambia	South-Africa					

2.3 Methodology

As aforementioned, the EU's methodology in monitoring elections is based on the 2000 *Communication on Election Assistance and Observation* and with the *Declaration of Principles for International Election Observation* adopted by the United Nations in 2005.¹²³ The 2000 Communication is important because it strengthens the interrelation between election observation and EU's initiative of promoting human rights and democracy.¹²⁴ The *Handbook* outlines the scope of the 2000 Communication for election observation:

- to strengthen respect for fundamental freedoms and political rights;
- to undertake a comprehensive assessment of an election process in accordance with international standards;
- to enhance public confidence in the electoral and democratic processes, including providing a deterrence to fraud; and
- to contribute, where relevant, towards the prevention or resolution of conflict.¹²⁵

The three editions of the *Handbook* also represent a reference tool for EU observers in order “to ensure that observation is conducted consistently and to the highest possible standard”.¹²⁶ Observers selected by the 28 Member States plus observers from Canada, Norway, and Switzerland are obliged to sign and respect a Code of Conduct for EU Election Observers which was established by the Council Decision 9262/98 and included as Annex III of the 2000 Communication.¹²⁷ According to this Code of Conduct, observers are supposed, *inter alia*, to work professionally and with impartiality, and respect the law of the host country. All these documents aim at enhancing consistency and coherence in all election observation missions.¹²⁸

EU election observation missions are deployed after receiving an invitation to monitor elections from the state or electoral authorities of the host country and after that

¹²³ United Nations, *Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers*. New York: United Nations, 2005.

¹²⁴ *Handbook*, 2016, p. 34

¹²⁵ *Ibid.*, p. 17.

¹²⁶ *Ibid.*, p. 179.

¹²⁷ *Ibid.*, p. 21.

¹²⁸ *Ibid.*, p. 34.

a memorandum of understanding (MoU) is signed between the EU and the host country, which “outline the rights and responsibilities of both parties” such as the capacity to move freely throughout the country, and then to have access to all the stages of the electoral process, and the EU monitoring team’s duties to be impartial and not to interfere.¹²⁹

The assessment of EU election observation missions is generally characterised by the direct observation of all the phases of the electoral period (e.g. political campaign, voting, counting, and tabulation), but also by the analysis of relevant documents and the meeting with domestic electoral stakeholders.¹³⁰ Furthermore, EU observers are deployed both in the capital of the country and in other locations in order to ensure an equal assessment between urban and rural areas.¹³¹ However, it should be pointed out that although the EU aims to have a long-term presence in the monitored country, EU election observation missions are usually deployed six weeks before election day after the registration of candidates and voters, and they remain in the country until two weeks after Election Day.

During Election Day, EU observers are split in teams of two and deployed in different areas of the host country.¹³² The various monitoring teams usually visit eight to ten polling stations observing the different stages of the electoral process: opening, voting, closing, counting, and tabulation. Each team observes for about thirty minutes and fills up one standard reporting form for each polling station visited.¹³³

The most important aspects that guarantee the credibility of EU election observation missions are the full independence and non-interference of the electoral process. Whenever problems are detected, EU observers may bring them to the attention of the electoral authorities but they must abstain from making public comments or directly intervening to solve them.¹³⁴

Although, as I show in the next section, different EU institutions play a decisive role in the organisation of election observation missions, the findings and conclusions of

¹²⁹ Ibid., p. 37.

¹³⁰ Ibid., p. 35.

¹³¹ Ibid.

¹³² Ibid., p. 36.

¹³³ Ibid.

¹³⁴ Ibid., p. 37.

EU election observation missions are usually “politically independent” from these institutions since they operate under a different mandate.¹³⁵

2.4 The Role of EU Institutions

The *2000 Communication* is also important for regulating the role of the main European institutions regarding the deployment of election observation missions which is evolved with the entry into force of the Treaty of Lisbon: the High Representative for Foreign Affairs and Security Policy and Vice-President of the Commission (HR/VP), the European Commission, the Council of Ministers, the European Parliament (EP), and the European External Action Service (EEAS).¹³⁶

The HR/VP is in charge to outline the EU election priorities every year and “decides on the deployment and oversees the overall functioning of EU EOMs”.¹³⁷ The HR/VP is assisted by the EEAS concerning all the political and electoral issues, and by the by the European Commission Service for Foreign Policy Instrument (FPI) “for all operational, security and financial aspects” of each EU election observation mission.¹³⁸ Moreover, the HR/VP also appoints the Chief Observer of the election observation mission who is a member of the EP.¹³⁹

The European Commission Service for Foreign Policy Instrument (FPI) is in charge of the management and implementation of the monitoring activities and programmes. The EIDHR, one of its financial mechanism, funds the organisation of EU election observation missions.¹⁴⁰

The European Commission also works with Member States for the organisation and implementation of EU election observation missions through ad hoc Council Working Groups aiming not only at the selection of observers - long-term and short-term observers are pre-selected by the respective member states; and the European

¹³⁵ Ibid.

¹³⁶ Ibid., p. 19.

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

Commission is in charge of deciding the final composition of the mission - but also at the management of political follow-up on each EU election observation mission.¹⁴¹

The EP also plays a crucial role in election observation sending its own delegation either as a part of an EU Election Observation Mission (EOM) or in cooperation with an OSCE/ODHIR EOM.¹⁴² In fact, an EP EOM is not organised when there is not a long-term observation mission in the country. The EP is also involved in the political discussion concerning the follow-up of an EOM and in dialogue on EOMs in Democracy and Election Group with the EEAS and the European Commission.¹⁴³ In the case of Afghanistan, the EP has only deployed one EOM to Afghanistan in 2005 for the Parliamentary election. Seven EP members were deployed in the country for the period 15-20 September 2005 and observed the electoral process on Election Day in several districts of Kabul and the Panjshir Valley. Apart the positive assessment of the electoral process, in line with the EU EOM's conclusions showed in Chapter Four, the EP recommended “to examine how it can best make a direct and concrete contribution to the fledgling Afghan Parliament, possibly by providing training opportunities for parliamentary officials”.¹⁴⁴ What is particularly remarkable from this EP EOM was the presence, among the EP observers, of Philippe Morillon, who will be the Chief Observer of the EU EOM to Afghanistan in 2009. As mentioned, a member of the EP is appointed Chief Observer by the HR/VP for each EOM.

The EEAS has also different tasks. Through the Democracy and Election Observation Division, it conducts various activities related to election observation such as the organisation of exploratory missions some months ahead of Election Day and the monitor of the political and electoral context surrounding an election observation mission. In addition, it also discusses how to manage electoral follow-ups and recommendations with EU Delegations, Member States, and the European Commission.¹⁴⁵ Furthermore, this division also works with the Directorate-General for International Cooperation and Development (DEVCO) in the European Commission “to

¹⁴¹ Ibid., p. 20.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ European Parliament, “Account of the mission to observe the parliamentary elections in Afghanistan 15-20 September 2005”, 28 March 2006.

¹⁴⁵ *Handbook*, 2016, p. 20.

ensure better coherence between electoral observation and electoral assistance”, and it contributes to the selection of the core team experts along with the FPI.¹⁴⁶

2.5 Establishing an EU election observation mission and Minimum Conditions for its Deployment

The decision to establish or not EU election observation missions is taken by the HR/VP after considering the recommendation of the Exploratory Mission (ExM) conducted by some experts supported by the EEAS.¹⁴⁷ Whether an election observation mission is decided to be deployed, this does not mean that “the EU deems an election process to be either problematic or credible”, as well as the act to not deploy a mission does not mean that “a prior judgement on the electoral process has been made or that the EU has no interest in the conduct of the election”.¹⁴⁸

The first action is conducted by the EEAS Democracy and Election Division, which, in collaboration with the geographical desks, makes a list of priority countries which may be potentially observed in the following year. However, during this process, the list of priority countries for the current year may be reviewed “according to the assessed added value, political priority, and budgetary availability”.¹⁴⁹ After sharing this list with Member States in the Political and Security Committee of the Council and with the European Parliament, the HR/VP has the final saying on the list of priority countries to monitor.¹⁵⁰ The EU takes into account different factors for considering the level of priority. For example, the EU evaluates whether its deployment would enhance voter confidence in the electoral process and would improve “EU democratisation and/or crisis management and peace-building initiatives in the country”. In addition, the EU should also be invited to observe elections and its presence would show its support “for an important political process or democratic transition”.¹⁵¹

The second action is the deployment of an ExM – composed by around six experts, from six to four months prior to election day - in the country which sent the invitation in order to assess whether the deployment of EU election observation

¹⁴⁶ Ibid.

¹⁴⁷ Ibid., p. 121.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid., p. 122.

missions would be “useful, feasible, and advisable”.¹⁵² The report that ExMs produce, not only includes whether an election observation mission would be necessary, but also outline the thematic areas of major concern; the scope and the scale of the potential mission; and the security risks. This report is sent to the HR/VP, who again liaises with Member States and the European Parliament before deciding whether to deploy a monitoring mission or not¹⁵³. However, it is common to deploy an election observation mission after an ExM¹⁵⁴.

If minimum conditions for conducting an effective and credible election observation are not met, an EU election observation mission may be not deployed.¹⁵⁵ These conditions may depend, *inter alia*, on the extent of freedom of movement that observers enjoy in the host country; whether observers are free to meet all electoral stakeholders; whether the government and the electoral authorities of the host country will not interfere in the EU’s work and assessment; and whether there are not security constraints which could put at risk the life of observers. The emergence of problems with these minimum conditions after the deployment of a monitoring mission, could lead an EU election observation mission to withdraw from the host country.¹⁵⁶

2.6 The Structure of an EU Election Observation Mission

The structure of an EU election observation mission varies depending on different circumstances such as the budget and on the format of the mission. The Chief Observer (CO) is the main responsible of the mission and a member of the EP.¹⁵⁷ Generally, the CO controls whether the EU election observation mission complies with the Declaration of Principles for International Election Observation and with the MoU signed with the authorities of the host country. Moreover, the CO is in charge of ensuring that the mission follows the EU methodology for observing elections and whether the EU observers respect the Code of Conduct.¹⁵⁸ Yet, the CO has also the responsibility to verify that the findings and conclusions of the observation are based on “factual

¹⁵² Ibid.

¹⁵³ Ibid., p. 124.

¹⁵⁴ Meyer-Resende, 2008, p. 7.

¹⁵⁵ *Handbook*, 2016, p. 124.

¹⁵⁶ Ibid., p. 125.

¹⁵⁷ Ibid., p. 143.

¹⁵⁸ Ibid.

information” gathered by the core team and observers.¹⁵⁹ As a member of the EP, the CO does not stay in the host country for the entire duration of the mission, but he or she is always present for the opening of the mission and returns to the country for the presentation of the Final Report and recommendations.¹⁶⁰

The Deputy Chief Observer (DCO) is the main technical and political advisor to the CO. The DCO, together with the CO, manages political, analytical, and methodological activities for all mission observers.¹⁶¹ The DCO is also responsible to give daily instructions to all mission observers; to prepare interim reports, preliminary statements, and final reports on the basis of the information gathered by the core team and the observers; and to keep informed the CO when he or she is not present in the host country.¹⁶²

The core team is usually constituted by the election analyst, the legal analyst, the human rights analyst, the political analyst, the media analyst, the press and public outreach officer, the observer coordinator, and the data analyst.

The election analyst monitors, *inter alia*, the work of the election management body (EMB); follows the party/candidate and voter registration; and assess the procedure of “voting, counting, and tabulation of the results”.¹⁶³

The legal analyst not only assesses whether the legal framework of the host country is in line with international standards for democratic election, but also whether the national law is implemented.¹⁶⁴ Moreover, he or she follows cases of election-related complaints and maintain a database of them.¹⁶⁵

The human rights analyst assesses the human rights situation surrounding election in the host country. He or she particularly focuses on the participation of women, minorities, and disadvantaged groups.¹⁶⁶

The political analyst follows, *inter alia*, the political context and campaign surrounding election and he or she is “the focal point for relations with political parties,

¹⁵⁹ Ibid., p. 144.

¹⁶⁰ Ibid.

¹⁶¹ Ibid., p. 145.

¹⁶² Ibid., p. 146.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid., p. 147.

candidates, and their campaign teams”.¹⁶⁷ Moreover, the political analyst provides information about the political, social, and cultural history of the host country and he or she monitors “any incidents or reports of election-related violence”.¹⁶⁸

The media analyst monitors, *inter alia*, the role of media in the electoral process; assesses the legal framework for media coverage; and whether freedom of expression is ensured.¹⁶⁹ For this reason, he or she may also collaborate with the political, legal, and human rights analyst.¹⁷⁰

The press and public outreach officer promotes the EU election observation mission maintaining contacts with national and international medias. He or she is in charge, *inter alia*, of organising press events; spreading information materials concerning the election observation mission; to handle the EU election observation mission's website; and to make “public or press statements on behalf of the EU EOM only with the specific approval of the CO or DCO”.¹⁷¹

The observer coordinator is tasked to guide the work of LTOs and STOs “on their operational and reporting responsibilities” and to share their findings with the core team. He or she is the first person who gathers and analyses the observers’ reporting forms.¹⁷²

The data analyst collects data, which observers have gathered during their observation on opening, voting, counting, and tabulation, and provides “the core team with a detailed statistical analysis of the observation data”. The data analyst also examines data gathered by other election stakeholders such as the EMB, national authorities, and other institutions.¹⁷³

LTOs are deployed in their own Area of Responsibility (AoR) and they focus on the same range of issues - such as the regional political context, election administration, voter and candidate registration, political campaign, the role of media in the electoral process, the human rights situation, and so forth - that instead the core team concerns at

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ Ibid.

¹⁷¹ Ibid, p. 148.

¹⁷² Ibid.

¹⁷³ Ibid.

the national level. Moreover, LTOs have meetings with the main electoral stakeholders and manage the deployment of STOs in their AoR. LTOs work in international team of two.¹⁷⁴

STOs also work in international team of two and are tasked to observe different aspects of the electoral process for few days before Election Day such as the monitor of the electoral environment and the assessment of the electoral process during election day (i.e. opening, voting, closing, counting, and tabulation of results) by filling up various reporting forms which are then transmitted to the headquarters.¹⁷⁵

2.7 Types of EU Election Observation Missions

The EU sets up different types of election observation missions according to particular circumstances of the host country such as security concerns, insufficient budget, or focus on specific thematic areas.

As mentioned, the EU Election Observation Mission (EOM) represents the main full-fledged format for election monitoring including not only the deployment of the core team experts and long-term observers (LTOs), but also the deployment of short-term observers (STOs).¹⁷⁶ Whenever there are not conditions for the deployment of an EU EOM, the EU may opt to deploy an Election Expert Mission (EEM) and an Election Assessment Team (EAT).¹⁷⁷

An EEM is usually deployed several weeks before Election Day and constituted by two to four experts led by a team leader, an electoral/legal expert, a human rights and gender expert, and a media expert, who are not tasked to fully monitor election day, but they are basically tasked to meet electoral stakeholders and to assess particular aspects of the electoral process.¹⁷⁸

An EAT is composed by the core team experts - and sometimes also by the Chief Observer - but not by LTOs and STOs, and they do “not conduct standard election day observation”. Since they are mostly based in the capital city, an EU EAT may sometimes deploy regional analysts outside the capital of the host country to follow the

¹⁷⁴ Ibid., p. 151.

¹⁷⁵ Ibid., p. 158.

¹⁷⁶ Ibid., p. 126.

¹⁷⁷ Ibid., p. 126.

¹⁷⁸ Ibid.

electoral process. An EU EAT is considered whenever there are not conditions to deploy an high number of observers due to security constraints.¹⁷⁹ However, as will be seen in Chapter Four, the EU has exceptionally deployed LTOs for the EAT to Afghanistan in 2014.

In the case of an election observation mission to Afghanistan in 2004, the EU has also deployed for the first and only time a new mission format: Democracy and Election Support Mission (DESM), which was composed by about twenty-five election and field experts deployed three months prior of election day to follow all the key phases which represent the pre-election period such as the monitoring of the work of the Election Management Body (EMB), the candidate and voter registration, the political campaign, the role of civil society groups, and so forth.¹⁸⁰

2.8 Human Rights Concerned in an EU Election Observation Mission

Different areas of assessment are concerned by EU election observation missions which involve many human rights aspects. The EU monitors the political context, particularly whether elections are periodic and genuine, and whether all citizens enjoy their right to vote and their right to participate in government and public affairs. The political context is assessed according to the “democratic framework of the host country” and to particular circumstances such as the conduct of election after a conflict.¹⁸¹

An EU election observation mission certainly focuses on the legal framework of election which refers both to national and international law. Particularly, the EU monitors the electoral system and administration of the host country and which impact they have on the electoral process, also considering the level of transparency and corruption.¹⁸² Moreover, the EU seeks to concern whether any reforms would not constrain political rights such as the right to participation, freedom of expression, assembly, and association, and respect the principle of equality and non-discrimination.¹⁸³

¹⁷⁹ Ibid., p. 127.

¹⁸⁰ European Union Democracy and Election Support Mission, Islamic Republic of Afghanistan, Final Report, Presidential Election, 9 October 2004.

¹⁸¹ *Handbook*, 2016, p. 40.

¹⁸² Ibid., p. 51.

¹⁸³ Ibid., p. 43.

Another area of assessment is voter registration. In fact, the EU monitors whether citizens of the host country enjoy their right to vote or there are any forms of restriction, and whether any limits to political participation comply with domestic and international law. As the *Handbook* reports, voter registration helps to guarantee the universal suffrage but also to prevent irregularities such as multiple voting and proxy voting.¹⁸⁴

An EU election observation mission also focuses on the status of freedom of association and the right to stand for election through the monitor of candidate and political party registration and the election campaign. In fact, the EU assesses whether the electorate is reached out by a range of choice of parties and candidates all of whom should have “equal opportunities for conduct of public rallies, production and use of electoral materials, and other campaign activities”.¹⁸⁵

Yet, the role of electronic and print media is another area of assessment taken into account by an EU election observation mission. In fact, freedom of media stands at the ground of the conduct of genuine and democratic elections since all candidates and political parties have the equal possibility to communicate their ideas and to reach out the electorate “in a balanced and unbiased manner”.¹⁸⁶ The media coverage on election campaigns should not limit freedom of expression although there may be some restrictions prescribed by law.¹⁸⁷ An EU election observation mission also monitors whether media use an inflammatory language which can be categorised as hate speech and whether women participating in the political process receive equal coverage without any stereotypes.¹⁸⁸

An EU election observation mission also monitors whether citizens have been “infringed or denied” from their political rights and enjoy their right to an effective remedy and right to a fair hearing.¹⁸⁹ In fact, the rule of law and “the public confidence

¹⁸⁴ Ibid., p. 58.

¹⁸⁵ Ibid., p. 69.

¹⁸⁶ Ibid., p. 79.

¹⁸⁷ Ibid. p. 77.

¹⁸⁸ Ibid., p. 81.

¹⁸⁹ Ibid., p. 89.

in the integrity of the judiciary” of the host country are assessed through “the conduct of complaints and appeals processes”.¹⁹⁰

Other human rights assessed by an EU election observation mission include the monitor of women’s participation, which does not refer only to women’s ability to cast their ballot, but also to their opportunity to stand for office, to participate to the political campaign, and to be part of the election administration.¹⁹¹ Moreover, the EU assesses through the analysis of the electoral system whether national minorities of different ethnic, religious, cultural, and linguistic background equally enjoy their right “to participate in public affairs and elections (...) without discrimination”.¹⁹² The same attention is devoted to the participation of people with disabilities who should not be discriminated and limited by “physical obstacles”,¹⁹³ and to the participation of internally displaced people and refugees particularly in those countries which have been affected by a “conflict, violence, human rights violations or natural disasters”.¹⁹⁴

2.9 Types of Reporting

Reporting is one of the most fundamental aspects of an election observation mission since all information gathered should be “accurate and objective and based on credible sources”.¹⁹⁵ There are different kinds of report formats through which an EU election observation mission makes public statements, shows the work of the mission and its development, communicates its preliminary findings, etc. This report can be divided in internal reports and external reports.

Internal Reports are documents distributed only to EU institutions and Member States. For instance, an EU election observation mission produces Interim Reports every ten days since its deployment which deals with the “update and analysis of all relevant electoral developments” such as the monitor of the political campaign, the voter registration, the media, and the human rights situation.¹⁹⁶ The content of interim reports usually constitutes the basis for the findings and conclusions outlined in the Preliminary

¹⁹⁰ Ibid., p. 89.

¹⁹¹ Ibid., p. 94.

¹⁹² Ibid., p. 97.

¹⁹³ Ibid., p. 101.

¹⁹⁴ Ibid., p. 102.

¹⁹⁵ Ibid., p. 179.

¹⁹⁶ Ibid., p. 180.

Statement and Final Report, and is drafted by the DCO after considering the information provided by the work of the Core Team and LTOs. However, the CO has the last saying on the final version of the interim report.¹⁹⁷ Another instance of internal report is the Flash Report, which is a document “on events and development that happen outside of the reporting schedule and need to be brought to the urgent attention of the EU structures”.¹⁹⁸ A Flash Report does not replace an interim report, but it has a role of complement, so it is the Operational Report which serves to cover “logistical issues”.¹⁹⁹ As will be seen in Chapter Four, the EU has only issued internal reports on the occasion of the EU EAT to Afghanistan in 2010.

As far as external reports are concerned, a Preliminary Statement represents the first EU election observation mission public and independent assessment after elections. It is usually released with a press conference within 48 hours after Election Day and addressed the preliminary findings and conclusions to the electoral stakeholders and the international audience.²⁰⁰ In other words, the Preliminary Statement gives a first insight about the extent to which the electoral process has been conducted according to international standards. What is very relevant about the Preliminary Statement, which is cited by the *Handbook*, is that “the CO stresses the *preliminary* nature of the statement and underlines that the EU EOM continues its observation of post-election development and will issue its overall assessment later in its final report”.²⁰¹ However, if the post-election phase had characterised by any incidents, complaints, or problems emerged, for instance, from the tabulation of votes, an EU election observation mission's team might opt to issue a second Preliminary Statement before the issue of the Final Report.²⁰² The Preliminary State is also drafted by the DCO who gathers information by the findings of the Core Team and the LTOs and STOs. However, this draft is also taken into account by the EEAS Democracy and Election Observation Division which provides some comments in order “to ensure quality in reporting and consistency in implementing the

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

²⁰⁰ Ibid., p. 181.

²⁰¹ Ibid.

²⁰² Ibid.

methodology”.²⁰³ The Preliminary Statement is usually accompanied by a Press Release which includes quotations from the CO and members of the delegation of the EP. In particular circumstances, the EU may share its findings with other monitoring organisations before the issue of the Preliminary Statements, which is considered to be a good practise according to the Declaration of Principles.²⁰⁴

The Final Report is the document that includes the comprehensive assessment of the electoral process whether it has been conducted in accordance with international standards.²⁰⁵ It is issued within two months after elections and outlines, in a definitive manner, the findings and conclusions of the electoral process. The most crucial section of the Final Report is the one referring to recommendations to the host country for the improvement of the integrity of the electoral process in the future.²⁰⁶ What is noteworthy is that the recommendations' section is also intended “to identify possible areas for EU-supported electoral assistance”.²⁰⁷ The Final Report is also drafted by the DCO who is guided by the CO. As for the Preliminary Statement, the Final Report is also shared with the EEAS Democracy and Election Observation Division “for comments to ensure the quality of reporting and consistency in implementing reporting methodology”.²⁰⁸ The Final Report is developed according to the conclusions made by the Core Team and observers and the Preliminary Statement. Nevertheless, if the assessment of the mission has changed for developments occurred after the issue of the Preliminary Statement, the Final Report should explain why the assessment, whether positive or negative, has been transformed.²⁰⁹

Conclusion

This chapter has provided a general overview on what is the aim of an EU election observation mission, its history, its methodology, its structure, and the main areas of observation. The general purpose of an EU election observation mission is to assess the quality of the electoral process according to international standards of elections. This

²⁰³ Ibid.

²⁰⁴ Ibid., p. 182.

²⁰⁵ Ibid., p. 183.

²⁰⁶ Ibid., p. 37.

²⁰⁷ Ibid., p. 183.

²⁰⁸ Ibid.

²⁰⁹ Ibid.

assessment is based on a specific methodology, which the EU has established through the *2000 Communication* seeking to ensure the highest level of monitoring. Moreover, this chapter has also shown how the EU selects the countries where to observe elections and which are the conditions for that. For its deployment, an EU election observation mission should bring an added value and an opportunity to improve the electoral process. Security is a priority for the EU and if this is not ensured, a mission may be not deployed or may be withdrawn. The EU may opt to deploy a monitoring mission of different formats according to the objectives, priorities, and conditions settled. Human rights monitoring is also one of the main priorities of the EU, and the core teams and the observers are committed to assess different type of human rights surrounding the pre-electoral, electoral, and post-electoral period. Reporting is the tool through which the EU disseminates its findings and conclusions both internally and externally, and the different kinds of reporting format refer to a specific structure and template.

Chapter Three

The EU in Afghanistan

The EU has been committed in Afghanistan for more than three decades and its focus can be divided in three phases. The first phase is related to the Soviet Union occupation of Afghanistan (1979-1989), during the period of which the EU was present in the country with the European Commission (EC) support office in Kabul. However, in 1993 the EU also opened the European Commission Humanitarian Office (ECHO) in order to provide humanitarian assistance.²¹⁰ The second phase is related to the aftermath of the Soviet Union occupation since the beginning of the nineties, and in particular during the Taliban Regime (1996 – 2001), when the EU moved its offices (both the EC and ECHO offices) to Peshawar, in western Pakistan, and continued to assist the country from that place. However, it is with the third phase, related to the aftermath of the fall of the Taliban regime in November 2001, that the “EC engagement in the country increased to make the Commission one of the largest donors in the country”.²¹¹ In December 2001, the Council appointed an EU Special Representative (EUSR) to be based in Kabul, and in the following year also set up a Delegation of the European Commission to Afghanistan, which with the entry into force of the Lisbon Treaty on 1 December 2009 were both merged in a single office known as EU Delegation to Afghanistan.²¹²

3.1 EU-Afghanistan Relations

The EU has started to play an important political and economic role in the stabilisation and reconstruction of the country after the Bonn Agreement in December 2001, which

²¹⁰ European Union External Action Service, “EU Engagement in Afghanistan”, Brussels, 14 November 2011, update November 2011, AFG/09, available at: http://eeas.europa.eu/policies/eu-special-representatives/vygaudas-usackas/docs/20120413_eu_engagement_afghanistan_en.pdf (consulted on 10 July 2016).

²¹¹ European Commission, Country Strategy Paper Islamic Republic of Afghanistan 2007-2013, available at: https://ec.europa.eu/europeaid/sites/devco/files/csp-afghanistan-2007-2013_en.pdf (consulted on 10 July 2016).

²¹² European Union External Action Service, “EU Engagement in Afghanistan”, Brussels, 14 November 2011, update November 2011, AFG/09, available at: http://eeas.europa.eu/policies/eu-special-representatives/vygaudas-usackas/docs/20120413_eu_engagement_afghanistan_en.pdf (consulted on 10 July 2016).

set up the plan for a stable and democratically elected government among different Afghan political stakeholders. With the Joint Declaration in 2005, the EU and the government of the Islamic Republic of Afghanistan have agreed on a partnership with mutual accountability “to a secure, stable, free, prosperous and democratic Afghanistan as laid out in the Afghan Constitution adopted on 4 January 2004”.²¹³ In particular, while on the one hand the Afghan government committed to consolidate its democratic political system, to establish responsible and accountable government institutions, strengthening the rule of law, and safeguarding human rights and the development of civil society, on the other hand the EU committed to help the government of Afghanistan to achieve these objectives also by encouraging its partners in the international community to cooperate with Afghanistan.²¹⁴

At the end of the London Conference on Afghanistan held by the Afghan government, the United Nations, and the international community, the Afghanistan Compact was launched on 31 January 2006. The Afghanistan Compact represented a new framework for cooperation between the Afghan government and the international community, including the EU, in areas such as security, governance, rule of law and human rights, economic and social development. Again, whereas the government of Afghanistan committed to take all the measures to achieve its objectives in the abovementioned areas, in turn the international community, including the EU, committed “to provide resources and support” to the Afghan government.²¹⁵ What is noteworthy is that within the Afghanistan Compact, the Afghan government not only committed to have an Independent Election Commission by the end-2008, but also to have a “civil and voter registry with a single national identity document” by the end-2009.²¹⁶ As will be discussed in the next chapter, the Afghan government did not fulfil this last commitment at the time of writing.

²¹³ Council of the European Union, “EU-Afghanistan Joint Declaration. Committing to a new EU-Afghan Partnership”, 14519/05 (Presse 299) Strasbourg, 16 November 2005, available at: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2014519%202005%20INIT> (consulted on 16 July 2016).

²¹⁴ Ibid.

²¹⁵ “The London Conference on Afghanistan. The Afghanistan Compact”, London 31 January - 1 February 2006, p. 2, available at: http://www.nato.int/isaf/docu/epub/pdf/afghanistan_compact.pdf (consulted on 10 July 2016).

²¹⁶ Ibid., p. 7.

The EU-Afghanistan Joint Declaration 2009 renewed the mutual cooperation established with the Joint Declaration 2005 and the Afghanistan Compact 2006. It is interesting to note that the Joint Declaration 2009 includes the EU's commitment to provide for financial assistance for the preparation of the 2009 Presidential election and the deployment of an election observation mission “on the conditions that security conditions are met”.²¹⁷

At the Tokyo Conference on Afghanistan on July 2012, the government of Afghanistan and the international community agreed on a new partnership based on mutual accountability and with follow-up mechanisms in order to ensure progresses.²¹⁸ This new partnership, known as Tokyo Mutual Accountability Framework (TMAF), committed both the Afghan government to carry out reforms - for sustainable democracy, good governance, and economic growth - and the international community to continue its donor support depending upon “the Afghan government delivering on its commitments as described in the Tokyo framework”.²¹⁹ Under the TMAF government's commitment in the area of “Representational Democracy and Equitable Elections”, the Afghan government pledged to “conduct credible, inclusive and transparent Presidential and Parliamentary elections in 2014 and 2015 according to the Afghan Constitution, in which eligible Afghan citizens, men and women, have the opportunity to participate freely without internal or external interference in accordance with the law”.²²⁰ As will be discussed in the next chapter, the 2014 Presidential election were not fully transparent and the 2015 Parliamentary election have been postponed for lack of electoral reforms.

3.2 EU's Areas of Assistance in Afghanistan

The EU has been committed in Afghanistan in many areas of assistance including reconstruction aid, security, police and the rule of law, public administration reform,

²¹⁷ EU-Afghanistan Conference, “European Union-Afghanistan Joint Declarations 2009. Committing to a new EU-Afghan Partnership”, Decl 2009, Berlin, 12 June 2009, available at: http://www.fu-berlin.de/sites/mun/medien/meu/EU_AFG_Joint_Declaration_2009.pdf (consulted on 10 July 2016).

²¹⁸ Tokyo Mutual Accountability Framework (TMAF), Senior Officials Meeting Joint Report, Kabul, Afghanistan, 3 July 2013, available at: http://mof.gov.af/Content/files/TMAF_SOM_Report_Final_English.pdf (consulted on 10 July 2016).

²¹⁹ Ibid., p. 3.

²²⁰ Ibid., p. 4.

counter-narcotics, health and social protection, human rights, and elections. Particularly, since 2002, the EU and its Member States have committed to take “key co-ordination roles” in several areas of assistance such as counter-narcotics led by the UK, the judicial reform and training reform by Italy, police training by Germany, rural livelihoods and health by the European Commission in joint cooperation respectively with the World Bank and the USA, and the establishment of an Afghan Parliament by France.²²¹

Between 2002-2010, the EU and its Member States have disbursed around EUR 800 million in aid to Afghanistan, whereas between 2011-2013 only the EU (not including its Member States) has disbursed around EUR 200 million a year.²²² On 16 November 2005, the EU signed with Afghanistan a joint political declaration aiming at “the establishment of strong and accountable institutions, security and justice sector reform, counter-narcotics, development and reconstruction”.²²³ The 2009 EU Action Plan for Afghanistan and Pakistan has become a point of reference for the promotion of many programmes and activities of the EU Delegation in Kabul.²²⁴ Yet, the EU and the government of Afghanistan have initialled the Cooperation Agreement on Partnership and Development (CAPD), which represents “the first official, contractual framework governing cooperation between the EU and Afghanistan” and “provide the basis for developing a further mutually beneficial relationship in an increasing range of economic and political areas”.²²⁵ In addition, the EU has been also strongly committed in the promotion and protection of human rights in Afghanistan. Its main areas of concern have been women's rights, children's rights, freedom of expression and assembly, freedom of media, torture and ill-treatment, death penalty, civilian casualties, access to

²²¹ EU Council Secretariat Factsheet, “The EU and Afghanistan”, AFG/00, May 2005, available at: http://www.consilium.europa.eu/uedocs/cmsUpload/050511_Afghanistan.pdf (consulted on 10 July 2016).

²²² European Union External Action Service, “EU Engagement in Afghanistan”, Brussels, 14 November 2011, update November 2011, AFG/09, available at: http://eeas.europa.eu/policies/eu-special-representatives/vygaudas-usackas/docs/20120413_eu_engagement_afghanistan_en.pdf (consulted on 10 July 2016).

²²³ Ibid.

²²⁴ Ibid.

²²⁵ European Union External Action, “The EU and Afghanistan initial Cooperation Agreement on Partnership and Development”, Press Release, Kabul, 2 July 2015, available at: http://eeas.europa.eu/statements-eeas/2015/150702_04_en.htm (consulted on 10 July 2016).

justice and rights of persons with disabilities.²²⁶ The EU has been trying to improve the human rights situation in Afghanistan not only through the funding of civil-society projects and the activities of human rights defenders, but also through different working meetings such as the EU+ Human Rights and Gender Working Group²²⁷ and the EU-Afghanistan Human Rights Dialogue.²²⁸

3.3 Reconstruction Aid

At the Tokyo Conference in January 2002, the EC committed to pledge “€1 billion in reconstruction funding over 2002-2006”.²²⁹ In particular, between 2002 and 2004, the EU guided the reconstruction programme with a funding of EUR 440 million, focusing on different crucial areas, such as, *inter alia*, “Public sector reform” (140 million), “Rural development, alternative livelihoods and food security” (115 million), “Economic infrastructure” (73 million), “Health sector” (30 million), and “Human Rights and Civil Society” (26 million).²³⁰

Between 2007-2013, the EU delivered around EUR 600 million to development assistance, and in particular the 35-40% of this budget was devoted to Rural Development and Governance and Rule of Law, whereas the 18-21% to Health and Social Protection, and the 2-4 % to the support for Regional Cooperation.²³¹ It should be pointed out that besides this funding, which was channelled “through the national programmes of the Afghan government or through the multi-donor trust funds that contribute to the central budget of the government” thanks to bilateral cooperation, Afghanistan also benefited from other programmes such as *Non-State Actors*, the humanitarian assistance provided by the ECHO, and other programmes and financial

²²⁶ Delegation of the European Union to Afghanistan, “Human Rights”, available at: http://eeas.europa.eu/delegations/afghanistan/eu_afghanistan/human-rights/index_en.htm (consulted on 10 July 2016).

²²⁷ It is composed by all EU Member States present in Afghanistan as well as Australia, Canada, Norway, Switzerland, United States, UNAMA/OHCHR, UNICEF, UN Women, RSM and the Afghanistan Independent Human Rights Commission and they assist the Afghan government in improving human rights from a gender perspective.

²²⁸ At the time of writing, two EU-Afghanistan Human Rights Dialogues have been carried out, the last of which on June 1, 2016, including range of issues, including women's rights, children's rights, death penalty, torture, access to justice, freedom of expression and the rights of socially vulnerable and/or persons with disabilities.

²²⁹ European Commission, Country Strategy Paper Islamic Republic of Afghanistan 2003-2006.

²³⁰ Ibid.

²³¹ Ibid.

mechanisms such as *Aid for Uprooted People* programmes, the EIDHR, and the *Instrument for Stability* (IfS).²³² It should be particularly remarked the role of EIDHR as financial mechanism which has not only funded the five election observation missions to Afghanistan, but also many projects and programmes with the purpose to enhance the role of civil society and to protect human rights defenders.

3.4 Security

The EU countries have been also present in Afghanistan within the *International Security Assistance Force for Afghanistan* (ISAF). *Eurocorps*²³³ led the ISAF Force between August 2004 and February 2005, which also included the crucial period of the 2004 Presidential election monitored by the EU DESM.²³⁴ Furthermore, EU Member States have been commanding, under the ISAF's guidance, five Provincial Reconstruction Teams in north and north-eastern Afghanistan.²³⁵

Up to 2011, 25 EU Member States had deployed 33,500 troops “to the NATO-led International Security Assistance Force (ISAF)”, representing the “26% of the total ISAF troops”. Some EU Member States also provided military assistance to the USA, UK, and Afghan government-led *Operation Enduring Freedom* (OEF) combative activities that ran in parallel with ISAF.²³⁶ In 2007, the EU also launched the EU Police Mission in Afghanistan (EUPOL Afghanistan), which aimed not only at the advice and training of the Afghan Ministry of Interior and Afghan National Police, but also at “the establishment of sustainable and effective policing arrangements that will ensure appropriate interaction with the wider criminal justice system under Afghan ownership”.²³⁷ Moreover, the EU has also been “the single largest contributor to the Law and Order Trust Fund for Afghanistan (LOTFA)” which finances the Afghan

²³² Ibid.

²³³ The intergovernmental military corp formed by Belgium, France, Germany, Luxembourg, and Spain.

²³⁴ EU Council Secretariat Factsheet, “The EU and Afghanistan”, AFG/00, May 2005, available at: http://www.consilium.europa.eu/uedocs/cmsUpload/050511_Afghanistan.pdf (consulted on 10 July 2016).

²³⁵ Ibid.

²³⁶ European Union External Action Service, “EU Engagement in Afghanistan”, Brussels, 14 November 2011, update November 2011, AFG/09, available at: http://eeas.europa.eu/policies/eu-special-representatives/vygaudas-usackas/docs/20120413_eu_engagement_afghanistan_en.pdf (consulted on 10 July 2016).

²³⁷ Ibid.

National Police and remunerates uniformed prison personnel at the Central Prisons Department.²³⁸

The EU has been also committed in counter-narcotics in Afghanistan not only because the 90% of heroin smuggled in Europe comes from Afghanistan, but also because drug trafficking is the cause of the spread of corruption and related crimes, which definitely hinder the reconstruction and stabilisation process.²³⁹ In this regard, the EU has supported activities mainly concerning rural development and rule of law programmes.

3.5 Elections and Democracy

As far as elections are concerned, considering that they represent the main focus of this thesis, the EU has supported many programmes and activities aiming at the promotion and strengthening of the electoral process.²⁴⁰ For the 2004 and 2005 elections in Afghanistan, the EU contributed EUR 40.8 million to the electoral cycle, accounting for more of the 13% of the total cost of the electoral cycle.²⁴¹ Particularly, EUR 12 million were devoted to voter registration, EUR 27.8 million for electoral operations, and EUR 1 million for media related actions.²⁴² Moreover, in 2005 the EU also deployed an EOM with a budget of EUR 4 million.²⁴³

For the 2009 and 2010 elections, the EU has contributed with EUR 35 million to the United Nations Development Programme (UNDP)'s project titled *Enhanced Legal and Electoral Capacity for Tomorrow* (ELECT) aiming at, *inter alia*, “long-term institution building, voter education and civic outreach” in preparation for the elections.²⁴⁴ The budgets for the EU Election Observation Mission (EOM) in 2009 and EU Election Assessment Team (EAT) in 2010 have not been made public. For the period 2012-2015, the EU has been the major donor for the follow up project ELECT II (committing EUR

²³⁸ Ibid.

²³⁹ Ibid.

²⁴⁰ European Commission, “The EU in Afghanistan – assistance and support to the democratic process”, MEMO/09/364, Press Release Database, Brussels, 14 August 2014, last update 22 October 2015, available at: http://europa.eu/rapid/press-release_MEMO-09-364_en.htm?locale=en (consulted on 10 July 2016).

²⁴¹ Ibid.

²⁴² Ibid.

²⁴³ Ibid.

²⁴⁴ Ibid.

10 million from its *Instrument for Stability* for funding electoral authorities and domestic observers in the inter-election period) for the support of the Independent Election Commission (IEC) “in consolidating progress made to date, building institutional, technical and operational capacity, undertaking voter registration and informing the electoral reform agenda ahead of the 2014-15 elections”.²⁴⁵ Following the political deadlock provoked by cases of electoral fraud on the occasion of the 2014 presidential elections, the United States and the United Nations requested the help of the EU EAT to extend its mission and to observe the Audit of around eight million ballots cast in order “to consolidate confidence in the electoral result and, thus, avert a possible civil war in Afghanistan”.²⁴⁶ For this reason, the EU contributed with extra EUR 2 million for the extension of the EU EAT in order to cover the expenses of the “electoral experts and their security support”.²⁴⁷

Conclusion

This chapter has shown how Afghanistan is at the top of political priority of the EU. After the establishment of the Interim Transitional Authority with the Bonn Agreement in 2001, the EU has established a Delegation in Kabul since 2002, which, acting as a normal embassy, manages the EU Budget on behalf of the European Commission for many projects and activities to be implemented in Afghanistan. Since then, indeed, the EU has been playing a crucial role in the stabilisation and reconstruction of the country providing assistance to many areas such as reconstruction, health and protection, security, human rights, elections and democracy, etc.. In so doing, the EU has disbursed around EUR 2.5 billion in aid between 2002-2013, considering that it had originally committed EUR 3 billion for the same period.²⁴⁸ Moreover, many EU Member States have been committed in the ISAF and OEF's mission in order to guarantee the security

²⁴⁵ Delegation of the European Union to Afghanistan, “Democratisation and Accountability”, available at: http://eeas.europa.eu/delegations/afghanistan/eu_afghanistan/development_cooperation/democracy_and_accountability/index_en.htm (consulted on 10 July 2016).

²⁴⁶ European Commission, General Budget - 2014 Section III – Commission Titles 19, 22 European Commission Transfer of Appropriations N° DEC 32/2014. Brussels, 15 September 2014, available at: http://www.europarl.europa.eu/meetdocs/2014_2019/documents/budg/dv/2014_dec_32_/2014_dec_32_en.pdf (consulted on 10 July 2016).

²⁴⁷ Ibid.

²⁴⁸ Delegation of the European Union to Afghanistan, “Cooperation for Development”, available at: http://eeas.europa.eu/delegations/afghanistan/eu_afghanistan/development_cooperation/index_en.htm (consulted on 10 July 2016).

of the country and to combat insurgents. Meanwhile, the EU has also launched the EUPOL Mission in Afghanistan in 2007, which at the time of writing has been extended until the end of 2016, in order to train Afghan National Police and to enhance the rule of law. Indeed, the EU has interest to transfer responsibility for security to the Afghan National Army and Police as soon as possible, as well as the full control of the country to the Afghan government. With the CAPD, the EU has demonstrated to be interested “in deepening its long-term partnership with Afghanistan” and to contribute to the building of a “sustainable state” aiming at “promoting peace, security and regional stability; reinforcing democracy; encouraging economic and human development; and fostering the rule of law and human rights.”²⁴⁹

²⁴⁹ Council of the European Union, “Council conclusions on Afghanistan Foreign Affairs. Council meeting”, Luxembourg, 23 June 2014, available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/143322.pdf (consulted on 10 July 2016).

Chapter Four

EU Election Observation Missions to Afghanistan

In this chapter I analyse four EU election observation missions to Afghanistan between 2004 and 2014. Although the EU has also deployed an EAT for the 2010 Parliamentary and Provincial Councils elections, the Reports of that mission were just shared internally and never made public due to a decision of the European Commission. Indeed, only after 2012, EAT missions, which started being led by a CO and to have major visibility, began to make public their reports, as was for the 2014 Presidential elections in Afghanistan. Before 2012, all documents were only shared internally and with the local counterparts.²⁵⁰ For this reason, I will only make some references to the EU EAT in 2010.

In this chapter, firstly I outline the different mission formats used by the EU in order to analyse the EU's strategy to observe different elections. This is fundamental in order to understand the complexity of a particular electoral process, mostly in terms of security constraints. Secondly, I focus on three thematic areas targeted by the EU during the election observation missions such as: a) election administration, in order to analyse whether elections have been administered respecting the principles of impartiality, independence, and transparency; b) voter registration, in order to assess not only the extent to which Afghan people have been given the opportunity to register in order to exercise their democratic duties, but also whether people's political rights have been ensured from frauds and manipulations; c) women's political participation, which includes the right to vote and the right to stand for office, in order to assess the extent to which women fully enjoy the political life in Afghanistan. Thirdly, I focus on some EU's recommendations issued within the Final Reports and I examine whether the Afghan government has followed up on the basis of those recommendations. Last, I analyse the EU's assessment of various electoral processes in Afghanistan and, particularly, whether the "language" used by the EU provides "an impartial, balanced,

²⁵⁰Email from Riccardo Chelleri, Policy Officer, EEAS Democracy and Election Division, 25 May 2016.

and informed assessment of the elections”. In so doing, I seek to detect the hypotheses which may explain the EU’s behaviour in assessing the electoral process in a certain manner and why.

4.1 EU Election Observation Missions to Afghanistan: Different Mission Formats

It is arguable that the size of an EU election observation mission depends not only on “the complexity of the electoral process” and on the geographical and demographic characteristic of the country, but also on the budget, logistics, and the level of security.²⁵¹

The first Presidential elections of the new-born Afghanistan were called for October 2004, and on this occasion, the EU not only deployed for the first time an election observation mission to Afghanistan, but also a new mission format, never used in other missions: Democracy and Election Support Mission (DESM). The EU DESM was composed by 25 election and field experts selected by 17 Member States, and was established in Kabul on 14 August 2004, three months before Election Day (09 October 2004). It is interesting to remark that although the EU usually deploys an election observation mission at least six weeks before Election Day, being a DESM, the mission was deployed much earlier and extensively monitored the pre-electoral period. DESM members visited 23 out of 34 administrative Afghan provinces, but also Iran and Pakistan in order to monitor the out-of-country registration and voting process in the countries with the highest population of Afghan refugees worldwide.²⁵²

The EU deployed an Election Observation Mission (EU EOM) for the 18 September 2005 on the occasion of the Parliamentary and Provincial Council elections. As mentioned, the EU EOM is the mission format mostly used by the EU when observes elections in the long-term, and seeks to provide a comprehensive assessment of the electoral process. In 2005, the EU deployed 60 LTOs, selected by 18 EU Member States, which observed 29 out of 34 provinces (although some with short-visits), six

²⁵¹ Dupont, Patrick & Torcoli, Francesco, & Bargiacchi, Fabio, “The European Union and Electoral Support”, pp. 4-28 in *Making Peace Last Peacebuilding*. Edited by Steven Blockmans, Jan Wouters and Tom Ruys. Cambridge: Cambridge University Press, 2010.

²⁵² In 2004, Iran hosted around 952,800 Afghan refugees who were assisted by the UNHCR. The 47% of them were minors. In Pakistan, the number of Afghan refugees assisted by the UNHCR accounted for 1, 290, 408. However, it is likely that the number of those unregistered was doubled in both countries. See: <http://www.unhcr.org/42ad4da10.html> and <http://www.unhcr.org/44e5c78511.html>

provinces more in respect to 2004. Moreover, the EU also selected 24 STOs, also from non-Member States such as Norway and Romania,²⁵³ who were also joined by seconded members of EU embassies and institutions in Afghanistan, and a delegation of 7 Members of the EP. In 2005, the EU stated to have observed 1,124 polling stations out of 26, 248.²⁵⁴ Due to security concerns, as was also for other election observation missions to Afghanistan, the EU never managed to deploy a full-fledged mission through an EOM in order to ensure a comprehensive assessment sending observers to all administrative Afghan provinces. This is interesting because, as showed in Chapter Two, the main criteria that the EU usually takes into account for deploying an EOM, are the conditionality to have a full-fledged mission and to monitor in a secure environment. These two conditions have been always absent in the Afghan context. However, although election observation missions in unstable, conflict, or post-conflict countries strongly pose “methodological challenges” and work in difficult circumstances, the election observation missions to Afghanistan have had the same objectives as for missions in other countries, that is to enhance transparency and public confidence, deter fraud, and prevent conflicts.²⁵⁵

As for the 2005 elections, the EU also deployed an EOM for the 2009 Presidential and Provincial Council elections held on 20 August 2009. The mission was deployed six weeks before Election Day (2 July 2009) as all EOMs usually do, and stayed in the country until 6 November 2009, considering that it was initially planned to remain in the country for the runoff scheduled on 7 November, which was eventually cancelled.²⁵⁶ A month before Election Day, the EU deployed 36 LTOs in order “to observe the pre-electoral environment and preparations”, whereas on election day it deployed 122 observers selected not only from EU Member States, but also from Norway, Switzerland, and Canada.²⁵⁷ Although EU observers on Election Day were far more than 2005, the deterioration of security and the increasing violence surrounding the electoral process led the EU EOM to visit just 268 polling stations in 17 out of 34

²⁵³ EU EOM, 2005 (a), p. 7. Romania joined the EU in 2007.

²⁵⁴ EU EOM, 2005 (a), p. 54.

²⁵⁵ Dupont & Torcoli & Bargiacchi, 2010, p. 9.

²⁵⁶ EU EOM, 2009 (a), p. 8.

²⁵⁷ Ibid.

provinces. These figures are definitely lower than 2005 and show how the mandate for a full-fledged mission failed.

The failure of the 2009 election convinced the EU to deploy a smaller mission the following year, on the occasion of the Parliamentary elections on 28 September 2010. In fact, the EU deployed an Election Assessment Team (EAT) composed by “7 experts based in Kabul since 4 September and maintained a presence in the country until the beginning of November”.²⁵⁸ The EU declared that the aim of this mission was “to provide a continuous assessment against international standards and principles for democratic elections on the electoral process, as well as to provide targeted recommendations for possible improvements to the electoral framework and to the conduct of electoral operations”.²⁵⁹ As previously mentioned, the EAT has the characteristic of a mission more focus on specific targets rather than a full-fledged mission.

In 2014, the EU also deployed an EAT, as was in 2010, on the occasion of the Presidential and Provincial elections held on the 5 April 2014, and on the 14 June for the runoff. However, a bit more observers than 2010, that is sixteen experts selected from twelve EU Member States who focused particularly on the Presidential elections, composed the EU EAT in 2014. However, 410 observers, including 100 LTOs and “observers seconded by EU diplomatic missions on the ground and EUPOL Afghanistan”, joined the EU EAT for observing the Audit process in July.²⁶⁰ Staying seven months in the country, this was the longest EU election observation mission to Afghanistan.

As Table 4 summarises, the EU has deployed different mission formats since 2004. Bearing in mind that each type of EU mission format has its own targets and characteristics in size and comprehensiveness, it is arguable that overall, due to security constraints, the EU did not manage to deploy full-fledged missions throughout Afghanistan between 2004-2014, especially on Election Day.

²⁵⁸ European Union External Action, “EU democracy and election support mission to Afghanistan in 2010”, available at: http://eeas.europa.eu/eucom/missions/2010/afghanistan/index_en.htm (consulted on 10 July 2016).

²⁵⁹ Ibid.

²⁶⁰ EU EAT, 2014 (a), p. 3.

Table 4

Year	Type of Elections	Mission Format	Number of observers	Number of Provinces Observed	Timeline of the Mission
2004	Presidential	DESM	25 Experts	23 out of 34 + Iran and Pakistan (out of country voting)	Start: 14 August E-Day: 9 October
2005	Parliamentary and Provincial Council	EOM	Core Team + 60 LTOs + 24 STOs + 7 EP Members	29 out of 34	E-Day: 18 September
2009	Presidential and Provincial Council	EOM	Core Team + 36 LTOs + 122 STOs	17 out of 34	Start: 2 July E-Day: 20 August End: 6 November
2010	Parliamentary and Provincial Council	EAT	7 Experts	/	E-Day: 28 September
2014	Presidential and Provincial Council	EAT	16 Experts + 410 Observers (including 100 for the Audit)	/	Start: March I Round: 5 April Run-Off: 14 June Audit: July End: September

4.2.1 Election Administration

The analysis of the election administration in Afghanistan since 2004 is important in order to understand whether it is improved and has strengthened public confidence, and whether the electoral process has been administered respecting the principle of transparency, independence, and impartiality.

The administration of the Presidential election in 2004 fell under the responsibility of the Joint Electoral Management Body (JEMB) that consisted by the merger of the Interim Afghan Electoral Commission (IAEC) and the Electoral Component of the United Nations Assistance Mission to Afghanistan (UEC). The JEMB had the competence to establish Regulations, Guidelines, and Procedures in order to implement the Electoral Law. Along with a JEMB Secretariat and Staff recruitment, respectively in charge of the logistical preparation of elections and of operational duties, the JEMB was composed by eleven voting members, six of whom were Afghan members of the IAEC appointed by the interim President Karzai in 2003, while the other five were international members appointed by the Special Representative of the

UN Secretary General (SRSG).²⁶¹ For this reason, although EU DESM did not report any “partisan decision-making” by the JEMB, the bulk of opposition candidates showed a lack of confidence regarding “the neutrality” of the JEMB.²⁶² This lack of confidence was particularly enhanced considering that, although EU DESM did not report a lack of transparency on Election Day as observers and candidate representatives were allowed to visit several polling stations, candidate representatives were not allowed to attend JEMB sessions.²⁶³ Nevertheless, the EU generally assessed that the work of the JEMB was operated “in a mostly professional and efficient manner” and that this was demonstrated by the fact that “the election took place is, in itself, indicative of a generally successful election administration”.²⁶⁴ However, the EU DESM also pointed out some key logistical issues underestimated by the JEMB. For example, it noted the delay in the recruitment of sufficient polling centre staff affecting the implementation of a comprehensive training programme which, although it was deemed “mostly effective in outlining voting procedures”, lacked the explanation of fundamental procedural things such as “the use of indelible ink and the mechanism for handling complaints”.²⁶⁵ Moreover, the EU DESM also remarked a delay in the determination of the number of polling centres and polling stations, which remained unknown until Election Day.²⁶⁶ Another crucial issue dealing with election administration was civic education concerning all the stages of the electoral process, “including voter registration, the location of polling stations and the procedures for voting”.²⁶⁷ However, the broad inexperience of electoral and democratic processes of the bulk of Afghan people, the widespread illiteracy, the presence of a large rural population, the limited access to electronic media, and “the exclusion of many women from social interaction” represented a huge challenge for a successful education programme.²⁶⁸ Nevertheless, although the JEMB worked together with international agencies and civil society in order to give an education regarding the basic stages of the electoral process, the EU

²⁶¹ EU DESM, 2004, p. 11.

²⁶² Ibid.

²⁶³ Ibid., p. 7.

²⁶⁴ Ibid. p. 12.

²⁶⁵ Ibid., p. 13.

²⁶⁶ Ibid., p. 12.

²⁶⁷ Ibid., p. 13.

²⁶⁸ Ibid.

DESM stated that “there was limited public awareness of key principles of the election process”, like for example regarding the secrecy of the vote. The EU DESM noted that generally “there was a general failure by the JEMB and the Afghan authorities to properly consult with relevant stakeholders ahead of the adoption of key legislation” and that “the legal framework failed to guarantee transparency throughout the electoral process”.²⁶⁹

In 2005, thirteen members composed the JEMB (nine Afghan members appointed by the President and four international members by the SRSG), an aspect which again raised the issue about the independent role of the commissioners.²⁷⁰ The EU EOM noted that in comparison with 2004, the work of the JEMB definitely improved in terms of “openness”, since the EU EOM was invited to observe the JEMB sessions twenty-four times.²⁷¹ However, the EU EOM did not mention how many sessions were held in total. Moreover, following the recommendations of the EU DESM in 2004, the JEMB established Provincial Election Commissions (PECs) “in order to ensure the effective administration of the 18 September 2005 parliamentary and local elections”.²⁷² The PEC, which was established ad hoc for the 2005 election for each Afghan province, was composed by three members, “one of whom must be woman”.²⁷³ However, the EU EOM’s assessment toward the PEC was “strongly negative” since there was the perception that “many lacked sufficient independence and showed bias towards particular candidates”.²⁷⁴ The EU EOM noted that in 2005 “polling and counting manuals were produced in a timely manner and certainly earlier” in respect to the preparation of the 2004 election despite the fact that the training of electoral staff remained “inadequate”.²⁷⁵ Furthermore, the EU EOM stated that although was noted a slight improvement in respect to 2004, civic education of polling procedures did not

²⁶⁹ Ibid.

²⁷⁰ EU EOM, 2005 (a), p. 15.

²⁷¹ Ibid., p. 16.

²⁷² Ibid., p. 17.

²⁷³ Ibid.

²⁷⁴ Ibid.

²⁷⁵ Ibid.

reach all “voters in remote areas, villages, and minority enclaves”, and that women were less informed than men.²⁷⁶

On the occasion of the 2009 Presidential and Provincial Council elections, the EU EOM stated “the major shortcomings of the electoral process result from the failure to enforce the existing legal and regulatory provisions rather than from the weaknesses of the legal framework”.²⁷⁷ Whereas in 2004 and 2005 joint Afghan and UN efforts administered elections, the 2009 Presidential and Provincial council elections were the first organised and administered by Afghan institutions and without international assistance.²⁷⁸ In fact, the Independent Election Commission (IEC), created by Presidential decree in January 2005 was autonomously responsible to prepare, organise, conduct, and oversight elections in Afghanistan like, for instance, supervising the registration of candidates, resolving and referring complaints, inviting international observers, and announcing election results.²⁷⁹ However, it should be remarked that the UN supported anyway the IEC through the establishment of the UNDP’s Electoral and Legal Capacity for Tomorrow project (ELECT), which provided, *inter alia*, programmes, projects design, and technical assistance to the main electoral bodies.²⁸⁰ Although, as mentioned in Chapter Three, the EU funded this programme with EUR 35 million, it is astonishing that the EU EOM found itself in the condition to complain a lack of transparency and cooperation by the ELECT to share electoral information.²⁸¹ Many electoral stakeholders again claimed lack of transparency against the IEC. In fact, although according to law the IEC is independent by any governmental branches, the President Karzai appointed a chairman, deputy chairman, and five commissioners.²⁸² Moreover, the EU EOM noted that the IEC did not work in an independent, impartial, and transparent manner, particularly regarding “access to information required for effective observation of the election administration”.²⁸³ Moreover, the EU EOM also found a confused administration of the electoral process, which could be regarded in the

²⁷⁶ Ibid.

²⁷⁷ EU EOM, 2009 (a), p. 15.

²⁷⁸ Ibid., p. 18.

²⁷⁹ Ibid.

²⁸⁰ Ibid.

²⁸¹ Ibid., p. 19.

²⁸² Ibid.

²⁸³ Ibid.

lack of a list of the number of polling stations and centres. After the election, indeed, the EU EOM did not manage to get the knowledge of the precise number of polling stations and polling centres, meaning that both voters and observers did not have a clear overview of voting locations.²⁸⁴ Despite these shortcomings that various EU election observation missions had already found in previous elections, the EU EOM reported that “the IEC functioned efficiently and technical arrangements were made according to appropriate timelines up to Election Day, despite the considerable infrastructural and security challenges”.²⁸⁵ Moreover, the EU EOM assessed the training of polling staff “well-organised and seriously conducted” and their performance “satisfactory, good or very good in the majority of cases observed”.²⁸⁶ It is interesting to note how these positive comments have been made along with the evidence of several and serious shortcomings in the Final Report. In my view, this change of style looks as a form of support towards the IEC in order to improve the future management of the election administration, also considering that part of its work was carried out in an insecure environment and in a climate of fear among its staff members. In fact, it was reported that many IEC members were repeatedly exposed to physical threat, and that in the period surrounding Election Day thirteen election administration staff members were killed.²⁸⁷ For this reason, it seems that the EU EOM uses for its assessment both the stick and the carrot by transforming and underlining minimum progresses to great achievements. The same mixed language is also present in the 2004 and 2005 Final Reports.

In view of the 2014 Presidential and Provincial Council elections, the Parliament of Afghanistan introduced a comprehensive legal framework in 2013 in order “to reform the organization of the elections and improve the functioning of the election administration”.²⁸⁸ Particularly, the Law on the Structure, Duties, and Authorities of the IEC and the Independent Electoral Complaints Commission (IECC) introduced an appointment procedure for the IEC Board, “with a pre-selection stage by an independent

²⁸⁴ Ibid., p. 20.

²⁸⁵ Ibid., p. 19.

²⁸⁶ Ibid., p. 21.

²⁸⁷ EU EOM, 2009 (a), 19.

²⁸⁸ EU EAT, 2014 (a), p. 3.

selection committee”.²⁸⁹ In fact, in the 2014 Final Report the EU EAT welcomed that “of the 7 legal recommendations presented by the EU EOM in 2009 the majority have been implemented indicating a significant improvement of the legal framework as a whole”.²⁹⁰ Nevertheless, the EU EAT pointed out that despite these structural improvements, the IEC still lacked full independence since the President of Afghanistan continued to select the Commissioners and the executive staff of the IEC.²⁹¹ Moreover, the EU EAT also denounced a lack of impartiality of the IEC Secretariat during the runoff, which led to a serious crisis of confidence towards institutions. The political agreement about the establishment of a government of national unity reached between the two main candidates on 21 September 2014 included the formation of a commission for structural improvements to be implemented before the following elections.²⁹²

Overall, although the various EU election observation missions have noted an improvement of the election administration in Afghanistan considering that in 2004 and 2005 the IEC was supported by international assistance, and that since 2009 it autonomously organised the electoral processes, the level of transparency and independence is not improved and various electoral stakeholders have been repeatedly denouncing a lack of impartiality.

4.2.2 Voter Registration

The analysis of the voter registration in Afghanistan between 2004-2014 is important not only because it assesses the extent to which Afghan people were given the opportunity to register for participating to the electoral process, but also to examine whether the voter registration exercise has prevented cases of fraud and manipulation such as multiple registration and proxy voting.

For the 2004 Presidential election, the voter registration process was divided in two phases. The first phase, which ran from December 2013 to April 2014, was limited to urban centres for security constraints, leading to the registration of less than two million people.²⁹³ The second phase of registration was more widespread including rural

²⁸⁹ Ibid, p. 10.

²⁹⁰ Ibid., p. 7.

²⁹¹ Ibid., p. 7.

²⁹² Ibid., p. 11.

²⁹³ EU DESM, 2004, p. 9.

areas, and lasted from May 2014 until August 2014. With this second phase of voter registration, the total number of voters registered amounted to 10,567,834.²⁹⁴ Nevertheless, the EU DESM noticed that the voting registration process was characterised by an “over-registration” due to “multiple registration”, since the number of voter registration was higher than expected.²⁹⁵ In fact, although there were no precise figures about the total voter population, the UNAMA had estimated 9.8 million voters in Afghanistan.²⁹⁶ The EU DESM reported that the United Nations Assistance Mission in Afghanistan (UNAMA) and Afghanistan Independent Human Rights Commission (AIHRC) verified many instances of multiple registrations.²⁹⁷ According to the EU DESM, these multiple registrations were encouraged by the fact that voters were allowed to register themselves in any registration sites without showing any formal documents to check their identity, but also in the absence of reliable population statistics and a civil register.²⁹⁸ In fact, what is crucial is that the first and only census carried out in Afghanistan, which did not even finish for the instability of some areas of the country, was held in 1979 but then, for further security constraints, only population estimation was made.²⁹⁹

For the 2005 Parliamentary elections, the EU EOM stated that the “deficiencies” of the 2004 voter registration were also inherited by the election administration.³⁰⁰ However, the voter registration for the 2005 elections relied not only on the procedure held in 2004, but also on a new registration process with updates and corrections held between 25 June and 21 July 2005.³⁰¹ Nevertheless, the voter registration update did not prevent multiple and proxy registrations considering that “A total of 1,694,012 applicants obtained new cards or corrected existing ones: 1,526,249 of them presumably registered for the first time”.³⁰² At the end of the registration period, the EU EOM found

²⁹⁴ Ibid.

²⁹⁵ Ibid., p.10.

²⁹⁶ Ibid.

²⁹⁷ Ibid.

²⁹⁸ Ibid.

²⁹⁹ The 1979 census registered around 15,551,538 people, whereas a population estimation made by the World Bank in 2011 accounted for 35,320,445 people. See: <http://www.afghanistans.com/Information/People/Population.htm>

³⁰⁰ EU EOM, 2005 (a), p. 12.

³⁰¹ Ibid., p. 13.

³⁰² Ibid.

that the total of voter cards issued between 2004 and 2005 amounted to 12,469,238, which is more than the criticised number of voter cards issued in 2004.³⁰³ In 2005, the JEMB also provided a voter registration for returnees whose process lasted from 18 July to 8 September, and concluded with the registration of 39,332 returnees, accounting for the 61% of total of returnees eligible to vote, set out in eight UNHCR Encashment Centres across Afghanistan.³⁰⁴ The EU EOM strongly criticised the voter registration for the 2005 elections since it found that “the phenomenon of multiple voter registration was accompanied by under-registration” considering that on one side there was a huge amount of multiple registrations and proxy registration of women, and on the other side there was an absence of special need voting (e.g. citizens hospitalised, prisoners, members of the armed forces) and out-of-country registration.³⁰⁵ In fact, although in 2004 many Afghan refugees both in Iran and Pakistan were able to cast their ballot, in 2005 the EU EOM regretted that many potential Afghan voters residing in those countries “were left ignorant” about the electoral process.³⁰⁶ Moreover, the EU EOM noted that the JEMB did not create any mechanisms aiming at the removal of any persons from the 2004 voter register and that a Final Voters List was not issued.³⁰⁷

In the 2009 Presidential elections, the EU EOM also reported a lack of accuracy in voter registration, which undermined the integrity of the electoral process.³⁰⁸ In fact, despite the EU EOM’s recommendations in 2005 for the development of an accurate voters list, the IEC did not produce a voter list with the justification that security constraints prevented the possibility for a “fully-fledged registration process”.³⁰⁹ For the 2009 elections, the voter registration was structured in four phases in order to register “citizens coming of age for the 2009 elections, those who had lost their cards since 2004-5 and those who had changed residence”.³¹⁰ The EU EOM noted that 4.7 million additional voter cards were issued at the end of the registration period, meaning, “over

³⁰³ Ibid.

³⁰⁴ Ibid., p. 14.

³⁰⁵ Ibid., p. 15.

³⁰⁶ Ibid., p. 14.

³⁰⁷ Ibid., p. 15.

³⁰⁸ EU EOM, 2009 (a), p. 22.

³⁰⁹ Ibid.

³¹⁰ Ibid.

17 million voter cards were in circulation”.³¹¹ However, the EU EOM positively reported that the IEC’s Communication and Information Technology started to register these additional voters in a database which not only “stored photographic and biometric (fingerprint) records”, but also “assigned each voter to one particular province and polling centre”.³¹² Nevertheless, this work was soon interrupted because of the necessity to process the elections results.³¹³

For the 2014 Presidential election, voter registration lasted from 26 May 2013 to 1 April 2014, and issued 3.8 million new voter cards.³¹⁴ The EU EAT found that since 2003 the number of voter cards issued during each registration phase (which includes new voters and those who lost their cards, or were never registered before) had decreased, but this did not mean that cases of fraud connected to multiple registrations dropped.³¹⁵ Generally, the EU EAT reported the lack of an accurate voter register also for the 2014 Presidential elections, and although it noted the entry of new voter registrations into the IEC database as in 2009, it found that the software system used did not detect likely multiple registrations.³¹⁶ Considering that for Presidential candidates a candidacy requires the support of 100,000 voter cards from twenty provinces, the EU EAT noted the following:

The large number of voter card duplicates in circulation and the poor controls over them enable candidates to deceptively fulfil the criteria to run for elections based on a very high number of voters cards attached to their applications.³¹⁷

Overall, voter registration was characterised by many shortcomings between 2004-2014. In fact, although the various EU election observation missions have been always recommending the establishment of a voter list, the IEC has continued allowing Afghan citizens to register at any registration sites, without any formal documents, and in the absence of a clear census. According to this, it is crucial that regarding the absence of an electoral roll, the EU did not conclude to consider a given election observation mission

³¹¹ Ibid.

³¹² Ibid.

³¹³ Ibid.

³¹⁴ EU EAT, 2014 (a), p. 16.

³¹⁵ Ibid., p. 17.

³¹⁶ Ibid., p. 15.

³¹⁷ Ibid., p. 16.

not “useful” and “feasible”.

4.2.3 Women’s Political Participation

Considering that women did not enjoy any rights under the Taliban regime like, *inter alia*, right to education and freedom of movement, the situation of women in Afghanistan is definitely improved for the last sixteen years, also thanks to the support of the international community. The Afghan government has signed the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 14 August 1980, which was ratified on 5 March 2003 without any reservation.³¹⁸ Moreover, with a legislative issue in 2009, the Afghan government has also introduced the Law on Elimination of Violence Against Women (LEVAW).³¹⁹ Following the UN Council Resolution 1325 on Women and Peace and Security (UNSCR 1325) on 31 October 2000, which “*reaffirms the important role of women in the prevention and resolution of conflicts, peace negotiations, peace-building, peacekeeping, humanitarian response and in post-conflict reconstruction and stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security*”³²⁰, the Afghan government has finally developed the National Action Plan (NAP) on UNSCR 1325 in June 2015 in order to encourage, *inter alia*, “women's active participation in national and provincial elections”.³²¹ However, although the legal framework of Afghanistan guarantees gender equality, in practise women still face large discriminations, violence, and inequalities, as demonstrated by

³¹⁸ United Nation, Committee on the Elimination of All Forms of Violence Against Women, “Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women”, Afghanistan, Combined initial and second periodic report, 9 August 2011, Advance Unedited Version, 23 September 2011, available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.AFG.1-2.pdf> (consulted on 10 July 2016).

³¹⁹ Ibid.

³²⁰ Office of the Special Adviser on Gender Issues and Advancement of Women, “Landmark Resolution on Women, Peace, and Security”, available at: <http://www.un.org/womenwatch/osagi/wps/> (consulted on 10 July 2016).

³²¹ Ministry of Foreign Affairs, Directorate of Human Rights and Women's International Affairs, “Afghanistan's National Action Plan on UNSCR 1325-Women, Peace, and Security (2015-2022)”, June 2015, available at: <http://mfa.gov.af/Content/files/English%20NAP%206.pdf> (consulted on 10 July 2016).

the Gender Inequality Index (GII) 2014 (152 out of 155).³²²

It should be argued, however, that the 2004 Presidential election represented a great achievement just for the fact that women and men were able to register and to cast their ballot for the first time.³²³ Furthermore, along with the presence of women within some “key senior positions” of the JEMB, the candidacy of one woman, Massouda Jalal, as presidential candidate, and of other three female vice-presidential nominees, were symbolic.³²⁴ As far as female voter registration is concerned in 2004, the EU DESM reported that a particular concern on women’s registration was devoted during the second phase of the voter registration period, focusing mainly on southern and south-eastern regions of Afghanistan, “where there is strong cultural resistance to the involvement of women in public life”.³²⁵ In fact, the EU DESM noted that these regions had a female voter registration and female voter turnout lower than other areas, particularly in the southern province of Uruzgan, where female voter turnout accounted for 2%.³²⁶ For the 2004 Presidential election, the JEMB pointed out that the 41.3% of registered voters were women and that the women’s vote turnout accounted for around 40%.³²⁷ Since the assessment of women’s participation in the Final Report is largely positive, the EU DESM shortly touched upon cases of “insecurity, threats, and discriminatory acts in many areas” involving women.³²⁸

Whereas women’s voter registration accounted around 41% in 2004, for the 2005 Parliamentary and Provincial council elections the figure rose to 44.4%.³²⁹ However, the EU EOM noted that in comparison with 2004, the number of women registrants was lower in nineteen provinces, slightly higher in seven provinces, and had a big increase in eight provinces.³³⁰ It seems that the highest number of female registrants was detected in the southern and south-eastern regions of Afghanistan, where female voter

³²² Human Development Report 2015, “Briefing note for countries on the 2015 Human Development Report, Afghanistan”, p. 1, available at: http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/AFG.pdf (consulted on 10 July 2016).

³²³ EU DESM, 2004, p. 21.

³²⁴ Ibid.

³²⁵ Ibid.

³²⁶ Ibid., p. 22.

³²⁷ Ibid., p. 21-22.

³²⁸ Ibid, p. 21.

³²⁹ EU EOM, 2005 (a), p. 24.

³³⁰ Ibid, p. 25.

turnout was dramatically low in 2004. However, it was argued that these figures may be related to proxy registration occurred in some registration points, which were then followed by proxy voting.³³¹ As far as the registration of female candidates is concerned, the 12% of candidates for the Parliamentary election (*Wolesi Jirga*) and the 8% of candidates for the Provincial Council elections were women representing the total of 582 female candidates running for both governmental bodies.³³² According to this, the Electoral Law guarantees a minimum of reserved seats for women both for the Parliament (68 women out of 249-seat) and for the Provincial Councils (124 women out of 420-seat).³³³ The EU EOM stated in its Final Report that many female candidates “complained about insufficient financial resources available for campaigning and their problems in travelling over long distances”.³³⁴ Although, as aforementioned, the Electoral Law ensures a minimum participation of women in governmental bodies, the number of women having a seat did not exceed the minimum number neither in the Parliament nor in the Provincial Councils, and then “none gained any general seat” since women should firstly cover their reserved seat.³³⁵

Comparing the language used in the Final Reports of previous election monitoring missions carried out by the EU, in the 2009 Presidential election’s Final Report the EU EOM not only devoted more sections dealing with women’s participation, but also had a more negative assessment concerning women’s participation. In this regard, the EU EOM argued that “women’s participation as candidates, voters and administrators of the election was severely limited”.³³⁶ In fact, limitation of women’s political participation is due to several factors such as lack of access to education, “cultural opposition to women in public life” - which provoked many attacks in public life not only by anti-government elements, but also by religious and local leaders, families, and governmental authorities – and “poor representation in

³³¹ Ibid.

³³² Ibid.

³³³ Ibid.

³³⁴ Ibid.

³³⁵ Ibid. p. 26.

³³⁶ EU EOM, 2009 (a), p. 35.

key institutions”.³³⁷ Moreover, it should be remarked that in country where security is a great issue, it is not largely considered “appropriate for women to be active outside the home”.³³⁸ The figure of female voter registration accounted for around 40% in 2009, and one of the main limits that a woman experienced was “their inability to register for themselves”.³³⁹ In Afghanistan, men and women vote in separate polling stations, and in 2009 the EU EOM noted that the IEC did not manage to find sufficient female polling station staff. For this reason, male polling staff worked in many women’s polling stations making “the voting process less accessible for women”.³⁴⁰ In general, the EU EOM found that cultural and security restrictions not only increased the practice of proxy voting on behalf of women, but also reduced the presence of women in polling stations.³⁴¹ In respect to the 2004 Presidential election with one female presidential candidate, in 2009 two female candidates out of forty-one ran for the presidency.³⁴² Moreover, whereas in 2004 three female vice-presidential candidates participated to the electoral competition, in 2009 there were seven women out eighty-two candidates.³⁴³ Concerning women’s candidates for the Provincial council elections, the EU EOM observed that the 10% of candidates were women, and although in comparison with the previous Provincial council elections there was an increase of female candidacies at national level, the figure decreased taking into account half of the Provinces of Afghanistan.³⁴⁴ As aforementioned, in 2009 women candidates suffered many threats and attacks throughout the country, which in some cases ended with their withdrawal from the political campaign or to carry out a low-profile campaign close to their home.³⁴⁵

Catherine Ashton³⁴⁶’s statement concerning the 2010 Parliamentary election pointed out “the positive development in the increase of female registered candidates for

³³⁷ Ibid.

³³⁸ Ibid.

³³⁹ Ibid., p. 36.

³⁴⁰ Ibid.

³⁴¹ Ibid.

³⁴² Ibid., p. 37.

³⁴³ Ibid.

³⁴⁴ Ibid.

³⁴⁵ Ibid., p. 38.

³⁴⁶ High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission between 2009 and 2014.

this year's elections", although specific figures about women's participation to the electoral process have not been given.³⁴⁷ In fact, the EU EAT did not release any detailed findings about women's participation to the 2010 elections.

For the 2014 Presidential election, the EU EAT reported that security concerns still constituted the major constraint to women's participation.³⁴⁸ In fact, although the EU EAT again found that around the 40% of the registered voters were women, their participation as voters accounted for "36% and 37.6% respectively in the first and second rounds of the Presidential election".³⁴⁹ In particular, the EU EAT observed that during the voter registration exercise for the period 2013-2014, only the 35% of registrant were women in comparison with the 42% for the registration period 2003-2005, and the 41% for the 2009-2010 exercise.³⁵⁰ It should be noted that generally female registration improved in urban areas and in the northern provinces of the country, but worsened in rural areas and in southern provinces, which meant that the access to education for women was still lacking and that cultural restrictions preventing women to go out their home were still widespread. What is interesting, however, is that since the EU EAT particularly noted that female voter registration decreased in southern provinces, this could indicate that "the over-use of women's registration in organized fraud during the last elections" may be reduced for the 2014 elections.³⁵¹ Nevertheless, some provinces continued to have problems of over-representation of women voters, which were "linked to systemic fraud".³⁵² In general, female political actors remained underrepresented by media, particularly state-owned media, and this aspect not only undermined the state's positive obligation to take the necessary measures to guarantee gender equality in accordance with international standards which Afghanistan has ratified (e.g. CEDAW), but also it had a negative impact on the fight against the

³⁴⁷ European Union, "Statement by EU High Representative Catherine Ashton ahead of the parliamentary elections in Afghanistan", A183/10, Brussels, 17 September 2010, available at: <http://eeas.europa.eu/eueom/pdf/missions/116588.pdf> (consulted on 10 July 2016).

³⁴⁸ EU EAT, 2014 (a), p. 23.

³⁴⁹ EU EAT, 2014 (a), p. 23.

³⁵⁰ Ibid.

³⁵¹ Ibid.

³⁵² Ibid.

removal of all cultural restrictions.³⁵³ The IEC did not manage to recruit enough female polling station staff also for the 2014 elections, particularly on the occasion of the runoff where in some provinces around 80% of female polling stations were led by men.³⁵⁴ As for previous elections, this aspect contributed to undermine women's participation and to perpetrate cheats.

Overall, the various EU election observation missions found that security constraints and lack of education represent the main limitations to women's political participation as voters, candidates, and electoral officials. This issue has not only prevented women to participate in the political life of Afghanistan and contributed to the peace-building process, but also encouraged fraud such as proxy voting. In fact, the EU stated in general "the misuse of female registration/voting to enable fraud is a persistent feature of all Afghan elections".³⁵⁵

4.3 Recommendations

At the end of every Final Report, the EU has always provided a multitude of recommendations for future improvements regarding many aspects of the electoral process. As far as recommendations dealing with voter registrations are concerned, since 2004 EU election observation missions had been recommending the government of Afghanistan to produce "voter lists, preferably at polling centre level" and also to "establish a credible mechanism for updating the register of voters to include newly eligible voters or previously unregistered eligible voters."³⁵⁶ In 2005, the EU EOM copied and pasted the same recommendation aforementioned concerning the need to establish a mechanism for voter registration, and also urged the Afghan government to carry out a census with a new voter registration for the creation of voter lists at polling station level. What is crucial is that the EU EOM stated that this aspect "should be an absolute minimum requirement before the conduct of any future election" but this had not been the case since following elections were regularly scheduled and concrete

³⁵³ Ibid. p. 24.

³⁵⁴ Ibid.

³⁵⁵ Ibid., p. 23.

³⁵⁶ EU DESM, 2004, p. 40.

actions under this recommendation had not been taken by the Afghan government.³⁵⁷ In fact, in the 2009 Final Report the EU EOM again stated that “No further elections should be held without renewed efforts to ensure the accuracy of the existing voter register”, and to evaluate whether a new voter registration was needed.³⁵⁸ In 2014, the EU EAT again stressed that a new and accurate voter register aimed at regulating, or limiting, voter’s access to the polling station, should be developed including the indication of voters’ polling station, or district.³⁵⁹

Dealing with recommendations on the improvement of the election administration, since 2004 EU election observation missions had been recommending the Afghan government to revise the criteria by which the IAEC/JEMB were appointed “in order to strengthen confidence in their independence and impartiality” and to follow the principles of transparency and merit.³⁶⁰ Moreover, the EU DESM recommended the JEMB to improve the procedures for recruiting staff, particularly female polling staff, to enhance trainings for polling staff, and to establish provincial election management body.³⁶¹ In the 2005 Final Report, the EU EOM copied and pasted many recommendations concerning the improvement of the election administration issued in 2004, such as the methods to use in order to appoint the IEC’s staff.³⁶² Moreover, the EU EOM also reminded the JEMB to establish “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”.³⁶³ These recommendations were not implemented in view of the 2009 elections, since the EU EOM included them again in the 2009 Final Report by urging “a change in the appointments system” of the IEC, and to allow party agents, domestic and international observers to attend meetings and plenary sessions of this body.³⁶⁴ In the 2014 Final Report, with the emergence of large scale fraud conducted with impunity and lack of

³⁵⁷ EU EOM, 2005 (a), p. 36.

³⁵⁸ EU EOM, 2009 (a), p. 49.

³⁵⁹ EU EAT, 2014 (a), p. 49.

³⁶⁰ EU DESM, 2004, p. 40.

³⁶¹ Ibid. p. 41.

³⁶² EU EOM, 2005 (a), p. 37.

³⁶³ Ibid.

³⁶⁴ EU EOM, 2009 (a), p. 49.

transparency of the IEC, the EU EAT provided for the Afghan government many detailed recommendations concerning the need to reinforce the neutrality and impartiality of the election administration and to guarantee the transparency of the process.³⁶⁵ First of all, the EU EAT reiterated that an independent board should nominate the IEC Commissioners. Then, it recommended the IEC to “determine the notion of passive complicity in electoral offences and the related penalties investigate all offences and fraud reported throughout 2014 elections” since the evidence of fraud on which further investigations were not carried out, and the widespread corruption at national and provincial level “deteriorated the image of the IEC”.³⁶⁶ In this regard, the EU EAT also urged to be aware about the legal consequences of fraud or passive observation, considering the fact that “candidate teams and observers were not granted detailed information in a timely manner”.³⁶⁷ In fact, the EU EAT recommended the IEC to develop “transparency measures” in order to disseminate data results for each polling station “at the time of each announcement of results”, to communicate on time the current status of the process, to deal with all stakeholders in a comprehensive manner and respecting the principle of equality, and to allow “stakeholders to complain with full consent and full knowledge of the results and audit conclusions”.³⁶⁸

It is interesting that since 2004 the EU had been also recommending the change of the Afghan electoral system, namely the Single Non-Transferable Voting (SNTV) for not being considered suitable to Afghanistan’s democratic development.³⁶⁹ In the 2005 Final Report, the EU EOM again urged the Afghan government to change the SNTV system because seriously affecting the Afghanistan’s democratic development and warned that “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”.³⁷⁰ For the 2009 elections, the EU EOM’s recommendation was not taken into account, and the EU EOM again urged to

³⁶⁵ EU EAT, 2014 (a), p. 47.

³⁶⁶ Ibid.

³⁶⁷ Ibid.

³⁶⁸ Ibid., p. 48.

³⁶⁹ EU DESM, 2004, p. 43.

³⁷⁰ EU EOM, 2005 (a), p. 35.

reconsider the SNTN system for the 2010 elections in order to ensure proportionality, representation of minorities, and geographical groups.³⁷¹ In 2014, the EU EAT did not make any recommendations regarding the change of the electoral system, although after the 2014 elections concrete discussions about the change of the electoral system from SNTN to Parallel Proportional System (PPR) were started.

For the improvement of human rights and the process of democratisation of Afghanistan, the EU DESM also encouraged the Afghan government to liaise in the long-term with Afghan authorities, civil society, and the international community by supporting programmes and activities. For example, the EU DESM urged the Afghan government to support programmes aiming at the protection of women and the improvement of their role in society including their participation as candidates and voters.³⁷² Compared to 2004, in 2005 the EU EOM issued more recommendations concerning the participation of women. The Afghan government was again recommended to make efforts in order to improve the participation of women and to promote their role as voters, candidates, staff, and observers; to retain reserved seats for women and to clarify whether according to the Electoral Law women can get more than the number of seats reserved; and to mandate compulsory photographs on women's voters' cards "in order to reduce the opportunity for men to vote on behalf of women".³⁷³ In 2009, the EU EOM recommended the IEC Gender Unit to develop a strategic plan for ensuring the participation of women as voters, candidates, and election administration staff, and to ensure the recruitment of female polling station staff in time³⁷⁴. Moreover, the EU EOM also urged to make efforts to stop the practice of proxy voting by the development of "training and support for voter registration and polling station staff, as well as public outreach programmes aimed at both men and women".³⁷⁵ Last, but not the least important, the EU EOM encouraged the Afghan government to take all the necessary steps in order to assess the security and needs of women active

³⁷¹ EU EOM, 2009 (a), p. 48.

³⁷² EU DESM, 2004, p. 44.

³⁷³ EU EOM, 2005 (a), p. 40.

³⁷⁴ EU EOM, 2009 (a), p. 51.

³⁷⁵ Ibid.

in politics during the registration and campaign period.³⁷⁶ In 2014, the EU EAT urged the Afghan government to enhance the number of women to be appointed in the top executive positions and to improve the protection of the integrity of women's votes "through secured and appropriate polling locations, led by female staff".³⁷⁷ In fact, the EU EAT reported that the use of female registration to facilitate fraud is a persistent feature".³⁷⁸ Moreover, the EU EAT recommended the government to allow civil society organization promoting women's rights to observe and assess women's participation in future elections and to develop programmes and activities promoting gender equality in state medias.³⁷⁹

4.4 Assessment of Election Day

On Election Day of the 2004 Presidential election, the EU DESM observed the electoral process in "around 70 polling stations in 8 regional urban centre".³⁸⁰ At the end of the day, the voter turnout accounted for around 69%³⁸¹ (i.e. 7.3 million votes). Some EU diplomats also visited several polling centres in Iran and Pakistan in order to observe the out-of-country voting of Afghan refugees.³⁸² The EU DESM assessed Election Day "passed calmly" and "not disrupted by any serious security incidents".³⁸³ Observers saw voters queuing "in a orderly manner", voting procedures going "smoothly", and polling stations doing their work "properly".³⁸⁴ However, the EU DESM noted some problems such as, for instance, the wrong use of indelible ink, which may have allowed cases of multiple voting.³⁸⁵ Generally, the language used in the "Election Day's section" of the 2004 Final Report is not severe and strict, probably because the 2004 Presidential elections were the first post-conflict elections that are usually characterised by many shortcomings, and its negative assessment would have undermined the minimum

³⁷⁶ Ibid., p. 52.

³⁷⁷ EU EAT, 2014 (a), p. 50.

³⁷⁸ Ibid.

³⁷⁹ EU EAT, 2014 (a), p. 50.

³⁸⁰ EU DESM 2004, p. 23.

³⁸¹ Percentage according to the voting age population that actually voted.

³⁸² EU DESM 2004, p. 23.

³⁸³ Ibid.

³⁸⁴ Ibid.

³⁸⁵ Ibid.

progresses achieved. What springs up from the assessment of every electoral process observed by the EU is the praise of Afghan people for their participation commitment to democracy:

The DESM congratulates the people of Afghanistan on the unprecedented success of its presidential election.³⁸⁶

On Election Day of the 2005 Parliamentary and Provincial Councils elections, since the mission format was different in respect to 2004, the EU deployed a larger number of observers (i.e. 159).³⁸⁷ In fact, the EU EOM observed the electoral process in more polling stations and provinces in comparison with 2004 (i.e. 1,124 polling stations visited throughout 24 provinces).³⁸⁸ Nevertheless, it should be remarked that the percentage of polling stations visited in 2005 still accounted for the “4% of the total-country wide”- including urban and rural areas, different ethnic communities, and male and female polling stations located all in safe areas – which is a figure relatively low for a full-fledged EOM.³⁸⁹ This factor again raises the question to what extent the EU may have brought an added value to Afghan elections since the EU EOM observed the electoral process only in safe areas, although it is also true that security is the foremost aspect for the deployment of an election observation mission. The voter turnout dropped by 12% in respect to 2004 (i.e. 51.5%), but the EU EOM argued that it was likely that this figure would have been higher if there had not been cases of multiple registrations.³⁹⁰ In the Preliminary Statement about the mission findings and conclusions, the EU EOM assessed Election Day in this way:

Largely peaceful election day and generally well-administered election process so far, despite shortcomings and challenges ahead, mark an important step forward for Afghanistan.³⁹¹

Furthermore, the EU EOM stated the following:

³⁸⁶ Ibid.

³⁸⁷ EU EOM, 2005 (a), p. 27.

³⁸⁸ Ibid.

³⁸⁹ EU EOM, 2005 (a), p. 28.

³⁹⁰ Ibid., p. 29.

³⁹¹ EU EOM, 2005 (b).

Overall, given their complexity and the operational challenges, the elections are an accomplishment, although there were notable shortcomings.³⁹²

The EU EOM also confirmed this conclusion in the Final Report. In fact, it is stated that according to what the EU EOM observed, “Election Day was generally calm and peaceful [...] and the incidents that occurred did not affect polling”.³⁹³ Like in 2004, also in 2005 the EU used a soft language in its assessment, stating that despite a number of deficiencies” observed, the overall assessment of the polling based on EU observers’ reports was “Very Good” in 35.9% of polling stations visited, “Good” in 53%, and “Very Poor” in only 2.8%.³⁹⁴ However, the shortcomings that the EU EOM observed were mostly related to the secrecy of votes, to group voting, and to the implementation of regulations and procedures by electoral staff.³⁹⁵ Although the JEMB Secretariat argued that these shortcomings are common to post-conflict environment and that did not affect anyway the outcome of elections, the EU EOM speculated that it was likely that these deficiencies occurred systematically in at least one-third of Afghan provinces.³⁹⁶ However, it should be remarked that overall the EU did not deeply tackle the negative aspects characterising the electoral process, but its assessment mostly praises Afghan people, domestic observers, and the election administrators for their commitment to democracy despite the challenging security environment.

On Election Day 2009, the EU EOM deployed “120 observers in 268 polling stations in 17 of the 34 provinces”, which are figures dramatically lower than the 2005 Parliamentary and Provincial Councils elections and which proves the deterioration of security conditions throughout the country.³⁹⁷ The assessment of the 2009 Presidential election was slightly more negative than 2005 from the perspective of security, but the commitment of Afghan people, authorities, and observers was again praised. In fact, the EU EOM underlined that the 2009 Presidential election was the first Afghan-led election and administered by the IEC, after that the 2004 and 2005 elections were

³⁹² EU EOM, 2005 (a), p. 1.

³⁹³ Ibid., p. 28.

³⁹⁴ Ibid.

³⁹⁵ Ibid.

³⁹⁶ Ibid.

³⁹⁷ EU EOM, 2009 (a), p. 43.

organised by joint Afghan and UN effort. In particular, the EU EOM argued in the Preliminary Statement that “the Independent Election Commission (IEC) functioned efficiently and technical arrangements were made according to appropriate timelines despite the considerable infrastructural and security challenges”.³⁹⁸ Nevertheless, although the Preliminary statement in 2009 reported that “Afghan elections take place in a reasonably well-organised manner, amid widespread violence and intimidation”,³⁹⁹ the Final Report pointed out that “Election Day was marred by a significant increase in the number of violent incidents” which affected not only the electoral administration, but also the EU observers’ movement and monitoring.⁴⁰⁰ The voter turnout accounted for 35,06%, one of the lowest figures of participation among all the other elections.⁴⁰¹ What is interesting is that in 2009 the EU EOM, focusing predominantly on the deterioration of security conditions, seems to put less attention to the various deficiencies affecting the electoral administration and process on Election Day, or at least justify some shortcomings for the lack of security. Despite these remarks, the EU EOM assessed the voting procedures in the polling station visited as “administered in a reasonably satisfactory manner”,⁴⁰² and stated that they “did not directly observe any cases of fraud”, although they received numerous reports by civil society organisations, voters, and domestic observers about cases of cheats in many polling stations.⁴⁰³ Afterwards, indeed, the EU EOM expressed its concern about the emergence from many polling stations of large-scale fraud affecting about 1.6 million votes.⁴⁰⁴ Although the Audit on results was conducted, the IEC just decreased the amount of fraudulent votes allocated to each candidate and called for a second round. However, the runoff scheduled in November was cancelled after that one of the two candidates withdrew from running for office denouncing the lack of transparency of the electoral process and

³⁹⁸ EU EOM, 2009 (b).

³⁹⁹ Ibid.

⁴⁰⁰ EU EOM, 2009 (a), p. 43.

⁴⁰¹ See: <http://www.idea.int/vt/countryview.cfm?id=4>. Elections in 2010 registered the lowest turnout with the 29.71%.

⁴⁰² EU EOM, 2009 (a), p. 43.

⁴⁰³ Ibid.

⁴⁰⁴ Ibid., p. 45.

the lack of independence of the government on the election administration.⁴⁰⁵

On the occasion of the 2014 Presidential election, the EU EAT was joined by locally recruited 65 short-term observers on Election Day and observed the main stages of the electoral process (i.e. opening, polling, and closing procedures) in around 155 polling stations in the first round and 310 in the run-off, mostly located in urban secured areas.⁴⁰⁶ Despite security concerns, the EU EAT found that in the polling stations visited the atmosphere during the voting procedures was generally “calm”, the level of transparency “high”, and the secrecy of vote “respected”.⁴⁰⁷ Nevertheless, the EU EAT pointed out that “the limited observation of Election day procedures are part of the EAT qualitative assessment, but do not necessarily reflect the countrywide situation”.⁴⁰⁸ In fact, many incidents and threats were reported in the first round and in the run-off, which strongly targeted the polling process.⁴⁰⁹ It is arguable that the 2014 Presidential election’s assessment was strongly influenced by the deterioration of security surrounding elections, also witnessed by the attack at the Serena Hotel on the 20th March 2014, where an international electoral observer of the National Democratic Institute (NDI) was killed by the Taliban. Nevertheless, the voter turnout accounted for the 50,03%, registering an increase compared to previous elections.⁴¹⁰ In fact, as was for previous electoral assessments, the EU strongly congratulated the Afghan people for their commitment in participating to the electoral process despite threats and attacks to various electoral stakeholders, without deeply assessing the electoral process itself:

One thing is crystal clear: Afghan voters have shown a remarkable, impressive determination to choose their leadership in freedom, by voting peacefully, in unexpectedly high numbers. Afghan voters showed their radical choice for the democratic constitution of Afghanistan and the universal rights enshrined in it. We have been in several polling stations, and we were impressed and moved by the determination, the will of Afghan voters. We don’t know who has won. We know that the Taliban have lost. Their threats to disrupt the elections with violence have led to loss of lives, of citizens, journalists, IEC staff, policemen,

⁴⁰⁵ EU EOM, 2009 (a), p. 45.

⁴⁰⁶ EU EAT, 2014 (a), p. 28.

⁴⁰⁷ Ibid.

⁴⁰⁸ EU EAT, 2014 (b).

⁴⁰⁹ EU EAT, 2014 (a), p. 29.

⁴¹⁰ IDEA, “Voter Turnout Data for Afghanistan”, Page last updated October 5, 2011, available at: <http://www.idea.int/vt/countryview.cfm?id=4> (consulted on 10 July 2016).

and also one international observer.⁴¹¹

The hurried statement ‘The Taliban have lost’ demonstrated how the EU EAT was mostly eager to show how the country was by now on the right track to democracy and stability, and that the Taliban attacks did not deter voters to massively participate to the electoral process.⁴¹² In the Preliminary Statement of the first round, indeed, the EU EAT pointed out that “The Afghan people resolutely engaged with the democratic process” and that violence did not deter Afghan voters.⁴¹³ As mentioned above, similar praises were underlined by the EU after every electoral process observed in Afghanistan, proving that the EU considered by now a great achievement just the fact that Afghan people cast their ballot despite security constraints. Nevertheless, this approval seems to hide the EU’s awareness of the flawed character of the electoral processes, whose shortcomings, however, have been covered moderately in the various EU’s assessments of previous elections. In 2014, along with rumours of cheats in the first round, the EU EAT tried to give a vague assessment of the effective electoral process itself in order to not undermine the participation’s achievement and at the same time to not put at stake the mission credibility:

We have to be very – very - prudent in our first conclusions, as the votes are being counted at this very moment.⁴¹⁴

However, after the publication of results of the first round with the resulting lack of transparency of the IEC in granting the necessary information to candidates and observers, the evident emergence of fraud that the EU EAT could not underestimate, a Press Release stating the following was issued:

EU Election Assessment Team calls for more transparency in second round – Fraud in first round was sizeable without affecting order of candidates none of whom reached 50% of the votes.⁴¹⁵

The statement that fraud did not modify the ranking of the leading candidate appeared

⁴¹¹ EU EAT, 2014 (b).

⁴¹² Ibid.

⁴¹³ Ibid.

⁴¹⁴ Ibid.

⁴¹⁵ EU EAT, 2014 (c).

to be as a kind of deterrence used by the EU EAT in order to prevent the outbreak of electoral protests and violence. In line with the purpose to not fuel the situation, the EU EAT also underlined that for the run-off the IEC committed to be more transparent and to take “the necessary steps to ensure timely online publication of individual polling station results”.⁴¹⁶ In the Preliminary Statement of the run-off in June, the EU EAT issued an open statement quite similar to that published after the first round, but with the addition of a partial assessment of the electoral process:

Afghans confirmed their commitment to democracy, undeterred by violence. Continued efforts are needed to preserve the integrity of people’s votes”.⁴¹⁷

Once again, the EU EAT strongly stressed the determination of Afghan people to participate to the electoral process despite security constraints, stating that “the world is struck by the courage of the Afghan voters”.⁴¹⁸ Furthermore, the EU EAT took advantage for a minimum progress achieved in the run-off by the IEC in order to underline that the recommendation included in the preliminary statement of the first round had been taken into account by the IEC:

The IEC has brought important improvements between the first and second round of these elections, voting became better accessible with more polling stations and increased transparency.⁴¹⁹

Soon, serious and widespread allegations of fraud emerged throughout the country and the EU EAT urged to conduct an audit on votes:

An additional in-depth audit of the votes is necessary, given this highly worrying indications of potentially of wide-spread fraud.⁴²⁰

What is interesting is that in the Press Release issued in July, the EU EAT revised its positive run-off’s Preliminary Statement regarding the behaviour of the IEC issued in June:

The EU EAT expects that the online publication of detailed preliminary results per polling stations, to which the IEC has publicly committed itself, will contribute to the transparency, credibility and acceptance of the outcome of this

⁴¹⁶ Ibid.

⁴¹⁷ EU EAT, 2014, (d).

⁴¹⁸ EU EAT, 2014 (d).

⁴¹⁹ Ibid.

⁴²⁰ EU EAT, 2014 (e).

Presidential election.⁴²¹

For the start of the Audit on the 17th July 2014, the EU EAT recruited 200 EU observers who worked in shifts on a permanent basis considering the importance that the Audit process had “conducted in line with the agreed procedures”:

The European support for this audit in Afghanistan is unprecedented in the history of EU election observation missions around the world. This audit is a necessary step. We have repeatedly called for it, because only with full transparency and an in-depth audit on possible fraud the Afghan people will be able to feel confident about the outcome of these elections. The European Union is committed to a democratic future for Afghanistan and therefore increases its efforts to assess this audit.⁴²²

At this stage, the EU EAT’s behaviour became more concern on the will of Afghan people. In fact, by having repeatedly congratulated the Afghan voters for their commitment, the EU EAT seemed now to take into account the effectiveness of a just outcome underestimated in previous elections:

Since the start of the audit on 17 July, the EU Election Assessment Team has been constantly increasing its number of observers to be able to follow, together with other international and national observers, the auditing process at the Independent Election Commission (IEC). This audit is vital to the respect of the Afghan voters and the democratic future of this country.⁴²³

At the same time, however, the EU EAT kept its peace-building role by having a constructive relationship with both candidates and other national electoral stakeholders in order to not stir violence and instability:

Candidates should solve in a constructive spirit any dispute on the application of audit criteria in order to complete the process in a timely manner that respects the will of the Afghan voters.⁴²⁴

After that the EU EAT assessed the audit of 47,4% of all ballot boxes coming from the thirty-four provinces of the country by which large scale fraud became evident, and the political agreement between the two candidates for the establishment of a government of national unity, the EU EAT Chief Observer, Thijs Berman, stated the following:

⁴²¹ Ibid.

⁴²² EU EAT, 2014 (f).

⁴²³ EU EAT, 2014, (g).

⁴²⁴ Ibid.

A political agreement has been reached on a future government and on a division of roles between the two candidates, after an unsatisfactory audit process. I welcome and deeply value the political will to secure stability in the country. However, the high proportion of fraud brought to light shows an unacceptable lack of respect towards so many Afghans, women and men, who freely went to cast their vote, often at great personal risk. Moreover, Afghan voters are entitled to be guaranteed that, in future elections, full transparency will be applied on the exact way their votes have been administered.⁴²⁵

For the first time since 2004, the EU EAT clearly gave a negative assessment of the electoral process which had been previously softer:

Strong interrogations on the Afghan election process remain, after publication of the outcome of the Presidential election by the IEC. The newly established National Unity Government should undertake comprehensive election reforms to restore confidence.⁴²⁶

At this point, it is clear that the EU EAT only supported the political agreement between the two candidates, which deterred the outbreak of violence, and not the full electoral process. Nevertheless, it seems that the EU EAT perceived that after congratulating Afghan voters many times for their commitment to participate and praising the efforts of the IEC, not only its credibility as a monitoring organisation was at stake, but also noted that Afghan people themselves dramatically lost confidence towards the democratic institutions and process. According to this, the EU EAT made a strong and open criticism against Afghan authorities for its lack of transparency and respect towards Afghan people, underlining older and non-followed EU recommendations:

Effective anti-fraud measures, neglected for years, will have to be enforced, including the prosecution of those involved in electoral violations during the 2014 presidential elections.⁴²⁷

Conclusion

This chapter has explored EU election observation missions conducted by the EU in Afghanistan between 2004 and 2014. In particular, this chapter has analysed whether the human rights and democracy situation surrounding elections have improved in

⁴²⁵ EU EAT, 2014 (h).

⁴²⁶ Ibid.

⁴²⁷ Ibid.

Afghanistan according to the EU's observation, and whether the Afghan authorities have taken into account EU's recommendations for the improvement of the electoral process. Despite the EU observed positive progresses concerning many aspects of the various electoral processes since 2004, many issues concerning the transparency and impartiality of the work of the IEC, the lack of a comprehensive voter register, and the discriminations against women about their full participation in the political life, have continued to raise many questions about the effective improvement of the electoral process. However, the EU has always welcomed and congratulated the participation of Afghan people despite the deterioration of security and the increasing attacks and threats by the insurgents against voters, election administration staff members, candidates, and polling stations. For this reason, this chapter has also analysed the EU's assessment - particularly on Election Day but broadly also on the electoral process in its entirety - in order to speculate which factors may have influenced the tone of writing of its assessment included in Preliminary Statements, Press Releases, and Final Reports. From the election observation missions emerge that the EU never assessed Afghan electoral processes "free" or "fair" since the EU never used these terms to qualify elections (for a lack of an agreed standard for what is free and fair), nor strongly condemned them. However, its positive comments on the election administration, its praises on the participation of people to the electoral process, and the emphasis on the deterioration of the security conditions sometimes put in the background the shortcomings and cheats found by the EU election observation missions.

Final Conclusions

This thesis has analysed EU election observation missions to Afghanistan for the period 2004-2014. Particularly, this research work has sought to answer the following research questions: a) What has been the EU's assessment both of the electoral process and the human rights situation surrounding elections in Afghanistan between 2004 and 2014? b) Which hypotheses may be raised to explain the EU's overall assessment of the electoral processes in Afghanistan? Does the assessment of the electoral process in Afghanistan reflect the EU's character both as a normative and strategic actor?

In order to answer the first research question, I have selected three crucial thematic aspects of electoral processes such as election administration, voter registration, and women's political participation.

As far as election administration is concerned, the EU has overall acknowledged that election administration in Afghanistan has showed a progress since 2004, given the fact that elections in 2004 and 2005 were jointly led by the Afghan authorities and the international community, and that since 2009 they have been only Afghan-led. However, the EU has reported many recurring shortcomings regarding the level of transparency, impartiality, and independence of the IEC, and noted a lack of implementation of existing legal and regulatory provisions from this body in all Afghan elections. Nevertheless, although it has at times assessed the management of elections confusing and lacking transparency and cooperation with relevant stakeholders, the EU has generally supported the conduct of the IEC for working professionally, efficiently and in a well-organised manner despite logistical and security challenges.

As far as voter registration is concerned, the EU has generally reported a lack of accuracy in voter registration, which, according to its assessment, has triggered not only cases of multiple registration and proxy voting, but has also encouraged the possibility to register and to vote in any sites and without proper ID checks. In fact, although the EU has generally observed in its election observation missions a decreasing issue of new voter cards between 2004 and 2014, the number of multiple registrations is instead increased. Although it has praised the entry of new voter registrations into the IEC

database since 2009, the EU has criticised the IEC for allowing Afghan people to register at any registration sites and in absence of clear population statistics.

As far as women's political participation is concerned, in all Afghan elections the EU has always praised women's participation as voters, candidates, and electoral officials, considered to be a great achievement for the fact that under the Taliban regime, women did not enjoy any civil, political, and social rights. Nevertheless, despite this general progress, the EU has negatively assessed the actual women's participation in most of Afghan elections because of security constraints, cultural restrictions and lack of education. In addition, the EU found that in all electoral processes observed, the identity of female voters has been exploited for proxy registration and voting. Although in its assessment the EU has sometimes stressed that women's political participation was improved in urban areas and some provinces, it did not consider that some of those provinces have witnessed an over-registration of women consequently linked to systematic cheats. Moreover, the EU has also found that across the various Afghan electoral processes, the IEC was never able to recruit enough female polling staff. The result was that men led many female polling stations, contributing to make polling station less accessible to women and to perpetrate cheats.

From the analysis of these three important thematic areas of elections, it emerges that the EU's overall assessment of all electoral processes observed in Afghanistan has not been always coherent with its own findings. In fact, it seems that the EU has usually endorsed many aspects of the electoral process regardless of recurring shortcomings found across the various electoral processes. Many recommendations on future improvements of the electoral process have been reiterated, copied and pasted from previous Final Reports across all Afghan elections by the EU, and although the Afghan government has never followed up many of them, the EU has not strongly emphasised this lack to the Afghan government. Generally, the overall assessment of each electoral process observed by the EU has strongly focused on praising the great commitment of Afghan people, domestic observers, and election administrators to participate in the electoral process, rather than deeply assessing the electoral process itself. The EU has often stressed in its overall assessment that just for the fact that elections took place was already a big achievement regardless of several electoral deficiencies that characterise a

post-conflict country, and security constraints. In fact, although the EU may have been aware of the flawed character of the various electoral processes, it may have opted to cover moderately these shortcomings in its final assessment given more room to security issues. Nevertheless, as was for the case of the 2014 Presidential election, I have argued that the EU's overall assessment of the electoral process turned to be more negative when large and evident fraud could not be underestimated anymore, although the EU has sought to keep a peace-keeping role in its assessment.

In order to understand why the EU may have had this ambiguous role in assessing elections in Afghanistan, and to identify which hypotheses – answering the second research question - may be raised to explain this behaviour, I have borne in mind that the EU, as international actor, not only observed elections in Afghanistan for promoting democracy and human rights, but also aimed to defend its “organisational policies”. In so doing, one can conclude that the EU acted both as normative and strategic actor in assessing Afghan elections. In particular, its assessment reflects its character as a normative actor because it promotes many principles and commitments enshrined in its body of law such as peace, democracy, and human rights; whereas it reflects its character as strategic actor because its assessment seems to be more focused in showing that Afghanistan is on the right track to democracy and stability.

Generally, as mentioned in the thesis, the EU never assesses an electoral process “free” or “fair”, like the OSCE, because of a lack of an agreed standard on those terms. This aspect allows the EU to both criticise and support different areas of observation at the same time, and to appear *super partes*. However, analysing the style and the conclusions of the Final Reports it emerges that the EU generally endorsed Afghan elections, despite evident shortcomings and cheats, in 2004, 2005, and 2009, whereas it seems to strongly condemn it in 2014. Among all the hypotheses suggested by Kelley for explaining this behaviour, the “progress hypothesis” is the most applicable factor in order to understand why the EU positively assessed Afghan flawed elections in those years. Firstly, Afghanistan has organised elections after three decades of warfare and massive human rights violations, and the peace-building role of the EU in Afghanistan includes the indiscriminate support to the first-ever multiparty elections as a form of encouragement, the support to minimum progresses achieved in comparison with

previous elections, the avoidance to spur violence in an unstable environment such Afghanistan, and the willingness to spread trust in the long term among people. To this discussion, the “pre-election violence hypothesis” is also a factor applicable to all EU's positive assessments on Afghan flawed elections, not much to avoid fuelling conflicts among different electoral parties in the post-electoral period, but to not decrease the willingness of Afghan people to cast their ballot despite the numerous attacks perpetrated by insurgents before and during the various Afghan elections. In general, the EU's behaviour in assessing elections in Afghanistan is also strongly influenced by the “political hypothesis”, being a factor related to those actors, which have economic and political interests in a particular country. Nevertheless, as mentioned, the EU seems to condemn Afghan elections only in 2014. The “irregularity hypothesis” is the factor that may explain this behaviour since frauds were obvious and widespread, and the EU would have lost its credibility if it had not concretely assessed the electoral process negatively.

In conclusion, although the result of organising elections after three decades of warfare and the Taliban regime may be regarded as a great achievement and a progress indicator for the democratisation process, Afghanistan has still a long way to go before democratic elections are guaranteed, and human rights, particularly the right of Afghan women to freely participate in the political life, are fully protected.

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