



EUROPEAN UNION ELECTION OBSERVATION MISSION GUATEMALA

General Elections – 2007

PRELIMINARY STATEMENT (Second Round)

Peaceful and well-organised election day brings to an end a competitive and generally transparent process, but signals the need for electoral legislative reforms.

Guatemala City, 6 November 2007

Responding to an invitation from the Supreme Electoral Tribunal and the Guatemalan Government to observe the 2007 General Elections, the European Union Election Observation Mission (EU EOM) was deployed in Guatemala on 31 July last. The Mission is headed by Sr. Wolfgang Kreissl-Dörfler, Chief of Mission and member of the European Parliament. The Mission has deployed a total of 111 observers from 23 member states of the European Union in 22 Departments of the country. The Mission is tasked with evaluating and informing on the development of the electoral process as a whole, and in accordance with EU established methodology and ‘The Declaration of Principles for International Observers,’ as adopted under the auspices of the United Nations in October 2005.

A Delegation from the European Parliament, headed by Mr Emilio Menéndez del Valle and including six other European Parliamentarians joined the EU EOM for election-day observation and to contribute to the content of this statement. This document is presented before the process is completed. The EU EOM will remain in the country to observe the process until its conclusion, including consolidation of final results and the management of eventual electoral challenges. One or two months following conclusion of the process a Final Report will be made public, offering the Mission’s detailed evaluation regarding the distinct aspects of the process. The Final Report will include a series of recommendations based on results from observation.

Preliminary Conclusions

Election-day on 4 November was peaceful, incident-free and characterised by good organisation of the voting process. Prompt and transparent management of counting, transmission and publication of preliminary results by the Supreme Electoral Tribunal (TSE) were in line with international best practices. Electoral campaigning developed in a free and competitive manner, although personal disqualifications and smear-campaigning proliferated, likely leading to diminished participation. The 4 November highlighted once again the weak nature of the Voter Register, signalling the need for creation of a centralised Civil Register and a singular national identification document. At the same time, suppression of the chapter in the Electoral Law relative to electoral offenses and misdemeanours brings to light a serious lack of effective judicial protection in the electoral environment. This goes against international standards and ought to be corrected in a future reform.

- **The 4 November election reveals participation statistics slightly above those of the second round in 2003, confirming a tendency towards a significant decline in participation when compared to first rounds. This has been true since Guatemala’s return to democracy. Electoral fatigue produced by the long duration of the pre-campaign and campaign periods has not aided in bringing about the desired reversal of this tendency.**
- **Reform of the Political Parties and Electoral Law, despite having contributed to improving real suffrage through decentralisation, has weakened the right to effective judicial protection in the electoral environment by suppressing the chapter relating to electoral**

offenses and misdemeanours. Approval of auditing and control regulations for electoral campaigns and party spending constitute positive measures in line with international best practices. However, until now the TSE has yet to establish efficient mechanisms for auditing campaign spending by parties.

- The current system of a Voter Register based on municipal identification documents, together with the absence of a national Civil Register, enabled detection of identification document duplication and improper registry of voters on both Election Days. The EU EOM strongly reiterates its recommendation for effective introduction of a singular national identification document and a centralised Civil Register as these could serve as a basis for a more inclusive and secure Voter Register.
- The TSE organised an efficient election that, while logistically more straightforward than those of 9 September, ought to respond to the goals of the Polling Centre decentralisation process. While since the first round the TSE has continued weekly meetings with Party Agents, contributing to a process of transparency, it has also shown a certain reticence to publicise electoral complaints and challenges and their resolutions.
- Electoral campaigning for the second round developed in a free and competitive manner. However, campaign teams and sometimes even candidates engaged in personal disqualifications and unproven serious accusations, meanwhile smear-campaigning proliferated.
- None of the binomial candidates who passed to the presidential second round is a woman or indigenous. Similarly, few women and no indigenous actors figure in the lead cabinet posts announced for the Ministries or State Secretariat's.
- As during the first round, civil society continued to play a significant role in terms of electoral observation through, *inter alia*, participation of various election observation groups.
- National media coverage during the second round of the electoral campaign was generally balanced and reasonably in accordance with international standards. The two presidential candidates enjoyed similar opportunities for transmitting their messages and proposals to the electorate.
- Election Day was marked by an total absence of incidents and good organisation by Polling Station staff of voting, counting and results transmission. As during the first round, a significant number of youth participated as Polling Station staff.
- The EU EOM congratulates both candidates and their parties for the democratic maturity demonstrated at the end of Election Day. Álvaro Colom waited for publication of all provisional results before celebrating his victory; Otto Pérez Molina made a clear and timely recognition of his adversary's victory.

Preliminary Evaluations

Political Context

Since the return to democracy in 1985, Presidential second rounds in Guatemala have been marked by a significant decrease in participation as compared to first rounds which coincide with municipal and parliamentary elections. This has been the case for the 4 November elections, contested between Álvaro Colom of the Unidad Nacional de la Esperanza and General Otto Pérez Molina of the Partido Patriota, revealing a slightly higher participation than in 2003 with 48.34% voter turnout.

This decrease in participation, along with citizen's fatigue due to an excessively long campaign, demonstrates persistence of a local character in Guatemalan political culture. This has also been shown in the second half of electoral campaigning with presidential candidates seeking support from Mayors and MPs. The fact that negotiations were carried out directly with Mayor and MP-elects and not with the parties under whose banner they were elected is further evidence of the weakness of political parties and their failings as permanent and disciplined structures. This weakness has been equally displayed in the splits and divisions immediately following announcement of results last September, wherein some parties that did not make it to the second round still managed to form a group in the future Congress.

Legal Framework

Guatemala's constitutional, legal and regulatory framework constitutes an adequate basis for organising democratic elections according to regional and international electoral norms and principles¹. Fundamental principles such as freedom of opinion, expression and association are granted by the Constitution. In addition, the principle of electoral legal security has been respected as no changes to the electoral law or to the regulations that clarify or complement the law have been introduced between the two electoral rounds.

Congressional approval of legal changes leading to an increase in the number of polling stations for these elections has doubtlessly been the most positive aspect of this electoral process. The decentralization process has allowed voters to cast their ballot closer to their place of residence, resulting in the inclusion of an increased number of Guatemalan citizens in the electoral process². This is in keeping with international best practices and has been especially true for indigenous communities and women living in rural areas.

Another positive advance of the regulatory framework has been the adoption, for the first time, of a set of norms concerning the private financing of political organizations and the financing of political campaign

¹ The legal framework and norms for these General Elections include, *inter alia*: the 1985 Political Constitution of the Republic of Guatemala (reformed in 1993), the 1985 Regulation of the Political Parties and Electoral Law (reformed in 2004 and 2006). During the 2007 General Elections, Party and candidate access to the media are regulated by the Control and Auditing Regulation of publicity campaigns, and the 1955 Radio Broadcasting and 1966 Freedom of Expression Laws.

² As in the first round, an increase of 54.39% in the number of Polling Stations (13,756 Polling Stations now as compared to 8,910 in 2003) allowed 58.87% of registered voters to cast their ballot closer to their residence.

activities³. Nonetheless, the removal of Chapter 10 of the Electoral Law, dealing with electoral offenses and misdemeanours, has contributed to reducing efficiency in the application of both new regulations as well as the set of electoral norms. This weakens the TSE's capacity to enforce the law and consequently the right of citizens to effective judicial protection.

In the weeks leading up to the second round there has been controversy regarding the TSE not demanding proof of solvency as a registration prerequisite for candidates to the general elections. This has signalled the need for legislative clarification, preferably in the Electoral Law, of the periods, procedures and competent bodies for verifying electoral requirements as outlined in the Probity Law. At the same time, the EU EOM has observed a certain lack of cooperation between the TSE and the Office of the Comptroller General of the Republic. Cooperation ought to be improved for future electoral processes.

Electoral Administration

Logistical preparations for the second presidential round were well-designed and adequately executed, mainly due to the dedication and competence of the TSE technical management teams at the different levels. The second round was considerably easier to organize and administer due to the accumulated experience from the first round and reduction in the number of ballots from four to only one. Election materials were distributed in a timely manner and following a post-electoral evaluation of the first round the TSE decided to retrain the approximately 55,000 polling station staff, concentrating on improving some of the weak points encountered in the first round. For example, contrary to what took place in the first round, special attention was paid to training in indigenous languages in some Departments. The TSE maintained the same number of polling stations (13,756 JRV) but increased the number of polling centres by 15 to 2,075.

The TSE declared repeat municipal elections in two municipalities - Tucurú in Alta Verapaz and San Marcos de la Laguna in Sololá – following serious disturbances that resulted in the deaths of 2 people in Alta Verapaz. Repeat elections in both municipalities took place without incident, amidst the adequate security presence provided by the Ministry of the Interior.

The TSE continued to organise weekly meetings with political party agents, an effort constituting international best electoral practices in terms of transparent management. Although on several occasions party agents declared their dissatisfaction with responses and clarifications offered by TSE Magistrates.

Data transmission on Election Day was swift and organised, with electronic transmission of Closing and Counting Acts from Polling Stations to the Tabulation Centre in the capital. Party Agents could observe data transmission, but were not authorised by the TSE to carry out an audit of the transmission software source codes. Preliminary results were announced by the TSE three hours following the close of Polling Stations and after 96% of electoral results were received, constituting a complete success in terms of the timeliness of results publication. At the same time, the TSE webpage permitted database access for citizens and the media to follow consolidation of preliminary results in real time.

Voter Register

³ The 2007 Regulation of the Political Parties and Electoral Law; the 2007 Auditing and Control of Public and Private Financing of permanent and electoral campaign activities of political organisations.

On both Election Days, the TSE has recognised several inconsistencies, errors and double entries in the Voter Register. In keeping with its recommendation from 2003, the EU EOM reiterates the need to substitute the currently weak system of municipal identity documents, which are open to manipulation, with a new national identity documents which could contain all the authenticity safeguards that current technology now offers at reasonable costs. At the same time, creation of a national civil register would avoid double entries, as in the case of foreigners.

The current voter register comprises 5,990,029 voters, representing a 13% increase from 2003. 58.87% of these voters are new or updated as a result of the decentralization process. Approximately 1.2 million rural voters and 2.2 million urban voters were able to cast their ballot in Polling Centres near their residence.

While the voter register is legally considered a public document, political parties were not facilitated accesses to it for consultative purposes. Before the first round, the TSE supplied a list containing names and voter identification numbers. However, as this list omitted addresses and other such details, perhaps for protection of voter privacy and security, the opportunity to fully verify the accuracy of the voter register was frustrated.

Civic Education

The TSE initially planned to implement a voter education campaign starting three weeks prior to Election Day, but was delayed in getting started. According to the TSE, the voter information campaign was to shift focus for the second round and centre on promoting voter motivation in order to fight traditional voter apathy registered in previous second round elections.

Voter education, which was particularly necessary in rural areas, faced logistical difficulties and linguistic shortcomings in relation to Mayan, Garifuna and Xinca languages. Notwithstanding, in the second round the TSE managed to address this lack of information in indigenous languages, representing a positive advance that should be maintained and built upon in the future.

Despite a slight increase in participation compared to the second round in 2003, the 10% decrease in voter participation registered 4 November (when compared to the first round on 9 September) indicates the need, especially in rural areas, to promote voter education in an uninterrupted manner between the two electoral rounds, emphasising the importance of presidential elections.

Electoral Disputes

Following the first round of elections, a total of 106 differing electoral complaints were received by the TSE. Complaints were mostly in relation to Election Day irregularities committed at polling centres, requests for the annulment of elections or concerns regarding irregular voting of citizens from other municipalities. According to the TSE, the majority of complaints were dismissed due to procedural deficiencies; further details have not been made available. In this respect, the EU EOM believes that complaints received during an electoral process must be tackled in a timely manner. To further enhance the transparency of TSE management, and in keeping with international best practices, details of decisions concerning complaints and appeals should be made public. This would have the added effect of strengthening public confidence in the TSE.

Civil Society

As during the first round, civil society continued to play a significant role in terms of electoral observation through, *inter alia*, participation of various election observation groups. These groups also collaborated greatly in sensitising and informing the electorate.

Electoral Campaign

Second round electoral campaigning witnessed a notable decrease in the violence that affected actors linked to political activity in the first round. The main reason for this decrease undoubtedly lies in the fact that almost all assassinations and attacks registered during the first round were in relation to local politics. Notwithstanding, the assassinations of the Partido Patriota's congressional secretary and of an old colleague and close collaborator of the party leader, and the threats received by the UNE strategy chief and his family (which resulted in his resignation) make clear that a certain level of violence and political intimidation, which official investigations should shed light on, has continued into the second round.

Campaigning by the two competing parties was widely covered by the media during this second round, which has developed in a free and competitive manner. Nonetheless, the spread of smear campaigning, consisting in unproven serious accusations and the slinging of personal insults between candidates, has proliferated through electronic mail, text messages, posters and even paid advertising in the media with neither the TSE nor state authorities reacting effectively.

While candidates have made efforts to present their proposals to the electorate, personal and familial disqualifications and the accusations exchanged between them and their collaborators, especially in relation to both having links with organised crime, have unfortunately ended up playing a lead role in the campaign. This has not aided in consolidating a democratic culture in terms of electoral competition.

As indicated in the EU EOM's first statement, introduction of new control regulations for financing political organisations represents a positive step toward improved transparency with respect to campaign spending. The two parties competing in the second round presented their financial reports to the TSE. Nonetheless, given the available human resources it was impossible for the TSE to undertake appropriate audit or verification of the connection between declared and spent sums or the identity of financial sponsors. In order to make this new norm effective, the EU EOM recommends that for future events the TSE cooperates with state entities specialising in financial auditing.

Media Coverage

National media coverage during the second round of the electoral campaign was generally balanced and reasonably in accordance with international standards. The two presidential candidates enjoyed similar opportunities for transmitting their messages and proposals to the electorate, although UNE experienced slightly higher radio and television coverage.

From 10 September to 2 November, the EU EOM conducted daily monitoring of seven newspapers, four television channels and four radio stations.⁴ Monitoring results reflect candidates Álvaro Colom and Otto Pérez Molina received print media coverage of 49.3% and 50.7% respectively, television coverage of 54.1% and 45.9%, and radio coverage of 53.7% and 46.3%. The tone of coverage was mostly neutral, if a

⁴ Newspapers: Prensa Libre, Nuestro Diario, el Periódico, Siglo XXI, Al Día, Diario de Centro América and La Hora. Television: Channel 3, Channel 7, Channel 13, and Guatevisión. Radio Stations: Emisoras Unidas, Radio Sonora, Radio Punto and TGW.

bit skewed on occasion, and especially during the days prior to the election, in favour of or against one of the two candidates.

In general, the media were able to freely exercise their occupation of informing the public. Nonetheless, isolated incidents of politically-motivated threats and attacks to Radio Nuevo Mundo (a Guatemala City radio station) journalists were observed by the EU EOM. The EU EOM also notes with concern the loss of television signal registered by Guatevisión on 24 October. This occurrence coincided with the transmission of a special programme with the UNE presidential candidate and affected 7 Zones in the capital city and parts of Mixco municipality.

In keeping with the Political Parties and Electoral Law, the media ceased to transmit or publish electoral propaganda 36 hours before Election Day. However, during this prohibition period some media released interviews of a proselytic nature, including interviews with both presidential candidates, the UNE vice-presidential candidate (Guatevisión), and Álvaro Colom's wife (Emisoras Unidas). At the same time, 211 media (mostly local radio and television) did not fulfil their obligation to submit tariff reports to the TSE as established in the Political Parties and Electoral Law.

In this respect, while new dispositions in the Electoral Law and Control and Auditing Regulations for Publicity Campaigns have contributed to an improved management over diffusion of electoral propaganda in the media, the TSE lacks adequate mechanisms for verifying non-compliance with said regulations and the ability to impose appropriate sanctions.

Participation of Women and Indigenous Peoples

None of the binomial candidates who passed to the presidential second round is a woman or indigenous. Similarly, few women and no indigenous actors figure in the lead cabinet posts (for the Ministries or State Secretariat's) announced over the past weeks.

On the other hand, despite the frequency with which candidates have used campaign events to declare their commitment to aiding in the development of indigenous peoples an analysis of the two plans for government reveals that this part of the population has hardly been taken into consideration.

Similar to the first round, the strong presence of female Polling Station staff and Presidents (43% of observed Polling Stations) contributed in a decisive manner to the organisational success of the election.

Election Day

The EU EOM observed opening, voting and closing at 550 Polling Stations across all the Departments of the country. The general evaluation of electoral operations made by European Union observers was either good or very good in 96% of observed Polling Stations.

Polling Station openings were punctual in 100% of observed cases. Election Day was marked by good organisation by Polling Station staff of voting, counting and results transmission. As during the first round, a significant number of youth participated as Polling Station staff.

Apart from good Election Day organisation, and in contrast to the first round, the most outstanding feature was the complete absence of incident both during voting and following the closing of Polling Stations. The security dispositions put in place by the Ministry of the Interior undoubtedly contributed to this end. EU observers reported PNC presence in 87% of visited Polling Stations.

In terms of Party Agent supervision of polling and counting, it is worth noting that Agents from both parties were present in almost all observed Polling Stations. At the same time, if in a slightly diminished number as compared to 9 September, a significant presence of national observers was noted across the country.

The EOM would like to express its gratitude to the TSE and all national authorities, including political parties, national and international observation missions, and Guatemalan civil society organisations for their cooperation and warm welcome during the observation period. At the same time, the EU EOM recognises the assistance received from the Delegation of the European Commission in Guatemala, the UNDP, and the diplomatic missions of member States.

An electronic versión of this report is available on the official Mission website (www.eueom-gt.org). [Tambien en español]. For more information: *José Antonio de Gabriel*, Deputy Head of Mission, Tel: +502 2380 1800. *Javier Gutierrez*, Press Relations Tel: +502 2380 1807

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