



EUROPEAN UNION ELECTION OBSERVATION MISSION GUATEMALA

General Elections . 2007

PRELIMINARY STATEMENT

The decentralisation process gave drive to a notable increase in voter participation during a well-organised and generally peaceful election day.

Guatemala City, 11 September 2007

*Responding to an invitation from the Tribunal Supremo Electoral and the Guatemalan Government to observe the General Elections (Presidential, Legislative, and Municipal) on 9 September 2007, the European Union Election Observation Mission (EU EOM) was deployed in Guatemala. The Mission is headed by **Mr. Wolfgang Kreissl-Dörfler, Chief of Mission and member of the European Parliament.** The Mission has deployed a total of 110 observers from 23 member states of the 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. This document is presented before the process is completed. The EU EOM will remain in the country to observe the process until the end of the second round (after which it will present another preliminary statement), 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 9 September was generally peaceful and marked by superior operational organisation, transparent management of vote-counting, in accordance with international standards, and with a strong participation by Party Agents. However, an otherwise diverse and competitive electoral campaign was left marred by a worrying level of violence against candidates. Recent reforms to the Electoral Law allowing for improved voter inclusion have left a gap in the regulation of electoral infractions. This goes against international standards in terms of judicial electoral protection and should be addressed in future legislative reform.

- **The Polling Station decentralisation process, and a more inclusive Voter Register than that of 2003, has contributed to a significant increase in participation compared to previous elections, especially in rural areas. In absolute figures, half a million more voters were registered than in 2003, although the percentage increase in participation has been more modest.**
- **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 irregularities and offenses. 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 Supreme Electoral Tribunal (Tribunal Supremo Electoral, TSE) has yet to establish efficient mechanisms for auditing campaign spending by parties.**

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- Despite very short timeframes, the TSE has responded effectively and independently to the organisational and logistical challenges inherent in the decentralisation process. Equally, the TSE has maintained an open relationship with parties and candidates, a step which has contributed positively to the overall transparency of the process.
 - Without having compromised polling, the existence of municipal identity cards (duplicadas) contributed to diminishing voter and party confidence in the consistency of the Voter Register.
 - Electoral campaigning has been characterised by broad diversity and enormous investment of resources on the part of parties and candidates, and has significantly surpassed the duration as established in the Electoral Law. Nonetheless, campaigning has been marred by the murders of a number of candidates; a situation requiring timely clarification by the competent authorities.
 - The 2007 election was the first in Guatemala with the participation of an indigenous presidential candidate. Despite this positive development, the participation of indigenous candidates continues to fall far below the national demographic representation of Mayas, Garífunas, and Xincas.
 - Guatemalan civil society has demonstrated its commitment to the electoral process through the organisation of various electoral observation groups and election awareness campaigns, including that of Foro Guatemala which called for responsible voting.
 - In general terms, the national media provided acceptably balanced electoral campaign coverage, providing access (with few exceptions) to the various parties and candidates in proportion to their strength. The media were able to freely exercise their right to information.
 - Election-day on 9 September was characterised by good operational organisation and a calm and festive environment except in some locations, namely Santa Rosa, Jutiapa, and parts of Alta Verapaz, where violent outbreaks took place after Polling Station closing.
 - Results published up until now by the TSE clearly indicate a second round in presidential elections between Álvaro Colom of the Unidad Nacional de la Esperanza and Otto Pérez Molina of the Partido Patriota. The EU EOM expresses its hope that electoral campaigning for the second round focuses on candidates distinct electoral proposals free from violent episodes.

Preliminary Evaluations

Political Context

The General Elections of 9 September 2007 marked the sixth time that elections have taken place since the return of democracy to Guatemala. They signalled the third elections to take place since the signing of the December 1996 Peace Accords that put an end to 34 almost uninterrupted years of military government and armed conflict in the country. Within a framework of democratic transition, characterised by the strengthening of civilian rule, the 9 September elections have been a further demonstration of civilian and institutional commitment to the process of democratic consolidation in Guatemala.

The electoral contest has been marked by fragmentation of the political landscape. Of the country's existing 21 parties, 14 managed to register for these elections, presenting Presidential and Vice-Presidential candidates. In terms of this fragmentation, one might add that there is scant cohesion between local and central party structures, this being fed by the relative fragility of primary elections and the self-financing of secondary elections. In fact, these elections have made it obvious that on many occasions candidates from the same party follow personal agendas and have weak coordination.

The above is made especially clear at the local level, and to a lesser extent, in Congressional elections. Guatemala continues to be mostly a rural country with strong local identities, this has translated into citizens identifying more strongly with municipal politics than with processes at the national level. At the same time, a lack of central-financing for local partisan organisations, and the completely autonomous character of civic committees, results in vulnerability when faced with patronage from wealthy Mayors or candidates who, while frequently changing parties, may be running for re-election.

Of particular concern is the fact that these above described conditions, through campaign-financing and often through intimidation of adversary candidates, allows infiltration of drug-traffickers and organised crime into the local structures of parties – a reality recognized by party leaders at the national level. Given this situation, the EU EOM expresses its support for the national campaign launched by Foro Guatemala which is made up of important Guatemalan civil society movements. The campaign calls for responsible voting, asking the electorate to disassociate themselves from municipal candidates who in one way or another were linked to drug-trafficking or organised crime.

Legal Framework

The legal framework in place in Guatemala offers an adequate normative base for the organisation and conduct of democratic elections, in accordance with international and regional norms and practices.¹

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 Electoral and Political Party Law (reformed in 2004 and 2006); the 2007 Regulation of the Electoral and Political Party Law; the 2007 Auditing and Control of Public and Private Financing of permanent and electoral campaign activities of political organisations. 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. Also included in the normative electoral body are the Agreements and Decrees as issued by the TSE. Moreover, Guatemala is a signatory to international and regional conventions, including the International Pact of Civil and Political Rights, and the Inter-American Democratic Constitution.

The main novelty in the regulatory framework for these elections has undoubtedly been the Congressional approval of the decentralisation of Polling Stations. The decentralisation process has meant a 64.77% increase in the number of Polling Stations (13,756) as compared to the 2003 elections (8,910 Polling Stations), and has consequently brought Polling Centres closer to voters. The EU EOM expresses its satisfaction with this reform ó which was recommended by the EU EOM that observed the 2003 General Elections ó inasmuch as it provides for greater inclusion of Guatemalan citizens in the electoral process, especially indigenous communities in the interior of the country and women living in rural areas.

Another positive step in the regulatory field, and a first time for Guatemalan electoral norms, is the adoption of supervisory and control regulations for both party and publicity campaign financing. However, the removal of Chapter 10 of the Electoral and Political Party Law relating to electoral irregularities and offenses left the TSE with scarcely any power to sanction violations.

Electoral Administration

The enormous logistical, operational and human resource challenges posed by the Polling Station decentralisation process and the limited time available have not constituted an obstacle for the TSE in the satisfactory organisation of this electoral exercise. Congressional approval of a sufficient budget, the experience and professionalism of the TSE Central Administration and its technical team, and the nationwide delegations and sub-delegations of the TSE all contributed to this satisfactory outcome.

At the same time, the flexibility demonstrated by the TSE with respect to financing for municipal electoral bodies, and the prior consultations regarding their needs, allowed for the timely identification and preparation of 13,756 Polling Stations for celebrating these elections. Likewise, the selection and training of almost 55,000 Polling Station staff was appropriate, although a lack of training sessions in local languages was noted at the local level in some locations.

The continuing dialogue between TSE Magistrates and Party Agents, through weekly meetings, contributed positively to reducing tensions and facilitating consensus, even if the TSE did not always have the ability to respond to the demands and complaints made by parties. In an equally positive move, the TSE distributed a copy of the Voter Register (although without the addresses of registered voters) to political parties with sufficient advance. At the same time, the TSE repeatedly denied various parties access to audit the source codes of the software used for the transmission and consolidation of results.

Voter Register

There are 5,990,029 voters in the Voter Register for these elections, representing a 13% increase in number with respect to the 2003 Register. The Voter Register now includes 3,526,116 new voters or voters who updated their information during the decentralisation process. Of this number 1,252,799 are in rural areas and 2,273,317 in urban areas.

The TSE's public recognition of an unquantified number of municipal identity card (*cédula*) duplicities in the Voter Registers of various municipalities reveals the fragile nature of the municipal civil registry system. This situation highlights the need to implement both a singular national identification document and even more importantly a centralised Civil Registry which can be used as a basis for electoral registry ó this recommendation appeared in the 2003 EU EOM report. While *cédula* duplicity did not mar these elections, it did contribute to decreasing voter and party confidence with respect to the reliability of the Voter Register.

Civic Education

While falling slightly behind their predetermined schedule, the TSE did make a significant effort to inform voters of their polling location. This effort was particularly necessary given the context of Polling Station decentralisation. Difficulties were encountered in rural areas and in indigenous populations due to the lack of communication infrastructures (e.g. postal service) and the scarce use by electoral authorities of local languages for disseminating information.

Civil Society

Guatemalan civil society has demonstrated its commitment to the electoral process through, *inter alia*, organising various electoral observation groups that have also served to collaborate significantly towards sensitising and informing voters. In addition to making these elections the most observed in the country's history, Mirador Electoral and the combined Mission of the University of San Carlos, the Procuraduría de los Derechos Humanos, and the Archbishop of Guatemala facilitated the strong inclusion of youth in these elections. The Misión Indígena de Observación has concentrated on following the problematic of indigenous community inclusion in the electoral process, while the CACIF Observation Mission highlights the business community's commitment to the process.

Electoral Disputes

Most official complaints received by the TSE were in relation to *cédula* falsification. Of the 31 complaints passed on to the Ministerio Público by the TSE, 29 remain under investigation.

In the final days before elections, the TSE received an increasing number of complaints from Mayors and Mayoral candidates in relation to *cédula* duplicity. When urged by the Supreme Court of Justice to reply to these complaints, the TSE attributed responsibility for defective *cédula* emission to the municipal system of registry offices that deal with residence.

Electoral Campaign

Parties and candidates have carried out a variety of intense electoral proselytising activities across the country; citizens have enjoyed free access, and in a generally peaceful environment. However, in many instances these activities began months before the official opening of campaigning, benefiting parties with more economic resources and eroding the principle of equality which constitutes internationally applicable best electoral practices. Despite the prohibition against campaigning before the official opening as established in article 218 of the Electoral Law, the TSE lacks the ability to force parties and candidates to respect the time limits for proselytising activities.

It is worthwhile pointing out that, for the first time in Guatemalan history, all parties contesting the presidency presented programmes for government. On the other hand, these programmes never really gained prominence in political debate, since as the elections approached debate tended to focus on the personality of the main contestants. In this respect, smear campaigns took place via E-Mail and pamphlet distribution, incriminating candidates in scandals or attacking aspects of their personality or past. Notwithstanding, smear campaigns were probably not a decisive factor in determining voter intention.

Introduction of new control regulations for financing political organisations represents a positive step toward improved transparency with respect to campaign spending. While the majority of parties presented their financial reports to the TSE, given the available human resources it was impossible for the TSE to undertake appropriate audit or verification of the same. In order to make this new norm effective, the EU MOE recommends that for future events the TSE cooperates with state entities specialising in financial auditing.

Another relevant element throughout campaigning has been the continual appearance of voter intention opinion polls right up until the final days before elections. These polls provoked numerous protests from the majority of parties and candidates. The EU EOM believes that internationally applicable best practices comprise establishment of a sensitive time limit for publication of voter intention polls. Such a time limit would have as its objective avoidance of any excessive impact on the voter's ability to freely decide.

Finally, the most negative element registered during the campaign and pre-campaign periods has been the trail of violent deaths of political candidates and militants and their relatives. Statistics vary between the 28 deaths registered by the PNC and the 50 counted by the main print media. Parties, official sources, and analysts identify the probable causes for these deaths: personal conflicts, common delinquency, infiltration into local politics of organised crime and drug-trafficking, inter and intra-party conflicts, and intimidation of political adversaries. The EU EOM strongly condemns any violence that might interfere in the electoral process and highlights the need for prioritising in the PNC and Ministerio Público, given appropriate human and material resources, timely investigation of such events, especially during the delicate pre-electoral period.

Media Coverage

From 13 August to 7 September the EU EOM carried out a daily monitoring of seven newspapers, four television channels, and three radio stations.² Monitoring was undertaken with the objective of evaluating whether all parties and candidates received a fair coverage and if the media followed established regulations for broadcasting and publication of electoral propaganda.

In general terms, monitoring results reflect that national media provided acceptably balanced electoral campaign coverage, providing access (with few exceptions) to the various parties and candidates in proportion to their strength. Canal 3 TV and Radio Sonora provided disproportionate news coverage in favour of one presidential candidate.

The various media and especially the print media provided detailed information to voters in relation to programme proposals put forth by the main parties. In the same way, televised forums and broadcasting of interviews with candidates provided spectators with good information about the different political options. However, the open editorial spaces in newspapers and on the radio betrayed a limited viewpoint. This is due to concentration of ownership of the main national media in the hands of a few families, the non-existence of public TV, and the low impact of state radio and newspapers.

While in the capital city the media is able to carry out its work in a climate characterised by freedom of expression and normality, EU EOM observers noted clear cases of intimidation, threats, and kidnappings of journalists in Quetzaltenango, El Progreso and Baja Verapaz.

The maximum time limits for diffusion of electoral propaganda established by the TSE were respected by the electronic media monitored by the EU EOM. Nonetheless, across the country many local media did not 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 of said regulations and the ability to impose appropriate sanctions.

² Newspapers: Prensa Libre, Nuestro Diario, el Periódico, Siglo XXI, Al Día, Diario de Centro América, and La Hora. Television: Canal 3, Canal 7, Canal 13, and Guatevisión. Radio: Emisoras Unidas, Radio Sonora, and Radio Punto.

During election-day and before the closing of Polling Centres the newspaper El Periódico published results from opinion polls taken at Polling Stations, this action contravening Article 223 of the Electoral and Political Party Law dealing with prohibition of opinion polls on polling day.

Participation of Women

The massive presence of women as Polling Station staff (at Polling Station openings observed by the EU EOM, 42% of Presidents were women) marks a positive tendency toward the participation of women in electoral organisation. At the same time, and despite availability of quantitative data, EU EOM observations in rural areas in the interior of the country indicate that Polling Station decentralisation contributed to an increase in participation by the female electorate.

While the period from 2003 to 2007 signalled a slight increase in the percentage of women candidates for political office (from 9% to 12%), female participation in politics continues to fall far short of that of men. Another concerning element is that despite the stronger demographic presence of women in Guatemala (51%), their weight in the Voter Register (46.9%) is less than that of men (53.1%). At the same time, this shows some improvement from 2003.

Participation of Indigenous Peoples

The 2007 elections marked the first celebrated in Guatemala with the participation of an indigenous presidential candidate. Although there is no reliable data given the fact that neither the Voter Register nor the candidates register mentions belonging to linguistic groups, participation of indigenous peoples in the judiciary is very low considering their overall presence in the Guatemalan population.

Compared to previous elections, the EU EOM notes an increase in party messages aimed at indigenous voters. At the same time, community leaders criticise the poor quality of proposals and a low level of information.

While the EU EOM continues to analyse the geographical breakdown of participation, election-day observation indicates that the process of decentralisation has improved Polling Centre access for indigenous communities.

Election Day

The EU EOM observed opening, voting and closing at 530 Polling Stations in all Departments. EU observers made a generally positive evaluation of electoral operations.

From the opening, Polling Station staff displayed a strong level of technical ability; the strong presence of youth undoubtedly contributed to this success. The majority of observed Polling Stations opened on time (88%) and Policía Nacional Civil were present in 82% of Polling Centres, this indicating the immense effort made by the PNC and the Ministerio de Gobernación towards guaranteeing adequate security for the elections.

Another notable point was the presence of Party Agents in 97% of observed Polling Stations. Moreover, there was an even combination of representatives from both the larger and smaller parties. In almost all cases, Party Agents were seen to be constructive and cooperative. Also, the strong presence of national observers across the country undoubtedly contributed to transparency of the process and to its character of civic celebration.

The voting process was considered either "good" or "very good" in 92% of observed Polling Stations; the same percentage considered polling to have taken place in a well-organised and orderly fashion. The only identified problem deals with updating of voter information and the municipal civil registry system, whereby in 18% of observed Polling Stations voters were not found in the Voter Register despite the fact that they had updated their information.

The closing and counting process was likewise evaluated very positively by observers. Unfortunately, at the end of election-day violent episodes were registered in some municipalities, among them Sant Rosa, Jutiapa, and areas of Alta Verapaz. Violence was generally linked to the re-election of Mayors, and in some cases carried on into the following day.

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 version of this report is available on the official Mission website (www.eucom-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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