

**European Union Election Observation Mission, Guatemala 2007
Final Report on the General Elections**



GUATEMALA

FINAL REPORT

General Elections 2007

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

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I. EXECUTIVE SUMMARY

The General Elections (Presidential, Legislative and Municipal) held in Guatemala in 2007, the sixth elections since the return of democracy in 1985, took place, overall, in accordance with international standards for democratic elections. Furthermore, they constitute an important step in the consolidation of democracy in the country. In this sense, the process of polling station (*Juntas Receptoras de Voto -JRV*) decentralisation, as carried out in most of the country's municipalities, played a significant role, by bringing ballot boxes closer to the voters, especially in rural areas. This has considerably strengthened the effective right of suffrage of a large number of Guatemalan voters, and together with the greater inclusiveness of the census, has brought about a significant increase in absolute participation figures, as compared to the elections held in 2003.

The legal framework that governs electoral processes in Guatemala generally complies with international standards for democratic elections. Having said this, it contains certain relevant lacunae, which should be resolved as soon as possible. Foremost among these, is the elimination of former Chapter 10, in the latest revision of the Electoral and Political Party Law (*Ley Electoral y de Partidos Políticos -LEPP*), dealing with electoral crimes and misdemeanours. Furthermore, the contents of this chapter were not, as originally pretended by the legislators, immediately transferred into the Penal Code. This legal vacuum represents an unjustifiable infringement upon the right to effective legal protection in the electoral context, which is contrary to international standards in this matter.

The Supreme Electoral Tribunal (*Tribunal Supremo Electoral -TSE*) responded effectively and independently to the logistic and organisational challenges arising from the decentralisation process, despite the limited timeframes for its implementation. Equally, in its weekly meetings with party agents, the Tribunal was able to maintain an important open channel for communication with political party representatives. Moreover, it was unable to establish positive institutional communication with the media. The relations between the media and TSE magistrates were generally tense, which largely contributed to damage the traditionally positive public perception towards the Tribunal. In this context, the TSE was accused of being weak in its handling of the registration of certain candidatures, and of lacking initiative when it came to imposing compliance with the established timeframes for the electoral campaign, and political party spending.

There can be no doubt that the voter register used in these latest elections was more comprehensive and generally better compared to those employed in previous elections, nonetheless, significant flaws were identified, mainly regarding the documents that are used to update it, the municipal identity cards (*cédulas de vecindad municipal*). The *cédulas* that municipalities issue based on municipal civil registries, without

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crosschecking the data with other registers or other security safeguards, are managed in a heterogeneous manner throughout the country and are easily forged. As a result, significant anomalies appear throughout the process, particularly regarding the duplication of *cédulas*, which corrupt the voter register, compromising its credibility, especially in the case of local elections. The new National Registry Law (*Ley del Registro Nacional de Personas* -RENAP), establishes a more modern mechanism, including a nationwide register and a unique identification document based on nationality, and not municipal residence. Nevertheless, it is likely that the application of the new legislative text will give rise to certain reservations on behalf of local powers, as has occurred in previous attempts to update the civil registry system. The EU EOM considers that resolute action by the incoming government for the implementation of the RENAP Law is a priority.

The plural and competitive electoral campaign was marred, especially during the first round, by a significant number of murders, which affected candidates and political activists, as well as their relatives. The EU EOM expresses its concern given that the motives for the vast majority of these crimes have yet to be uncovered. Negative smear-campaigns against several candidates flourished throughout the electoral campaign, especially on the Internet. Furthermore, candidates, political sympathisers and even members of the electoral administration suffered intimidation and numerous threats. On the other hand, and despite the new normative dispositions in force, the first in Guatemalan history, which regulate the financing of political party electoral campaigns and political proselytising campaigns in the media the TSE, was unable to perform an effective audit of political party funds, and their sources. The TSE also failed to guarantee the upholding of the established limits on campaign spending

The active participation of women in Guatemalan political life exhibits a strong deficit, especially compared to their demographic weight in society as a whole. The presence of women rarely goes beyond a 10% threshold in the various spheres of political representation. On the other hand, women, who represent 51% of the Guatemalan population, barely constitute 46% of voters, as registered in the voter register, which reveals a serious limitation in their capacity to exercise the right of active suffrage, a situation that is very patent in rural areas. Moreover, it is worth highlighting, that in the electoral process in 2007, the participation of women in the electoral administration grew considerably, for example, 42% of JRV Presidents were women. Polling station decentralisation has also led to improvements in women's access to the right to exercise suffrage, especially for indigenous women with family obligations.

Members of indigenous communities participated significantly, as voters, in the recent electoral process, generating turnout rates above the national average. Having said this, and despite improvements compared to previous electoral processes, especially in the

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municipal arena, their access to elected political office is still far below their demographic weight in the nation as a whole. This situation is blatantly visible in the Guatemalan Congress and among the candidates to the Presidency and Vice-Presidency of the Republic, notwithstanding Rigoberta Menchú Tum's candidature.

Guatemalan civil society fully committed itself in these last elections, especially through the organisation of analysis and observation groups focusing on the electoral process. In some cases, these groups complemented the efforts undertaken by the TSE in the promotion of voter education. Equally noteworthy was their commitment in reporting the infiltration of drug-trafficking networks and organised crime in national politics, more notably in municipal elections.

Overall, the national media covered the electoral campaign in an acceptably balanced manner, offering access, with minor exceptions, to the different parties and candidates according to their relative importance, in line with international best practices in this field. Furthermore, the media were able to exercise their right to provide information freely.

Both election-days, 9th of September and 4th of November, were generally peaceful, despite some unfortunate incidents after the closing of polling stations in the first round. Polling operations were performed in a transparent and effective manner, and under the unrestricted scrutiny of large numbers of political party agents and election observers (both national and international). Furthermore, these election-days were characterised by the TSE's prompt transmission and publication of preliminary results. The fact that the TSE's budget was sufficient for the adequate organisation of the process, clearly played an important part in its success, as did the significant rationalisation of polling centres that resulted from the decentralisation of polling stations. Equally important was the professionalism of the TSE's technical staff as well as that of the different Electoral Boards (*Juntas Electorales*) and the political maturity of Guatemalan citizens.

The final election results awarded the Presidency to Álvaro Colom, the candidate of *Unidad Nacional de la Esperanza* and produced a less fragmented Congress than in the previous elections. One of the tasks that the new Government and Congress must take onboard is to reform some of the more deficient aspects of electoral legislation and regulations. In this sense, and within the EU EOM's mandate, this report includes in its final section, a series of proposals geared at supporting this task.

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II. INTRODUCTION

Responding to an invitation from the Supreme Electoral Tribunal (*Tribunal Supremo Electoral* –TSE) and the Guatemalan Government to observe the 2007 General Elections, the European Union Election Observation Mission (EU EOM) was deployed in Guatemala on the 31st of July; the EU EOM remained in the country until the 27th of November 2008. **Mr. Wolfgang Kreissl-Dörfler, Chief of Mission and member of the European Parliament** headed the Mission. The Mission deployed 111 observers in total, from 23 member states of the European Union over the two rounds of the elections, and in all of the country's 22 Departments. The Mission was called upon to evaluate and inform on the development of the electoral process as a whole, in accordance with established EU 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 in both rounds. This delegation endorses the contents of this report. The EU EOM remained in the country to observe the process until its completion, including the consolidation of final results and the administration of electoral challenges. The EU EOM published two Preliminary Statements, after each of the election-days, on the 11th of September and the 6th of November. This report presents the Mission's detailed evaluation of the various aspects of the recent electoral process, and includes a series of recommendations based on the results of its observation.

The EU EOM wishes to express its gratitude to the TSE and all other national Guatemalan authorities, as well as political parties, national and international observation missions, and Guatemalan civil society organisations for their cooperation and warm welcome during the entire observation period. At the same time, the EU EOM welcomes the support received from the Delegation of the European Commission in Guatemala, the UNDP and that of the diplomatic missions of EU member states.

III. POLITICAL FRAMEWORK

A: *Political Context*

In the 2007 elections, the Guatemalan people elected their municipal corporations (332) and members of Congress (158), as well as the President and Vice-President of the Republic, for four-year mandates. These latest general elections have been the sixth since the return of democracy in 1985, after more than three decades of internal armed conflict, and authoritarian military regimes. Within the framework of the Peace Agreements

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signed in 1996, the country's democratic transition has characterised itself by the will to strengthen the Rule of Law and Human Rights in Guatemala. Nevertheless, poverty, together with deficiencies in education, and generalised impunity can hardly be considered to be the best breeding ground to reach such goals. There is a significant deficit in Guatemalan justice: of the 5,885 registered murders in 2006, only 2% were investigated, and no more than 0.5% reached the courts.

The Peace Agenda, which established common and consensual objectives for development and democratising policies, to facilitate the application of the Peace Agreements, has been taken onboard to a limited extent by political organisations, which since its adoption, have had governmental or other relevant responsibilities in the formation of Congressional majorities. Notwithstanding, two initiatives were promoted in this sense: the *Agenda Nacional Compartida* and the *Plan Visión de País*. The former was sponsored by 20 political organisations between 2002 and 2003, while the latter originated from an initiative raised by a group of citizens during the period comprised between 2006 and 2007. The aim, in a country where absolute Congressional majorities are rare, was to enable or strengthen governance, by focusing on multipartite agreements to facilitate the approval of crucial legislative reforms for the consolidation of democracy in Guatemala. Unfortunately, the results of such initiatives have proven to be relatively poor.

On the other hand, the decentralisation of polling stations, which brought polling centres closer to citizens, has served in these elections to gauge how and to what extent citizen participation has strengthened within the democratisation process, especially as regards to women and indigenous peoples, both of which have been traditionally left aside in the realm of political participation.

B: Electoral Environment, Political Actors and the Campaign

The electoral campaign opened, effectively, at the beginning of 2007, several months before the official opening date, as established in the Electoral Law. The extremely lengthy duration of the process, which eventually stretched out over eleven months, generated obvious symptoms of electoral fatigue among candidates, voters and the media.

Of the 21 existing political parties in Guatemala, 14 successfully registered to participate in this electoral contest.¹ Since the return of democracy to Guatemala, the country's

¹ *Unidad Nacional de la Esperanza (UNE), Partido Patriota (PP), Gran Alianza Nacional (GAN), Centro de Acción Social (CASA), Frente Republicano Guatemalteco (FRG), Encuentro para Guatemala (EG), Partido Unionista (PU), Partido de Avanzada Nacional (PAN), Unión del Cambio Nacionalista (UCN), Desarrollo Integral Auténtico (DIA), Unión Democrática (UD)*

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political parties have shown evident signs of chronic organisational weakness and an extremely low degree of internal party discipline. As a result, they are remarkably volatile, and depend almost entirely on external sources of financing, as well as exhibiting a very limited programme based profile. Furthermore, they are highly susceptible to changes in party affiliation. Parties are identified, primarily through their leaders' personalities, as opposed to their proven track record and ideological underpinnings, or the loyalty of their grassroots support. Therefore, in practice, they operate more as temporary electoral platforms rather than as consolidated and stable political parties.

The structural deficiencies of Guatemalan political parties give rise to another characteristic phenomenon of the country's electoral environment: electoral localism, powerfully linked to clientelist practices, and inextricably related to the practice of shifting political party allegiances. In most cases, a party's local level of penetration rises or falls based on the, greater or lesser possibilities of their presidential candidates to eventually win in upcoming elections. The mayors and members of Congress can run for re-election indefinitely, but the President of the Republic is limited to one single mandate. This explains why, mayors and members of Congress, who rely on significant autonomous grassroots bases at the municipal or departmental level, constantly change party affiliations in support of potential presidential victors, who will be able to provide them with greater public funding, or favours from the Presidential Palace. This reality, which is deeply entrenched in Guatemalan political culture, does not contribute to strengthen the public credibility of political parties or candidates, as it projects a clear sense of opportunism and venality which is patently reflected in opinion polls.

The independence of local and departmental candidates as regards the central political party structures (which manage the campaign for the presidential and vice-presidential candidates) is rooted both in the strength of the former and in the weakness of the latter. Local candidates are, in many cases, powerful personalities with various re-elections behind them, who control local assistance and support structures, public procurement and even the distribution of municipal employees with the purpose of creating strong clientelist electoral support bases. In other cases, which constitute an increasingly worrying phenomenon, with several precedents in the region, the strength of municipal candidates is based on their access to vast economic resources derived from drug-trafficking or organised crime, which allows them to rise to important positions in the electoral environment of their municipalities or departments, through gifts, campaigning or blatant intimidation of adversaries. Faced with such realities, political party central structures barely have the sufficient resources at their disposal to share out among their local branches. Therefore, local candidates are the ones who choose which presidential

Unidad Revolucionaria Nacional Guatemalteca (URNG-Maíz), Democracia Cristiana Guatemalteca (DCG), Alianza Nueva Nación (ANN).

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candidate (and thereby political party) to support in each election, and not the contrary. Furthermore, this explains why national party structures have a very limited capacity to influence the formation of their own municipal or departmental candidate lists, and have practically no capacity to enforce party discipline.

It is worth noting, that despite these shortcomings, there has been a positive development in these elections. For the first time since the return of democracy, all the political parties that contested the elections presented political programmes for government, of varying degrees of detail, before the Guatemalan electorate. Similarly, the relevance, in this last electoral process, of the *Foro de los Partidos*, is worth highlighting, as a space for concertation and self-regulation, with regular meetings in which all parties participated. Among its most relevant contributions was the resolute support of the polling station decentralisation process, as well as its statements recognising the TSE as the institutional guarantor of the fairness and neutrality of the electoral process.

The pre-electoral period was marred by outbursts of violence in the electoral environment. Between January and September 2007, over fifty mayors and members of municipal corporations, candidates, political activists or their relatives, were murdered. This figure doubles that of the pre-electoral period that preceded the 2003 elections. The Ministry of Public Order's (*Ministerio Público* -MP) lack of investigative capacities, hampers the possibility of clearly establishing the motivation behind each of these crimes, which in the relevant police reports, tend to be immediately classified as commonplace violence (larceny, crimes of passion, etc...). Without discarding the possibility that some of these crimes may reflect political rivalries (within one party or between parties), a significant number of these crimes, based on their geographic distribution (Guatemala, Jutiapa, Escuintla and San Marcos), may reflect the vested interests of organised crime in infiltrating political organisations at the local level. As if confirming this hypothesis, the number of deaths potentially linked to the electoral process declined drastically during the second round (from 53 to just 4 murders).²

² Given that 80% of candidates to mayor were seeking re-election, there were fears that violent outbursts, such as the burning of ballot boxes or the pillaging of municipal property in various municipalities could proliferate on the 10th of September. A detailed map of the incidents that took place on the first round election-day, as compiled by Guatemalan National Police (*Policía Nacional Civil* -PNC), included cases of disturbances and demonstrations in 16 municipalities, within eight different departments. Beyond cases of damage to private property (vehicles and real estate), various clashes with security forces (five wounded agents) were also registered, as well as the destruction of municipal property and police vehicles, but only five cases of ballot burning were reported. Repeat elections were ordered in only two municipalities, because of the incidents that took place on the 9th of September: Tukurú (Alta Verapaz) and San Marcos La Laguna (Sololá).

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Several analysts interpret the murder of the secretary of the *Partido Patriota* (PP) parliamentary group and the resignation of *Unidad Nacional de la Esperanza's* (UNE) head of electoral strategy, due to threats against him and his relatives during the second round campaign, as proof of organised crime's desire to make its presence felt in the national political environment. Independently from the assessment of these events, the EU EOM considers that the infiltration of political spheres by organised crime and drug-trafficking networks may have dramatic consequences for the country's democratisation process. Furthermore, it believes that the adoption of measures to put an end to such infiltration is crucial. In this sense, the work of the *Ministerio Público* (MP) is worth underlining, as it issued two pre-trial writs against members of Congress involved in criminal activities. Equally significant, is the initiative, promoted by 16 civil society organisations, which under the umbrella of the *Foro Guatemala*, initiated a campaign against the infiltration of organised crime and drug-trafficking networks in politics.³ This campaign was promoted during the electoral period by radio and television messages. A large Congressional majority approved the creation of the International Commission Against Impunity in Guatemala (*Comisión Internacional contra la Impunidad en Guatemala* -CICIG), which may contribute to generate greater political party credibility insofar as the extent of their commitment to the fight against corruption.

During the electoral campaign, the fight against crime, and citizen insecurity was the main issue in most debates and forums between candidates and to a lesser extent the infiltration of organised crime in the political arena. Practically all political parties used this issue to discredit their political adversaries.

The majority of political parties presented their programmes for government, focusing generally on priorities such as security, employment, rural development, education and health. As for citizen insecurity and the fight against crime, the proposals sketched out similar goals in broad terms: reforming and strengthening the Guatemalan National Police (*Policía Nacional Civil –PNC*), as well as criminal investigation and the Army. The more noticeable differences appeared in the specific strategies: from the purging and professionalisation of the existing security forces, to the creation of new structures, or even the proclamation of selective states of emergency in areas with significant criminality rates. In the economic and social sphere, a generalised lack of detail was noted in the drafting of political party programmes, insofar as the generation of employment, or the broadening of the coverage provided by social services.

In their campaigns, the five leading parties according to the polls during the first round (UNE, PP, GANA, FRG and EG) coincided in that the main priority was to introduce a new policy against insecurity, and considered that reforming the *Policía Nacional Civil*

³ The main message of this initiative was, "If you vote for a drug-trafficker, you are a drug-trafficker. If you vote for a criminal, you are a criminal."

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was essential. The infiltration of organised crime in political parties was, as we have seen the object of mutual accusations between the two main presidential candidates, Otto Pérez Molina, of the *Partido Patriota* (PP) and Álvaro Colom of *Unidad Nacional de Esperanza* (UNE). Members of different political parties were responsible for countless cases of threats, as well as verbal (and physical) aggressions against members of adversary parties. Especially noteworthy was the proliferation of smear-campaigns – mainly between the UNE and PP parties- on the Internet, or through printed pamphlets or cell phone messages. These smear-campaigns, compounded by the aforementioned bloody trail of murders that emerged during the electoral campaign⁴ probably contributed to feed the generalised atmosphere of disaffection towards political parties. Indeed, it is likely that these factors may have had some bearing on the level of abstention registered among the electorate.

In the second and last phase of the campaign, UNE and PP focused their electoral campaign efforts in the capital area, whose vote is often decisive in second round presidential elections. Since 1985, voter turnout rates tend to decrease in the second round, especially in rural areas (an average of 18%), although it also does so, but to a lesser extent, in the capital (an average of 6%). In this context, the TSE's tardiness in launching information campaigns, added to the negative tone of the reciprocal accusations bandied by the two main candidates as well as their refusal to participate in public debates, generated understandable fears about an even greater number of abstentions in the second round. This perception was heightened by the lack of clear differences between both candidates' political programmes, and the numerous appeals to cast invalid votes as a form of protest. In this sense, most of the electoral analysis and opinion polls, predicted a technical draw between both candidates, which raised further fears as to the possible reactions of the losing candidate.⁵ Finally, as the 9th of September date grew closer, the number of undecided voters fell by about 10%.

IV. LEGAL FRAMEWORK

A: Electoral Legislation

The existing legal framework during the general elections held in Guatemala in 2007 offers, in general terms, an adequate normative base for the organisation of democratic elections, according to regional and international electoral norms and principles.

⁴ Four accusations of threats against TSE delegates or sub-delegates were also brought to the attention of EU EOM observers.

⁵ To this end, the TSE organised a meeting to share experiences with the Electoral Tribunals of Costa Rica and Mexico, where the results in the latest presidential elections were very close.

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The Guatemalan electoral regulatory framework is composed of dispositions of varied normative status. The most important being the 1985 Political Constitution of the Republic of Guatemala (*Constitución Política de la República de Guatemala*), reformed in 1993, the 1985 Electoral and Political Party Law (*Ley Electoral y de Partidos Políticos*)⁶, and the more recent, 2007 Electoral and Political Party Law Regulation (*Reglamento de la Ley Electoral y de Partidos Políticos*). Equally relevant, are the 2007 Control and Audit Regulation of Public and Private Financing of Permanent and Electoral Campaign Activities of Political Organisations (*Reglamento de Control y Fiscalización del Financiamiento Público y Privado de las actividades permanentes y de campaña electoral de las organizaciones políticas*) and the 2007 Control and Audit Regulation of Electoral Publicity Campaigns in General Elections (*Reglamento de Control y Fiscalización de las campañas publicitarias de las elecciones generales*).

Other laws and regulations that are relevant in the electoral sphere, include the 1955 Radio Broadcasting Law (*Ley de Radiodifusión*), the 1966 Law on the Freedom of Expression (*Ley de Emisión del Pensamiento*), the 2002 Municipal Code (*Código Municipal*), the Law on Probity and Responsibility of Public Officers and Employees (*Ley de Probidad y Responsabilidad de Funcionarios y Empleados Públicos*), the Penal Code and the Civil Code. Similarly important is a more recent legislative text, the 2005 National Registry Law (*Ley del Registro Nacional de Personas -RENAP*), which regulates the civil registry process, and which is still at the early stages of its application.

The Political Constitution defines Guatemala as a free, independent and sovereign State, governed by a republican, democratic and representative system. The Guatemalan Constitution organises the State based on the classic principle of the separation of powers, of a presidential type. The President of the Republic is the Head of State, directs and appoints the ministers, and is the General Commander of the Army. The legislative power resides in the Congress of the Republic, composed of 158 members directly elected by universal suffrage, in a mixed system, which combines departmental electoral constituencies (127 members of Congress), and a national list (31 seats). Administratively, the country is subdivided into 22 Departments, and these are further subdivided into 332 Municipalities. Each department is headed by a Governor, appointed by the President of the Republic, who in turn presides over the Departmental Council, composed, among others, by the Mayors of each Municipality. The Supreme Court of Justice (*Corte Suprema de Justicia -CSJ*) is the highest echelon of the Judicial Power and is composed of 13 magistrates elected by the Congress of the Republic.

⁶ The Electoral and Political Party Law (LEPP) was reformed by decrees issued by the Congress of the Republic in 1987, 1990, 2004 and 2007.

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The Constitution of the Republic of Guatemala

The Political Constitution of Guatemala enshrines most of the basic internationally recognised principles for the organisation of democratic elections.

The right of active and passive suffrage is granted at the age of eighteen, age at which a person acquires the totality of civil and social rights. The right of passive suffrage for the Presidential and Vice-Presidential position is not obtained until the age of forty. Other fundamental rights and freedoms, that have electoral relevance, and which are guaranteed by the Constitution, are individual freedom, equality before the law, freedom of expression and association, the right to organise and be a member of a political party, the right to peaceful assembly, and the right to present petitions. This set of fundamental rights and freedoms is further strengthened in the Guatemalan legal system by the International Covenant on Civil and Political Rights⁷, adopted by Guatemala in 1992, as well as by the 2001 Inter-American Democratic Charter, to which the country is also a party.

The Constitution, approved in 1985, was partially reformed in 1993 and 1999. To amend any article pertaining to individual rights, the Congress of the Republic must call for elections for a National Constituent Assembly with the positive vote of at least two-thirds of its members. Any other constitutional reform requires the positive vote of two-thirds of the total number of its members. Any reform approved in this manner requires ratification by popular consultation in order to be effective.

The Electoral and Political Party Law

The Electoral and Political Party Law (LEPP) is endowed with constitutional status and was approved in 1985 by the National Constituent Assembly in the same year as the Constitution. Given its constitutional status, its reform requires the agreement of two-thirds of the total number of members that compose the Congress, with the prior, and favourable, dictum by the Constitutional Court (*Corte de Constitucionalidad -CC*).

The LEPP has governed over the various types of elections⁸ that have been held in Guatemala since the return of democracy in 1985. This electoral law broadly regulates the exercise of political rights, the composition and functions of electoral bodies, as well as political organisations, the exercise of suffrage, the different stages of the electoral process and defines the electoral systems that apply to the different kinds of elections.

⁷ International Covenant on Civil and Political Rights (1996). See Articles 19, 21, 22 and 25.

⁸ The LEPP has governed the presidential, legislative and municipal elections in the following years: 1985, 1989, 1993, 1997, 2001, 2003, 2007 and in the 1999 popular consultation.

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The LEPP was reformed in 1987, 1990, 2004 and 2006, to manage or modify relevant aspects of the electoral process such as polling station decentralisation, the formal prerequisites for the constitution of political parties, or the political affiliation and permanent institutionalisation of political parties' executive bodies. Similarly, various changes, although minor, were introduced, aimed at promoting gender balance in the electoral sphere, and motivating political parties to encourage the participation of women in candidate lists as well as requiring the electoral bodies to take gender balance criteria into account in the composition of the Electoral Boards (*Juntas Electorales*), at their various levels.

The Guatemalan Congress approved the derogation of Chapter 10 of the LEPP in the process of reform carried out in 2006. This Chapter dealt with electoral crimes and misdemeanours, and the purpose of the derogation was to transfer such competences to the Penal Code. However, the penal regulation of electoral crimes and misdemeanours was not approved during the previous legislative period, leaving a serious legal vacuum in terms of the judicial protection of electoral rights. This vacuum implied that only those especially serious, penally typified electoral crimes⁹ (which were already regulated in the Penal Code) could be the object of individual legal appeals for protection. This significantly damaged the right to effective judicial protection in the electoral sphere, contrary to internationally accepted principles in electoral matters.

The Regulations of the Supreme Electoral Tribunal (TSE)

According to the Electoral and Political Party Law (LEPP), the TSE has the power to issue regulations that develop electoral norms contained within the LEPP. Based on this capacity, the TSE approved the Electoral and Political Party Law Regulation. Furthermore, for this electoral process, the TSE established, for the first time in Guatemalan electoral history, specific regulatory norms for the control and audit of public and private financing of campaign activities by political organisations, as well as the control and audit of electoral propaganda campaigns.¹⁰ These normative improvements constitute a significant first step in terms of the control over campaign financing and an important asset to ensure that elections may be held within a framework of greater equality of opportunities, and in a more transparent atmosphere as regards

⁹ The Penal electoral crimes, as typified by the Penal Code are the following: disturbance of electoral acts (Article 407A); coercion against voters (Article 407B); corruption of voters (Article 407C); voter fraud (Article 407D) and violating the secrecy of the vote (Article 407E).

¹⁰ TSE Agreement 19-2007-*Reglamento de Control y Fiscalización del Financiamiento Público y Privado de las Actividades Permanentes y de Campaña Electoral de las Organizaciones Políticas*; TSE Agreement 18-2007-*Reglamento de Control y Fiscalización de las Campañas Publicitarias de las Elecciones Generales*.

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political party financing. Having said this, its effective implementation by the TSE in this last electoral process has not been without its flaws and weaknesses.

The TSE's Audit Office (*Auditoría*) is the body responsible for the control and audit of electoral propaganda and political organisations' campaign spending, based on the information provided by the parties themselves. The EU EOM observed the existence of various institutional weaknesses in the *Auditoría*, due primarily to the lack of organisational, material and human resources necessary for the adequate supervision and audit of the requirements set out in the new regulations. Although the LEPP includes different sanctions for the infringement of the new regulations (warnings, fines, temporal suspension and the definitive annulment of the political organisation), the TSE barely made use of its prerogatives as the highest electoral authority to identify and sanction offenders.¹¹

B: Electoral Justice

The Guatemalan electoral justice system establishes a dual procedure for challenges in all the phases of the electoral process: the administrative, under the TSE's authority; and the judicial, through the system of appeals before the Supreme Court of Justice.

In the administrative procedure, the LEPP and its Regulation establish a trickle-down procedure for the handling of challenges relative to election-day. The challenges against decisions taken at the polling stations as raised by the accredited political party agents are resolved, at a first stage, in the polling stations themselves. If the requesting parties do not ratify the challenges at a later date,¹² they are dropped, thereby excluding the possibility of raising another challenge based on the same motives.

Against the actions and resolutions of the electoral process in general, the Guatemalan electoral legislation establishes a system of administrative appeals (annulment and revision) before the TSE. There is a further possibility of appeal for protection, against its resolutions, once the administrative process has been exhausted, before the Supreme

¹¹ The TSE Audit Office drafts a report on the financing and propaganda activities of political organisations, which is later forwarded to the TSE plenary session for its perusal. The plenary, in turn, determines in which cases the political organisations have incurred in infractions, and whether the Inspectorate-General (*Inspección General del TSE*) must follow-up on them.

¹² Political party agents must ratify the challenges presented at the polling station level during the results form revision sessions (LEPP Article 238 and Article 109 of the LEPP Regulation) which is held within the five days immediately after polling in each Departmental Electoral Board (*Junta Electoral Departamental* -JED).

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Court of Justice whose decision in turn, may be the object of a further appeal before the Constitutional Court.

The deadlines¹³ established by the LEPP for the resolution of challenges and electoral appeals in the administrative process are short but sufficient, and are consistent with internationally accepted principles, regarding timeliness in matters of electoral justice. On the other hand, the Supreme Court of Justice is not bound by any specific deadlines regarding appeals on electoral matters.

C: *The Electoral System*

The LEPP establishes various electoral representation systems for each of the different elections: absolute majority (with a possible second round) for the presidential and vice-presidential election; relative majority for the municipal elections (Mayors and *Síndicos*); and the so-called system for the proportional representation of minority groups (*sistema de representación proporcional de minorías*) for the election of members to the Congress of the Republic.

Whereas the first two electoral systems mentioned above –absolute majority and relative majority- are easily comprehensible and allow for a clear allocation of the positions to be elected, the current election system for Congress is relatively complex, and despite its title in the LEPP, does not tend to favour the inclusion of minority groups. In the system for the proportional representation of minority groups, the transference of valid votes obtained by political parties into the corresponding number of seats in Congress is based on the D'Hondt system, as corrected by a formula¹⁴, which gives the system its distinctive character. Paradoxically, the system actually substantially strengthens the representation of the most voted party, to the detriment of the less voted ones, thereby bringing it closer to a relative majority system.

For the presidential and vice-presidential election, the entire national territory constitutes one unique electoral constituency. The election of members of Congress (158 members in total) combines a minority of members elected by national lists (31 members) together with a majority of members elected by a district list (127 seats). In the legislative elections, each department constitutes an electoral district that elects one member of Congress independently of the size of its population, and one further seat for every eighty

¹³ There is a three-day deadline both for the presentation of challenges and appeals and for the TSE to decide upon them (LEPP Article 246 and 247). Insofar as the appeals, the Supreme Court of Justice is not bound by any specific deadlines.

¹⁴ The formula that is incorporated into the D'Hondt system is a distributive figure that reduces proportionality (Article 203 LEPP).

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thousand inhabitants¹⁵, for a four-year mandate. Within this system, there is no compensation for the remaining population. Therefore, in the system of representation that is applied to the Congressional elections, there remains a certain degree of inequity in terms of the value of each individual vote. Based on the latest population census, carried out in 2002, the total of the remaining population is 1,077,196. Moreover, in nine of the country's 23 electoral districts, the remnants exceed 60,000 inhabitants. It would be advisable, according to international principles of equality of suffrage, and good practices in this field to ensure that each voter's ballot is, inasmuch as possible, as valuable as that of others. Furthermore, it would be desirable that the distribution of elected positions in the different electoral districts reflect national demographic distribution in the most balanced manner possible.

V. ELECTORAL ADMINISTRATION

A: *Structure and Composition of the Electoral Administration*

The highest electoral authority in Guatemala –the Supreme Electoral Tribunal (*Tribunal Supremo Electoral* -TSE) was created in 1983, after a long period of political instability in the country.¹⁶ The TSE is endowed by constitutional mandate with its own autonomy; its attributions, organs, functions and responsibilities are regulated by Decree 1-1985, of constitutional status. As the highest electoral authority, the TSE is an independent and permanent collegiate body, constituted by five principal magistrates, and another five substitute magistrates, elected by Congress with the favourable vote of two-thirds of the total of its members for a six-year mandate, with the possibility of being re-elected. Since 1986, the Congress selects the ten magistrates from a list of forty candidates as proposed by a designating commission composed of four representatives from the country's universities and a representative from the College of Barristers. The proposed candidates must be jurists of recognised prestige.

The latest election of TSE magistrates took place in 2002, while the *Frente Republicano Guatemalteco* (FRG) dominated Congress. This process generated, amongst Guatemalan

¹⁵ The Department of Guatemala elects 19 members of Congress; the Central District of Guatemala elects 11; Huehuetenango 10; San Marcos and Alta Verapaz 9; Quiché 8; Quetzaltenango 7; Escuintla 6; Chimaltenango 5; Suchitepéquez 5; Totonicapán, Petén, Jutiapa 4; Sacatepéquez, Santa Rosa, Sololá, Retalhuleu, Izabal, Chiquimula, Jalapa 3; Baja Verapaz, Zacapa 2; El Progreso 1.

¹⁶ Other constitutionally created institutions that emerged at the same time were the Constitutional Court and the Office of the Human Rights Ombudsman (*Procuraduría de los Derechos Humanos* -PDH).

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public opinion, a certain feeling that the electoral process was being unduly politicised. Having said this, the process, as established by law, emphasises the consecution of a broad consensus on ideal and independent personalities. Since then, the magistrates in the exercise of their functions have been unable to generate the same degree of consensus among civil society, political organisations or the media, compared to that enjoyed by previous Tribunals, especially as regards their independence and transparency. The magistrates have been the focus of a certain amount of criticism, mainly due to their lack of initiative in sanctioning political parties that infringed the temporal and financial limits of their electoral campaigns, but also because of the manner in which the candidate registration process took place, and some degree of opacity in the adoption of its decisions.¹⁷

The TSE is a permanent structure, whose headquarters are in the City of Guatemala and with permanent representations in the country's 22 departments and 332 municipalities, through its network of delegations and sub-delegations. Its organs include the Citizen Registry (*Registro de Ciudadanos*), the Departmental Electoral Boards (*Juntas Electorales Departamentales –JED*), as well as Municipal Electoral Boards (*Juntas Electorales Municipales –JEM*) and polling stations (*Juntas Receptoras de Voto –JRV*). The Citizen Registry, which is present in departments and municipalities, is the body responsible for the creation and purging of the voter register, as well as for the organisation of the electoral registration process at the central and local level. It is also responsible for the permanent development of civic education campaigns, capacity-building programmes, and the dissemination of electoral information. The EU EOM visited all the TSE's delegations throughout the country, and verified the existence of a significant imbalance in terms of the equipment and technological resources available in different delegations. This imbalance, was especially visible between the rural and mountainous regions of the country's interior, compared to the capital and its District. Therefore, it would be convenient that in the future, the TSE provide all its local offices with the same level of material and organisational resources.

The Municipal and Departmental Electoral Boards, together with the polling stations are temporary¹⁸ bodies responsible for the organisation of elections in their respective areas. Each of these bodies is composed of three principal members, and two substitutes, all of which are named by the TSE. These entities collaborate, at the different administrative levels, with the TSE's delegations and sub-delegations, but are independent insofar as their attributions and their administrative levels. Furthermore, their functions cease the

¹⁷ An absolute majority of votes (Article 131 LEPP) is required for the approval of TSE resolutions and agreements.

¹⁸ The JEDs are constituted three months prior to each election, the JEMs two months prior and the JRVs fifteen days before each election.

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moment the TSE considers that the electoral process has concluded. The EU EOM observed that most JEDs, JEMs and JRVs operated with the presence of all of their members, and that a healthy gender balance was maintained in their composition, as well as a noteworthy inclusion of youth. The members of the different electoral boards demonstrated, in the overwhelming majority of cases, to be duly trained and prepared for the performance of their functions in a competent and independent manner. In total 23 JEDs were constituted (22 electoral districts, and the Central District), together with 332 JEMs.

Due to the significant decentralisation process carried out in preparation for these general elections, the number of JRVs increased from 8,910 in 2003 to 13,756 in 2007, an important logistic, organisational and training challenge, which the electoral administration was able to overcome successfully despite the relatively brief timeframes it had to prepare for these elections.

The TSE's organisational structure, headed by its President, also includes the Citizen Registry (*Registro de Ciudadanos*), the Secretary-General, the Audit Office (*Auditoría*), and the Inspectorate-General (*Inspección General*). Furthermore, the TSE includes seven Directorates and several Sub-Directorates. The Electoral Directorate is composed of the Department of Electoral Logistics, and Procedures as well as the Cartography Department. The various directorates are staffed by competent technicians with significant accumulated experience that have contributed decisively to the efficient and professional manner in which this last electoral process was managed.

In order to follow-up on the complaints, challenges and electoral appeals, the TSE is structurally divided into two areas. The Inspectorate-General receives and handles pre-electoral complaints, whilst the General Secretariat (*Secretaría General*) does the same with those complaints that appear during the electoral process. In both cases, the processing as well as the resolutions that the TSE may eventually adopt are not public, and may only be consulted with certain difficulties.

B: The Administration of the Elections

Despite the enormous logistic and human challenge that the polling station decentralisation process, planned for the majority of municipalities, entailed, the TSE administered the elections in a competent and professional manner, showing signs of institutional maturity and organisational capacity, both at its central level, as well as in its departmental and municipal structures. The dedication and professionalism of many TSE employees, with extensive experience in the institution, such as the Director of Elections or the President of the Data Processing Centre among others, played a decisive role in this success. At the local level, the effort of the members of the different electoral boards

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was significant and proved to be essential in the constitution and operation of the nearly 14,000 polling stations, and for the adequate training of approximately 55,000 polling station members, that composed them. The figure of the Municipal Constituency Assistant (*Auxiliar de la Circunscripción Municipal* -CEM), a local facilitator for communications between the electoral administration and local communities, was an innovative and positive factor. The creation of this figure indicates a step forwards by the TSE towards a greater understanding of the problems, and in the search of adequate solutions for indigenous communities in the electoral context.

In terms of electoral direction, the TSE has the capacity to administer the electoral event as such, indicating the procedures to be followed to the relevant departmental and municipal structures, without prejudicing the broad autonomy that the LEPP awards the JEDs and JEMs in the management of the electoral process. The EU EOM considers that, in some cases, the TSE should have exercised its authority in a firmer manner, with the aim of imposing greater uniformity in the electoral procedures, avoiding the appearance of locally devised solutions, contrary to centralised practice. In this sense, a lack of homogeneity was observed regarding the application of indelible ink, and similarly in the signing of the voter register. Both steps should have been taken after casting the ballot, for obvious reasons rooted in the security of suffrage, but the EU EOM observed that in numerous cases, local electoral authorities altered the order of proceedings to accelerate the polling process. The uniformity of procedures to guarantee the security of suffrage, besides being an internationally recognised best practice, contributes to strengthen public trust in the electoral process.

In financial terms, the budget approved by Congress for these elections – 409 million quetzals – was the highest ever in Guatemalan electoral history¹⁹, this provided the TSE with the necessary financial capacity to carry out the polling station decentralisation process. Despite the generous budget, the TSE expressed its dissatisfaction regarding the tone of the political debate that preceded its approval in Congress, and its subsequent, and tardy, adjudication. By the time the EU EOM had left the country, there were still no official statistics as to the level of spending in these elections. An approximate calculation of the cost per registered voter places it around 68 quetzals per voter²⁰, a figure significantly larger than the 4.6 dollars per voter in the 2003 elections. Nevertheless, we must take into account that this increase in the cost per registered voter responds, largely, to the decentralisation process, and the high logistic and human resource costs that it entailed. Further costs proceeded from the improvement in the result

¹⁹ In the best of cases, and excluding the ordinary budget and the various international contributions. In the 2003 elections, the budget was of 113 million quetzals, to which an additional 9 million dollars were provided by international assistance.

²⁰ Approximately 6.80 euros per registered voter, assuming that the budget was fully spent.

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transmission systems, which contributed very positively in the speedy publication of the results, especially after the closing of the second round election-day.

C: The Electoral Decentralisation Process

The polling station decentralisation process, which had been timidly initiated in previous electoral contests advanced significantly in 2007.²¹ In previous elections, the voters had to displace themselves to the closest municipal capital to cast their ballot, which implied, in many cases the need to travel long distances. The recent LEPP reforms obliged the Municipal Electoral Boards to create new polling stations in areas that contained over 500 registered citizens, taking into account criteria such as residence, access, distance and security. Both in urban centres as in rural communities the aim of the reform was to enable the voter to cast his or her ballot closer to their place of residence, in this manner facilitating and encouraging participation in the electoral process. It is highly significant, that decentralisation aimed to increase the level of inclusiveness of the electoral system, above all for the benefit of those groups of voters for whom the large distances to travel to reach polling centres represented a critical problem. This is the case of rural communities in the country's interior, many of which are primarily composed of indigenous populations, with defective transport infrastructures at their disposal. Within these voter groups, the more specific focus was on women with family obligations. On the other hand, beyond bringing the right of suffrage closer to voters, decentralisation intended to increase the level of freedom in the process, by eliminating in many cases the need to resort to means of transport to reach polling centres. Thereby, considerably reducing the possibility of voter transportation, as organised by political parties and candidates, compared to previous elections.

At the onset, TSE magistrates and technical staff were aiming at a more gradual increase in the number of new polling stations for fear of not being able to respond in time to the enormous logistic and human resource challenge that intense decentralisation carried out in one single phase would imply. However, in the end, polling station numbers rose by 64.77% as compared to 2003. In 2007, there were 13,756 polling stations (compared to 8,910 in 2003) in 2,060 polling centres. Additionally, 687 new rural Municipal Electoral Constituencies (*Circunscripciones Electorales Municipales*) were created.

Decentralisation affected Guatemala's 23 electoral districts in different manners. The departments where it had a greater impact were the mainly urban Guatemala, with 157 new polling centres, and the essentially rural department of Alta Verapaz whose polling centres increased from 17 to 117. Other departments that registered important increases were Huehuetenango, from 108 to 173, and San Marcos (from 96 to 158 polling centres).

²¹ The number of polling stations increased from 7,601 in 1999, to 8,910 in 2003, and up to 13,756 in 2007.

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In Quetzaltenango, the country's second largest city, the number of polling centres rose from 71 to 138.

The EU EOM that observed the elections in Guatemala in 2003 had highlighted, as had other national observation missions, the need to bring the ballot box closer to the voters, and the promotion of inclusion in traditionally more remote communities. The success that was achieved in the face of the enormous challenge of decentralisation, not only in logistical terms, but also in human resources and training, are a clear indication of the level of commitment, organisational capacity and professionalism of the electoral administration in general.

The significant increase in the turnout rates during polling, which clearly benefited from decentralisation, is reflected positively in the exercise of the right to vote as carried out by indigenous communities and by women in rural environments, which, in the past, had experienced greater difficulties to participate in the electoral process. However, the decentralisation process has still not concluded, despite the significant progress made in 2007. Therefore, the experience gained in 2007 must be consolidated in future electoral processes, and the necessity or advisability of extending the process any further must be evaluated from the perspective of facilitating the exercise of effective suffrage.

VI. THE VOTER REGISTER

A: *The Right of Suffrage*

The right of suffrage is recognised in Article 136 b) of the Constitution, which establishes that electing and being elected is both a right and a political and social duty of all Guatemalans, with no further prerequisite than being registered in the Citizen Registry, which determines the aptitude for the effective exercise of the right of active suffrage. The LEPP regulates these same rights and obligations in more detail, reiterating the duty of all citizens to carry out the procedures for registration into the Citizen Registry and establishes the duty of all citizens to obtain a personal identification document, the municipal identity card (*cédula de vecindad*), an essential step for the effective exercise of political rights.²² Thereby, the personal registration system in Guatemala is not automatic, but rather requires that citizens execute a series of administrative steps. Similarly, although it establishes that the right of suffrage is a duty, no sanctions are

²² LEPP, Article 3, "*Inscribirse en el Registro de Ciudadanos y obtener el Documento de Identificación Personal que lo faculte*". In reality, this procedure is carried out in the opposite manner: firstly, it is necessary to obtain the *cédula de vecindad* from the Municipal Civil Registry, and with this document, the citizen is entitled to register within the Citizen Registry, which enables the exercise of the right to vote.

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contemplated for non-compliance, which, strictly speaking, excludes the possibility of referring to this system as one of obligatory suffrage as is the case in many other Latin American democracies.

In the 2007 electoral process, the basic document for registration in the Citizen Registry has been the *cédula de vecindad*, despite a recent legal norm regarding personal documentation that is called to replace it.

Another aspect of the regulation, as contained within the Constitution and which the LEPP develops is the right to exercise suffrage. In this sense, the LEPP, which as we mentioned previously has constitutional status, enumerates the legal restrictions which are applicable to the exercise of the vote, related to the suspension of citizen rights in case of a final legal condemnatory sentence issued in a penal process or by a judicial order which determines this interdiction. On the other hand, the law establishes a minimum threshold age, of eighteen years of age, for the exercise of the right of suffrage.

All of these legal limitations are reasonable, and in accordance with international best practices in this field. Nonetheless, and despite the legal guarantee contained within the universality of the right of suffrage, the exercise of this right is limited for certain groups of citizens, due to the lack of instruments to implement this in practice. Such is the case of Guatemalan emigrants abroad, whose number is estimated to be around one million, and who have no way of participating in the electoral process, unless they return to the country. Other social groups that are disenfranchised includes: citizens who are hospitalised and who are medically unable to turn up at polling centres on election-day, imprisoned citizens who are awaiting to be sentenced and finally, members of the police and the military who are deployed on election-day.

Despite all of these limitations, which are due to the lack of articulation of specific procedures for the exercise of the right of suffrage, the existing legal requirements do not restrict the international principle of the universality of the right of suffrage in a discriminatory or irrational manner, allowing for its full exercise in the majority of cases.

The voter register has evolved and grown constantly since its creation in 1983. Taking into account, that only 5.9 million of the approximately 12 million Guatemalans are registered, the EU EOM recommends that the TSE develop a national plan to complement the polling station decentralisation process. This plan should allow for greater inclusiveness in the voter register, encouraging citizen participation in the democratic process, and thereby strengthening the principle of the universality of the right of suffrage.

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Evolution of the voter register, from 1985 to 2007

	Voter Register	Growth	%
1985	2,753,572	-----	---
1990	3,204,955	451,383	16.39%
1995	3,711,589	506,634	15.80%
1999	4,458,744	747,155	20.13%
2003	5,073,282	614,538	13.78%
2007	5,990,029	916,747	18.07%

Source: Supreme Electoral Tribunal

Voter Register 2007

Updated Voters

Urban	3,526,116
Rural	1,252,799
Total:	4,778,915

The updating of the voter register, as carried out by the TSE, managed to register a significant amount of new citizens, and update the registration details of many others, both in rural and in urban areas. The previous table provides a breakdown of the updated number of voters²³, which represented 59% of the voter register that was employed in the 2007 elections.

B: Voter Registration

The Citizen Registry is one of the organs that compose the TSE and is the body responsible for the preparation, updating, and purging of the voter register. Civil registration is a voluntary act, by which citizens, in possession of a *cédula de vecindad* issued by the municipality of residence at least six months before, register in the Citizen Registry delegation or sub-delegation. Registration procedures are free, and comply with international best practices. As previously mentioned, the number of registered citizens is substantially lower than that of the actual population over the age of eighteen. In the 2007 General Elections, the voter register included 5,990,029 registered voters.

The EU EOM observed that the established procedures and safeguards for the issuance of *cédulas de vecindad*, the identification document that allows for registration in the voter register, were not homogenous throughout the country's 332 municipalities. This fact has

²³ Updated voters are considered to be, those that have registered for the first time and those that updated their residence details for electoral purposes, thus allowing them to be registered in polling centres closer to their places of residence, as compared to the previous elections.

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been the source of criticism from political organisations and candidates over several years, especially at the local level. This lack of uniformity in the issuing of *cédulas* is a longstanding structural problem, which damages the voter register and is at the source of frequent accusations of duplicity in the number of *cédulas*.²⁴

Together with the duplicity of *cédulas*, another anomaly that has been observed in certain cases (although it was reported in many more) was the inscription of one same citizen in more than one municipality. This situation highlights the relative ease with which it is possible to obtain *cédulas* from various, different, municipalities, and later attempt to obtain multiple voter registrations. The fact that the civil register is not centralised, does not allow for the crosschecking of registration data, in order to detect double inscriptions. The case is further complicated given that these inscriptions will generate different registration numbers. In these cases, there is no safeguard against multiple voting beyond the correct use of indelible ink on election-day.

On the other hand, the municipal prerogatives, in the issuance of *cédulas de vecindad*, compounded by the lack of control or verification instruments on behalf of other administrative bodies, gives rise to frequent rumours, and occasional public accusations, regarding the possibility that mayors seeking re-election may be consciously taking advantage of this situation. The irregular issuance of *cédulas*, may serve to strengthen their voter base.

We must underline that all these deficiencies that affect the voter register are rooted in the document that feeds its creation, the *cédula de vecindad municipal*, and the absence of a centralised, national civil register based on nationality, and not solely on municipal residence. The TSE, although well aware of this problem, has few available options to solve the problems of a voter register based on a document that is far from being ideal, and over whose issuance and control it lacks all responsibility.

There is hope among political actors and civil society organisations involved in the electoral process, that the new Personal Identification Document (*Documento Personal de Identificación*), created by the new National Registry Law (*Ley del Registro Nacional de las Personas –RENAP*)²⁵ will contribute to significantly improve this predicament. The end of the municipalities' monopoly in the handling of the Civil Registry, and a more rational administration are considered to be positive steps in this direction. The new

²⁴ The problem of the duplicity of *cédulas de vecindad* is primarily due to the faulty management of the Civil Registry by the mayors' offices that issue these *cédulas* in a haphazard manner. There have been cases where different gender-based registries are kept in one same municipality, with identical enumeration, which implies that one registration number may correspond to two different persons.

²⁵ The *Ley del Registro Nacional de las Personas* (RENAP), was approved by Decree 90-2005, and amended by Decree 31-2006, and came into effect early into 2006.

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system will allow for the crosschecking of information from the different municipalities, and to record cases of deceased persons at a national level, elements that will undoubtedly contribute to bolster public trust in a document that is crucial for the electoral process. The recently approved RENAP Law should put an end to the use of the *cédula de vecindad*, which has been in force as a personal identification document since 1931, and up until the 2007 elections. The motivation of the RENAP Law, considers that the current registry system is outdated and lacking any control whatsoever over the mechanisms for the issuance of *cédulas* by municipalities. Furthermore, it considers that the *cédula de vecindad* is devoid of adequate security mechanisms, thus turning it into an easily forged document, which wears out too quickly.

The TSE Citizen Registry is a permanent body that depends on the Municipal Civil Registries for the update of its database in cases of deaths and registered voters' changes of residence. The EU EOM expresses its concern that in the current system, updates are not processed efficiently due to delays or a total lack of communication from the municipalities.

The electoral law establishes a maximum deadline of three months prior to the date of the elections, for citizens to register. It also establishes a period that must not exceed thirty days prior to election-day, during which the Citizen Registry will purge and print the voter register. No changes or corrections in the voter register are permitted once these deadlines have elapsed. The legal cut-off date for changes in the voter register can be considered a positive step in terms of the voter register's security and reliability, as it prevents changes in the days prior to the elections.

However, and according to international best practices in voter registration, the preliminary voter register should be made available in public spaces to citizens and political organisations for the verification and possible correction of entries within reasonable deadlines. The LEPP does not contemplate this possibility to verify the preliminary voter register, although it does establish in Article 225 that the voter register is a public document which may be consulted by any political organisation or interested citizen.

On the 2nd of August, the TSE announced that it would facilitate a copy of the voter register to political organisations, and, soon after, distributed a voter register, which omitted all data on the voters' residence, as it considered that such information was of a confidential nature. This omission provoked negative reactions from political organisations. The political parties could not see the benefit of a voter register that excluded the addresses of registered voters, in a system, such as the Guatemalan, in which polling stations are assigned to voters based on their place of residence.

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In the past, the TSE allowed some organisations to verify the voter register. The general conclusions have always tended towards highlighting the need to continue investing in its purging to improve the register's degree of reliability.²⁶ In 2007, the Electoral Observatory of the Office of the Human Rights Ombudsman (*Observatorio Electoral de la Procuraduría de los Derechos Humanos* -PDH) carried out an audit, confirming the existence of an over-registration that exceeded 30% in forty municipalities. It focused especially on the fact that in five municipalities, registers had grown by over 50%.²⁷ The PDH presented this report to the TSE calling for the data to be verified a second time. At the time of the EU EOM's departure from Guatemala, the TSE had yet to comment on this report.

According to the TSE, most of the denunciations presented by political organisations in terms of the voter register are due to a lack of trust in the management of the Civil Registry by the municipalities. The more common accusations focus on the existence of duplicate *cédulas*; some mayors are accused of using the register illicitly allowing for the registration of citizens from other municipalities; foreigners are believed to be registered; and it is known that there are numerous dead people in the voter register. The TSE considers that most of these accusations have been dealt with and resolved. However, the EU EOM has not had the possibility to verify and thereby to evaluate the manner in which these alleged irregular situations were resolved, as the detailed information that was requested from the TSE was not provided.

VII. PARTY AND CANDIDATE REGISTRATION

A: *Registration Procedures*

The LEPP, with its constitutional status, regulates the requirements for the registration of political organisations. In Guatemalan Law, the concept of political organisations

²⁶ In 1998, the TSE authorised IIDH/CAPEL to verify the voter register. The latter concluded that it contained critical inconsistencies amounting to 13.6%. In 2003, *Mirador Electoral* audited the voter register and detected perfectly correct data in only 50.6% of entries. The Organisation of American States (OAS) also audited the voter register, although the TSE did not publish their results.

²⁷ The five municipalities with a voter register growth of over 50% are: San José del Golfo, in Guatemala with a demographic growth of 21% and a 54% rise in the register; Chisec, in Alta Verapaz whose population grew 14% and its register 55%; San Juan Atitán, in Huehuetenango with 16% and 66% respectively; Senahú in Alta Verapaz with a 14% population growth and a 71% register increase.

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includes, not only political parties as such, but also electoral civic committees (*comités cívicos electorales*), of a temporal nature, and associations with political aims.²⁸

Political parties must be legally constituted and registered in the Citizen Registry; they are considered public law entities, with their own legal personality and indefinite duration. For a political party to exist, and legally operate, it must constitute itself through a public document, its members and permanent organs must be registered and the latter must remain operative, as well as obtaining and maintaining their inscription in the Citizen Registry.

As a novelty in this electoral process, the minimum number of party members required for the legal constitution of a political party, which used to be 5,500, was increased, in the latest LEPP reforms, to 15,220 (a number based on a percentage -0.3%- of the voter register used in the previous elections). In country renown for the frailty, fragmentation, and limited life expectancy of most political parties, this increase in the number of affiliates, was clearly geared at contributing to a strengthening of these structures.²⁹ On the other hand, and with similar objectives in mind, the LEPP lays out harsh sanctions for political parties who fail to obtain at least 5% of the valid votes, or who fail to obtain at least one seat in Congress; ordering the TSE to annul their legal status. Given the extreme political fragmentation, that characterises recent electoral history in Guatemala, and taking into account, that the annulment of a political party due to its weak electoral results does not imply any legal restriction for its components, the EU EOM does not consider that such a sanction can be considered as disproportionately restrictive to citizens' rights of political association.

As regards the registration of political parties and civic committees, the EU EOM considers that the LEPP does not establish irrational restrictions to the freedom of association and political expression, but rather, facilitates an environment of political pluralism, in accordance with internationally accepted best practices.

²⁸ Electoral Civic Committees (*Comités Cívicos* -CC) are temporary political organisations that are entitled to present candidates to public political office in municipal corporations ... their function is to represent trends in public opinion (LEPP, Article 97 and following). The constitution of a CC requires a number of members, which varies between 100 and 1,500, depending on the number of voters registered in the municipality. Associations with political aims have an indefinite duration, and their essential purpose lies in the comprehension, study and analysis of national concerns. They are not considered to be political parties as such (LEPP, Article 115).

²⁹ The LEPP guarantees the freedom to create political parties and facilitates the constitution of Civic Committees. A large number of political parties contested previous elections: 13 political parties in 1985; 18 in 1990; 26 in 1995; 15 in 1999, and 19 in 2003.

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The registration of candidates for the different elections³⁰ was opened on the 3rd of May 2007, the day following the official convocation of elections, and lasted until the 9th of June. The legal representatives of political organisations must present the registration requests before the central Citizen Registry, or its delegations. Among the requirements for registration, the LEPP demands that candidates present *cédulas de vecindad* issued by the municipality for which they are presenting their candidature. The procedural registration formalities require that the registration requests be revised, verified and finally approved by the Director of the Citizen Registry. Rejected candidatures may resort to the existing mechanism for legal challenges. In the Guatemalan context, one of the most controversial consequences of the candidate registration process, especially at the municipal level, is the immunity that the LEPP grants them from the moment the registration is requested.

A striking aspect of this electoral process was the debate that emerged regarding the presentation of the Solvency or Final Discharge Record (*Constancia de Solvencia o Finiquito*) when presenting the request for candidate registration. Among the requirements for candidate registration, the LEPP does not demand the presentation of the aforementioned *Constancia*, a document issued by the public body in which a public officer or employee aspiring to public office has worked for in the past and by the Office of the Financial Comptroller General (*Contraloría General de Cuentas -CGC*). The *Constancia de Solvencia* certifies that a public officer or employee, who has previously managed public funds, is not awaiting trial for any offences related to this previous activity. The presentation of the *Constancia* is a legal requirement imposed by the Probity Law³¹, which establishes the obligation to present the aforementioned certificate in order to be entitled to *opt for public office*. The TSE took the initiative to request these certifications, but did not consider itself to be legally obliged to audit compliance with this legal requirement at any point. As had already occurred in 2003, the TSE, upon requests from various political parties allowed for the registration of candidates accepting the request for the *Constancia*, without demanding the actual presentation of this document. The TSE considered that the opportune procedural moment to audit the presentation of the aforementioned *Constancia* was the investiture of elected candidates.

³⁰ In these elections, 3,700 political positions were up for election.

³¹ According to the Probity Law (*Ley de Probidad y Responsabilidad de Funcionarios y Empleados Públicos* –Article 16 b): no person who may have collected, held, or administered State goods, can take charge of any public position or employment, without a Solvency or Final Discharge Record (*Constancia de Solvencia o Finiquito*) issued by the body in which they have served and by the Office of the Financial Comptroller General (*Contraloría General de Cuentas -CGC*). The responsible entities for the Probity regulations are the Office of the Financial Comptroller General, the *Ministerio Público* and the National Attorney General's Office (*Procuraduría General de la Nación*), and Congress.

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Furthermore, the CGC lacked the capacity to issue the enormous amount of requested *Constancias* in a timely manner. This matter generated strong reactions from the media, the CGC, the *Ministerio Público* and the PDH, which eventually raised an appeal for protection against the TSE.³² The Supreme Court of Justice granted provisional protective action decreeing that only those candidates in possession of the *Constancia de Solvencia* duly issued by the CGC would be entitled to take possession of the positions that they had been elected to.

All the controversy around this issue demonstrates the need for legal clarification and cooperation, between the various responsible entities (the TSE and the CGC), to elucidate the situation. This is an important legal requirement, which is considered an internationally accepted best practice, given the light that it sheds on the suitability of candidates to public office, in terms of their previous handling of public funds. Therefore, the determination of the institution responsible for requesting the *Constancias*, is crucial as is that of the specific point at which this legal requirement, should be audited.

B: Complaints and Appeals Regarding the Registration of Parties and Candidates

The most relevant case regarding the registration of political parties was that involving the *Visión con Valores* (VIVA) party, headed by the former evangelic pastor Haroldo Caballeros. In the space of approximately six months, this candidate was able to collect the required amount of party members to register his political party, but was finally, unable to participate in the elections. The resolution issued by the TSE's Department of Political Organisations declaring the suitability of the registration was published in the official journal on the 11th of June. This did not allow VIVA to fulfil the remaining legal requirements within the established deadlines. These legal requirements include calling and holding the party's first national assembly and proceeding with candidate registration.³³ Despite the protests and appeals presented before the *Corte de Constitucionalidad* (CC), the CC's decisions confirmed the resolution previously adopted by the TSE. VIVA had miscalculated the necessary deadlines and timeframes to participate in the 2007 elections.

³² The appeal for protection raised before the Supreme Court of Justice by the PDH was provisionally awarded on the 26th of October 2007. The resolution, "orders the TSE to demand the compliance with the presentation of the *Constancia de Solvencia* for all citizens elected to public office that have collected, kept, or administered State goods..." Failing this, the members of Congress, mayors, municipal councillors and *síndicos* elected on the 9th of September will not be entitled to take possession of their positions.

³³ According to the LEPP, the party will call for its "first national assembly within the three months following the date of the party's registration...that must be held within two months from the calling of this assembly." On the other hand, the deadline for the registration of candidates for the general elections, ended on the 9th of July 2007. LEPP, Articles 67, 68, 69, 74, 75 and 76.

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VIII. PRE-CAMPAIGN AND ELECTORAL CAMPAIGN

A: *General Evaluation*

The EU EOM observed that in general terms, the various political parties and Civic Committees enjoyed a high degree of freedom to carry out their electoral campaigns during the 2007 electoral process. Furthermore, they enjoyed significant freedom to organise numerous propaganda activities and electoral campaign meetings, with no unacceptable restrictions to their exercise within the legal framework, beyond the traditional limitations or reasonable conditions, due to the need to maintain public order, and the obligation to maintain a period of campaign silence prior to election-day. The candidates were able to move about freely throughout the country and to present their political programmes without any legal, or regulatory, restrictions. However, and contrasting with Guatemalan law's general compliance with internationally accepted standards for electoral campaigns, reality proved otherwise. The numerous violent actions which affected candidates, especially during the first round, together with the many cases of intimidation suffered by candidates, members of political parties and civic committees, as well as the existence of the previously referred to smear-campaigns, did not contribute to a truly peaceful and democratic electoral campaign.

The official opening of the electoral campaign took place with the call for elections, proclaimed by the TSE on the 2nd of May. Moreover, several parties had already openly begun their campaign activities, several months prior to this date, in clear violation of existing electoral legislation, and undermining the principle of equal opportunities between political organisations. The EU EOM was able to verify that the TSE proved to be weak and not very diligent when it came to investigate and sanction this kind of infraction.

The need to strengthen the electoral administration also became evident in the context of its newly awarded capacity to control and audit political party campaign finances, as well as publicity campaigns in the media³⁴, both of which were regulated for the first time in the 2007 elections. The TSE limited itself to receive political party declarations regarding resources obtained to finance their campaigns, as well as the sources of these funds and the amounts spent. Having said this, it did not carry out any relevant investigative activity as to the veracity of the data that was presented. Undoubtedly, the TSE, given its current structure, lacks the adequate resources to perform such a technically demanding task as

³⁴ Two regulations were approved in 2007, which filled a previous vacuum: 1) the *Reglamento de Control y Fiscalización del financiamiento público y privado de las actividades permanentes y de campaña electoral de las organizaciones políticas* (Agreement 19-2007); 2) the *Reglamento de Control y Fiscalización de las campañas publicitarias de las elecciones generales* (Agreement 131-2007).

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the audit of political organisation spending, but it is also true that the recently approved regulations require it to do so. To ensure the effective application of the recent audit regulations, the electoral administration requires a properly structured unit for the evaluation and follow-up of political party campaign financing (probably requiring the collaboration of other bodies specialising in financial audits, such as the CGC), and also a set of adequate sanctioning measures to punish infractions.

The LEPP regulates the use of State resources during the electoral campaign, and focuses on facilitating a balanced access to these resources, when their nature justifies it. This is an issue, which in practice, has not proven to be especially relevant in the presidential elections. In the municipal elections, it turned out to be slightly more relevant, as it was reported that many mayors that were seeking re-election were using public buildings and vehicles for their electoral campaign activities.

Independently from the practical results, the improvement in political organisation self-regulation in the context of the electoral campaign has proven to be a positive aspect in these latest elections. Especially noteworthy is the approval of a “Multidisciplinary Ethical Code” (“*Código de Ética Multidisciplinario*”), as proposed by the “*Foro Permanente de Partidos Políticos*” under the auspices of the Organisation of American States (OAS).

The large amount of opinion polls during the campaign did not contribute to a quiet and calm pre-electoral period. Furthermore, the publication of opinion polls in the 36 hours before the opening of polling stations was prohibited. The EU EOM considers that it would be positive for the process as a whole, if the cut-off date for opinion polls were to be brought forwards, as compared to the present situation, until at least four days before election-day.

Another recommendation that the EU EOM proposes would be to consider a reduction in the official, legal campaign period. At present, and in the event of a second presidential round, the electoral campaign period can last for up to seven months, which is excessive, as was observed in 2007, with the risk of causing electoral fatigue, among the citizens as well as within the party structures themselves.

B: Electoral Violence

The level of violence observed during the 2007 electoral campaign is clearly part of a broader reality: that of the generalised atmosphere of violence which engulfs the country, and which has been exacerbated in the last few years. This situation has been brought about by the interaction of various factors, such as, the infiltration of organised crime and drug-trafficking in many aspects of national reality, including politics, as well as the

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persistent levels of impunity which benefit the authors of the overwhelming majority of crimes committed in Guatemala.

The electoral period, especially prior to the first round, was marked by an extremely high murder toll –over fifty-, which affected candidates or people with some political or electoral activity (especially in the municipal sphere). This situation clearly requires a more incisive and determined approach from those bodies responsible for criminal investigations in the country, and most specifically from the *Ministerio Público* (MP). The fragile implantation of the MP in the country added to its lack of technical and human resources is an evident reality. This state of affairs exacerbates the lack of initiative demonstrated by those responsible for the MP in implementing an overriding priority such as the creation of a special unit clearly and primarily devoted to the investigation of crimes that affect candidates and persons directly related with campaign activities during the electoral period.

The lack of initiative, and results, in the investigations on these crimes adds to the generalised feeling of impunity and injustice, among voters and political actors, which certainly does not contribute to the consolidation of the democratic process in Guatemala. Furthermore, the high rates of electoral violence, and political intimidation, compromise the full enjoyment of the principle of freedom of suffrage, which is a fundamental and internationally recognised principle in electoral matters.

It would, therefore be highly recommendable that specific units be created within the MP and the *Policía Nacional Civil*, with adequate human and technical resources for the prompt resolution of crimes committed during the electoral period. Especially because, due to the fact that in these cases the victims are candidates, these crimes could be politically motivated, or somehow related to the electoral process.

C: Financing of Electoral Campaigns

The TSE is the body responsible for the control and audit of public and private funds that are channelled to political organisations to finance their ordinary and campaign activities. In compliance with the LEPP, the State contributes to the financing of political parties, in quantities that are equivalent to two US dollars in quetzals, per legally issued vote in their favour. Moreover, this payment depends on whether the parties have obtained at least 5% of the total number of legally cast ballots in the previous general elections, or at least one seat in Congress.³⁵ The financing of political parties is legally subjected to certain limits

³⁵ LEPP, Article 21. For the 2007-2011 period, political party financial retribution per obtained results is established according to the officialised results by TSE Agreements 0598-2007 and 622-2007. The TSE's Audit Unit estimates that the political parties that participated in the first round elections on the 9th of September will receive approximately 61 million quetzals.

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and restrictions, such as the prohibition to receive anonymous contributions or from abroad and the legal imposition of a maximum limit of 42.4 million quetzals (in 2007) on campaign spending. Similarly, individual contributions may not exceed 10% of the maximum legal limit for campaign spending. All of these normative restrictions contribute to the transparency of the process. Furthermore, they set conditions that enable parties to contest elections on a more equitable financial footing and in accordance with international principles and best practices regarding electoral financing.

The new control and audit regulations regarding political party financing and electoral publicity introduced in these elections, for the first time, certain regulations in an area that previously lacked any regulatory framework. The regulation for the control of party financing aims to bring transparency regarding not only the amounts received, but also their sources and their use by political organisations. These political organisations are duty-bound to present financial reports to the TSE and to maintain accounting registries of all their operations. Sadly, the TSE has not had the capacity to audit the campaign contributions received by the parties thoroughly, nor to impose sanctions in those cases where organisations have not complied with their duty to inform the TSE, or have gone beyond the permitted financing levels.

According to the organisation *Acción Ciudadana*, which has supervised the control of political party financing and electoral propaganda in the media, in collaboration with the non-governmental organisation International Transparency, the majority of political parties did not present their accounts to the TSE³⁶, after the first round. The only parties that did submit financial reports to the electoral authorities were *Unidad Nacional de la Esperanza* (UNE), *Partido Patriota* (PP) and *Bienestar Nacional*. Despite the fact that both UNE and PP complied with the presentation of reports, the spending figures that they declared were far beneath the estimated amounts, based on the monitoring of electoral propaganda in various media outlets. This situation demonstrates the need for more effective and consistent control by the TSE.

The TSE with the aim of improving compliance with its new control and audit functions regarding the financing of political organisations and electoral publicity adopted two Agreements that contain a proposal for the functional and organisational re-structuring of the TSE's Electoral Audit Office. They also contemplate the design and development of a system that will automate the procedures for the control and audit of political organisations' income and spending.³⁷ This positive measure could mark the first step in

³⁶ See, "*Informes de Acción Ciudadana*," in www.informateyvota.com.

³⁷ TSE Agreement 675-2007 and 677-2007. Since February 2006, the *Centro de Asesoría y Promoción Electoral* of the Inter-American Institute of Human Rights (IIDH/CAPEL) has provided

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significant reforms that may contribute to overcome the TSE's current technical and organisational incapacity in complying with its legal responsibilities regarding the auditing of political party financing.

D: Complaints and Appeals during the Campaign

During the electoral campaign, political parties presented various verbal complaints regarding infractions to the norms that regulate the electoral campaign. The most frequent related to smear-campaigns which appeared on the Internet, or which were distributed in pamphlet; intimidation against party members or sympathisers while posting campaign material; and the destruction of electoral propaganda. Verbal complaints are only investigated by the TSE if the political parties formalise them, which at the end of the day, rarely occurs.

The TSE's Inspectorate-General, the body that receives and processes complaints regarding electoral infractions, reported that of the 31 formal complaints that it processed, the majority related to errors in *cédulas de vecindad* (usually duplications), and very few dealt with violations of campaign regulations. Of the 31 processes, 29 were raised before the *Ministerio Público* for investigation. At the time of the EU EOM's departure from Guatemala, no information could be obtained regarding the situation of these cases.

E: Voter Education

The Supreme Electoral Tribunal, through its Electoral Training, Dissemination and Civic Education Unit (*Unidad de Capacitación, Divulgación y Educación Cívica Electoral - UCADE*), organised voter education campaigns during both election rounds. These campaigns were directed to, and differentiated between, urban and rural voters. During the first round, the approach favoured the dissemination of information regarding the polling centres in which to vote, given the evident risk of confusion between polling stations for updated, and non-updated, voters (a risk that was duly confirmed on the first round election-day). During the second round, UCADE decided to focus its efforts in motivating participation, given the traditional decline in turnout rates in Guatemala during second round polling.

These information campaigns were disseminated through radio broadcasts, on radio stations with national coverage as well as community radios, printed media and television. The circulation of information in Mayan languages improved as compared to previous electoral processes, although it still did not reach a desirable level. Furthermore, the TSE also set up a specific telephone number and webpage to convey electoral

technical assistance to various initiatives aimed at strengthening and updating the TSE, as well as in the realm of political organisation financing and their audit.

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information and installed several information centres in various urban shopping centres. Aiming at informing updated and mainly rural voters, UCADE sent approximately 3.5 million personalised telegrams including full polling centre details, corresponding to each telegram recipient. The Municipal Constituency Assistants (CEM) also played an important role during the voter education process, acting primarily as electoral information transmission outlets in the more remote rural communities, and even personally distributing many of the aforementioned personalised telegrams.

These voter information campaigns began with a certain delay, compared to the scheduled date, in both rounds. These delays diminished their effectiveness, to a certain extent, in a country with vast rural regions, and significant educational deficits, compounded in this case by the new challenge of polling station decentralisation, and the confusion that this generated among voters. In order to improve the efficiency of voter education campaigns, the TSE should comply with the legal requirement to sponsor continuous campaigns for the familiarisation of registered citizens with the electoral process, and especially to encourage the registration of the largest possible number of non-registered citizens. These actions will help to broaden the electorate in accordance with the international principle of democratic inclusion.

IX. THE MEDIA AND THE ELECTIONS

A: General Evaluation

The media environment in Guatemala largely reflects the existing differences between rural and urban environments. Whilst the printed media are based in the capital, and other urban areas whose residents are primarily literate and Spanish speaking mestizos, radio mainly reaches the poorer and illiterate segment of the population, who are for the most part members of indigenous communities established in the more remote parts of the country. Television reaches the different segments of Guatemalan society, and has national coverage through its network of repeaters that extend the signal to the entire territory, although it is more prevalent in urban areas.

One of the main characteristics of the media in Guatemala is the fact that their control is concentrated in the hands of a small, family-based, group of companies. This fact restricts the plurality of the media's editorial stances. The most blatant case is the monopoly that exists in national open air television headed by the Mexican businessman, Ángel González, who controls the four television channels that exist in the country (*Canal 3, Canal 7, Canal 11* and *Canal 13*), as well as the radio station *Radio Sonora*.

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As far as the printed media is concerned, it is principally dominated by the Marroquín family, under the *Prensa Libre* group, which controls the main national newspapers (*Prensa Libre* and *Nuestro Diario*) as well as the only cable television channel that has national coverage (*Guatevisión*).

In the case of radio, there are over 500 legally authorised radio stations, although nine family-based media groups, together with the Catholic and Evangelical Churches control most of them. The so-called community radios (around 200 frequencies throughout the country) play a crucial role in rural and indigenous communities, yet they are currently experiencing certain difficulties concerning their legal status³⁸, as well as fierce competition by private radios.

There are only two State controlled media outlets in Guatemala: the *Diario de Centro América* newspaper, and the *TGW* radio station. *Diario de Centro América* prints a limited copy edition (12,000 copies) and its distribution is circumscribed to the capital area. On the other hand, although *TGW*'s coverage is national, its listening figures are quite small, and thus its influence on the population is limited.

The media in Guatemala is currently enjoying a period of positive credibility, and trade associations such as the *Asociación de Periodistas de Guatemala* (APG) or the *Centro de Reportes Informativos de Guatemala* (CERIGUA) consider that the country does enjoy freedom of the press. Notwithstanding, there are occasional, and sporadic, outbursts of threats, aggressions, and even murders against the country's journalists. Furthermore, although there is no governmental censorship, the heightened climate of violence, mainly associated to drug-trafficking and organised crime, has generated a considerable rise in self-censorship as imposed by the media outlets themselves, and especially in the departmental sphere.

B: The Legal Framework of the Media during the Electoral Period

The Political Constitution of the Republic of Guatemala (1985), in its Article 35, guarantees the freedom to express thought through any means of diffusion, without censorship or previous licence. Similarly, it guarantees freedom of access to the sources of information and establishes that social media may, in no case, be the object of expropriation, nor can their printing presses or equipment be closed, embargoed, intervened or confiscated. All aspects regarding these constitutional rights are regulated in the 1966 Law on Freedom of Expression (*Ley de Emisión del Pensamiento*), which together with the 1980 Law on Radio (*Ley de Radiocomunicaciones*), constitute the main legislative framework that exists in Guatemala regarding the media.

³⁸ According to estimates by the Telecommunications Authority (*Superintendencia de Telecomunicaciones* -SIT), over 700 radio stations are operating illegally in Guatemala.

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For the first time in Guatemalan history, there was specific legislation in effect for the Presidential, Legislative and Municipal elections that were held on the 9th of September 2007 regulating the media's activities in the context of the electoral campaign. The Electoral and Political Party Law, as revised in 2004, establishes limits as to the amount of time and space assigned in the media (printed, radio and television) for the diffusion of electoral propaganda.

In accordance with Articles 220 and 222 of the Electoral and Political Party Law, on the 17th of May 2007 the Supreme Electoral Tribunal, together with political party agents of the different political parties, established the following maximum times and spaces for electoral propaganda in the printed, radio and television media:

- 12 minutes a day of electoral propaganda for each party in each of the four open air television channels, seven days a week (84 minutes per week, per party);
- 308 minutes a week of electoral propaganda (44 minutes a day) for each political party on each of the cable television companies;
- 385 minutes a week of electoral propaganda (55 minutes a day) for each political party on each radio station;
- One daily page or its equivalent in inches, of electoral propaganda for each party in each printed media outlet.

These limits are not applicable to the public, State controlled, media outlets, in which the broadcast of electoral propaganda is strictly forbidden. The aforementioned legislation does not contemplate the concession of free airtime to political parties and/ or candidates in the electronic media.

According to Article 6 of the Control and Audit Regulation of Electoral Publicity Campaigns in General Elections, all political parties must have equal opportunities in the purchase of airtime, timetables and propaganda space in the media. In this sense, Articles 8 and 21 of this regulation, as well as Article 222 of the Electoral and Political Party Law establish that the media must present their pricing policies to the Electoral Audit Office. In any case, these prices must be an average of the prices charged in the six months prior to the call for elections. Similarly, those media outlets that broadcast electoral propaganda must present the Electoral Audit Office with daily reports of their broadcasts.

To ensure compliance with all of these dispositions, Article 13 of the Control and Audit Regulation of Electoral Publicity Campaigns in General Elections, endows the TSE with the capacity to develop a media monitoring process through the Inspectorate-General, by subcontracting this to a private company, or by combining both possibilities. However, this media monitoring was never implemented by the TSE, which referred to budgetary and human resource limitations that made it impossible to develop this task effectively.

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C: *Monitoring the Media's Electoral Coverage*

The EU EOM monitored 15 national media outlets in total (14 during the first round) in order to evaluate the degree of impartiality of these media outlets, and the extent of their compliance with established legal norms regarding media coverage of the electoral campaign. Furthermore, this monitoring enabled the EU EOM to verify the level of access of each of the parties and candidates to the different media outlets, as well as the pertinence and consistency of any complaints brought forth by the parties pertaining to the quality of the coverage received in the media.

The sample selected by the EU EOM for its media monitoring took into account both private and public media, as well as electronic and printed media with the largest following and with different editorial stances. The EU EOM monitored the following media outlets:

Printed media: *Prensa Libre*, *Nuestro Diario*, *Siglo XXI*, *Al Día*, *El Periódico*, *Diario de Centro América* (State owned) and *La Hora*.

Television channels: *Guatevisión*, *Canal 3*, *Canal 7* and *Canal 13*.

Radio stations: *Radio Punto*, *Radio Sonora*, *Emisoras Unidas* and *TGW* (state owned).

A total of six media monitors, duly trained and capacitated in the European Media Institute's media monitoring methodology, registered the airtime, space and tone of the different candidates' and political parties' media coverage, on a daily basis.

The Guatemalan media performed their role adequately, in general, providing citizens with information and candidates and political parties with a platform to present the citizenship with their political programme proposals. Furthermore, and as established in Article 6 of the Control and Audit Regulation of Electoral Publicity Campaigns in General Elections, the political parties and candidates had equal opportunities in the purchase of electoral propaganda time and space in the media.

In general, newspapers, television channels and radio stations respected the maximum times and spaces established by law for the broadcasting of electoral propaganda. Of all the media monitored by the EU EOM, only the newspapers *Prensa Libre*, *El Periódico* and *Al Día* exceeded, on one occasion during the first round of the elections, the maximum allotted time, awarding one same party more than one page of electoral propaganda on the same day.

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Notwithstanding, a total of 178 of the 483 registered media at the national level before the TSE, as broadcasters of electoral propaganda did not comply with their obligation to present the electoral authorities with daily reports on the publicity space bought by different political parties. According to data from the Electoral Audit Office, of the 178 media outlets that did not comply with this legal obligation, 8 were printed media, 44 cable television channels, 112 were radio stations and 14 were media outlets different to these.

In this sense, it is worth noting that the new dispositions in the Electoral and Political Party Law, together with those from the Control and Audit Regulation of Electoral Publicity Campaigns in General Elections have positively contributed to a greater control over the dissemination of electoral propaganda in the media. Having said this, the TSE lacks the sufficient resources to verify non-compliance with these regulations, and to impose the pertinent sanctions.

In accordance with Article 223 of the Electoral and Political Party Law, all the media monitored by the EU EOM ceased to print or broadcast electoral propaganda 36 hours before both of the election-days. However, the EU EOM observed violations of the aforementioned article in both election periods. More specifically, on the 9th of September election-day, and before polling stations closed, the newspaper *El Periódico* printed a special edition including the results of a voter intention polling station exit poll. In so doing, it provided non-official and hypothetical election results, in clear violation of the explicit prohibition, established in Article 223 of the Electoral Law regarding any kind of opinion polls 36 hours prior to election-day.

In the hours prior to the opening of polling stations for the second round of the presidential elections, on the 4th of November, *Guatevisión* and *Emisoras Unidas* broadcast several interviews of a clear proselytising nature. More specifically, on the afternoon of the 2nd of November, *Guatevisión* broadcasted, an interview with the candidate to the Vice-Presidency for UPE, Rafael Espada, within the context of the “*Acción Positiva*” programme; *Emisoras Unidas* in its “*Hablando Claro*” programme broadcasted an interview with Sandra de Colom, wife of the UNE presidential candidate. Similarly, on the 3rd of November, the television channel *Guatevisión* repeated its broadcast of interviews recorded for the “*Viva la mañana*” programme, with the UNE and PP presidential candidates, and their respective wives, in which the candidates themselves defended their own candidatures and questioned that of their rival.

Special attention must be given to the broadcast during both electoral campaign periods of so-called “infomercials” by the open air television stations *Canal 3*, *Canal 7* and *Canal 13*. These spaces, presented under cover of titles such as “*Agenda Partidaria*” or “*Agenda Política*” broadcast several campaign activities by the main political parties in a

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news format. Nonetheless, these television spaces were often edited by the parties themselves and sent to the television channels to be freely broadcasted. These spaces maintained a clear proselytising tone, similar to that of paid electoral propaganda spaces.

As a positive and praiseworthy initiative, several media outlets –especially among the printed media- presented detailed information to the voters on the political programmes of the main parties contesting these elections. Furthermore, the broadcast of interviews with candidates and televised forums in both campaign periods contributed to improve the level of information among voters regarding the different political options. Nonetheless, during the first round electoral campaign period, many newspapers and radio stations exhibited, from their editorial stances, a limited sense of pluralism that may have hindered the voters’ attempt to obtain a comprehensive vision of the different political positions that were present in the process.

Whereas in and around the capital the national media carried out their work in an atmosphere marked by normality and the freedom of expression, the EU EOM observed clear cases of intimidation, threats, and even kidnappings of journalists in departments such as Quetzaltenango, El Progreso and Baja Verapaz. Furthermore, the EU EOM was concerned with the politically motivated attacks, on the 4th and 11th of September, directed against *Radio Nuevo Mundo*, a radio station in the capital. It was equally concerned with *Guatevisión*’s loss of television signal that affected seven areas of the capital and parts of Mixco, on the 24th of October, moments before the broadcast of a special programme with the UNE presidential candidate.

The results of the media monitoring carried out by the EU EOM shows that in general terms, the national media covered both electoral campaign periods in a reasonably balanced manner.

During the first electoral campaign period the majority of parties and candidates contesting the elections had access to all the national media that were analysed. Only parties with lesser electoral backing such as DC, DIA, UCN and ANN were never mentioned in any of the monitored media. In this sense, national newspapers, television channels and radio stations offered, with only some exceptions, a degree of news coverage that was proportionate to the importance of the political parties, awarding more space and time to those political options with greater electoral support. Only *Canal 3*, *Canal 7* and *Radio Sonora* presented disproportionate news coverage in favour of FRG’s presidential candidate, Luis Rabbé.³⁹

³⁹ The owner of *Canal 3*, *Canal 7* and *Radio Sonora*, Mexican businessman Ángel González is Luis Rabbé’s brother in law.

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According to the data reflected in the EU EOM media monitoring, UNE was the party that received most coverage in the media both in radio, television and printed media, followed by PP (*see Table 1*). The tone of this coverage was in general terms, neutral, with the exception of certain favouritisms detected in the aforementioned open air television channels.

POLITICAL PARTY	RADIO	TELEVISION	PRINTED MEDIA
UNE	15.1%	14.5%	27.3%
PP	14.7%	12.8%	25.9%
GANA	14.1%	7.8%	12.4%
FRG	17.6%	10.5%	2.6%
PAN	3.1%	5.6%	2.8%
UCN	2.4%	1.3%	1.3%
CASA	3.5%	4.3%	5.4%
EG	6.1%	7.2%	9.3%
UD	2.3%	5.8%	1.6%
DC	2.3%	3.9%	12.4%
ANN	3.0%	5.2%	2.8%
URNG	1.7%	5.4%	1.7%
PU	12.4%	11.3%	4.3%
DIA	1.5%	4.7%	1.3%

Table 1: Distribution of the total media coverage received by political parties during the first campaign period

Similarly, the coverage of the second electoral campaign period by the national media was, in general, balanced and reasonably well adjusted to international standards. Both presidential candidates received similar opportunities to bring their messages and proposals to the voters; only a slightly greater coverage was given to UNE in television and radio (*see Table 2*).

POLITICAL PARTY	PRINTED MEDIA	RADIO	TELEVISION
UNE	50.1%	55.2%	56.4%
PP	49.9%	44.8%	43.6%

Table 2: Distribution of the total media coverage received by political parties during the second campaign period

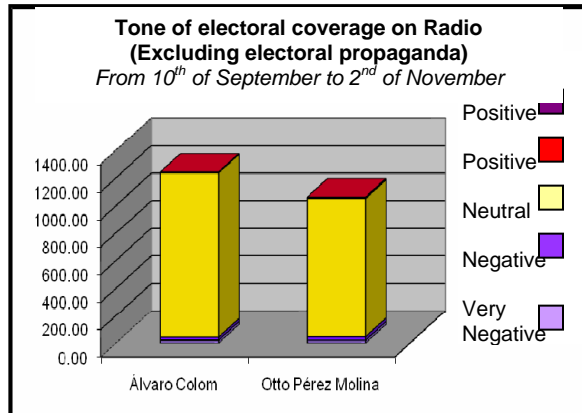
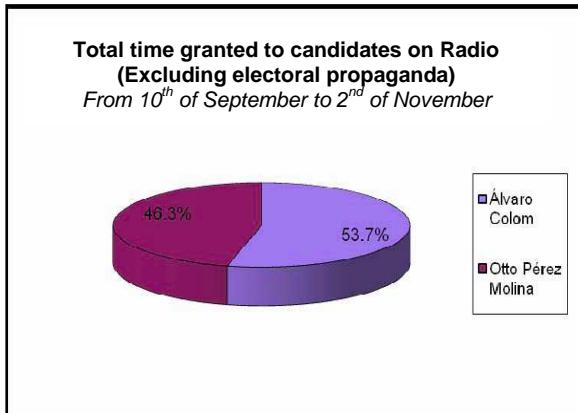
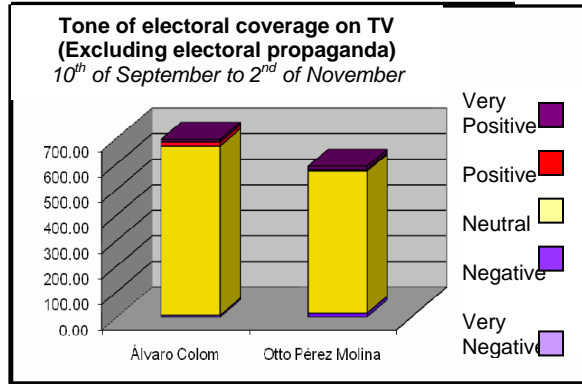
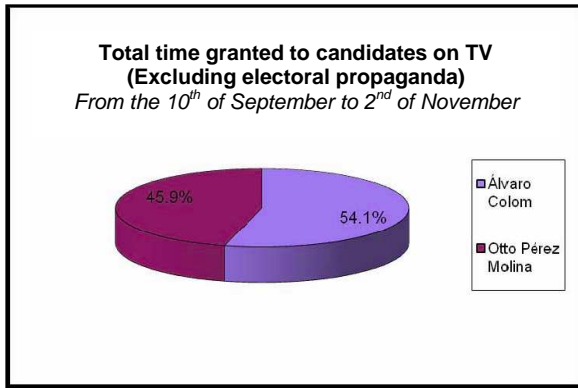
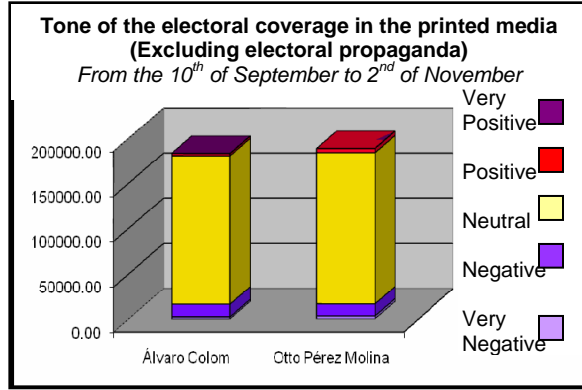
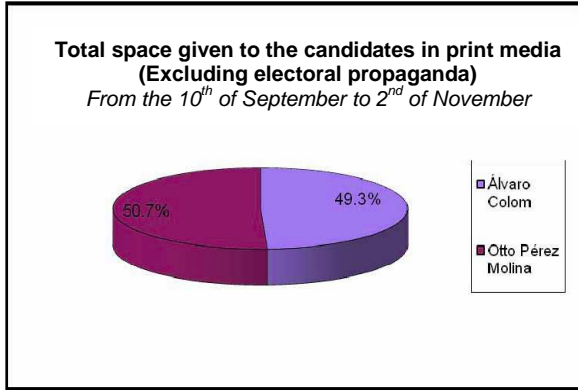
The results of the EU EOM's media monitoring reflects that in the period comprised between the 10th of September and the 2nd of November the candidates Álvaro Colom and Otto Pérez Molina obtained 49.3% and 50.7%, respectively, of the electoral coverage in

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the printed press; 54.1% and 45.9%, respectively, of the television coverage and 53.7% and 46.3%, respectively, of the radio coverage. The tone of the aforementioned media coverage was mainly neutral, although, in some cases –especially in the days prior to election-day- a certain bias was observed in some of the news reports, aimed at favouring or discrediting one of the political options or the other (*see graphs*⁴⁰).



⁴⁰ To see the final graphs for each of the 15 monitored media during the two electoral campaign periods, please refer to Annexes number...

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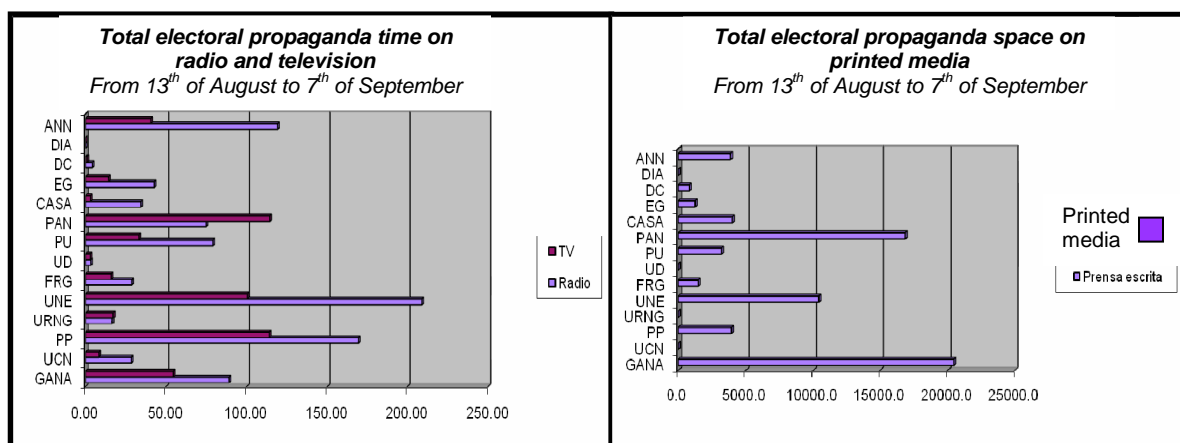
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As far as the investments made by the different parties in the dissemination of electoral propaganda through the media, the EU EOM monitoring reflects clear tendencies in the strategies of each of the political parties. Whilst the PP was the party, that overall, acquired the largest amount of time on radio and television to spread its electoral propaganda in both electoral campaign periods, it was UNE that bought most paid space in the printed media.

It is highly significant that whilst the investment of UNE and PP in electoral propaganda on television was practically identical (441.51 minutes for UNE and 471.25 minutes for PP), in the printed press UNE spent over double what PP spent to divulge its propaganda (45,322.5 cm² for UNE and 21,610.6 cm² for PP). On the radio, PP bought a total of 1,011.7 minutes of electoral propaganda, as compared to the 756.36 minutes bought by UNE.

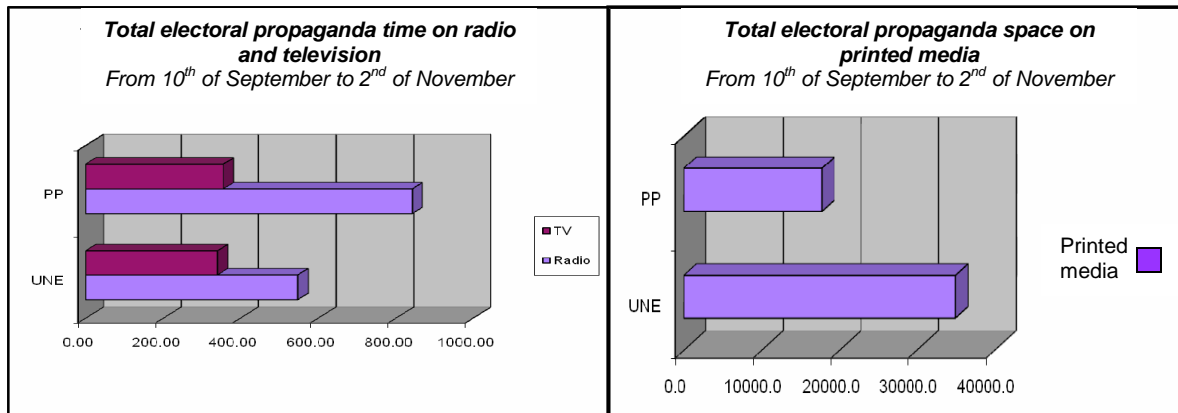
By analysing the results of the media monitoring corresponding to the first electoral campaign period it can be observed that parties like PAN, GANA and ANN were, together with PP and UNE, those that invested the most in electoral propaganda. In fact GANA (20,459.4 cm²) and PAN (16,852.5 cm²) were the parties that bought the largest amount of paid space in the printed media (*see graphs*).

In the second round, the EU EOM media monitoring clearly reflects that UNE put special emphasis in disseminating more electoral propaganda in the printed media, traditionally the more urban media, as Álvaro Colom obtained less support from urban areas in the first round. On the other hand, the PP invested primarily in radio, the main media in the rural areas, where Otto Pérez obtained less support in the first round of the presidential elections (*see graphs*).



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X. THE PARTICIPATION OF WOMEN

The 2007 elections have been the first in Guatemalan history in which an indigenous woman, in this case Rigoberta Menchú Tum, ran for the Presidency of the Republic. Beyond the, obviously important, symbolic repercussions that this candidature could have (or may have in the future) as regards political inclusion, the truth of the matter is that the active political participation of women is still very limited compared to their demographic weight in the population as a whole. This deficit in participation has been felt in the recent elections, both at the local level (mayors) and at the national level (members of Congress, President and Vice-President).

Despite the fact that the issue of women's political inclusion is gaining weight in political parties' discourse, the analysis of the majority of their political programmes indicates that sufficient importance is still not being given to this deficit, which affects this segment of the Guatemalan population, both in terms of its participation and its political representation. Moreover, the participation of women in political parties and in Guatemalan institutional life is still very scarce. As proof of this situation, suffice it to say, that no women were included as heads of ministries or state secretariats in any of the proposed cabinet appointments made by either UNE or PP. Similarly, at the end of 2007, the presence of women in Government represented a mere 17% of the total, and an even smaller 8.8% was registered in Congress, and 29% in the Judiciary. Furthermore, there was only one woman among the five members of the Supreme Electoral Tribunal, which oversaw the latest electoral process.

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Nonetheless, political parties seem to be starting to gain awareness of the importance of women's votes, which represented 46.9% of the voter register for the 2007 elections.⁴¹ In fact, a large proportion of the main political parties have included within their political programmes certain proposals aimed at promoting gender equality, and the protection of women in various fields, with measures that span from the adoption of active policies against discrimination to the fight against gender-based violence, or the typification of sexual harassment in the Penal Code. Among these proposals, several contemplated the promotion of the political participation of women in very general terms, but far fewer included specific institutional proposals in this sense.

However, and despite the budding presence of a gender-based focus in many of the political parties' electoral proposals, this concern does not seem to have extended to their candidate lists. Similarly, it does not seem that the calls and recommendations directed to them on many occasions both by the Government and by civil society organisations, aiming at promoting the inclusion of women in their candidate lists, have had much effect, especially at the top of the lists. If we analyse a preliminary report published by the Supreme Electoral Tribunal, we can observe that among the 18,508 candidatures to Congress and municipal corporations, only 2,617 corresponded to women candidates (no mention is made as to the position of these women candidates on the party lists), which in percentage terms, represents 14.13% of the total. Indeed, this data actually indicates a positive development, as it reflects a slight increase in the number of women candidates, compared to the 2003 elections, where only 9% of candidates were women. In any case, these statistics are far beneath the percentages exhibited by other countries in this subregion.

Whilst the statistics on women candidates reflect a strong participation deficit, the percentages of women in public elected office indicate an even greater imbalance. Only eight women were elected to the position of mayoresses out of the 332 municipalities in the country (3 for UNE, 3 for PP, 1 for FRG and 1 for GANA). In Congress, 17 women will take up their seats in the new legislative period (7 for UNE, 3 for GANA, 3 for PP, 2 for EG, 1 for FRG and 1 for CASA), 10.8% of the total, which is a small improvement (1.94%) on the outgoing Congress.

The 2007 elections confirmed the weight of women in the electoral process inasmuch as the exercise of active suffrage: 42.8% of ballots were cast by women. In this sense, it would seem that the polling station decentralisation process has had a positive effect in enhancing the participation of women in rural areas, by bringing polling centres closer to their places of residence. In many cases, these women, traditionally, found it difficult to travel to the municipal capitals to cast their ballot, because of their family obligations.

⁴¹ This in turn, highlights another deficit in the participation of women, given that the demographic weight of women in Guatemala is actually five base points higher, 51%.

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In the context of the organisation of the electoral process, the number of women that participated as polling station Presidents finally, and for the first time in Guatemalan electoral history, reached a significant percentage of the total, 42% according to EU EOM estimates.

XI. THE PARTICIPATION OF INDIGENOUS PEOPLES

Possibly, due to the polling station decentralisation process, or the significant media repercussions of the indigenous candidature of Rigoberta Menchú Tum for the Presidency of the Republic, the interest of the 14 political parties contesting the elections in the indigenous electorate was stronger than in previous electoral campaigns. Indeed, many political party programmes retook the concept, contained within the Peace Agreements, about the construction of Guatemala as a multiethnic, multicultural and multilingual State (UNE, DCG, URNG-Maíz, ANN) and highlighted the importance of the fight against racial discrimination (UCN, ANN, PU). Nevertheless, the majority of proposals aimed at the indigenous electorate focused primarily on the economic sphere, especially in the promotion and financing of rural development and the agro-industrial sector (PP, UNE, EG, FRG, GANA, PU, DCG, UD, URNG, UCN). Only URNG-Maíz and ANN returned to the issue of agrarian reform, whilst UNE and GANA focused their proposals on the development of cooperativism. Having said this, most indigenous leaders expressed their concerns as to the weakness of the political party proposals, and did not doubt in repeatedly denouncing the main candidates' lack of real interest in indigenous issues. Most of the main candidates originated from the capital.

The analysis of the level of participation of indigenous communities in the Guatemalan electoral processes faces a problem of statistical reliability deriving from the lack of sufficiently broken down demographic data, based on ethnic adscription. Furthermore, there is an additional problem given the inherent ambiguity of the criteria used to calculate such a breakdown, due to the mestizo nature of a significant part of the Guatemalan population. The most serious estimates indicate that the percentage of indigenous population is to be found within a broad band between 40% and 60% of the total population. In any case, it is clear that, both as regards the participation of indigenous peoples in political party life as well as in their level of participation in electoral candidate lists, and in elected public positions; their presence is far smaller than corresponds to their demographic weight in the total population.

Hence, of the 432 positions, adding the number of members of the political party National Executive Councils (*Consejos Ejecutivos Nacionales* -CEN) that contested these last elections, only 43 were occupied by indigenous peoples, 10% of the total.

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If we analyse the participation in the candidate lists presented in 2007, out of the 753 candidates to Congress from the five parties that headed the opinion polls in the first round, 107 were indigenous candidates. Having said this, only 11 were at the top of the lists in their respective departments, and none in the national lists. *Encuentro por Guatemala* (EG) was the political organisation that registered the largest amount of indigenous peoples among its candidates, with 44, followed at a great distance by GANA, which included 19, and UNE that presented 17 indigenous candidates to Congress. The percentage of indigenous candidate participation rises significantly in the municipal sphere, although still far below the estimated weight of the indigenous population as a percentage of the national population: of the 3,700 candidates to mayor, 845 were indigenous, that is to say, 22%.

The number of Mayan members of Congress elected in the recent legislative elections was 23 (14% of the members of Congress), this represents a relevant increase (4.51%) compared to the 15 that obtained a Congressional mandate in 2003. The representation of the Xinka and Garifuna indigenous communities, that as a whole compose at least 10% of the country's indigenous population, is still non-existent. However, at the local level, a greater degree of representation is evident, especially in those municipalities with a more homogenous population. Therefore, the EU EOM estimates that 129 of the recently elected mayors originate from indigenous communities, 38.86% of the total number of municipalities, and a 1.81% increase as compared to 2003.⁴²

In all its history as an independent nation, Guatemala has never had an indigenous President or Vice-President. Since the return of democracy in 1985, only three indigenous candidates have run for the position of Vice-President of the Republic, two of which in the 2007 elections, in which, as we have already mentioned, the first woman indigenous candidate ran for the Presidency. Rigoberta Menchú Tum, the K'iche Maya candidate for *Encuentro para Guatemala* (EG), obtained a discreet result: 3.09% of the total number of valid votes. The electoral failure of her candidature, which is obviously due to several different factors, seems to underline the fact that at the moment in Guatemala, the conscious indigenous vote is far from being a relevant force.

In terms of the exercise of active suffrage, the departments where indigenous populations are the majority presented higher turnout rates than the national average, according to *Mirador Electoral's* sixth report. This report bases its findings on the official data for the first round, as published by the Supreme Electoral Tribunal, and identifies 94 municipalities, representing 52.4% of the indigenous population of Guatemala. In most of these areas, the voter turnout on election-day was greater, according to the report, than

⁴² The departments with the largest number of elected indigenous mayors were Huehuetenango, with 22 mayors; Sololá, with 17; San Marcos, El Quiché and Quetzaltenango with 14 respectively and Totonicapán with 8.

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the 60% rate obtained in the rest of the country. There is no doubt that the polling station decentralisation process, by bringing polling centres closer to the villages and settlements in which the vast majority of the indigenous population resides, has benefited the participation of this segment of the Guatemalan population.

Insofar as the electoral administration is concerned, the TSE promoted two noteworthy initiatives aimed at improving the level of communication between the indigenous communities and the various Electoral Boards. On the one hand, and compared to previous elections, the electoral administration increased the use of indigenous language broadcasts on community radios, especially during the second round, to raise awareness on the electoral process in indigenous communities. Furthermore, the new Municipal Constituency Assistants performed an important role in disseminating direct communications in local languages in indigenous communities.

XII. CIVIL SOCIETY PARTICIPATION

Guatemalan civil society has proven its commitment with the electoral process, by means of several initiatives, including the organisation of various election observation groups, which also collaborated significantly in raising electoral awareness and voter education. *Mirador Electoral* and the *Misión conjunta de la Universidad de San Carlos*, the Office of the Human Rights Ombudsman and the Archbishopric of Guatemala contributed to make these last elections the most observed elections in the country's history, as well as facilitating the involvement of a large number of youths in the process. The *Misión indígena de observación electoral* focused its efforts in attentively following the specific concerns of the indigenous peoples in the electoral process. The *Misión de observación electoral de CACIF* demonstrated the commitment of the business community with the process.

On the other hand, and as previously mentioned in this report, an initiative geared at raising public awareness as to the infiltration of drug-trafficking and organised crime in the electoral process, was developed by *Foro de Guatemala*. This platform gathered many of the more relevant national civil society organisations, and had the positive effect of contributing to introduce one of the problems that most seriously affects the consolidation of the democratic process in Guatemalan into the public debate.

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XIII. ELECTION-DAYS

A: *First Round*

The EU EOM observed the opening, polling, and closing of 530 polling stations in all of the country's departments. The European Union observers' general evaluation of the polling operations was very positive.

From the opening itself, a very high level of technical expertise was observed in the work carried out by polling station members. The significant number of youths among polling station staff throughout the country probably contributed to this. The vast majority (88%) of observed polling stations opened on time, and members of the *Policía Nacional Civil* were present in 82% of the observed polling centres. This last aspect highlights the important effort made by the PNC and the Ministry of the Interior (*Ministerio de Gobernación*) to guarantee adequate security during election-day.

Another noteworthy element was the presence of party agents in 97% of the observed polling stations, with a relatively well-balanced mix of party agents from the larger as well as the smaller parties, all of which displayed a constructive and cooperative attitude in most cases. Equally significant was the presence of national observers throughout the entire Guatemalan territory, a fact that clearly contributed to the transparency of the process, and to the atmosphere of civic celebration that prevailed.

The conduct of polling was considered to be good, or very good in 92% of the observed polling stations, and polling was rated as having been carried out in an orderly and well-organised manner in the same percentage. The only problems that were identified, in 18% of the observed polling stations, related to the process of data updating and the municipal civil registry system, were cases of voters that could not find their details within the voter register, despite having updated their registration.

The closing and counting proceeded in very positive manner, according to the evaluations of the EU EOM observers. Unfortunately, at the end of this election-day some cases of violence took place in certain municipalities (especially in areas of Alta Verapaz). Generally, these cases were linked to the re-election of mayors, and in some cases lasted for several days.

B: *Second Round*

The EU EOM observed the opening, polling and closing of 550 polling stations in all of the country's departments. The general evaluation of the polling operations, as indicated

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by European Union observers, was positive or very positive in 96% of the observed polling stations.

All of the observed polling stations (100%) opened on time. The election-day was marked by the proper organisation of polling, counting and result transmission operations by polling station staff, which as in the first round, included a significant amount of youths among their members.

Together with the proper organisation of polling operations on election-day, and contrasting with what had occurred during the first round, the most notable event was the total lack of incidents, both during polling hours as well as after the closing of polling stations. It is likely that the security measures deployed by the *Ministerio de Gobernación* contributed to this situation. European Union observers reported that PNC agents were present in 87% of observed polling stations.

Party agents for both of the parties contesting the second round elections were present in practically all of the observed polling stations, during polling and counting. Similarly, although to a slightly lesser degree than in the 4th of September election-day, national observers were present in significant numbers throughout all of the territory.

XIV. RESULTS

A. *Transmission, Tabulation and Announcement of Preliminary Results*

The transmission of preliminary results for the various elections (Presidential, Legislative, and Municipal) was well-organised in both rounds; it was carried out in a timely manner, and was administered with a high degree of transparency, allowing for observers and party agents to follow the arrival of results to the National Tabulation Centre (*Centro Nacional de Cómputo*) without any restrictions. The transmission of results at the national level was under the responsibility of the TSE's Data Processing Centre (*Centro de Procesamiento de Datos*), except for two electoral constituencies –the Central District and the Department of Guatemala- whose Electoral Boards subcontracted these tasks to private companies.

The effective transmission of results in these elections was an important element for the generation of public trust in the process, and allowed political party agents to follow the different phases of the tabulation process without any restrictions. The TSE installed centres for the electronic transmission of results in most polling centres. The results forms were transmitted, from these centres to the Central Tabulation Centre, while a copy of the results form was handed over to the corresponding JEM, and another was sent directly to the TSE (physical handover of the results form in the Tabulation Centre). The

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preliminary results that were announced for both electoral rounds were based on the results that were directly transmitted by the polling stations.

The TSE made an important investment in technology, equipment and training for the human resources involved in the electronic transmission of election results.⁴³ It performed a mock trial run of the transmission system at the national level, a few days before the first round election-day, which helped to detect and correct some flaws that were identified during this exercise. The level of experience of the Director and the technical team at the Data Processing Centre were, in turn, key elements for the successful organisation of the transmission procedures.

The announcement of preliminary results was done in a very timely and efficient manner, and at a point when the TSE already had the backing and prudent guarantee of an important percentage of the counted ballots. In the first round elections, the TSE announced the preliminary results at 8 o'clock in the morning of the day after election-day, with approximately 95% of the ballots counted. For the second round, where most forecasts pointed at a close result, the announcement was made only four hours after polling stations had closed. The transparency in the data transmission process, the abundant public information that was made available to the public regarding this process, and the possibility for political parties to follow the process without restrictions, at all the stages of the process, contributed decisively to the acceptance of preliminary results by the overwhelming majority of defeated candidates.

However, with the aim of further increasing the level of transparency in the process of data transmission for future elections, the EU EOM believes that the TSE should consider, allowing, with the necessary and legitimate security safeguards, political organisations to audit the source codes of the data transmission software. Furthermore, it would be appropriate to establish, especially at the municipal level, the obligation or practice, of displaying a copy of the results form for each of the polling stations in the polling centres in which they were located.

B: Publication of Final Results

According to the LEPP, the TSE has an eight-day deadline, once the electoral process has been concluded, to announce the final and official results. The law does not provide further details as to when exactly the electoral process is considered to have terminated, thereby the definition of this moment remains a TSE prerogative.

⁴³ According to TSE reports, 2,500 operators managed 2,000 tabulation terminals for the transmission of electoral data during the past elections.

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According to the LEPP Regulation, the forms that contain polling station election results constitute the final and official result of polling, except if challenges are raised at the polling station level (Article 102). If there are challenges, these may be ratified by the political party agents during the polling station form revision sessions, which are held at the departmental level in the five-days after election-day. During these sessions, and were there to be motives to do so, the JED may decree that the results contained within the results form of a specific polling station be modified. Subsequently, the TSE's Audit Office verifies the results from the results forms received by each of the JEDs with the preliminary results that it should have already received, and carries out any necessary adjustments. The TSE announces the final results based on the results of the polling station form revision sessions. The EU EOM verified that in the 23 JEDs the revision of polling station forms was carried out within the legally established deadlines, and observed that only in a few minor cases were challenges ratified, which eventually did not affect the results.

In accordance with electoral law⁴⁴, the TSE must draft an Agreement on the Conclusion of the Electoral Process (*Acuerdo de conclusión del proceso electoral*) which is to be published in the *Diario de Centro América* and which officialises the results. The TSE resolutions that declare the validity of elections may be appealed⁴⁵, before the TSE itself, by the political organisations that participated in the elections. The TSE has a three-day deadline to resolve these appeals. Once all the appeals before the TSE have been exhausted, the law contemplates the possibility of raising an appeal for protection before the Supreme Court of Justice.

Final results had still not been published by the time the EU EOM left the country.

C: Challenges Regarding the Results

According to the latest information that the EU EOM had access to from official sources, up to the 12th of October 2007, the Secretariat of the TSE had registered the presentation of a total of 109 dossiers, including appeals, challenges, and other types of requests, pertaining to the first round electoral process.⁴⁶ The total number of appeals and requests

⁴⁴ LEPP, Article 209; LEPP Regulation, Article 128.

⁴⁵ LEPP, Article 209, 246 and 247: The admissible legal challenges are the request for the declaration of nullity and appeals for revision. There is a three-day deadline for the presentation and resolution of such challenges.

⁴⁶ Among these requests the following are the most noteworthy: a request for the revision of invalid votes presented by UNE's national party agent; a request for a declaration of nullity presented by the presidential candidate Otto Pérez Molina regarding the municipal elections in

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that were received, including those raised in the second round, had yet to be made public when the EU EOM left the country. Nonetheless, TSE magistrates publicly stated that the majority of appeals that had been presented related to disagreements with municipal results, and that the TSE had rejected practically all of them due to formal and procedural defects.

None of the political parties challenged the preliminary election results. Nonetheless, during the second round, and due to the expectation regarding a very close presidential result, UNE established a legal assistance network in various polling centres, to assist its party agents in the presentation of possible challenges at the polling station level. The EU EOM observed that UNE party agents did not have many reasons to present challenges, and that the small amount of challenges that were eventually raised was not ratified at the corresponding JEDs.

The EU EOM regrets the limited amount of information that was provided and the lack of transparency exhibited by the TSE with respect to the appeals that were received, and the decisions that the Tribunal took in each case. This prevented the satisfactory observation and evaluation by the EU EOM of this crucial stage in the electoral process. In this sense, it is worth remembering that international best practices recommend that the management of appeals and complaints by the electoral authority be done in the most transparent way possible. This process must be carried out in a manner that allows political actors to adequately follow-up the procedures. Additionally, political actors must be allowed to audit the compliance with deadlines, and the legality of adopted resolutions.

D: Analysis of the Results

During the first round, of the 5,990,029 voters included in the voter register, 3,615,867 cast their ballot, which represents a 60.36% turnout rate. In absolute figures, the number of voters increased by 684,216 voters compared to 2003. There can be no doubt that, together with the growth and greater inclusiveness of the new voter register, polling station decentralisation significantly contributed to this rise in voter turnout, especially in rural areas. The turnout in rural areas rose to 70.84% as compared to the 57.04% that was registered in urban areas. Polling station decentralisation helped to overcome one of the main obstacles to the exercise of the right of suffrage that a large part of the rural population was facing, the need to travel to municipal capitals, often quite distant from their places of residence and poorly communicated. On the other hand, as we have already mentioned, decentralisation also laid out the foundations for a freer exercise of the right of suffrage, by reducing the number of cases where political parties could take advantage of the possibility of transporting voters towards polling centres.

Usumatlán, in Zacapa; a request for a declaration of nullity from the GANA party agent in the village of Oratorio, in Santa Rosa, due to the partisan behaviour of the local TSE representative.

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The large percentage, 5.5% of invalid votes cast during the first round, was far higher than in any other Central American country, where they do not go beyond a 1.3% ceiling. This significant percentage could be explained by fact that illiteracy is ubiquitous in Guatemala's rural areas, but could also indicate a growth in the protest vote in urban areas.

The first round of the presidential and vice-presidential elections produced the following results:

POLITICAL PARTIES	PRESIDENCIAL RESULTS	
	VALID VOTES	% OF VALID VOTES
Unidad Nacional de la Esperanza – UNE	926,236	28.25
Partido Patriota – PP	771,813	23.54
Gran Alianza Nacional – GANA	565,017	17.23
Centro de Acción Social – CASA	244,373	7.45
Frente Republicano Guatemalteco - FRG	239,204	7.30
Encuentro por Guatemala – EG	100,365	3.06
Partido Unionista –PU	95,28	2.91
Unión del Cambio Nacionalista – UCN	103,695	3.16
Partido de Avanzada Nacional – PAN	83,369	2.54
Unión Revolucionaria Nacional Guatemalteca – URNG	70,208	2.14
Unión Democrática – UD	24,893	0.76
Alianza Nueva Nación – ANN	19,64	0.60
Desarrollo Integral Auténtico –DIA	18,395	0.56
Democracia Cristiana Guatemalteca –DCG	16,461	0.50

In the legislative elections, of the 158 members of the outgoing Congress, 70 were re-elected. In the municipal elections, of the 332 mayors, 82 were re-elected. The following table displays the election results for the different parties:⁴⁷

⁴⁷ It is worth pointing out that in the municipal elections, 21 mayors were elected from Civic Committee candidatures.

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POLITICAL PARTIES	SEATS IN CONGRESS	MAYORS
Unidad Nacional de la Esperanza –UNE	51	102
Partido Patriota –PP	29	39
Gran Alianza Nacional – GANA	37	78
Centro de Acción Social –CASA	5	1
Frente Republicano Guatemalteco –FRG	14	23
Encuentro por Guatemala –EG	4	1
Partido Unionista –PU	7	23
Unión del Cambio Nacionalista –UCN	5	12
Partido de Avanzada Nacional –PAN	3	13
Unión Revolucionaria Nacional Guatemalteca –URNG	2	7
Unión Democrática –UD	1	4
Alianza Nueva Nación –ANN	0	2
Desarrollo Integral Auténtico –DIA	0	3
Democracia Cristiana Guatemalteca –DCG	0	1

With its victory in the first round of the presidential elections in 18 of the country’s 22 departments (all except for Guatemala, Baja Verapaz and Chiquimula), UNE received an important support from the areas outside the capital. Moreover, Álvaro Colom’s party won nearly a third of all municipalities and congressional seats, thus strengthening its local power base, which is crucial in Guatemala for the effective exercise of governmental action. On the other hand, the positive results obtained by PP indicate that the electoral campaign headed by General Otto Pérez Molina, which focused primarily in the fight against citizen insecurity, was very effective in and around the capital, which is the area with the highest criminality rates.

The 37 seats that GANA, outgoing President Oscar Berger’s party, obtained in Congress and the 17.23% of the vote obtained by its presidential candidate Doctor Gianmattei, would seem to contradict the Guatemalan dictum according to which it is impossible for an incumbent party to win over a significant part of the votes for a second time round.⁴⁸ In fact, the importance of the congressional base obtained by GANA transforms it into a key player in the composition of any parliamentary majority that will enable the approval of legislative initiatives and State budgets.

⁴⁸ GANA’s position in the results is the only real surprise that was not foreseen in the opinion polls carried out prior to the first round, in a country, where it is generally very rare for a party that has already been in Government to be massively voted.

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On the other hand, FRG lost 65% of its congressional base, winning only 14 seats, while the seven other more modest parties summed a joint total of 27 seats in Congress. Having said this, the clear re-election of the Mayor of Guatemala City, the charismatic former President and historic leader of the *Partido Unionista*, Álvaro Arzú, is worth highlighting, despite the modest results obtained by this party in the legislative elections. CASA and EG gained parliamentary representation for the first time, with five and four seats respectively, while DCG, the party that ruled over the democratic transition in 1985 failed to obtain parliamentary representation and is therefore doomed to disappear. The two seats obtained by URNG-Maíz and the definitive disappearance of ANN, which failed to win any seats or reach the 5% threshold of valid votes, highlight the lack of electoral success that the reconverted former guerrilla movements have had. Due to the same lack of electoral success, the DIA party will also disappear from the political scene.

As we pointed out in our analysis of the electoral campaign, the second round of the presidential elections, which pitted the engineer Álvaro Colom, from UNE, who reached this second and decisive round for the second consecutive time, against General Otto Pérez Molina, of the PP, was predicted to be extremely close by the more reliable opinion polls. In fact a technical draw was even contemplated, that is to say a difference between the candidates' respective results equal to, or smaller, than the margin of error of these opinion polls. Nevertheless, as the following table indicates, Colom won by a very clear margin, greater even, than that, which Álvaro Arzú obtained against Portillo.

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DATE	CANDIDATES	TOTAL CAST VOTES	OBTAINED VOTES	%	% DIFFERENCE	% ABSTENTION
1985	Cerezo	1,800,324	1,133,517	68.37	36.74	31
	Carpio		524,306	31.63		
1990	Serrano	1,449,489	936,389	68.1	36.2	44
	Carpio		438,990	31.9		
1995	Arzú	1,368,830	671,358	51.2	2.4	53
	Portillo		639,402	48.8		
1999	Portillo	1,800,676	1,167,571	68.31	36.62	49.6
	Berger		545,784	31.69		
2003	Berger	2,372,714	1,235,303	54.13	8.26	42.2
	Colom		1,046,868	45.87		
2007	Colom	2,895,327	1,449,349	52.82	5.64	51.6
	Pérez		1,294,693	47.18		

In the second round of the presidential elections, 2,895,827 of the 5,990,029 registered voters turned up to vote, which implies a voter turnout of 48.34%. In absolute terms the number of voters increased by 522,613 voters, compared to the second round in 2003. Having said this, in percentage terms, due to the newer and larger voter register, participation actually declined. As in the first round, polling station decentralisation was one of the factors that generated this increase in absolute figures: the participation of updated voters, that is to say those that benefited from the decentralisation process,

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reached 58.83%, whilst that of the non-updated voters was of 32.34%. It must also be pointed out, that as in the first round, although to a lesser extent, there the number of invalid votes was quite significant: 101,196 (3.49%).

UNE emerged victorious in 20 of the country's 22 departments, and with over 60% of the ballots in six of them, in another eleven departments it beat the PP by more than 15%. PP only won in Guatemala, with 59.5% of the ballots, and in Baja Verapaz, with 56.25%. Several political analysts consider that for the first time in Guatemalan democratic history, the rural vote, significantly empowered by the polling station decentralisation process, actually determined the winner of the presidential election. At first sight, all the areas outside the capital responded to the political proposals that were more focused on rural development (an issue that was repeatedly stressed by Colom, and strongly linked to his own personal biography). On the other hand, the capital proved more receptive to proposals focusing on the fight against citizen insecurity (the clear *leitmotiv* of Pérez Molina's campaign). Nevertheless, the PP's results were not as spectacular in the capital, as predicted by opinion polls, and analyst reports, nor were UNE's results in the capital as disastrous as expected.

Similarly, it is worth underlining that in the 2007 elections a certain crisis in the urban vote was observed. Whereas participation rose in absolute terms between the 2003 elections and the 2007 elections both in the Department of Guatemala and in the rest of the country, in the capital the number of registered voters only rose from 755,856 to 787,452. In the first round, the number of voters fell from 425,009 to 415,252 and from 390,104 to 383,419 in the second round, despite the fact that the city of Guatemala was one of the locations that benefited the most from the decentralisation process. To this, we must add various other micro-factors such as the fact that the Government decreed that the Monday after election-day was to be a national holiday. This decision could have had some bearing in the electoral mobilisation of the middle to upper segments of the capital's inhabitants, who possess second homes outside the capital's limits. Another factor could be the lack of collective transport on the 4th of November, which clearly hindered the access to polling stations for an important segment of the capital's population with lower incomes.

On the other hand, second round results indicate that there was no automatic transference of votes from Ríos Montt's FRG, nor from Alejandro Gianmattei's GANA towards the PP's candidate Otto Pérez Molina. This would seem to confirm the theory that a large sector of the Guatemalan electorate does not identify the presidential candidates in terms of a left/ right divide. Moreover, the recent increase in the price of various basic household items could also have contributed to the fact, that in the end, the security issue proved to be less important in the determination of the urban vote, compared to the broader issue of the fight against poverty.

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XV. RECCOMENDATIONS

In compliance with its mandate, the EU EOM offers the following recommendations aimed at improving various aspects of the electoral process for the consideration of Guatemalan authorities, political parties, civil society as well as the international community:

Political Organisations and Candidates

1. It would be recommendable that the TSE, in collaboration with Guatemalan political organisations continue with the development of training and capacity-building programmes for political party agents, to ensure that these may be capable of exercising the important function that is required of them in the supervision of the electoral process with greater efficiency.

Electoral Violence

2. The EU EOM is seriously concerned about the high murder toll of candidates and persons linked to the political process during the pre-campaign and electoral campaign in 2007. The Mission considers that the motivations behind these crimes must be clarified in a timely manner and that those responsible should be arrested and brought to trial. To this end, and looking forward, towards future electoral processes, the creation of a special police task force with sufficient material and human resources to guarantee a prompt and effective investigation into such events, would be highly recommendable. It would be equally advisable for the *Ministerio Público* to assign specialised units for the persecution of crimes that may be in any way whatsoever linked to the electoral process.

Electoral Administration

3. The EU EOM considers it recommendable to promote and improve the level of institutional communication between the TSE and the Guatemalan citizens in general, especially the media and political organisations. Better communication will not only help to avoid occasionally groundless or unnecessary controversies, based on misunderstandings or faulty information, but will also contribute to bring greater transparency to the TSE's operations, and in so doing strengthen the level of public trust in the TSE's activities.

4. The TSE's Electoral Audit Office should be provided with adequate financial, organisational, and human resources for it to be able to effectively control and audit political organisations' campaign spending and income, as well as the sources of their income, according to the recent legal and regulatory demands.

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5. The EU MOE further recommends that information technology infrastructures be deployed to all of the TSE's delegations and sub-delegations, to ensure that the entire electoral administration structure be able to employ a similar level of technological resources. Such measures could help to put an end to the unjustified regional imbalances that exist in the quality of the services that are provided by these local structures.

6. An increase and improvement in the level of communications between the TSE's permanent structures and the various temporary electoral boards would be highly desirable, as would any effort to clarify the respective scope of each of these bodies' autonomy and functional framework, in order to homogenise electoral procedures throughout the entire national territory.

Civil Registry and Voter Register

7. The EU EOM considers that the prompt and speedy application of the National Registry Law (*Ley del Registro Civil de las Personas -RENAP*) must be a priority, as well as the establishment of a single identification document, to replace the *cédula de vecindad*, as soon as possible, as the basic document for the creation of the voter register.

8. The TSE must continue to carry out the necessary purges in the voter register to eliminate any remaining errors, and improve its overall quality. Furthermore, it would be advisable to extend the deadlines for the suspension of inscriptions into the voter register, and in this manner gain more time to purge the register (a three to four month extension in the cut-off date would be reasonable).

9. The current voter register should serve as the basis for the creation of the future voter register, although the latter must be, at least partly based on the new civil registries contemplated in the National Registry Law. Doubtlessly, the new civil registration process, will be implemented gradually, therefore it would be unviable to immediately eliminate the previous one, without putting the right of suffrage of those previously registered at risk, in case they may not be able to register themselves in the new civil registry..

10. The electoral law should clarify the scope of the publication of the voter register, as well as guaranteeing transparency regarding its costs and clearly establishing who can access it, and in what conditions. The voter register, must in practice, be a public document, which should be available for consultation to all political organisations, without prejudicing the protection of data, which may affect the intimacy of registered citizens, as well as the obligation of political parties to guarantee that they will make an appropriate use of this document.

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Electoral and Political Party Law

11. The EU EOM considers that it is crucial that the existing legal and regulatory vacuums that exist in the LEPP regarding electoral crimes and misdemeanours be resolved in the briefest possible delay, be it by their reincorporation into electoral legislation as such, or by their incorporation into the Penal Code.

12. The requirements for the legal acquisition of electoral residence must be broadened to favour greater control, prevent fraud and as a result strengthen the level of public trust in the electoral process, especially at the municipal level. A reasonable proposal could be to demand a specific minimum residence period of a year (as opposed to the current six months), corroborated by at least two witnesses.

13. The EU EOM also recommends that in order to make the right to vote more effective, certain mechanisms should be introduced, to allow for its practical exercise by Guatemalan citizens who reside abroad. Measures could also be implemented to enable the vote for hospitalised citizens, or those who cannot physically transport themselves to the polling centres due to medical reasons, together with imprisoned citizens awaiting trial who have yet to be condemned, and members of the National Police and the Army who may be on duty during election-day.

14. The EU EOM considers that it is necessary to extend the legal requirements demanded for the registration of candidates before the TSE, specifically in accordance with the demand, as included in the LEPP itself, to present the *Constancia de Solvencia o Finiquito*. The Electoral Law should detail the established timeframes and deadlines, as well as the sanctions that may derive from any non-compliance as well as the bodies that are responsible for auditing this compliance.

15. Civic Committees, as singular legal entities that promote independent political participation by citizens in the local sphere, should receive the same kind of financial support as political parties (State subsidies). The different financial treatment that is afforded to both types of political organisations is in clear violation of the principle of equality in political participation.

16. The figure of the Municipal Constituency Assistant (*Auxiliar de CEM*), whose usefulness and efficacy was patent in this electoral process, should be incorporated and regulated by the electoral legislation and regulation to ensure its perpetuation in future electoral processes.

17. The EU EOM considers the need for an increase in the sanctioning monetary fines for the violation of regulations on electoral propaganda, to the extent, that in practice, they

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may serve as a deterrent to prevent political organisations from committing such violations.

18. The LEPP should prevent the possibility that candidates may act as political party agents in polling stations. This dual condition, especially at the municipal level, may be considered, by certain voters to be tantamount to intimidation.

Voter Information

19. It would be adequate, inasmuch as possible, to provide the TSE delegations and sub-delegations with sufficient financial resources, for them to fulfil their legal duties in the promotion of permanent civic education campaigns in their areas.

Electoral Campaign

20. The excesses that were perpetrated during the electoral pre-campaign period, have made it manifestly clear that sanctions for violations of the legally established campaign timeframes carried out by political organisations must be clearly detailed.

21. The EU EOM believes that it would be highly recommendable to open-up a period of public debate on the convenience of reducing the duration of the electoral campaign, which is currently set at four months. Independently of the economic costs that are linked to such a prolonged campaign period (especially if there is a second round in the presidential elections), such lengthy campaigns inevitably generate considerable fatigue both among political actors as well as the voters themselves. Above all, such long campaign periods reduce the possibility of carrying out an effective campaign for those political parties with more limited financial resources.

Electoral Budget

22. The adjudication of the electoral budget to the Municipal Electoral Boards (*Juntas Electorales Municipales*) should be grounded on objective and pre-established criteria such as demographic density, the number of municipalities in each department, or physical distances, and other geographic realities of these constituencies. There is a strong need to regulate the criteria for the distribution of the budget on behalf of the TSE, as well as evaluating the financial autonomy of the Central District and the Department of Guatemala.

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Electoral Procedures

23. The TSE should promote uniformity in the application of electoral procedures at the national level, especially those that strengthen the integrity of the electoral process (such as the specific moment in which indelible ink is applied onto voters' fingers, or the signing of the voter register by voters once their ballot has been cast).

Adjudication of Electoral Challenges and Appeals

24. In the name of greater transparency in the management of challenges and complaints, it would be convenient for the TSE to maintain an official register of complaints and challenges, available for public consultation, in the Tribunal's Secretariat.

Polling Station and CEM Decentralisation

25. To guarantee its future success, it would be advisable that any extension in the polling station decentralisation process be carried out gradually. In this sense, the EU EOM estimates that the number of polling stations in 2011 should not exceed the current number by more than 10%.

26. Were the current number of Municipal Electoral Constituencies (*Circunscripciones Electorales Municipales -CEMs*) to be increased, as would be appropriate, the process must be designed in a manner that takes into account the realities, needs and suggestions of the relevant local communities.

Participation of Women

27. The enormous deficit in women's political representation, both within political parties, in Congress and in municipalities, requires that a national debate be initiated in these areas with the aim of adopting measures that may reduce it.

Participation of Indigenous Peoples

27. Despite the fact that during the 2007 electoral process, the TSE significantly improved the quantity and quality of information relayed to the electorate in indigenous languages, as compared to previous electoral processes, it is crucial that the TSE continue to expand on this in future election processes.

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The Media and Elections

28. As the highest electoral authority, the TSE must have the adequate legal and technical instruments at its disposal to develop its auditing functions as regards the role of the media in the context of the electoral campaign. In this sense, it would be convenient, that within any potential reform of the Electoral and Political Party Law, consideration be given to the possibility of extending a budgetary line to the TSE, for a specific media monitoring unit, which will allow the electoral administration to supervise the work of the media during the electoral process. In so doing, the TSE will be in a better position to detect whether the media comply with the various legal requirements as laid out in the Electoral and Political Party Law, as well as the Control and Audit Regulation of Publicity Campaigns in General Elections (*Reglamento de Control y Fiscalización de las Campañas Publicitarias de las Elecciones Generales*), regarding the broadcasting of electoral propaganda. Furthermore, the TSE should be granted the necessary sanctioning powers to be able to act effectively in the face of any possible violations of the aforementioned regulations.

29. In line with internationally established standards for democratic elections, it would be convenient to revise the current limits on the amounts of time and space that may be used in the media for the purposes of electoral propaganda as thoroughly as possible. Although the inclusion, for the first time ever, of specific legislation on this matter has signified an enormous development in the Guatemalan electoral context, such limits are still too generous, and do not contribute to ensure a level playing field for those parties with smaller electoral support, and limited financial capacity. In this sense, reducing the restrictions that are currently applicable, together with the adoption of a system of legally assigned free electoral propaganda spaces in public radio, proportionate to the level of representation obtained by the different political parties contesting specific elections, may contribute to reduce the level of saturation of electoral propaganda in the media, and thereby balance the campaign options of the various parties.

30. It would also be recommendable that the media make an effort to correct some practices that are contrary to international standards regarding neutral media coverage of electoral matters. On the one hand, the broadcasting of “infomercials,” spaces for party propaganda presented under the guise of a legitimate news item, could be prevented. On the other hand, the Guatemalan media should cease to broadcast unduly aggressive electoral propaganda, or propaganda based on defamatory statements paid for by political parties or social organisations with clear political undertones.

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