



REPORT TO THE PERMANENT COUNCIL  
Electoral Observation Mission – Ecuador  
General Elections, Referendum, and Second Round of Presidential Election  
February 19 and April 2, 2017<sup>1</sup>

## **BACKGROUND**

On November 22, 2016, the General Secretariat of the Organization of American States (OAS) received an invitation from Ecuador's National Electoral Council (CNE) to deploy an Electoral Observation Mission (OAS/EOM) to observe the general elections and referendum on February 19, 2017. The General Secretariat accepted the invitation on December 5, 2016, and designated former Dominican Republic President Leonel Fernández as Chief of Mission. In the general elections, Ecuadorian citizens went to the polls to elect the President and Vice President of the Republic, five representatives of the Andean Parliament, and 137 representatives of the National Assembly. In addition, citizens also expressed their preference in a referendum on tax havens.

In this electoral process, 12,816,698<sup>2</sup> Ecuadorians were eligible to vote, 378,292 of whom were abroad. Eight presidential tickets from the following political organizations competed in the general elections: Unión Ecuatoriana, Fuerza Ecuador, Fuerza Compromiso Social, Alianza CREO–SUMA, Acuerdo por el Cambio, Partido Social Cristiano, Alianza PAÍS, and Partido Sociedad Patriótica.

It is worth noting that in 2015, Ecuador's National Assembly approved 16 constitutional amendments that eliminated all restrictions on re-election to elective offices, including that of the president. During this period, a temporary provision was also approved establishing that the amendments that refer to the rights to political participation would take effect on May 24, 2017, following the 2017 general elections.<sup>3</sup>

Since no presidential ticket won an absolute majority of valid votes on February 19 or came in first with at least 40 percent of valid votes and a difference of more than 10 percentage points over the second-place finisher, a runoff was held on Sunday, April 2, 2017, between the top two tickets from the first round.

## **GENERAL ELECTIONS**

The Mission was made up of 66 experts and observers (53 percent women and 47 percent men) of 17 nationalities. The work of observation consisted of a thorough analysis of the process on key issues such

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<sup>1</sup> A summary of this report was presented by the Chief of Mission, Leonel Fernández Reyna, on July 26, 2017 to the Permanent Council of the Organization of American States.

<sup>2</sup> National Electoral Council, Regular Session of October 4, Final Report of the Electoral Roll. Press Release: <http://cne.gob.ec/es/institucion/sala-de-prensa/noticias/3688-12-816-698-electores-habilitados-para-sufragar-en-elecciones-2017>

<sup>3</sup> Ministry of Foreign Affairs and Human Mobility, Amendment to the Constitution of the Republic of Ecuador, Official Note No. SAN-2015-2378, Quito, December 18, 2015. Available at: <http://www.cancilleria.gob.ec/wp-content/uploads/2016/01/enmiendas-a-la-constitucion-de-la-republica-del-ecuador.pdf>

as electoral organization and technology, political and legal analysis, campaign financing, gender equality, and electoral justice.

### **Pre-Electoral Stage**

The Electoral Observation Mission started its work in the country with a preliminary visit led by the Chief of Mission on January 16-17, 2017. During that visit, the Agreement on Observation Procedures was signed with the National Electoral Council, and the Agreement on Privileges and Immunities with the government of the Republic of Ecuador.

In order to collect information on logistical and organizational aspects of the process, observe the political climate in which the campaign was unfolding, and exchange impressions with the main actors in the contest, the OAS/EOM held meetings with the National Electoral Council, the Election Disputes Tribunal (TCE), government authorities, candidates, and representatives of civil society and the diplomatic community.

The Mission was present for the simulation exercises held on January 22 and February 5, as well as for the voting day for persons deprived of liberty without a final conviction and the “Vote at Home” day for the elderly and/or people with disabilities; these were held on February 16 and 17, respectively. The Mission welcomes the measures adopted to expand the exercise of political rights for all Ecuadorians through these voting mechanisms.

The development of the electoral process was marked by attacks on electoral institutions, as well as by complaints expressed by citizens and political organizations regarding the preparation and cleansing of the electoral roll. This created a climate of mistrust and uncertainty with respect to the transparency of the elections.

During this stage, the OAS/EOM received complaints regarding the use of government-funded spaces to promote the Alianza PAÍS ticket, such as the *Enlaces Ciudadanos* [“Connecting with Citizens”] programs broadcast on all national networks. Representatives of opposition parties and civil society organizations objected to the unequal access to the media and noted, for example, that public media outlets covered only the Alianza PAÍS convention.

The campaign’s particularly aggressive tone was another aspect that created a climate of tension. The Mission observed that the candidates made accusations of a personal nature against their opponents. The EOM regrets the absence of a respectful, constructive, and purposeful dialogue on the part of candidates and political actors during the campaign.

### **Election Day**

On the day of the elections, the OAS observers visited 375 voting centers in 17 provinces in the country. All the polling stations observed by the OAS/EOM opened by 7:30 a.m., on average, and had the necessary electoral materials on hand for people to be able to vote. The EOM verified that the polling places were adequate for people to be able to cast their ballots in secret and securely, and it noted the presence of security forces. The Mission observed that not many delegates from political organizations were present, although their numbers increased as the day went on.

The combination voting booth/ballot box that was used for the first time in this electoral process had some drawbacks. In addition to the complications of assembling it, the Mission observed that the security tape provided by the CNE had not been used in the assembly process, and that the spaces into which the ballots were dropped were too small to handle the size and number of ballots.

During the voting process, the Mission received three complaints from voters who saw marked ballots at their polling stations. Even though social media picked up on the situation, the truth is that it involved isolated cases and the ballots that were called into question were not recorded.

The Mission recognizes the efforts made by the CNE to include a large percentage of young people as members of polling stations. It also noted that the percentage of people who had been trained was higher than in the 2013 election. However, OAS observers reported that some of the procedures carried out at precincts varied from one polling station to another.

When the votes were being counted, there were political delegates present at most of the polling stations observed, and these delegates were given a copy of a Statement of Poll of Public Information or Summary of Results. After that, the transfer of the official tally sheets to the area where they would be scanned and transmitted, and then to the provincial election board, was carried out securely. The EOM takes note of the decision to eliminate the intermediary boards for this election, which facilitated and accelerated the tabulation process.

The Mission noted that the publication of results online was interrupted at around 8:50 p.m. The CNE informed the OAS/EOM that this inconvenient was caused by the high traffic in the website. While this problem affected the ability of the public to access results online, it did not affect the normal processing and tallying of results, which began from the moment the first tally sheets arrived at the processing center. In its preliminary report, the Mission recommended conducting an analysis of the system of releasing results and strengthening its capacity for the second round of the presidential election.

Voter turnout in the general elections was 81.63 percent of eligible voters, 51.13 percent of them women and 48.87 percent men.

### **Post-Electoral Stage**

Article 132 of the Code of Democracy establishes that the provincial-level tabulation process can last up to 10 days and that in extraordinary circumstances the National Electoral Council may authorize an extension of that time. Likewise, Article 141 establishes that the final tabulation of national results shall be done in public “no earlier than three nor later than seven calendar days from when the elections took place.”

In this regard, the EOM observed that the CNE kept citizens informed at all times about progress being made in the tabulation. However, even though the legal time periods had not run out, and even though the CNE announced as soon the results were mathematically irreversible that there would be a second round, this three-day waiting period led to discontent among citizens and political organizations.

The tabulation process took three days because of the need to resolve involuntary inconsistencies that arose when the official tally sheets were filled out. These inconsistencies were cleared up in public verification sessions that required the transfer of the physical electoral materials (ballots, tally sheets,

electoral rolls) from distant precincts and from abroad, which meant that it was logistically unfeasible for the CNE to accelerate the process.

The OAS/EOM would like to point out that it is common in any election for there to be tally sheets with errors or inconsistencies, and that the process of resolving these necessarily adds work and time for the electoral management body to be able to do a final consolidation of results. In this context, the EOM recognizes the CNE's efforts to improve its procedures and notes that in the 2017 elections there were fewer inconsistent tally sheets reported than in any other election in Ecuadorian history.

### **Results of the General Elections**

In the presidential election, Alianza PAÍS won 39.36 percent of the votes; Alianza CREO–SUMA, 28.09 percent; Partido Social Cristiano, 16.32 percent; Acuerdo por el Cambio, 6.71 percent; Fuerza Ecuador, 4.82 percent; Fuerza Compromiso Social, 3.18 percent; Partido Sociedad Patriótica, 0.77 percent; and Unión Ecuatoriana, 0.75 percent. The Mission had a representative sample available, the results of which showed the same results for the presidential election as those of the electoral management body.<sup>4</sup>

For the 2017-2021 term of the National Assembly, Movimiento Alianza PAÍS and its allies won 74 seats. Alianza CREO–SUMA and its affiliated parties won 32; Movimiento Suma and affiliated parties, 2; Partido Social Cristiano and affiliated parties, 15; Izquierda Democrática and affiliated parties, 4; Movimiento de Pachakutik, 4; and Partido Sociedad Patriótica, 2. Finally, Movimiento Unidos por Pastaza, Social Conservador de Carchi, Movimiento Peninsular Creyendo en Nuestra Gente, and Fuerza Ecuador won one seat each.<sup>5</sup>

The results of this election show that, compared with the 2013-2017 term, the Alianza PAÍS movement (and its allies) lost 26 seats; Alianza CREO–SUMA (and its affiliated parties) added 22; and Partido Social Cristiano and its affiliated parties gained 8. These results also reflect the plurality of options that existed in the framework of a competitive electoral process.

In terms of the referendum on tax havens, the Yes option garnered 55.12 percent of the votes, and No obtained 44.88 percent. With Yes having prevailed, public servants who have capital and assets of any kind in tax havens will have one year to repatriate them. Failure to comply with this provision constitutes grounds for removal from office.

Given that no presidential candidate obtained the necessary votes to win in the first round, on February 22 the CNE announced that there would be a presidential runoff election on Sunday, April 2, 2017, between the candidates on the Alianza PAÍS ticket (Lenín Moreno and Jorge Glas) and the Alianza CREO–SUMA ticket (Guillermo Lasso and Andrés Páez).

### **SECOND ROUND OF THE PRESIDENTIAL ELECTION**

In the presidential runoff, the OAS/EOM was made up of 77 experts and observers (44 percent women and 56 percent men) of 19 nationalities who were deployed in 19 provinces of the Republic of Ecuador.

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<sup>4</sup> National Electoral Council (2017). *Resultados Electorales*. Quito: National Electoral Council. Accessed on June 6, 2017, at <http://cne.gob.ec/es/estadisticas-cne/category/57-publicaciones-estadisticas>

<sup>5</sup> Ibid.

For this round, the Mission expanded its coverage of territory while maintaining the participation of experts in electoral organization and technology.

As in the general elections, the OAS observers were deployed based on a random and representative sample of voter concentration in the country. As with all OAS missions, these places were determined with complete independence and were not relayed to the electoral management body or to any of the actors in the process.

### **Pre-Electoral Stage**

The OAS/EOM held meetings with the National Electoral Council, government authorities, representatives of the Alianza PAÍS and CREO–SUMA tickets, and members of civil society and the diplomatic community. During these meetings, the Mission took note of the concerns and distrust that the various actors expressed with regard to the ability of the CNE and the TCE to act as impartial arbiters.

The Mission noted with concern that the CREO–SUMA ticket stepped up its attacks on the electoral institutions, alleging that if its candidate did not win, that would point to electoral fraud. In this regard, the EOM believes that delegitimizing an electoral process without any grounds erodes democracy and institutions and polarizes society.

The EOM maintained communication with the CNE to follow through on the recommendations made in the general elections. The Mission was pleased to receive an evaluation of each of these recommendations and the measures taken to improve various aspects ahead of the presidential runoff, including the use of a simple voting booth and ballot box (within the country) and the elimination of the red marker, among other measures. The EOM also observed the efforts undertaken by the electoral management body to inform citizens about these changes and the timeline for the tabulation, in order to increase transparency and instill more confidence in the process.

The OAS was present for the March 19 simulation exercise as well as for the voting day for persons deprived of liberty without a final conviction and the “Vote at Home” day for the elderly and/or people with disabilities; these were held on March 30 and 31, respectively.

### **Election Day**

On April 2, the OAS observers visited 480 voting centers, where they observed the process from the time the polling stations opened until the ballots were counted. Mission experts were also present at the Command Center, the CNE Data Center, the ITC Monitoring Center,<sup>6</sup> and ECU911.<sup>7</sup> The EOM verified that the day of the election unfolded peacefully and that citizens could go out and freely cast their ballots.

This time, the set-up of the polling stations was easier, thanks in part to the use of separate voting booths and ballot boxes. The polling stations that were observed opened at 7:14 a.m., on average, and had all the necessary election materials on hand for people to vote. The observers noted the high

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<sup>6</sup> Information and Communication Technologies

<sup>7</sup> Integrated Security Service of Ecuador

percentage of delegates from both political organizations who were present at the polling stations throughout the day, as well as the large presence of security forces.

After the vote count, members of the OAS/EOM reported that—as had occurred in the general elections—polling station members showed a certain lack of understanding of the procedures to follow. In isolated cases, there were numerical discrepancies on the tally sheets between the number of votes cast and the signatures/fingerprints recorded on the electoral roll. However, the OAS/EOM ascertained that all the tally sheets that were observed included the signatures of the President and Secretary of each polling station, and that in almost all cases, a Summary of Results was turned over to the delegates of the political organizations.

Next, the OAS/EOM witnessed the transfer of the official tally sheets to the area where they would be scanned and transmitted, and the processing of these at the provincial election boards. This took place in a secure and orderly manner and in the presence of representatives of the political organizations.

The Mission was present as of 4 p.m. at the ITC Monitoring Center, where the last connectivity tests were done on the dedicated links from the political organizations' headquarters to the server using the FTP service. While this test could not be performed until 5 p.m., the EOM verified that the first tally sheets were received on the FTP server and confirmed that it was working properly, noting the contribution this makes to the transparency of the electoral process.

Around 7:20 p.m., when approximately 93 percent of the tally sheets had been processed, the CNE headquarters building was evacuated as a preventive security measure. This was where the ITC Monitoring Center and the Data Center were located. The Mission continued its observation duties in the backup center set up at the Marriott Hotel until 97.8 percent of the processed tally sheets had been received. It was able to ascertain that, while the system for publishing the results online was inaccessible at times, the flow of tally sheets for processing and computing the results was constant. The EOM observed no interruption or manipulation whatsoever of the results, either in the System for the Transmission and Processing of Results (STPR) or in the FTP files available to the political organizations.

Voter turnout increased in the second round, to 82.92 percent of eligible voters, 51.03 percent of whom were women and 48.97 percent men.

### **Post-Electoral Stage**

The period after the election was marked by a climate of polarization and confrontation. The opposition opted to keep to the streets and make accusations through the media rather than through institutional channels. The Mission observed provocative messages that sometimes incited to violence, attitudes that the OAS/EOM condemns.

As occurred in the general elections, the EOM observed that once the voting had ended, exit polls were made public. This led both candidates to declare themselves winners on the night of the election, before the official results were published by the National Electoral Council. On the other hand, the much-announced and anticipated quick count by the Corporación Participación Ciudadana was not released the night of the election. The large disparity in the results that were disseminated created voter uncertainty. The OAS/EOM reiterates its concern, expressed previously in its preliminary reports, over the political use made of exit polls.

Five days after the elections were held, representatives of the Attorney General's Office and the National Police carried out a raid on the offices of the polling organization Cedatos. The order for the raid came about in the context of a complaint filed on March 22 by the then-Vice President of the National Assembly, who accused that company of falsifying data. The EOM considered that the raid was excessive and deepened existing tensions following the elections.

The EOM held an additional meeting with the Alianza CREO–SUMA during the post-electoral stage. At this meeting, the Mission received additional concerns, over and above those that had been conveyed by the candidate ticket during the campaign and on the day of the election. It should be noted that EOM specialists conducted the appropriate technical analysis related to these concerns, and these were passed on to the electoral authorities. In this context, the Mission reiterated the need for complaints to be handled through institutional channels so that they can be addressed by the appropriate authorities under the principles of legality, certainty, and transparency.

On Tuesday, April 4, the CNE announced to citizens that with 99.65 percent of the vote counted, the results of the second round were irreversible; candidate Lenín Moreno had won with 51.16 percent of the votes, while Guillermo Lasso garnered 48.84 percent.

The Alianza CREO–SUMA ticket refused to accept the results announced by the CNE. It called on citizens to protect the vote and asked the electoral management body for a recount of 100 percent of the votes as a condition to accept the results. It is important to point out that Ecuadorian law does not contemplate a total vote recount. The grounds for verifying the votes cast in a ballot box, established in Article 138 of the Code of Democracy, are: a) numerical inconsistency larger than one percentage point; b) absence of the signatures of the President and/or Secretary of the polling station; and c) when a copy of the tally sheet provided to the political organizations differs from the tally sheet that was computed.

On April 10, with 100 percent of the tally sheets tabulated and verified following complaints received from both political organizations at the provincial level, the CNE declared the results to be official and notified the two political organizations that the Alianza PAÍS ticket had garnered 51.15 percent of votes and CREO–SUMA 48.85 percent. That marked the beginning of the period when appeals could be filed with the CNE and the Election Disputes Tribunal to challenge official results.

During this period, both political organizations filed claims, including formal challenges to a total of 3,865 tally sheets. In strict adherence to Ecuadorian law, the CNE determined that it would recount these challenged tally sheets, given that the challenges were based on legal grounds and were filed through official channels. These tally sheets represented around 11.2 percent of total votes. The Mission considers that a vote recount of this magnitude was an exercise of transparency.

The EOM observed the absence of the Alianza CREO–SUMA at the Rumiñahui Coliseum for the vote recount. The political organization once again called on its followers to “defend the vote” on the streets, even when it had the opportunity to verify the tally sheets that had been challenged and channel its complaints and claims through formal channels during this recount exercise. The Mission regrets the posture and statements of its leaders, who failed to accept the CNE's authority.

On April 18, the plenary of the National Electoral Council proclaimed the final results of the election to the offices of President and Vice President, declaring the Lenín Moreno – Jorge Glas ticket of Movimiento Alianza PAÍS to have been elected, having won 51.16 percent of the valid votes cast.

The Mission compared the information on results collected by its observers at polling stations with the information contained in the official tally sheets published by the CNE. The results of this sample concurred with those published by the electoral management body, and there were no discrepancies between the tally sheets that were observed and the official data. The observers reported that when the polls closed, there were delegates from both political organizations at almost all the polling stations observed, and they were given a copy of the tally sheet at the end of the vote count.

The OAS Electoral Observation Mission remained on the ground to observe the post-electoral stage and left the country on April 20, once the recount had been completed and the official results had been announced by the electoral management body.

## **FINDINGS AND RECOMMENDATIONS**

In general terms, the OAS/EOM draws attention to the CNE's professionalism and the significant progress made in the organization and administration of the elections with respect to previous electoral processes, as well as between the general elections and the presidential runoff. With the aim of pointing out areas of progress and identifying additional opportunities for improvement for future elections, the OAS/EOM presents the following findings and recommendations:

### **Electoral Organization**

- Institutional Dialogue Mechanism

The OAS/EOM notes that since its preliminary visit in January, it observed that the CNE showed greater transparency and openness than in previous electoral processes; an example of that is the effort to establish an ongoing dialogue with the political organizations and civil society. However, the CNE and TCE could not overcome the mistrust of the political organizations, which said they did not feel reflected in the decision-making process.

In every democratic process, confidence in the electoral authorities is essential. In this context, and ahead of future elections, the OAS/EOM recommends strengthening and promoting the active participation of representatives of the political organizations on the Advisory Councils—an institutional mechanism for dialogue—so that the debates and claims that were made this time through the media can be resolved in these institutional spaces.

- Training

To ensure the uniformity of procedures in future elections, the EOM reiterates its recommendations to conduct reinforcement training sessions in the days leading up to the election so members of polling stations can refresh and strengthen the concepts and complete their tasks as established in the training manuals. As an additional effort, the Mission suggests simplifying the procedures established for members of polling stations.

- Materials

During the day set aside for people in custody to vote, February 16, the Mission observed that the red P3 envelope in which used ballots were placed (valid, invalid, and blank ballots) contained so many electoral documents that it would bend, and when someone tried to seal it, the thin plastic material

would tear. While CNE officials were observed to react quickly, applying additional security tape, for future general elections with several ballots the EOM recommends evaluating the material the envelope is made of and using a heavier or larger one, to ensure that it does not tear.

- Combination Voting Booth/Ballot Box

The combination voting booth/ballot box, which served as a table and had a double compartment in which to deposit ballots, was introduced as an innovation in the general elections. The CNE explained to the EOM that this new item represented significant savings in the preparation of the electoral materials, which was done entirely in Ecuador.

However, the Mission observed that the voting booth/ballot box had some drawbacks in the general elections and recommended that it be redesigned for the presidential runoff. On April 2, each polling station through the country used a ballot box and two separate voting booths. The Mission commends the CNE for considering the recommendations and observations the OAS made in the first round, and notes that the use of separate ballot boxes and voting booths made the set-up of the polling stations easier and made it possible to appropriately protect the ballots during the election.

- Vote Tally Sheets

Some actors called the electoral management body into question for using the Statement of Poll of Public Information or Summary of Results as a copy for representatives of the political organizations. The Mission verified that, in general terms, this certificate contained the same information as the other two tally sheets and observed that, even though the political organizations had expressed their concern before the elections, there were no problems with this in the general elections.

However, any differences between the tally sheets that were scanned and the copies provided to the political organizations took on greater importance during the post-electoral stage of the presidential runoff, in which recounts had to be done on a large scale. To avoid having a large number of tally sheets challenged in the future, the OAS/EOM recommends evaluating the possibility of using self-copying paper for the tally sheets, to produce one original and three copies and thus avoid human error in the transcription and possible discrepancies in results.

The tally sheets contained the following fields: total signatures and fingerprints in the electoral roll, blank votes, invalid votes, and votes for each of the candidates. Considering that the electoral roll, by law, goes outside the electoral packet, the EOM believes it is important to add more fields to the tally sheet, with information related to the total number of ballots counted and any extras, to make it easier for the provincial electoral board to track the information from each polling station and to facilitate possible recounts.

The EOM also suggests considering the possibility of using a copy of the tally sheet exclusively for scanning, which would avoid having to open the yellow envelope before it is turned over to the provincial electoral board.

### **Accessibility of the Vote**

The Mission commends the CNE for implementing the “Vote at Home” initiative for people over 65 years of age or with a physical disability of 75 percent or more. This initiative, which had been put in

place gradually since 2013, enabled the participation of 883 voters who, under Ecuadorian law, were exempt from the obligation to vote.

On Election Day, the EOM observed the preferential services provided at polling places to facilitate voting for people with disabilities, older people, people with children in their arms, and pregnant women, allowing them to be assisted by a trusted person and providing a Braille ballot<sup>8</sup> for people with visual disabilities.

The EOM observed that sometimes the preferential polling station was located far from the entrance to the polling place, which forced citizens to traverse ramps that were too steep or stairs, making access difficult for people with disabilities. Moreover, in many cases the tables with the voting booths were too close to the wall, which did not allow access for a wheelchair. The Mission believes that the structural conditions of the polling places should be strengthened, to improve the service provided at these preferential voting stations and encourage equality of conditions for voters with disabilities.

### **Transmission and Publication of Results**

Both on February 19 and April 2, the EOM observed that from the time the first tally sheets reached the area where they would be scanned and transmitted, the results were published online. The EOM commends the initiative of publishing all the processed tally sheets online, making them available to citizens and making this stage of the process transparent.

To make it easier to understand the tally sheets released online, the EOM recommends including a field with the status of each tally sheet, indicating the situation of each one within the computation of results—for example, processed, to be processed, scanned image cut off, numerical inconsistency, unsigned, delayed arrival, etc. In addition, the Mission suggests publishing a table summarizing the status of all the tally sheets.

The online publication of results experienced problems in both elections. The CNE informed the EOM that these challenges were caused by the high number of simultaneous visits to the website. In the second round, the EOM observed that the delay in restoring the site was part of the difficulties in the system for publishing the results, which did not interfere with the System for the Transmission and Processing of Results (STPR). In the process of resolving this issue, the URL where citizens could check the results had changed, making it difficult for them to access this information. However, as mentioned above, the EOM ascertained that this did not affect the tabulation of the tally sheets, which continued fluidly and without interruption.

The EOM notes that contingency plans were implemented to resolve technological challenges during the electoral process. At the same time, it reiterates the recommendation it made in the general elections to conduct an analysis of the system for publishing the results and to strengthen its capacity.

With regard to the coordination between CNE technical experts and the political organizations for the release of results, the Mission observed improvements between the general elections and the presidential runoff. However, the EOM observed that tests of the transmission and security of the flat files and images were conducted the same day as the April 2 elections. To avoid improvisation and tensions on Election Day, the EOM recommends devising a detailed plan for oversight activities with the

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<sup>8</sup> The Braille ballot was available for the election of President/Vice President.

political organizations' auditors and establishing a work timeline that includes simulations before the day of the elections.

To provide more confidence and assurances to the political organizations, the EOM suggests evaluating the possibility of working with an internationally renowned company that specializes in information technology audits to review sensitive areas that may have confidential information.

### **Exit Polls**

Both in the general elections and in the presidential runoff, the EOM noted with concern that exit polls were used for political purposes, leading to a "battle of results."

OAS Electoral Observation Missions have observed this phenomenon in other countries in the region. The political use of exit polls and unofficial quick counts creates uncertainty about the results and generates mistrust on the part of the contenders.

The Mission believes it is important to explain that exit polls are conducted outside voting places on Election Day, and they have significant margins of error, since many of those polled might not state who they actually voted for. In addition, exit polls may respond to the interests of media outlets and/or political parties.

Unlike exit polls, official preliminary results or quick counts are technical tools based on the voting results reflected in the tally sheets; thus, they have a small margin of error and yield data very close to the official results.

The OAS/EOM believes it is important that citizens, the news media, and political organizations know and understand the methodologies involved with each of these tools, and that the results of these are taken as unofficial information and not as a source to declare victory.

### **Electoral Roll**

The Mission took note of complaints and claims of citizens and political organizations with respect to the preparation and purging of the electoral roll, a document based on the Civil Registry.

The EOM would like to draw attention to the improvements in the electoral roll compared with past elections, including the incorporation of photographs of 74 percent of voters. This measure provides greater security and protection to the voter, and has been recommended by previous OAS missions to Ecuador.

Nevertheless, the Mission observed that there were inconsistencies stemming from the process of modernizing the Civil Registry and digitizing and inputting Ecuadorian citizens' physical records. These inconsistencies could be resolved through permanent coordination between the CNE and the Civil Registry to review the data on those citizens who in the future will be part of the electoral roll. The EOM suggests considering the establishment of periodic mechanisms for auditing and updating the Civil Registry.

The EOM also observed that deceased individuals were registered in the electoral roll. The Civil Registry authorities explained to the Mission experts that these names could be eliminated only if a death

certificate were presented. To avoid placing all the onus on citizens, the EOM believes that the Civil Registry, as a public institution that serves citizens, should evaluate its public outreach effort and keep people duly informed about the various procedures and basic requirements for registering a person's death.

Moreover, the CNE could, through regulations, mitigate the risk of keeping deceased persons on the electoral roll by establishing a criterion that enables it to identify and purge the names of people who did not vote in a certain number of consecutive elections and whose identity documents have expired.

The Mission received complaints related to the absence of citizens' identity document numbers on the electoral roll provided to the political organizations. The EOM observed that in 2014,<sup>9</sup> the CNE also turned over the electoral roll without ID numbers to the political organizations. When asked about this, the CNE and the Civil Registry explained that a person's ID card number is considered confidential and thus is not subject to the principle of disclosure.

Considering the legal limitations, the Mission recommends a mechanism that would allow citizens to consult the electoral roll and check their own personal information, as a way to make it easier for citizens to challenge the data.

### **Political Financing**

According to provisions in the Code of Democracy (CD, Art. 202), during the electoral period in Ecuador there is only indirect public financing—that is, the contracting of “electoral promotion,” which consists of advertisements in the written press, radio, television, and billboards. Only the state may buy electoral ads in the media, as privately funded advertising is not allowed.

Public election funding, organized under the Electoral Promotion Fund, creates more equity in the contest as long as it is distributed equitably among the eligible political organizations, by position up for election. Another factor that contributes to fairness is that the media outlets and billboard companies that have been approved by the CNE to provide election advertising may not establish different rates for political organizations nor can they refuse to provide space for election-related advertising.

However, the EOM observed that in the 2017 elections, due to financial austerity, public financing decreased by 10 percent of the maximum electoral expense budgeted for each office. Moreover, the Code of Democracy (2009) reduced the election spending limit that existed in the Organic Law on Control of Electoral Expenditures and Election Advertising (2006). This downward trend in public election financing, on top of the restriction on private funding in Ecuador, reduced the volume of election advertising.

As to oversight and control over election spending, while the Code of Democracy establishes that the CNE “shall release, during and after the electoral process, all information related to the financing and expenditures of the political actors,” this same law establishes that these reports should be sent to the CNE within 90 days after the day of the election. Because of this post-election deadline, the Mission observed that during the campaign the CNE did not release financial reports of the political organizations; it only shared statistical data about the advertising providers and the Electoral Promotion Fund those providers had used.

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<sup>9</sup> Resolution PLE-CNE-1-14-2-2014

The absence of financial reports during the election campaign makes it difficult to detect the improper use of funds in a timely manner. In this regard, the EOM recommends considering a revision of the part of the Code of Democracy that refers to the deadlines given to the political organizations to turn in their financial reports so that preliminary reports can be presented, including for the pre-electoral stage.

### **Inequity**

The Code of Democracy, in Article 219, “prohibits public servants, agencies, or institutions from using public resources and assets to promote their names or their political organizations in the institutions, public works, or projects for which they are responsible.”

The permanent and active presence of the President of the Republic during the campaign was denounced by the opposition. Citing the prohibition mentioned above, some political organizations complained of the lack of sanctions against the then-President of the Republic for promoting the ticket of the official party during the government-funded *Enlaces Ciudadanos*.

### **Media and Advertising**

Article 203 of the Code of Democracy prohibits publicity or advertising by state institutions during the campaign, but it establishes exceptions—for example if the information ~~that~~ has to do with projects that are underway; if street closings or repairs need to be reported; if emergency situations are involved; or if the public must be informed about issues of national importance. The EOM believes that this last exception, in practice, leaves ample room for interpretation and does not adequately limit the use of advertising by state institutions during the campaign.

While the specific procedure established by the CNE to review and authorize institutional advertising during the campaign period is a positive step in this area, the Mission recommends reviewing the grounds on which institutions can use state resources in the form of official advertising.

Given its lack of financial resources, the Mission was unable to do the media monitoring that had been included in the budget proposed by the Department of Electoral Cooperation and Observation. Because of this, the Mission could not collect primary data on air times and coverage. However, the OAS/EOM received input from the Inter-American Commission on Human Rights regarding matters of freedom of expression, and it took note of the concerns conveyed by civil society organizations on this topic.

### **National Observation**

The OAS/EOM draws attention to the strong presence of a group of national observers and media outlets that played a critical role of citizen oversight on the day of the election. The Mission believes that while national observation adds protections and transparency to an electoral process, it does not replace the oversight tasks that naturally fall to political organizations, nor does it supplant the functions of the electoral management body. The EOM considers that national observation would be strengthened by greater diversity in the groups that carry out this task.

The Corporación Participación Ciudadana published reports that addressed substantive issues throughout the electoral process. However, the Mission noted that the media focus was on the results of the organization’s quick count –which were not released- rather than on the substantive reports.

In this regard, the OAS/EOM considers that the public handling of the information obtained by Participación Ciudadana’s quick count, far from adding certainty to the process, created uncertainty. The use of terms such as “technical tie” is not only inexact, but is a political statement. For future electoral processes, the Mission believes that any organization that generates and publicizes quick-count results should govern itself by the standards of neutrality and transparency, publishing exact results from statistical samples and explaining the margin of error.

## **Gender Equality**

Ecuador has been a pioneer in the region in the recognition of women’s rights. It was the first Latin American country to legally grant women’s suffrage, in 1929 (though not the first in which it was in effect); one of the first to institute a quota law; and the first country to incorporate parity into the constitution,<sup>10</sup> giving it one of the most advanced body of laws in Latin America on women’s political rights. Currently, with women holding 37.9 percent of National Assembly seats, Ecuador ranks 5<sup>th</sup> among the OAS member countries and 20<sup>th</sup> in the world for having the most women legislators.

For the principle of equality of women and men and the principle of parity to translate into real and effective possibilities for women to have equal representation in the legislative assembly, the Mission—reiterating what the OAS/EOM said in 2013—recommends extending parity to the top of the candidate lists (a measure known in the region as horizontal parity). This measure should help to overcome the gap between the numbers of women candidates and women elected to office, improving conditions to surpass the goal of 40 percent of elected offices held by women.

Under the legislative framework for parity, the rules by which women are incorporated into political office have been strengthened, so that currently the main challenges have to do with the conditions in which women participate in the political sphere. The Mission recommends establishing a legal obligation for political organizations to allocate a percentage of the public financing they receive to strengthen women’s leadership. This measure could be adopted in the framework of the permanent fund for political organizations.

In addition, the OAS/EOM recommends adopting legislative measures to prevent, punish, and eradicate political violence against women, in accordance with the obligations established in the Convention of Belém do Pará and in the Declaration on Political Harassment and Violence against Women.

## **Electoral Justice**

The Code of Democracy establishes administrative remedies before the National Electoral Council (CNE) and judicial remedies before the Election Disputes Tribunal (TCE). Article 269, subsection 12, determines that any CNE decision may be challenged before the TCE, through an appeal procedure.

In this regard, even though all political organizations had the right “to request the correction of, object to, or challenge the resolutions of the Electoral Management Bodies,”<sup>11</sup> the OAS/EOM notes that in many cases the complaints—widely disseminated in the media—were not taken to the TCE. The Mission

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<sup>10</sup> Resolution PLE-CNE-1-14-2-2014

<sup>11</sup> Code of Democracy, Art. 239

reiterates the importance that election-related problems and conflicts be resolved through the judicial process.

On the other hand, the OAS/EOM observed that on repeated occasions, the cases that reached the TCE were archived for failure to meet deadlines, lack of documents, or other matters of form. The Mission considers that for this venue to be better used in future electoral processes, it would be advisable to strengthen the Election Disputes Tribunal, providing it with additional resources that would allow it to offer training in matters related to admissibility and legal arguments for the political organizations' legal representatives.

### **Legal Framework**

The Organic Law on Elections and Political Organizations of the Republic of Ecuador lays out principles, rights, and guarantees as broad guidelines; nevertheless, this could be insufficient when it comes to regulating operational aspects of elections. The CNE issued around 27 regulations and instructions that were applied to this electoral process, to address procedural loopholes or lack of clarity.

The OAS/EOM observed that the CNE is trying to make electoral practices more effective and standardize procedures, for example by having a single training manual. Along these lines, the Mission recommends issuing implementing regulations for the protocols established for public hearings, vote counts, recounts, and release of results, as well as the distribution and return of materials.

During the stage of appealing the announced results, the Mission observed that the political organizations tended to identify and interpret the loopholes in the code, claiming on many occasions that there were "flawed procedures" and defects of form. Beyond anyone's arguments and intentions, the 2017 electoral process put the Code of Democracy to the test and opens a door of opportunity to evaluate potential reforms needed for future elections.

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