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**REPORT**  
**ELECTORAL OBSERVATION MISSION**

Observation of the Independent Electoral Evaluation and Verification Commission (CIEVE)<sup>1</sup>  
Republic of Haiti

**I. Deployment of the Electoral Observation Mission (OAS/EOM)**

Since June 2015, and at the invitation of the Government of Haiti, the Department of Electoral Cooperation and Observation (DECO) of the General Secretariat of the OAS has maintained a continual presence in the country in order to directly observe the electoral process. Three Electoral Observation Missions (EOMs) have been deployed, with a total of 274 observers of 27 nationalities deployed in all departments. The Chiefs of Mission, Deputy Chief, and the director of the DECO have traveled to Haiti on numerous occasions to hold high-level meetings with electoral and government authorities, political players, civil society representatives, and members of the international community.

During the August 9, 2015, legislative elections, OAS observers were present at 171 polling stations. Multiple incidents of violence took place over the course of the day, forcing the Provisional Electoral Council (CEP) to close some polling stations and the Mission to withdraw seven observers who were unable to complete their work. However, these incidents were not widespread and did not affect the overall process.

After the election, the OAS/EOM released a preliminary report at a press conference in Port-au-Prince and sent the CEP a list of recommendations to make improvements for the elections scheduled for October and December. The Mission lamented the low level of participation in the elections (less than 20 percent), and issued several appeals to the Haitian people to participate in their elections in greater numbers.

After the polls closed, the ballot was declared void in 25 electoral districts, affecting 6 seats in the Senate and 25 in the Chamber of Deputies, as more than 30 percent of the returns for the districts concerned failed to reach the Vote Tabulation Center.

As scheduled in the electoral calendar, the second round of the legislative elections, the municipal elections, and the first round of the presidential elections were held on October 25. The OAS deployed 123 observers, who were present from the time the polls opened until the votes were counted in all 10

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<sup>1</sup> Report presented by the OAS/EOM on August 1, 2016

of the country's departments, and visited a total of 487 polling stations. The EOM reported that there were fewer incidents than on August 9, as well as increased voter turnout, albeit less than 30%.

The day after the elections, the Chief of Mission presented a report with preliminary observations and recommendations at a press conference. The Mission highlighted the high number of political party representatives who had been present at the polling places, and noted that the CEP had distributed more than 900,000 accreditation passes. Furthermore, the observers reported that the polling stations were very crowded, which made it difficult to ensure ballot secrecy. The OAS/EOM issued a number of recommendations to the CEP with a view to improving conditions for the second round of presidential elections, scheduled for December 27.

After the elections, some political parties alleged fraud and inequality in the race. They called for the elections to be declared void and the establishment of an independent evaluation commission. To address those demands, the CEP established an internal committee, made up of four of its members, to receive and examine complaints. The committee received 162 complaints of electoral offences, of which 43 were forwarded to the Vote Counting Center for verification. The political actors were not satisfied with the committee's conclusions.

On November 5, 11 days after the election, the CEP published the preliminary results of the presidential elections, which placed Jovenel Moise, the ruling PHTK party's candidate, in first place with 32.81% of the vote, followed by Jude Celestin, the Lapeh candidate, in second place with 25.27%. Moise Jean-Charles, of Pitit Desallines, came in third place with 14.27%, and Maryse Narcisse of Lavalas came in fourth with 7%. All of the other candidates obtained less than 5% of the vote. Since none of the candidates had obtained 50%+1 of the vote, it was decided, in accordance with current law, that a second round of presidential elections would be held.

It bears noting that the results published by the CEP coincided with those of the statistical sample taken by the OAS observers.

Since the official results were repeatedly questioned, the Mission performed three additional statistical cross-comparisons, taking into account the official returns and the incident reports submitted by our observers, and eliminating discrepancies between the Mission's data and the official results. None of the cross-comparisons yielded substantially different results, and the order of the first four places remained unchanged.

Nevertheless, the Mission acknowledged that there had been significant organizational shortcomings in the October 25 election, including poorly trained polling station staff, inadequate conditions for ensuring ballot secrecy, and problems with the use of the indelible ink to identify individuals who had already voted.

In addition, there was evidence of vote buying and voter substitution, as well as excessive numbers of political party representatives who were authorized to vote at polling places other than those where they were registered. This irregularity made it difficult to control how many times these party representatives voted. The EOM did not have data on how many of the 900,000 party representatives turned out to vote, how many did in fact do so, or where they did so.

Neither Jude Celestin nor seven other presidential candidates accepted the results of the presidential election, and they joined together to form a coalition known as the G8. However, only two presidential candidates brought their complaints to the National Office of Electoral Disputes (BCEN – *Bureau du Contentieux Electoral National*): Maryse Narcisse of the Lavalas party and Vilaire Cluny Duroseu of the MEKSEPA party. On November 21, the BCEN analyzed 78 randomly selected electoral returns in the presence of the disputing parties. As reflected in the BCEN’s November 25, 2015, decision, this analysis made it possible to detect what were called “simple irregularities and fraudulent irregularities.” Of the 78 returns, 26 were eliminated from the final count. For the other 52 returns, the votes benefiting the candidate who had obtained the largest number of votes were discarded. The BCEN made these decisions because it had detected fraudulent irregularities.

The Lavalas party argued that the entire sample analyzed by the BCEN was affected by irregularities, and accordingly, that this would justify an annulment of the elections, or, at a minimum, the exclusion of candidate Jovenel Moise. The BCEN denied both requests, the first due to a lack of jurisdiction and the second on grounds that Jovenel Moise “was not the only beneficiary of the fraud.”

The G8 once again called for an independent electoral evaluation commission to be set up. Several weeks later, on December 16, the President of Haiti, Michel Martelly, decided to establish such a commission, and it was installed on December 22. The day before the installation, the CEP announced that the elections set for December 27 would be postponed, but did not announce an alternative date.

The Mission was invited to form part of the so-called Independent Electoral Evaluation Commission (CEEI), but on the principle that national actors should not be replaced and with the aim of preserving the OAS/EOM impartiality and neutrality, it was decided that the EOM would only observe the commission’s work. Although the independent commission had little time to perform its task and its members lacked technical expertise in electoral matters, it did find irregularities in the October 25 process and recommended that a number of measures be immediately implemented with a view to the second round of presidential elections.

On January 1, 2016 prior to the publication of the commission’s report, President Martelly announced that the elections would be held on January 17. However, the CEP announced that for technical reasons it would be impossible to organize the elections in time for that date. On January 6, the President of the Republic thus issued a decree inviting the population to go to the polls on January 24. The president also announced that the presidential elections would be held separately from the local ones, in keeping with a recommendation made repeatedly by the EOM.

Despite the concessions won, such as the establishment of an independent commission, the date change, and the separation of the local elections, as well as a number of measures adopted by the CEP to improve the process, candidate Jude Celestin of the Lapeh party made his participation in the second round conditional on further demands being met. He insisted on the resignation of all members of the CEP, 30 more days to campaign, and the election not being held while President Martelly was still in office. Although he publicly stated that he would not stand in the second round, at no point did he formally withdraw his candidacy.

On January 11, the senators and deputies elected in the polls held on August 9 and October 25 took office. It should be noted that these legislators came from both the ruling and opposition parties.

The new Senate passed a non-binding resolution requesting the CEP to postpone the elections and investigate the irregularities found by the independent commission. Civil society organizations, the Catholic Church, the Protestant Church, domestic electoral observation groups, and human rights organizations all progressively backed this position. Meanwhile, the CEP moved forward with its preparations despite two of its members resigning and two others refusing to work on organizing the elections without formally submitting their resignations.

After these four original members stepped down from their positions in the context of accusations of corruption, bias, and incompetence, the CEP, initially a nine-member body, was left with only five active members. This undermined the institution's credibility as an electoral arbiter.

On January 18, candidate Jude Celestin confirmed in a televised address that he would not take part in the second round of the presidential elections. Against this backdrop, the EOM urged the political actors to hold a dialogue in order to find a solution to the political impasse. It also reiterated the importance of improving conditions to ensure a competitive process, bearing in mind that Article 3 of the Inter-American Democratic Charter establishes that access to power should be in accordance with the rule of law and the periodic holding of free, fair elections based on secret balloting and universal suffrage.

With the political impasse, violence escalated, leading the CEP to announce on January 22 that it was unable to guarantee the elections and to ask the President of the Republic to postpone them. On January 28, the CEP fully dissolved with the resignation of its president, Pierre-Louis Opont, following that of many of its members in the preceding weeks.

A special meeting of the OAS Permanent Council was convened on January 27, 2016, at the request of the then-president of Haiti, Michel Martelly, who asked Secretary General Luis Almagro to send a special mission to the country. The mission's mandate was to assess the situation in Haiti by engaging in dialogue with all of the relevant parties, in order to inform the Permanent Council thereof.

The Mission was led by Ambassador Ronald Sanders, Permanent Representative of Antigua and Barbuda to the OAS. It also included Gabriel Bidegain, Special Adviser to the Secretary General; Ambassador Sonia Johnny, former Permanent Representative of Saint Lucia to the OAS; Steven Griner, Interim Director of the Department for Sustainable Democracy and Special Missions; Frederic Bolduc, Special Representative of the Secretary General in Haiti; and Paul Spencer, Special Adviser in the Secretariat for Strengthening Democracy.

Given that it would have been impossible to transfer authority to a president-elect on February 7 as established in the Constitution, on February 5 President Martelly had to sign an agreement with the presidents of the Senate and the Chamber of Deputies, Jocelerme Privert and Chozler Chancy, respectively, for a transitional government. The OAS Special Mission was honored to be invited to attend the final negotiations and the official signing of the agreement in the Presidential Palace around

midnight on February 5. This invitation came out of the trust built with the interested parties during a week of intense negotiations.

On February 14, 2016, Jocelerme Privert was sworn in as Interim President of the Republic of Haiti for a period of 120 days, to end on June 13.

Many issues ensued in terms of appointing a prime minister, and the first candidate Fritz Alphonse did not obtain the necessary votes in the Parliament. On March 24, Enex Jean Charles was finally elected by the National Assembly as Prime Minister of Haiti, and his cabinet was also chosen. Meanwhile, the office of the interim president, with the support of civil society representatives, worked on appointing a new CEP, whose new members were sworn in on March 30, 2016.

In view of the political instability caused by the suspension of the second round of the presidential elections and the establishment of an interim president, it was agreed that a new independent commission to analyze and verify the results of the October 25, 2015, electoral process, would be formed.

## **II. The Independent Electoral Evaluation and Verification Commission (CIEVE)**

On April 28, 2016, the Independent Electoral Evaluation and Verification Commission (CIEVE) was established by presidential decree<sup>2</sup> with a mandate to evaluate, verify, and refine the technical processes carried out in the first round of the presidential elections held on October 25, 2015. The Commission's terms of reference and operation, as well as its duration (one month from the start of activities), were stipulated in the decree.

The Independent Electoral Evaluation and Verification Commission was made up of five members: its president, Francois Benoit, spokesperson Gédéon Jean, statistician Erick Gaillard, and members Marc Donald Jean and Pierre Wilfried Sanon.

The CIEVE accepted its mandate with the following four objectives:

- 1.- To evaluate the voting process through an analysis of the electoral register, the list of voters registered at each polling station, the tally sheets, the electoral returns, the register of political party representatives (*mandataires*) and observers, and the documentation on incidents and complaints filed.
- 2.- To review the decisions made by the office of electoral disputes of the Provisional Electoral Council (CEP) against which there had been documented allegations and complaints, and to propose revisions of those decisions if warranted under the legal precepts in effect.
- 3.- To verify that the electoral process and counting of votes complied with the provisions of the March 2015 Electoral Decree.

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<sup>2</sup> Published in *Le Moniteur* No. 77

4.- To recommend appropriate corrective measures to the executive branch and the CEP with a view towards re-establishing confidence in the electoral process and ensuring that the results are trustworthy.

The CIEVE began operations on May 11 with the installation of 70 operators who worked day and night shifts at the Tabulation Center (CTV). An OAS team, made up of four experts on electoral processes from the DECO/OAS, observed the commission's work.

The CIEVE worked with a statistical sample of 3,235 returns, which represented 25 percent of all of the returns counted in the October 25 elections. The sample was randomly selected by members of the CIEVE in the presence of political party representatives and international observers.

The Commission's work centered on a qualitative review of the returns and on verifying the voters' national identity cards (*Carte d'Identification Nationale* (CIN)). The CIEVE also reviewed 143 decisions made by the National Office of Electoral Disputes (BCEN) of the CEP against which allegations or complaints had been documented, allotting the candidates who wished to appeal them a period of four days in which to do so.

On May 30, 2016, having completed the technical and legal analyses aimed at verifying the aforementioned statistical sample, the CIEVE presented its final report, in which it recommended that the presidential election process be restarted with the repetition of the first round and a potential second round. At the same time, it suggested that measures be taken to guarantee Haitians their right to vote and to improve the electoral process. Although it was not explicitly stated, the Mission understands this decision to entail the formal annulment of the presidential election held this past October 25 rather than a continuation thereof. The EOM emphasizes that the results of other elections held the same day were not annulled, even though the same issues occurred with those elections.

#### **The CIEVE report: observations and comments**

The CIEVE report bases the need to repeat the presidential elections on three arguments: 1. the proportion of "untraceable votes" (*votes irretraçables*) among the total number of valid votes; 2. the validity of voter identity cards; 3. the review of the complaints before the National Office of Electoral Disputes (BCEN).

##### *a) Proportion of untraceable votes among the total number of valid votes*

In its report, the CIEVE indicates that during the verification of the voting process, issues were found with the custody of so-called "sensitive material."<sup>3</sup> Although the report indicates that the operational procedures instituted by the CEP (which it did not name specifically) were in line with international practices, it acknowledges that the chain of custody of the electoral material was broken due to the failure to control the documents that made it possible for political party representatives and national observers to vote at a polling station other than the one where they were registered.

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<sup>3</sup> Term introduced and defined by the CIEVE as opposed to "electoral material," the term established in the electoral law.

According to Articles 156 and 222.1 of the Electoral Decree, party representatives and national observers can vote at the polling station to which they are assigned on election day, even though they might not be on the list of voters registered for that station. For the October 25 elections, a list of representatives, commonly known as the “*liste de carence*,” was to be drawn up for these specific cases. Rather than creating trust in the process, this document led to many questions being raised about party representative voting.

In its verification work, the CIEVE observed that this document was not found in 96% of the electoral packets analyzed. According to the Commission’s calculations, this would affect the validity of 448,000 votes. The report refers to these votes as “untraceable votes” (*votes irretraçables*), and they represent 29% of the 1,560,631 valid votes considered in the returns in the sample. The CIEVE indicated in its report that the missing “*liste de carence*” could be attributed to the election staff’s “incompetence, negligence, or lack of professionalism” and “potentially to fraud.”<sup>4</sup>

Although the OAS/EOM was concerned to see that so many documents were missing, it considers it noteworthy that this is one of the arguments used by the CIEVE as grounds for recommending the annulment of the entire electoral process, particularly considering that the report does not specify how many electoral returns would be annulled due to these “untraceable votes.”

The Mission was able to confirm that the Haitian Electoral Decree does not consider the list of representatives to be part of the “electoral material” that must be included in the electoral packet to be sent to the CEP (Article 167.3), nor does it consider it a document whose lack could be grounds for annulling the return (Article 171.1). In fact, neither of these two articles refers to this document.

The OAS/EOM thus feels that the CIEVE interpreted the Electoral Decree at its own discretion in order to formalize the use of a document that the law does not specifically require. This is reflected in the CIEVE report, where it sets forth that the commission will “analyze the results of the entire sample without considering whether or not they were in compliance with the electoral decree.”<sup>5</sup>

On a more technical level, the OAS/EOM agrees with some of the observations made by the CIEVE in its report with regard to voting by political party representatives. During its observation of the first round of the presidential elections on October 25, 2015, the Mission found that the CEP did not implement a system to individually accredit each of the representatives. On the contrary, it granted an undetermined number of non-personalized accreditation passes to each political party, without controlling or registering them in any way. As was stated in the preliminary report, this technical-legal void led to questions about the figure of the political representative.

#### *b) Validity of the voters’ identity cards*

For each voter, the CIEVE verified whether the identification numbers entered by hand in the electoral register by the polling station workers matched the identification numbers previously included in the

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<sup>4</sup> *Rapport de la Commission Indépendante d’Évaluation et de Vérification Électorale. Élections de 2015*, p. 13

<sup>5</sup> *Rapport de la Commission Indépendante d’Évaluation et de Vérification Électorale. Élections de 2015*, p. 11

register in bar code format. According to the report, inconsistencies were found in 16.2% of cases, leading the CIEVE to conclude that 16.2% of the ID cards (CIN) in the analyzed sample were “false.”

Although the number of inconsistencies found is worrisome, the methodology used to reach this conclusion raises certain questions.

While for other analyses the CIEVE worked with the electoral material from the entire sample (3,325 returns), for the national identity card verification, it only used the electoral material from 1,258 polling stations, without explaining in its report why it analyzed only a portion of the sample nor how it selected that portion. Furthermore, the Mission observed that the CIEVE did not perform a second collection of data from the sample in order to reduce the margin of human error in this exercise.

The Mission feels that it would have been a good idea for the CIEVE to go one more step past merely indicating the percentage of identity cards that could not be verified as authentic, and to calculate the stratified prevalence of those cards to identify if, for example, they were centered in one region of the country or corresponded only to certain polling stations. Such a study would have yielded valuable information that could be used in the future to improve electoral processes in Haiti.

The CIEVE considers the weak points in the chain of oversight of the identity cards—that is to say, the process by which they are issued, stored, transferred, and controlled—to be of concern, and holds both the National Identification Office (ONI) and the CEP responsible. The CIEVE report calls attention to the failure to keep the electoral register updated, the use of deceased persons’ cards, and the existence of undistributed active cards. According to the CIEVE, all of this has led to the “sale and purchase of electoral cards” becoming a common practice in Haitian elections, in which, it warns, there is a risk that such cards will be used by individuals who “*would pay for the luxury of voting more than once.*”<sup>6</sup>

*c) Review of administrative remedies before the National Office of Electoral Disputes (BCEN)*

Under its mandate, the CIEVE, an ad hoc commission, had the power to evaluate and revise judicial decisions that had already been handed down (*res iudicata*) by the National Office of Electoral Disputes (BCEN), Haiti’s highest instance for disputes over electoral matters.

The CIEVE reviewed a total of 143 complaints. In some cases, it recommended reopening the judicial process on the grounds of “legal precepts in force” that were not specified or explained in its report. It should be noted that, unfortunately, the CIEVE authorities did not allow OAS/EOM experts to observe this phase, and consequently, the EOM was unable to gather specific information on the legal instruments and analysis methodology used to provide grounds for the decisions.

The Mission feels that giving the CIEVE the power to revise substantiated judicial decisions could undermine the independence of Haiti’s judicial institutions and weaken the public administration’s overall jurisdiction over administrative disputes.

### **III. Roadmap – General recommendations**

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<sup>6</sup> *Rapport de la Commission Indépendante d’Évaluation et de Vérification Électorale. Elections de 2015*, p. 31

Having identified a number of shortcomings in the various electoral processes observed from August 2015 to date, and having analyzed the CIEVE's conclusions, the OAS/EOM hereby proposes the implementation of a roadmap with the fundamental operations required for improving electoral processes in Haiti.

The recommendations presented in this section aim to help strengthen the institutional system, build the capacity of the electoral bodies, and regulate certain aspects and mechanisms of the process that have been cause for controversy in past elections. These recommendations are set forth proactively, so as to support Haitian institutions in establishing the minimum conditions necessary for ensuring that elections are held periodically in the country.

a) Regulate the figure and role of political party representatives

It is clear that many of the problems with the 2015-2016 Haitian electoral process stemmed from the figure of the party representative. The OAS/EOM calls for regulation of the role and conduct of these representatives in the electoral process.

In the short term, the Mission suggests that the CEP, through an administrative order, require party representatives to vote at the polling station where they are registered. If they are indeed allowed to vote at the station assigned to them on election day, as occurred on October 25, the EOM suggests considering the implementation of an observed voting system that would make it possible to separate out their votes and better control them. The EOM recommends implementing a system to individually accredit the party representatives so as to make the accreditation passes nontransferable, and to generate a record of the individuals who exercise this role during the elections.

The Mission also calls on the various players in the process to consider revising the January 16, 2014, Law of Political Parties to toughen the requirements for forming political parties and for registering candidates for public office. Currently, the law establishes a minimum of 20 people in order to form a party (Article 8, section A), but it does not set forth any other requirements for political participation. The Mission, taking into account international standards, suggests that a minimum of at least one percent of the electoral register be established as the threshold for forming a party.

For the October 25, 2015, elections, this legal flexibility resulted in the registration of 128 parties and political groups, 54 presidential candidates, 2,037 candidates for legislative elections, and more than 40,000 candidates for municipal assemblies and local councils. The high number of political parties and candidates increased the number of party representatives, with all of the consequent ramifications.

b) Renewal of national identity cards

The EOM was aware that the National Identification Office (ONI) kept, at its regional offices, identity cards that had been activated but never picked up by the citizens they belonged to and that, according

to the CIEVE, were at risk of being used by individuals who “*would pay for the luxury of voting more than once.*”<sup>7</sup>

For the medium and long term, the EOM recommends reactivating identity cards through a fingerprint capture program in national agencies and banks in conjunction with the nationwide collection of identity cards that have not been activated, so that they can be stored appropriately, or where impossible, destroyed. It must therefore be taken into account that the current identity cards are set to expire in 2017. Accordingly, the OAS/EOM calls for appropriate plans to be made as soon as possible in order to guarantee that the identity cards are properly updated or substituted starting in 2017, and that the citizens’ rights to legal identification and to be included in State records are not infringed.

The updating of the identity cards in circulation will translate directly into an updating of the Haitian Office of Vital Records. This will ensure that the information contained in the CEP’s General Electoral List (LEG) or electoral register is up to date for future elections, undoubtedly leading to increased participation in the elections and thereby affording them greater legitimacy.

c) Establishment of a permanent electoral body and legislation

Since 1987, Haitian legislation has envisaged the Electoral Council as a temporary administrative body. This means that for each electoral process, its mandate must be enacted, its members appointed, and its operations planned in accordance with budgetary restrictions. The EOM feels that the temporary nature of this electoral body limits the efficiency and administrative efficacy of the electoral processes it conducts.

Evidence of this is the fact that from August of 2015 to date, two different provisional electoral councils, made up of different members, have been charged with organizing the presidential election process. In that time, two verification commissions were created to assess the electoral process, and both have found shortcomings. The second recommended restarting the electoral process again from zero. The Mission is concerned that to date the electoral process had not been brought to completion and that no administrators have been held responsible, which can in part be explained by the fact that the CEP that organized the elections is no longer in existence. This glaringly contravenes the general principles of the continuity and responsibility of public administration.

The EOM calls for taking the budgetary and administrative precautions necessary in order to implement a progressive policy that will establish a permanent electoral body, so as to guarantee the consolidation of processes like voter registration, the registration of political organizations and candidates, election logistics, the act of voting, the counting and announcement of the results, electoral education, campaign finance monitoring, and the resolution of electoral disputes. These processes can be strengthened over the medium and long term through the implementation of collaborative projects on electoral matters.

Along these lines, the EOM feels that an important step was taken with the presidential decree published on May 27, 2016, whereby it was decided for the first time to grant the CEP a consecutive mandate to conclude the presidential elections begun in 2015 and to organize the upcoming elections

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<sup>7</sup> *Rapport de la Commission Indépendante d’Évaluation et de Vérification Électorale. Elections de 2015, p. 31*

for one-third of the Senate. Traditionally, the CEPs only had a mandate to organize one sole election before they were dissolved.

The EOM understands that in the year 2014, in view of the parliament's issues in agreeing to vote the electoral bill and of the need to establish a legal framework, President Martelly enacted, in March 2015, the electoral legislation that currently governs the electoral process in Haiti, by executive decree.

The forming of a new legislature in the Haitian parliament in January of 2016 represents an opportunity to pass a new electoral law that would replace the current decree and afford more legal certainty with an eye to future electoral processes.

The Mission calls for this revision of the legislation to be undertaken as soon as possible, and for it to formulate rules of procedure geared towards clearly establishing the procedures, methodologies, and deadlines to which the electoral body must adhere before, during, and after the electoral process, with the aim of mitigating the electoral body's tendency to improvise at certain stages thereof.

The EOM also recommends that a permanent and lasting mechanism be considered for negotiation and dialogue with political parties, so as to promote the inclusion of political players in electoral processes.

d) Creation of permanent review bodies

The operation of the National Office of Electoral Disputes (BCEN) and the appointment of its members fall under the same mandate that creates and regulates the Provisional Electoral Council (CEP). The BCEN forms part of the CEP, which implies that the electoral body has two responsibilities: organizing elections and settling administrative dispute cases. Given the CEP's structure, its lack of continuity also makes it more difficult for the BCEN to operate effectively. The Mission feels that it has become necessary to implement budgetary and administrative measures to establish a permanent and independent electoral dispute authority that will handle the functions of the current BCEN.

In addition, it recommends that a professional training program specializing on electoral matters be held for the attorneys who make up this new body, with a view to them being able to provide more precise legal grounds for their decisions and thereby minimize the number of questions raised about those decisions.

The Mission also considers it important to evaluate the possibility of creating an appellate body other than the Supreme Court or *Cour de Cassation* that would, as the highest jurisdictional authority, hear appeals on the political rights of citizens, and whose decisions would be binding for electoral authorities.

Strong legal institutions would ensure that decisions made by the electoral authorities would not be reviewed by ad hoc commissions, a practice that infringes the principles that should govern electoral processes: certainty (adherence to pre-established regulations that are not modified once the election has started), legality (application of the regulations to specific cases by the authorities within the framework of the functions expressly allowed them), and finality (respect for the process start and end times established in the regulations). In addition, this practice suggests that contenders could win on the negotiating table what they did not win at the polls.

Verification commissions have become an instrument repeatedly used in Haiti to evaluate disputed elections. In the past five years, three verification commissions have been established: the Mission of Experts of the Organization of American States (December 2010), the Independent Electoral Evaluation Commission (CEEI) (December 2015) and the Independent Electoral Evaluation and Verification Commission (CIEVE) (April 2016). It is important to note that these commissions did not closely follow the course of the processes that they later analyzed, and that they were not always made up of technical electoral specialists.

The OAS/EOM observed significant discrepancies among the findings of the two commissions created to evaluate the electoral process at hand. Although they both studied the same elections, they used different methodologies and produced different results on the same issues. For example, in December the CEEI found 40% of the party representative voter registration lists, while in May the CIEVE found 3.6% of them.

Likewise, the CIEVE introduced two new terms, “sensitive material,” and “untraceable votes,” in order to provide grounds for the impact of its results. The CEEI did not include these terms, since they were not established in the electoral decree. Consequently, the grounds for the CEEI’s results were different.

#### **IV. Roadmap – specific recommendations**

The recommendations proposed in this section are operational in nature and are included as part of the support and cooperation that the OAS is offering to the Haitian authorities. These recommendations are designed to facilitate the holding of the presidential and legislative elections (pending legislative seats from the 2015 election and 1/3 of the Senate) within the 2016 electoral calendar, and to prevent repetition of the obstacles identified and described herein.

##### *Recommendations for the pre-electoral period*

- The OAS/EOM recommends that the CEP ensure timely and complete distribution of the electoral rolls. The Mission recommends that new lists be printed once the corrections have been made. It also suggests increasing the font size and printing copies to replace the lists that could be damaged or withdrawn.
- The Mission recommends that the CEP take the measures necessary to ensure that all polling station workers are fully trained days before the election. The OAS also recommends that checklists and visual elements (graphics, photos, pictograms, etc.) be used more often in the electoral staff instruction manuals. The Mission recommends that the CEP make these manuals (whether the printed or electronic version) available to the political parties. The Mission underscores the importance of distributing training kits on time to the electoral supervisors and of supporting them in training the polling station staff.
- The OAS/EOM recommends that the electoral authorities disseminate the information discussed at the CEP’s weekly meetings known as “*Table de Pilotage*.” Much of the information shared at these meetings is relevant for the local election authorities and political parties who do not attend them.

- Expedite the printing and distribution of the manuals and other documentation to bolster voters' civic education.
- Penalize the political parties and candidates implicated in acts of violence and intimidation, as a deterrent.
- Considering the many concerns brought about by the issuing of accreditation passes to political party representatives, the Mission recommends that the CEP establish a computerized registration procedure for political party representatives similar to the one proposed for registering candidates. Each party will have to provide the full name and identity numbers of each representative, as well as the polling station where the representatives are registered.
- The Mission suggests that the CEP adopt the following measures in order to prevent repetition of the challenges caused by the presence of political party representatives at the polling stations:
  - Issue a personal accreditation pass to each political representative that shows his full name, national identification (CIN) number, photograph, and the polling station where he is registered.
  - When it comes time to vote, each party representative must show the polling staff his accreditation pass and CIN. The polling station worker must verify that the documents match before allowing the representative to proceed to vote.
  - Authorize the political party representatives to observe the counting at the polling station where they are registered.
- The Mission recommends that the CEP establish a procedure for registering national observers similar to the one described above for political party representatives.
- It also recommends that the CEP adopt regulations for managing the national observers with the same parameters indicated above for political party representatives.

*Recommendations during election day*

- The OAS/EOM recommends that the CEP use tarps and tents (temporary shelters) in open spaces in order to maximize the use of space at the polling stations. This would provide larger areas for voting while at the same time protecting the electoral material and polling station workers.
- Limit, to the extent possible, "mega polling stations" and make efforts to set up new polling centers with the support of the Church, among others.
- The OAS/EOM recommends that the CEP bolster training for the electoral staff so that they can provide better instructions to voters on how to vote. The Mission also suggests that instructions be posted at the polling stations as well as inside the voting booths.

- Train polling station supervisors on how to inform voters of potential delays in the opening of the polls and of the progress in setting up the polls.
- Improve assistance for voters at the polling stations in order to facilitate the identification process there.
- Streamline the voting process to prevent crowds from accumulating at the polling stations.
- Considering the problems that resulted from the indelible ink used during the 2015 elections, and in order to bolster voter trust in the process, the Mission recommends that the CEP use a different type of indelible ink for future elections. Polling station staff must be instructed on using the ink if this change occurs.
- The OAS/EOM observed that the polling station staff did not see themselves as electoral authorities on election day and that they do not feel responsible for reporting irregularities at their polling stations. The Mission recommends that during the pre-election day training, these workers be instructed on how to identify irregularities and on the importance of noting them on the return.
- The statement of poll is an official public document produced by the polling station authorities; it must report all irregularities and complaints. Therefore, if these returns are not contested, their results must be considered valid. The EOM recommends establishing election day as the time at which objections are to be made, and consequently preventing the right to object from being used as a way to delay and obstruct the electoral process.
- The EOM recommends that the CEP institute an internal communication policy that will help establish a sole line of discourse, in order to avoid contradictions in the messages put out by the institution.
- The OAS/EOM recommends that the CEP implement a statistical-sample-based quick-count system as well as a system for transmitting preliminary election results, which would make it possible to inform the population of the results in a transparent, clear, and timely fashion. The OAS/EOM thus offers to train the CEP on designing and implementing a quick-count system and to use its good offices so that the Haitian electoral authorities can study, and eventually adopt, successful examples of rapid counting systems in other countries in the region. Furthermore, if the CEP decides to adopt these measures, the Mission feels that it would be important to authorize a national civil society organization to perform a rapid count on election day, making it possible to compare and validate the count performed by the CEP.

*Recommendations for the post-election period*

- The OAS/EOM recommends that the CEP/CTV intensify its efforts to include political parties in the different stages of the electoral process and to raise awareness among those parties of the importance of their presence throughout the process.
- The Mission recommends that the CEP adopt the necessary regulations for determining the methodology to be used for calculating the results, so as to allay any doubts about it.
- For the transparency of the electoral process, the Mission recommends that the CEP publish a daily report on the progress made on counting the results, on its website and in other media outlets, starting on the night of the election.
- The Mission also recommends that in its daily progress report the CEP divulge the total number of returns examined by the Vote Counting Center, computed by municipality and department.
- The Mission recommends that the CEP distribute, to all dispute court staff, an exhaustive collection of the law articles, regulations, and procedures that address the vote counting method, the criteria for admissibility of the returns, and the jurisdiction of the dispute bodies, in order to ensure that they have all of the information necessary to perform their work.

## **V. Final considerations**

The Mission wants to stress that bringing the electoral process to a close is everyone's responsibility, and that it is not just up to the electoral authority. A combined effort is required: from citizens, who must come out to vote massively according to their convictions and not due to external pressure; from candidates, who must work in the interest of the nation rather than in their own individual interest; and from the electoral authority, which must act transparently and professionally.

The structural and circumstantial recommendations presented herein are aimed at helping Haitians guarantee the minimal conditions for bringing the ongoing electoral process to a close and ensuring that their country will soon have a legitimately elected president.