



OAS Electoral Observation Mission presents its recommendations for the April 11 presidential runoff

The Electoral Observation Mission of the Organization of American States (EOM/OAS), headed by former Vice President of Panama Isabel de Saint Malo, deployed a technical team to Ecuador who arrived on January 14 to monitor the deployment of technology and the organization of the electoral process. Mission members remained in the country until the results of the presidential election were announced.

The OAS/EOM was composed of a total of 25¹ experts and observers representing 13 nationalities.² It included specialists in campaign finance, electoral justice, electoral organization, technology, and cybersecurity, along with experts in political participation of women and indigenous and afrodescendent peoples.

Because of the global health situation and the travel restrictions imposed, the OAS/EOM had to adapt its working methods, combining face-to-face and online meetings, as OAS missions have been doing since the outbreak of the pandemic. The Chief of Mission as well as the experts and observers were present in the provinces of El Oro, Guayas, Los Ríos, Manabí, and Pichincha.

In compliance with the government's requirements, all members of the Mission who traveled to Ecuador from abroad were tested for COVID-19 and certified virus-free prior to their arrival in the country. In addition, to protect the experts, observers, and actors with whom the Mission met, various precautionary measures were adopted, including the use of personal protective equipment, social distancing, and the disinfecting of surfaces before and after all face-to-face meetings.

Some members of the Mission worked remotely, through platforms that allowed them to dialogue with the main actors involved in the process. In order to collect data on how voting progressed in 23 of the country's provinces, the Mission deployed external information gatherers who collected quantitative data on the opening and closing of polling stations and on the events of election day.

During the week leading up to the elections, the Mission met with electoral authorities and government officials, presidential and vice-presidential candidates, and representatives of political organizations, civil society, academia, and the international community. These meetings allowed the OAS/EOM team to explore the technical matters involved in the preparations for the

The official language of [this report](#) is Spanish.

¹ Twelve women and thirteen men.

² Argentina, Brazil, Canada, Chile, Colombia, Mexico, Nicaragua, Panama, Paraguay, Peru, United States, Uruguay, and Venezuela.



elections and to gather the impressions of the different actors regarding the political context in which the process was unfolding.

PRE-ELECTORAL PHASE

Electoral reform

After the March 2019 local elections, civil society organizations, academia, analysts, the media, and political organizations worked for the adoption of a series of reforms to the organic electoral law, known as the “Code of Democracy.” The National Assembly passed a set of amendments to the law in December 2019, which came into force on February 3, 2020.³ Thus, the February 2021 elections were the first to be held under the new rules.

The main changes to the legislation included:

- The introduction of closed and blocked lists and the elimination of the open lists system.
- The replacement of the D’Hondt method for allocating seats in all collegiate bodies with the Webster method.
- The progressive adoption of horizontal parity.
- The inclusion of a quota for young people in candidates’ lists.
- The banning of gender-based political violence (now classified as a serious electoral violation) and the introduction of new sanctions in this regard.
- Changes to the regulation of party finance accountability and oversight mechanisms.

The OAS/EOM recognizes the efforts of the Republic of Ecuador to improve its electoral system. It is also pleased to note that some of these reforms were in line with recommendations made by previous OAS Missions.

Elections during a pandemic

The COVID-19 pandemic forced the CNE to redefine all the electoral process’s procedures and protocols to counter the risk of the coronavirus spreading among election officials and members of the public.⁴ The electoral management body designed and implemented a number of precautionary measures to significantly reduce the risks of contagion both in the run-up to the vote and on election day. The actions taken by the CNE included the following:

³ Organic law reforming the Organic Electoral Law. Supplement – Official Gazette No. 134.

⁴ Organization of American States, *A Guide to Organizing Elections in Times of Pandemic*, 2020.



- A protocol with guidelines, recommendations, and biosafety rules was developed, to be enforced before, during, and after the electoral process.
- A total of 611 new polling centers were added (17% more than in 2019), to reduce the number of voters at each and to allow for increased spacing between polling stations (JRV by its Spanish acronym).
- It was decided to allow people with health conditions and doctors' notes to be excused from voting.
- A virtual training platform was launched that allowed the people selected to serve as JRV members to acquire the know-how necessary to perform their duties without having to attend on-site courses. Data given to the Mission by the CNE indicate that 63% of trainees opted for the online training.⁵
- JRV members were provided with personal protective equipment, including facemasks, a visor, alcohol gel, and disinfectant wipes.
- It was agreed to allow people with expired identification cards to vote, in order to avoid unnecessary bureaucratic formalities during the pandemic period.
- Measures were taken to facilitate the replacement of identity cards.
- Plastic-coated materials were used to manufacture the polling booth screens, so they could be disinfected properly.
- Measures for social distancing during both the voting and counting phases were agreed upon.
- The position of “biosafety assistant” was created to supervise on-site compliance with the health measures.
- The street vendors who regularly gather outside polling stations were not permitted to do so.

The Mission applauds the efforts made by the National Electoral Council (CNE) to adapt the electoral process to the current health context and the initiatives adopted to allow citizens to exercise their voting rights and duties in the safest possible way. At the same time, it notes that institutions other than the CNE communicated measures in advance, such as the need for JRV members to have a negative COVID-19 test in order to carry out with their duties on election day. A number of different actors with whom the Mission met spoke of their lack of understanding and confusion about the measures due to the messages conveyed by the authorities.

The OAS/EOM also noted that some of the provisions announced prior to the election—such as the requirement for representatives of political organizations to present negative PCR tests in

⁵ Figures provided by the CNE, updated as of February 5, 2021.



order to enter polling stations—were later reversed by the CNE. The Mission believes this was a correct decision, given that it allowed the political parties to conduct oversight of the election.

Drills and technical tests

In the pre-electoral phase, OAS specialists participated in the two drills⁶ and numerous tests of the Electoral System for the Transmission and Publication of Tally Sheets and Results (SETPAR by its Spanish acronym). In addition, EOM specialists conducted a detailed cybersecurity analysis of the National Electoral Council's administrative and electoral IT infrastructure.

The EOM acknowledges the CNE's efforts to include numerous technical tests in the electoral calendar, as well as to identify areas for improvement in a timely manner. This allowed the technicians to progressively fine-tune their electoral systems.

In the spirit of contributing to the improvement of the process's technical aspects, the Mission provided the electoral authority with recommendations on a regular basis. The OAS/EOM applauds the willingness of the CNE and its team to consider those recommendations and the implementation of the vast majority of them.

Budget

For the organization of these elections, the CNE's initially approved⁷ a budget of US\$114,317,185 on August 27, 2020. However, due to the country's economic and health situation, and in line with the austerity measures, the Council reduced its budget to US\$91,060,644.⁸ Finally, the amount approved by the Ministry of Economy and Finance was US\$87,439,214.⁹ These adjustments represented a cut of approximately 23% in the funding initially earmarked and a difference of more than 30% compared to the amount approved for the 2017 elections.¹⁰

At the Mission's various meetings with CNE's authorities and personnel, they stated that the lack of financial resources had affected the operations of its different areas. The OAS/EOM was also told that in addition to being scarce, the funds were also delivered late, which on occasions caused delays in the organization of certain stages of the electoral process.

Registration and confirmation of candidacies

During the pre-electoral stage, the Mission noted some uncertainty regarding the political organizations that would be eligible to participate in the process, as well as about the candidates

⁶ Meetings held on January 17 and 24, 2021.

⁷ By means of Resolution PLE-CNE-1-27-2020.

⁸ By means of Resolution PLE-CNE-2-11-1-2020.

⁹ Ministry of Finance, Document No. MEF-VGF-2020-1207-O.

¹⁰ The 2017 approved budget was US\$ 131,569,931.



who would be ruled eligible to stand in both the presidential election and the election to the Andean Parliament.

On one hand, the challenges filed against the presidential ticket of the *Alianza Unión por la Esperanza* (UNES) delayed its final approval until the beginning of December 2020, only a few days before the start of the electoral campaign.¹¹ The candidates told the Mission that this situation put them at a disadvantage vis-à-vis the other contenders whose candidacies had already been confirmed. In addition, this situation caused delays in administrative procedures, such as obtaining a single taxpayer registration (RUC) for their financial manager, a necessary formality in raising funds for the campaign.

In addition, the delay in finalizing the candidacies was also due to a review of the administrative actions carried out for the registration of the political organizations *Fuerza Compromiso Social* (FCS), *Libertad es Pueblo*, *Juntos Podemos*, and *Justicia Social*. That process was carried out by the National Electoral Council on the instructions of the Office of the Comptroller General of the State (CGE). The review led, initially, to a temporary suspension of the four organizations' activities and subsequently to their cancellation, but those measures were subsequently overturned by the Electoral Disputes Tribunal (TCE by its Spanish acronym).

The difference in opinions between the Council and the Tribunal, and the various appeals subsequently filed against the review process, meant that there was no certainty as to the final eligible candidates in the election until campaigning had almost finished. That lack of timeliness had an impact on the organization of the process, delaying the printing of ballots and even leading some political players to question the holding of the election on the scheduled date.

On June 22, 2020, the *Fuerza Compromiso Social* movement filed a complaint with the TCE in which it accused the Comptroller General of the State and the National Internal Auditing Director of the National Electoral Council of electoral offenses.¹² The Court admitted the case on June 27 and proceeded to request documentation and to summon the defendants to a hearing. Then, on July 8, the Comptroller General of the State filed an action for a ruling on jurisdiction with the Constitutional Court. The Mission learned that the case was admitted on July 18, 2020,¹³ and that no action has been taken since August 2020. With the admission of the jurisdiction dispute, the TCE suspended the proceedings it had initiated.

Believing that the CNE had failed to comply with the decisions adopted by the TCE in the aforementioned case, the *Justicia Social* movement filed a complaint with the TCE requesting the dismissal of four of the CNE's members on December 15, 2020.¹⁴ Accordingly, on January 6, 2021,

¹¹ According to the election calendar, campaigning began on December 31, 2020.

¹² [Case 012-2020-TCE](#).

¹³ [Admissions Chamber - Case 01-20-DC](#).

¹⁴ On the same date, the Attorney General's Office (FGE) reported that in order to guarantee the right to due process and the independence of the justice system, it had consulted the National Court of Justice on November 27 regarding



the Tribunal issued a first-instance judgment sanctioning four of the five councilors for serious offenses, with a fine, dismissal, and the suspension of their political rights.¹⁵ An appeal was presented against that decision, which is pending final resolution. The Mission also learned of a precautionary measure issued by a judge with jurisdiction over criminal matters in Guayaquil on January 23, 2021, ordering the TCE to refrain from compliance with the sanction dismissing the CNE councilors.

Based on its observations, the Mission underscores the importance of having an electoral calendar that allows for certainty, sufficiently in advance of the election, regarding the political organizations that will participate in the contest and the candidates who will ultimately stand.¹⁶

The Mission noted that a few days before election day, the Attorney General's Office requested, *ex officio*, information reported in a foreign magazine regarding allegations of illicit financing by one of the presidential candidates.

The Mission believes that during an electoral process, it falls to the electoral authorities to assume responsibilities related to the election (registration and cancellation of political organizations, registration of candidacies, challenges, financing, and so on). The Mission notes with concern attempts by other public agencies or officials to assume functions that could affect the powers of the electoral authorities and the election itself, thereby leading to interference in the electoral process, which would also be in breach of the country's own regulations.¹⁷ Likewise, the Mission believes that in order to guarantee the proper conduct of the electoral process and the various stages it entails, the competent institutions for resolving electoral matters (or matters that could impact the election) must assume their duty and make timely and clear statements.

In that context, the Mission underscores the importance of electoral authorities being able to carry out their functions and duties without pressure or fear of reprisals. The autonomy of the electoral agencies may be affected by the decisions of entities external to the electoral system

"whether it is appropriate to initiate a preliminary investigation against the highest authorities of the National Electoral Council for acts committed within the exercise of their functions and in the midst of an electoral process."

¹⁵ [Case 153-2020-TCE](#). On December 19, 2020, the TCE plenary resolved to bring the case to the attention of the Attorney General's Office for alleged indications of responsibility on the part of the four CNE councilors.

¹⁶ Particularly relevant in this regard is the opinion expressed by the TCE itself ([Case No.080-2020-TCE](#)) urging the CNE to include in the regulations a deadline for the cancellation or extinction of political organizations of at least ninety days before the announcement of the electoral process, so that they can prepare their processes of internal democracy and participation.

¹⁷ Article. 16. "No authority unrelated to the organization of the election may intervene directly or indirectly in the development of electoral processes or in the functioning of electoral bodies. Members of the Armed Forces and the National Police assigned to ensure the security of the electoral process may only act in compliance with the orders issued by the presidents of the National Electoral Council, the Regional, District, and Provincial Electoral Boards, and the vote reception committees, within the constraints of this law."



that seek to enforce their resolutions ‘under penalty of dismissal,’ as well as by, in general, decisions that could cause their dismissal during the electoral process.

Electoral material

According to the information received, for this electoral process the CNE had to print and distribute more than 52 million ballots. The services of the Military Geographic Institute, working in coordination with the electoral agency, were used for the printing.

On 14 January, when 47% of the presidential election ballots had already been printed, an error was detected in the logo of one of the political organizations, which forced the CNE to halt the production of the documents. At that time, of the more than 6 million ballots printed, about 1.8 million had already been dispatched for distribution.

After detecting the error, the CNE proceeded to correct the design and, in a plenary session, resolved that the new ballots would have a different color to ensure they would be distinguishable from the defective ones. Although the incident caused a delay in the printing schedule, the presidential ballots were ready and were distributed to the polling stations on time, along with the ballots for national, provincial, and overseas assembly members.

Numerous representatives of political organizations spoke to the Mission about suspicions regarding the failure to destroy the defective presidential ballots. The Mission learned that on February 3, 2021, a Quito judge with jurisdiction over family matters issued a precautionary measure preventing the destruction of the ballots and ordering that they be kept in police custody. In response to that situation, on Saturday, February 6, the National Electoral Council organized a guided visit of the Military Geographic Institute so that representatives of political organizations, national and international observers, and the media could verify the proper safekeeping of the defective ballots.

In addition, due to the delay in the definition of the eligible candidates for the Andean Parliament election, the printing of ballots for that contest began in the week prior to voting day. This delay meant that the ballots for this election had to be distributed separately from the electoral kits. The Mission learned that due to the short time available, the CNE was unable to send ballots for the Andean Parliament election to a total of 585 overseas JRVs. Additionally, a storm in the northeastern United States caused a delay in the delivery of the materials, so more than 150 additional JRVs did not receive those ballots.¹⁸

Institutional Relations of electoral bodies

¹⁸ National Electoral Council. Report on the Overseas Election for Members of the Andean Parliament.



The Mission observed a degree of tension in relations between the members of the CNE. A similar situation was reported by the 2019 OAS Mission. In addition to this, different actors interviewed by the OAS/EOM spoke about inter-institutional tensions seen between the CNE and the TCE during the pre-electoral stage.

At the same time, the Mission saw how, on occasions, the CNE's councilors issued statements that were contradictory, confusing, or indicated a lack of institutional unity. The absence of an institutional communication strategy and the complex relationship among the members of the CNE plenary gave rise to a lack of certainty regarding some aspects of the process and, according to some actors, a degree of mistrust.

In light of the above, the OAS/EOM presented the CNE councilors with a series of recommendations intended to improve some aspects of their communications prior to the February 7 election. While some of the recommendations were taken into account, the Mission noted that they were not all addressed.

ELECTION DAY

On Sunday, February 7, OAS observers were present at JRVs in the provinces of Azuay, Guayas, Manabí, Pichincha, and Los Ríos. Election day was peaceful, orderly, and free of major incidents.

The Mission observed delays of more than an hour in installing some polling stations, caused by the lack of electoral materials and the absence of individuals selected to serve as members of the polling stations (JRV). At times, there were delays in gathering the necessary number of poll workers to install the voting stations, as citizens had not been allowed to enter the polling places when the time came for replacements to be selected from the queue.

These situations, together with the restrictions on the number of people allowed inside the polling places, created long lines that stretched for several blocks, and crowds of up to 3,000 people were reported by the police in the provinces of Cotopaxi, Chimborazo, Guayas, Orellana, and Tungurahua.¹⁹ Likewise, in all the provinces where the Mission was present, confusion was detected among the voters, who did not have sufficient information about the location of their polling stations or how to find their way around once inside.

The OAS/EOM was informed of the installation of 100% of the polling stations in the nation's territory, as well as about steps taken during the course of election day to expedite the voting process, notably the increase in the number of voters allowed inside the polling places. This decision by the CNE allowed the lines to move faster and all the voters who were waiting to cast their ballots. By around 5:00 p.m., the polling stations' closing time, the Mission saw that all the

¹⁹ According to information presented to the Mission by law enforcement authorities.



voters had cast their ballots and that most polling stations no longer had queues of people waiting.

JRV members were seen to have all their biosafety equipment, including sufficient facemasks to change over the course of the day. Likewise, at the observed polling stations, the location of the booths allowed the necessary physical distancing to be maintained.

Throughout the day, members of the Mission received complaints from representatives of political organizations who informed the OAS that their delegates were not allowed to enter the precincts to witness the installation of the polling stations.

With regard to the voting of Ecuadorians living abroad, the Mission applauds the efforts of the CNE and the Ministry of Foreign Affairs and Human Mobility to overcome the challenges posed by the pandemic-related restrictions in place in several countries and thus to allow voting to proceed at the vast majority of overseas polling stations.²⁰ One of the innovations in this electoral process were the pilot tests carried out for postal voting (Ottawa, Canada), electronic voting (Buenos Aires, Argentina), and internet voting (Phoenix, United States), which together processed more than 800 votes.

At the close of voting, the OAS/EOM observers witnessed the counting of the votes and the completion of the tally sheets. This was a slow process, because of the number of elections being held simultaneously and because of the biosafety standards adopted.

The Mission noted that at approximately 9:00 p.m. on Sunday night, before 100% of the sample was available, the CNE published the results of its quick count. Approximately 30 minutes later, one of the councilors released an update on the count that indicated a change in the order of the leading candidates, specifically between those placed second and third. Despite the clarification that the difference between them was still within the margin of error, the fact that the same statistical exercise produced two different results generated confusion among citizens and unease among political actors.

In parallel to the quick count, the CNE began the transmission, tabulation and count of the tally sheets, as well as the publication of results at the provincial level. The Mission monitored those processes, which functioned in line with the objectives set, despite some minor delays and errors that were able to be overcome. Although the process continued throughout the night, the OAS/EOM observed that, at times, there were bottlenecks in the tabulation of tally sheets at electoral processing centers. Around midnight, 63.99 percent of the tally sheets had been counted,²¹ a percentage that reached 83.60 percent on Monday morning. The Mission believes

²⁰ The Mission learned that the only country where the election could not take place was Nicaragua.

²¹ By then, 76.04 percent of tally sheets had been processed.



that there are opportunities for improvement to deliver results in a more prompt and timely manner.

The OAS/EOM observed that, although there were minor difficulties with the results transmission and dissemination system, it remained operational at all times and provided information to the public on the election results at the provincial level. The Mission recognizes the substantial improvements in the CNE computer systems as well as the steps taken to increase the channels for disseminating information on election results.

On the other hand, the Mission found that, despite the fact that Article 127 of the Democracy Code provides that the images of the tally sheets must be published online for the public consultation, that did not happen until the Friday after the election.

The Mission wishes to highlight the civic-mindedness and responsible behavior of Ecuadorian citizens, who participated in this election despite the extraordinary circumstances in which it took place and the enormous logistical challenges as a result of the COVID-19 pandemic. Also worthy of recognition are those who served as polling station officials and members of the security forces, who performed their duties with seriousness and patriotism.

The official information communicated by the CNE on election night conclusively showed that a run-off election was necessary, with one ticket clearly in the lead and a narrow margin between the second and third place candidates.

POST-ELECTORAL PHASE

On Monday, February 8, the OAS/EOM held a meeting with the CNE plenary to learn about the next steps in the post-electoral stage. On that occasion, the Mission stressed the importance that the processes under way be conducted with complete transparency and in accordance to law, and that information be provided to the candidates in smooth and timely manner. In addition, the Mission recommended "holding individual meetings with the presidential candidates with the opportunity to pass to the second round, so they receive information firsthand and can establish a direct line of communication that allows them to voice concerns. The Mission stressed that communication between the candidates and the electoral authority in this phase is fundamental to provide certainty to all the participants and to the citizenry."²²

Those meetings took place at CNE headquarters on Tuesday, February 9. The Mission observed that the exchanges took place in a cordial atmosphere and enabled the electoral authority to describe the measures being taken at this stage and to listen to and resolve the candidates' doubts. The OAS/EOM welcomed these meetings and advised that it would maintain a presence

²² Press release, *Message from the Chief of the OAS Electoral Observation Mission in Ecuador* (February 8, 2021). Available at: https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-007/21



at the public vote tally sessions.²³ The Mission permanently observed –from the night of the election until its culmination– the vote count at the provincial boards in Guayas, Los Ríos, Manabí, El Oro, Pichincha and the Special Overseas Board, whose last packages were received twelve days after election day.

Public vote counting at the provincial level

During this phase, the Mission emphasized the importance that the contending tickets have certainty that their votes are being properly safeguarded by the electoral authorities, that all parties behave responsibly, and that they resolve their differences institutionally through the mechanisms established by Ecuadorian law.²⁴

A total of 4,385 presidential election tally sheets were declared as having “observations” (or *novedades*, in Spanish).²⁵ The provinces with the highest percentage of these type of tally sheets were Esmeraldas (24.40 percent), Guayas (15.38 percent), Los Ríos (14.26 percent), Cotopaxi (13.18 percent), Manabí (12.08 percent) and Chimborazo (10.36 percent). In all the other provinces, the percentage was less than 10 percent.

In the provinces where the OAS/EOM was present during the verification of the tally sheets with “observations,” the OAS members noted that, with brief exceptions, there were delegates from the three political organizations with the possibility of advancing to the second round (CREO, Pachakutik and UNES) at all the counting tables. It was also noted that the tellers and officials from the Provincial Electoral Boards were open to answering the concerns of the political delegates.

The Mission found that in most of the provinces observed, work proceeded continuously in shifts,²⁶ except in two specific cases. In El Oro, the counting was interrupted due to a power outage. In Guayas, there was a pause at the request of the Pachakutik Movement, whose delegates presented complaints about the process and requested additional transparency

²³ Press release, *OAS Electoral Observation Mission in Ecuador Observed Meetings between the CNE and Presidential Candidates*. Available at: https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-008/21

²⁴ Press release, *OAS Mission in Ecuador Observes Post-Electoral Process and that Different Actors have Necessary Guarantees*. Available at: https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-010/21

²⁵ According to Article 138 of the Democracy Code, a tally sheet with an “issue” (*novedad*) is one with a numerical inconsistency of more than 1 percent or that lacks the signatures of the Secretary and President of the polling station.

²⁶ At the Special Overseas Board there were pauses while packets were received from abroad.



measures.²⁷ The OAS observers noted that some of the requests were met and the vote count resumed normally.

With regard to biosecurity provisions, the Mission found that, although use of masks and hand sanitizers was scrupulously implemented, the two-meter distance between counting stations was not complied with. In addition, some of the designated spaces were enclosed and lacked the recommended ventilation to prevent the spread of COVID-19.

Although the CNE issued the Operational Manual for Vote Recounts of the Provincial Electoral Boards for the 2021 General Elections, the Mission noted a lack of uniformity in procedures. In some cases, the Provincial Boards said that they had the authority to implement their own procedures based solely on the Democracy Code, while in others, additional regulations had to be used to address situations not detailed in the aforementioned manual. For example, cases in which a vote is considered null and void, the procedure to follow in the event of a greater number of votes than signatures on the electoral roll, among others.

Request for a vote recount

Days after the election, after having requested from the CNE copies of the certified records or summaries of the results of all polling stations and a record of the vote recount, the candidate Yaku Pérez filed an action for breach of duties against the CNE with the Constitutional Court. The candidate alleged that the CNE "failed its obligation to publish, together with the provisional election results, images of the installation and vote count records for all the polling stations" and he requested, therefore, that the Court order "a public recount by each polling station of the 25 Provincial Electoral Boards" and "the creation of a citizen oversight body for the computer system so that its results effectively reflect the data obtained in the recount." On February 12, 2021, the Constitutional Court refused the action for breach of duties filed by the candidate, as he had not met the requirement of filing a previous complaint with the institution that he alleged to be in breach of its duties.²⁸

In addition to the above, the same political group filed a complaint with the Attorney General's Office, alleging irregularities in the CNE's computer system and requesting that it investigate its operation.

²⁷ They requested the following: (1) To be able to check all the P1 tally sheets; (2) That the number of signatures on the electoral roll be verified before beginning the vote count; (3) That a security seal be used to guarantee that the tally sheets are not altered; (4) That all the tally sheets be published on the CNE website; and (5) That they be given a copy of the recount record.

²⁸ Case No. 11-21-AN



The candidate also filed a complaint with the CNE,²⁹ alleging irregularities and requesting a vote-by-vote recount in seven provinces.³⁰ As a result of the above, on Friday, February 12, a meeting between the candidates Yaku Pérez and Guillermo Lasso was held at CNE headquarters. The Mission attended as an observer.

Although the meeting was convened to discuss the recount request, the EOM observed that for most of the meeting the candidates made political pronouncements and exchanged statements made during the campaign. The Mission regrets that the tone of the dialogue has at times been less than cordial and forward thinking.

However, the EOM noted that the subsequent conversation between the parties was productive. As a result of the meeting, an agreement with six concrete measures was announced:

1. A review of 100 percent of the votes in the Province of Guayas, including those with tally sheets with “observations.”
2. A review of 50 percent of the votes in 16 provinces.
3. The preparation of guidelines for implementing the agreement.
4. A citizen oversight body, whose members would include delegates from the parties, to examine the computer system.
5. Once the review process is completed, the results would be announced.
6. The entire process would be broadcast live without interruption on official CNE channels.

The OAS/EOM welcomed the democratic commitment shown by all actors during the meeting. At the same time, it congratulated the candidates for their initiative to engage in dialogue and commended the electoral authority for having listened to the parties and received them at the CNE, in order to provide them and the citizenry with the necessary guarantees of certainty and transparency, which are indispensable at such a historic juncture.

On Sunday, February 14, the presidential candidate for the CREO Movement published a letter³¹ in which, despite announcing his intention to abide by the agreement, he expressed reservations about it. The letter generated uncertainty about the effectiveness of the agreement and led to an exchange of accusations via social media with the candidate for the Pachakutik Movement.

In addition to the uncertainty generated by the letter from one of the candidates, there was an information vacuum as a result of a lack of communication by the CNE. The situation was aggravated by the decision of the electoral body to suspend the plenary session convened for Monday, February 15, which was to define the next steps to be taken in the electoral process.

²⁹ Document No. CNE-SG-2021-1270-EXT, received by the CNE on February 11, 2021.

³⁰ Guayas, Manabí, Los Ríos, Esmeraldas, El Oro, Pichincha, and Bolívar.

³¹ Note <https://twitter.com/LassoGuillermo/status/1361069793332367372?s=20>



In this context, the Mission expressed its concern regarding the lack of definition surrounding the electoral process and urged the CNE to:

1. Provide timely and constant information about the status and progress of the electoral process.
2. Resolve and report on the steps to be taken in the coming days.
3. Provide guarantees of certainty and transparency to all political parties involved in the electoral process.
4. Safeguard the electoral material in a permanent and secure manner.
5. Guarantee compliance with the electoral calendar for the runoff on April 11.

The plenary session was eventually held on the evening of Tuesday, February 16. At this meeting, the technical report recommending a partial recount of the votes for the presidential race was submitted for consideration. The CNE president, Diana Atamaint, and Councilor Esthela Acero voted to approve the report; councilor José Cabrera, voted against; CNE Vice President, Enrique Pita, abstained, and Councilor Luis Verdesoto left the meeting without casting his vote. As there was no majority of votes in favor or against, it was not possible to adopt a resolution in favor or against.

Requests to audit the CNE computer system

The Mission learned that on February 20, the acting Comptroller General of the State requested the CNE to "adopt a resolution that would enable the initiation of a computer audit by the Office of the Comptroller General of the State, before the presidential runoff takes place."³²

That same day, the Attorney General of the State informed the President of the CNE that at 7:30 a.m. on Sunday,³³ February 21, 2021, she would proceed with the "collection of the digital content of the database managed by the electoral computer system, which is stored in the servers of the National Electoral Council," and would "perform a computer forensic expert examination".

Both the members of the CNE and two of the presidential candidates expressed their disagreement with those measures, claiming they amounted to interference by other State institutions in the electoral process. The Mission is concerned that, as happened in the pre-electoral stage, institutions without electoral authority may seek to hinder the correct progress of the electoral process.

National Vote Count Hearing and announcement of presidential results

On Tuesday, February 16, the final tally sheets for the presidential election issued by the Provincial Electoral Boards in Ecuadorian territory were announced at the national vote count

³² Official letter No. 06- GC-2020.

³³ By Official letter No.004-012-2021-FGE-UFCN-F6.



hearing. However, owing to delays in the delivery of packages from abroad, the Special Overseas Board was unable to attend to all the tally sheets with “observatio” until Saturday, February 20.

At 11:00 a.m. on Saturday, February 20, the Plenary of the CNE reinstated the National Vote Count Hearing. After the reports containing the preliminary results of the elections for members of the National Assembly and of the Andean Parliament were approved, a technical report was adopted,³⁴ instructing to correct 8 of the 72 tally sheets for the presidential election that were part of the complaint filed on February 13 by candidate Pérez.³⁵ In addition, the report states that, following a computer system verification in which the scanned images of the tally sheets were compared with the values entered into the system, 10 tally sheets were found to require correction, as they had been recorded as *zero tally sheets*.³⁶ In other words, with the approval of that report, the CNE proceeded to correct a total of 18 tally sheets.

The Mission learned that shortly before the installation of the Hearing, the Pachakutik Movement presented an additional claim, in which it submitted 434 presidential election tally sheets for review.³⁷ Based on a review of the tally sheets submitted by the Pachakutik Movement, it was decided that only 26 of them required correction. The Plenary adopted Technical Report No. 0023-DNAJ-CNE-2021, which instructed the Provincial Boards of Guayas and Los Ríos to perform a recount of those tally sheets, which was broadcast live on the CNE digital channels.

After midnight, the Pachakutik Movement filed a new claim, in which it requested another review of tally sheets, as well as a complete recount in Guayas and partial recounts in other provinces. The CNE Plenary rejected that claim since the party did not present any corroborating documents that justified the opening of the ballot boxes.³⁸

The CNE proclaimed the official results of the presidential election at 2:39 a.m. on February 21, 14 days after the elections. According to the results, candidates Andres Arauz and Guillermo Lasso will compete for the presidency of the Republic in a runoff election on April 11.

The Mission notes that following the announcement of election results to the political subjects, anyone who disagrees has the possibility of filing administrative and judicial challenges, provided that they have evidence of inconsistencies and irregularities and that their claims are in accordance with the law.

³⁴ Transmitted by Memorandum No. CNE-CNTPE-2021-0800-M.

³⁵ The report states that of the 72 tally sheets submitted, only 8 had cause to be addressed: 5 due to bad crops (Cañar, Los Ríos, Manabí, Santo Domingo de los Tsáchilas, and Morona Santiago) and 3 that were recorded as zero (Imbabura).

³⁶ The system did not register votes, but the scanned images did record values.

³⁷ A total of 445 tally sheets were submitted but 11 of them were repeats.

³⁸ According to Report No. 0024-DNAJ-CNE-2021.



In this regard, the Mission calls on the electoral authorities to settle these claims in strict accordance with the law and to comply with the electoral calendar in time for the April 11 runoff election.

RECOMMENDATIONS

This report only contains recommendations that can be implemented ahead of the April 11 election. The findings and substantive recommendations on structural aspects of the electoral process will be presented after the second round and expanded upon in the final report that the Mission will deliver to the OAS Permanent Council.

With the aim of contributing to improvements in the organization of the April 11 elections, the Mission recommends:

Autonomy and resources of the electoral authority

1. Provide electoral authorities with sufficient resources in a timely manner to fulfill their responsibilities.
2. Ensure that the electoral bodies can perform their functions with complete autonomy, without external interference or pressure.

Communication strategy

3. Develop comprehensive and coordinated communication strategies. This involves agreeing on consistent and coherent institutional messages.
4. Widely disseminate biosecurity protocols and how they reduce the likelihood of infection of those taking part in the election. In the case of indigenous peoples, it would be advisable to disseminate these measures in their languages and through the media that are accepted in those communities.
5. Adequately disseminate voting schedules and mandatory sanitation measures for members of the public. Binding guidelines should be distinguished from suggestions or recommendations.
6. In the event of a quick count in the second round, clearly communicate the moment at which the results will be published and the methodologies used. It is suggested that a single official quick count result be communicated once the totality of the sample defined for that purpose is available. Communication should be comprehensive, clear, and precise.



7. Inform the public about the difference between quick count and the announcement of results of the tally sheet count. Particularly underscore that a quick count is not a substitute for the results of the official count.

Preparation of electoral materials

8. Specify those responsible for validating sensitive documents (e.g., ballots) and generate traceable processes in order to be able to track authorizations at each stage.
9. Request that competing political alliances and organizations verify the contents of the ballots before the production process begins.
10. Develop protocols for separating non-compliant documents and materials and ensuring their safekeeping and proper destruction in a transparent manner.

Training

11. Monitor, at the polling station level, the percentage of poll members trained and, if necessary, provide additional instruction on election day.
12. Study the causes of tally sheet "with issues" (in the counting system) in order to determine measures for improving training for the polling station officials regarding the filling out of electoral material in the tally phase. It is suggested that in the training sessions special emphasis be placed on the need for tally sheets to be signed by the polling station president and secretary.

Financing

13. Report any violations or complaints of misuse of funds through the institutional channels established in the current regulations.
14. Strengthen training and support processes for political organizations in the periodic reporting of income and expenses.

Election day

15. Ensure that representatives of political organizations have access to the polling places from the moment that the installation of polling stations begins, and throughout the tally.
16. Allow voters access to polling places from the beginning of election day, adequately delimiting spaces to ensure physical distancing between people inside polling places.

Overseas voting

17. Assess the functioning of the pilot schemes that were implemented for overseas voting and, if necessary, consider returning to the use of paper ballots for the second round.



18. Immediately begin negotiations with host countries in order to ensure voting for Ecuadorians residing abroad at all consular offices.
19. Use the websites and social media pages of consulates to disseminate information that clearly explains which consulates voting will be possible at and, as appropriate, the sanitation conditions required by host countries. Assess the advisability of setting up a specific web to address queries related to overseas voting.
20. Distribute materials and documents abroad earlier and keep a better record of their receipt.
21. Evaluate measures to shorten the return time of ballot packets from abroad in the second round, in order to reduce the length of time after election day that it takes to announce the results.

Transmission and publication of election results

22. Evaluate the functioning of each data processing center and consider the possibility of using more operators in those where tally sheet processing has been slower.
23. Encourage greater involvement/participation by political organizations in the system testing activities. Their presence is of the utmost importance at software versioning and freezing process as well as the zeroing of the electoral results database.
24. Define in a timely manner and clearly communicate the levels of access to information and the tools that will be available to technical representatives of political organizations that will be present at the vote counting and results processing centers on election night.
25. Conduct new simulations of the Integrated Vote Count and Results System. Take advantage of these tests to check the response to unexpected failures and the ability to recover and return to specific points in the cycle.
26. Evaluate the technological environment in which the Computerized Vote Count and Results System operates by applying comprehensive testing techniques and tests, specifically in the modules where difficulties arose.
27. In the event that it is decided to make modifications to the Integrated Vote Count and Results System, apply a quality control process to verify that they meet the envisaged specificities and functionalities before going into production.
28. Assess problems (intermittency) in the publication of results during vote counting and take steps to remedy them.
29. Publish the tally sheets from each polling station as they are entered in the count or that are deemed to have "inconsistencies," in order to ensure transparency and allow follow-up by political organizations and the public. The statuses of "counted" or "pending entry



into the tally” must be clearly specified and changed as they are entered in the tally during the vote counting process.

30. Continue strengthening cybersecurity measures for CNE computer systems.

Public vote-counting sessions

31. Issue clear and complete mandatory regulations for all Provincial Electoral Boards, in order to ensure uniformity in the procedures for counting votes and reviewing tally sheets with inconsistencies. It is suggested that those regulations:

- Determine the circumstances in which the P1 tally sheet should be crosschecked before starting a vote-by-vote recount.
- Clearly define the criteria for annulling a vote.
- Establish that whenever a vote-by-vote recount is conducted, the signatures on the polling station voter list must be verified.
- Define what steps tellers should follow in the event that there is a greater number of ballots than signatures on the electoral roll.

32. Clearly communicate the vote count schedule and the number of tables that will be installed, in order to ensure that political organizations have enough delegates.

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