

The OAS Electoral Observation Mission present in Brazil highlights the work of the Superior Electoral Tribunal in holding its Municipal Elections in the extraordinary context of a pandemic

The Electoral Observation Mission of the Organization of American States (OAS/EOM) welcomes the work of the electoral authority and the commitment of the Brazilian citizenry in holding the Municipal Elections in the complex context of a pandemic.

On October 9, the Secretary General of the OAS (GS/OAS), Luis Almagro, and the President of the Superior Electoral Tribunal (TSE), Luis Roberto Barroso, signed the agreements on electoral procedures required for the deployment of the Mission. The Organization appreciates the consideration of the TSE's Minister President in also agreeing to a technical meeting with the Electoral Observation Mission in Washington DC, a demonstration of institutional openness and transparency.

For this electoral process, 147,917,483 Brazilian citizens were eligible to vote for Mayors and Vice-Mayors (Prefectos y Viceprefectos) and Councilors (Vereadores) in 5,568 country's municipalities for the period 2021-2024.

The Organization of American States (OAS) demonstrated its commitment by being present in the Federative Republic of Brazil, despite the challenges imposed by the pandemic, where it deployed in the cities of São Paulo, Rio de Janeiro, Brasilia, Goiania and Valparaiso, to gather different perspectives on the electoral process, follow the preparations for the elections and observe Election Day.

The EOM, which was made up of 14 observers and experts from 9 countries, was led by Uruguayan Ambassador Agustín Espinosa Lloveras, and was deployed in the country from November 7. The Mission conducted a substantive analysis of technical issues related to the electoral process, including electoral organization and technology, political financing, electoral justice, the political participation of women, and the participation of indigenous peoples and Afro-descendants.

Due to the pandemic, the Mission combined face-to-face and virtual work modalities, which allowed it to hold more than 60 meetings with various stakeholders involved in the municipal electoral process.

OAS experts and observers met with political actors, electoral and government authorities and candidates, as well as representatives and campaign teams from political organizations in the cities of São Paulo and Rio de Janeiro. Likewise, they interviewed scholars, representatives of civil society and national electoral observers. In the latter regard, the Mission welcomes the implementation of national observation in Brazil, as recommended by the OAS following the 2018 election.

Among the more critical of the Mission's engagements were the meetings with the Superior Electoral Tribunal, represented by its President Luis Roberto Barroso, as well as with other members of the Plenary and officials from different technical areas of the TSE; the visit to the Itamaraty Palace, where a meeting was held with the Minister of Foreign Affairs, Ernesto Fraga Araújo; and the meeting with Attorney General of the Republic, Augusto Aras.

At the state level, the EOM held meetings with the regional electoral authorities of São Paulo, Rio de Janeiro and Goiania. The Mission's electoral organization and technology experts observed the preparation of the electronic



ballot boxes, including test runs, the software loading and confirmation process, audits, parallel voting and transmission of results, from the Regional Electoral Tribunals in São Paulo and Rio de Janeiro, and the *cartórios*¹.

ELECTION DAY

The members of the Electoral Observation Mission observed the voting process from the opening of the polling centers through to the close of polls, the printing of the ballot box bulletins (BU) and the transmission of the results.

The Mission underscores that Brazilian citizens voted in a highly complex context caused by the Covid-19 pandemic. The electoral authority provided the required infrastructure to conduct the municipal elections in different parts of the country with the exception of Macapá, in Amapá, and the public security forces watched over the polling centers, ensuring that Election Day took place in an orderly manner, with only isolated incidents that were promptly addressed by the electoral authority.

Regarding Amapá, the EOM was informed that days before the elections, a fire in an electrical substation left a high percentage of the population of that area without power. It caused problems with the drinking water supply and failures in telecommunications, among others.

In light of this issue, the Regional Electoral Tribunal of Amapá asked the TSE to delay the election until electricity could be restored in the municipality of Macapá. Based on evaluations by regional authorities, the TSE decided to postpone the holding of the elections in that locality, as the necessary conditions were not in place. It was decided that the elections would be held no later than December 27. The Mission regrets the incident, which meant citizens were unable to vote on the scheduled day.

On Election Day, the Mission noted that the electoral authorities provided sufficient materials to prevent the spread of Covid-19, in accordance with the elections health plan. Both voters and polling station officials wore masks and personal protective equipment and complied with the instruction to clean their hands using alcohol-based hand sanitizer. The Mission also observed that polling centers had signs on the floor that marked the distance to be maintained between individuals and that the polling station officials disinfected surfaces and other materials regularly. However, on occasion, social distancing was not respected, while some of the tables were placed in classrooms without adequate circulation of fresh air. Further, in many cases *mesários*² physically handled identity documents, thus breaking the contactless protocols.

Other measures adopted in response to the pandemic included the extension of voting hours and the provision of preferential access to the polling centers, which resulted in a greater participation of older adults and people with disabilities, especially in the morning.

In Valparaíso de Goiás, the Mission's leadership visited polling stations as well as the TSE-organized "*Elections of the Future*" project, in which various companies offered proposals for digital voting in the future.

The EOM observed that, given the impossibility of replacing some machines for these elections, the electoral authority reassigned voters to available ballot boxes, creating confusion among voters in finding their assigned

¹ The *cartórios* are administrative offices of the Electoral Court which centralize information and coordinate the voters of an electoral area.

² In Brazil, polling station members are called *mesários*.

voting section as indicated on their identification documents. Although the reassignment occurred within the same polling center, access to logistical information was sometimes difficult. However, the Mission observed support personnel in the voting centers and cartórios who provided guidance to voters, which allowed them to cast their ballots.

The Mission observed challenges by voters who were outside their municipality in submitting their justification for not voting. In Brazil, voting is mandatory for people between 18 and 70 years old. The justification for not voting can be presented in three ways: by visiting an electoral section outside one's assigned zone, through the TSE website, or by using the *e-title application*. The latter proved to be unreliable, which impacted the delivery of this service. Also, in several polling stations observed, citizens were not allowed to present their justification in person. When consulted in this regard, the electoral authority informed the Mission that voters have up to 60 days after Election Day to submit the justification.

The EOM was present at the closing of the polls, the printing and publication of the ballot box bulletins and the transmission of results. The Mission's leadership observed the first transmission of data at the TSE in Brasilia.

Around 6:30 p.m., OAS experts were informed by the electoral authority of an attempted attack that attempted to take down the system through "massive accesses" while overloading and destabilizing the website and *e-title application*. The TSE was similarly transparent in informing the population about the slow pace of the tabulating of votes which caused a delay in the dissemination of results.

However, the tabulation continued to progress smoothly and by 22:00 hours, almost 90 percent of the official results had been published. By 23:00 hours more than 96 percent had been completed. Although there was an unexpected delay, related to other experiences in the region, the publication of the final results was quick. Brazil currently has the fastest official results system in the region. Citizens were able to check the results through the TSE website, the "*Results*" application and the media which covered the electoral process widely.

The OAS lauds the committed participation of the polling station members whose job was completed in a patriotic and democratic manner, and congratulates the elected Mayors and Councilors, as well as the candidates who have made it to the second round of elections to be held on 29 November 2020.

FINDINGS AND RECOMMENDATIONS

The Mission will continue to gather information and will present a consolidated report after the second round of elections. It is pleased that numerous recommendations of the OAS/EOM deployed for Brazil's 2018 General Elections have been taken into account, and presents below its main findings and preliminary recommendations on the 2020 process:

ELECTIONS DURING A PANDEMIC

On July 2, 2020, the Brazilian National Congress postponed the 2020 municipal elections³ to November 15 and 29 (first and second round), through Constitutional Amendment No.107⁴ due to the health emergency caused by

³ Municipal elections were scheduled for October 4 and 25, 2020 (first and second round respectively).

⁴ Constitutional Amendment No. 107, Chamber of Deputies and the Federal Senate of the Federative Republic of Brazil. Available in: http://www.planalto.gov.br/ccivil_03/constituicao/emendas/emc/emc107.htm

the COVID-19 pandemic. This decision had broad support from different sectors of Brazilian society representing different political forces.

The following electoral timeframes were also revised: a) the dates for holding party conventions⁵; b) the deadline for the registration of candidatures⁶; c) the start date for electoral campaigning⁷; d) the date of disclosure of the political parties partial financial reports⁸; e) the submission date of the final financial reports⁹; f) the deadline to review the elected candidates accounts¹⁰.

This constitutional reform authorized the TSE to make adjustments to the electoral regulations in order to adapt them to the new electoral calendar and to guarantee the health of voters and Electoral Justice officials. The Superior Electoral Tribunal also adapted its own electoral calendar, stipulated in Res.-TSE No. 23.606/2019, among others. Some of the modified deadlines include the estimated timeframes for auditing controls of the e-voting machine software, as well as phases of the voting process, scrutiny and electronic processing of the total results; and the reception of votes, justifications, auditing and inspection on Election Day, including the opening hours of the polling stations and the distribution of voters¹¹.

HEALTH SAFETY PLAN

In July 2020, the TSE created the *Consultoria Sanitária para a Segurança do Processo Eleitoral de 2020*. This group was created with the purpose of “establishing specific measures to reduce the risk of contagion and increase health security during the electoral process”¹². Many of the protocols, measures and recommendations implemented for the municipal election overlap with the Guide presented by the OAS for Organizing Elections in Times of Pandemic¹³. Some of them are summarized below:

- The extension of voting hours and the establishment of a preferential schedule for the elderly.
- Recruitment of polling workers from among citizens who were not at a higher risk due to their age.
- Prioritize virtual trainings for polling station members.
- Establishment of personal protection measures and social distance between polling station members and voters on Election Day.
- Exemption from biometric identification, in order to reduce citizen wait times and as cleaning with alcohol could potentially damage 65.7% of this equipment¹⁴.
- Establishment of a standardized flow of at the national level.

⁵ Between August 31 and September 16.

⁶ September 26, 2020.

⁷ October 27, 2020.

⁸ October 27, 2020.

⁹ December 15, 2020

¹⁰ February 12, 2021.

¹¹ On August 13, 2020, TSE Plenary approved four resolutions: Resolution No. 23,624, to promote regulatory adjustments in the rules applicable to the 2020 Municipal Elections by EC No. 107/2020; Resolution No. 23,625, which modifies Resolution TSE No. 23,611/2019 regarding the general acts of the electoral process for the 2020 Elections; Resolution No. 23,626, which modifies Res.-TSE No. 23,601/2019 on the operational schedule of the electoral roll for the 2020 Elections; and Resolution 23.627, which establishes the Electoral Calendar for the 2020 Elections, in accordance with CE No. 107/2020.

¹² Sanitary Health Plan, composed by Fundação Oswaldo Cruz - FIOCRUZ, Hospital Israelita Albert Einstein and Hospital Sírio Libanés. Available at: <https://www.justicaeleitoral.jus.br/dicas-ao-eleitor/assets/arquivos/plano-saude-sanitaria.pdf>

¹³ Department of Electoral Cooperation and Observation of the OAS “Guide to Organizing Elections in Times of Pandemic”. Available at: <http://www.oas.org/documents/eng/press/Guide-to-Organizing-Elections-During-a-Pandemic-vFINAL.pdf>

¹⁴ Information Segitec/Cotel/STI No. 2/2020, available in SEI Process No. 2020.00.000006161-6

- Adaptation of digital tools to allow citizens to present their justification for not voting from their homes, without having to go in person to the polling station.

The Mission recognizes the TSE's initiative to collaborate with the private sector in obtaining masks, alcohol gel and protective materials, in order to address the challenges of the pandemic. Business owners donated and delivered these materials. This type of alliance is very positive for democracy and should be an option considered by other countries in the region.

ELECTORAL JUSTICE

For these elections, the Electoral Court received the highest number of registered candidates in Brazilian history: 557,362 registrations, 39,050 of them for Mayors and Vice Mayors and 518,312 for Councilors. According to the existing regulations, the regional electoral authority must publish these records up to 20 days before the election in order to determine if the applications fulfill the eligibility requirements¹⁵ and do not present any conditions of ineligibility¹⁶.

It is important to mention that Brazil's electoral court includes several judicial forums that on the one hand provide greater guarantees, but on the other, lengthen the processes which means that, on occasion, the decisions of the courts are not consistent with the electoral schedule.

The Mission observed with concern that as of the Friday before the election, there were still around 13 thousand cases of candidacy records pending a final resolution before the electoral courts. Although the candidates whose requests or appeals were not reviewed could continue their campaigns and had their names registered in the electronic ballot box, marked as "*Sub Judice* candidature"¹⁷, the delay of the decision generated uncertainty in the electoral process. According to the time frame established in the legislation, the electoral campaigns begin the day after the final registration deadline before the electoral judges. Moreover, after the campaign period reduction, which resulted from reform implemented in 2015¹⁸, the various forums of the Electoral Court have an even more limited time frame to decide on a large number of registration requests.

Various actors, involved in the electoral process, expressed dissatisfaction with the deadlines and judgments of candidacies, since in cases of pending decisions on Election Day, there is a possibility that citizens vote for options that could later be disqualified. In the elections for councilors, a disqualification of an elected candidate generates a recount and redistribution of votes, while in the case of mayors, the authorities have to call new elections.

The Mission was informed about two TSE proposals to improve this issue, and provide greater certainty to the electoral process: a) promoting a pre-registration of candidacies during the electoral year, in order to give more time to analyze the eligibility requirements; b) bring forward the deadline for the registration of candidacies, without modifying the electoral campaign periods. The OAS supports the promotion of a plural discussion on this issue, and believes that both alternatives can lead to improvements in the current situation.

¹⁵ Article 14 §3° of the Brazilian Constitution.

¹⁶ Complementary Law (Ley Complementar) No. 64/90.

¹⁷ Article 16-A of the *Ley de las Elecciones* (Elections Law).

¹⁸ Law No. 13,165/2015 established that acts of political propaganda should no longer last 90 days, but 45 days.

ELECTORAL TECNOLOGY

These elections marked 20 years of electronic voting for 100% of Brazilian voters. Once again, the country proved its enormous logistical capacity and technological infrastructure distributing 473,503 electronic ballot boxes to 94,325 polling centers, enabling 147,918,483 citizens to cast their vote. The system provides efficiency to an electoral process with a continental dimension, in which 556,033 candidates contested 69,344 positions¹⁹.

The 2020 municipal elections utilized electronic ballot boxes dating from 2009 to 2015. In each electoral process, there is a need to replace around 20% of the equipment. The Mission was informed that delays in the bidding process for the purchase of new ballot boxes prevented their acquisition and replacement for this election, however, this did not affect the elections. The TSE managed to redistribute the available devices in order to guarantee electronic voting throughout the country. The EOM also learned that the ballot boxes software was updated. The code was developed, published, audited, compiled, digitally signed and placed in the central vault for later uploading to the electronic ballot boxes.

The TSE developed five official applications to promote transparency, encourage participation and facilitate citizen access to official information on voting:

E-Title, to facilitate citizen access to their digital voter title and information on their voting section and voting location;

Mesário, to provide polling station officials with general information on the pre- and post-electoral activities, and offer multimedia training material;

Boletim à Mão, to enable citizens to capture the QR code included in the voting result issued by each ballot box;

Resultados, to facilitate the gradual receipt of tabulated results after the closing of the polls.

Pardal, to allow citizens to register and file electoral complaints.

The electoral calendar includes various electronic voting system tests and audits. For instance, through the Public Security Test, the TSE invites external technology specialists to test the system's protection barriers. Likewise, the electoral authority has designed an empirical methodology to verify the operation of ballot boxes called parallel voting, consisting in the random selection and testing of some of the equipment on voting day, in a public ceremony. This process allows the public to verify the operation and printed voting results of the ballot box.

Despite the fact that these procedures provide confidence and transparency in the process, the EOM noted, just as in 2018, the concerns of some actors who demanded printed ballots. The measure of printing the ballots was judged by the Federal Supreme Court as unconstitutional, since the Court considered that it violated the secrecy of the vote and that its implementation would be too expensive. Currently, such a large redesign of the electoral system would require a constitutional amendment, according to the TSE itself. The Mission acknowledges the implementation of the recommendations of the 2018 OAS/EOM final report regarding expanding the tests which are part of the Public Safety Test, as well as the parallel voting.

However, the Mission recommends that Election Day activities related to the audit stage (parallel voting) be more widely publicized, as a valuable tool to provide confidence to the population. It is also recommended that the

¹⁹ Available at: <https://www.tse.jus.br/eleicoes/estatisticas/estatisticas-eleitorais>

presence of political parties, which has been scarce until now, be ensured during the different ballot box audits and inspections. The electoral system would benefit from the collaboration of authorities and party representatives collaboration to build confidence, by encouraging spaces for dialogue.

COMPOSITION OF POLL STATIONS AND TRAINING SESSIONS OF POLL WORKERS

For the arrangement of the 400,257 poll stations, the TREs recruited more than one and a half million polling workers, of which approximately 43% were volunteers and 67% were women.

Given the context of the pandemic, the TSE determined not to summon citizens over 60 years old. However, these people were not prevented from participating as volunteers.

Although some TREs conducted in-person training sessions for those who could not access the internet or smartphones, most of these were conducted through two virtual modalities: the TSE Distance Education Portal (<https://educacao.tse.jus.br/>), through which 154,489 poll workers were trained, and the digital application “Mesários”, which, on November 13, had trained more than one million poll workers, which represents 69% of the staff.

The EOM observed that the content was didactic and made it possible to evaluate the users' knowledge. Both modalities granted a training certificate, which provides benefits established by law, such as two days off work.

The Mission highlights the work of the TSE, which managed to create innovative tools to train more than 79% of the poll staff, even within an unprecedented sanitary context.

Additionally, the EOM recognizes the work of the people involved in the composition of poll stations and especially celebrates the civic commitment of those who volunteered to fulfill this important role, even in this challenging pandemic context. However, the Mission learned that, a few days before the election, some electoral offices had to make individual calls to reconfirm the presence of some polling workers on the day of the election. The EOM observed numerous poll stations that comprised of 3 people.

Therefore, the Mission recommends:

- Recruit a greater number of contingency poll workers. The additional percentage could be determined by analyzing the areas with the highest absenteeism.

POLITICAL-ELECTORAL FINANCING

Regarding the control of campaign expenses, the Electoral Court has a digital application called *Sistema de Prestação de Contas Eleitorais (SCPE)*, through which the parties must report on any funds received within a maximum period of 72 hours after their receipt²⁰. Likewise, they are obliged to present a partial financial report before the election and a final report, after the process, in which they must record all the financial operations of the campaigns.²¹ The EOM highlights that the information reported by the parties is published on an accessible

²⁰ Art 47. Resolution TSE 23.607.

²¹ *Ibidem*.

webpage, which favors informed voting and control of accounts by citizens, the press and civil society organizations.

Moreover, the Mission is pleased to observe that - as recommended by the OAS/EOM in 2018 - the staff of the TSE's Financing Control Unit was increased. However, it is noted that the accountability system is inefficient and has significant difficulties. This situation is due to the fact that human resources for auditing the accounts are still insufficient considering the volume of work. This explains, in part, the delays evidenced in the analysis of the accounts of previous electoral processes.²² Lastly, the Mission notes that, to date, the development of the technological module that the electoral court uses for the automated analysis of campaign expenses has not been completed.

Based on what has been observed, the Mission recommends:

- Improve legal tools to enhance the control of campaign and party funds, in order to take into account greater controls on expenses made.
- Improve analysis of the financial reports of parties and candidates, in order to identify and avoid candidacies designed for profit.
- Increase the human resources available at the different levels of the electoral court that work on the control of party funds.
- Invest more resources in the development and updating of technological tools used for the analysis of the financial reports of parties and candidates, and plan in such a way that these instruments are available sufficiently in advance of Election Day.

POLITICAL PARTICIPATION OF WOMEN

Although women are the majority in the Brazilian electoral roll²³, this number is not reflected in the number of candidates in the 2020 municipal elections, neither in positions of power. Brazil continues to be one of the countries in the region with the lowest participation of women in politics: only 12% of its cities are governed by women, and, in the framework of these elections, they represent only 13% of the candidates for mayors and 33% for city councilors²⁴.

In 2018, Brazil implemented, through a decision of the Supreme Federal Court and a resolution of the TSE²⁵, the obligation to allocate at least 30% of public campaign funds and free electoral campaign time for women. However, women continue to face innumerable difficulties when running as candidates. Despite the quota, the distribution of financing happens at the discretion of political parties, which use various strategies to distort the regulations. The practices of concentrating resources on few women or only on vice candidates and councilors are common. In addition, the Mission noted that, although the parties comply with the 30% mandate, some do so through candidates who do not have any real intention of competing in the race.

²² The Mission was informed that, up to the date of the publication of this report, the analysis of the accounts for 2018 has not yet been completed.

²³ According to data from the statistics session of the Superior Electoral Tribunal, women represent 52.5% of the electorate. Available in: <https://www.tse.jus.br/eleicoes/estatisticas/estatisticas-eleitorais>

²⁴ Available in: <https://www.tse.jus.br/eleicoes/estatisticas/estatisticas-eleitorais>

²⁵ STF's decision in the Direct Action of Unconstitutionality nº 5617 and Resolution TSE nº 23.575/2018.

The Mission observed that the TSE has made various efforts to reverse this situation. Following the recommendation of the OAS/EOM deployed in 2018, the Superior Electoral Tribunal established the Commission for the Management of Gender Policies (TSE Women), which seeks to promote the participation of women in politics and within the Electoral Court itself. The Mission welcomes its implementation, which shows the important commitment of the Superior Electoral Tribunal on the issue.

In the framework of the 2020 elections, TSE Women, in coordination with the Regional Electoral Tribunals, developed workshops for women candidates, promoted meetings with civil society organizations and various campaigns to raise awareness among citizens about the importance of gender balance in the contest. The EOM congratulates Brazilian civil society organizations which do important work in promoting female leadership, training candidates and mapping acts of violence against women throughout the country.

In order to continue promoting a representative and egalitarian environment in politics, the Mission recommends that Brazilian institutions work together to promote regulations for the distribution of campaign funds and to implement a clear sanctions regime for parties that fail to comply with the quota or the ones that distort the objective of the rule.

POLITICAL PARTICIPATION OF INDIGENOUS AND AFRO-DESCENDANT PEOPLE

In the municipal elections of 2020, the indigenous candidatures represent 2,111 of the total number. Although the figure represents an increase of 88.5% compared to the 2016 elections, this represents only 0.4% of the total number of candidates registered. It is worth mentioning that the number of indigenous women candidates increased by 49% compared to 2016, however, women were 32% of the total indigenous candidates²⁶.

It is important to bear in mind that the TSE has disseminated a set of good practices that seeks to include the indigenous perspective in the organization of the electoral process. However, the Mission observed that the implementation occurs at the discretion of the TREs, which may have negative impacts on the participation of indigenous people in the process at a national level.

Based on its observations, and as was the case in 2018, the Mission recommends that Brazilian institutions seek mechanisms to ensure the inclusion of indigenous peoples in popular representation bodies, such as affirmative measures and labeled financing. The EOM highlights the importance of the electoral authority carrying out a general plan coordinated with all its bodies to overcome discrimination and the structural invisibility of indigenous peoples. Likewise, it is advisable that the TSE and the TREs carry out information campaigns and develop material to promote the vote in indigenous languages. Also, that they continue to create voting centers close to indigenous communities and that they strengthen the statistical sectors to have information on what percentage of indigenous people work at poll stations, as well as the position they hold.

Regarding the candidacies of Afro-descendant people, for the present elections, 278,923 male and female candidates were presented, representing 49.9% of the total number of registration requests. The number surpasses, for the first time, the candidacies of caucasian people. Of these, 220,241 identify themselves as brown (39.51%) and 58,682 as black (10.53%)²⁷.

²⁶ Available on: <https://www.tse.jus.br/eleicoes/estatisticas/estatisticas-eleitorais>

²⁷ Available on: <https://www.tse.jus.br/eleicoes/estatisticas/estatisticas-eleitorais>

The Mission also learned that, regarding the financing of candidacies of Afro-descendant people, the TSE established that parties should allocate campaign funds in proportion to the number of these applicants registered by each organization²⁸. Regarding the time of implementation, the electoral authority determined that the decision would be in force from the presidential elections of 2022 onwards. After a consultation with the Supreme Federal Court, however, it was defined, in October, that the measure would be applied to the 2020 electoral process²⁹.

The EOM celebrates the decision of the Brazilian judicial authorities and once again highlights their commitment to achieve a more inclusive and representative democracy for the country's electorate. It is noted however, that since the quota was introduced shortly before the election, its application has not been regulated and there is no express sanction for parties that do not comply with it. It is worth mentioning that, according to data published by the Superior Electoral Court, 49.9% of the contestants in this year's elections are Afro-descendant, but only 40% of the funds have been delivered³⁰.

Therefore, the Mission recommends that the TSE continue to act in coordination with government bodies, political parties, and civil society organizations in order to deepen the financing rules and their respective sanctions for non-compliance, as well as to locate weaknesses and intensify anti-discrimination and inclusion measures.

DISINFORMATION

The Mission was informed about the growing circulation of fake news, particularly those that seek to discredit and weaken the credibility of the Brazilian electoral system during electoral periods, as reflected in the study carried by the Getúlio Vargas Foundation (FGV)³¹. In response to this and other problems associated with the phenomenon, the EOM observed that the Electoral Court has been implementing, at different levels, a series of measures to combat the dissemination of fake news and content.

The Mission acknowledges the efforts made by the TSE, that have involved different actors including the media, government institutions, political organizations, journalists and fact-checking agencies, digital platforms, telecommunication companies and civil society. The actions promoted by the electoral authority have been key to minimizing the impact of the circulation of fake news and have made available to society innovative instruments to discourage this practice and promote informed and conscious voting.

In August 2020, the TSE authorized a strategic plan³² called the Program to Confront Disinformation, which acted on various fronts and considered recommendations from international and national organizations³³. In this regard, the TSE established partnerships with fact-checking agencies and set up a website to publish checked information

²⁸ Consultation TSE nº 0600306-47.2019.6.00.0000.

²⁹ STF, ADPF nº 738.

³⁰ Available on: <https://www.tse.jus.br/eleicoes/estatisticas/estatisticas-eleitorais>

³¹ Getúlio Vargas Foundation, Department of Public Policy Analysis "Online Disinformation and Elections in Brazil: The circulation of links about distrust in the Brazilian electoral system on Facebook and YouTube (2014-2020)" Available on: <https://democraciadigital.dapp.fgv.br/desinformacaoeleitoral/>

³² The strategic plan divided the actions of the Electoral Justice into six thematic axes: internal organization of the electoral authority, media literacy, containment of disinformation, identification and fact-checking, improvement of the regulatory framework and technological resources.

³³ In line with the recommendations issued in the Final Report of the EOM/OAS deployed in the General Elections of 2018 and the Guide to Guarantee Freedom of Expression against Disinformation in Electoral Contexts, produced by the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights in collaboration with the OAS Department for Electoral Cooperation and Observation.

called “*Fato ou Boato*”³⁴. To promote official information on the process, the electoral authority also agreed, with Brazilian telecommunications companies, that its website would have, until the end of the elections, zero rating for all users. In addition, it signed collaboration agreements with different digital platforms, Facebook, Google, Instagram, TikTok, Twitter, WhatsApp and YouTube, in order to disseminate and expand the scope of official information on the elections.

In December 2019, the TSE published a resolution³⁵ that prohibited the contracting of massive distribution of messages to voters. This decision, alongside the joint efforts of the TSE and the WhatsApp company, allowed the company to take action, without accessing the content of messages, to discourage this practice by identifying more than a hundred accounts that operated in this way. Likewise, the TSE enabled three complaint channels: through the Pardal application, through the Public Electoral Ministry or directly through an online form on the portal of the Electoral Court. On the other hand, the TSE, in alliance with WhatsApp, created a chatbot called “Electoral Doubts on WhatsApp”, a channel that sends registered voters information, verified news and official information on voting hours, electoral statistics and sanitary measures, among others.

The Mission congratulates the openness, ongoing dialogue efforts and the performance of the TSE, which implemented short, medium and long-term measures and managed to expand the scope of verified news and raise awareness among citizens.

VIOLENCE

Various actors expressed to the Mission their concern about the context of violence in which the electoral process took place. Representatives of political parties and civil society organizations reported to the Mission that multiple candidates received threats and attacks related to their participation. According to information received, since January 2020, the number of homicides related to the electoral process ranges between 30 and 85 people killed, which reflects the need to create a registry that provides more accurate data.

This situation also exists for indigenous and Afro-descendant candidates, who in meetings told the Mission that they had been the target of attacks, sometimes discriminatory and racist, both in person and through social media.

The Mission deems the use of violence unacceptable and emphatically rejects it in any circumstance, especially in a democracy. Likewise, the Mission expresses its concern about the environment of fear and intimidation that limits the participation of voters and candidates in politics. On the other hand, the EOM received information on the presence and influence of militias and observes with concern that groups associated with crime become involved in the electoral process in some areas of the country.

Regarding this problem, the Mission recommends:

- Investigate crimes and pursue justice for murders and acts of violence that harm the exercise of democratic freedoms.
- Create conditions for the protection of voters and candidates who are objects of these threats.

³⁴ <https://www.justicaeleitoral.jus.br/fato-ou-boato/>

³⁵ Resolution TSE nº 23.610/2019.

- Create a record of political violence, both verbal and physical, that allows documenting, identifying the causes, reporting and promptly addressing such episodes.

ELECTORAL INSTITUTIONALITY

Most of the actors interviewed by the Mission expressed their respect and appreciation for the institutional framework, professionalism, and technical capacity of the Superior Electoral Tribunal and its Regional Electoral Courts. Likewise, different spheres (civil society, academia, among others) recognized the openness of the electoral authority to take into account the opinion of all the actors who participate in the electoral process.

For their part, TRE officials stated that they felt part of the institution's decision-making process. They also highlighted that the current administration has improved the communication spaces between the TREs and the TSE, as well as training opportunities for their professional development.

The Mission also learned that in some cases, the pandemic caused the reduction of the personnel available for logistical tasks in the headquarters of the electoral offices - given their pre-existing health conditions or being in an at-risk age bracket - which resulted in the overwork of available human resources. Despite that, the EOM witnessed the commitment of all dedicated personnel to the organization and logistics of the election.

The OAS Electoral Observation Mission recognizes the electoral authorities and their officials for their demonstrated and evident transparency and receptivity to international electoral observation.

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