



EUROPEAN PARLIAMENT

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**DELEGATION TO OBSERVE THE ELECTIONS
IN THE REPUBLIC OF GUATEMALA
(6-11 SEPTEMBER 2007 AND 1-6 NOVEMBER 2007)**

REPORT

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I. INTRODUCTION

On 12 July 2007, the Conference of Presidents decided to send a delegation of seven members, chosen by the d'Hondt system, to observe the parliamentary and presidential elections in Guatemala due to take place on 9 September, and for the second round of the presidential elections, if any. It also accepted the invitation of Mr Óscar Bolaños, President of the Supreme Electoral Tribunal, of 14 March 2007.

1. General elections of September 2007

The EP's political groups designated the following members: Emilio Menéndez del Valle (PSE), Maria Badia i Cutchet (PSE), Jörg Leichtfried (PSE), Fernando Fernández Martín (PPE), Pilar Ayuso (PPE), José Manuel García-Margallo y Marfil (PPE) and Willy Meyer-Pleite (GUE/NGL).

At the delegation's constituent meeting on 29 August 2007, Mr Emilio Menéndez del Valle was elected Chairman.

During the delegation's preparatory meeting on 4 September 2007, a preliminary programme of pre-election information meetings was discussed and approved.

The delegation divided into three teams to cover election day: one assigned to Guatemala City and the other two to the city of Antigua.

The EP Election Observation Delegation to Guatemala also worked in close cooperation with the EU Election Observation Mission (EU EOM), under Chief Observer Mr Wolfgang Kreissl-Dörfler, MEP.

2. Presidential elections in November 2007 (Second Round)

The EP delegation for the second round of the Guatemalan presidential elections was composed of the same members as took part in election day on 9 September, except for member José Manuel García-Margallo y Marfil (PPE) who was replaced by Agustín Díaz de Mera García Consuegra.

To cover election day, the delegation split into three groups, two of which were deployed in Guatemala City and the third in the city of Antigua Guatemala and surroundings.

Again, the EP delegation worked in close cooperation with the EU EOM chaired by member Wolfgang Kreissl-Dörfler. The Delegation helped to prepare the EU EOM's preliminary statement and took part in the press conference of 6 November on the conduct of election day on 4 November 2007.

II. GUATEMALA'S INTERNAL SITUATION

Over the past 23 years Guatemala has been immersed in a process of transition to democracy, and this is the sixth time there have been Presidential and Vice-Presidential elections and the seventh time there have been elections for the Congress of the Republic during that period. The civil war, which lasted 36 years, ended in 1996 with the signature of the Peace Accords. For the past ten years, the political system has been open to the participation and political representation of the Left, who were previously engaged in armed conflict, thereby satisfying the pluralism criteria required of a modern democracy.

However, during this process the institutional, material and civic conditions, under which Guatemalan society faces the challenges of development, full democracy and building peace, are still very precarious.

Despite spectacular institutional progress (the rise of the rule of law and the beginning of democracy), the continuing deterioration of the economic and social situation is clouding the prospects of political stability. The effectiveness and credibility of the democratic institutions are in question. The legislative body in particular has little public support, and is perpetually criticised by the media. The country is beset by other problems, such as organised crime and drug trafficking, and the complex challenge facing Guatemala for the reconstruction of the areas devastated by Hurricane Stan that laid waste to the region in October 2005.

Given the magnitude of the social problems and the State's relative inability to act decisively to solve them, Guatemalan society continues to discuss the need for more resources to invest in social issues and for succeeding in redistributing to the most vulnerable and marginalised sectors. However, the traditional economic forces have often succeeded in blocking the introduction of the tax reforms necessary to enable the country to achieve a level of revenue in line with the standards of tax income in the region, which would allow Guatemala to reduce poverty and make progress towards equal opportunities for all.

The country achieved economic growth of 5% in 2006, the best result since 1978. Paradoxically, economic progress has not led to an improvement in the squalid conditions that predominate throughout the country: 58% of the population is poor and 23% very poor. Inequalities are also flagrant: 4% of the population manages to consume more than 50%.

As has happened in many Latin American countries, many citizens have become disenchanted with the results of the transition to democracy as, among other things, it has not helped to solve the economic problems or the escalation of organised crime and violence. At this critical juncture, this discontent is eroding the population's support for the creation of a State as described in the Constitution and the Peace Accords.

In Guatemala's case, violence, organised crime and human rights violations continue to be serious problems for society. The security situation is very unsatisfactory, as an increase in violent crime has been recorded, especially kidnappings. In this connection, President Berger's government has given a high priority to implementing reforms for combating crime, with the aim of calming social unrest and anxiety. A Transparency Secretariat has been set up to devise policies to combat corruption and investigate government bodies. A number of police officers have been

dismissed, including the head of the Anti-Narcotics Analysis and Information Service (SAIA), on grounds of corruption.

To that end, last year President Óscar Berger urged Congress to approve a package of reforms on security with the aim of stepping up the Government's ability to tackle violent crime in Guatemala. This reform package includes: changes in the penal code, more stringent rules for private security firms and a national firearms register. The President also aimed to set up a National Institute of Forensic Science to enable the Guatemalan National Civil Police (PNC) to be better equipped to obtain key evidence for solving cases. The proposed legislation aims to improve the capabilities of the security forces to bring criminals to justice, which could create virtuous circles and serve as a deterrent to organised crime.

Furthermore, the Government has succeeded in having Congress pass a law granting compensation to the paramilitaries of the Civil Defence Patrols (PACs), in order to fulfil the promises made by the previous Government¹. The Constitutional Court has condemned these payments, and there have been a number of demonstrations protesting against them.

Against this background, political assassinations are on the rise in the country. The most far-reaching of these was the assassination on 19 February 2007 of three Salvadoran members of PARLACEN, and their driver. This serious incident triggered a series of political consequences with both national and international repercussions. Four days after the event, it was discovered that the assassins were agents of the Criminal Investigation Division (DINC) of the Guatemalan National Civil Police.

The agents were arrested and a few days later were murdered inside a prison. This demonstrated the serious weaknesses of the security services and the penetration of organised crime within them, which sparked off a wide-ranging debate on security issues. It fuelled the general belief that cells responsible for extrajudicial execution of delinquents were operating within the security services, with the consent of the authorities, popularly known by the euphemism of 'social cleansing'².

This proof of the infiltration of organised crime into the State institutions led to the setting up of an international commission to investigate alleged clandestine security apparatus, specifically assigned to carry out extrajudicial executions of delinquents, politicians and social activists, and harass the media and journalists.

The UN was prepared to back this initiative, for which a convention was signed in 2004 to set up the Commission for the Investigation of Illegal Bodies and Clandestine Security Apparatus in Guatemala (CICIACS). When Congress was ratifying the Convention, it was argued that some aspects of the

¹ According to the Truth and Reconciliation Commission – set up under the auspices of the UN – the PACs were responsible for 12% of the human rights violations that occurred during the conflict between the guerrillas and the Government, and the compensation they have received is an obstacle in the fight against impunity.

² Based on regional statistics produced by the UNDP, the homicide figures by country in Latin America are ordered as follows: first comes El Salvador as the continent's most violent country, with an average of 50.4 deaths per 100 000 inhabitants per year. Next comes Venezuela, with 46.9 deaths per 100 000 inhabitants. The list continues with Guatemala, with 44 deaths; Colombia, with 40.4; Mexico, with 28.7; and Brazil with 23.8.

agreement were unconstitutional. The main argument was that the Convention violated the country's sovereignty, in that the members of the Commission were empowered to investigate State institutions and would enjoy diplomatic immunity.

After the failure of this initiative, the UN continued to support the Guatemalan Government in combating illegal bodies and clandestine organisations. Within the Government, the Vice-President of Guatemala, Eduardo Stein, was notable for his active participation. In 2007 this resulted in a new legislative initiative entitled 'International Commission against Impunity in Guatemala' (CICIG), aiming to 'assist' the Attorney General's office with investigations.

The basic content of the agreement between the UN and the Guatemalan Government is the establishment of the International Commission against Impunity in the country (CICIG), with the aim of strengthening the Government institutions and helping them to investigate and prosecute those responsible for crimes committed by illegal bodies and clandestine security apparatus. The Commission – which has an initial two-year mandate – will also combat criminal groups which have become a threat to fundamental safeguards in the country. The CICIG is an independent body that will operate under the responsibility of Spanish lawyer Carlos Castresana, recently appointed by UN Secretary-General, Ban Ki-moon.

The CICIG was approved by the Congress of Guatemala on 1 August as a matter of national emergency, after deep controversy with elements that regard the initiative as interference with the country's sovereignty. On the other hand, support has been forthcoming from Guatemalan civilian groups and major international bodies and institutions, on the grounds that it is the only mechanism capable of dismantling parallel powers to the State which presumably affect the governability of Guatemala.

III. INSTITUTIONAL AND ELECTORAL FRAMEWORK

1. Institutions

Guatemala is a constitutional democratic republic divided into 22 departments, the governors of which are appointed by the President of the Republic. The Constitution entered into force in 1986 and was amended in 1993.

1.1. Executive

The current President of the Republic and Head of the Government is Óscar Berger, elected in 2003. He took office on 14 January 2004. The President and Vice-President are directly elected for a four-year term that may not be renewed.

1.2. Legislature

Parliament has a single chamber. The Congress is made up of 158 members, elected by universal suffrage for a four-year term. Guatemala is a member of the Central American Parliament (PARLACEN) in which it has 22 representatives.

1.3. Judiciary

The judiciary is represented by the Supreme Court of Justice, made up of at least seven judges elected by Congress for a five-year term. The Court appoints the judges of the lower-ranking courts. The Guatemalan judicial system is inspired by that of the United States. There is also a Constitutional Court and a Supreme Electoral Tribunal.

1.4 Supreme Electoral Tribunal

This is the highest authority on electoral issues. It is independent and therefore does not depend on the Government. Its organisation, operation and powers are laid down in Article 121 of the Law on elections and political parties, which has been in force since 14 January 1986. It was established in 1983, with the goal of safeguarding the freedom and transparency of Guatemala's electoral process.

2. 2007 general elections

2.1. Introduction

2007 was a year of considerable electoral activity for the people of Guatemala. The Guatemalans were called upon to elect the President and Vice-President of the Republic (for a four-year term from 14 January 2008 until 2012), 158 members of the Congress of the Republic, for both the national and district lists, 332 mayors and the same number of municipal councils. The elections were held on 9 September 2007 and as none of the candidates for the presidency won a sufficient majority of votes, a second round was held on 4 November 2007.

These votes were the sixth election in Guatemala since the current Constitution was promulgated in 1985, and the formal process of building a democracy began, after several decades under a military regime. In addition to this scenario are the difficult conditions of violence referred to above.

One matter in the institutional context that is of great concern is the technical and political fragility of the Supreme Electoral Tribunal (TSE). While this directly concerns the 2007 general elections, it is yet another example of the weakness of the public institutions that introduces distortions in the perception of the TSE's authority and creates a climate conducive to distrust, suspicion and smear campaigns.

Furthermore, it is apparent that some parties have been exposed to the influence of organised crime, especially drug trafficking, which has succeeded in penetrating organisations as much through its financial and political power as through the use of violence. This situation has reached such an extreme that the advance of this emerging criminal power into the parties is already being discussed openly, and many of its protagonists are undoubtedly candidates for public office, leaders of various ranks, consultants and financiers.

The country's Vice-President, Eduardo Stein, warned of the danger of organised crime infiltrating all State institutions including the political parties. Accordingly, he asked the Supreme Electoral

Tribunal (TSE) to exercise the strictest control over the candidates and the funding of the campaigns. In addition, the Guatemalan Government has requested support and observers from major bodies and institutions such as the Organization of American States (OAS) and the European Union (EU).

2.2. Guatemala's electoral system

Guatemala's electoral law was enacted on 27 December 1985 and subsequently amended in 2004 and 2006.

The territory is divided into a number of constituencies, 22 of which are multi-member seats and correspond to the country's departments. There is one national multi-member constituency (31 seats in Congress).

Parliamentary elections are conducted using a mixed system with closed lists: 127 seats are elected by majority in the country's departments, while the 31 seats in the national constituency are governed by a proportional system within the national list. Alternates are elected at the same time.

The governors are appointed by the President of the Republic who also decides on the term of their mandate. Mayors are directly elected for a four-year term. The possibility of holding elections for the governors is currently being studied. This alternative could be implemented by adopting laws on decentralisation.

According to Article 12 of the law on elections and political parties, voting is 'a right and civic duty inherent in citizenship. It is universal, secret, unique to each person and cannot be delegated', in other words, each citizen has a single vote. In order to exercise the right to vote one must be entered on the electoral roll of the relevant constituency¹. Voting is compulsory, on pain of a fine, for all Guatemalan citizens aged over 18 unless they have had their civil and political rights suspended. However, members of the armed forces and police, and citizens carrying out a prison sentence may not vote.

To be a candidate it is sufficient to be of voting age, to be able to read and write and not to be ineligible or incompatible in any way. Ineligibility applies to close family members of the President and Vice-President, as well as to anyone with a criminal conviction. Incompatibility applies to civil servants, holders of certain public offices, members of the Supreme Electoral Tribunal and the Court of Auditors, and holders of a Government contract. The political party they represent must also be legally recognised. Candidacies are registered with the Supreme Electoral Tribunal.

The Supreme Electoral Tribunal (TSE) helps to consolidate the democratic system and rule of law in Guatemala. It facilitates and safeguards the citizens' free exercise of political and electoral rights. The Tribunal's three main tasks are: to oversee the proper application of the Constitution, Electoral Law and the regulations and provisions safeguarding the citizens' political organisation and participation; to strengthen the country's democratic culture and, in the framework of the electoral procedure, to call, organise, implement, coordinate and monitor the electoral process, and announce

¹ All Guatemalan citizens must be entered in the Supreme Electoral Tribunal's Register of Citizens when they reach the age of majority.

the results of the elections and whether they are valid or partially or totally invalid. The Tribunal is also responsible for the permanent register of citizens and registers and monitors the political organisations.

In the run-up to the elections, the TSE urged citizens to update the data in the register to enable them to vote near their place of residence. It is also responsible for announcing the elections. Furthermore, the President of the TSE, Mr Óscar Bolaños, together with the Ministry of Communications, is devising an emergency plan to counter adverse weather conditions forcing the polling stations to be moved to alternative locations.

Unfortunately, the intense political pressures and legal manoeuvres to which the TSE has been subject have seriously undermined its operation. From the political point of view, the process of electing the current members of the TSE – which gave rise to all kinds of pressure from power groups trying to control the institution – led to tensions between the judges from the outset.

From the legal point of view, there is no doubt that the reforms introduced to the law on elections and political parties (LEPP) in 2004 and 2006 did nothing to strengthen the TSE as the body overseeing the elections. Neither did the debates on the reforms lead to the changes in the law, criminal justice and criminal proceedings that were needed in order to have greater control and supervision over the conduct of elections and the activity of the political parties, specifically as regards election campaigns and funding.

The legislation does not currently define any offences involving penalties for infringement of the LEPP or obliging the political parties to comply with the law. This situation leaves broad scope for arbitrariness, which both the political parties and the power groups involved in the process can take advantage of.

In this context, the TSE is empowered solely to make condemnatory statements but not to impose sanctions on anyone infringing the LEPP. The role of the TSE is purely to observe and administer the electoral process.

Likewise, the TSE was unable to prevent the early start of the electoral campaign, which was in clear breach of the time periods laid down. The TSE judges expressed their concern and urged the parties to comply with the law.

Furthermore, the decentralisation of the polling stations at national level, by the setting-up of booths in places where there were at least 500 registered voters, meant bringing the polling booths closer to the voters by means of 681 new municipal electoral constituencies (CEMs). The number of polling stations rose from 8 885 in 2003 to 13 756 in 2007. This was a major challenge for the electoral authorities in relation to previous years in terms of organisation, implementation, administration and monitoring of the electoral process. According to the data provided, the TSE had a team of 120 000 people to handle almost twice the number of booths that were in operation in 2003. This required a monumental training effort, which far exceeded the tribunal's capability to carry out a job on this scale.

Although the TSE faced the greatest challenge in terms of engaging or hiring staff, geographical deployment, training and provision of technical and material resources, decentralisation also had a direct impact on the political parties. The groups needed a good many staff to oversee the voting, especially as on 9 September there were some 14 000 polling booths.

Obviously, only those political parties with a large number of members were in a position to keep a close watch on the election process, while the groups with fewer members did not have sufficient deployment capacity, even in urban areas, and much less in remoter rural locations.

Another challenge deriving from decentralisation related to security. There is a clear need to give the Ministry of the Interior and the National Civil Police (PNC) the essential means to handle the security commitment on their own, especially regarding the lack of sufficient human, technical and logistical resources to cover all the polling stations, lines of communications throughout the country and to maintain a presence in the places designated as electoral constituencies. All this has to be done without neglecting their routine security work.

It will therefore be necessary to have recourse to the Army once again, as has been commonplace in previous elections, to meet the security demands and needs and to preserve, as far as possible, an atmosphere of relative calm enabling the citizens to exercise their voting rights in full.

One problem that reduced the TSE's credibility was the 'discharge' (*finiquitos*) scandal. The Berger administration regarded this problem as a serious threat to the electoral process. The problem was apparently caused by the acceptance of candidacies for popular election posts without requiring the presentation of the discharge certificate issued by the Comptroller General of the Nation (CGCN), as required by the Law on probity and the responsibilities of public servants and employees.¹

The Human Rights Ombudsman, Sergio Morales, filed an application for *amparo* (enforcement of rights) against the TSE to have the Supreme Court compel the judges to require a discharge certificate before a candidate could take office, and for the CGCN to take its responsibility to ensure that the candidates are examined and announce that it will not allow anyone to take office on 14 January who has not supplied a discharge certificate to the Comptroller's office or has proceedings pending with the State for having administered public funds.

On 5 November the Supreme Court of Justice (CSJ) ordered that the petition be filed, ruling that '... the claims were spurious, political or illegitimate'. The appellants, grouped together as the Frente Nacional de la Dignidad Guatemalteca (National Front for the Dignity of Guatemala), consider that the action against the members of the TSE should be tried by the Congress of the Republic rather than by the CSJ. The Constitutional Court (CC) also confirmed a provisional *amparo* against the TSE, setting a deadline of 48 hours to provide the CGCN with a list of persons elected in the latest votes, so that they could be required to produce their discharge certificates. The CC judges also ordered that the preliminary judgment action against the TSE judges, accused of nine offences, should be sent to the Congress of the Republic, which by law is competent to try cases against the Electoral Tribunal. Congress has to draw lots to elect a committee which has 60 days to decide whether there is a case to answer, and the plenary then has the last word, if there is a qualified

¹ The law states that no one who has collected, kept or administered State property 'may apply for any public office or post' 'unless they have a certificate of solvency' not only from the CGCN but also 'from the institution with which they served'.

majority, regarding the preliminary judgment of the accused. However, owing to the statutory time periods, the case may come before the new Congress.

2.3. Political parties

Guatemala is one of the Latin American countries with the highest number of legally registered political parties (19). For the 2007 elections, 14 parties and coalitions fielded candidates for the presidency. The main parties fielding candidates were: Unión Nacional de la Esperanza (UNE), Partido Patriota (PP), Gran Alianza Nacional (GANAN), Encuentro por Guatemala, Frente Republicano Guatemalteco (FRG), Unión del Cambio Nacionalista (UCN), Partido Unionista, Centro de Acción Social (CASA), Partido de Avanzada Nacional (PAN), Alianza Nueva Nación (ANN), Unión Democrática (UD), Democracia Cristiana Guatemalteca (DCG), Desarrollo Integral Auténtico (DIA) and the left-wing movement URNG-MAIZ representing Unión Revolucionaria Nacional Guatemalteca.

2.4. Presidential candidates

Álvaro Colom, social democrat candidate, defeated by Óscar Berger in 2003, came out as favourite in a poll published early in 2007. He represents the Unión Nacional de la Esperanza (UNE) party. Another well-positioned candidate was Otto Pérez Molina of the Partido Patriota. The candidate of the Gran Alianza Nacional (the Government's party) is Alejandro Giammattei; Eduardo Suger stood for CASA. The Frente Republicano Guatemalteco, the party of the former dictator General Ríos Montt, fielded Luis Rabbé as a candidate, whilst the winner of the Nobel Peace Prize in 1992 and defender of indigenous rights, Rigoberta Menchú, confirmed that she was standing for the Encuentro por Guatemala/Winaq coalition. Other candidates standing are: Fritz García-Gallont (Partido Unionista), Mario Estrada (Unión del Cambio Nacionalista), Miguel Ángel Sandoval (URNG-MAIZ), Óscar Castañeda (Partido de Avanzada Nacional), Marco Vinicio Cerezo (former President, now leader of Democracia Cristiana), Manuel Conde (UD), Pablo Monsanto (ANN) and Héctor Rosales (DIA).

The candidates' programmes focus on the security issue. Nevertheless, the successful candidate will have to face many challenges. These include combating violence, building confidence in the institutions, reforming the penal and fiscal systems, addressing the social groups that are putting increasing pressure on the Government, facing the consequences of applying the Free Trade Agreement between the United States and Central America (a source of concern for small producers).

2.5 Main proposals

For the UNE candidate, Álvaro Colom, the following measures are fundamental:

- territorial control to safeguard public security;
- restructuring of the budget for the implementation of the Government Plan;
- emergency work in the health sector;
- review of trusts and investment in non-government institutions;

- appeal for a fiscal pact.

Otto Pérez Molina, a retired general of the Guatemalan army and candidate for the Partido Patriota, advocates a tough stance against crime. He also proposes:

- to implement an operational security plan for Guatemala;
- to submit constitutional reforms to Congress to reduce the number of legislators, to eliminate the preliminary hearing of members of parliament and public servants, and to change the way in which the Comptroller General and the judges of the Supreme Court of Justice are elected;
- to lay the foundations for an honest and reliable government;
- to reorganise and purge the security forces;
- to make up each department's teams to implement his political party's programme.

Alejandro Giammattei (GANA) summarises his programme in five priority measures:

- to promote 19 legislative initiatives relating to the integrity of officials;
- to hold a referendum to reduce the number of members of parliament and prevent their re-election;
- to set up a multisectoral cabinet;
- to request Congress to approve the referendum on the proposed changes.

Eduardo Suger (CASA) proposes five short-term measures:

1. To make the country governable
2. To strengthen the justice system
3. To strengthen the security structures
4. To integrate education, health, economy and infrastructure
5. A foreign policy for emigrants.

For Rigoberta Menchú (Encuentro por Guatemala/Winaq) there are five priority measures:

- to devise a national security strategy to safeguard the defence of the population;
- to convene the State, private sector and civil society agencies, with a view to reaching a consensus on tackling hunger and poverty;
- to analyse and ensure the continuity of the public policies of the present Government that have potential and to determine which need altering;
- to reform the laws that impede political pluralism in the State (reforms of the Constitution);
- a national anti-corruption plan committing the three branches of the State.

Miguel Ángel Sandoval (URNG-MAIZ) advocates a comprehensive agricultural reform, progressive direct taxation and the application of public education and health policies for the most disadvantaged.

IV. MEETINGS OF THE EUROPEAN PARLIAMENT DELEGATION IN SEPTEMBER 2007

1. Meetings with European personalities

1.1. Meeting with EU EOM and EC leaders in Guatemala

On 6 September at 19.00 the European Parliament delegation met Mr Kreissl-Dörfler, head of the EU EOM and Mr Rafael Seán Larena, Head of the EC Delegation.

Discussion focused on two main agenda items: the meetings of the delegation with the presidential candidates and their itineraries on election day.

1.2. Meeting with the ambassadors of the Member States represented in Guatemala¹

Mr Menéndez del Valle, Chairman of the EP election observation delegation in Guatemala, explained the goals of the observation mission. The MEPs then asked the ambassadors for their assessments of the political, economic and social situation in Guatemala.

According to the ambassadors the country's situation is paradoxical. The economy is growing substantially but poverty rates are still very high. These social difficulties lead to frequent rural exodus to the cities and abroad to the United States. As we have noted above, violence² is one of Guatemala's most serious problems, and has been the central theme of the election campaign. Fifty murders have been recorded in an atmosphere dominated by impunity. Despite efforts such as the creation of the above-mentioned CICIG, security is an issue that poses enormous challenges to the Guatemalan Government. Some candidates, notably retired General Otto Pérez Molina, based their campaigns on the issue.

There was some doubt as to whether in excess of thirty thousand National Police and soldiers guarding the polling stations would be sufficient to cover the whole country.

The phenomenon of political defections was also analysed. Unfortunately Guatemalan political parties are often ephemeral and their members – parliamentarians, mayors – often change from one party to another. This is a cause for concern in that stable political parties are essential throughout the democratic process.

Another major problem in Guatemala is taxation. The State's coffers are empty while the tax burden is only 11%. This makes it difficult to finance the State and public policies.

The problems arising from the reforms of the Law on elections and political parties have had an impact on the electoral process: the decentralisation of the polling stations (with the setting-up of thousands of new stations), the lengthening of electoral deadlines and the lack of a system for electoral offences (which are not codified and at the moment are included in the ongoing reform of the Penal Code) resulting in an electoral law that lacks the necessary coercive force, has led to inconsistencies and helped to weaken the image of the TSE. Some political parties have taken advantage of this vacuum to infringe the law knowing that they will not be penalised later.

¹ Representatives of Germany, Spain, France, Italy, the United Kingdom, the Netherlands, Sweden and Finland took part in this meeting, held on the morning of 7 September.

² There were 2 857 homicides in the first half of 2007.

The opposing parties made wide use of traditional communication media, and above all of less traditional media such as e-mail and spreading of rumours. It is also true that the political parties spent over 228 million quetzals on the electoral campaign to get their candidates into public office. The candidates will also have to find a way of refunding the support of private financiers, most of whom are still anonymous.

The pre-election polls were highly controversial. According to some analysts, those opinion polls turned into propaganda tools and biased information designed to create climates of opinion favourable to particular candidates. Despite what many people may believe and some pollsters might wish, polls are not, and never will be, a reliable means of forecasting the final outcome of an election.

According to studies conducted by national and international organisations, Guatemala has one of the region's lowest rates of female participation in public and political life. This situation is much more pronounced in rural areas where the indigenous population is in the majority. In this context, the candidacy of Rigoberta Menchú for the presidency is a very positive development.

2. Meetings with the Guatemalan authorities

2.1. Meeting with Guatemala's Minister of Foreign Affairs, Mr Gert Rosenthal and Ms Ana María Diéguez, Vice-Minister of Foreign Affairs.

The EP's ad hoc delegation met these authorities on 7 September 2007 at 11.30.

Mr Menéndez del Valle, Chairman of the Delegation, introduced his colleagues. Foreign Minister Rosenthal mentioned the consolidation of Guatemalan democracy and political developments since the Peace Accords. He was pleased that the international observers were present to improve the transparency of the election and stressed the role of the European Parliament in strengthening relations between the European Union and Guatemala.

In response to questions about the positions of the presidential candidates on foreign policy, the Minister felt that the general approach would be maintained regardless of the results: advancement of Central American integration and efforts towards an Association Agreement between Central America and the EU.

On the domestic front, the Minister regretted the problem of violence related to drug trafficking, which continues to foster corruption and erode the democratic institutions.

Another issue discussed was international adoptions. The MEPs present stressed the need for Guatemala to accept and comply with the provisions of the Hague and Vienna Conventions in order to achieve legal certainty.

2.2. Meeting with Mr Óscar Bolaños, President of the Supreme Electoral Tribunal (TSE)

On Friday 7 September, the Delegation organised a working lunch with Mr Bolaños, President of the Supreme Electoral Tribunal.

Mr Óscar Bolaños described the development of the electoral processes since the approval of the 1985 Constitution, mentioning the electoral reforms of 1998, 2004 and 2006. The salient points were as follows:

- the changes made to electoral deadlines, bringing forward the date of the elections, reduce the time available to the TSE for making the preparations relating to the process;
- the definition of a mechanism decentralising the location of the polling stations;
- the removal from the law on elections and political parties (LEPP), of any consideration regarding electoral offences prior to their transfer to the Penal Code although to date they have not been amended or adapted to the needs of the electoral procedure.

The legislation approved by Decree 10-2004 of the Congress of the Republic lays down that the TSE must set up Polling Stations in communities having at least 500 registered voters; this initiative tends to bring voting closer to the citizen, but requires complicated logistics to be deployed to cater for circumstances.

Regarding the regulations on electoral offences, those attracting penalties were removed from the LEPP and have yet to be included in the ongoing reform of the Penal Code. The lack of coercive power which, paradoxically, the new law does not attribute to the TSE, leads to an inconsistency and contributes to the weakness of the Tribunal. This situation has made it easier for political parties to contravene the law without penalty.

The current electoral register contains both updated and non-updated citizens. The first, numbering 3.5 million, are people whose addresses could be codified. As a result, they have a code formed of a number of digits, identifying the department, municipality and municipal electoral constituency or polling station, depending on whether they live in a rural or urban area. Non-updated addresses are those of people registered before 2003 and hence not codified. This applies to nearly 2.4 million people.

3. Meetings with presidential candidates

3.1. Meeting with Mr Álvaro Colom

On the afternoon of Friday 7 September the EP Delegation held a meeting with Mr Álvaro Colom and Mr Rafael Espada, candidates for the presidency and vice-presidency respectively.

The discussion focused on the issues of security, fiscal reform and foreign policy.

For Álvaro Colom, the violence is the result of conflict between groups of drug traffickers or organised criminals. Underlying them are serious social problems which explain, for example, the growing number of street gangs. In order to combat organised crime it is necessary to be free of corruption. The UNE candidate also condemned the anti-tax culture prevalent in Guatemala. As a

result, the State's coffers are empty. Without funds, the Government is unable to combat poverty, as this policy requires substantial funding. More resources are also needed to improve security.

According to Rafael Espada, Guatemala is undergoing a process of change. The dominant class needs to accept this change. It is also essential to have a persuasive government of reconciliation to enable this change to take place. Álvaro Colom welcomes the recent changes in Latin America. He places great importance on Central American integration and the forthcoming EU-Central America Association Agreement, which is unlike the FTA signed with the United States.

3.2. Meeting with Mr Miguel Ángel Sandoval (URNG-MAIZ)

On Saturday 8 September at 09.00 the EP Delegation met the candidate Mr Miguel Ángel Sandoval (URNG-MAIZ) and Mr Héctor Nuila, Secretary-General of the URNG.

Mr Héctor Nuila said that Guatemala needed a left-wing political party that had objectives besides purely electoral ones. He also stressed the difficulties facing a party of the left in Guatemala, namely not only scarce financial resources, but also the traditional exclusion of the left from Guatemalan political life. According to Mr Nuila, the URNG-MAIZ had conducted a modest campaign without its own resources or polls. Internationally, the URNG belongs to the São Paulo Forum and maintains relations with the Bolivarian Movement, Cuba and other Latin American parties.

For Mr Miguel Ángel Sandoval, presidential candidate, the priorities of the URNG-MAIZ are as follows:

- guaranteed decent work and fair wages;
- free access to public health and education for the whole population;
- combating poverty and hunger;
- combating impunity and corruption by the application of justice and the exercise of democratic security;
- standardisation and defence of national energy resources and banning of open-cast mining which is highly polluting;
- agricultural reform and comprehensive rural development;
- addressing the historical, political, economic, social and cultural claims of the indigenous peoples;
- combating the patriarchal system and any form of discrimination that excludes citizens on grounds of ethnic group, age or gender and prevents fair social development.

Mr Sandoval alleged that there was a conspiracy in the media linked to the major capital interests against the left, especially the URNG-MAIZ. He also criticised the election polls conducted and the current funding of political parties, which depended on winning the election. The URNG-MAIZ candidate condemned political violence and the attacks against some members of his party.

When questioned about the second round, Mr Sandoval said that URNG-MAIZ would not back either candidate. Finally, on foreign policy, he was highly critical of the free trade agreements and openly praised the ALBA project.

3.3. Meeting with Ms Rigoberta Menchú (Encuentro por Guatemala/Winaq)

On Saturday 8 September at 11.00 the EP delegation met Ms Rigoberta Menchú. The discussion covered electoral issues and proposals should she form a government.

The candidate insisted that the electoral process must recover its dignity and condemned the buying of votes, the negative role of the polls, the inflammatory message of some candidates, the difficulties resulting from the changes to the electoral law such as the very recent decentralisation, which she regarded as very complicated for the Mayan population that does not speak Spanish and especially the violence of the campaign that had led to the death of eight candidates from her party.

Regarding her programme for government, the candidate mentioned improving security, decent work, the setting up of a proper national health system, educational and cultural reform, the protection of the environment, improved competitiveness and the creation of a climate favouring investment, and the importance of controlling public expenditure and improving tax collection.

3.4. Meeting with Mr Otto Pérez Molina (Partido Patriota)

On Saturday 8 September at 14.00 the EP Delegation met Mr Otto Pérez Molina.

Mr Pérez Molina began by referring to his political speeches and commitment to democracy. He was the Army representative who had signed the Peace Accords in 1996. The candidate expressed his concern at Guatemala's international image and described it as a country held hostage, where impunity reigns. He condemned the violence during the election campaign and the UNE's smear campaign.

The candidate of the Partido Patriota went on to present his proposals: security and employment. Regarding the former, he considered it fundamental to make the National Police a trained, professional force. He believed that its staffing should be increased by 50%, as it was not normal for there to be four times as many private police officers as official ones. He also mentioned the need to have suitable officials, for the law to be observed and to strengthen the State. Regarding the assassination of the three Salvadoran parliamentarians, members of PARLACEN, he said that it was the action of the Partido Patriota that led to the resignation of the Interior Minister.

When questioned on the need to strengthen the political parties as an essential condition for democracy, the presidential candidate said he was in favour of strong and sustainable parties. Regrettably the Guatemalan parties were often ephemeral. The Partido Patriota, a centre-right party, is a recent party with representation in Congress and which will direct its efforts towards the next elections. Pérez Molina also stated that the polls favoured his party. He also stated his opposition to political defections and his support in the event of the re-election of the President of the Republic. In this connection he said that he would accept the necessary constitutional reforms.

He was also in favour of an open economy, highlighted the problem of tax collection and felt that it was essential to foster a culture that accepted taxation. In this connection he emphasised the need for a fiscal pact, achieved by political agreement. He regretted that over 50% of the economy was still informal.

Finally, the presidential candidate expressed his support for Central American integration.

V. CONDUCT AND ASSESSMENT OF THE ELECTION DAY OF 9 SEPTEMBER 2007

1. Election day

The almost six million Guatemalans entitled to vote on 9 September 2007 had to elect their next president from 14 candidates. They also had to re-elect the single-chamber Congress of 158 members and 322 mayors. As none of the presidential candidates won 50% of the votes, the two candidates with the most votes (Unidad Nacional de la Esperanza (UNE) with 28.2% of the votes and the Partido Patriótico (PP) with 23.5%) went through to a second round scheduled for 4 November. The President and the elected parliamentarians will take office on 14 January 2008.

The elections took place under normal conditions, with isolated outbreaks of violence and only a few minor incidents. The polling stations opened and closed punctually. The Supreme Electoral Tribunal (TSE) worked well and voter turnout exceeded 60%. The increase in counting centres and polling stations allowed many more Guatemalans to take part as they did not have to travel long distances to vote.

The work of the volunteers in the polling stations and the national observers was praised by the various election observation missions.

More women voters took part in these elections, perhaps because of shorter distances to polling stations and the example of women standing for election to several posts.

Finally, it is interesting to note that thousands of children took part in the children's elections this year. The goal of this symbolic vote is that when they reach 18 they will already have a sense of civic participation.

2. Assessment of the elections by the European observers

As planned, the EP delegation was deployed in three groups to observe the election. One group stayed in Guatemala City while the other two groups observed in the city of Antigua and surroundings.

The leaders of the EU EOM, the EP delegation and the ambassadors of the Member States present in Guatemala met to analyse the election day and the results on the morning of Tuesday 11 September. They congratulated the Guatemalan people for the festive atmosphere on 9 September, noted the substantial turnout of women and young people, the effect of decentralisation in increasing the participation of citizens, the fast vote count and the lower level of violence on election day in relation to previous ones.

There were nevertheless some negative aspects:

- there were errors in the electoral register: there were reports of several cases of persons with anomalous papers. Indeed, when the votes were counted, it was found that even some deceased people appeared as voters;

- a lack of political maturity was observed in some regions, where there were incidents such as the burning of ballot boxes;
- in some cases the media disclosed results ‘fresh out of the ballot box’ before the voting had ended, in contravention of the provisions of the law on elections and political parties;
- the Supreme Electoral Tribunal did a good job despite having been weakened by the reforms of the electoral law, when the chapter on infringements and offences was removed. It also faced difficulties with checking the parties’ funding and expenditure;
- another obvious aspect was the lack of information for voters speaking indigenous languages (Mayan). There was a significant level of non-participation of 40%;
- regarding the gender aspect, few women were elected to parliament; of the 158 female candidates, only 18 won seats in Congress;
- another adverse factor was the weather, since the vote was planned without taking account of the fact that it would be the rainy season.

The statement of the European Parliament Delegation observing and assessing the Guatemalan elections is attached as Annex III to this document. The preliminary statement of the EU EOM is in Annex IV. Annex V sets out the election results:

- The Unidad Nacional de la Esperanza (UNE) candidate, Álvaro Colom, won 28.2% of the vote.
- Otto Pérez Molina, candidate for the Partido Patriótico (PP), won 23.5% of the vote.

Both candidates went through to the second round on 4 November, also observed by the EU EOM and the European Parliament’s ad hoc delegation.

Regarding the results of the elections for the Congress of the Republic, the Unidad Nacional de la Esperanza (UNE) party won 48 seats and the Partido Patriótico (PP) 32 seats. Despite its defeat in the general election, the Gran Alianza Nacional (GANA) strengthened its position in Congress, obtaining 35 seats. This places the hitherto official party in a position of strength, as the Government will need its votes to be able to carry out its work programme and keep its campaign promises.

Finally, in the municipal elections, the results published by the TSE revealed that the UNE won 103 of the country’s 332 municipalities (31%), while GANA won 78 municipalities (23.4%) and the PP 39 (11.7%). The Unionista and Frente Republicano Guatemalteco parties won 23 and 22 municipalities (6.9% and 6.6% respectively). Various civic committees won in 18 municipalities.

VI. MEETINGS OF THE EUROPEAN PARLIAMENT DELEGATION IN NOVEMBER 2007

1. Meetings with European personalities

1.1. Meeting with ambassadors of EU Member States represented in Guatemala¹

MEP Emilio Menéndez del Valle, Chairman of the European Parliament (EP) Delegation, asked the ambassadors present for their assessment of the Guatemalan political situation following the elections of 9 September 2007.

The ambassadors and MEP Wolfgang Kreissl-Dörfler, head of the EU EOM spoke of the maturity and leadership of the political parties in that they, and the presidential candidates, respected the results announced by the Supreme Electoral Tribunal (TSE) once the voting was over. They also stressed the importance of decentralisation to the electoral process, the smooth transition between administrations implemented by the executive, the increase in women's representation in Congress and the close cooperation between the observation missions of the EU and the OAS.

As regards the political support of the candidates Álvaro Colom and Otto Pérez Molina, those present mentioned their efforts to win the indigenous vote, the influence of 'caciquismo' (pressure from influential local leaders) in voting and agreements between the two candidates and other political forces, despite the limited ability of Guatemalan leaders to endorse their votes.

The ambassadors and parliamentarians present also expressed their concerns about the risk of abstentionism, which was traditionally higher in the second round and very probably fostered by smear campaigns, fatigue caused by the long duration of the campaign and the public holidays early in November. The role of the media in the electoral process was also mentioned: radio stations in rural areas, television in urban areas, the fairly balanced role of the press, the impossibility of holding a television debate between the two candidates and the impact of the proliferation of polls with such contradictory results.

The achievements of the TSE were also mentioned. The reforms to the electoral law allowed decentralisation but had weakened its ability to monitor the process and the law penalising any infringements. Those present also highlighted the shortcomings of the electoral register, that could only be resolved by setting up a national register of citizens and a single identity document.

Finally, they mentioned the scant reference to foreign policy in the candidates' speeches, especially to the forthcoming EU-Central America Association Agreement.

2. Meetings with the Guatemalan authorities

2.1. Meetings with representatives of civil society

The EP delegation met representatives of civil society on 2 November 2007 at 10.30 after the meeting with the ambassadors.

Mr Menéndez del Valle, Chairman of the Delegation, introduced his colleagues. The representatives of civil society present highlighted the fact that the two candidates had no interest at all in their

¹ Representatives of Germany, Spain, France, Italy, and Sweden took part in the meeting, held on the morning of 2 November.

activities, and regretted the absence of a genuine political debate, the abuse of character assassination, the proliferation of smear campaigns, the problems with the electoral register, the difficulties of monitoring the candidates' expenditure and the death threats against journalists investigating the funding of a political party.

The problem of the 'discharge certificates' was also mentioned. It weakens the position of the Supreme Electoral Tribunal (TSE) as the judges had accepted candidacies for popular election posts without requiring the presentation of the discharge certificate, as required by the current legislation.

The issue of indigenous voting was also analysed. It was already clear that Guatemalans do not vote according to their membership of social, religious or economic groups. While indigenous peoples account for 65% of the Guatemalan population, the indigenous vote amounted to no more than 45% in the September elections. According to some representatives of civil society, Rigoberta Menchú's candidacy may have attracted some marginalised voters. However, her project failed as a result of existing racism, patronage, the candidate's financial difficulties, the mix-up between indigenous claims and the vote, and the fact that Álvaro Colom had conducted a good campaign among the indigenous peoples.

Finally, the issue of violence was also discussed. A report by the office of the Human Rights Ombudsman concluded that some 23 politicians and supporters were murdered during the year, and another 18 the previous year. The 2007 electoral campaigns were also the most violent ever held. In these tragic events, the media did not set a very good example. The possibility of violence after the election was also raised.

2.2. Meeting with the Mayor of Guatemala City, Mr Álvaro Arzú¹

During the meeting he had with the members of the European Parliament delegation, Mr Álvaro Arzú made the following remarks:

Guatemala is a young country that is still taking shape, like other Central American and Caribbean countries. Guatemala has great potential as a result of its huge diversity. The country experienced armed conflict for 36 years. Unfortunately, the Peace Accords have yet to bring security. The mayor felt that the country's main problems were insecurity, low tax collection and the press.

Regarding the press, Mr Álvaro Arzú considered that it plays a negative role because it is not independent, provokes distrust among the population, especially young people, and tends to disparage politics.

When asked whether he would back one of the presidential candidates, the Mayor of Guatemala City replied that he 'will not endorse the vote'.

¹ Álvaro Arzú was President of Guatemala from 1996 to 2000. In 2003 he was elected Mayor of Guatemala City with the Partido Unionista. In 2005, Álvaro Arzú appeared in the Top Ten of the world's best mayors. In 2007, Álvaro Arzú was re-elected as mayor of the capital (2008-2012) with the Partido Unionista.

2.3. Meeting with the Vice-President of the Republic, Mr Eduardo Stein

On Friday 2 November the EP delegation had a working lunch with Vice-President Stein.

Mr Eduardo Stein began by saying that there had never been an election period in which the indigenous peoples were so aware of their rights or the public had such high expectations of the presidential candidates.

When asked about fiscal reform, he replied that his administration had attempted reform but that Congress had accepted only part of it. He also felt that taxation should not focus on added value as this penalised people on low incomes.

Vice-President Stein felt that the TSE judges had not behaved consistently. The 'discharge certificates' issue affected the TSE's credibility.

When asked about his claim that 'organised crime has infiltrated all the State institutions', the Vice-President of Guatemala confirmed that the Berger administration was not unaware of the problem when it came to power, but did not realise the scale of it. The issue of adoptions was a typical example: an illegal market for adopting children coexisted alongside a legal system.

Another serious problem was the assassination of the three Salvadoran members of PARLACEN that led to the killing of the policemen involved in the crime while they were being held in a high-security prison. Another serious problem was the continuing 'femicides' that showed no signs of abating. Paradoxically homicides were on the increase while convictions were falling. For example, there were 107 convictions in 2005, 83 in 2006 and 27 in the first half of 2007.

Regarding the forthcoming EU-Central America Association Agreement, the Guatemalan Vice-President felt that it was beneficial in that it would help to balance the regional agenda. He hoped that the Central American states would have a uniform foreign policy and that concrete proposals for customs integration and trade issues would soon be submitted.

2.4. Meeting with Mr Óscar Bolaños, President of the Supreme Electoral Tribunal (TSE)

The delegation met Mr Bolaños, President of the TSE, on Friday 2 November at 19.00.

The President of the TSE made the following statements to the members of the EP Delegation:

- the TSE would ensure that the elections were held and the results announced;
- the TSE had sent information to all the updated voters (3 million) indicating where they should vote and had supplied an updated electoral register to the parties;
- he regretted the smear campaigns aimed at disqualifying candidates and the fact that five public holidays in early November could reduce turnout;
- he stressed his conviction that citizens were entitled to know the election results as quickly as possible.

2.5. Meeting with the Interior Minister, Ms Adela Camacho de Torrebiarte

The European Parliament Delegation had a working breakfast with the Interior Minister, Ms Adela Camacho, on Saturday 3 November.

The Minister explained the workings of the monitoring system designed to prevent any riots. Information is transmitted by the institutions involved in the electoral process and citizens' reports on the telephone number 110. These data are passed through a checking system; confirmed reports are sent to the Analysis Centre which classifies them as green, yellow or red alerts. A radio and telephone system establishes communication with the police units near the site of possible riots, so that they can intervene.

The Deputy Director-General of the National Civil Police, Mr Henry López, said that the police presence in polling stations throughout the country was guaranteed from Saturday 3 November, with the deployment of 19 550 police and 4 150 soldiers, who would place special emphasis on the 16 municipalities where there had been disturbances during the first round of elections. The presence of officers on the roads, at polling stations, at power plants and in municipalities at most risk of conflict was designed to ensure that any citizen wishing to vote could do so without hindrance. The police presence consisted of three security areas: one metropolitan, another in the departments in the centre of the country, and the third at the borders. Special emphasis was placed on the roads leading to the polling stations, with mobile patrols every 20 kilometres.

The main task was to prevent sabotage, road blocks or destruction of ballot papers. On election day, a police helicopter will fly over Tukurú, Alta Verapaz, San Marcos La Laguna and Sololá, where the municipal elections will be re-run.

When asked about the problem of organised crime infiltrating the police force, the Minister answered that more than 2 500 police officers had been expelled and some were in prison. The restructuring of the Criminal Investigation Division (DINC) was also one of the three priorities of the Interior Ministry. The DINC had been one of the most criticised sections, as some police officers linked to crimes were members of it. The Minister was inclined to assign officers to that division who had graduated in criminology and had no criminal record. In many cases, the lack of qualified personnel in key posts of the police force had prevented investigations from moving forward or intelligence work from taking place.

The second item on the agenda was to bring renewed security to certain districts of the capital and the municipalities hit by violence. Finally, it was hoped that in December 2007 the technical security equipment would be installed in prisons. The Ministry team highlighted the role of technical assistance – which it described as serious and effective – provided by the Spanish Guardia Civil.

3. Meetings with presidential candidates

3.1. Meeting with Mr Álvaro Colom

The EP delegation met Mr Álvaro Colom, presidential candidate, on Saturday 3 November at 10.30.

The discussion focused on the election campaign and the domestic and foreign policy that a UNE government would pursue.

Álvaro Colom regretted the smear campaigns and scandalmongering between the UNE and the PP. The candidate complained that a Partido Patriota leaflet had been included in the correspondence sent by the TSE to Guatemalans telling them where to vote. Álvaro Colom claimed that this leaflet urged voters to vote for that party, which was clearly an offence, in his view. However, the European Parliament Delegation and its Chairman were not convinced by Mr Colom's reasoning¹.

Asked about his first measures if he won the presidency, Álvaro Colom listed the following:

- convene and establish a social pact, to decide what changes were needed, and make a fiscal pact to finance them;
- strategically organise the public security forces and take control of the red zones;
- improve justice: give financial support to the Attorney General's Office (MP) and the judicial system, in accordance with specific projects requiring immediate attention;
- submit a bill to Congress for reforming the Organic Law on the National Civil Police;
- prioritise community organisation for civil defence and generation of information, with the support of the public security forces and the MP.
- improve macroeconomic stability;
- implement an emergency health plan, with the goal of improving the health services;
- urgently implement the plan for treating chronic malnutrition;
- convene an educational pact, with the aim of achieving better educational cover and improving the quality and professionalism of the teaching body;
- begin to rebuild the country's infrastructure, especially schools, hospitals, health centres, police stations and roads.

On foreign policy, the presidential candidate gave priority to relations with the four neighbouring countries on the isthmus (Mexico, El Salvador, Honduras and Belize); the other Central American countries (Nicaragua, Costa Rica and Panama); with South American countries (Brazil, Argentina, Chile and Colombia) and with Spain.

3.2. Meeting with Mr Otto Pérez Molina

The EP delegation met candidate Otto Pérez Molina on Saturday 3 November at 11.30.

Mr Pérez Molina was optimistic about the outcome of the elections. The Partido Patriota would have monitors at all polling stations, and lawyers in all departments to handle any challenges. He stated that he would abide by the results published by the TSE.

When asked what measures he would take if he won the election, he answered as follows:

¹ The President of the TSE, Mr Oscar Bolaños, stated that the institution used a private firm to deliver the telegrams to more than 3 million Guatemalans, but dismissed the idea that any other type of correspondence could be included in the envelopes. Candidate Otto Pérez Molina rejected Colom's claims and maintained that these allegations were part of the UNE's strategy.

- running an efficient government, which did not mean reducing the existing bureaucracy¹;
- improve tax collection and devise clear rules for investment²;
- foster economic growth and promote the building of hydroelectric power plants to satisfy energy demand;
- encourage investments in the rural sector³;
- improve consulates so that they could give legal assistance to Guatemalans in the United States and promote a programme to ensure that remittances do not go solely to meet families' needs⁴.

4. Meetings with other personalities

The EP Delegation met Dr Carlos Castresana, a Spanish public prosecutor, Director of the International Commission against Impunity in Guatemala (CICIG) on the afternoon of Saturday 3 November.

Guatemala is currently the most insecure country in the continent, worse than Colombia. In recent years the country's crime rate has risen dramatically. Anyone would expect that the more crimes committed, the more cases would come before the courts, and that there would also be more convictions. Unfortunately, while crime is on the rise and the public feels more harassed by criminals, the latter are enjoying greater impunity.

The official statistics confirm this: from a monthly average of 421 criminal sentences handed down in 2005, they fell to 343 in 2006 and to a mere 225 so far in the current year. It is also worrying to see how the Guatemalan judiciary is less effective, since for crimes against life alone not even 5 per cent of cases are concluded.

Most murders during the electoral process of people linked to political parties have yet to be solved and it has not yet been possible to establish whether these were actually political crimes or have another motive. A report by the office of the Human Rights Ombudsman concluded that some 23 politicians and supporters were murdered in the country during the year, and another 18 the previous year. The report claims that the infiltration of organised crime into State institutions and political rivalries could be the main causes of the deaths and attacks on politicians and party members during the election campaign.

This inadequacy led the Guatemalan Government – in a laudable partial renunciation of sovereignty – to ask for the setting up of the International Commission against Impunity in Guatemala (CICIG).

According to Dr Castresana, the experience of that Commission had the great merit of being exportable: for the first time, a State had admitted that it was unable to deal adequately with the

¹ 'We have 18 500 National Civil Police officers to look after 13 million inhabitants and cover the country's 108 000 square kilometres, i.e. 1.6 officers per thousand inhabitants, where ideally we should have five policemen.'

² Mr Pérez Molina denied that he had considered raising taxes and insisted that he would focus on making public expenditure transparent.

³ Candidate Pérez Molina ruled out agricultural reform and expressed his opposition to invasions of private property.

⁴ The idea is that the remittances could also be used for investment.

infiltration of organised crime into all the institutional structures, leading to growing impunity. The main goal of the CICIG was not to combat crime but to root out criminal infiltration into the Guatemalan Government institutions.

Opposition from sections of Guatemalan society, which do not support the activities of the CICIG on grounds of 'nationalism' and especially the resistance of the institutions infiltrated by organised crime, will not facilitate the CICIG's task. Against this background, Dr Carlos Castresana requested the political support of the European Union and especially of the European Parliament, traditionally sensitive to human rights issues.

VII. CONDUCT AND ASSESSMENT OF THE ELECTION DAY OF 4 NOVEMBER

1. Election day

The elections took place without incident. The participation of thousands of people, many of them volunteers, as polling supervisors, TSE staff, etc., was an effective means of preventing the results being tampered with in any way. The result came very quickly. In only four hours, everything was complete: the count was done in over 90 per cent of the polling stations. Engineer Álvaro Colom was the clear victor. General Otto Pérez Molina had conceded defeat, and the whole electoral process – officially begun in May, but unofficially in 2006 – was finished.

At 11.00 on 5 November the TSE officially announced the final result of the voting in the second round, ratifying the victory of Álvaro Colom, of the UNE, with 1 449 153 votes (52.82%). Otto Pérez Molina of the PP received 1 249 645 votes (47.18%). The difference between the two was 199 508 votes. Voter turnout was 2 743 798, giving an abstention rate of 51.66%, lower than during the elections of Óscar Berger (53%), Álvaro Arzú (63%) and Alfonso Portillo (59%).

Unidad Nacional para la Esperanza won 20 departments, while the Partido Patriota took only Guatemala and Baja Verapaz.

2. Assessment of the elections by the European observers

As planned, the EP delegation, which was present for the second round of the presidential elections in Guatemala, divided into three groups, two of which were deployed in Guatemala City and the third in the city of Antigua Guatemala and surroundings.

The leaders of the EU EOM, the EP delegation and the ambassadors of the Member States present in Guatemala met to analyse the election day and the results on Tuesday 6 November at 10.00.

Those present considered that the election day on 4 November had taken place peacefully, without any serious incident being recorded, and was characterised by a well organised process of voting, counting, transmission and preliminary publication of the results by the TSE. Regrettably, there were abusive smear campaigns during the election campaign, which probably increased abstentions.

Even so, abstentions were the lowest since 1985. These elections were characterised by the weakness of the political institutions, the lack of political leadership, the absence of concrete proposals by the

candidates and the population's greater interest in electing the local authorities than the president and vice-president. On the other hand, electoral fatigue as a result of the long duration of the campaign and pre-campaign reduced participation.

Once again the shortcomings of the electoral register were highlighted, which can be resolved only by setting up a national register of citizens and a single identity document.

It is important for the TSE to improve and consolidate its monitoring and inspection capability, so as to do more than just receive and record the information presented. Mechanisms should also be created in the framework of the TSE to penalise political parties that fail to account for their campaign income and expenditure.

In future elections the discharge certificate requirements must also be strictly complied with, as a precondition for the registration of candidates.

Regarding the polls, standard criteria and methods should be devised for surveys of voting intentions. There should also be a longer period between the publication of the last poll and election day.

The statement of the European Parliament Delegation observing and assessing the Guatemalan elections of 4 November 2007 is attached as Annex VIII to this document. The preliminary statement of the EU EOM is at Annex IX. The EU EOM and the European Parliament Delegation were pleased with how well they cooperated with one another.

On 6 November 2007 the EU EOM presented its preliminary statement at a press conference. The EP Delegation backed the content of that statement. In January 2008, the EU EOM will publish a final report containing a detailed assessment of the mission, covering the various aspects of the electoral process.

The EP delegation congratulated President-elect Álvaro Colom and the Guatemalan people and expressed its satisfaction with the calm and normal democratic way in which the second round of the presidential elections had been conducted. The members of the European Parliament are convinced that this normal democratic atmosphere contributed to the reaction of candidate Otto Pérez Molina in quickly accepting the results and announcing a constructive opposition.

EUROPEAN PARLIAMENT

AD-HOC DELEGATION FOR ELECTORAL OBSERVATION IN GUATEMALA

Sunday, 9 September 2007

List of Participants

Members of the Delegation

Name	Surname	Political Group	Country
Mrs Pilar	AYUSO <ul style="list-style-type: none"> • Delegation for relations with Mercosur, Member • Committee on the Environment, Public Health and Food Safety, Member 	PPE-DE	Spain
Mrs Maria	BADIA i CUTCHET <ul style="list-style-type: none"> • Delegation for relations with the countries of Central America, Member • Committee on Culture and Education, Member 	PSE	Spain
Mr Fernando	FERNÁNDEZ MARTÍN, <ul style="list-style-type: none"> • Delegation for relations with the countries of the Andean Community, Vice-Chairman • Delegation to the Euro-Latin American Parliamentary Assembly, Member • Committee on Development, Member 	PPE-DE	Spain
Mr José Manuel	GARCÍA-MARGALLO Y MARFIL <ul style="list-style-type: none"> • Delegation for relations with the countries of Central America, Member • Committee on Economic and Monetary Affairs, Member 	PPE-DE	Spain
Mr Jörg	LEICHTFRIED <ul style="list-style-type: none"> • Delegation for relations with the countries of the Andean Community, Member • Committee on Transport and Tourism, Member 	PSE	Austria
Mr Emilio	MENÉNDEZ del VALLE <ul style="list-style-type: none"> • Delegation for relations with the countries of the Andean Community, Member 	PSE	Spain

- Delegation for relations with Afghanistan, Member
- Delegation to the Euro-Latin American Parliamentary Assembly, Member
- Committee on Foreign Affairs, Member

Mr **Willy** **MEYER PLEITE** GUE/NGL Spain

- Delegation to the Euro-Latin American Parliamentary Assembly, Vice-Chairman
- Delegation for relations with the countries of Central America, Member
- Committee on Foreign Affairs, Member
- Committee on Fisheries, Member
- Committee on Petitions, Member

Political Groups of the Delegation Members

PPE-DE Group of the European People's Party (Christian Democrats) and European Democrats
PSE: Socialist Group in the European Parliament
GUE/NGL: Confederal Group of the European United Left/Nordic Green Left

Secretariat to the Delegation

Mr	Pedro	NEVES	Chief Administrator, Head of Secretariat
Mrs	Armelle	DOUAUD	Administrator, Thematic Department
Mrs	Nekane	AZPIRI LEJARDI	Assistant

Secretariats to the Political Groups

Mr	Juan	SALAFRANCA	PPE-DE Group advisor
Mrs	Maria	MUNIZ DE URQUIZA	PSE Group advisor

Interpreters

Mr	José Antonio	SÁNCHEZ MARTÍNEZ	Interpreter
Mrs	Angelika	FREUND	Interpreter

PROGRAMME - 06.09.- 11.09.2007

DATE	TIME	MEETING AND PLACE
Thursday 06.09.07	15.45	Arrival of MEPs at La Aurora International Airport (Iberia Flight No 6311) and transfer to Hotel Camino Real
	19.00	Welcome and informal briefing of members of the Delegation Hotel Camino Real
Friday 07.09.07	09.30	Briefing with the EU's representatives in Guatemala and with the European Union's Observation Mission in Guatemala EC Delegation - Sala Jean Monnet
	11.30	Meeting with the Foreign Secretary Mr Gert Rosenthal, Ministry of Foreign Affairs and the Deputy Minister of Foreign Affairs, Mrs Ana Maria Dieguez 2a av. 4-17 zona 10
	13.30	Lunch with Mr Oscar Bolaños, President of the Supreme Electoral Tribunal (TSE) Restaurante Carpaccio, 14 calle 0-25 zona 10
	15.30	Meeting with Mr Álvaro Colom, UNE presidential candidate, and with Mr Rafael Espada, vice-presidential candidate EU-EOM offices
Saturday 08.09.07	09.00	Meeting with Mr Miguel Ángel Sandoval, Guatemalan National Revolutionary Unity (URNG-MAIZ) presidential candidate, and with Mr Héctor Nuila, General Secretary UNRG offices
	11.00	Meeting with Mrs Rigoberta Menchú, Winaq and Encounter for Guatemala (EG) presidential candidate, at her home
	13.40	Meeting with the EU-EOM Core Team
	14.40	Meeting with Mr Otto Pérez Molina, Patriotic Party presidential candidate, EC - Sala Jean Monnet
Sunday 09.09.07	All day	Observation of the elections in Guatemala City and in Antigua and surrounding area
Monday 10.09.07	11.00	Debriefing with Mr Wolfgang Kreissl-Dörfler of the EU-EOM

Tuesday 11.09.07	10.00	Presentation of the 'Preliminary Statement' of the EU-EOM to the EP Delegation and the EU's representatives in Guatemala EU-EOM offices
	12.00	Press Conference - Hotel Intercontinental
	All day (according to plane times)	Departure for La Aurora International Airport

**European Parliament's Ad-Hoc Delegation for Electoral Observation in Guatemala
(9 September 2007)****Assessment of the elections:**

1. We congratulate the Guatemalan people for the civic awareness shown during the electoral process, for the high turnout, particularly among women, and for the involvement of young people in supervising the elections, along with their efficient organisation;
2. We consider that the conditions under which the electoral process took place (high turnout, transparency, civil society involvement, etc.) reflect a notable improvement in Guatemala's democratic consolidation. This is a process that the European Parliament supports and encourages. We also support the gradual strengthening of your institutions;
3. In this regard, we support the EU funding of cooperation programmes that promote better justice and criminal investigation and better budgetary and fiscal management. We also support the funding of new programmes aimed at removing the structural causes of violence, particularly by integrating young people into the job market;
4. We note the organisational progress that has led to the elections being efficiently held; the Delegation is grateful to the authorities for their cooperation and for the resources made available to it for its electoral observation work;
5. We would like to express our satisfaction at the calm and democratic normality with which the elections took place; however, we regret the violence that occurred during the campaign, as well as the isolated violent events that took place on the day of the elections, such as voter intimidation and the burning of some ballot boxes. We trust that any complaints or specific situations will be settled by the Supreme Electoral Tribunal, according to the law;
6. We applaud the decentralisation process, which has brought the polling stations closer to the people, but would also like to note some problems with certain updated electoral rolls. We would also emphasise the advisability of standardising identity documents;
7. We are convinced that the maturity shown by the Guatemalan people on 9 September 2007 augurs well for the success of the second round.



EUROPEAN UNION ELECTION OBSERVATION MISSION
GUATEMALA

General Elections – 2007

PRELIMINARY STATEMENT

The decentralisation process gave drive to a notable increase in voter participation during a well-organised and generally peaceful election day.

Guatemala City, 11 September 2007

Responding to an invitation from the Tribunal Supremo Electoral and the Guatemalan Government to observe the General Elections (Presidential, Legislative, and Municipal) on 9 September 2007, the European Union Election Observation Mission (EU EOM) was deployed in Guatemala. The Mission is headed by Mr. Wolfgang Kreissl-Dörfler, Chief of Mission and member of the European Parliament. The Mission has deployed a total of 110 observers from 23 member states of the the European Union in 22 Departments of the country. The Mission is tasked with evaluating and informing on the development of the electoral process as a whole, and in accordance with EU established methodology and "The Declaration of Principles for International Observers," as adopted under the auspices of the United Nations in October 2005.

A Delegation from the European Parliament, headed by Mr Emilio Menéndez del Valle and including six other European Parliamentarians joined the EU EOM for election-day observation. This document is presented before the process is completed. The EU EOM will remain in the country to observe the process until the end of the second round (after which it will present another preliminary statement), including consolidation of final results and the management of eventual electoral challenges. One or two months following conclusion of the process a Final Report will be made public, offering the Mission's detailed evaluation regarding the distinct aspects of the process. The Final Report will include a series of recommendations based on results from observation.

Preliminary Conclusions

Election-day on 9 September was generally peaceful and marked by superior operational organisation, transparent management of vote-counting, in accordance with international standards, and with a strong participation by Party Agents. However, an otherwise diverse and competitive electoral campaign was left marred by a worrying level of violence against candidates. Recent reforms to the Electoral Law allowing for improved voter inclusion have left a gap in the regulation of electoral infractions. This goes against international standards in terms of judicial electoral protection and should be addressed in future legislative reform.

- The Polling Station decentralisation process, and a more inclusive Voter Register than that of 2003, has contributed to a significant increase in participation compared to previous elections, especially in rural areas. In absolute figures, half a million more voters were registered than in 2003, although the percentage increase in participation has been more modest.
- Reform of the Political Parties and Electoral Law, despite having contributed to improving real suffrage through decentralisation, has weakened the right to effective judicial protection in the electoral environment by suppressing the chapter relating to electoral irregularities and offenses. Approval of auditing and control regulations for electoral campaigns and party spending constitute positive measures in line with international best practices. However, until now the Supreme Electoral Tribunal (Tribunal Supremo Electoral, TSE) has yet to establish efficient mechanisms for auditing campaign spending by parties.

- Despite very short timeframes, the TSE has responded effectively and independently to the organisational and logistical challenges inherent in the decentralisation process. Equally, the TSE has maintained an open relationship with parties and candidates, a step which has contributed positively to the overall transparency of the process.
- Without having compromised polling, the existence of municipal identity cards' duplication (*cédulas duplicadas*) contributed to diminishing voter and party confidence in the consistency of the Voter Register.
- Electoral campaigning has been characterised by broad diversity and enormous investment of resources on the part of parties and candidates, and has significantly surpassed the duration as established in the Electoral Law. Nonetheless, campaigning has been marred by the murders of a number of candidates; a situation requiring timely clarification by the competent authorities.
- The 2007 election was the first in Guatemala with the participation of an indigenous presidential candidate. Despite this positive development, the participation of indigenous candidates continues to fall far below the national demographic representation of Mayas, Garífunas, and Xincas.
- Guatemalan civil society has demonstrated its commitment to the electoral process through the organisation of various electoral observation groups and election awareness campaigns, including that of Foro Guatemala which called for responsible voting.
- In general terms, the national media provided acceptably balanced electoral campaign coverage, providing access (with few exceptions) to the various parties and candidates in proportion to their strength. The media were able to freely exercise their right to information.
- Election-day on 9 September was characterised by good operational organisation and a calm and festive environment except in some locations, namely Santa Rosa, Jutiapa, and parts of Alta Verapaz, where violent outbreaks took place after Polling Station closing.
- Results published up until now by the TSE clearly indicate a second round in presidential elections between Álvaro Colom of the Unidad Nacional de la Esperanza and Otto Pérez Molina of the Partido Patriota. The EU EOM expresses its hope that electoral campaigning for the second round focuses on candidates distinct electoral proposals free from violent episodes.

Preliminary Evaluations

Political Context

The General Elections of 9 September 2007 marked the sixth time that elections have taken place since the return of democracy to Guatemala. They signalled the third elections to take place since the signing of the December 1996 Peace Accords that put an end to 34 almost uninterrupted years of military government and armed conflict in the country. Within a framework of democratic transition, characterised by the strengthening of civilian rule, the 9 September elections have been a further demonstration of civilian and institutional commitment to the process of democratic consolidation in Guatemala.

The electoral contest has been marked by fragmentation of the political landscape. Of the country's existing 21 parties, 14 managed to register for these elections, presenting Presidential and Vice-Presidential candidates. In terms of this fragmentation, one might add that there is scant cohesion between local and central party structures, this being fed by the relative fragility of primary elections and the self-financing of secondary elections. In fact, these elections have made it obvious that on many occasions candidates from the same party follow personal agendas and have weak coordination.

The above is made especially clear at the local level, and to a lesser extent, in Congressional elections. Guatemala continues to be mostly a rural country with strong local identities, this has translates into citizens identifying more strongly with municipal politics than with processes at the national level. At the same time, a lack of central-financing for local partisan organisations, and the completely autonomous character of civic committees, results in vulnerability when faced with patronage from wealthy Mayors or candidates who, while frequently changing parties, may be running for re-election.

Of particular concern is the fact that these above described conditions, through campaign-financing and often through intimidation of adversary candidates, allows infiltration of drug-traffickers and organised crime into the local structures of parties – a reality recognized by party leaders at the national level. Given this situation, the EU EOM expresses its support for the national campaign launched by Foro Guatemala which is made up of important Guatemalan civil society movements. The campaign calls for responsible voting, asking the electorate to disassociate themselves from municipal candidates who in one way or another were linked to drug-trafficking or organised crime.

Legal Framework

The legal framework in place in Guatemala offers an adequate normative base for the organisation and conduct of democratic elections, in accordance with international and regional norms and practices.¹

¹ The legal framework and norms for these General Elections include, *inter alia*: the 1985 Political Constitution of the Republic of Guatemala (reformed in 1993); the 1985 Regulation of the Electoral and Political Party Law (reformed in 2004 and 2006); the 2007 Regulation of the Electoral and Political Party Law; the 2007 Auditing and Control of Public and Private Financing of permanent and electoral campaign activities of political organisations. During the 2007 General Elections, Party and candidate access to the media are regulated by the Control and Auditing Regulation of publicity campaigns, and the 1955 Radio Broadcasting and 1966 Freedom of Expression Laws. Also included in the normative electoral body are the Agreements and Decrees as issued by the TSE. Moreover, Guatemala is a signatory to international and regional conventions, including the International Pact of Civil and Political Rights, and the Inter-American Democratic Constitution.

The main novelty in the regulatory framework for these elections has undoubtedly been the Congressional approval of the decentralisation of Polling Stations. The decentralisation process has meant a 64.77% increase in the number of Polling Stations (13,756) as compared to the 2003 elections (8,910 Polling Stations), and has consequently brought Polling Centres closer to voters. The EU EOM expresses its satisfaction with this reform – which was recommended by the EU EOM that observed the 2003 General Elections – inasmuch as it provides for greater inclusion of Guatemalan citizens in the electoral process, especially indigenous communities in the interior of the country and women living in rural areas.

Another positive step in the regulatory field, and a first time for Guatemalan electoral norms, is the adoption of supervisory and control regulations for both party and publicity campaign financing. However, the removal of Chapter 10 of the Electoral and Political Party Law relating to electoral irregularities and offenses left the TSE with scarcely any power to sanction violations.

Electoral Administration

The enormous logistical, operational and human resource challenges posed by the Polling Station decentralisation process and the limited time available have not constituted an obstacle for the TSE in the satisfactory organisation of this electoral exercise. Congressional approval of a sufficient budget, the experience and professionalism of the TSE Central Administration and its technical team, and the nationwide delegations and sub-delegations of the TSE all contributed to this satisfactory outcome.

At the same time, the flexibility demonstrated by the TSE with respect to financing for municipal electoral bodies, and the prior consultations regarding their needs, allowed for the timely identification and preparation of 13,756 Polling Stations for celebrating these elections. Likewise, the selection and training of almost 55,000 Polling Station staff was appropriate, although a lack of training sessions in local languages was noted at the local level in some locations.

The continuing dialogue between TSE Magistrates and Party Agents, through weekly meetings, contributed positively to reducing tensions and facilitating consensus, even if the TSE did not always have the ability to respond to the demands and complaints made by parties. In an equally positive move, the TSE distributed a copy of the Voter Register (although without the addresses of registered voters) to political parties with sufficient advance. At the same time, the TSE repeatedly denied various parties access to audit the source codes of the software used for the transmission and consolidation of results.

Voter Register

There are 5,990,029 voters in the Voter Register for these elections, representing a 13% increase in number with respect to the 2003 Register. The Voter Register now includes 3,526,116 new voters or voters who updated their information during the decentralisation process. Of this number 1,252,799 are in rural areas and 2,273,317 in urban areas.

The TSE's public recognition of an unquantified number of municipal identity card (*cédula*) duplicities in the Voter Registers of various municipalities reveals the fragile nature of the municipal civil registry system. This situation highlights the need to implement both a singular national identification document and even more importantly a centralised Civil Registry which can be used as a basis for electoral registry – this recommendation appeared in the 2003 EU EOM report. While *cédula* duplicity did not mar these elections, it did contribute to decreasing voter and party confidence with respect to the reliability of the Voter Register.

Civic Education

While falling slightly behind their predetermined schedule, the TSE did make a significant effort to inform voters of their polling location. This effort was particularly necessary given the context of Polling Station decentralisation. Difficulties were encountered in rural areas and in indigenous populations due to the lack of communication infrastructures (e.g. postal service) and the scarce use by electoral authorities of local languages for disseminating information.

Civil Society

Guatemalan civil society has demonstrated its commitment to the electoral process through, *inter alia*, organising various electoral observation groups that have also served to collaborate significantly towards sensitising and informing voters. In addition to making these elections the most observed in the country's history, Mirador Electoral and the combined Mission of the University of San Carlos, the Procuraduría de los Derechos Humanos, and the Archbishop of Guatemala facilitated the strong inclusion of youth in these elections. The Misión Indígena de Observación has concentrated on following the problematic of indigenous community inclusion in the electoral process, while the CACIF Observation Mission highlights the business community's commitment to the process.

Electoral Disputes

Most official complaints received by the TSE were in relation to *cédula* falsification. Of the 31 complaints passed on to the Ministerio Público by the TSE, 29 remain under investigation.

In the final days before elections, the TSE received an increasing number of complaints from Mayors and Mayoral candidates in relation to *cédula* duplicity. When urged by the Supreme Court of Justice to reply to these complaints, the TSE attributed responsibility for defective *cédula* emission to the municipal system of registry offices that deal with residence.

Electoral Campaign

Parties and candidates have carried out a variety of intense electoral proselytising activities across the country; citizens have enjoyed free access, and in a generally peaceful environment. However, in many instances these activities began months before the official opening of campaigning, benefiting parties with more economic resources and eroding the principle of equality which constitutes internationally applicable best electoral practices. Despite the prohibition against campaigning before the official opening as established in article 218 of the Electoral Law, the TSE lacks the ability to force parties and candidates to respect the time limits for proselytising activities.

It is worthwhile pointing out that, for the first time in Guatemalan history, all parties contesting the presidency presented programmes for government. On the other hand, these programmes never really gained prominence in political debate, since as the elections approached debate tended to focus on the personality of the main contestants. In this respect, smear campaigns took place via E-Mail and pamphlet distribution, incriminating candidates in scandals or attacking aspects of their personality or past. Notwithstanding, smear campaigns were probably not a decisive factor in determining voter intention.

Introduction of new control regulations for financing political organisations represents a positive step toward improved transparency with respect to campaign spending. While the majority of parties presented their financial reports to the TSE, given the available human resources it was impossible for the TSE to undertake appropriate audit or verification of the same. In order to make this new norm effective, the EU MOE recommends that for future events the TSE cooperates with state entities specialising in financial auditing.

Another relevant element throughout campaigning has been the continual appearance of voter intention opinion polls right up until the final days before elections. These polls provoked numerous protests from the majority of parties and candidates. The EU EOM believes that internationally applicable best practices comprise establishment of a sensitive time limit for publication of voter intention polls. Such a time limit would have as its objective avoidance of any excessive impact on the voter's ability to freely decide.

Finally, the most negative element registered during the campaign and pre-campaign periods has been the trail of violent deaths of political candidates and militants and their relatives. Statistics vary between the 28 deaths registered by the PNC and the 50 counted by the main print media. Parties, official sources, and analysts identify the probable causes for these deaths: personal conflicts, common delinquency, infiltration into local politics of organised crime and drug-trafficking, inter and intra-party conflicts, and intimidation of political adversaries. The EU EOM strongly condemns any violence that might interfere in the electoral process and highlights the need for prioritising in the PNC and Ministerio Público, given appropriate human and material resources, timely investigation of such events, especially during the delicate pre-electoral period.

Media Coverage

From 13 August to 7 September the EU EOM carried out a daily monitoring of seven newspapers, four television channels, and three radio stations.² Monitoring was undertaken with the objective of evaluating whether all parties and candidates received a fair coverage and if the media followed established regulations for broadcasting and publication of electoral propaganda.

In general terms, monitoring results reflect that national media provided acceptably balanced electoral campaign coverage, providing access (with few exceptions) to the various parties and candidates in proportion to their strength. Canal 3 TV and Radio Sonora provided disproportionate news coverage in favour of one presidential candidate.

The various media and especially the print media provided detailed information to voters in relation to programme proposals put forth by the main parties. In the same way, televised forums and broadcasting of interviews with candidates provided spectators with good information about the different political options. However, the open editorial spaces in newspapers and on the radio betrayed a limited viewpoint. This is due to concentration of ownership of the main national media in the hands of a few families, the non-existence of public TV, and the low impact of state radio and newspapers.

While in the capital city the media is able to carry out its work in a climate characterised by freedom of expression and normality, EU EOM observers noted clear cases of intimidation, threats, and kidnappings of journalists in Quetzaltenango, El Progreso and Baja Verapaz.

The maximum time limits for diffusion of electoral propaganda established by the TSE were respected by the electronic media monitored by the EU EOM. Nonetheless, across the country many local media did not submit tariff reports to the TSE as established in the Political Parties and Electoral Law. In this respect, while new dispositions in the Electoral Law and Control and Auditing Regulations for Publicity Campaigns have contributed to an improved management over diffusion of electoral propaganda in the media, the TSE lacks adequate mechanisms for verifying non-compliance of said regulations and the ability to impose appropriate sanctions.

² Newspapers: Prensa Libre, Nuestro Diario, el Periódico, Siglo XXI, Al Día, Diario de Centro América, and La Hora. Television: Canal 3, Canal 7, Canal 13, and Guatevisión. Radio: Emisoras Unidas, Radio Sonora, and Radio Punto.

During election-day and before the closing of Polling Centres the newspaper *El Periódico* published results from opinion polls taken at Polling Stations, this action contravening Article 223 of the Electoral and Political Party Law dealing with prohibition of opinion polls on polling day.

Participation of Women

The massive presence of women as Polling Station staff (at Polling Station openings observed by the EU EOM, 42% of Presidents were women) marks a positive tendency toward the participation of women in electoral organisation. At the same time, and despite availability of quantitative data, EU EOM observations in rural areas in the interior of the country indicate that Polling Station decentralisation contributed to an increase in participation by the female electorate.

While the period from 2003 to 2007 signalled a slight increase in the percentage of women candidates for political office (from 9% to 12%), female participation in politics continues to fall far short of that of men. Another concerning element is that despite the stronger demographic presence of women in Guatemala (51%), their weight in the Voter Register (46.9%) is less than that of men (53.1%). At the same time, this shows some improvement from 2003.

Participation of Indigenous Peoples

The 2007 elections marked the first celebrated in Guatemala with the participation of an indigenous presidential candidate. Although there is no reliable data given the fact that neither the Voter Register nor the candidates register mentions belonging to linguistic groups, participation of indigenous peoples in the judiciary is very low considering their overall presence in the Guatemalan population.

Compared to previous elections, the EU EOM notes an increase in party messages aimed at indigenous voters. At the same time, community leaders criticise the poor quality of proposals and a low level of information.

While the EU EOM continues to analyse the geographical breakdown of participation, election-day observation indicates that the process of decentralisation has improved Polling Centre access for indigenous communities.

Election Day

The EU EOM observed opening, voting and closing at 530 Polling Stations in all Departments. EU observers made a generally positive evaluation of electoral operations.

From the opening, Polling Station staff displayed a strong level of technical ability; the strong presence of youth undoubtedly contributed to this success. The majority of observed Polling Stations opened on time (88%) and Policía Nacional Civil were present in 82% of Polling Centres, this indicating the immense effort made by the PNC and the Ministerio de Gobernación towards guaranteeing adequate security for the elections.

Another notable point was the presence of Party Agents in 97% of observed Polling Stations. Moreover, there was an even combination of representatives from both the larger and smaller parties. In almost all cases, Party Agents were seen to be constructive and cooperative. Also, the strong presence of national observers across the country undoubtedly contributed to transparency of the process and to its character of civic celebration.

The voting process was considered either 'good' or 'very good' in 92% of observed Polling Stations; the same percentage considered polling to have taken place in a well-organised and orderly fashion. The only identified problem deals with updating of voter information and the municipal civil registry system, whereby in 18% of observed Polling Stations voters were not found in the Voter Register despite the fact that they had updated their information.

The closing and counting process was likewise evaluated very positively by observers. Unfortunately, at the end of election-day violent episodes were registered in some municipalities, among them Sant Rosa, Jutiapa, and areas of Alta Verapaz. Violence was generally linked to the re-election of Mayors, and in some cases carried on into the following day.

The EOM would like to express its gratitude to the TSE and all national authorities, including political parties, national and international observation missions, and Guatemalan civil society organisations for their cooperation and warm welcome during the observation period. At the same time, the EU EOM recognises the assistance received from the Delegation of the European Commission in Guatemala, the UNDP, and the diplomatic missions of member States.

An electronic version of this report is available on the official Mission website (www.euacom-gt.org). [También en español]. For more information: *José Antonio de Gabriel*, Deputy Head of Mission, Tel: +502 2380 1800. *Javier Gutierrez*, Press Relations Tel: +502 2380 1807

European Union Election Observation Mission
5a Avenida, 3-55 Zona 14, Edificio Euro Plaza, Torre 3 Tercer Nivel
Ciudad de Guatemala

ELECTORAL RESULTS

Republic of Guatemala

President and Vice-President			Members National List - Congress Seats			
UNE	926 244	28.23%	UNE	721 988	22.81%	51
P P	771 175	23.51%	P P	503 442	15.91%	29
GAN A	565 270	17.23%	GAN A	522 480	16.51%	37
CASA	244 448	7.45%	CASA	154 718	4.89%	5
F R G	239 208	7.29%	FRG	310 038	9.80%	14
UCN	103 603	3.16%	UCN	128 593	4.06%	4
EG	101 316	3.09%	EG	195 151	6.17%	4
P U	95 743	2.92%	P U	192 983	6.10%	7
P A N	83 826	2.56%	P A N	144 910	4.58%	4
URNG-MAIZ	70 080	2.14%	URNG-MAIZ	103 480	3.27%	2
ANN	19 377	0.59%	ANN	42 790	1.35%	-
D I A	18 819	0.57%	D I A	45 142	1.43%	-
D C G	16 529	0.50%	D C G	26 190	0.83%	-
U D	24 971	0.76%	U D	44 488	1.41%	1
	3 280 609			3 165 191		
Total Blank Ballot Papers	132 983	3.67%	Total Blank Ballot Papers	212 615	5.87%	
Total Spoilt Ballot Papers	208 260	5.75%	Total Spoilt Ballot Papers	244 082	6.74%	
Total Votes Cast	3 621 852		Total Votes Cast	3 621 888		
	5 990 029			5 990 029		
Number of polling stations (JRVs) thus far declared	13 688	99.51%	Number of polling stations (JRVs) thus far declared	13 687	99.50%	

Álvaro Colom, candidate for National Unity of Hope (*Unidad Nacional de la Esperanza* - UNE), obtained 28.2% of the vote. Otto Pérez Molina of the Patriotic Party (*Partido Patriota*) won 23.5% of the vote. These two candidates will therefore go forward to the second round. Other noteworthy candidates:

- Alejandro Giammattei (Grand National Alliance/*Gran Alianza Nacional* - GANA, government party): 17.23%
- Eduardo Suger (Centre for Social Action/*Centro de Acción Social* – CASA): 7.45%
- Luis Rabbé (Guatemalan Revolutionary Front/*Frente Revolucionario Guatemalteco* – FRG): 7.29%
- Rigoberta Menchú (Encounter for Guatemala/*Encuentro por Guatemala* + Winaq Movement): 3.09%
- Miguel Ángel Sandoval (Guatemalan National Revolutionary Unity + Broad Left Movement/*Unión Revolucionaria Nacional Guatemalteca* + *Movimiento Amplio de Izquierdas* - URNG-MAIZ): 2.14%

EUROPEAN PARLIAMENT

AD-HOC DELEGATION FOR ELECTORAL OBSERVATION IN GUATEMALA (second round)

Sunday, 4 November 2007

List of Participants

Members of the Delegation

Name	Surname	Political Group	Country
Mrs Pilar	AYUSO <ul style="list-style-type: none"> • Delegation for relations with Mercosur, Member • Committee on the Environment, Public Health and Food Safety, Member 	PPE-DE	Spain
Mrs Maria	BADIA i CUTCHET <ul style="list-style-type: none"> • Delegation for relations with the countries of Central America, Member • Committee on Culture and Education, Member 	PSE	Spain
Mr Agustín	DÍAZ DE MERA GARCÍA CONSUEGRA <ul style="list-style-type: none"> • Delegation to the EU-Armenia, EU-Azerbaijan and EU-Georgia Parliamentary Cooperation Committees, Member • Delegation for relations with Iran, Member • Committee on Civil Liberties, Justice and Home Affairs, Member 	PPE-DE	Spain
Mr Fernando	FERNÁNDEZ MARTÍN, <ul style="list-style-type: none"> • Delegation for relations with the countries of the Andean Community, Vice-Chairman • Delegation to the Euro-Latin American Parliamentary Assembly, Member • Committee on Development, Member 	PPE-DE	Spain
Mr Jörg	LEICHTFRIED <ul style="list-style-type: none"> • Delegation for relations with the countries of the Andean Community, Member • Committee on Transport and Tourism, Member 	PSE	Austria

Mr	Emilio	MENÉNDEZ del VALLE, Chairman	PSE	Spain
		<ul style="list-style-type: none"> • Delegation for relations with the countries of the Andean Community, Member • Delegation for relations with Afghanistan, Member • Delegation to the Euro-Latin American Parliamentary Assembly, Member • Committee on Foreign Affairs, Member 		
Mr	Willy	MEYER PLEITE	GUE/NGL	Spain
		<ul style="list-style-type: none"> • Delegation to the Euro-Latin American Parliamentary Assembly, Vice-Chairman • Delegation for relations with the countries of Central America, Member • Committee on Foreign Affairs, Member • Committee on Fisheries, Member • Committee on Petitions, Member 		

Political Groups of the Delegation Members

PPE-DE Group of the European People's Party (Christian Democrats) and European Democrats
PSE: Socialist Group in the European Parliament
GUE/NGL: Confederal Group of the European United Left/Nordic Green Left

Secretariat to the Delegation

Mr	Pedro	NEVES	Chief Administrator, Head of Secretariat
Mrs	Armelle	DOUAUD	Administrator, Thematic Department
Mrs	Nekane	AZPIRI LEJARDI	Assistant

Secretariats to the Political Groups

Mr	Juan	SALAFRANCA	PPE-DE Group advisor
Mrs	Maria	MUNIZ DE URQUIZA	PSE Group advisor

Interpreters

Mr	Carlos	ALONSO DE PRADA	Interpreter
Mrs	Angelika	FREUND	Interpreter

**AD-HOC DELEGATION FOR ELECTORAL OBSERVATION IN GUATEMALA
(2nd Round)
(4 NOVEMBER 2007)**

PROGRAMME: 01 - 06 November 2007

DATE	TIME	MEETING AND PLACE
Thursday 01.11.07	15.45	Arrival of MEPs at La Aurora International Airport (Iberia flight No 6311) and transfer to Hotel CLARION SUITES 14 Calle 3-08, Zona 10 Guatemala City 1010 Guatemala
	19.00	Informal briefing for Members of the Delegation
Friday 02.11.07	09.00	Briefing with the EU's representatives in Guatemala and with the European Union's Observation Mission EC Delegation - Sala Jean Monnet
	10.00	Meeting with civil society involved in the electoral process EC Delegation - Sala Jean Monnet
	12.00	Meeting with Álvaro Arzú, Mayor of Guatemala City Place: Antiguo Palacio de Correos
	13.30	Lunch with Eduardo Stein, Vice-President of the Republic Restaurante 'Jean Francois' Salón Privado Diagonal 6 13-63 z 20
	15.30	Meeting with Dr Rafael Espada, Vice-President of the UNE EC Delegation - Sala Jean Monnet
	19.00	Meeting with Oscar Bolaños, President of the Supreme Electoral Tribunal Salón Milan Tikal Futura
Saturday 03.11.07	08.00	Breakfast with the Minister of the Interior, Mrs Adela Camacho de Torrebiarte Ministry of the Interior offices 6 ave 13-71 zona 1 Antiguo Palacio PNC

	10.15	Meeting with Álvaro Colom, UNE presidential candidate Ave. Reforma 6-64z 9 edificio Plaza Corporativa, Torre III, Oficina 400
Saturday 03.11.07	11.30	Meeting with Otto Pérez Molina, Patriotic Party presidential candidate EC Delegation CE – Sala Jean Monnet
	13.00	Electoral, political and security briefing EU-EOM offices
	16.00	Meeting with Carlos Castresana, Director of the International Commission against Impunity in Guatemala (<i>Comisión Internacional contra la Impunidad en Guatemala – CICIG</i>) EC Delegation – Sala Jean Monnet
	19.30	Working dinner on election day deployment Hotel Clarion Suites
Sunday 04.11.07	All day	Observation of elections in Guatemala City and Antigua and surrounding areas (according to deployment plan)
Monday 05.11.07	11.00	Debriefing with the European Union’s Electoral Observation Mission EU-EOM offices
Tuesday 06.11.07	10.00	Presentation of the ‘Preliminary Statement’ EC Delegation - Sala Jean Monnet
	12.00	Press Conference on the ‘Preliminary Statement’ Hotel Camino Real, Salón Atitlan
	According to plane times	Departure for La Aurora International Airport

Assessment of the European Parliament's Delegation for Electoral Observation on the second round of presidential elections in Guatemala, 4 November 2007

1. The Ad-Hoc Delegation for Electoral Observation of the European Parliament, an institution that represents approximately 500 million citizens in the 27 Member States of the European Union,
2. Congratulates President-Elect Álvaro Colom and the people of Guatemala, and expresses its satisfaction at the calm and democratic normality in which the second round of the presidential elections took place. The Members of the European Parliament are convinced that this democratic normality has contributed to Otto Pérez Molina's reaction, rapidly accepting the results and announcing a constructive opposition;
3. Wishes President Álvaro Colom success in his future tasks and in his efforts to achieve democratic and institutional consolidation in Guatemala;
4. Notes a higher electoral turnout, attributable in part to the decentralisation process. This process should be further strengthened so that this trend can be consolidated and a lower abstention rate achieved in the future;
5. Draws attention to the need for reform of the electoral law, particularly with regard to reliable updating of census data, under the supervision of the electoral authority; for transparency in party funding, along with consistency in the criteria and methodology on which voting polls are based. It also recommends that a longer period of time be established between publication of the last poll and election day itself;
6. Emphasises the need for future elections to comply strictly with the requirement for a statement of solvency as a necessary condition for the registration of candidates. It also considers it advisable to standardise personal identity documents in order to ensure their reliability;
7. Recommends that the Supreme Electoral Tribunal provides the political parties with the information necessary for them to be able to contact electors more transparently and under equal conditions.
8. Finally, the European Parliament's Delegation is convinced that, in the face of the dirty campaigns aimed at encouraging abstention and discrediting democracy, there is a need to promote a true political debate around concrete proposals, aimed at encouraging involvement and enhancing civic awareness.



EUROPEAN UNION ELECTION OBSERVATION MISSION
GUATEMALA

General Elections – 2007

PRELIMINARY STATEMENT
(Second Round)

Peaceful and well-organised election day brings to an end a competitive and generally transparent process, but signals the need for electoral legislative reforms.

Guatemala City, 6 November 2007

Responding to an invitation from the Supreme Electoral Tribunal and the Guatemalan Government to observe the 2007 General Elections, the European Union Election Observation Mission (EU EOM) was deployed in Guatemala on 31 July last. The Mission is headed by Sr. Wolfgang Kreissl-Dörfler, Chief of Mission and member of the European Parliament. The Mission has deployed a total of 111 observers from 23 member states of the European Union in 22 Departments of the country. The Mission is tasked with evaluating and informing on the development of the electoral process as a whole, and in accordance with EU established methodology and "The Declaration of Principles for International Observers," as adopted under the auspices of the United Nations in October 2005.

A Delegation from the European Parliament, headed by Mr Emilio Menéndez del Valle and including six other European Parliamentarians joined the EU EOM for election-day observation and to contribute to the content of this statement. This document is presented before the process is completed. The EU EOM will remain in the country to observe the process until its conclusion, including consolidation of final results and the management of eventual electoral challenges. One or two months following conclusion of the process a Final Report will be made public, offering the Mission's detailed evaluation regarding the distinct aspects of the process. The Final Report will include a series of recommendations based on results from observation.

Preliminary Conclusions

Election-day on 4 November was peaceful, incident-free and characterised by good organisation of the voting process. Prompt and transparent management of counting, transmission and publication of preliminary results by the Supreme Electoral Tribunal (TSE) were in line with international best practices. Electoral campaigning developed in a free and competitive manner, although personal disqualifications and smear-campaigning proliferated, likely leading to diminished participation. The 4 November highlighted once again the weak nature of the Voter Register, signalling the need for creation of a centralised Civil Register and a singular national identification document. At the same time, suppression of the chapter in the Electoral Law relative to electoral offenses and misdemeanours brings to light a serious lack of effective judicial protection in the electoral environment. This goes against international standards and ought to be corrected in a future reform.

- The 4 November election reveals participation statistics slightly above those of the second round in 2003, confirming a tendency towards a significant decline in participation when compared to first rounds. This has been true since Guatemala's return to democracy. Electoral fatigue produced by the long duration of the pre-campaign and campaign periods has not aided in bringing about the desired reversal of this tendency.
- Reform of the Political Parties and Electoral Law, despite having contributed to improving real suffrage through decentralisation, has weakened the right to effective judicial protection in the electoral environment by suppressing the chapter relating to electoral

offenses and misdemeanours. Approval of auditing and control regulations for electoral campaigns and party spending constitute positive measures in line with international best practices. However, until now the TSE has yet to establish efficient mechanisms for auditing campaign spending by parties.

- The current system of a Voter Register based on municipal identification documents, together with the absence of a national Civil Register, enabled detection of identification document duplication and improper registry of voters on both Election Days. The EU EOM strongly reiterates its recommendation for effective introduction of a singular national identification document and a centralised Civil Register as these could serve as a basis for a more inclusive and secure Voter Register.
- The TSE organised an efficient election that, while logistically more straightforward than those of 9 September, ought to respond to the goals of the Polling Centre decentralisation process. While since the first round the TSE has continued weekly meetings with Party Agents, contributing to a process of transparency, it has also shown a certain reticence to publicise electoral complaints and challenges and their resolutions.
- Electoral campaigning for the second round developed in a free and competitive manner. However, campaign teams and sometimes even candidates engaged in personal disqualifications and unproven serious accusations, meanwhile smear-campaigning proliferated.
- None of the binomial candidates who passed to the presidential second round is a woman or indigenous. Similarly, few women and no indigenous actors figure in the lead cabinet posts announced for the Ministries or State Secretariat's.
- As during the first round, civil society continued to play a significant role in terms of electoral observation through, *inter alia*, participation of various election observation groups.
- National media coverage during the second round of the electoral campaign was generally balanced and reasonably in accordance with international standards. The two presidential candidates enjoyed similar opportunities for transmitting their messages and proposals to the electorate.
- Election Day was marked by an total absence of incidents and good organisation by Polling Station staff of voting, counting and results transmission. As during the first round, a significant number of youth participated as Polling Station staff.
- The EU EOM congratulates both candidates and their parties for the democratic maturity demonstrated at the end of Election Day. Álvaro Colom waited for publication of all provisional results before celebrating his victory; Otto Pérez Molina made a clear and timely recognition of his adversary's victory.

Preliminary Evaluations

Political Context

Since the return to democracy in 1985, Presidential second rounds in Guatemala have been marked by a significant decrease in participation as compared to first rounds which coincide with municipal and parliamentary elections. This has been the case for the 4 November elections, contested between Álvaro Colom of the Unidad Nacional de la Esperanza and General Otto Pérez Molina of the Partido Patriota, revealing a slightly higher participation than in 2003 with 48.34% voter turnout.

This decrease in participation, along with citizen's fatigue due to an excessively long campaign, demonstrates persistence of a local character in Guatemalan political culture. This has also been shown in the second half of electoral campaigning with presidential candidates seeking support from Mayors and MPs. The fact that negotiations were carried out directly with Mayor and MP-elects and not with the parties under whose banner they were elected is further evidence of the weakness of political parties and their failings as permanent and disciplined structures. This weakness has been equally displayed in the splits and divisions immediately following announcement of results last September, wherein some parties that did not make it to the second round still managed to form a group in the future Congress.

Legal Framework

Guatemala's constitutional, legal and regulatory framework constitutes an adequate basis for organising democratic elections according to regional and international electoral norms and principles¹. Fundamental principles such as freedom of opinion, expression and association are granted by the Constitution. In addition, the principle of electoral legal security has been respected as no changes to the electoral law or to the regulations that clarify or complement the law have been introduced between the two electoral rounds.

Congressional approval of legal changes leading to an increase in the number of polling stations for these elections has doubtlessly been the most positive aspect of this electoral process. The decentralization process has allowed voters to cast their ballot closer to their place of residence, resulting in the inclusion of an increased number of Guatemalan citizens in the electoral process². This is in keeping with international best practices and has been especially true for indigenous communities and women living in rural areas.

Another positive advance of the regulatory framework has been the adoption, for the first time, of a set of norms concerning the private financing of political organizations and the financing of political campaign

¹ The legal framework and norms for these General Elections include, *inter alia*: the 1985 Political Constitution of the Republic of Guatemala (reformed in 1993), the 1985 Regulation of the Political Parties and Electoral Law (reformed in 2004 and 2006). During the 2007 General Elections, Party and candidate access to the media are regulated by the Control and Auditing Regulation of publicity campaigns, and the 1955 Radio Broadcasting and 1968 Freedom of Expression Laws.

² As in the first round, an increase of 54.39% in the number of Polling Stations (13,756 Polling Stations now as compared to 8,910 in 2003) allowed 58.87% of registered voters to cast their ballot closer to their residence.

activities³. Nonetheless, the removal of Chapter 10 of the Electoral Law, dealing with electoral offenses and misdemeanours, has contributed to reducing efficiency in the application of both new regulations as well as the set of electoral norms. This weakens the TSE's capacity to enforce the law and consequently the right of citizens to effective judicial protection.

In the weeks leading up to the second round there has been controversy regarding the TSE not demanding proof of solvency as a registration prerequisite for candidates to the general elections. This has signalled the need for legislative clarification, preferably in the Electoral Law, of the periods, procedures and competent bodies for verifying electoral requirements as outlined in the Probity Law. At the same time, the EU EOM has observed a certain lack of cooperation between the TSE and the Office of the Comptroller General of the Republic. Cooperation ought to be improved for future electoral processes.

Electoral Administration

Logistical preparations for the second presidential round were well-designed and adequately executed, mainly due to the dedication and competence of the TSE technical management teams at the different levels. The second round was considerably easier to organize and administer due to the accumulated experience from the first round and reduction in the number of ballots from four to only one. Election materials were distributed in a timely manner and following a post-electoral evaluation of the first round the TSE decided to retrain the approximately 55,000 polling station staff, concentrating on improving some of the weak points encountered in the first round. For example, contrary to what took place in the first round, special attention was paid to training in indigenous languages in some Departments. The TSE maintained the same number of polling stations (13,756 JRV) but increased the number of polling centres by 15 to 2,075.

The TSE declared repeat municipal elections in two municipalities - Tucurú in Alta Verapaz and San Marcos de la Laguna in Sololá - following serious disturbances that resulted in the deaths of 2 people in Alta Verapaz. Repeat elections in both municipalities took place without incident, amidst the adequate security presence provided by the Ministry of the Interior.

The TSE continued to organise weekly meetings with political party agents, an effort constituting international best electoral practices in terms of transparent management. Although on several occasions party agents declared their dissatisfaction with responses and clarifications offered by TSE Magistrates.

Data transmission on Election Day was swift and organised, with electronic transmission of Closing and Counting Acts from Polling Stations to the Tabulation Centre in the capital. Party Agents could observe data transmission, but were not authorised by the TSE to carry out an audit of the transmission software source codes. Preliminary results were announced by the TSE three hours following the close of Polling Stations and after 96% of electoral results were received, constituting a complete success in terms of the timeliness of results publication. At the same time, the TSE webpage permitted database access for citizens and the media to follow consolidation of preliminary results in real time.

Voter Register

³ The 2007 Regulation of the Political Parties and Electoral Law; the 2007 Auditing and Control of Public and Private Financing of permanent and electoral campaign activities of political organisations.

On both Election Days, the TSE has recognised several inconsistencies, errors and double entries in the Voter Register. In keeping with its recommendation from 2003, the EU EOM reiterates the need to substitute the currently weak system of municipal identity documents, which are open to manipulation, with a new national identity documents which could contain all the authenticity safeguards that current technology now offers at reasonable costs. At the same time, creation of a national civil register would avoid double entries, as in the case of foreigners.

The current voter register comprises 5,990,029 voters, representing a 13% increase from 2003. 58.87% of these voters are new or updated as a result of the decentralization process. Approximately 1.2 million rural voters and 2.2 million urban voters were able to cast their ballot in Polling Centres near their residence.

While the voter register is legally considered a public document, political parties were not facilitated accesses to it for consultative purposes. Before the first round, the TSE supplied a list containing names and voter identification numbers. However, as this list omitted addresses and other such details, perhaps for protection of voter privacy and security, the opportunity to fully verify the accuracy of the voter register was frustrated.

Civic Education

The TSE initially planned to implement a voter education campaign starting three weeks prior to Election Day, but was delayed in getting started. According to the TSE, the voter information campaign was to shift focus for the second round and centre on promoting voter motivation in order to fight traditional voter apathy registered in previous second round elections.

Voter education, which was particularly necessary in rural areas, faced logistical difficulties and linguistic shortcomings in relation to Mayan, Garifuna and Xinca languages. Notwithstanding, in the second round the TSE managed to address this lack of information in indigenous languages, representing a positive advance that should be maintained and built upon in the future.

Despite a slight increase in participation compared to the second round in 2003, the 10% decrease in voter participation registered 4 November (when compared to the first round on 9 September) indicates the need, especially in rural areas, to promote voter education in an uninterrupted manner between the two electoral rounds, emphasising the importance of presidential elections.

Electoral Disputes

Following the first round of elections, a total of 106 differing electoral complaints were received by the TSE. Complaints were mostly in relation to Election Day irregularities committed at polling centres, requests for the annulment of elections or concerns regarding irregular voting of citizens from other municipalities. According to the TSE, the majority of complaints were dismissed due to procedural deficiencies; further details have not been made available. In this respect, the EU EOM believes that complaints received during an electoral process must be tackled in a timely manner. To further enhance the transparency of TSE management, and in keeping with international best practices, details of decisions concerning complaints and appeals should be made public. This would have the added effect of strengthening public confidence in the TSE.

Civil Society

As during the first round, civil society continued to play a significant role in terms of electoral observation through, *inter alia*, participation of various election observation groups. These groups also collaborated greatly in sensitising and informing the electorate.

Electoral Campaign

Second round electoral campaigning witnessed a notable decrease in the violence that affected actors linked to political activity in the first round. The main reason for this decrease undoubtedly lies in the fact that almost all assassinations and attacks registered during the first round were in relation to local politics. Notwithstanding, the assassinations of the Partido Patriota's congressional secretary and of an old colleague and close collaborator of the party leader, and the threats received by the UNE strategy chief and his family (which resulted in his resignation) make clear that a certain level of violence and political intimidation, which official investigations should shed light on, has continued into the second round.

Campaigning by the two competing parties was widely covered by the media during this second round, which has developed in a free and competitive manner. Nonetheless, the spread of smear campaigning, consisting in unproven serious accusations and the slinging of personal insults between candidates, has proliferated through electronic mail, text messages, posters and even paid advertising in the media with neither the TSE nor state authorities reacting effectively.

While candidates have made efforts to present their proposals to the electorate, personal and familial disqualifications and the accusations exchanged between them and their collaborators, especially in relation to both having links with organised crime, have unfortunately ended up playing a lead role in the campaign. This has not aided in consolidating a democratic culture in terms of electoral competition.

As indicated in the EU EOM's first statement, introduction of new control regulations for financing political organisations represents a positive step toward improved transparency with respect to campaign spending. The two parties competing in the second round presented their financial reports to the TSE. Nonetheless, given the available human resources it was impossible for the TSE to undertake appropriate audit or verification of the connection between declared and spent sums or the identity of financial sponsors. In order to make this new norm effective, the EU EOM recommends that for future events the TSE cooperates with state entities specialising in financial auditing.

Media Coverage

National media coverage during the second round of the electoral campaign was generally balanced and reasonably in accordance with international standards. The two presidential candidates enjoyed similar opportunities for transmitting their messages and proposals to the electorate, although UNE experienced slightly higher radio and television coverage.

From 10 September to 2 November, the EU EOM conducted daily monitoring of seven newspapers, four television channels and four radio stations.⁴ Monitoring results reflect candidates Álvaro Colom and Otto Pérez Molina received print media coverage of 49.3% and 50.7% respectively, television coverage of 54.1% and 45.9%, and radio coverage of 53.7% and 46.3%. The tone of coverage was mostly neutral, if a

⁴ Newspapers: Prensa Libre, Nuestro Diario, elPeriódico, Siglo XXI, Al Día, Diario de Centro América and La Hora. Television: Channel 3, Channel 7, Channel 13, and Guatevisión. Radio Stations: Emisoras Unidas, Radio Sonora, Radio Punto and TGW.

bit skewed on occasion, and especially during the days prior to the election, in favour of or against one of the two candidates.

In general, the media were able to freely exercise their occupation of informing the public. Nonetheless, isolated incidents of politically-motivated threats and attacks to Radio Nuevo Mundo (a Guatemala City radio station) journalists were observed by the EU EOM. The EU EOM also notes with concern the loss of television signal registered by Guatevisión on 24 October. This occurrence coincided with the transmission of a special programme with the UNE presidential candidate and affected 7 Zones in the capital city and parts of Mixco municipality.

In keeping with the Political Parties and Electoral Law, the media ceased to transmit or publish electoral propaganda 36 hours before Election Day. However, during this prohibition period some media released interviews of a proselytic nature, including interviews with both presidential candidates, the UNE vice-presidential candidate (Guatevisión), and Álvaro Colom's wife (Emisoras Unidas). At the same time, 211 media (mostly local radio and television) did not fulfil their obligation to submit tariff reports to the TSE as established in the Political Parties and Electoral Law.

In this respect, while new dispositions in the Electoral Law and Control and Auditing Regulations for Publicity Campaigns have contributed to an improved management over diffusion of electoral propaganda in the media, the TSE lacks adequate mechanisms for verifying non-compliance with said regulations and the ability to impose appropriate sanctions.

Participation of Women and Indigenous Peoples

None of the binomial candidates who passed to the presidential second round is a woman or indigenous. Similarly, few women and no indigenous actors figure in the lead cabinet posts (for the Ministries or State Secretariat's) announced over the past weeks.

On the other hand, despite the frequency with which candidates have used campaign events to declare their commitment to aiding in the development of indigenous peoples an analysis of the two plans for government reveals that this part of the population has hardly been taken into consideration.

Similar to the first round, the strong presence of female Polling Station staff and Presidents (43% of observed Polling Stations) contributed in a decisive manner to the organisational success of the election.

Election Day

The EU EOM observed opening, voting and closing at 550 Polling Stations across all the Departments of the country. The general evaluation of electoral operations made by European Union observers was either good or very good in 96% of observed Polling Stations.

Polling Station openings were punctual in 100% of observed cases. Election Day was marked by good organisation by Polling Station staff of voting, counting and results transmission. As during the first round, a significant number of youth participated as Polling Station staff.

Apart from good Election Day organisation, and in contrast to the first round, the most outstanding feature was the complete absence of incident both during voting and following the closing of Polling Stations. The security dispositions put in place by the Ministry of the Interior undoubtedly contributed to this end. EU observers reported PNC presence in 87% of visited Polling Stations.

In terms of Party Agent supervision of polling and counting, it is worth noting that Agents from both parties were present in almost all observed Polling Stations. At the same time, if in a slightly diminished number as compared to 9 September, a significant presence of national observers was noted across the country.

The EOM would like to express its gratitude to the TSE and all national authorities, including political parties, national and international observation missions, and Guatemalan civil society organisations for their cooperation and warm welcome during the observation period. At the same time, the EU EOM recognises the assistance received from the Delegation of the European Commission in Guatemala, the UNDP, and the diplomatic missions of member States.

An electronic version of this report is available on the official Mission website (www.eueom-el.org). [Tambien en español]. For more information: *Jose Antonio de Gabriel*, Deputy Head of Mission, Tel: +502 2380 1800. *Javier Gutierrez*, Press Relations Tel: +502 2380 1807

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