



**EUROPEAN UNION ELECTION OBSERVATION MISSION
BOLIVIA
CONSTITUTIONAL REFERENDUM – 25 JANUARY 2009**

PRELIMINARY STATEMENT

Bolivia holds peaceful referendum with a high voter turnout that revealed, however, the need for dialogue and strengthening of democratic institutions

La Paz, 27 January 2009

The European Union Election Observation Mission (EU EOM) has been in Bolivia since 14 December 2008 following an invitation of the National Electoral Court (Corte Nacional Electoral, CNE) and the Government of Bolivia. The EU EOM is headed by Renate Weber, Member of the European Parliament, and is composed of 64 observers from 17 EU member states and Norway and Switzerland. The EU EOM was joined by a seven member delegation from the European Parliament, led by Manuel Medina Ortega, Member of the European Parliament, which endorses this preliminary statement. The observers were deployed to all nine department of Bolivia to assess the referendum process in accordance with international principles for democratic elections. On Referendum Day, 25 January 2009, the observers visited 242 polling stations to observe voting and counting. The EU EOM is currently observing the results consolidation process and will remain in the country to follow post-referendum activities. A final report containing an overall assessment and recommendations will be issued within two months after the completion of the referendum process. The EU EOM is independent in its findings and conclusions, and adheres to the Declaration of Principles for International Election Observation, commemorated at the United Nations, New York, in October 2005.

Preliminary Conclusions

- Despite a difficult constitutional-making process, and a campaign period which contributed to increased polarisation within the country, the Referendum was conducted in a credible manner. However, political divisions have increased, necessitating renewed dialogue and strengthening of democratic institutions.
- A high voter turnout and a generally positive atmosphere clearly demonstrated the Bolivian peoples' commitment to participatory democracy. Even though sporadic incidents were reported, the electorate could in general freely exercise their right to vote and directly take part in the conduct of public affairs.
- The legal framework generally provides for holding of democratic referenda and guarantees the respect for fundamental rights for the conduction of polls in line with international norms. The current constitution guarantees fundamental freedoms and election-related legislative provisions are in line with international standards. However,

This statement is available in English and Spanish but only the English version is official.

some of Bolivia's key democratic institutions cannot function properly because they have not been correctly constituted. This in turn is due to the absence of political consensus in Congress which has made it impossible to achieve the two-thirds majority required for the appointment of key personnel. Non-appointment of key personnel to these vacant posts in the Constitutional Court impedes the functioning of the same, this in turn limits the possibility of legal redress for constitutional matters and fundamental rights.

- Civil and political freedoms, such as freedom of movement, of assembly, of association and the right to vote are guaranteed by law but were not always consistently respected by the national stakeholders and parties.
- The CNE administered the elections in a largely professional, transparent and independent manner. Logistical and technical preparations were generally carried out in an effective manner and key components were delivered in a timely manner. However, it would have been desirable for the CNE to have been more forceful in addressing breaches in the Electoral Law during the campaign period, especially with respect to the use of state resources.
- The CNE relationship with some Departmental Electoral Courts (CDEs) has been characterised by continual disagreements. This is illustrative of the evident political power struggles taking place between the CNE and CDEs in terms of defining the autonomy of the CDEs. Different criteria were applied by the CNE and some CDEs in decisions to suspend certain media spots. The CDEs of Beni and Santa Cruz ruled some CNE educational material to be biased and have refused to facilitate its distribution.
- The quality of the *padrón* (Voter Register) has been a much disputed issue particularly since the last Referendum (10 August 2008). EU EOM observations on the day of the constitutional referendum suggest that only a limited number of voters were affected. However, with the *padrón* being controversial, one of the important guarantees against double-voting was the use of indelible ink. Unfortunately, several CDEs and observers noted the differing quality in ink across the country.
- The 60 day campaign period provided an opportunity for both the 'Sí' and the 'No' campaigns to present their arguments. The campaign was generally conducted in a relatively calm atmosphere, but with underlying tensions. Opponents and supporters of the *Constitución Política del Estado* (CPE) could often, but not always, hold rallies and meetings without facing intimidation or limitations to their freedom of expression and movement.
- The media, on the whole, generally offered the electorate a diverse range of political opinions, potentially allowing voters to make an informed choice on Referendum day. However, the private media was observed to favour the 'No' campaign, while the state media, with a bias towards the 'Sí' camp, did not always fulfil their obligation to provide balanced information.

- The electoral process was characterised by a widespread use of “institutional propaganda” mainly in the electronic media, an aspect which may be viewed as a use of state resources. While not directly soliciting a ‘Sí’ vote, paid advertisements by some public institutions have been widely perceived as supportive of the CPE, as was indicated on some occasions by the electoral authorities.
- EU EOM observers evaluated the overall process as ‘very good’ or ‘good’ in 96 percent of observed polling stations and the general understanding of the procedures by the polling staff as ‘very good’ or ‘good’ in 94 percent of polling stations.
- The closing and counting process was generally conducted according to established procedures, with some minor variations observed. As an important safeguard, polling results are currently being published on the official CNE website.

Preliminary Findings

BACKGROUND

Following broad congressional agreement, the Constitutional Referendum on the proposed *Constitución Política del Estado – CPE* was held on 25 January. The process of constitutional change has been a long-held demand in Bolivia, especially by many of the indigenous movements and other highland social forces. The 2005 election of President Evo Morales gave a clear mandate for change and the subsequent election of a Constituent Assembly to draft a new Constitution opened the path to a process of redefining Bolivia. Within this context, the current referendum amounted to another defining moment in a long, conflictive and occasionally violent, process of constitutional changes.

In December 2007, the Constituent Assembly approved a proposal for a new Constitution. The approval process took place amidst volatile conditions, characterised by limited respect for important rules of procedure. In fact, a number of Bolivia’s key democratic institutions are not functioning properly because they have no quorum or lack key members. This in turn is due to the absence of political consensus in Congress which has made it impossible to achieve the two-thirds majority required for the appointment of key personnel. The lack of a functioning Constitutional Court is worrisome as it limits the possibility of legal redress for constitutional matters and fundamental rights. The main opposition forces regarded the Constituent Assembly’s new proposed Constitution as illegitimate and illegal. A turbulent period followed, marked by non-productive dialogue between the Government and Departmental Prefects, local referenda on autonomy statutes (May-June 2008) and a recall referendum which confirmed support for the President and also for the opposition Prefects in the *media luna* (10 August 2008).

The weeks following the recall referendum feature amongst the most volatile and violent in recent years. At least 20 people were killed in clashes between Government supporters and opponents. Political discussions between the Government and the opposition took place in Cochabamba in September-October, in the presence of international observers, including that of the European Union. The different sides recognised the threat to overall stability in the country

and discussions were subsequently followed up by further negotiations in Congress. To put pressure on the politicians in Congress, some 100,000 citizens marched from Oruro to La Paz, demanding that a referendum be held on the CPE. President Evo Morales joined the march.

On 21 October 2008 a qualified majority of Congress bowed to this social pressure and approved a revised text of the proposed CPE for submission to the electorate. The revised text included a number of substantial compromises on amendments to the previous text, facilitating arrival at an agreement to hold the referendum between an important portion of the political opposition in Congress and the *Movimiento al Socialismo* (MAS) majority. On the other hand, scepticism soon arose, starting in regional opposition strongholds. This spirit of co-operation gradually evaporated as more and more political actors within the opposition distanced themselves from the 21 October agreement.

The referendum on 25 January was held in an environment of significant distrust between the Government and the main opposition, which is led by four Prefects and a number of *Comités Cívicos* and their respective supporters in the *media luna*. Another characteristic of the political environment is the polarisation between rural and urban areas in numerous parts of the country.

The referendum on 25 January consisted of two questions: One concerned the acceptance or rejection of the proposed CPE; the other asked whether the maximum size of unproductive land holdings should be limited to 5,000 or 10,000 hectares. This later question was given hardly any attention in the campaign. The results in both questions are binding if a turn-out quorum of over 50 percent is achieved. Voting, which is compulsory, was scheduled to take place at 22,049 Polling Stations and in 3,702 Polling Centres across the country.

INTERNATIONAL STANDARDS

International democratic benchmarks for good electoral practice mainly revolve around principles as enshrined in the Universal Declaration of Human Rights (UDHR) and Article 25 of the International Covenant for Civil and Political rights (ICCPR) of 1966, according to which everyone has right to take part in the conduct of public affairs, directly or through freely chosen representatives. The implementation of direct participation in public affairs also involves implementation of the principles of “*universal and equal suffrage*,” “*right to vote*,” “*genuine elections allowing for the free expression of the will of the people*.” Bolivia is a member state of the United Nations and it is party to the ICCPR and to the 1969 American Convention on Human Rights, where Article 23 states the same principles mentioned above. Bolivia has ratified the United Nations Convention on the Elimination of Racial Discrimination and the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

LEGAL FRAMEWORK

The Constitutional Referendum is mainly regulated by:

- The 1967 Constitution (as amended in 1994 and 2004);
- The 2004 Referendum Law;

- The 21 October 2008 Laws on the interpretation of Article 232 of the Constitution and the Call for a Constitutional Referendum;
- The 1999 Electoral Law (as amended in 2005);
- Regulations and resolutions issued by the National Electoral Court (CNE) on the electoral campaign and polling day.

The legal framework appears to provide a reasonable basis for the conduct of democratic elections and referenda. The constitution guarantees fundamental freedoms and election-related legislative provisions are generally in line with international standards on electoral processes. The legislation regulates the electoral offences and the system of complaints and appeals.

However, some members of the Supreme Court have indicated that since the Constitutional Court has not functioned for more than one year, due to a shortfall in the minimum number of magistrates, the whole process to pass the proposed CPE and to call for a Referendum on the same might be unconstitutional. Moreover, contrary to what is contemplated in the Referendum Law (No. 2769, Cap. III, Art.9), the Constitutional Court did not have an opportunity to review the referendum question for the ballot paper. Furthermore, more than 3,500 cases of all kinds are currently awaiting the final decision of the Constitutional Court. However, while the legality of the overall constitutional process has been questioned by some observers, there has been a general consensus among stakeholders lending legitimacy to holding the referendum.

For the referendum, delegates from political parties, civic associations and indigenous groups may challenge the results as long as it is based on one of the legally established causes for challenge. However, as there is no separate form for challenges, they are written on the results sheet, no copy is available to the challenger which is generally not in line with best international practices. Furthermore, delegates are unable to make genuine challenges to the results or the conduct of the elections; they are instead limited to challenging under Article 169 of the Electoral Law which does not contemplate fraud or changing of the results.

Enshrined in the principle of preclusion is the notion that the polling station staff is the only authority to conduct counting at the polling station. Due to this preclusion, CDEs cannot open any ballot box. In the case of mathematical errors on the results sheet, CDEs cannot modify the results; however, according to the Electoral Law (Art. 167), if a mathematical error is discovered, the CDE can make reference to this on the results sheet which it sends to the CNE. Upon receipt of this, the CNE may subsequently change the result (Art. 179). On the other hand, if legal cause to annul the polling record under Article 169 is proved, polling can take place again at the affected polling station 15 days later.

The Electoral Law contemplates out-of-country voting and there is currently a draft law before the Senate regarding the same. Regrettably this draft law has not yet been passed and the substantial Bolivian diaspora was left disenfranchised as no provisions were made for out-of-country voting. It is estimated that at least two million Bolivians live abroad.

ELECTION ADMINISTRATION

The electoral process is executed by the National Electoral Court (CNE). Articles 225 and 226 of the Constitution describe the CNE and the main bodies of the Electoral Administration as autonomous, independent and impartial. Despite this status, many opponents have shown distrust in the CNE, and a few government supporters have shown a lack of trust in some CDEs. The current constitution and the Electoral Law state that the CNE should be composed of five members. Four members are elected by Congress, and one member is designated by the President. At present the CNE is operating with only three members; the minimum quorum to function. The third member was appointed on 20 December by Congress, thus solving a potential crisis in terms of holding the Constitutional Referendum. One of the three members is a woman. José Luis Exeni was appointed to the CNE by President Morales in January 2008 and was subsequently elected CNE President.

Subordinate to the CNE, but with broad operational autonomy, are nine Departmental Electoral Courts (CDEs). The CDEs are composed of five members: one is designated by the President and four by Congress. Their task is to manage the electoral process and to implement CNE regulations and resolutions at departmental level.

Other electoral bodies established by the Constitution include the electoral judges, who supervise the process at polling centre level, the electoral notaries, who act as liaison officers between the CDEs and the polling centres, and the polling station staff.

The fact that there are only three CNE members limits the CNEs authority over the CDEs, since the law stipulates that five members are required to decide on electoral offences committed by members of the CDEs. The CNE found the local referenda on autonomy in mid-2008 to be illegal, but did not manifest its authority by trying to prevent them from being held.

In order to overcome past criticisms the CNE has issued new regulations aimed at improving compliance with guarantees such as polling records, transparent polling boxes, improved security measures for ballot papers and a better permanent ink to be used on the index finger. Before Referendum Day, some CDEs were reporting poor quality indelible ink. Unfortunately, these reports had some basis in reality as at some polling stations on Referendum Day EU EOM observers noted deficiencies in ink quality.

Logistical preparations for the 25 January Referendum were implemented according to schedule. At the same time, some technical elements were not met, such as not producing and closing the *padrón* 90 days before the Referendum (Arts. 73 and 101).

Two million booklets comparing the current Constitution with the proposed *Constitución Política del Estado – CPE* were issued by the CNE for broad distribution across the country. The CNE acknowledges that potentially contentious points, including religion, indigenous traditional justice (*justicia comunitaria*), the use and property of natural resources and the constitutional acknowledgement of coca were left out to avoid political polemics. Despite the fact that this booklet was approved by the CNE, the CDEs of Santa Cruz and Beni have ruled it to be biased

and refused to facilitate its distribution. The CNE expressed its disagreement with these CDEs on the matter, but has taken no further steps. This is illustrative of the evident political power struggles taking place between the CNE and CDEs in terms of defining the autonomy of the CDEs. This struggle was also observed in CNE decisions to suspend certain media spots.

A cause of concern on Referendum Day was related to which actors were legally entitled to scrutinise the poll. The 2004 Referendum Law and the Electoral Law are not explicit on the participation of delegates from political parties, citizens associations, indigenous peoples and coalitions in the polling of a referendum. The Electoral Law refers to their participation in elections as opposed to referenda. To clarify the position concerning doubts about the participation of delegates from political parties, citizens associations, indigenous peoples and coalitions for this referendum the CNE issued on 13 January a resolution that referred to the articles in the Electoral Code where the participation of these actors is contemplated.

Despite its contemplation for the same in the EU EOM – CNE Memorandum of Understanding, the mission has not been successful in observing CNE plenary sessions. At the same time, most EU EOM Long Term Observers in the Departments were invited to observe CDE plenary sessions. The CNEs transparency towards political parties and other stakeholders is open to improvement in terms of invitation to more consultations throughout the process.

The formulation of the question on the ballot paper did not seem totally neutral, and the Constitutional Court did not review the formulation. For the reasons mentioned above, the Constitutional Court is inoperative and therefore did not review the formulation.

The CNE failed to react in an appropriate manner to many apparent electoral infractions, including the alleged misuse of public resources. While the legal framework may be weak in this regard, this does not preclude reaction from the electoral authorities.

VOTER REGISTRATION

There are 3,891,397 voters on the final *padrón* for this Constitutional Referendum. In contrast, there were 4,047,706 voters on the *padrón* for the August 2008 Referendum. The quality of the *padrón* (Voter Register) has been a much disputed issue particularly since the last Referendum (10 August 2008). EU EOM observations on the day of the constitutional referendum suggest that only a limited number of voters were affected. However, with the *padrón* being controversial, one of the important guarantees against double-voting was the use of indelible ink. Unfortunately, several CDEs and observers noted the differing quality in ink across the country.

Interlocutors belonging to the opposition, civil society, including *Bolivia Transparente*, and former CNE members and officials have doubts as to whether the *padrón* contains the names of all those Bolivians registered to vote in accordance with the principle “one person, one vote.” Some are concerned that the formulation of the *padrón* may be such as to allow multiple voting.

The Electoral Code (*Código Electoral, Ley No. 1984, Tit. II, Cap. I, Art. 67*) identifies the Civil Register as one of the sources for developing the *padrón*. In turn, the Code and the Register fall

under the responsibility of the Electoral Administration. While registration is obligatory, poor record-keeping reveals that the Civil Register is not necessarily a reliable source of information on the population. Many people, for reasons of distance, poverty or mistrust, did not register. This may explain why since its creation in 1989 the *padrón* has had a parallel and different life from that of the Civil Register. Furthermore, civil register books are not always available in digital format, and the number of entries in the *padrón* is sometimes higher than in the Civil Register. In some cases, this may be attributed to poor transfer of data. The authorities acknowledge that a substantial number of citizens have the same ID-number.

The quality of the *padrón* was to be solved by institution of a 2006 national programme, *carnetización gratuita*, aimed at providing free documentation services for those hundreds of thousands of Bolivians who never registered. However, the programme was independent from the Electoral Administration and was managed by the Ministry of Government. Its *modus operandi* was lacking transparency as regards data collection procedures and consolidation methods. The opposition was suspicious of *carnetización gratuita* as neither the CNE nor the Police had control over the programme's activities.

CAMPAIGN ENVIRONMENT

The 60 day campaign period started on 23 November, providing an opportunity for both the 'Sí' and the 'No' campaigns to present their platforms. The campaign was generally conducted in a relatively calm atmosphere, but with underlying tensions. Campaigning was hardly visible in many rural areas, while much activity was concentrated in the major urban areas and through newspaper, radio and TV advertisements.

Opponents and supporters of the CPE could often, but not always, hold rallies and meetings without facing intimidation or limitations to their freedoms of expression and movement. However, in many Departments campaigners on both sides and the general public were subject to intolerance and social pressures, instilling in them a sense of insecurity. In Pando, EU observers received reports from citizens who were fearful of openly expressing their political opinions; public employees were allegedly pressured to attend campaign activities in favour of the CPE at the risk of losing their jobs. It was reported to EU observers that some had lost their jobs at the *Prefectura* for taking part in the 'No' campaign. In other Departments, public employees were under similar pressure to support the 'No' campaign.

At the same time, minor clashes between supporters and opponents of the CPE sometimes occurred during campaigning in the city centres of La Paz, Santa Cruz, Sucre and Cochabamba. In areas of strong opposition to the CPE, supporters of the 'Sí' vote hesitated to campaign due to perceived personal risks. And in areas under strong MAS control, opponents of the CPE hesitated to campaign for the same reason. Vice President Alvaro García Linera ('Sí' campaigner) as well as Chuquisaca Prefect, Sabina Cuellar ('No' campaigner), were both hindered from travelling freely by protestors who did not agree with their political ideas.

As polarisation between the different camps increased, and as the campaign intensified, an increased use of derogatory campaigning and inflammatory language was observed.

Representatives from both camps called their opponents liars, terrorists, and enemies of the Bolivian people. Arguments regarding confidence in political leaders sometimes overshadowed rational discussion of the content of the proposed CPE, turning the referendum into a vote of confidence in the Government of Evo Morales.

Many civil society organisations contributed to spreading information about the CPE, informing the public about the upcoming referendum. Several influential organisations pressured their members to attend campaign rallies and issued direct instructions informing them how to vote. Most of these organisations were campaigning in favour of the CPE. EU observers noted that such instructions often implied social pressure intended to affect voters' behaviour on referendum day.

The EU EOM observed that public resources were widely used in the campaign, by supporters as well as by opponents of the CPE. Several Governmental Ministries openly made propaganda for the CPE through radio and TV spots and through newspaper advertisements. The state institution REPAC (*Representación Presidencial para la Asamblea Constituyente*), with a mandate to raise awareness about the CPE, showed bias in favour of the CPE. On Referendum Day, REPAC spots favouring the 'Sí' campaign were broadcast on TV. The *Prefecturas* in Santa Cruz, Tarija and Chuquisaca used public resources in the campaign against the CPE, while the *Prefecturas* in Pando Cochabamba and Oruro contributed to the campaign in favour of the CPE. Political leaders on the national, departmental and the municipal levels used the inauguration of public works to campaign in favour of or against the CPE.

A law of August 2008 abolished all state funding for political parties. However, much campaign funding for the referendum was raised by and through civil society organisations and both sides seemingly enjoyed access to funding. On the other hand, while political parties and *agrupaciones ciudadanas* are obliged to disclose annual reports on financing, no such regulations exist for civil society organisations, this seriously limiting transparency of campaign funding.

MEDIA ENVIRONMENT

Throughout the electoral process the media, on the whole, generally offered the electorate a diverse range of political opinions, allowing voters the opportunity to compare the two political options and make an informed choice on Referendum Day. Nonetheless, the referendum campaign was significantly impacted by the continuous tensions and verbal struggles between the Government, and President Morales in particular, and the private media.

The Election Code (*Código Electoral*, Art.114 to Art. 124), generally states that candidates and political parties shall be guaranteed equal conditions of access to the state-owned media through the broadcasting of free air time. In an unwelcome initiative, this guarantee of equal access was suspended. CNE Resolution No. 0201/2008, Art. 7 (21 November 2008) states that, "due to the nature of the Referendum [...] free of charge airtime in the state electronic media is not foreseen."

In the deep polarisation that currently characterises Bolivian society, the state media were widely viewed by the citizenry as being supportive of the government, while the majority of the private media were generally perceived as being supportive of the opposition. The findings from the EU EOM media monitoring activities confirm this pattern while revealing some particular characteristics.¹ Notwithstanding, both state and private media facilitated public debate on the main innovations presented in the proposed CPE.

On the other hand, the campaign was characterised by the widespread use of “institutional propaganda” mainly in the electronic media. This may be viewed as an illegal use of state resources as outlined in Art. 5 *Resolución de la CNE N° 0201/2008*. While not directly soliciting a ‘Sí’ vote, paid advertisements by some Government institutions (including Ministries) have been widely perceived by opposition forces as supportive of the proposed CPE.

The state-owned television channel, *Television Boliviana (TVB)*, and radio station, *Radio Patria Nueva*, fell short in fulfilling their obligations as public service media, and showed clear bias in favour of the ‘Sí’ campaign. On the other hand, the main and most diffused private media openly supported the ‘No’ campaign. *TVB* awarded 46% of its referendum information during the main prime time news editions to the ‘Sí’ campaign and only 4% to the ‘No.’ The remaining 50% was taken up by informative space regarding the proposed CPE. A comparable pattern was observed in all the monitored programmes of the same TV channel. The state-owned *Radio Patria Nueva* showed a similar reporting tendency during news editions.

In contrast to the state media, two of the main private TV channels, *Unitel* and *ATB*, presented a different coverage during their news editions. On *Unitel*, the ‘No’ campaign received 52% of news airtime, whereas the ‘Sí’ campaign received 4% of airtime. On *ATB*, the ‘No’ campaign received 35% and the ‘Sí’ 22%. A similar analysis can be made for *Radio Panamericana’s* news editions, where the ‘No’ campaign received 35% of airtime, the ‘Sí’ received 11%.

Red Uno and *PAT* seem to be slightly less biased from a quantitative perspective, although both favoured the ‘No’ position. In its news editions *Red Uno* gave 22% of airtime to the ‘No’ campaign and 18% to the ‘Sí’ campaign. *PAT* respectively gave 37% to the ‘No’ and 16% to the ‘Sí.’ However, it is worth noting that since the beginning of January both TV channels have broadcast informative debates on the proposed CPE during the prime time broadcasting period. During these debates, exponents from both sides received almost equal airtime.

In contrast, the private TV channel, *RTP*, has positions clearly close to those of the government; in its news programmes the ‘No’ campaign received 7% of airtime, while the ‘Sí’ received 23%. News programmes presented by the private *Radio San Gabriel* showed a similar pattern.

¹ The EU EOM Media Unit started its monitoring activities on 19 December. EU EOM monitored the campaign during the *Prime Time* period (from 6 p.m. till midnight), on six TV channels with nationwide coverage: *TVB - Canal 7* (the state TV), *Unitel*, *ATB*, *Red Uno*, *PAT* and *RTP*; on four radio stations: *Patria Nueva* (the state Radio), *Panamericana*, *San Gabriel* and *Radio Fides*, during their main evening news editions; and in four newspapers (*Los Tiempos*, *La Razón*, *La Prensa*, *El Deber*). The media monitoring, which was conducted by eight national staff under the supervision of the media analyst, includes both quantitative and qualitative analysis.

EU EOM media monitoring found Jesuit-owned *Radio Fides* news editions to be the most balanced medium, providing an equitable coverage; 16% was dedicated to the ‘No’ campaign and 17% to the ‘Sí.’

The four monitored newspapers all offer coverage favourable to the ‘No’ campaign. Within this coverage, *La Prensa* is the most balanced (‘No’ 19%, ‘Sí’ 17%), while *El Deber* the most unbalanced (‘No’ 25%, ‘Sí’ 6%). *La Razón* gave 11% to the ‘Sí’ campaign and 21% to ‘No,’ while *Los Tiempos* gave 11% to ‘Sí’ and 19% to ‘No.’

VOTER EDUCATION

Voter education activities of the electoral authorities concentrated on describing electoral procedures, rather than informing on the contents of the proposed CPE. The CNE produced a booklet outlining the similarities and the differences between the existing and proposed CPE, however, some CDEs considered it as pro-‘Sí’ propaganda. Electoral authorities diffused procedural indications to the electorate through the various media, but put little effort towards motivating them through public outreach programming.

EU EOM observers noted that the electorate experienced some confusion with two separate questions on the ballot paper. The number of invalid and blank votes was considerably higher for the question on land holdings.

The *voto comunitario* has been highlighted by several interlocutors who indicate that the principle of the secrecy of suffrage may be violated in that the vote of some rural communities is decided upon in advance by assembly or by the union and during polling a control is established to ensure community members vote accordingly. The EU EOM did not observe this practice.

CIVIL SOCIETY AND ELECTION OBSERVATION

While the legislative framework provides for domestic observation, there was hardly any participation by national observers groups. Likewise, political parties, citizens associations, indigenous groups and coalitions did not deploy significant numbers of delegates to scrutinise the poll. One explanation for this absence could be that they intend to concentrate efforts towards observing or scrutinising the General Elections potentially scheduled for December 2009.

COMPLAINTS AND APPEALS

During the campaign period the CNE suspended 22 media spots, 19 of which belonged to the ‘No’ campaign. In total, eleven were suspended for being considered anonymous, three for using public funds, five for using images of children, two for being considered immoral as they portrayed images of a lynching and one for staining the dignity of the President of the Republic by stating he was led by President Chávez of Venezuela. All of the above constitute legal reasons for suspension of a media spot. The CDE of Santa Cruz suspended eleven spots promoting the ‘Sí’ campaign as they were paid for with public funds.

The Electoral Code states that the first competent authority to decide on the legality of media spots is the CDE followed by the CNE in appeal (Art. 121). However, the CNE issued campaign regulations stipulating that it had the right to directly supervise political media spots at the national level. The CNE supervised broadcasting of political spots for the referendum campaign without the previous intervention of CDEs, effectively acting *ex officio* or after a formal complaint by a political party/citizens association/indigenous group/coalition.

There are several issues of concern regarding these suspensions: 1) The CNE suspended two spots produced by REPAC, a presidential agency to promote the proposed CPE, due to misuse of public funds. However, these spots continued to be broadcast without the *ex officio* intervention of the CNE; 2) Some Ministries (Water, Public Works) promoted their activities through spots paid for with public funds, which included references to articles of the proposed CPE. The CNE considered these informational and not propaganda; 3) Six formal complaints relating to the use of state resources to fund the ‘Sí’ campaign were rejected by the CNE on the basis that the complainants were not official delegates accredited before the CNE. Five complainants belonged to a citizens association, *Alianza Autonómica Ciudadana (AAC)*, formally accredited by the CDE of Santa Cruz, and the sixth complaint was presented by a member of Congress.

Last July, a Congress member of *Unidad Nacional* brought a lawsuit against three CNE members, accusing them of having committed electoral offences and manipulation of the *padrón* during the recall referenda. The CNE subsequently ordered the nine CDEs to hand their databases for the *padrón* and Civil Register over to the Supreme Court. Only seven CDEs complied and handed the documents over to the police. The case is ongoing.

POLLING

The EU EOM observed 228 polling stations in the urban (56 percent) and rural zones (44 percent) of all nine departments of the country. EU EOM observers evaluated the overall process as ‘very good’ or ‘good’ in 96 percent of observed polling stations and the general understanding of the procedures by the polling staff as ‘very good’ or ‘good’ in 94 percent of polling stations. Voting activities started at 08:00 in the majority of polling stations and were conducted in a calm, orderly manner, without tensions, and with a high voter turnout. Polling stations generally opened on time, but in nearly 11 percent of polling stations there was an observed lack of materials, including indelible ink and other non-essential materials. The start of polling was delayed in very few cases due to shortage of polling station staff.

Delegates from political parties, citizens associations and indigenous groups were present in 62 percent of observed polling stations. MAS representatives accounted for 48 percent of delegates; 61 percent of delegates represented the ‘Sí’ vote. EUEOM observers noted the presence of national observers in only 4 percent of polling stations. Complaints were lodged and officially recorded in 5 percent of visited polling stations. The presence of political propaganda was observed in 18 percent of polling centres; however, this was mostly attributed to permanent mural paintings.

EU observers noted that 53 percent of those who had been removed from the *padrón* were not adequately informed by polling station staff on why they were removed and what their next course of action should be. Despite a general perception that voters were aware of how to fill out the ballot, it was observed that only 64 per cent of the ballots for the question on maximum

land holdings were considered valid as opposed 98 percent of the ballots for the proposed CPE.

The layout of the polling stations was sufficient to protect the secrecy of the vote, nonetheless, the electorate was observed to be intimidated in 3 percent of polling stations. Secrecy of the vote was generally respected in 91 percent of observed polling stations, with few exceptions relating to voters who were either accompanied by non-authorized persons or were instructed by either delegates or polling station staff on how to vote. At visited polling stations 86 percent of originally selected staff had received training. Nonetheless, in approximately 18 percent of observed cases, the indelible ink was applied to the wrong finger. Security at polling stations was not always guaranteed through the presence of police. In nearly 24 percent of visited polling centres EUEOM observers did not notice a security presence.

COUNTING

The majority of polling stations closed without incident at 16:00 hours and voters were observed to be able to exercise their right to vote with only minor instances of intimidation reported. EU EOM observers rated the closing and counting procedures as 'bad' or 'very bad' in nearly 24 percent of visited polling stations. In nearly 32 percent of observed closings, polling staff did not follow proper closing procedures, especially with regard to ballot papers and *certificado de sufragios* which were not annulled in 41 percent and 55 percent of cases respectively. The number of cast ballots did not match the total number of signatures in the *lista índice* in 18 percent of observed closings. This was normally due to minor errors and did not affect the overall result.

As compared to polling, EU observers noted an increased presence of delegates during closing and counting procedures (91 percent of visited polling stations). There was also an increase in the presence of national observers, who were observed in 23 percent of visited closings. In the cases where delegates were present, all delegates signed the results sheet. Transportation of the results sheet was observed to be accompanied by security personnel in only 27 percent of cases.

Results consolidation at CDE and CNE levels has so far been conducted in a satisfactory manner. Results from each polling station are scanned and placed online for public perusal, lending transparency to the consolidation process. Thus far, only minor procedural breaches in reception of results sheets have been observed. The EUEOM will continue to observe the consolidation of results.

The EU EOM wishes to express its appreciation to the Government of Bolivia, the National Electoral Court and all other national and international interlocutors for their cooperation and assistance in the course of the observation. The EU EOM is also grateful to the Delegation of the European Commission in Bolivia and to the International Organization for Migration for their support throughout.

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