



NICARAGUA

FINAL REPORT
General Elections and Parlacen Elections 2011

EUROPEAN UNION
ELECTION OBSERVATION MISSION

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I. EXECUTIVE SUMMARY

General considerations

Five political forces competed in Nicaragua's 2011 general elections and elections to the Parlacen (Central American Parliament), the fifth to be held since the approval of the 1987 Constitution. The alliance built around the Frente Sandinista de Liberación Nacional (FSLN) presented the outgoing President, Daniel Ortega, for re-election, and his candidacy was allowed following a controversial ruling by the Constitutional Chamber of the Supreme Court of Justice. In the liberal wing running against the ruling party, the two main contenders were the alliances built around the Partido Liberal Independiente (PLI), with Fabio Gadea standing for the Presidency, and Arnaldo Alemán's Partido Liberal Constitucionalista (PLC). Another two liberal-oriented groups also ran: the Alianza Liberal Nacionalista (ALN) and the Alianza por la República (APRE), both of which came low in pre-election polls. Opinion polls foresaw a victory for the ruling party and indicated a clear trend among voters for directing liberal and opposition support towards the PLI. Prior to the elections, the main political questions regarded the magnitude of the ruling party's success in the National Assembly, alongside questions about the degree of transparency of the electoral process, particularly in the light of the 2008 municipal elections.

It was in this context that on 12 October, following an invitation by the Nicaraguan Government, the European Union Election Observation Mission (EU EOM) was deployed, and remained in the country until 27 November. The Mission, led by Mr Luis Yáñez, Member of the European Parliament, deployed 90 observers from all European Union member states, as well as from Norway, Switzerland and Canada, throughout the departments and autonomous regions of the country. On election day, they observed in 559 polling stations.

The 6 November elections constituted a deterioration in the democratic quality of Nicaraguan electoral processes, due to the lack of transparency and neutrality with which they were administered by the Supreme Electoral Council (*Consejo Supremo Electoral, CSE.*) Throughout the process, a CSE that was virtually monocolour CSE at each of its levels demonstrated scant independence from the ruling party and created unequal conditions for competition as well as outright obstructions to the opposition, who were prevented from having any effective representation within the election administration. Some experienced national election observation organisations were not accredited and auditing of the process by the opposition was impeded by the Supreme Electoral Council.

The results published by the CSE granted victory in the first round to the outgoing president Daniel Ortega, for the ruling FSLN, with 62% of the votes. Fabio Gadea, for the PLI alliance, obtained 31% and former president Arnaldo Alemán, for the PLC, obtained 5.9%. The National Assembly came to be composed of these same three alliances. According to the published results, the FSLN won seats for 62 members of the assembly, and as such obtained a qualified majority in the house which will enable it to singlehandedly undertake constitutional reforms or renew the CSE or Supreme Court of Justice (*Corte Suprema de Justicia, CSJ.*) With 26 assembly members, the PLI emerged as the main opposition force, more unified than in the previous legislature. The PLC presence was reduced to just two seats.

Legal Framework

The Nicaraguan legal framework for elections, practically unchanged since the general elections of 2001 and 2006, is adequate for holding democratic elections. Nonetheless, it is marred by some significant weaknesses, already outlined in previous European Union election observation mission reports, particularly with respect to legislation regulating political parties. The requirements for creating political parties and ensuring their legal status are established in an electoral law which decisively promotes a two-party system and the creation of alliances, and they are in many cases extraordinarily restrictive. Failure to meet these requirements is not always clearly verifiable and results in the withdrawal of a party's legal status. The EU EOM regrets that recommendations in this regard formulated by the 2001 and 2006 missions have not been reflected in reforms.

The electoral law's ambiguous and cumbersome regulation regarding the legal representation and legal status of political parties is exacerbated by the significant powers it attributes to the CSE to rule on parties' internal disputes, opening the door to excessive interference by the CSE and even the CSJ, which has affected political parties' stability and had serious political consequences. For example, during the course of the previous legislature, of the four parties which received most support in 2006, only the FSLN and its circumstantial ally, the PLC, were not subject to actions challenging their legal status or the legal representation of its leaders. In contrast, the presidential candidate for the second-most-supported party, the Alianza Liberal Nacionalista (ALN) had the legal status of his party removed from him by the CSE and the CSJ, and saw it delivered to a minority faction which eventually sank in the 6 November polls. In a similar fashion, the fourth most popular party of 2006, the Movimiento Renovador Sandinista (MRS), saw its legal status withdrawn by the CSE in 2008, despite having obtained five seats in the National Assembly and more than six per cent of the popular vote, for not maintaining functioning representations in all of the country's municipalities: at the current time the MRS has still not received any response to the appeal it made to the CSJ. Both the ALN of 2006 and the MRS can be characterised as opposition parties. To complete this state of affairs, the leadership of the PLI alliance, heir of the 2006 ALN and which, together with MRS candidates, obtained the second position in the 6 November elections, spent the entire campaign period under the threat of losing legal control of the party should the CSJ decide so, this in response to challenges submitted by other factions of the party, questioning the legitimacy of the leadership. This threat remains as this report is completed.

These conditions produce an illegitimate and purposeful weakening of opposition parties' autonomy and capacity for political action, as parties are subject to decisions by electoral and judicial powers which are not sufficiently independent, to the benefit of their political opponents. As a result, this report recommends the adoption of a law on political parties which protects parties from such interference and reinforces their autonomy, as well as establishing regulations for transparency regarding party financing, and rectifies some of the requirements for the creation and maintenance of parties, which currently unduly restrict rights to political association.

Other notable weaknesses in the electoral law relate to the provisions for important electoral procedures, such as the aggregation and publication of results, as well as complaints, challenges and appeals. It should be noted that despite its considerable regulatory powers, the CSE barely provided any regulation to complete or clarify the law's procedural weaknesses. In addition, the law on citizens' identity, and in particular its application by the CSE, continued the pattern of previous electoral processes, whereby there was no action taken to ensure a

cleansing of the civil register (which acts as a template for the electoral register), nor to ensure that all citizens received their identity card.

With regard to the delimitation of constituencies and the assignment of National Assembly seats, the electoral law lacks clear and objective criteria to ensure that electoral representation corresponds to constituencies' changing demographic weights. An instance of gerrymandering took place prior to these elections, when, to the predictable benefit of the FSLN, a presidential decree in March 2011 transferred three municipalities from the RAAS (Southern Atlantic Autonomous Region) to the Department of Chontales.

Electoral Administration

Although the Supreme Electoral Council (CSE) demonstrated a high degree of organisational capacity, it also displayed a regrettable lack of neutrality. While the CSE is composed along the principle of political representation, the loss of neutrality came about as a result of a progressive abandonment of pluralism in the appointment of its magistrates, who leaned ever-more clearly towards the ruling party. This virtually one-party composition was reflected in the composition of the electoral administration's representations at lower levels, in the regional, departmental and municipal electoral councils (CERs, CEDs and CEMs), as well as among the polling station staff, as in all of these opposition representatives were systematically excluded or sidelined. This situation was to a significant extent the result of the above-mentioned case of the ALN leadership's legal status and also, to some extent, a result of the MRS case. Both parties were deprived of the representation they were legally entitled to, a particularly extreme violation when one considers that the ALN of 2006, which was legally entitled to hold the position of president or first member in each of the country's electoral councils, having emerged as the country's second political force. Instead, these positions were predominantly held by representatives of a party which retained the ALN's name but not the support, leadership or reach which had characterised it in the 2006 elections. Lastly, the PLI should have been able to nominate at least one third of all 'second members' in the electoral councils, just like the PLC and the Alianza por la República (APRE), but was in fact prevented from having almost any representation, as a result the CSE's dubious interpretation of the law on this matter. This lack of neutrality was further evidenced in the creation of figures not provided-for by either law or regulation, such as voting centre coordinators and *técnicos de ruta* ('route managers'), who were named at the discretion of the CSE, who carried out tasks of particular importance in the electoral process and were granted significant hierarchical status, and whose undertakings were not subject to auditing by political parties.

The CSE's marked lack of neutrality was accompanied by a deterioration in the transparency of the process. The trend for opacity became ever more pronounced as the electoral process advanced. Instances of poor transparency included the refusal to accredit critical national observation missions; the obstacles and delays in the accreditation process for opposition party agents; the scant and tardy sharing of information regarding the format of official results forms and procedural manuals; the unusable quality of copies of official forms reserved for opposition parties; the practical inability of party agents to follow the results aggregation process; and the failure to publish results disaggregated by polling station, despite this being of direct relevance to citizens, political parties and civil society so that they may verify the accuracy of results and, if relevant, submit complaints, at least if they hold legible copies of polling station results forms.

Electoral Register

The CSE is responsible for the civil register, which serves as the basis for the electoral register and voter lists. Nicaraguan elections continue to be held back by the failure to cleanse the electoral register, which currently lists some 4.3 million entries, of which approximately one million are considered to be in excess. It is now a pressing need for Nicaragua to cleanse and modernise its electoral register, and this may require reforms to the law on citizen identity. Such improvements will be necessary not only for an accurate register but also to ascertain the real turn-out on polling day, as well as to provide data towards a more egalitarian distribution of seats, as well as to improve the efficiency of the logistical preparations of elections. The provision of identity cards to citizens remains a persistent problem in Nicaragua, as in other countries in the region. Although the EU EOM was not able to quantify the problem with precision, it was able to confirm that there was a real problem of citizens not being issued with identity cards by the CSE in sufficient time to enable them to vote, and that this was frequently related to the election administration's discriminatory provision of services, to the point where the CSE delegated the distribution of identity cards to FSLN members (and not to members of any other party) or to members of the Consejos del Poder Ciudadano (CPC, *Citizens' Power Councils*), which are closely allied to the ruling party.

Candidate nomination

Following a procedurally flawed process, President Daniel Ortega's candidacy was declared to be constitutional by the Constitutional Chamber of the CSJ, which stated that the principle of equality should outweigh the explicit prohibition on consecutive re-election of a President, as stipulated in article 147 of the Constitution. As it has stated on previous occasions, the Mission considers that, without going into any further evaluation of the case, the only course of action for avoiding a Constitutional provision which has strong historical roots, as in other countries of the region, should be to seek its reform by the National Assembly, through the mechanisms established by the Constitution itself.

More generally, candidate nominations for the various elections were regulated by the electoral law without discrimination or excessive restrictions, but remained vulnerable to the implications of the regulations on political parties, and by that token, to interference by the CSE in internal disputes (and the CSJ, through the appeal for an injunction), as mentioned earlier. Alongside other less significant cases, a risk still exists as this report is completed that the elected PLI National Assembly members could be subject to an injunction preventing them from taking up their seats, and this serves as a further reminder of the urgent need for a new regulation of political parties, which starts from the premise that respect for parties' autonomy is an essential condition for political pluralism.

Media

In the chapter about the media, the Mission considers that the press appeared to enjoy freedom of expression, and did not record any substantiated cases of press censorship or undue pressure. However, the Mission also noted a failure to respect legal provisions, or an arbitrary application of the law, with regard to electoral procedures. In particular, there was a failure to abide by the legal limits on party propaganda, and State media's requirement to provide free airtime, and it was also found that media organs at times charged different advertising rates to different political parties.

In addition, the electoral silence period and the duty to respect candidates were both widely breached. In no case of violation did the CSE make use of its sanctioning powers. The failure to comply with these legal obligations resulted in not only a general atmosphere of disrespect for regulation, but also an unequal electoral campaign in the media, in which the FSLN had an overwhelming predominance over other parties in the media, with the exception of the printed press. Unequal opportunities for coverage in the media were exacerbated by the intense publicity campaign for State projects and policies, which gave further advantage to the ruling party, often in a very direct manner.

Despite the freedom of expression exercised by the media, EU EOM monitoring found that Nicaraguan media organs operate in a particularly polarised environment, which hinders the dissemination of high-quality information on political programmes, and limits the development of debates which would assist citizens to determine their preferred candidates. Although there are no regulations stipulating that the media should ensure a more egalitarian and impartial coverage during the electoral campaign, the Mission considers that media organs failed to meet best practice in this respect, and that in future electoral processes, they should self-regulate in order to achieve a much greater degree of impartiality. This recommendation is particularly addressed to State media (Canal 6 television and Radio Nicaragua), which displayed particular bias, despite being financed by public funds.

Gender

The 2011 elections constituted an important step towards more egalitarian representation of women in the National Assembly. The number of women members increased from 20 to 36, corresponding to an increase from 21% to 39% of the Nicaraguan National Assembly. This improvement does not, however, imply that women's participation rates have increased in all political parties, but rather, it reflects the FSLN's commitment to equal representation, not least the women's quota the party introduced in its statute, alongside the FSLN's increased representation at the Assembly.

Domestic observation

Observation by national organisations suffered two significant blows in the 2011 electoral process. Firstly, the CSE issued a regulation for electoral 'accompaniment' - despite the fact that the electoral law refers to election observation - which limited freedoms of movement and expression for observers. Of even greater concern, and without actually issuing a reasoned decision, the CSE effectively denied accreditation to the Instituto para el Desarrollo y la Democracia (Ipade) and Hagamos Democracia, both of which are organisations with long-standing experience in election observation, with nationwide networks, and both of which had already published reports on the earlier stages of the 2011 electoral process. Etica y Transparencia, an organisation which has been as critical of the CSE as the two afore-mentioned groups, opted not to apply for accreditation and, like Ipade and Hagamos Democracia, carried out its observation without accreditation, albeit without access to polling stations nor results aggregation centres. The CSE did however unanimously opt to accredit two organisations which were closely linked to the ruling party and essentially uncritical of the process: the Consejo Nacional de Universidades (CNU), and the Centro de Derechos Humanos, Ciudadanos y Autonómicos (CEDEHCA). The double standards applied to election observation missions once again highlighted the CSE's lack of neutrality and its poor commitment to transparency.

Electoral campaign

The electoral campaign took place in an environment that respected freedoms of expression, movement and association, and despite some isolated incidents generated from the protests by opposition sympathisers who were demanding their identity cards, the campaign period was mainly peaceful. In the absence of debates between candidates and with few mass gatherings, the campaign was characterised by low-profile activities. Despite the lack of regulation requiring parties to publish their campaign spending and the sources of their funding, observation of the campaign found that the FSLN disposed of significantly more resources than other parties. This imbalance was compounded by the numerous observed cases in which public resources were used for campaign activities, primarily by the ruling party. None of these cases resulted in any reaction from the electoral prosecutions office, despite it having been officially entrusted with investigating electoral crimes.

Election day, aggregation and publication of results

Election day also unfolded in a peaceful manner, but was marred by inconsistent application of safeguards and transparency measures, as well as a context which made it difficult for opposition party agents to carry out their work. These negative factors became increasingly evident over the course of the day, such that counting of votes and the beginning of aggregation of results on election night were particularly characterized by irregularities.

This trend continued in the following stages. In fact, an absolute lack of transparency characterised the aggregation and publication of results, marking a serious deterioration in the quality of the electoral process. This was evident in the way the CSE managed the aggregation process at its various levels, together with the impossibility of auditing the process for party agents who were either denied access to aggregation centres or such limited access that it did not enable effective oversight, and the failure to publish results disaggregated by polling station. Cumulatively, these factors imposed severe and practically insurmountable obstacles to political parties wishing to present challenges to the results with any prospect of success. Lastly, the precipitated announcement of the provisional results, 11 days earlier than the date stipulated in the legally binding CSE electoral calendar, constituted one of the most flagrant violations of the electoral process, particularly since it illegally triggered a drastically reduced timeframe during which to prepare possible complaints. This particularly affected opposition parties, who had suffered enormous difficulties or had ultimately been unable to obtain copies of the results forms for a high proportion of polling stations. Nonetheless, two appeals against results were submitted: one by the PLI, and another by the PLC. Both were dismissed by the CSE.

Recommendations

The recommendations made at the end of this report are based on the weaknesses observed in the 2011 elections, and the bulk of them refer to the way in which much of the electoral law was applied by the CSE and by the CSJ. Although the electoral law has some flaws, in itself it would have permitted the CSE to hold more transparent and democratic elections, administered in a more neutral fashion, as in fact has occurred in previous Nicaraguan elections. As such, although some legislative reforms remain necessary, implementation of a number of the recommendations at the end of this report depend to a greater extent on a CSE, which would demonstrate its commitment to perform with impartiality, transparency, independence and in compliance with the law.

The legal framework retains the same flaws which were highlighted by the European Union Election Observation Missions in 2001 and 2006, whose recommendations have not been used as the basis of any reforms. This Mission particularly recommends the adoption of a law on political parties which strengthens their autonomy and protects them from undue interference from State powers, as well as requiring disclosure of party financing. Equally, the EU EOM is particularly concerned about the pressing need to cleanse and update the civil and voter registers, which could be undertaken with the support of the international community. The EU EOM also considers it advisable to carry out a reform of the electoral law to address its most serious weaknesses, such as those relating to the regulation of the grounds and submission procedures for complaints, appeals and results challenges; results aggregation; assignation of second members of electoral councils and polling stations, and objective criteria and mechanisms for updating the distribution of National Assembly seats to the administrative department, such that these correspond to demographic realities. Finally, it would be a very positive measure to introduce into the electoral law provisions detailing eligibility requirements and selection mechanisms which will better ensure that CSE magistrates are neutral and independent. Ideally, these provisions should be determined through consensus between the legislative majority and the opposition.

II. INTRODUCTION

Following an invitation from the Nicaraguan government to observe the General Elections and Parlacen Elections on 6 November 2011, the European Union Election Observation Mission (EU EOM) was deployed on 12 October and remained in the country until 27 November. The Mission, led by Mr Luis Yáñez, Member of the European Parliament, deployed 90 observers from all European Union member states, as well as from Norway, Switzerland and Canada, throughout the departments and autonomous regions of the country. Its task was to assess the electoral process in the light of international standards and Nicaraguan law, in accordance with the EU methodology and the *Declaration of Principles for International Election Observation*, adopted under the auspices of the United Nations in October 2005.

A delegation from the European Parliament, led by Ms. Inés Ayala and composed of another six members of the European Parliament, joined the EU EOM to observe election day and supports the contents of this report. The EU EOM observed the process until its conclusion, including the consolidation and publication of results, and the appeals and complaints process. The EU EOM published a preliminary statement on 8 November and issued a statement on the consolidation and publication of results on 17 November, both of which are available (in Spanish) on the Mission website (www.eueom.eu/nicaragua2011). This report seeks to present a more detailed assessment of the Mission's findings on the various stages of the electoral process, as well as presenting a series of recommendations based on these findings.

The EOM wishes to express its thanks to the CSE, the Foreign Ministry of Nicaragua, and the country's other authorities, as well as to the political parties, national and international observation missions and other Nicaraguan civil society organisations, for their cooperation and welcome throughout the Mission's observation period. In addition, the EU EOM much appreciated the support of the European Union Delegation in Nicaragua, and that of the diplomatic missions of the European Union Member States in Nicaragua.

III. LEGAL FRAMEWORK

The legal framework which regulated the 2011 general elections in Nicaragua is largely composed of the 1987 Constitution, the 2000 electoral law, the 2009 law on citizen identity (regarding identity documents, civil and electoral registers) and the regulations issued by the CSE on an ad hoc basis. Other laws with tangential relevance to the process include the 2008 law on appealing for legal protection, and the law on municipalities and territorial administration.

This framework is by and large the same as that which regulated the 2006 election. In this respect, the EU EOM confirms the assessment made by its predecessor regarding the previous elections: while the Nicaraguan electoral legislation enables the holding of democratic elections, it suffers from significant gaps and weaknesses, particularly with regard to the regulation of political parties, while conferring disproportionate powers to the CSE to determine the course of political parties, seriously limiting their autonomy. This section will concentrate on this element of the legal framework, due to its serious impact on the 2011 elections.

The lack of control and transparency mechanisms to regulate the source and amounts of campaign funds, as well as serious gaps in the electoral law's provisions on the grounds, procedures and consequences of electoral challenges and appeals are addressed in other sections of this report.

The EU EOM regrets that the recommendations issued by the 2001 and 2006 Missions, which aimed to overcoming some of these limitations, have not been translated into electoral reforms. The EU EOM also notes that the CSE did not sufficiently avail itself of its ample regulatory powers, with a view to completing gaps and clarifying ambiguities in the electoral law. Furthermore, some of the regulations and procedural guides adopted by the CSE for these elections constitute a step backwards, since they diminished the levels of transparency as compared to previous elections. Examples of such deteriorations include the August 2011 regulation on electoral 'accompaniment,' which limits election observers' freedoms of expression and movement, as well as the way in which accreditation of party agents was carried out, which placed obstacles in the way of political parties, rather than facilitating their right to audit the process.

The 1987 Constitution and the electoral law

The 1987 Constitution, as amended on seven occasions, establishes the basic principles required to hold democratic elections, consistent with the international standards Nicaragua has committed to. In addition to the three traditional powers of State, and in line with a number of countries in Latin America, the Nicaraguan Constitution confers to the Supreme Electoral Council the status of a constitutional power, and grants it wide regulatory and jurisdictional powers in electoral matters.

The electoral law outlines an electoral system and establishes standards for political parties which actively favour the development of a two-party system, reflecting the polarisation that has characterised the country's politics since the beginning of its democratic transition. Provisions which reinforce a two-party system include the requirement to obtain signatures of support from 3% of all registered Nicaraguans in order to create a political party; the need to maintain local representations in every one of the country's municipalities; the obligation to run in every election and, in general elections, to compete in all constituencies and present candidates for all positions; the prohibition on independent candidates; the requirement for regional parties to compete in coalition with other parties in general elections, and most significantly, the withdrawal of legal status from any party which does not meet all these requirements, or which does not obtain at least 4% of the

votes in a presidential election. These provisions all penalise smaller parties and promote the creation of alliances, or the absorption of smaller parties within more powerful ones.¹

Nicaraguan law's tendency towards a two-party system is a sovereign choice which does not, in itself, contravene international electoral standards, and it is appropriate to establish a corresponding electoral system and reasonable thresholds for representation. However, the sanctions for failing to meet some of the requirements detailed in the paragraph above are disproportionately heavy. This is particularly the case with respect to the need to maintain functioning local offices in each of the country's municipalities. It was with recourse to this stipulation that following a petition from the PLC, the CSE revoked the legal status of the *Movimiento Renovador Sandinista* (MRS), which had obtained no less than 6.3% of the votes and five seats in the National Assembly in 2006, far above the minimum threshold of 4% required by law to remain a viable party.² It is also unreasonable to require regional parties to run in general elections in coalition with parties that have a nationwide presence, as this severely limits regional parties' autonomy.

The political polarisation which led to the electoral law and its emphasis on a two-party system is also at the source of the structure of the CSE and its territorial representations, the regional, departmental and municipal electoral councils (CERs, CEDs and CEMs), which are designed on a template of political representation, and a system of mutual control between political adversaries, rather than independent individuals of recognised renown and competence.³ As such, the CSE is elected by a qualified majority of 60% of votes in the National Assembly, and, except where one party holds an overwhelming majority, this presupposes a degree of negotiation between political forces, to reach a consensus. A similar logic informs the composition of lower levels of the election administration: of the three members of each electoral council and polling station board, the presidents and first members are always selected from among candidates presented by the parties or alliances which came first and second in the previous elections, while the third member is to represent other, less prominent contesting parties.

Where there is a significant degree of polarisation and mistrust, and where there is not yet a well-rooted tradition of independent institutions and a professional bureaucracy, neutral administration of electoral processes may be achieved through politically-composed election administrations in which parties exert mutual control over each other. However, for this system to function, it is essential that the foundations of such a structure – the political parties – be guaranteed autonomy and continuity, and that they be protected from undue interference by State powers.

In this respect, the system of mutual control has been made ineffective, both by the electoral law, which grants enormous powers to the CSE to determine the legal status of political parties and, to an even greater extent, the CSE's use of these powers during the last legislature, when it removed the legal status of the party which gained

¹ Precedents exist for the CSJ overturning a CSE decision to remove the legal status from a political party, as was the case for the Conservative Party in 2001.

² The MRS submitted an appeal to the CSJ, in which it denied the PLC's accusations. To date, the Supreme Court has not considered this appeal, despite an entreaty to do so by the InterAmerican Human Rights Court.

³ The same system of mutual control between parties is reproduced in the election of the Supreme Court of Justice by the National Assembly and the CSJ magistrates are openly partial. During the electoral process they clearly demonstrated the way in which they placed their political affiliation ahead of their constitutional function as guarantors of the Constitution and the rule of law. This approach was evident in the ruling on the constitutionality of President Daniel Ortega's candidacy, as well as the CSJ's response to the appeal to bar the candidacies of PLI candidates, detailed in a separate section of this report.

the second-greatest number of votes in the 2006 elections from its leader and presidential candidate, thereby depriving both him and the grassroots of the party of the platform and representation within the CSE to which they were entitled, as the country's second political force .

The way in which the electoral law regulates political parties makes these appear more like the private property of their legal representatives than organs of political expression. It makes little sense that the figure of a party's legal representative should be relevant when potentially determining the legitimacy of the party's proposed candidates, when ostensibly this role is merely to be entrusted by the party to carry out administrative processes, while clearly subordinate to the party's governing structure, the very same figures who select candidates to run for election, who will run the election campaign, and who will present candidates to represent the party within electoral councils.

The electoral law also grants the CSE the power to determine political parties' internal disputes, including settling disagreements regarding who may hold the position of legal representative. It was as a result of this provision that Eduardo Montealegre, presidential candidate for the ALN in 2006, and who obtained 28% of the popular vote, saw himself deprived of his position as legal representative of the party the public considered him the leader of, following a mere decision by the CSE. This forced him to create a new alliance – the PLI alliance - which obtained 31% of the votes on 6 November, according to the official results published by the CSE.

Not only did the party leaders and activists suffer the financial and political cost of appearing under a new electoral brand and in a new place on the ballot, but furthermore, as a result of a mere administrative measure, they also lost their right to audit the process from within, since, according to the above-described system of mutual control, they would otherwise have been entitled to fill the positions of president and first members in electoral councils and polling station boards.

The EU EOM considers it of the greatest importance that political parties' legal representation be unequivocally anchored to these parties' genuine and effective leadership, or to their supporters, should they opt for a system of primary elections in their statutes. Ideally, this principle should be enshrined in a law on political parties. It is also clear that the CSE's excessive power to resolve conflicts within political parties seriously damage said parties' autonomy and as a result, threatens the existence of political pluralism. This is particularly the case when, as in the current circumstances, the CSE shows so clearly in many of its decisions that it is neither neutral nor independent of the ruling party.

CSE Regulations

While the electoral law does not provide much detail about electoral procedures, it grants the CSE the power to emit regulations. However, the CSE did not sufficiently avail itself of this power and the ad hoc regulations it did issue, limited in validity to the 2011 elections, principally regarded party agents and legal representatives; election 'accompaniment'; electoral ethics and fiscal exemptions for the importation of campaign materials.

Of these, the regulations on 'accompaniment' refer to election observation, despite the fact that the electoral law refers exclusively to observation, and not 'accompaniment'. The regulation, published late in the process in August 2011, restricts observers' freedoms of movement and expression, contrary to international standards and in contrast to previous elections in Nicaragua. As will be detailed later, the CSE also chose not to accredit two long-standing national observation organisations, without even issuing an official response to their applications.

For its part, the regulation on party agents is in line with the electoral law's provisions and also introduces a new accreditation format, with a double-sided accreditation document with photographs of party agents and his or her substitute on the either side. Although the accreditation procedure should not imply any arbitrary limitation on parties' freedom to choose their agents, the complex, the obstructive and delayed way in which it was implemented by the CSE did in fact result in grave prejudice against the PLI alliance, which was unable to obtain and distribute accreditations to many of its agents in sufficient time.

The CSE also published very brief regulations regarding complaints, petitions and appeals, which for the most part were limited to reproducing the provisions of the law, which are vague and ambiguous. The legal procedure for submitting complaints is unclear and restrictive. Despite its regulatory powers, the CSE opted not to address this serious lacuna. The electoral law only refers substantively to the option of challenging results and limits the grounds on which this can be done to four specific scenarios: where a polling station is illegally constituted; where voting takes place in a location other than that announced by the electoral authorities; where, without just cause, results are produced outside of the deadlines established by law; where official electoral documentation is altered or incomplete.⁴ Confusingly, the possible grounds for challenging results listed on the official form for registering complaints at polling stations are slightly different,⁵ but in either case, the list is so limited as to be virtually irrelevant, as it comes nowhere near incorporating the large number of possible scenarios in which voting circumstances and results might be justifiably be challenged.

Submitting a challenge to the results (an *impugnación*) is the only recourse of potential consequence specified by law - other types of complaint may be submitted but no procedure or redress is contemplated by the law. However, the law does not stipulate that the only possible redress to a challenge must be cancellation of the polling station results: even if only obliquely, the law also makes reference to the possibility of carrying out a recount. The CSE's over-reliance on the option to cancel the votes in a whole polling station is of significant concern, and is made worse by the fact that polling station cancellations do not entail re-holding elections unless 50% of all polling stations are cancelled in any given constituency. As such, the chosen 'remedy' runs counter to principle of respecting the will of voters, and opens a space for manipulation of results in a particular constituency, through the selective annulment of up to half of all polling stations in a constituency.

Apart from results challenges, the law also provides for the possibility of submitting appeals to revise results aggregations to the CSE at national level.

Office of Electoral Prosecutions

The Office of Electoral Prosecutions (*Fiscalía Electoral*) a, charged with investigating electoral crimes on its own initiative or in response to political parties' complaints, proved itself to be particularly passive throughout the process. Thus, the *Fiscalía Electoral* opted not to take any action, despite the numerous and notorious cases of public buildings and resources being used for campaign activities, violations of the campaign silence period, destruction of election materials and clear problems with the distribution of identity cards required to vote. This failure to act raised serious questions about the office's commitment to its function. Despite the human and

⁴ Article 162, Electoral Law.

⁵ The official form (the *Formato para interponer recursos de impugnación ante la Junta Receptora de Votos*) makes no direct reference to altered or incomplete documentation, and instead refers to grounds whereby ballots are illegally added or removed from ballot-boxes and where any papers or election materials are removed from the premises.

material resources at its disposition, the prosecutions office limited itself to receiving complaints – 27 in total. The office granted resolutions in three cases and dismissed the remainder.

IV. ELECTORAL SYSTEM

Nicaraguan Presidential elections provide for the possibility of a run-off between the two strongest contenders. However, the 2000 Constitutional reforms which came in the wake of the Ortega-Aleman Pact reduced the threshold for an outright win to 40% of the national vote, with an even lower threshold of 35% qualifying a Presidential election where there is a difference of 5% between the winner and second most successful candidate. These thresholds are unusually low and arguably, they effectively render the system a one-round contest.

Among other changes, the 2000 electoral reforms introduced a seat on the National Assembly (NA) for the outgoing President, as well as for the runner-up candidate. The other 90 members of the National Assembly are elected from closed lists, on the basis of a proportional system. Twenty NA members are elected from a nationwide constituency, while 70 seats are elected from the country's 15 departments and two autonomous regions⁶, and as such the country's administrative divisions provide the delimitations of electoral constituencies.

The Electoral Law (article 141) attributes a specific number of NA seats to each department and region,⁷ and these figures reportedly relate to each area's population size in 1995, despite the fact that a census in 2005 has since provided more up-to-date figures. The Electoral Law does not directly refer to population size and does not identify a mechanism for updating the attribution of NA seats.

The 2005 census figures indicate an inequality in the weight of votes across the country. The average ratio of voters to NA seats hovers around 73,000 for each seat, but the figures in different departments range from around 50,000 to over 150,000. Managua has proportionately more seats than its population would indicate, while the RAAN and the Department of Jinotega have significantly fewer than the average.

The delimitations of constituencies were changed in March 2011 when, by Presidential decree, three municipalities that fall within the administrative area of RAAS were transferred to Chontales.⁸ The Presidential decree implies that the transfer be carried out on the grounds of population size and thus equality of votes, but in fact the demographic outcome is simply to reverse RAAS and Chontales' positions at the two extremes of an uneven ratio: whereas before Chontales had the greatest number of NA seats per voter and RAAS has the lowest (1 per 51,000 and 153,000 respectively), the transfer of some 100,000 voters to Chontales has resulted in an inversion of these figures, but maintained the inequality.

⁶ The law on territorial administration (Ley de División Política Administrativa) establishes that the country is divided into 15 departments and the two autonomous regions of the Atlantic coast.

⁷ The Electoral Law attributes one NA seat to the Department of Rio San Juan, and two each to the Departments of Boaco, Rivas and Nueva Segovia and RAAS (Southern Autonomous Atlantic Region.) Three seats are elected from each of the departments of Carazo, Chontales, Estelí, Granada and Jinotega and RAAN (Northern Autonomous Atlantic Region.) The department of Masaya elects four NA members, while the departments of Chinandega, Madriz, León and Matagalpa each elect six members. The department of Managua is attributed 19 NA seats.

⁸ Decree no. 15-2011, *De Reincorporacion de Municipios de Chontales*

The unilateral change of constituency delimitation is more logically explained as an instance of gerrymandering, as the three municipalities in question (El Rama, Nueva Guinea and Muelle de los Bueyes) are liberal strongholds and their transfer to Chontales effectively increased the prospects of winning an FSLN seat in RAAS. Indeed, 2011 elections results show that the FSLN won one of the two seats in RAAS.

V. ELECTION ADMINISTRATION

The Consejo Supremo Electoral (CSE) is Constitutionally designated as the fourth power of the State and is vested with a particularly broad mandate, which includes not only organising elections but also maintaining the civil registry and registering political parties, as well as producing its own regulations and sitting as the final instance to uphold or overturn decisions made by its subordinate entities, as well as to hear complaints or appeals by political parties.

While the CSE displayed high levels of organisation, it did not meet its other essential responsibilities to be neutral and transparent. The CSE's partiality was most obviously displayed through its composition at every level, while its lack of transparency characterised most of the administration of the elections.

CSE composition

According to the Electoral law, the seven CSE magistrates and three substitutes are elected for five-year terms by a 60% majority in the National Assembly, following nominations by the President and the members of parliament, in consultation with relevant civil society organisations. However, when in 2009 the National Assembly failed to elect new magistrates, a presidential decree extended the mandate of the magistrates who administered the 2008 municipal elections⁹ and although this measure was in line with Constitutional provisions, it heightened a perception that the CSE was aligned with the ruling alliance.

The composition of the CSE at lower levels compounded the institution's lack of neutrality. Problems derived both from the law and its application cumulatively transformed the CSE into an institution dominated by the FSLN. Firstly, the Electoral Law stipulates that of the three members of each CSE representation at departmental and municipal level, two should be members of the two most successful parties in the previous general elections – for the 2011 elections, these two parties were the FSLN and ALN. This provision stems from the Ortega-Aleman pact and was particularly problematic because the ALN's current structure is virtually empty and as such does not constitute any kind of balancing power.

The Electoral Law states that the third places on each council be selected from among candidates presented by the other participating parties. This provision is extremely vague and in practice was exploited in such a way that there was no egalitarian distribution. A range of composition anomalies were observed by the EU EOM, including supposedly non-FSLN members being members of the AC and the PRN – both part of the FSLN alliance – as well as cases in which APRE and PLI representatives on CEMs were not recognised by their own parties. EU EOM observers reported that in departmental, regional and municipal councils (CEDs, CERs and CEMs), non-FSLN members were almost systematically sidelined, intimidated and on occasion threatened into acquiescence or simply replaced.

⁹ Presidential Decree 3-2010, promulgated in January 2010. The decree also extended the mandate of several judges at the Supreme Court, as well as that of the Comptroller General of the Republic and the Human Rights Prosecutor.

The last stage of CSE representation are the 12,960 polling stations and their boards, for which the legal criteria are the same as for the CSE bodies at departmental and municipal level. The EU EOM was present when the composition of polling station boards was finalised and observers' reports revealed a disconcerting pattern of unclear procedure, which culminated in the same imbalance of representation seen at CEDs and CEMs. In accordance with the Electoral Calendar, political parties submitted candidates to CEMs on 19th September but a number of credible reports referred to last-minute deadline changes from midnight to 18.00, as a result of which some CEMs refused to accept candidate proposals from opposition parties. Despite the fact that polling station staff members were supposedly named on 29th September, no list was published or communicated a month later, when they were due to simultaneously receive training and accreditation. The date for nationwide training was brought forward with less than 24 hours' notice for PLI and PLC, while FSLN was informed some days earlier. The consequent reduced presence of opposition members was compounded when many who did attend were ignored rather than receive accreditation. This sequence of events contributed to a severe marginalisation of opposition parties. For example, the PLI reportedly had no representation at all in polling stations in Managua. In other cases, selected polling station staff members were not among those put forward in as candidates – this was the case for example in Chinantega, where ALN polling station staff members had not been nominated by the party. In other cases, the EU EOM had sight of lists which revealed that polling station staff supposedly representing PRN, APRE and ALN were in fact members of FSLN. In several departments, the EU EOM found that polling station board members were not able to state which party they represented.

In addition to the CSE's composition being strongly tilted in favour of the FSLN, electoral preparations were also carried out by several figures not contemplated by the law. The introduction of a 'voting centre coordinator' caused the greatest controversy, and indeed this figure proved on election day to be key in the electoral process, situated at the top of the voting centre hierarchy and on some occasions acting in an obstructive manner towards opposition party agents and observers alike. However, long before election day so-called *técnicos de ruta* ('route managers') carried out essential operations, including distribution of election materials and before that, identity cards. Effectively part of the electoral administration but not provided-for by law, *técnicos de ruta* frequently appeared to be part of the FSLN structure or members of the CPCs, and in some instances appeared to have been carrying out their work even before the composition of CEMs in June. In some areas CPCs replaced CEM officers in their functions as public servants. In other cases, CEMs were divested of their duties, foregoing or delegating their responsibilities to local FSLN leaders. Neither the selection nor precise terms of reference of voting centre coordinators nor *técnicos de ruta* were made public, and their participation in electoral administration damaged the process' transparency and accountability. Because of their frequent association with the FSLN, their presence also exacerbated the already grave lack of neutrality within the election management body.

Administration of the Elections

The CSE demonstrated high levels of organisation but extremely poor provision of adequate and timely information to political parties and the electorate, resulting in an obfuscated process.

The CSE chose not to issue procedural regulations on key elements of the electoral process, including voter registration, voting and counting. The CSE did not divulge documents such as results forms until a week before the elections and even then, opposition parties were not provided with sample. Cumulatively, this lack of transparency reached extreme levels, with opposition political parties having to invest disproportionate

resources in seeking information and preparing for unknown procedures. Since the ruling FSLN alliance did not suffer lack of information, the CSE's approach contributed to the inequality among the contenders.

Controversy over the existence and content of a guide for polling station staff highlighted the extent to which basic procedural information was withheld from opposition parties. In the absence of comprehensive regulations, this guide has in the past been the main reference for voting procedures and as such should have been disseminated to all political parties as well as to observers and civil society organisations early in the electoral process, for the purposes of training, planning and voter information. In the event, a reasonably detailed guide for polling station staff came to light several months before the elections, and gave every appearance of being a CSE-produced document. Once the CSE denied any connection to the document, it became known as the 'unofficial' guide, apparently for the purposes of training FSLN party agents. It was not until 10 days before election day that the CSE publicly displayed its official guide for polling staff, a document which turned out to provide almost no procedural detail on its two sides of paper.

A year ahead of the elections, the CSE complied with the legal requirement to publish an electoral calendar outlining the dates for all key stages of the electoral process. This would have constituted a notable exception to the overall trend of disinformation had there not been some grave instances of failure to comply with the agreed dates. The most notorious instances included the last-minute and poorly-communicated change of date for the training and accreditation of polling station staff members and the announcement of provisional results some 11 days early, entailing a drastically shortened period in which to submit appeals to review results.

On 6th October, the CSE provided each political party with a copy of the National Voter Register, and the final list of polling station locations.

Another unfortunate instance of poor information provision by the CSE regarded the lack of active information-sharing with citizens. For example, until a few days before the elections when information was broadcast in the media, there had been no demonstrations to the public of the newly-introduced single ballot.

At national level, the CSE was consistently cordial and welcoming to the EU EOM, but whether at national level or in the departments, the CSE did not provide the mission with substantive information. On election day and night, a number of EU EOM observers were refused access to polling stations and results processing centres.

Accreditation of party agents

The CSE did not comply with the electoral law's provision that all competing political parties and alliances be provided with accreditations for party agents corresponding to each level of the electoral administration in sufficient time and quantities to ensure their distribution. Not only did the CSE fail to meet the legal deadline for providing accreditations 10 days before polling, but in the case of PLI, the last several thousand accreditations were issued only the day before election day, and this only after sustained pressure from the alliance, as well as the media and civil society. The late provision of credentials and the fact that even these contained a number of errors and omissions, severely hindered the PLI's ability to ensure oversight of the electoral process. The principle of party auditing is a cornerstone of democratic elections and it is the election administration's duty to facilitate this oversight by all contending political parties. Given the CSE's ample regulatory and organisational

powers, it had every resource available to comply with its duty to accredit agents for all parties in a timely fashion, and its failure to do so had repercussions throughout the electoral process and is of grave concern.

The fact that in many parts of the country party agents for PLI and PLC in particular had not received their accreditations one day before polling increased the already substantial mistrust in the electoral process, as well as some instances of unrest, such as in Boaco and Chontales.

VI. VOTER REGISTRATION

The Constitution and Electoral Law both establish the right to vote for all Nicaraguan citizens, so long as they are at least sixteen years old and have not had any of their civil rights suspended as a result of a penal sentence.¹⁰ Nicaraguan law thus has a particularly broad definition of eligibility to vote, fully respecting the principle of universal suffrage. In order to exercise the right to vote, citizens must be registered on the electoral register and carry either a national identity card, or a *Documento Supletorio de Votación*, which acts as a temporary document for the purposes of voting. The system is premised on citizens' active initiative to register on the civil register, from which follows inclusion on the electoral register and the issuance of the identity card, and the CSE is responsible for administering each of these procedures. While registration and identity requirements for voting are reasonable, the CSE's administration of these has lacked efficiency, transparency and neutrality.

An inclusive, accurate and reliable National Voter Register constitutes one of the building blocks of democratic elections. The CSE effectively conceded that the Voter Register was not accurate, stating that since it has not been cleansed of deceased citizens, it is about 20% inflated. The Electoral Register also includes emigrants, for whom there is no practical provision for voting, even though they are legally entitled to do so. As such, of the 4,328,094 entries on the final voter register for the 2011 general elections, the CSE estimated that some 3.3 million were eligible voters living in the country.

The process for civil registration and consequent issuance of identity cards and inclusion on the electoral register is permanent, although outside of electoral periods municipal branches of the CSE are not open and citizens must travel to departmental capitals to register. Registration procedures naturally concern young people, who register as they turn 16, but the roll-out of identity cards and the introduction of a new format means that registration continues to be necessary for many citizens. In order to maximise enfranchisement, in 2009 the National Assembly amended the law to ensure that all existing identity cards be considered valid until 31st December 2012.¹¹

The final voter register was produced after carrying out a verification process, enabling citizens to check their registration. This verification was however enabled only over a two-day period (23 and 24 July 2011) and reports indicate that this was insufficient, particularly in the light of poor communication to citizens. The CSE provided a copy of the final National Voter Register on 6th October to all political parties, albeit emphasising the highly

¹⁰ Article 47 of the Constitution, articles 30 and 21 of the Electoral Law.

¹¹ Law n°674, which amends the Law on Citizen Identification, was approved on 22 January 2009, and published in the Gazette n° 26 on 9 February 2009.

unusual status of the document as the intellectual property of the CSE, resulting in a prohibition of publishing or disseminating it.

One of the greatest controversies of the 2011 general elections concerned citizens' complaints that they had not been issued with identity cards and that they were therefore effectively disenfranchised. The CSE largely denied that there was a problem to address, stating that 97% of the electorate was in possession of an identity card. At other times the CSE stated that 30,000 identity cards remained to be delivered and insisted that any delays were due to citizens leaving their applications to the last minute, or technical difficulties such as name changes. Neither the CSE nor any of its subordinate bodies has provided any data to confirm the numbers of identity cards delivered to citizens.

While it was not possible to quantify the exact extent of the problem, EU EOM observations confirmed that the phenomenon of citizens without identity cards was real and widespread. During their time in the field, EU EOM observers reported on credible cases of citizens with identity cards from every department in the country, with lowest estimates of total reported cases accounting for about 50,000 citizens. Of these, young people were the most commonly-affected, and while those without identity cards were not always members of opposition parties, they were always unaffiliated to the FSLN.

The EU EOM also observed a number of practices in relation to the provision of identity cards which are consistent with accusations of discriminatory practices. These included several instances of identity cards being distributed not by electoral authorities but rather by *técnicos de ruta* and members of the *Consejos del Poder Ciudadano*, as well as by FSLN activists and from FSLN campaign offices. In several departments, the EUEOM obtained lists for provision of identity cards which separated citizens into different categories such as 'special' or 'normal.' Some of these practices were also reported by members of the Municipal Electoral Councils.

VII. CANDIDATE REGISTRATION

The electoral law does not make excessive or discriminatory requirements of the candidates nominated by political parties, although it does exclude the possibility of candidates running as independents, consistent with its strong emphasis on political participation being focused on political parties.

In line with what has hitherto been common Latin American tradition, article 147 of the Constitution strictly prohibits a President's consecutive re-election. Nonetheless, outgoing President Daniel Ortega's candidacy was approved by the Constitutional Chamber of the Supreme Court of Justice (CSJ) after a process which began and concluded within just four days. The Constitutional Chamber declared that the section of article 147 prohibiting the consecutive re-election was not applicable since it contradicted the principle of equal rights enshrined in another part of the text. Although it did not accept the ruling, the opposition decided to present candidates. For its part, the NGO Nicaraguan Commission for Human Rights (*Comisión Nicaragüense de Derechos Humanos*, CENIDH) denounced the ruling 504/2009 at the InterAmerican Commission for Human Rights on 2 November

2009. Without entering into the substance of the ruling, the due process of which was in itself questionable,¹² the EU EOM considers that, in line with the Nicaraguan legal system, the only channel for carrying out constitutional reforms is by majority vote in the National Assembly, as provided-for in the Constitution itself.

In terms of the nomination of candidates for the National Assembly,¹³ the EU EOM remains extremely concerned about the threat of an injunction against elected PLI candidates. This threat was already in existence when the EOM issued its statement of preliminary findings and has not been allayed now that the final report is being finalised. The risk that elected PLI-UNE candidates be barred from taking up their seats is the result of the Constitutional Chamber of the Supreme Court accepting to consider three petitions submitted by various factions of the party, questioning the legitimacy of the legal representative of the PLI party, Indalecio Rodríguez, who signed the agreement to have the party integrated into the alliance. There has been a startling contrast between the time taken to determine the legitimacy of President Ortega's candidacy and the CSJ's delay in this case, which, in any case, falls exclusively under the responsibility of the Supreme Electoral Council, at least in so far as the validity of candidacies is concerned. The CSE long ago confirmed that the PLI candidacies were valid, following an emergency resolution.

The above-described case clearly highlights the weaknesses of legal regulation of political parties and makes it all the more pressing for a new framework for party regulation, preferably by means of a law on political parties which would reinforce their autonomy and protect them from excessive and arbitrary interference from State powers.

VIII. ELECTION CAMPAIGN

The elections were held in an environment characterised by polarisation and profound mistrust, with numerous accusations of fraud and unequal competition conditions. The opposition questioned the legitimacy of the presidential elections due to the candidacy of Daniel Ortega (which was allowed, despite a constitutional prohibition) as well as the CSE's lack of credibility following the 2008 municipal elections, but nonetheless opted to participate. Despite the polarisation, the campaign was peaceful on the whole and candidates and supporters enjoyed freedoms of expression, movement and association throughout the campaign period. Nonetheless, a number of violations were observed, such as abuse of public resources, undue pressure on public servants, destruction of campaign material, and even some incidents of violence in the days following polling, alongside biased behaviour on the part of the national police force.

The electoral campaign officially began on 20 August and ended on 2 November, but in practice campaigning began before this date and continued during the official campaign silence period. Although a few large rallies

¹² Ruling 504/2009 of 19 October, which pronounces on the constitutionality of article 147 of the Constitution itself, was adopted by the Constitutional Chamber and not by the two thirds of the Supreme Court Plenary, in contravention of stipulations in article 27.1 of the organic law on the judiciary.

¹³ The provisional list of candidates was presented on 23 May 2011. During the three-day period in which challenges could legally be submitted, the CSE received four petitions to disqualify four candidates running for the PLI-UNE alliance, submitted by the PLI-PLC alliance, alleging double membership. It is noteworthy that in one of these cases, that of candidate Maximino Rodríguez, the CSE applied article 107 of the Colombian Constitution, which prohibits double political party membership, since Nicaraguan law makes no reference to the subject. None of the four resolutions were contested and the candidates were replaced. The final list of National Assembly and Parlacen candidates was published on 24 June 2011 in the Official Gazette and the national print press.

were held for presidential candidates, campaigning was mainly based on low-profile local activities, such as vehicle caravans, door-to-door canvassing, small gatherings and propaganda on billboards and posters. EU EOM observers found that in some areas of the country, the campaign was barely visible. While the presidential election took centre stage, the National Assembly elections received less attention, and the Parlacen elections none at all. With the exception of Daniel Ortega, all presidential candidates travelled throughout the country and attended rallies. In the case of the FSLN, this task fell to the vice-presidential candidate, Moisés Omar Halleslevens. No public debate was held between presidential candidates, although they did offer regular interviews to the media, again with the exception of Daniel Ortega.

Economic growth and employment creation were central themes for all candidates. While the opposition emphasised the need to de-politicise public institutions, the FSLN referred to social programmes focused on housing, health and education. In general, the campaign relied more on emotive slogans than substantive policies. Promises of growth, employment and development were not developed in debates which could have enabled explanations about how these goals would be reached. Given the common knowledge that financial support from Venezuela is of great importance to Nicaragua, the FSLN implied that only a Sandanista government could ensure this income, while Fabio Gadea characterised the elections as a choice between dictatorship and democracy. The highly sensitive topic of abortion was given a prominent space in the campaign, with all candidates seeking to take the toughest stand against it.

The threat of disqualification for PLI candidates, as a result of a legal process at the Supreme Court of Justice, became part of the campaign, as it raised doubts as to whether the PLI candidates would be able to take up their seats, should they be elected.

The Catholic Church took on an important role during the electoral campaign, even if its representatives did not all impart the same message. About one month before polling, the Episcopal Conference issued a pastoral letter, entitled *Shadows obscuring the electoral process*, in which it urged the CSE to accredit national observers and also made reference to the lack of public faith in the election administration; the difficulties experienced by many citizens in obtaining an identity card; the possible illegitimacy of some candidacies, and expressed concern about intolerance and violence, stating that these called into question the process' legality, honesty and respect for popular will. The Church also sought to guide its adherents, describing a 'good candidate' as one who respected the Constitution and democratic institutions, and who did not have a history of corruption. It was widely viewed that such a description excluded both Daniel Ortega and Arnaldo Alemán, although the Archbishop, Monseñor Brenes, later stated he did not have such an interpretation.

For his part, the Cardinal Obando y Bravo appeared at Daniel Ortega's side throughout the campaign, making his support clear. Obando y Bravo also celebrated mass in the presence of Daniel Ortega and his wife Rosario Murillo on 2 November, the last day of official campaigning, during a service which was broadcast on several television channels and later repeated during the period of campaign silence.

Campaign environment

EU EOM observation found that throughout the 2011 election campaign, candidates and supporters enjoyed freedoms of expression, movement and association. The situation deteriorated somewhat after polling when some protests against the results were repressed and post-electoral violence increased.

EU EOM observers reported that some public sector workers were pressured by the ruling party to participate in FSLN campaign events, and that this sometimes included threats of losing their jobs if they did not comply. These types of pressures were reported in Matagalpa, Chontales, Masaya, Río San Juan, Carazo and Managua. Some civil servants also suffered pressure aimed at ensuring they did not participate in opposition campaign events. Observers also reported that political adversaries destroyed each others' campaign materials, and that PLI was most often the victim of such actions, not least in Granada, Rivas and Chontales.

A number of cases were observed in which candidates were prevented from gathering at specific times and places, supposedly because these had been previously reserved. The PLI experienced such problems in Matagalpa and Nueva Segovia, and also denounced undue restrictions to their close of campaign event in Managua.

The period before polling was largely free of violence, although there were some confrontations between rival supporters. During this period, most instances of violence were related to protests regarding citizens' inability to obtain identity cards, which took place in several parts of the country. On election day, some individuals set fire to several polling stations in El Tuma-La Dalia, Matagalpa, in an incident catalysed by protests regarding the lack of accreditation for PLI party agents. Several PLI supporters were subsequently arrested.

Violent incidents increased after polling, often when FSLN supporters celebrating their victory confronted opposition supporters. Such cases were reported by EU EOM observers in Madriz, Nueva Segovia, Masaya, Boaco, RAAN, RAAS, Nueva Guinea and Matagalpa. In Masaya, PLI campaign offices were set fire to, while in Matagalpa threats were made to do so. During this time, opposition party supporters experienced restrictions of their right to protest.

The most serious violence took place on 8 November, two days after polling. Three PLI supporters were murdered in El Carrizo, part of the municipality of San José de Cusmapa, in Madriz. The murders were allegedly carried out by FSLN supporters with the connivance of police officers and electoral authorities. Four police officers and one FSLN supporter were arrested. On the same day, an FSLN secretary was killed in Coperna II, in RAAN. Several PLI supporters were arrested for their alleged involvement in the murder.

In these and other violent incidents which took place after the elections, most often between FSLN and PLI supporters, the EU EOM perceived a tendency for the National Police to be partial, and the possible politicisation of State security forces raises concerns about the rule of law. Instances of partial behaviour on the part of the National Police were observed by the EU EOM in León, Managua, Masaya, Carazo, Granada, Río San Juan, Boaco, Chontales and Matagalpa. Some 50 police officers were also injured in the post-electoral violence.

Illicit use of public resources

The EU EOM observed a widespread and systematic use of public resources for campaign purposes, a practice prohibited by article 107 of the electoral law. In the majority of cases, this abuse was carried out by the FSLN, but the PLC was also observed relying on such practices in Nueva Segovia, RAAS and Estelí.

The pattern was consistent throughout the country: campaign events made use of public buildings or institutions, State-owned vehicles and the mobilisation of public-sector workers. Schoolchildren were even mobilised to campaign during class hours. In addition, the government made frequent use of the inauguration of

public works or the distribution of public goods or services for campaign purposes, thereby erasing the line between official functions and party propaganda, a practice that falls beneath standards for democratic elections.

The *Consejos del Poder Ciudadano* (Citizens' Power Councils, CPCs) were particularly active during the campaign and the electoral process in general. CPCs were created by presidential decree and therefore have a certain official status. The CPCs acted in a clearly partial manner and undertook significant activities during the campaign to mobilise votes for the FSLN. CPCs organised campaign events and distributed goods and services throughout the campaign period.

Campaign financing

As is the case for many countries in the region, the financing of political parties and electoral campaigns in Nicaragua is characterised by a lack of transparency and regulation. The prospect of citizens having a clear idea of how much parties spent and where they obtain their funding is extremely limited. In practice, unless a party chooses to disclose further details, the only information available concerns campaign funds provided to parties by the public financing system.

Although no figures are available, it appears clear that with the possible exception of the FSLN, political parties spent far less on their campaigns in 2011 than they did in 2006. Unequal access to funds was evident throughout the campaign, contributing to an uneven playing field. In 2006 the business community actively supported liberal parties but in 2011 it opted to take a more low-profile stance.¹⁴ It is estimated that the funds available to the PLI in 2011 barely amounted to a third of what it was able to spend as ALN in 2006. The blurred lined between FSLN spending and public resources made it impossible to calculate FSLN campaign spending.

Political party financing is practically unregulated in Nicaragua. There are no limits on how much may be donated or spent,¹⁵ and very few restrictions regarding funding sources. All the funding-related provisions of the electoral law refer to the electoral campaign period, and not to funding in non-election years. Political parties have a duty to submit annual accounts to the CSE, but it is unlikely that these reports, which are considered alongside reports for campaign spending reimbursements, fully reveal party financing.

Those parties and alliances which obtain at least 4% of the national vote are entitled to receive State funds in proportion to the number of votes received. For the 2011 elections, the National Assembly designated some 300 million córdobas (approximately 10 million euros) to cover State-sourced campaign costs. Auditing and transparency requirements are weak. The Republic's Finance Office (*Contraloría General de la República*) considers that its mandate is limited to auditing those costs for which parties request reimbursement, and considers any further auditing to be the responsibility of the CSE and, if called upon, the Electoral Prosecutions Office.

¹⁴ Nonetheless, the business association COSEP called for citizens to turn out to vote and also for transparency in the administration of the elections.

¹⁵ In fact, article 103 of the electoral law states that limits on donations are specified within the same law, but this is not the case.

IX. THE MEDIA DURING ELECTIONS

EU EOM monitoring of the media sought to assess the extent to which the media complied with relevant national legislation and to determine whether media organs exercised their function of providing information to the electorate without any undue limits not provided-for by law which failed to meet international standards for good practice, as well as to evaluate the degree to which the main election candidates were granted equitable treatment by the media, in terms of both quantitative and qualitative terms.

Media analysis methodology

With these objectives, the Mission's media analyst trained a group of six monitors to closely follow a sample of media between 19 October and 2 November, when the campaign silence period began. Compliance with the prohibition on campaigning from this date was also monitored.

The sample of media selected for analysis included the two State broadcast organs (Canal 6, recently relaunched, and Radio Nicaragua), as well as a selection of the main media organs with national coverage. The selection sought to include the greatest possible diversity and editorial stances in the country. The sample numbered more radio and television channels than daily newspapers, following the principle that broadcast media are held to higher standards than the printed press, since broadcasts are carried out across national space, which is a regulated and limited public resource. It is on these grounds that a greater responsibility is often attributed to broadcast media to provide balanced and impartial information during election campaigns, whether or not such expectations are stipulated by law.

In line with these criteria, an analysis was carried out of the following media organs: the daily newspapers *La Prensa*, *El Nuevo Diario*, *La Trinchera de la Noticia*, and *Bolsa de Noticias*; the television channels 2, 4, 6, 8, 12 and 14, and the radios *Nicaragua*, *Corporación*, *Ya* and *Universidad*. For broadcast media, the analysed sample was made up of the three hours of peak audience during weekdays, and two during weekends.

For every mention of a relevant political actor (candidates, elected officials and party members) in any of the selected media organs, the monitors registered data including the quantity of coverage (in centimetres squared for the printed press and in seconds of time for radio and television) and its quality, in terms of negative, neutral or positive tone.

In addition to this system, the media monitoring made use of information obtained directly from journalists and national media analysts, as well as from semi-structured questionnaires put to local media representatives by the EOM observers deployed in all of the country's departments.

Freedom of the press

It was clear from the monitoring that Nicaraguan media generally enjoy freedom of expression without undue restrictions, although there are some isolated exceptions. Three such incidents took place while the Mission was in Nicaragua: the explosion which took place at Radio JC in Rosita, the instances in which Radio Corporación's signal was cut in the last few days of campaigning, and the arrest of a journalist in the department of Río San Juan on election day. However, in none of these cases was it possible for the EU EOM to unequivocally establish a clear intention to censor or limit freedom of expression of the media organs or journalists affected.

The EU EOM did note the freedom with which some of the more prominent media with national coverage expressed themselves, on numerous occasions conveying a tone that was highly critical of the government or opposition parties.

The electoral law and the media during the campaign

Article 90 of the electoral law contains the few regulations for the media during election campaigns in Nicaragua. There are barely three provisions which, respectively, stipulate State media's duty to grant daily airtime to all candidates during the election campaign; fix limits on the broadcast and publication of electoral propaganda (30 minutes on television, 45 on the radio, and two pages in the printed press for all candidates, none of whom may buy more than 10% of this space) and establish the responsibility of media organs to communicate their rates for political propaganda to the CSE.

If these three provisions had been complied-with, generally egalitarian conditions would have been created for election candidates in the media. However, none of them was respected by political parties. Firstly, the EU EOM has evidence that at least one party, the Alianza por la República (APRE), vainly asked the CSE to ensure it be granted its right to airtime on State media. Secondly, according to EU EOM monitoring data, the FSLN, PLI and PLC all received far more airtime for their propaganda in monitored media than what was allowed by law. Lastly, according to the information collected by EU EOM observers in the field, 14 out of 20 interviewed managers of local media admitted that they charged political parties higher than standard commercial rates, while seven of these managers confirmed that they charged different amounts to different parties, depending on either the parties' resources or the media organ's political affinities.

With regard to the first regulation, the CSE did not comply with its responsibility to oblige State media to offer political parties the time stipulated by the electoral law. Concerning the second and third regulations, the CSE failed to oversee respect of the law's provisions and to apply relevant sanctions.

As a result of these failures to abide by the law, the FSLN overwhelmingly dominated advertising space on radio and television (for data by media outlet, see *Annex I. Media Statistics*). The ruling party had more advertising time than all of its rivals put together in almost all the monitored media. This was the case on television channels 2, 4, 6 and 8, as well as Radio Ya and Radio Nicaragua. The only exceptions were Radio Corporación, where 94% of all political advertising airtime was granted to PLI; Canal 12, where opposition parties together received 55% of advertising time (although the FSLN received more time than any individual opposition party) and Canal 14 and Radio Universidad, where no electoral propaganda was recorded during monitoring hours.

In addition, the abundance of advertising for the State broadcast during the election campaign exacerbated the FSLN's predominance, not only because it was the ruling party but also because of the close links between propaganda for the government and the party, most clearly exemplified by their use of the same slogan ('2011, *Unidad por el Bien Común*' – Unity for the Common Good), and common graphic elements.

Apart from the deliberately orchestrated confusion between the State and the ruling party which, in the EU EOM's view, in itself borders on illicit use of public resources for campaign purposes, the Mission notes that while the suspension of institutional propaganda in pre-election periods is not provided-for in Nicaraguan law, it is considered good practice, precisely because it mitigates the potential advantages illegitimately enjoyed by the party in power over its competitors.

With regard to electoral advertising, the EU EOM detected a number of practices which could contravene the prohibition on advertising that denigrates, offends or discredits candidates, as laid down in both the electoral law and the Regulation on Electoral Ethics. At the very least Daniel Ortega, Fabio Gadea, Edmundo Jarquín and Arnoldo Alemán were the targets of such discourses in adverts which were either anonymous or were backed by little-known organisations (such as the 'Nicaraguans for Family and Life', which urged citizens not to vote for PLI, or the Movement for United Christians, which made the same entreaty regarding the FSLN presidential candidate).

The EU EOM also noted a generalised violation of the period of campaign silence, which was supposed to take place for the 72 hours before voting began, as stipulated by article 97 of the electoral law. This silence was openly breached by all broadcast media with the exceptions of Radio Universidad and television Canal 14. The breaches were particularly flagrant in State media, (Canal 6 television and Radio Nicaragua), Canal 4, Radio Ya (all of which favoured Daniel Ortega's candidacy), and Radio Corporación (in favour of Fabio Gadea). Media entities that favoured the FSLN repeated programmes from previous days without removing electoral propaganda, or broadcast new pieces which indirectly promoted votes for Daniel Ortega. Examples of indirect propaganda in favour of the FSLN candidate in the days prior to voting included the summary of Cardinal Obando y Bravo's homily, broadcast on several television stations, and the constant promotion of public works. Another strategy used by all radio stations which breached the campaign silence period was to give airtime to audience members who called for votes for whichever candidate was most aligned to the media organ's editorial stance (Ortega, or, in the one case of Radio Corporación, Gadea), while journalists refrained from informing audience members that such practices were prohibited.

Finally, the EU EOM noted with concern the discriminatory way in which some duly-accredited journalists were prevented from accessing the polling station where President Daniel Ortega voted, while a small group of representatives from national media organs (those with the most favourable disposition towards the FSLN government, according to the media analysis) were able to be present and record the casting of the ballot inside the polling station. This unequal treatment is striking not only because it is in contravention of the prohibition on entering polling stations with cameras in the CSE-issued 'Voting Procedures' document, but also because the prohibition was rigorously enforced when it came to other candidates and in other circumstances.

In conclusion, the EU EOM noted a widespread lack of respect for the scant regulations that exist with regard to the media during the campaign, or on other occasions, an inconsistent and arbitrary application. Violations of the law never had any consequence for the offenders and took place in the face of a passive Electoral Prosecutions Office and a CSE which chose not to make use of its sanctioning powers.

Political actors in the media

Nicaragua does not have any regulations which compel the media to provide balanced and objective coverage, not even during electoral periods. Nonetheless, it is reasonable to expect State media to provide information in a particularly impartial manner, since they receive public funding and, by that token, have a duty to reflect the diversity of ideological and party political trends as accurately as possible. For reasons outlined above, a greater degree of objectivity should also be expected of radio and television, since they broadcast through national airspace, which is publicly owned. Both expectations have particular significance during an election campaign, when citizens should be provided with the relevant information to determine their preferred forms of governance.

The quantitative analysis of editorial coverage in the Nicaraguan media carried out by the EU EOM revealed a polarised media landscape in which neither the printed press nor broadcast media conveyed the objective and impartial content required for citizens to make an informed choice on election day.¹⁶ The analysis reveals, furthermore, that far from being particularly impartial, State media provided coverage that was even more biased than that of most private media.

The Government and the FSLN are the political actors who received the greatest amount of attention from the printed press, followed by the PLI and the PLC. The ALN and APRE in particular barely garnered any coverage at all. In terms of tone, the Government received predominantly negative coverage in *La Prensa* and *El Nuevo Diario*, as was the case for the FSLN in these same newspapers and in *La Trinchera*. The most significant bias was noted in *La Prensa*, in favour of the PLI, and in *La Trinchera*, in favour of the PLC. *Bolsa de Noticias* stood out for its neutral or positive tone towards all political actors, apparently as a result of its printing notes or declarations issued by political parties or the government, without editorials.

Among the monitored television channels, Canal 4, Canal 6 and Canal 8 stood out for the virtually undetectable time they allocated to any political actors other than the government and the FSLN. These three channels were also the most biased in terms of tone, granting exclusively positive coverage to the government and the FSLN and negative to the PLI, the main opposition party. These channels effectively acted as an advertising platform for the government and ruling party during the election campaign, and in all cases but particularly that of State-owned Canal 6, their performance fell far short of international standards of good practice for broadcast media during election campaigns. The other monitored television channels also displayed bias, albeit less pronounced (with Canal 12 showing favour to PLI) or somewhat mitigated by the fact that it did not benefit the government or FSLN so exclusively (Canal 2 and Canal 14).

Radio broadcasts revealed a similar landscape, with Radio Ya and Radio Nicaragua (State radio) dedicated to extensive positive coverage of the government and the FSLN, and Radio Corporación distributing its coverage more equitably between the different parties, although its tone was openly supportive of PLI. Radio Universidad fell somewhere between the two extremes, although its tone leaned somewhat in favour of the ruling party.

In conclusion, monitoring of the media revealed a media landscape in which polarised outlets were either for or against the government and made clear their preference for one or other of the contending parties. The problem is particularly grave when one considers that broadcast media in general and that State media Canal 6 and Radio Nicaragua in particular were the most biased of all.

X. GENDER EQUALITY

The 2011 elections marked a clear step forwards in terms of women's representation within the National Assembly. The number of women members of the Assembly increased from 20 to 36, equivalent to an increase from 21% to 39% of all National Assembly members. Nicaragua thus rose from the 54th to the 12th position on the Inter-Parliamentary Union's worldwide scale of women's representation.¹⁷

¹⁶ For detailed statistics of the coverage given to the government and political parties in each of the monitored media outlets, see *Annex I* of this report.

¹⁷ See www.ipu.org

This increase does not mean that there has been a general improvement in terms of gender equality in all political parties, but rather is exclusively due to the greater proportion of women candidates in the FSLN lists, allied with the FSLN's electoral success. As can be seen in the tables below, 33 of the 36 women elected to the National Assembly represent the FSLN. Of the 26 PLI members elected, just 3 (12%) are women, while both PLC members are men. The fact that just 23 (26%) of the 90 candidates placed in the first position by all parties were women highlights the extent to which there remains an imbalance in terms of gender equality.

Distribution of seats in the new National Assembly

Party / Alliance	Men	Women	Total	% women
FSLN	29	33	62	53
PLI	23	3	26	12
PLC	2	0	2	0
Total	54	36	90	40

NOTE: The seats reserved to the outgoing president and the presidential candidate who comes second are not shown in the table, and were assigned to men.

All five presidential candidates and three of the five candidates for vice-president were men. Looking at the five parties' and alliances' campaign managers, legal representatives and national agents, women were poorly represented, as just two of the 13 positions were filled by women.¹⁸ With regard to party agents at lower levels, EU EOM observations found that approximately 58% of these were men, and 42% were women.

Only the FSLN included a women's quota in its statutes, establishing that at least 30% of management units and candidate lists should be filled by women. The PLC statutes include a quota of 40% for women and youth, without specifying any distinction between the two categories.

In the election administration, EU EOM observers found that two thirds of polling station staff were women, and that some 70% of polling stations were presided-over by women. Nonetheless, at higher reaches of the electoral administration's hierarchy, women's participation decreased significantly. Of the nine CSE magistrates, just one was a woman.

EU EOM observers rarely noted any mention of gender equality during the election campaign, and very few campaign events targeted women voters. The EU EOM did not observe any civic education or voter information campaigns specifically aimed at women.

XI. PARTICIPATION OF ETHNIC MINORITIES

Nicaragua's main ethnic minority groups are in the RAAN and RAAS regions, but there are also indigenous minorities in other parts of the country. Citizens from ethnic minorities suffer greater levels of illiteracy and poverty than other Nicaraguans and many live in remote communities, increasing their difficulties in obtaining identity cards and, by the same token, the means to exercise their right to vote.

¹⁸ The FSLN campaign manager and the PLI legal representative were women.

The CSE did not produce any civic education or voter information materials in indigenous languages but it did recruit polling station staff from local populations who spoke these languages and EU EOM observers did not encounter voters who experienced difficulties due to language on election day.

Regional parties which represent ethnic minorities in RAAN and RAAS may only participate in the general elections if they form alliances with parties with national networks. In these elections, the YATAMA party (*Yapti Tasba Masraka Nanih Aslatakanka*, the Organisation for the Sons of Mother Earth) and PIM party (*Partido Indígena Multiétnico*) joined the alliance headed by the FSLN. For its part, the PAMUC party (*Partido Movimiento Unidad Costeña*) joined the PLI alliance.

The electoral law does not provide for any guarantees of representation for ethnic minorities in the National Assembly. In 2011, at least three ethnic minority candidates were elected, all of whom were Miskitos from RAAN, running for the FSLN.

The number of National Assembly seats attributed to the two autonomous regions (three for RAAN and two for RAAS) are based on population figures from 1995. If seat assignation were based on current figures, both regions would benefit from more seats.

XII. PARTICIPATION OF DISABLED CITIZENS

Between 10 and 15% of Nicaraguans are estimated to live with some form of disability. Many of these will have found it difficult to exercise their right to vote, given the practical obstacles impeding their access to polling stations, or because voting procedures were not adapted to individuals with special needs. Participation was also hindered by the general lack of civic education and voter information, as well as the lack of information directed to disabled citizens.

Several civil society organisations working for the rights of the disabled actively promoted participation in the 2011 elections. This work was carried out with the cooperation of the CSE and with the support of international donors, including the European Union. In some municipalities, ramps were built to enable access to polling stations and aides were trained to assist disabled voters. These initiatives no doubt increased access for some disabled citizens on election day.

In previous elections, slide rule mechanisms were used to assist independent voting for blind voters, but for the 2011 elections, this was not possible to implement, as the new ballot format was not produced in sufficient time.

Participation rates of disabled citizens were considered to be fairly low, despite the efforts made by civil society organisations and the CSE. The Law on the Rights of Disabled Persons, which entered into force on 5 November 2011, is an encouraging development.

XIII. DOMESTIC ELECTION OBSERVATION

The CSE severely restricted the rights of national election observers, first by issuing a regulation which limited accredited groups' freedom to carry out their work, and then by refusing to accredit two of the main national observation missions.

The Regulation for Election Accompaniment of the General Elections 2011 contravenes basic principles of election observation, by limiting observers' freedom of movement to pre-agreed itineraries. The Regulation further stipulates that international observation missions should submit their reports to the authorities for approval prior to publication.¹⁹ In other respects, the Regulation simply sets out some largely uncontentious criteria for accreditation, and procedural provisions such as the deadline for submitting accreditation application – 30 September – and the stipulation that upon reception, the CSE should decide upon applications within 15 days.

Accreditation applications were submitted by both the Instituto Para el Desarrollo y la Democracia (IPADE) and Hagamos Democracia, election observation organisations with long-standing experience and a nationwide network, which had already been carrying out evaluations of the 2011 electoral process. The CSE did not respond to either application, which amounted to a refusal, albeit a particularly arbitrary one.

The CSE's protracted delays and *de facto* refusal to accredit observer groups echoed the experience of domestic observation missions in 2008, when accreditations to observe the municipal elections were refused just three days before polling. This last experience undoubtedly contributed to the decision of the third main observation group – Etica y Transparencia (EyT) not to even apply for accreditation.

Despite their lack of accreditation, IPADE, EyT and Hagamos Democracia carried out their observation work from the early stages of the electoral process, issuing a number of reports to the public.²⁰ IPADE and EyT in particular stood out for their substantive analysis, and EyT also established a platform for members of the public to submit their observations. All three unaccredited groups observed on election day, but did not have access to polling stations except in their capacity as voters, with predictable consequences for their ability to gather comprehensive information. The Nicaraguan Centre for Human Rights (*Centro Nicaragüense de Derechos Humanos, CENIDH*) also carried out monitoring of civil and political rights in connection to the election process.²¹ All of the above-mentioned organisations issued reports both before and after election day.

Election observation is one indicator of transparent elections and as such can contribute to voters' trust. By its nature, national observation enables citizens to become actively engaged in the electoral process. The CSE's refusal to grant accreditation and full access to pertinent locations and information was a significant blow to the elections' transparency and inclusivity. The CSE did accredit two domestic missions, the Consejo Nacional de

¹⁹ A Memorandum of Understanding between the Nicaraguan Government, the CSE and the European Commission established that no such restrictions would apply to the EUEOM.

²⁰ IPADE deployed over 2000 observers across the country, while EyT deployed about 600, in addition its data entry clerks and involvement of members of the public. Hagamos Democracia reportedly had over 6000 observers nationwide.

²¹ CENIDH relied on over 1000 monitors, with a presence in over half the country's municipalities from January 2011 until the 17th November.

Universidades (CNU), and the Centro de Derechos Humanos, Ciudadanos y Autónomos (CEDEHCA), the latter based in the autonomous regions of RAAN and RAAS.²² Both of these organisations issued reports after election day, CEDEHCA limiting itself to a some basic election day observations, while the CNU reported with somewhat more detail, albeit in a largely uncritical tone.

XIV. POLLING, AGGREGATION AND PUBLICATION OF RESULTS

Election Day

Most of election day unfolded in a peaceful manner, but was marred by inconsistent application of safeguards and transparency measures, as well as a context which made it difficult for opposition party agents to carry out their work. These negative factors became increasingly evident over the course of the day, such that counting of votes and the beginning of aggregation of results on election night were particularly characterized by irregularities.

Lack of faith in the process and increasing tensions led to some isolated instances of violence by late afternoon, notably in Ciudad Darío (Matagalpa), where several hundred protested, and San Juan and Managua where some polling stations closed early when they ran out of ballots, resulting in tensions and even burnt ballots in San Juan. In Sébaco, confrontations took place between FSLN and PLI supporters, and in Diría (Granada), citizens protested in front of CEM offices, following which anti-riot police was deployed, tear gas used and arrests made. Protests were also observed in Dalia, Matagalpa.

The EU EOM attended opening, voting and counting procedures in 559 polling stations throughout the country, despite the fact that on a number of occasions observers found it difficult to access and remain in polling stations, and pertinent information was at times withheld as police and voting centre coordinators were often obstructive.

The EU EOM considered opening procedures to be adequate in the majority of cases, and on the whole polling stations were adequately staffed and had been provided with the necessary materials. It was however of significant concern that in about a third of the cases observed, the opening procedures began before the announced time of 6am, impeding attendance by observers and party agents.

Voting went smoothly for the most part but the lack of written procedures and limited training of polling station staff was reflected in inconsistent application of some legal provisions. This was particularly the case with the provision under Articles 41 and 116 of the Electoral Law, which enable citizens to vote without being on the voters' list of a particular polling station if their identity card confirms local residence. EU EOM observers reported that in 28% of polling stations observed, people who should have been allowed to vote in accordance with Article 41 were not allowed to. This inconsistent application was of concern in a context where citizens have expressed the view that the right to vote – enabled by being in possession of an identity card - is provided-for in a discriminatory manner.

²² The CNU relied upon the work of over 6000 observers nationwide, while CEDEHCA deployed some 300 volunteers in RAAN and RAAS.

Party agents for all political parties were present in most polling stations, with the FSLN ubiquitous and the PLI present in 85% of cases during polling. In some cases supposedly opposition party agents were unable to state who they represented and EU EOM observers assessed that FSLN supporters were posing as supporters of other parties, in the same way as had been observed in the composition of some polling station boards. While the EU EOM directly observed a small number of cases in which PLI and ALN party agents were not allowed to be present, a more widespread observation was that opposition party agents were often passive, partly as a result of the overwhelming presence and level of coordination between FSLN figures within any given voting centre. EU EOM observers noted that some opposition party agents were ignored, intimidated or even expelled when they sought to complain or comment on the process.

EU EOM observers evaluated counting procedures negatively on one third of cases, due to insufficient application of procedural safeguards and irregularities in the interpretation of votes. There were no consistent procedures for accounting for all ballots, such that in less than a third of polling stations were unused ballots counted, put into a sealed envelope, and their number recorded, although this is required by law.

EU EOM observers noted inconsistencies in how votes were determined and some irregularities were connected to the new use of the single ballot: in about one fifth of cases observed, all the votes on the single ballot were declared invalid even though only one or some of the votes was invalid. EU EOM observers reported that the most frequent reason for votes being invalid (in two thirds of cases) was because of spoilt or blank ballots.

In one fifth of cases, EU EOM observers assessed that priority was not given to voter intention, and as a result of such irregularities, it was found that in one fifth of cases the results form did not accurately reflect the results. Results forms were given to all party agents present in the great majority of cases. However, these were not always useful because unless polling station staff took measures to ensure otherwise, the paper and carbon used for the forms did not allow for all copies to be legible, and it was the last copy which was designated to be given to PLI party agents. Although the CSE acknowledged this problem before election day and stated it would issue a circular directing polling station staff to produce several originals in full sight of all party agents, no such instructions were issued.

In most observed cases, polling station results were posted outside the building, even if in the following days many were removed.

Results aggregation

The CSE's management of the aggregation and announcement of results marked a grave deterioration in the electoral process, as it was characterised by an absolute lack of procedural transparency, a failure to ensure traceability of results, and finally, a severe limitation on political parties' ability to submit complaints.

The results process is not clearly described in the law or in any regulation but ostensibly, two separate systems operate to produce swift preliminary results and thereafter, verified final results. Preliminary results were produced by entering the data received at the CSE on scans of polling station results forms, sent from Municipal Transmission Centres as soon as they were delivered from polling stations. The CSE immediately began publishing preliminary results on its website but the usefulness of this data was limited by several factors: firstly, the results were disaggregated only down to voting centres, making it possible to check accuracy only for parties who had the results forms for all the polling stations within any given voting centre. Secondly, the results were

shown only in terms of percentages, rather than numbers of votes, and excluding any reference to invalid votes. Again, a calculation would enable verification but only with all results forms to hand. Access to results forms for opposition parties, most particularly PLI, was jeopardised by the cumulative difficulties with accreditation, access to polling stations on election day, and even the legibility of carbon copies of results forms.

The CSE website only intermittently enabled access to the disaggregated results, at other times showing only national summaries. Nonetheless, the EU EOM carried out a sample verification, which, although very small and therefore not necessarily representative, found results observed at polling stations did not match the percentages displayed on the CSE website.

According to the procedure described by the CSE and to some extent in the Electoral Law, final results follow an aggregation of votes at Municipal and Departmental Results Processing Centres (*Centros de Cómputo*). At both of these stages, arithmetic revision is carried out on the relevant results forms, and complaints are dealt with, either through annulment of polling station results or unspecified resolutions. EU EOM attendance of these aggregation and revision processes found them to be carried out in such an obscure manner that it was virtually impossible for either observers or party agents to monitor the handling of results. Difficulties of access to procedure were three-fold: observers and opposition party agents alike had some difficulties in being granted entry to the results processing centres; when present, they were often made to stand some distance from the handling of documents, and lastly, even when they were able to observe more closely, procedures were not carried out in a systematic, traceable fashion. Among other problems, arithmetic revisions were often not recorded in the corresponding form, rendering the revision process a forum for unaccountable changes to recorded results.

Results aggregations were rarely posted at municipal and departmental levels, despite this being required by law. This failure contributed to the numerous ways in which results were difficult to trace and verify, entailing concern that arbitrary changes took place between polling stations and the national level. The EU EOM obtained evidence of one such case: the aggregation of results for the municipality of Morrito, Rio San Juan, recorded results for individual polling stations which were significantly different, and in favour of the FSLN.²³

The CSE later conceded that the two processes for provisional and permanent, revised results were not in fact entirely separate, but rather that provisional results were amended in function of changes made during the aggregation and corrections processes in the municipalities and departments. The CSE did not accede to the request for a record of which changes had been implemented.

Announcement of provisional and final results

The CSE's precipitous announcement of provisional results embodied its most flagrant failure to respect due process, particularly since it was used as a means to trigger a drastically reduced timeframe during which to prepare possible complaints.

²³ For example in the election for departmental members of the National Assembly, Polling Station n° 1702805 – 7 recorded 75 votes for FSLN and 120 for PLI. The aggregation recorded the respective results for this polling station as 140 votes for FSLN and 11 for PLI.

The CSE announced provisional results on 11 November, 11 days ahead of the date stipulated by the Electoral Calendar, and asserted that this triggered the five days during which political parties may submit petitions to revise results, despite the fact that the Electoral Calendar planned for this stage to take place between 22 and 24 November. The Electoral Calendar is legally binding, is approved by the CSE with the agreement of political parties and, according to article 4 of the electoral law, it may only be altered or amended by the CSE in case of unforeseeable circumstances or *force majeure*, and then always in consultation with political parties. Since none of these circumstances applied and political parties were not consulted, the decision to precipitate the publication of provisional was of an arbitrary nature and deprived political groups of precious time in which to prepare adequately documented petitions to review results.

Opposition parties naturally struggled to respond to this derogation from the agreed calendar, and their task was made all the more difficult for the fact that provisional results were announced only by department, rather than being disaggregated. On the same day that complete provisional results were announced, the CSE website went offline, thus removing the voting centre results from public view. It thus became impossible to verify the national results without having access to every single polling station results form. Largely as a result of the cumulative obstacles placed against auditing of the electoral process, opposition parties had a reduced collection of results forms. As if opposition parties' predicament were not clear enough, CSE President Rivas further stated that only complaints supported by copies of results forms would be considered.

Complaints and appeals

Very few complaints were recorded during municipal and departmental aggregation and revision. This was conceivably due to a number of factors, including the limited legal grounds for complaints, the absence of any regulation establishing a clear procedure for submitting complaints and a subsequent lack of faith in the process, and also the obstacles put in the place of party agents at the results processing centres and at every preceding stage.

Lastly, complaints are filtered at municipal level, when the Municipal Electoral Council determines whether or not there are grounds for complaint, following which the complaints are disregarded or forwarded for consideration at departmental level. EU EOM observations found that approximately half of challenges considered at municipal level were discarded as being 'without grounds.' The law does not explicitly provide for any right of appeal against these determinations.

Nonetheless, EU EOM observers did record 37 challenged polling stations in eight departments of the country.²⁴ Of these, 17 polling stations were annulled in seven departments, despite the fact that the complaints could have been resolved by means of a recount.²⁵ Only in one recorded case - in RAAS - was a recount carried out in response to a complaint. Of the annulled polling stations, 11 were annulled in response to a challenge submitted by the FSLN, three in response to PLI complaints, and one, inexplicably, as a response to an arithmetic error. Of the remaining three, it was not possible to verify the source of the complaint.

²⁴ These were: Rio San Juan, Estelí, Granada, Chontales, Madriz, Matagalpa, Boaco, and RAAS. Given the obscure nature of the aggregation and revision processes, it is unlikely that these findings were comprehensive.

²⁵ This figure includes one polling station inexplicably annulled in Managua in response arithmetic errors. The other annulled polling stations were recorded in Rio San Juan, Estelí, Chontales, Matagalpa, Boaco and RAAS. Again, it is impossible to ascertain whether these observations reflect the full dimension of annulations.

As stated above, the CSE's precipitation in announcing the provisional results on a Friday and, most importantly, 11 days earlier than the date stipulated in the electoral calendar, in open contravention of the electoral law, drastically reduced the time available for parties to prepare petitions to review results, and this particularly affected opposition parties, who had experienced serious difficulties or simply had not been able to obtain copies of results forms for a high proportion of polling stations. Nonetheless, two petitions were submitted: one by PLI, which in reality was a complaint about the illegality of the early results announcement and the discriminatory treatment meted out to its party agents by the electoral administration, and one by the PLC, which questioned the results but did not provide results forms as evidence. Both petitions were dismissed.

XV. ANALYSIS OF THE RESULTS

According to the preliminary results published in the official Gazette of 11 November, 2,512,584 valid votes were cast in the 2011 presidential elections.²⁶ The number of invalid or blank ballots was not published, but EU EOM estimates put the figure around 4%.

Given that the official Voter Register is extremely inflated since it has not been cleaned nor updated, it is difficult to accurately estimate the turn-out of the 2011 elections. The CSE referred to 3,303,831 as the number of 'real' voters. This figure supposedly refers to the number of 'real' eligible citizens who are registered and living in the country. On the premise that the figure is correct, turn-out for the presidential election would be approximately 82%, a much higher rate than in previous elections in Nicaragua. However, there are reasons to doubt such a high turn-out figure. The actual number of voters on a hypothetically cleansed and updated voter register is unknown. In addition, it is not possible to verify the published figure for valid votes, since results were not published by polling station and access to information was obstructed for party agents, among other factors which limited transparency. In addition, the uncertainty about the number of invalid votes contributes further doubt.

According to the CSE results, shown in the table below, the FSLN presidential candidate, Daniel Ortega, was re-elected with 62.46% of the votes, while the Alianza PLI candidate, Fabio Gadea, came second with 31%. Arnoldo Alemán (Alianza PLC) obtained 5.91% of the votes, while the other two presidential candidates, Quiñóñez (ALN) y Guevara (APRE), each received less than 1%.

Election	A-PLC	A-FSLN	ALN	A-APRE	A-PLI	Total
Presidential	148,507	1,569,287	10,003	5,898	778,889	2,512,584
Percentage	5.91%	62.46%	0.40%	0.23%	31.00%	100%
National Assembly (Departmental List)	173,306	1,595,470	24,870	13,063	824,180	2,630,889
Percentage	6.59%	60.64%	0.95%	0.50%	31.33%	100%

²⁶ The number of valid votes and their distribution amongst the parties were never published in support of the final results..

National Assembly (National List)	167,639	1,583,199	19,658	9,317	822,023	2,601,836
Percentage	6.44%	60.85%	0.76%	0.36%	31.59%	100%
Parlacen	167,121	1,578,375	17,738	8,876	818,041	2,590,151
Percentage	6.45%	60.94%	0.68%	0.34%	31.58%	100%

Source: CSE

Given that they received less than 4% of the votes, the ALN and APRE parties should, according to the law, now lose their legal status. For the same reason, they will not be able to seek reimbursement from the CSE for their campaign spending. The PLC, on the other hand, obtained more than 4% of the presidential vote and can therefore remain registered as a political party. With regards to the election of the 20 Nicaraguan members of the Central American Parliament (Parlacen) the FSLN won 13 seats, the PLI alliance six, and the PLC alliance won one seat.

The results of the National Assembly elections as published by the CSE give the FSLN 62 of the 90 seats.²⁷ As can be seen in the table below, this constitutes an increase of 24 seats over the results for FSLN in 2006. The PLI alliance obtained 26 seats, and the PLC alliance won two seats, compared to 24 in 2006.

Distribution of seats in the new National Assembly

NOTE: The shaded columns show the difference in number of seats compared to the 2006 elections.

Department	No. Seats	Departmental Members of National Assembly									
		A-PLC		A-FSLN		ALN		A-APRE		A-PLI (1)	
BOACO	2	0	-1	1	0	0	0	0	0	1	+1
CARAZO	3	0	0	2	+1	0	-1	0	0	1	+1
CHINANDEGA	6	0	0	5	+1	0	-2	0	0	1	+1
CHONTALES	3	0	-1	2	+1	0	-1	0	0	1	+1
ESTELI	3	0	-1	2	0	0	0	0	0	1	+1
GRANADA	3	0	0	2	+1	0	-2	0	0	1	+1
JINOTEGA	3	0	-1	2	+1	0	-1	0	0	1	+1
LEON	6	0	-1	5	+2	0	-2	0	0	1	+1
MADRIZ	2	0	-1	1	0	0	0	0	0	1	+1
MANAGUA	19	1	-3	13	+6	0	-5	0	0	5	+5
MASAYA	4	0	-1	3	+1	0	-1	0	0	1	+1
MATAGALPA	6	0	-3	4	+2	0	-1	0	0	2	+2
NUEVA SEGOVIA	2	0	-1	1	0	0	0	0	0	1	+1
RAAN	3	0	-1	2	0	0	0	0	0	1	+1
RAAS	2	0	-1	1	+1	0	-1	0	0	1	+1
RIO SAN JUAN	1	0	-1	1	+1	0	0	0	0	0	0
RIVAS	2	0	0	2	+1	0	-1	0	0	0	0
Total:	70	1	-17	49	+19	0	-18	0	0	20	+20
National NA Members											

²⁷ Ninety members of the National Assembly are directly elected. Two additional seats are reserved for the outgoing president and for the presidential candidate who came second.

National Members of NA	20	1	-5	13	+5	0	-5	0	0	6	+6
Total in National Assembly	90	2	-22	62	+24	0	-23	0	0	26	+26

With 62 seats, the FSLN has obtained a qualified majority in the National Assembly, which means that it has the power to approve legislation, reform the Constitution and name members of the judiciary, the electoral administration and other powers of State, without necessarily seeking the support of any of the other parties in the Assembly.

Having obtained 26 seats, the PLI alliance emerged from the elections as the country's main opposition force, while the PLC practically disappeared from the political landscape. This constitutes a significant change since 2006, when the liberals in Parliament were split between two groups of roughly the same size, with 24 representing the PLC and 23 the ALN. In addition, the previous National Assembly also included the MRS, with 5 seats. The 2011 elections demonstrated that the PLI alliance is by far the most popular amongst liberal voters. The PLC, which played an important role in Nicaraguan political for 20 years, now faces an uncertain future.

Despite the opposition's greater degree of unity, it has lost the political leverage it had in the previous parliament, given the qualified majority obtained by the FSLN. As such, the opposition will not be in a position to block legislation or other initiatives in the National Assembly.

XVI. RECOMMENDATIONS

Election administration

1. The EU EOM recommends to introduce a provision in the electoral law which stipulates clear criteria and selection mechanisms for CSE magistrates, with a view to emphasising their neutrality, independence and professionalism. This would ideally be undertaken through a process of consensus between the legislative majority and the opposition. When the National Assembly renews the CSE, as imminently required by law, the EU EOM would welcome that when electing magistrates, priority be given to the principles of neutrality and qualifications, and that the process be, again, consensual, despite the fact that the FSLN will have a sufficient majority to renew the CSE unilaterally.

When the National Assembly renews the CSE, as imminently required by law, the EU EOM recommends that when electing magistrates, priority be given to the principles of neutrality and qualifications, and that the process be consensual, despite the fact that the FSLN will have a sufficient majority to renew the CSE unilaterally. In fact, it would be useful to introduce a provision in the electoral law which stipulates clear criteria and selection mechanisms for CSE magistrates, with a view to emphasising their neutrality and independence. Again, this would ideally be undertaken through a process of consensus between the legislative majority and the opposition.

2. With regard the composition and functioning of the lower levels of the election administration (departmental, regional and municipal electoral councils, and polling station boards), it is crucial that the principle of political representation provided-for in the electoral law be applied effectively, in order to ensure equitable representation of government and opposition forces, as well as a genuine balancing of powers. In the

Nicaraguan context, this will depend on the CSE as well as the CSJ respecting political parties' integrity and not arbitrarily removing legal status from their leadership, nor cancelling the party's registration in a discriminatory manner. Only under these conditions can the second political force have the representation it is entitled to by law, and be enabled to participate in election administration at departmental and municipal levels, as well as in polling stations.

3. The EU EOM recommends to the National Assembly that the assignation of the third seats on electoral councils be clarified. The electoral law currently states that these so-called 'second members' of the regional, departmental and municipal electoral councils and polling station boards be distributed among the remaining political contenders, without specifying any criteria. The electoral law would be improved if it included explicit regulation with clear rules, ideally to ensure equal distribution of positions amongst all political parties other than the two most successful in the previous elections. Equally, it is considered extremely important that the selection of all members of electoral councils and polling station boards be undertaken in compliance with clear timetables, and be immediately followed by publication of the lists of selected individuals.

4. The EU EOM recommends that the CSE cease to rely on figures not provided-for by law, such as the voting centre coordinators, and the 'route managers' (*técnicos de ruta*), to whom the CSE assigned crucial functions during the voting, counting and transmission of results forms. These functions could not be audited by opposition parties, whose members were not considered for selection for these posts. The mission considers that where tasks relating to the civil register or election administration require technical support, this should be provided-for by regulation, in such a way that the posts be clearly described, selections subject to the same pluralist criteria as for any other member of the election administration, and their work subject to auditing by political parties.

5. The EU EOM considers it important that the CSE avail itself of its ample regulatory powers and that all electoral operations and procedures be clearly established in regulations published at least six months before the elections. This is especially relevant to the procedures for voter registration; election observation; voting and counting; results aggregation, and complaints and appeals. Where training materials are required to complement regulations, these too should be published in good time.

6. The EU EOM believes it necessary for the CSE to improve the training it provides to staff in electoral councils at all levels, as well as to polling station staff. Training programmes should be announced with adequate notice, and simultaneously to all political parties. The bringing forward of training and swearing-in of polling station staff was communicated to the ruling party with one week's notice, and only 24 hours' notice was given to opposition parties, severely impeding their ability to ensure their representation within polling station boards. It is obligatory to abide by the dates established in the electoral calendar, except when faced with unforeseeable circumstances or *force majeure*, and then only with due consultation of all parties. Violation of this legal provision is all the more serious when it harms some parties while benefitting others, as happened with the unexpected and unjustified early publication of the provisional results.

7. Samples of all official documents to be used during the process should be made available in good time to enable political parties and citizens to familiarise themselves with them. Such documents would include the various forms used at polling stations, as well as the forms for results aggregations.

Electoral constituencies

8. The current distribution of National Assembly seats amongst the country's departments and regions does not adequately respect the principle of equality of vote, and should be reviewed in the light of more up-to-date population figures. The EU EOM recommends that any change to the size or delimitations of constituencies be undertaken in accordance with criteria and mechanisms which should be provided-for in the electoral law.

Electoral register and provision of identity cards

9. Just as its predecessors did in 2001 and 2006, the EU EOM considers it essential to the electoral process that National Voter Register be inclusive, accurate and reliable. In order to ensure this, the register, which falls under the responsibility of the CSE, will need to be cleansed of entries for deceased citizens, and displayed for prolonged periods of time, to enable citizens to check the accuracy of their entries. To be successful, this undertaking will need to be carried out in good will and with sufficient means.

10. The EU EOM considers it positive that civil registration – and therefore also electoral registration - be a permanent process. However, the practical means to enable citizens to register must also be available on a permanent basis, and one way that this could be ensured would be to keep municipal civil registration offices open on a permanent or regular basis, rather than rely on the opening of municipal electoral councils (CEMs) in the lead-up to elections.

11. The CSE is legally bound to register all eligible citizens without discrimination, and to facilitate the corresponding documentation. To this effect, it would be positive were the CSE to adopt the necessary measures to inform citizens in a timely manner of the status of their registration applications, and if it ceased to delegate its functions, not least that of distributing identity cards, to any political party or to the Citizens' Power Councils.

Party agents and election observation

12. Given that auditing of the process by political parties is a cornerstone of the transparency of democratic elections, the EU EOM considers it indispensable that the CSE scrupulously respect its legal obligation to facilitate the presence of party agents during all stages of the process, without creating practical or administrative obstacles which limit their function. It is the election administration's obligation to ensure that all party agents present receive legible copies of all official forms, not least results forms. Failure to do so deprives parties of an essential document without which they cannot verify or challenge the results.

13. The EU EOM considers that election observation by national organisations should be facilitated, not limited, and that refusal to accredit a particular group should rely on objective, reasonable and non-discriminatory grounds, founded in law. The EU EOM recommends that any future regulation the CSE issues regarding election observation should respect observers' right to have access to all electoral sites and events, without unreasonable restrictions, and without having to give prior notice. Equally, the regulation and practice should recognise that observation groups may report freely and publish their findings.

Complaints and appeals

14. The EU EOM recommends that the CSE issue a clear and detailed regulation for procedures for presenting any form of complaint regarding a CSE decision, action or omission. Complaints regulations should clearly establish the timeframes within which complaints can be submitted and within which resolutions must be issued. They should also establish legal remedies for the instances in which the competent authority finds in favour of the complainant.

15. The electoral law's very limited list of possible grounds for challenging the results in a polling station does not in any way encompass the range of incidents and irregularities which can affect the validity of the voting or counting processes. In addition, the law's provision that a well-founded challenge of a polling station result in cancellation of its results is excessive, not least in that it fails to respect the will of the voters, in the way that a simple recount or public investigation would allow. Lastly, the law only contemplates re-holding elections in a given constituency when half of all polling stations within the area have had their results annulled.

The EU EOM recommends to the National Assembly that it reform the electoral law to provide a wider and more comprehensive list of grounds for challenging the results of polling stations, preferably with a final open clause referring to any irregularity which could affect the integrity, transparency or accuracy of the voting and counting. Such a reform should emphasise the recourse to a recount as a remedy to challenges regarding counting or recording of results. The Mission also recommends, in order to respect the will of the voters and to avoid the risk of selective annulments, that the re-holding of elections should depend on whether the number of voters registered at the affected polling stations could affect the results in the constituency in question.

Results aggregation and publication

16. The EU EOM recommends to the CSE that the procedures for aggregating preliminary and final results at the various levels be fully detailed in regulation. In line with the electoral law, regulation should also guarantee political parties' right to audit the process, which should include the ability to verify the results from any given polling station, made possible by the internet publication of results by polling station, and the provision of sufficient time for parties to cross-check published results with those in their collected results forms so that they may submit appeals to review the results if they deem it necessary.

Political parties

17. The EU EOM recommends to the new National Assembly that it approve a law on political parties which reinforces their autonomy and limits the extent to which the CSJ and the CSE can interfere in their internal workings. Preferably by means of a new law on political parties, the EU EOM considers it of great importance that parties' legal representation be unequivocally anchored to their real and effective leadership, or to their members if they opt for a system of primary elections in their statutes. Equally, the power currently granted to the CSE by the electoral law to resolve political parties' internal conflicts seriously damages their autonomy, and as a result, also political pluralism.

18. The EU EOM considers that some of the legal requirements for creating a political party are extraordinarily complex and demanding, resulting in serious limits on the rights of association and political participation. This is particularly the case when the sanction for not complying with conditions is always so grave: nothing less than

removal of the party's legal status. The excessiveness of this sanction is particularly clear when it comes to the requirement to maintain functioning offices in all of the country's municipalities, and the requirement for regional parties to compete in all general elections in coalition with national parties, which seriously impinges on their autonomy.

19. Citizens have the right to be informed about parties' finances, including the sources of their funds. As such, it would be appropriate to establish transparent mechanisms for submitting accounts, including the recording, submitting and auditing of income and spending for all political parties and alliances on an ongoing basis, and not only during election campaigns. Such provisions could be established in the electoral law or in a future law on political parties.

Civic education and access to voting

20. The EU EOM recommends to the CSE that it make a more concerted effort to provide voter information to citizens in future electoral processes, not least with regard to voter registration and verification. Access to voting for citizens with disabilities could be promoted through a greater effort to design ballots appropriately for use by blind voters and by adapting polling stations to ensure access for people with reduced mobility.

The media

21. As is the case in most of the world, Nicaragua's electoral law includes provisions to ensure equal opportunities during the electoral campaign and avoid an overwhelming dominance of candidates who have greater resources to spend on propaganda. These provisions limit the amount of propaganda allowed in the media, require the provision of daily free space on State radio and television and oblige media organs to present a list of their fees to the CSE, to ensure that these are no higher than normal advertising rates and that they are the same for all candidates. The main problems observed in these past elections were that these provisions were not respected, and that the CSE neither encouraged compliance nor sanctioned infractions. As a result, in order to avoid the absolute dominance of one party in the media that was displayed by the FSLN in the 2011 elections, the EU EOM recommends that the current tight limits on propaganda in the media be raised, and that the CSE then avail itself of its powers to monitor and sanction media outlets or candidates who breach the law. The CSE's active monitoring and sanctioning would help prevent the party with more resources to dominate in the media but would also put an end to anonymous campaigns against candidates and the violation of the campaign silence period, both of which were allowed to go ahead in the 2011 elections.

22. The EU EOM also recommends that the electoral law be reformed to prohibit institutional propaganda paid for by the State and promoting governmental programmes and achievements, during the election campaign, in line with international best practices and in line with many other countries' legal provisions. This would help avoid granting the ruling party an unfair advantage which relies on use of public resources.

23. The EU EOM would consider it positive were radio and television stations to adopt self-regulation mechanisms or a code of best practice which would commit them to impartiality and independence in their news coverage during the election campaign, in order to limit the extent of bias reflected in broadcasts during the 2011 campaign. The importance of this requirement would justify the imposition of a legal obligation for impartiality and balance in news coverage and editorials produced by State media, since there are funded by public resources.

Gender equality

24. Thanks to the respect for gender equality in the FSLN candidate lists, the 2011 elections marked a significant improvement in women's representation within the National Assembly. However, candidate lists for other parties and alliances maintained the under-representation of women that is unfortunately widespread in the region. In line with the Law on Equal Opportunities, equality between men and women should be respected when drawing up candidate lists and it would be useful for all political parties to apply this principle. Equitable representation could be established by the introduction of a quota system in the electoral law.

Annex 1. Media monitoring statistics

1. Television allocation of electoral and governmental propaganda

	Canal 2	Canal 4	Canal 6	Canal 8	Canal 12	Canal 14
Government	7%	34%	21%	66%	0%	0%
FSLN	52%	65%	79%	34%	43%	0%
PLI	18%	1%	0%	0%	39%	0%
PLC	23%	0%	0%	0%	3%	0%
ALN	0%	0%	0%	0%	14%	0%
APRE	0%	0%	0%	0%	0%	0%

2. Radio allocation of electoral and governmental propaganda

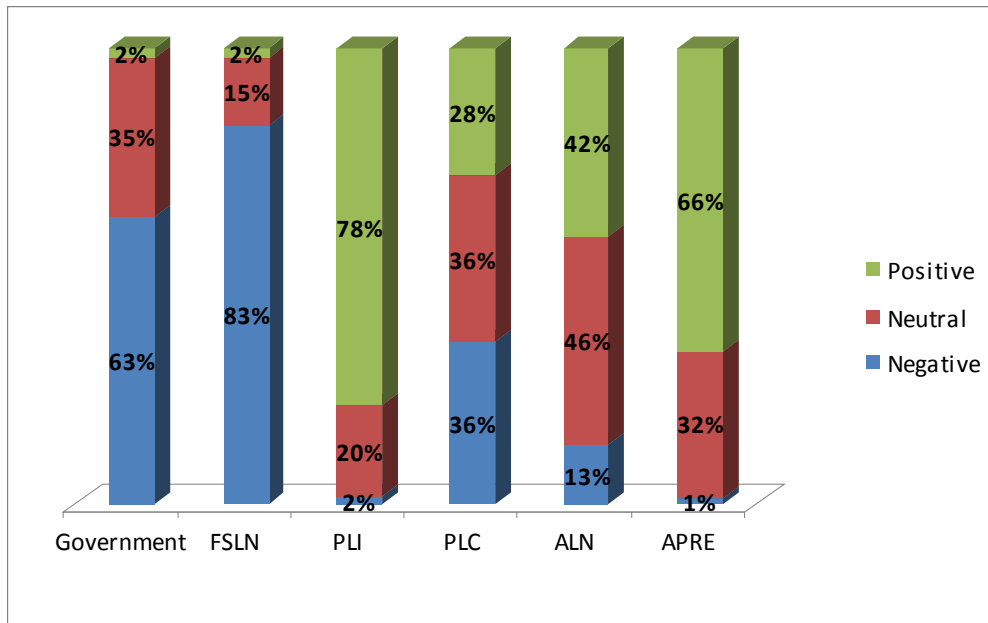
	Corporación	Ya	Nicaragua	Universidad
Government	0%	57%	46%	0%
FSLN	0%	43%	54%	0%
PLI	98%	0%	0%	0%
PLC	1%	0%	0%	0%
ALN	2%	0%	0%	0%
APRE	0%	0%	0%	0%

3. Space given to political actors and government in printed press

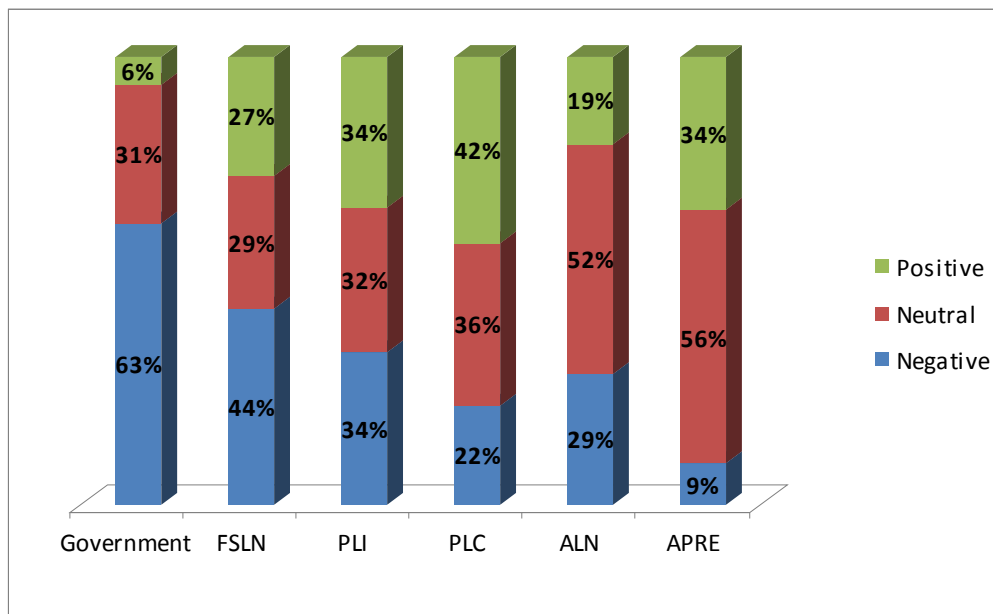
	La Prensa	El Nuevo Diario	La Trinchera	Bolsa de Noticias
Government	30%	34%	23%	23%
FSLN	39%	30%	25%	25%
PLI	17%	16%	29%	21%
PLC	8%	11%	18%	16%
ALN	5%	7%	4%	8%
APRE	1%	2%	0%	7%

4. Tone used for political actors and the government in the printed press

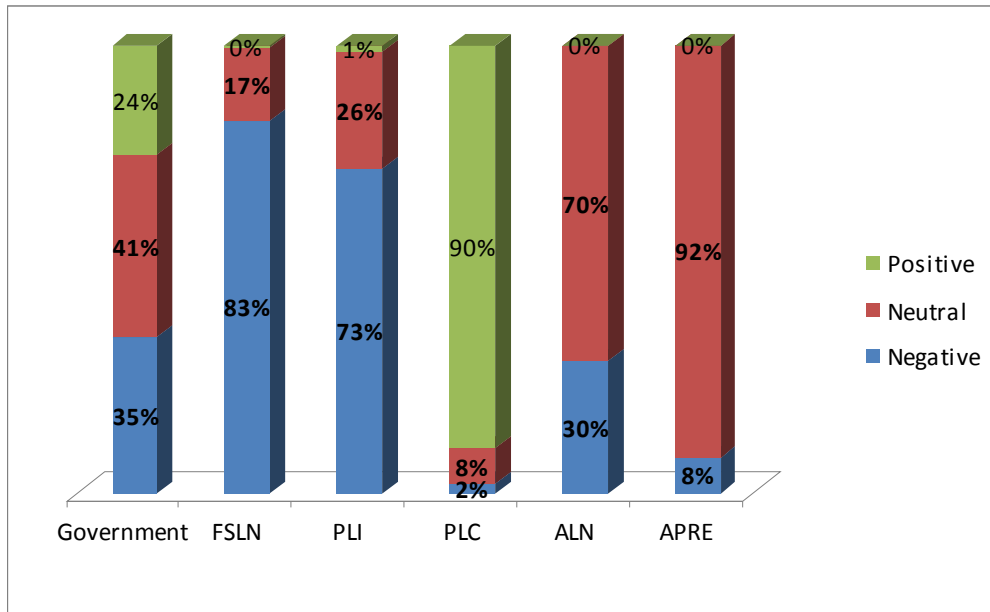
LA PRENSA



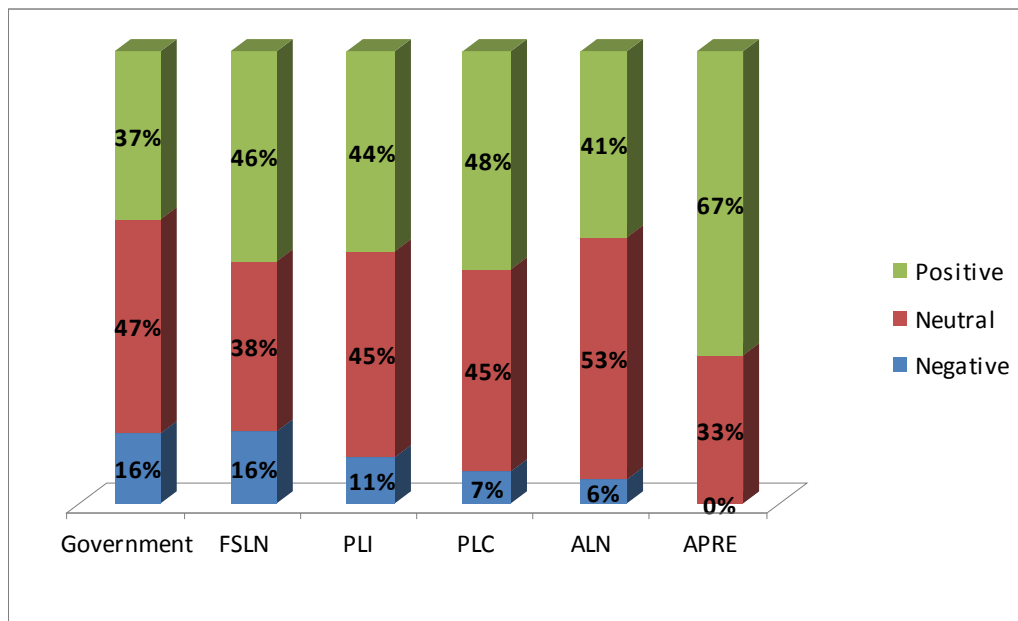
EL NUEVO DIARIO



LA TRINCHERA DE LA NOTICIA



BOLSA DE NOTICIAS

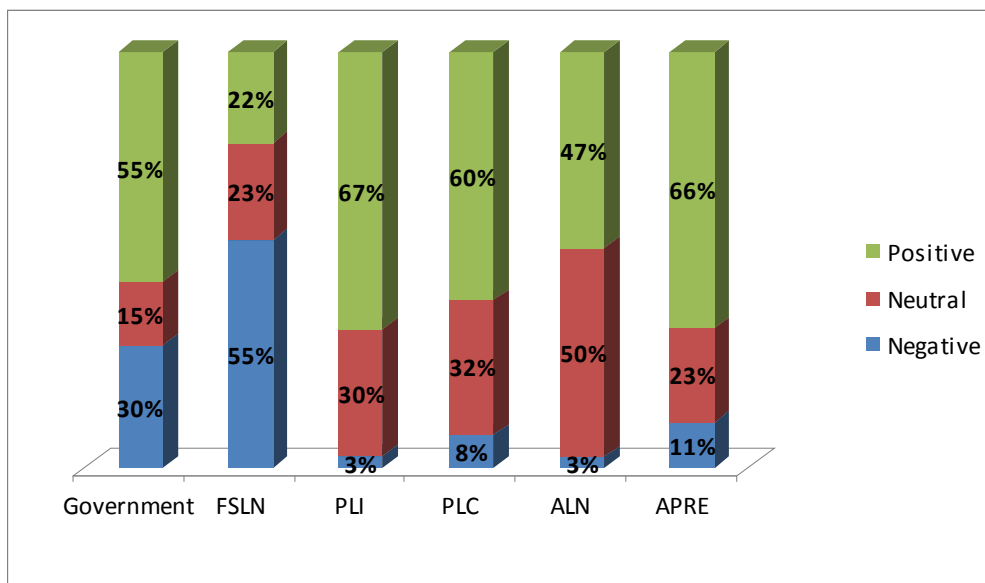


5. Time given to political actors and government on television

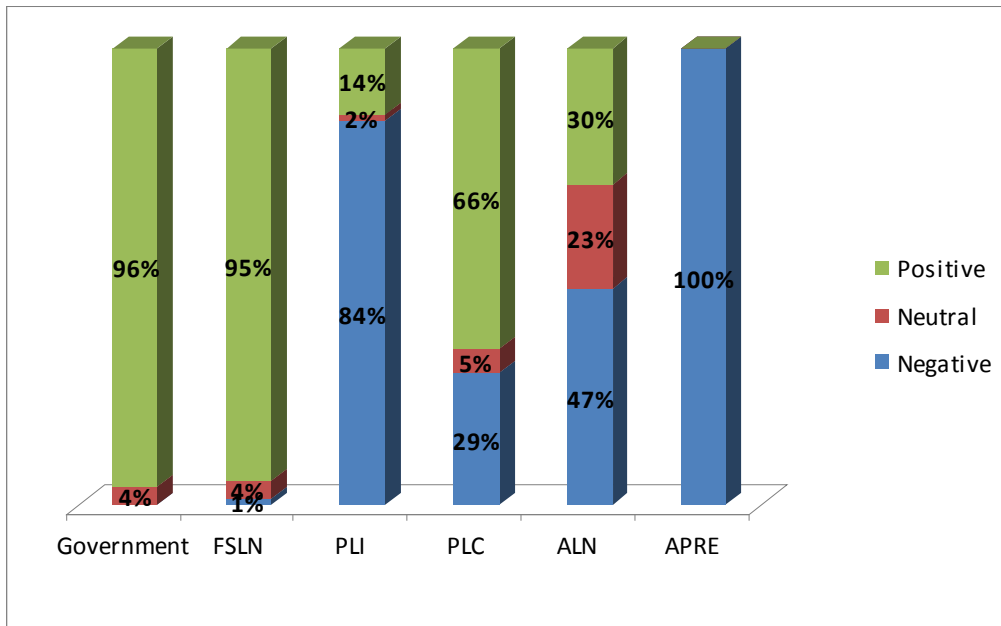
	Canal 2	Canal 4	Canal 6	Canal 8	Canal 12	Canal 14
Government	19%	79%	79%	57%	27%	48%
FSLN	24%	17%	21%	15%	20%	17%
PLI	29%	3%	0%	15%	22%	14%
PLC	13%	1%	0%	5%	10%	8%
ALN	10%	1%	0%	6%	13%	7%
APRE	5%	0%	0%	2%	8%	6%

6. Tone used for political actors and the government on television

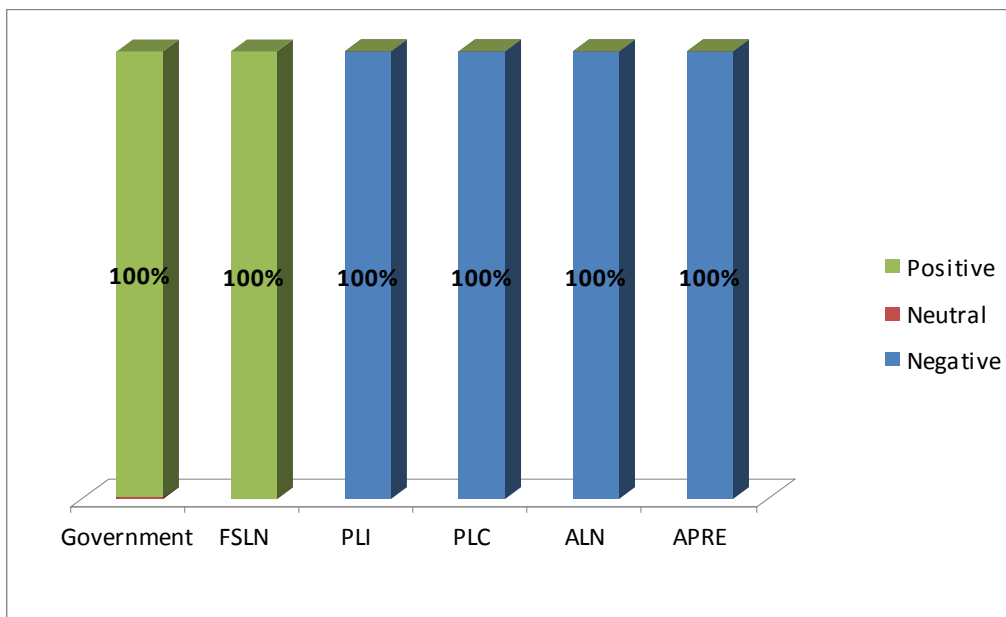
CANAL 2



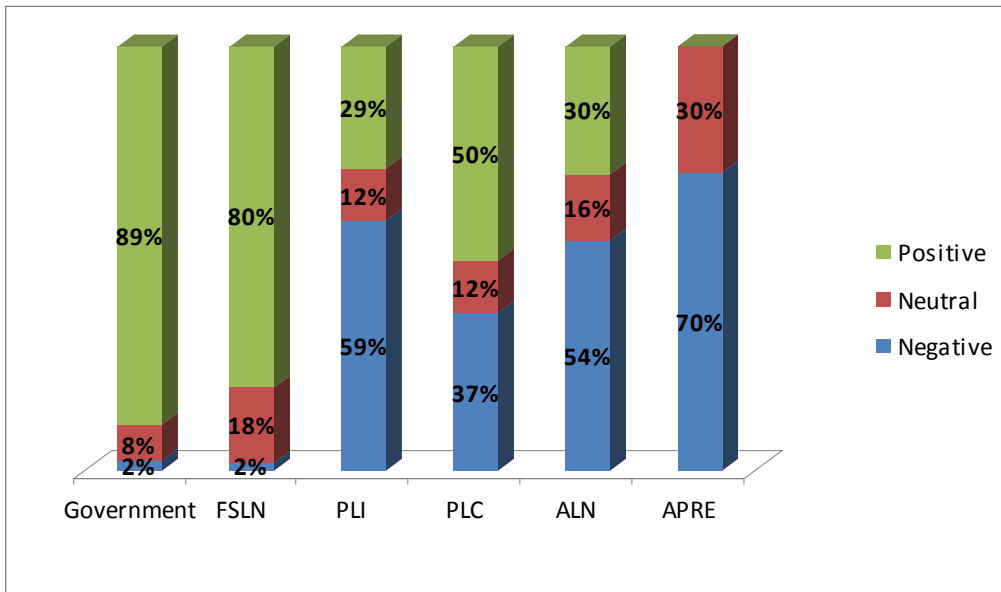
CANAL 4



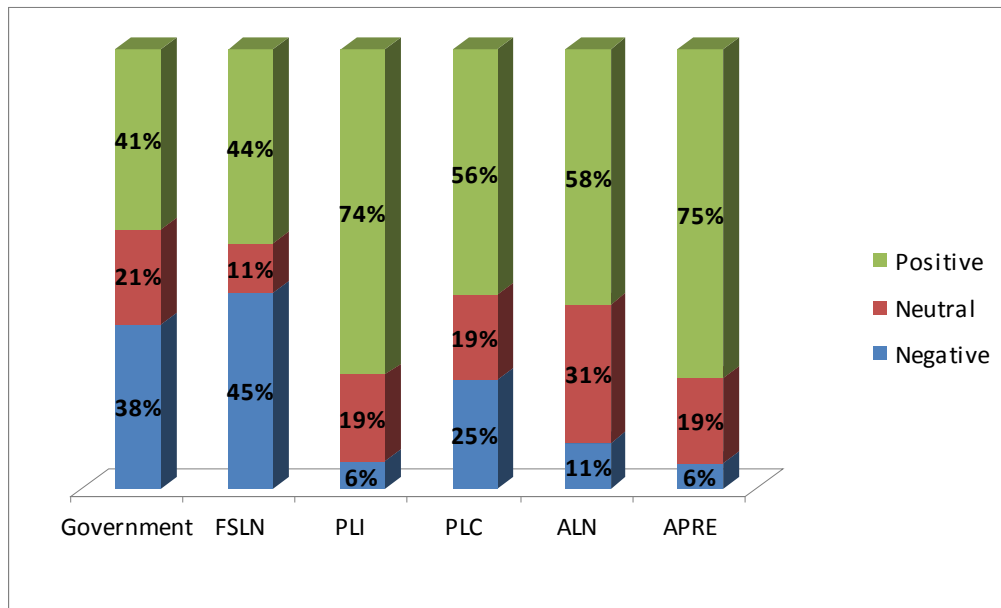
CANAL 6



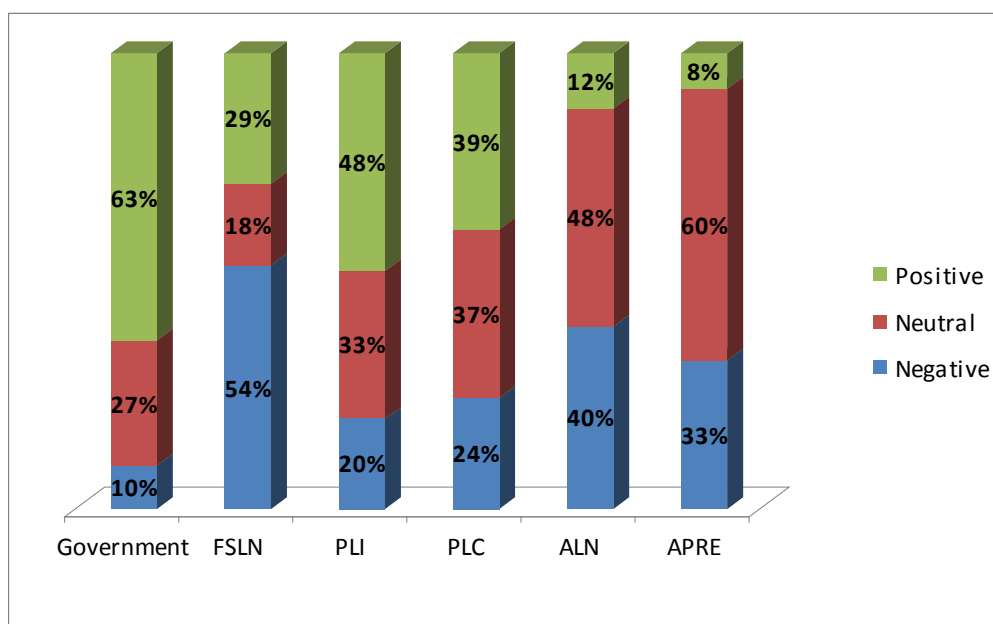
CANAL 8



CANAL 12



CANAL 14

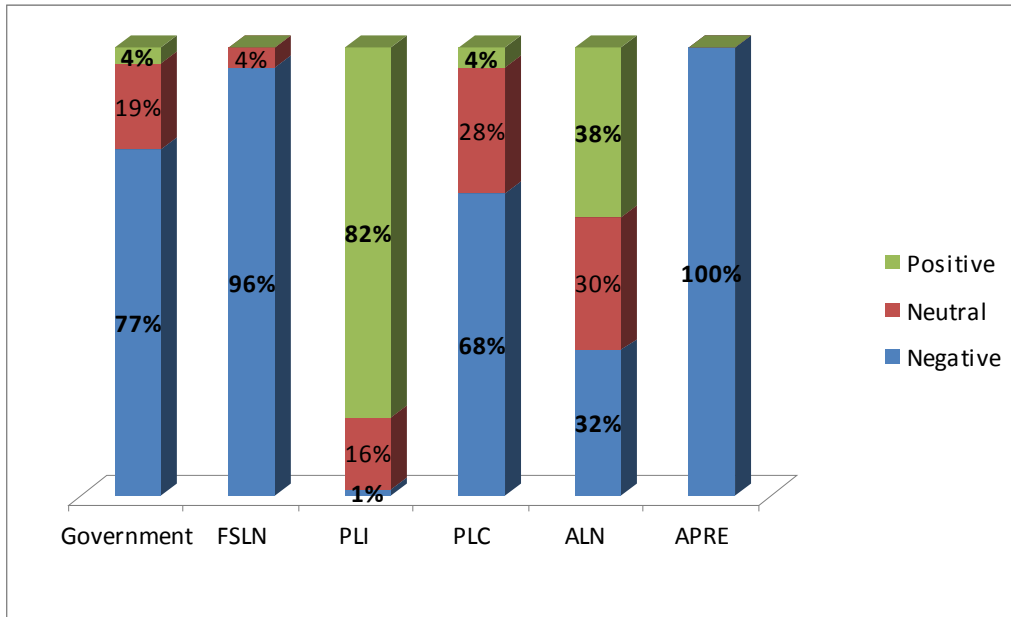


7. Space given to political actors and government on the radio

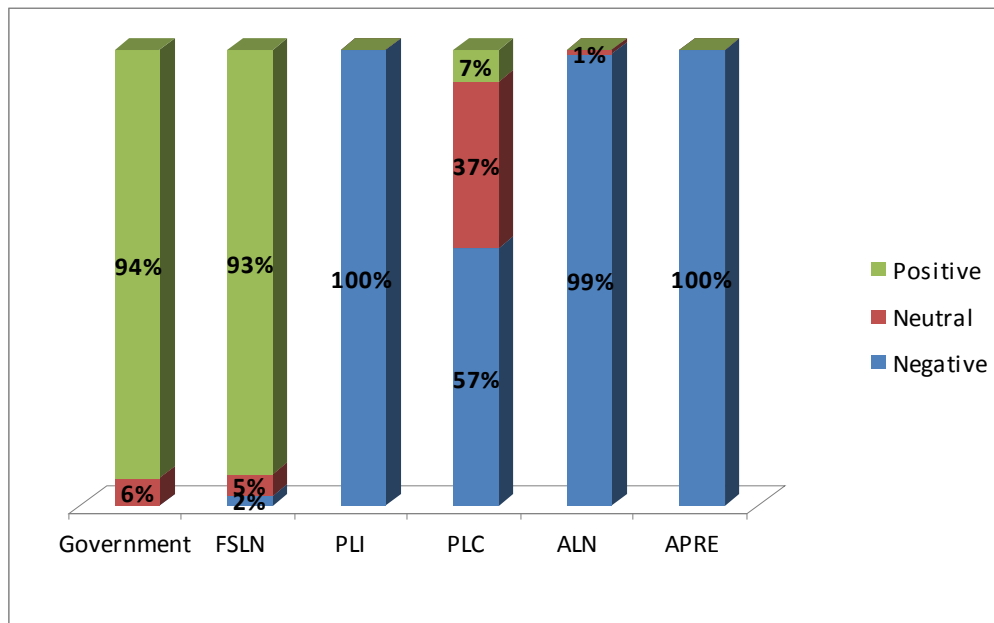
	Corporación	Ya	Nicaragua	Universidad
Government	23%	66%	84%	54%
FSLN	34%	24%	12%	31%
PLI	30%	5%	2%	8%
PLC	5%	2%	0%	4%
ALN	8%	2%	1%	2%
APRE	0%	0%	0%	2%

8. Tone used for political actors and government on the radio

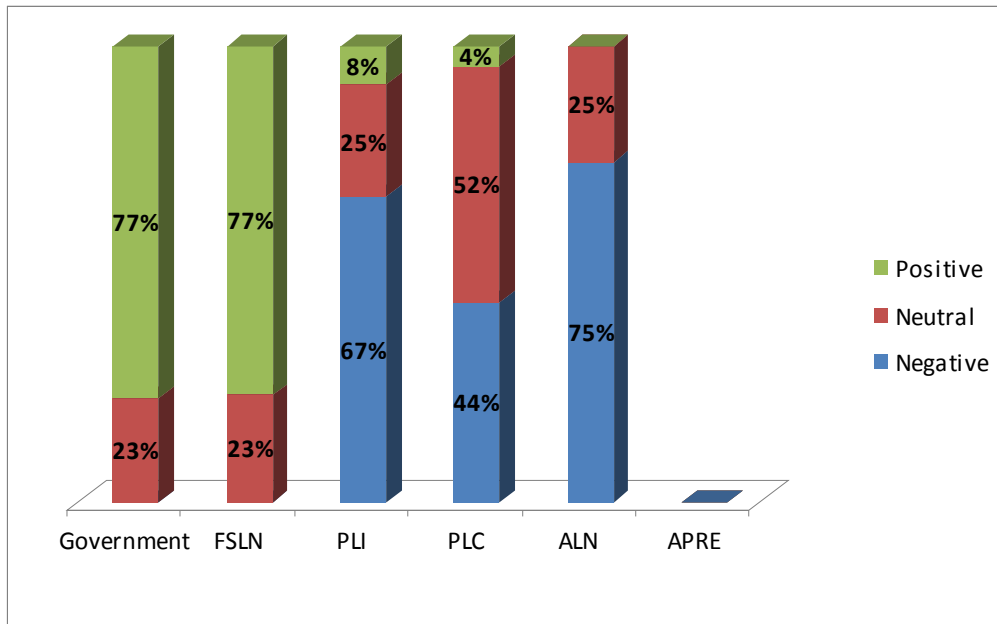
RADIO CORPORACIÓN



RADIO YA



RADIO NICARAGUA



RADIO UNIVERSIDAD

