



## European Union Election Observation Mission Guatemala

Presidential Run-Off, 20 August 2023

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### PRELIMINARY STATEMENT

## **Guatemalans showed a strong commitment to democracy despite ongoing judicial actions to disrupt the elections**

**Guatemala City, 22 August 2023**

*This preliminary statement of the EU Election Observation Mission (EU EOM) is delivered before the completion of the entire electoral process. Critical stages remain, including tabulation of results and adjudication of petitions. The EU EOM is now only in a position to comment on observation undertaken to date and will later publish a final report, including full analysis and recommendations for future improvements of electoral processes.*

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### Summary

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The 2023 presidential run-off between Sandra Torres (National Unity of Hope - UNE) and Bernardo Arévalo (*Semilla* Movement) demonstrated the will of the Guatemalan citizens to choose their president in a peaceful and well-organised election by the Supreme Electoral Tribunal (TSE), the departmental (JED) and the municipal (JEM) electoral boards. The commitment of voters, polling staff and party agents at the polling stations contrasted with a pre-election period characterised by repeated attacks on the rule of law, criminalisation of both the TSE and *Semilla* and attempts to overturn the voters' choice expressed in the first round. Few days before the election, the Special Prosecutor's Office against Impunity (FECI) announced that judicial actions would continue after 20 August.

The TSE preliminary results, with 100 per cent of processed tally sheets, showed that Arévalo has won the election over Torres by a clear margin of 20.8 percentage points, with only 828 challenged ballots out of 4,208,985 votes cast. Turnout was 45.1 per cent, some two per cent higher than in the 2019 presidential run-off. Within two hours of the closing of polls, 99 per cent of the polling stations' tally sheets had been transmitted and published, ensuring certainty and public confidence in the results. President Giammattei congratulated Arévalo and said he will ensure an orderly transition of power.

The TSE, the JEDs and the JEMs organised the presidential run-off in a professional and efficient manner. The TSE continued to conduct weekly meetings with all political parties and addressed their concerns. Enforcement of existing measures allowing party agents to take a picture of the polling station tally sheet and receive a certified copy of the results enhanced the transparency and the integrity of the process. Positively, the Guatemala department and city JEDs did not use their alternative management system for the official tabulation of results for this election round. Due to episodes of violence in the first round, local elections were repeated in five municipalities.

The selectivity and timing of the actions undertaken between the two electoral rounds by the FECI and a first-instance criminal court against the TSE and *Semilla* suggest that they intended to disrupt the electoral process and undermine the free expression of the will of the electorate. These actions were anticipated by X/Twitter accounts close to radical groups before they occurred, and disclosed information about the cases, suggesting leaks from or collusion with said judicial institutions.

The mobilisation of large sectors of the Guatemalan society, including the civil society, the private sector, political parties, religious leaders and indigenous authorities, as well as of the international community contributed to the credibility of the whole process. The TSE's certification of the first round election results and its clear stand on respecting the legally established calendar generated trust in such challenging circumstances and confirmed its status as the highest authority in electoral matters.

The EU EOM considers that such interference in the electoral process has threatened the right and opportunity to participate in genuine elections and the respect for the will of the voters as expressed in the 25 June elections. Further actions by FECI and the Judiciary seeking to criminalise the TSE and to revoke *Semilla*'s legal status may hinder the right of the voters to have their elected representatives duly installed in office, which is contrary to international and regional commitments subscribed by Guatemala.

EU observers reported the run-off campaign as low-key and mostly calm. Fundamental freedoms of assembly and movement were broadly respected, with limitations of access to some rural areas dominated by local and indigenous authorities for both contenders. *Semilla*'s ability to campaign was negatively affected as its resources were consumed by litigation against judicial decisions. UNE assumed conservative, pro-life, religious values, as well as increased security and social programmes. *Semilla* focused on anti-corruption, economic, security and development measures.

Irregular UNE and *Vamos* campaign practices and vote-buying were reported by EU observers, including the distribution of household items, food and money related to both municipal and presidential campaign events. UNE was observed to register citizens to receive benefits from potential government social schemes. Instances of third-party campaigning by radical groups against *Semilla* were observed. During the process, over 150 violations of campaign finance regulations were examined by the TSE.

The campaign in the digital space was flooded with election-related disinformation and smear content, with Bernardo Arévalo and *Semilla* being the main target of aggressive campaign messages on alleged policy proposals on abortion, same sex marriage and land expropriation not included in *Semilla*'s programme. This content was spread by far-right opinion leaders and fake social media accounts acting in a coordinated manner. The time devoted to the two presidential candidates on the TV and radio stations and newspapers monitored by the EU EOM during the second round campaign was balanced. Community media have made an important effort to inform their audience about the electoral process. Campaign silence was respected by all the monitored media outlets.

The EU EOM observed an increasing polarisation of the political discourse online since the day after the 25 June general elections. Social media proved to be a key source of election-related information, but also of disinformation, throughout the post-election developments and the political campaign for the presidential election run-off. In the weeks leading up to Election Day, the digital space has witnessed artificial amplification and coordination of messages online by fake accounts and bot-driven activity by malicious actors. These activities have fuelled allegations of fraud, disinformation, intimidation and subliminal threats against political opponents, as well as repeated accusations of interference against international election observers and organisations.

Election day was peaceful and calm, with an adequate police and Army deployment, and minor isolated incidents that did not tarnish an election day characterised by the democratic commitment of voters, election staff and party agents. EU observers reported that opening, voting and counting procedures were properly followed by polling station members in almost all the 632 observed polling stations. Both UNE and *Semilla* party agents took pictures of the polling station tally sheets and received a certified copy of the results in the overwhelming majority of the polling stations observed by the EU. Preliminary presidential election results showed a clear victory for Arévalo, with 58,01 per cent of the valid votes against Torres, with 37, 24 per cent. Arévalo obtained 2,441,661 million votes, while Torres was supported by 1,567,472 voters. There were 3,49 per cent of null and 1,25 per cent of blank votes.

*The European Union Election Observation Mission (EU EOM) has been present in Guatemala since 11 May 2023 following an invitation from TSE. The Mission is led by Chief Observer Jordi Cañas, member of the European Parliament from Spain. In total, the EU EOM deployed 120 observers from all EU Member States, Norway and Canada to assess the whole electoral process against international obligations and commitments for democratic elections as well as the laws of Guatemala. A delegation of the European Parliament, headed by Leopoldo López Gil, also joined the mission and fully endorses this statement. During the presidential run-off, EU observers held 1,542 meetings and attended a total of 67 campaign events. On Election Day, observers visited 632 polling stations across all 22 departments of Guatemala and the capital city to observe voting, counting and the transmission of*

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*preliminary results. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation endorsed at the United Nations in 2005.*

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## Preliminary Findings

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### POLITICAL CONTEXT

The political climate since the 25 June general elections was marked by constant attacks on the rule of law, attempts to overturn the choice of voters and to intimidate and criminalise both the electoral administration and the *Semilla* Movement. Actions initiated by FECI and embraced by radical groups to disqualify the unexpected contender *Semilla*, exposed the extreme judicialisation the electoral process had gone through (*see section Election Disputes*). Unprecedented legal uncertainty, lack of dialogue between key actors, and political volatility installed a deep sense of democratic crisis in the run-up to the election.

FECI actions generated intimidation and fear of prosecution, and used security measures involving excessive show of police force and filming of journalists witnessing the events. The seizure of mobile phones of *Semilla* members and denial of access to the national party representative during the raid was in breach of the Criminal Procedure Code. The timing and selectivity of FECI's proceedings defy fundamental international standards on equal protection of the law without any discrimination.<sup>1</sup> EU EOM interlocutors reported that irregularities in Guatemala's party administrative procedures are common and not investigated as vigorously as the ongoing investigation on *Semilla*. The EU EOM considers these actions attempted to undermine the political rights of voters, the equal participation of the run-off contenders and the credibility of the 25 June elections.

Large sectors of the Guatemalan society stood united to uphold the first-round election results. Forceful statements and mobilisation by the private sector, indigenous authorities, political parties, civil society, religious leaders and the international community displayed a remarkable alignment of views and helped secure the respect of the election calendar and the results. The demonstration of popular will strengthened the autonomy and independence of the TSE, enabling it to stand up for its status as the highest authority in electoral matters (*see section Election Disputes*).

In the midst of the significant international attention to Guatemala and following an invitation by President Giammattei, the Organization of American States (OAS) Secretary General, Luis Almagro, undertook a four-day visit to Guatemala from 1 August, in line with articles 17 and 18 of the Inter-American Democratic Charter (IADC) on democratic crisis in Member States. Almagro met with all key actors in the electoral process, including the two presidential candidates, the TSE and the Government. His report presented to the OAS Permanent Council on 10 August confirmed OAS' intention to accompany the transition process until 14 January 2024, when the new government is duly installed.

### ELECTORAL ADMINISTRATION

In the run-up to the 20 August election, the TSE took clear decisions to ensure its role in the electoral process, both through legal actions and challenges to court decisions and through a more active public communication strategy.<sup>2</sup> EU observers in most departments reported that although actions taken by FECI against election officials generated fear, the responses and positions taken by the TSE magistrates reinforced not only JED and JEM members' commitment but also the collaboration of the TSE with them. All JED members carried on with their responsibilities and only 16 JEMs out of 340 have suffered changes in their composition (22 members including three presidents).

The TSE continued conducting weekly meetings with party representatives in a transparent manner, including on 10 August, with the online participation of JED presidents to respond to a request by UNE, *Valor* and *Vamos*. The three parties claimed that in the 25 June elections, polling staff did not follow

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<sup>1</sup> [Article 26](#), International Covenant on Civil and Political Rights (ICCPR).

<sup>2</sup> From 27 June to 30 July, the TSE published a total of 12 statements and conducted 10 press conferences.

procedures consistently, and complained about obstacles to systematically access result documents such as tally sheets and certifications. Additionally, UNE unsuccessfully requested that the TSE dismiss the Guatemala department and city JEDs for contracting a failed results data processing system, the latter considered to be against the election regulations.

Due to episodes of violence in the first round, the TSE cancelled elections in five municipalities and therefore repeated municipal elections on the day of the presidential run-off.<sup>3</sup> The TSE moved 62 rural polling stations to the capitals in three municipalities due to lack of security in the previous voting locations, affecting a total of 22,458 voters.<sup>4</sup> The TSE managed the preparation of non-sensitive electoral materials and the printing of the voters' register and ballot papers in accordance with the electoral calendar. This guaranteed the sequential and efficient distribution of the electoral kits to the departments, followed by their distribution to municipalities and polling stations.

As a response and in line with good electoral practice, the TSE conducted workshops for the 120 national trainers and JED members. JEDs organized similar activities in the departments, including on security matters. According to EU observers, training was attended by three quarters of the planned participants and was focused on filling in tally sheets and reminding participants that party agents must receive copies. Positively, the JED of the central district organised face-to-face trainings as opposed to online training during the first round. About 90 per cent of the 55 trainings observed by the EU observers were assessed as very good or good. In addition to the training manuals, the TSE published procedures on the importance for party agents to take photographs of the results tally sheet and receive a copy of the results certification, in line with the instructions sent by the TSE to electoral stakeholders on 11 August.<sup>5</sup>

## ELECTION TECHNOLOGY

The system for transmission and announcement of preliminary election results (TREP) positively contributed to build confidence in the preliminary results of the 25 June general elections. Parties and candidates as well as civil society organisations had the opportunity to scrutinise its accuracy and reliability using diverse techniques to analyse the data based on polling station results protocols available at the TSE website. For the presidential run-off, the TSE did not implement any technical improvement, as it only adjusted the system to handle the presidential tally sheets and those of the five municipalities where local elections were held.

On 18 August the TSE conducted a satisfactory full-scale results transmission mock exercise, providing public evidence of the system's readiness. As part of the TREP preparations, shortly before the election, the TSE ran a two-day reinforcement training for the technical staff throughout the country. The Office of the Public Prosecutor's (MP) request to the TSE for the names of the more than 5,000 data entry clerks did not lead to a significant number of resignations of TREP technical staff in the run-off.

The TREP was the sole technology in place for the presidential run-off, unlike the 25 June election, when the Guatemala department and city JEDs used an alternative results management system for the official tabulation of results. Positively, both electoral boards decided to cancel the use of that system following its low performance during the first round. No additional technology or standard approach was put in place to ease and speed up the official tabulation of results.

## CAMPAIGN ENVIRONMENT

The campaign officially resumed on 12 July, once the TSE confirmed the two presidential tickets for the run-off. UNE campaign activities were observed by the EU EOM since 26 June and were interrupted in

<sup>3</sup> [TSE decree 03-2023](#) of 18 July 2023. Municipal elections took place on 20 August in San Pedro Yepocapa (Chimaltenango), San José del Golfo (Guatemala), San Bartolomé Jocotenango (Quiché), San Martín Zapotitlán (Retalhuleu) and San Pablo Jocopilas (Suchitepéquez).

<sup>4</sup> Nentón (Huehuetenango), San Pedro Pinula (Jalapa) and Tacaná (San Marcos).

<sup>5</sup> TSE, circular n°16-2023, which emphasised the right to monitor the polls only by agents belonging to contesting parties.

solidarity with *Semilla* for two days on 13 July, at the peak of the judicial persecution against the party. *Semilla* was observed to be campaigning from 14 July. Campaign silence started at noon on 18 August and was generally respected in the offline environment. Only one of the two presidential debates was attended by both candidates. Torres was unavailable for the first debate on 7 August, as she scheduled the presentation of her government programme at the same time. The run-off electoral campaign was reported by EU observers as low-intensity, with a more visible UNE campaign in a mostly calm environment.

UNE stressed conservative pro-life, religious values in favour of traditional families, private property and social welfare. EU observers reported an unofficial alliance between UNE and government party *Vamos* in most departments, putting at UNE's disposal its network of elected mayors. *Semilla* portrayed itself as a movement for social justice and against corruption, and presented its first 100 days programme focusing on anti-corruption, economic, security and development measures with "rescued" State institutions. EU observers reported that *Semilla* rejected offers for alliances with other political actors in exchange for future benefits.

In total, Torres was publicly supported by 250 mayors from nine different parties and some civic committees.<sup>6</sup> Irregular UNE and *Vamos* campaign practices and vote-buying were observed by the EU EOM, as well as distribution of household items, food and money related to both municipal and presidential campaign events.<sup>7</sup> UNE was observed to register citizens in exchange for benefits from potential UNE government social schemes.<sup>8</sup> These practices are forbidden by law. The EU EOM encountered challenges to observe UNE's presidential campaign, with EU observers being asked to leave Torres' events on four occasions.<sup>9</sup>

Instances of third-party campaigning against *Semilla* were observed from radical groups, namely by the Foundation Against Terrorism (FCT), forerunners of the judicial persecution by the MP against *Semilla*, journalists and members of the judiciary critical of corruption; and by *Liga Pro Patria*, an organisation linked to Army war veterans (see section *Digital Communication and Social Media*).<sup>10</sup> Such examples expose the legal vacuum existing on third-party campaigning, offering vast opportunities for well-funded political actors to influence campaigns. The TSE opened an investigation to assess whether these activities violated campaign regulations.

Although fundamental freedoms of assembly and movement were mainly respected, *Semilla*'s ability to campaign was negatively affected as its resources were consumed by litigation against judicial decisions and distracted from ordinary campaigning. The EU EOM observed 67 campaign events and documented nine cases of misuse of state resources by UNE and *Vamos*, the latter at campaign events related to the repeated municipal elections.<sup>11</sup>

Both presidential candidates and their respective running mates campaigned extensively through multiple online platforms. While UNE's campaign strategy comprised both a strong economic investment in the digital sphere and an offline tactic of widespread distribution of election campaign posters around the country, *Semilla* relied mainly on online organic campaigning.

The digital space was flooded with election-related disinformation and smear campaign content, with Bernardo Arévalo and *Semilla* being the main target of aggressive campaign messages (see section *Digital Communication and Social Media*). Homophobic attacks against party members and accusations of a hidden intention to implement policies on land expropriation and tax increase, to legalise abortion and

<sup>6</sup> *Azul, Bien, Cabal, Cambio, Nosotros, Todos, Valor, Vamos and VIVA.*

<sup>7</sup> For instance, in Chimaltenango at the San Carlos University for GTQ 900 (approx. EUR 105). EU observers reported similar practices in Alta Verapaz, Baja Verapaz, Chiquimula, department of Guatemala, Guatemala City, Huehuetenango, Izabal, Jalapa, Petén, Retalhuleu, Santa Rosa, Sololá, Suchitepéquez, Totonicapán, Quetzaltenango and Zacapa.

<sup>8</sup> In Suchitepéquez and Totonicapán. Also, [a tweet by Torres](#) on 16 August.

<sup>9</sup> In San José Pinula (Guatemala) on 15 July, Huehuetenango on 13 August, Retalhuleu on 16 August and Cobán (Alta Verapaz) on 17 August.

<sup>10</sup> [Tweet](#) by Ricardo Méndez Ruiz, FCT President.

<sup>11</sup> Observed in the departments of Chiquimula, Huehuetenango, Jutiapa, Retalhuleu, Santa Rosa, Sololá and Zacapa.

same-sex marriage, to limit religious freedom, as well as to promote a communist ideology, were spread by far-right opinion leaders and fake social media accounts acting in a coordinated manner. In an attempt to counteract these narratives, *Semilla* launched an online call to action to debunk disinformation against party members and its political programme.

During the electoral process, over 150 cases were examined by the TSE for non-compliance with campaign finance regulations. Due to the lack of timely, effective and proportional sanctions, current reporting obligations do not prevent unreported and illicit campaign funding. Occasional and disproportionate sanctions issued for reporting failures or non-compliance suggested political bias.

## MEDIA

Campaign silence was respected by all the monitored media outlets. The attention devoted to the two candidates on the TV, radio stations and in the newspapers monitored by the EU EOM during the second round campaign can be considered as balanced. The limited number of State media and the concentration of media in a few private groups significantly reduced pluralism.

In general terms, the monitored TV stations provided 41.8 per cent of their news space to Torres and 58.2 per cent to Arévalo. The free-to-air television station owned by the Mexican group Albavisión dedicated more airtime to UNE (61.5 per cent), while TV Azteca, owned by the Mexican group Salinas, also a free-to-air TV station, provided more to *Semilla* (61.3 per cent). The percentage difference in favour of *Semilla* is due to the news coverage devoted to judicial actions after the 25 June elections.

Radio Punto, with national coverage and belonging to the Alius group, the fifth largest electronic media group in Guatemala with 66 frequencies, provided the most balanced distribution of time: 51.5 per cent for Torres and 48.5 per cent for Arévalo. Radio Nuevo Mundo, also part of the Alius group, and *Emisoras Unidas*, part of the Emisoras Unidas group, devoted the greatest percentage of their time to Arévalo, 70.7 per cent and 69.3 per cent respectively, while Radio Sonora, belonging to Albavisión, gave 74.4 per cent of its news space to Sandra Torres.

In the newspapers a greater balance of information was found: *Nuestro Diario*, 49.3 per cent for Torres and 50.7 per cent for Arévalo; *Prensa Libre*, 48.9 per cent; Torres, and 51.1 per cent Arévalo; *PubliNews*, with 51.9 per cent for Torres and 48.1 per cent for Arévalo, and *Soy 502*, with 53.8 per cent for Torres and a total of 46.2 per cent for Arévalo.

In terms of advertising, *Semilla* focused on electronic media, mainly on radio. The EU EOM media monitoring unit detected 78.5 per cent of radio advertising by *Semilla* compared to 21.6 per cent by UNE. While *Semilla* mainly used *Emisoras Unidas* and *Radio Nuevo Mundo*, Torres used *Radio Punto* and *Radio Sonora*.

On television, 65.6 per cent of advertising was placed by *Semilla*, almost double that of UNE (34.4 per cent). The free-to-air channels, Canal 3 and Canal 7, the ones with the highest audience ratings, received almost the same amount of advertising from both parties; these channels belong to Albavisión. *Guatevisión* broadcast 82.6 per cent of *Semilla's* advertising, all of it in the outsourced programme "Con Criterio". TV Azteca broadcast only *Semilla's* advertising.

Community media, such as the news agency *Kilómetro 169*, made an important effort to inform their audience about the electoral process. It is worth highlighting the spaces dedicated by them to voter education aimed at the population in the most remote and disadvantaged areas. Today, these media outlets broadcast on non-traditional distribution platforms such as social networks, radio and digital television.

## DIGITAL COMMUNICATION AND SOCIAL MEDIA

The EU EOM observed an increasing polarisation of the political discourse online since the day after the 25 June elections. Social media proved to be a key source of election-related information and disinformation throughout the post-election developments and the political campaign for the run-off.

Traditional media extensively used online platforms to reach the audience. X/Twitter was constantly used by all stakeholders to share their views on the process through press releases and calls for public demonstrations. Live streams on TikTok and Facebook offered citizens an opportunity to follow closely crucial events. The genuine effort by a community of young online content creators to offer in-depth analysis of election-related matters positively contributed to guaranteeing access to a plurality of views to the electorate throughout the election campaign.

At the same time, all online platforms monitored were largely misused to distort the political discourse in the digital space and to generate information disorder through multiple tactics.<sup>12</sup> Malevolent users moved disinformation narratives across different platforms through manipulated content and deepfakes. Multiple examples of interconnected accounts posting the same malign content across X/Twitter, Facebook, Instagram and TikTok to reach a wider audience were identified, suggesting the implementation of a sophisticated method of cross-posting marketing approach. Dozens of recently created fake accounts spread smear campaign content, personal attacks and accusations, at times in a coordinated effort. Social media accounts presenting themselves as media fueled disinformation narratives across multiple platforms, with misleading opinion polls boosted through paid ads on Meta and pieces of disinformation presented as media content produced by reputable national and international media such as CNN. Overall, tech companies failed to enforce meaningful actions to prevent such scenario.

The EU social media team observed artificial amplification and coordination of messages online by fake accounts and bot-driven activity by malicious actors to fuel campaign messages, allegations of fraud, disinformation, intimidations and subliminal threats against political opponents, as well as repeated accusations of interference against international election observers and organizations. X/Twitter accounts close to the FCT anticipated FECEI and court initiatives before they occurred and disclosed confidential information of election-related cases, which suggests leaks or collusion with these institutions. Such messages were further amplified through a system of fake accounts linked to netcenters to artificially influence political conversations online in a coordinated manner.

## ELECTION DISPUTES

The period following the 25 June elections was marked by the meddling in the process of some judicial institutions with questionable jurisdiction on electoral matters, as well as by the escalation and abuse of legal proceedings by some political parties. The manner and timing of these interventions suggest that they were carried out with the intention to disrupt the electoral process and undermine the free expression of the will of the electorate.

Based on a broad interpretation of its mandate, on 1 July the Constitutional Court (CC) granted a temporary writ for constitutional protection (*amparo provisional*) to nine parties and ordered the TSE to reconvene all the departmental review hearings, verify the polling station tally sheets and potentially recount the votes, even though such repetition, verification and recount are not foreseen in the law.<sup>13</sup> Parties alleged inconsistencies and errors in the results protocols nationwide in all five elections despite most of them were represented at the polling stations and signed the tally sheets.<sup>14</sup> The CC's decision to intervene was controversial as, according to several EU EOM interlocutors, it does not have first-instance jurisdiction to adjudicate writs against the TSE. In addition, the TSE's failure to provide a uniform procedure for such reviews led JEDs to adopt their own, further undermining the legal certainty of the process. Following the conclusion of all hearings on 6 July, the results, including those of the presidential election, underwent only minor modifications, confirming the outcome of the 25 June elections.

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<sup>12</sup> The MOE UE conducted a social media monitoring exercise since the start of the campaign for the first round. The monitoring included a quantitative and qualitative analysis of the election-related content online across Facebook, Instagram, X/Twitter, TikTok, YouTube and Threads.

<sup>13</sup> The petitioners were *Azul, Cabal, Cambio, CREO, Mi Familia, Podemos, UNE, Valor and Vamos*.

<sup>14</sup> Only 4,925 presidential ballots were challenged by party agents during the counting at the polling stations.

On 13 July the CC granted *Semilla* a temporary writ of constitutional protection against a first-instance criminal judge decision ordering the TSE to temporarily suspend the party's legal status within 24 hours, disregarding provisions of the law prohibiting the suspension of parties during election periods.<sup>15</sup> The order was announced a day earlier by the head of FECCI, minutes before the TSE certified the results of the presidential election. The implementation of the order would have left Arévalo out of the presidential race. The court order was based on alleged procedural irregularities committed by *Semilla*'s founders during the party's formation phase in 2018, that the EU EOM believes should not restrict in any case the fundamental freedom of association enshrined in the international and regional commitments to which Guatemala is signatory.<sup>16</sup>

While the CC explicitly ruled that the judge should not interfere with *Semilla*'s participation in the second round, it authorised the MP to continue the criminal investigation. This resulted in more than a dozen actions against the TSE by FECCI, including two raids on the TSE's premises on 13 and 20 July, a raid on *Semilla*'s headquarters on 21 July, an arrest warrant against a TSE top official for not suspending *Semilla* and two other arrest warrants against *Semilla* members. None of the warrants have been executed so far.

On 27 July the MP ordered the TSE to provide the names of the more than 5,000 data entry clerks responsible for processing the preliminary election results on election day. A day later, the MP requested the TSE to provide the names of approximately 28,000 staff members of the departmental and municipal boards and the polling stations in the department and city of Guatemala. The TSE complied with the order. Information on the TREP tendering process was also requested by the Office of the General Comptroller.

*Semilla* claimed that the judge denied access to information about the case and the means to conduct their own defence. This contrasted with the access that some social media accounts had to excerpts of the FECCI dossier, in apparent disregard of the constitutional and criminal procedural provisions regarding the presumption of innocence and the right to due process (*see section Digital Communication and Social Media*).<sup>17</sup> Denying an interested party access to a criminal investigation, while sensitive information is disclosed by a third party not directly involved in the proceedings is neither in line with national legislation nor with international and regional commitments on fair trial and due process.<sup>18</sup>

The EU EOM considers that these instances of undue interference in the electoral process has undermined legal certainty and the leading role of the TSE in the electoral process, as provided for in the law. In addition, it has threatened the right and opportunity to participate in genuine elections, the respect for the will of the voters as expressed in the ballots, and the right of the voters to have their elected representatives duly installed in office, in line with international and regional commitments binding on Guatemala.<sup>19</sup>

Following the 25 June elections, a total of 263 petitions for different annulments were submitted to the TSE. Of these, 136 petitions challenged fines or JED decisions, 30 petitions requested the annulment of votes at the polling station level, while 97 petitions requested the repetition of elections at the municipal level (*nulidad especial*), of which the TSE reviewed 11 cases leading to the re-run of local elections in five municipalities. The decision to repeat the elections was due to acts of sabotage that either disrupted the voting process or rendered the votes uncountable. 60 percent of all petitions were submitted by five parties: *Vamos* (64), *Valor* (27), *Humanista* (26), *Cabal* (22) and *VIVA* (16).

## **PARTICIPATION OF UNDERREPRESENTED GROUPS**

The presidential run-off included two of the four women originally running among the 44 presidential and vice-presidential candidates: Sandra Torres (UNE) for presidency and Karin Herrera (*Semilla*) for vice-

<sup>15</sup> Election and Political Parties Law, [articles 92, 93 and 94](#).

<sup>16</sup> [Article 22.2](#), ICCPR. [Article 16.2](#), American Convention on Human Rights.

<sup>17</sup> Court File 01079-2023-00231 (Ref.MP001-2022-33864).

<sup>18</sup> [Article 12 and 14](#), Constitution of Guatemala. [Articles 94 and 314](#), Criminal Procedure Code. [Article 14 of the ICCPR](#) and [Article 8 of the American Convention on Human Rights \(ACHR\)](#).

<sup>19</sup> Article 25 of the ICCPR and GC25, parr. 19.



presidency. While Sandra Torres announced that her future cabinet would be gender balanced, Bernardo Arévalo remained silent on this aspect.

None of the contenders for presidency have stressed indigenous rights as a priority during their campaign. However, both focused on the indigenous population as a source of potential votes: Sandra Torres tried to gather support in impoverished indigenous rural areas by promising regular food distribution and monthly bonus for women and families, as well as an official Ministry of Indigenous Affairs. Bernardo Arévalo chose emblematic places for his meetings: Santa María de Jesús (Sacatepéquez), one of the country's few municipalities with a female indigenous mayor, and Jocotán (Chiquimula), a Maya Chortí municipality known for cases of persons who died from hunger, with more than 90 per cent of the population below the poverty line. Positively, one presidential candidate has used indigenous languages in the campaign: Sandra Torres published messages via 13 online paid ads in five of the country's 22 Mayan languages.

The indigenous women's organization *Molox* conducted voter education workshops in cooperation with the TSE in the capitals of Alta Verapaz, Huehuetenango and Quiché for indigenous voters. Indigenous communities and organisations were among the most relevant actors in supporting the integrity of the elections. Traditional authorities like Totonicapán's 48 cantons (*cantones*) and the indigenous mayors of Palín (Escuintla), Sololá, Santa Cruz del Quiché, among others, called for respecting the Constitution and requested the resignation of the public prosecutor and the judge in charge of the *Semilla* case.

Smear campaigning against *Semilla*'s alleged intentions to legalise equal marriage and to destroy traditional family models were widespread online and echoed by conservative groups, although *Semilla* stated repeatedly that the party will not change current legislation on prohibition of abortion and on marriage. Although Sandra Torres advocated for equal marriage in her 2015 presidential campaign, strong opposition and homophobic narratives against the LGBTIQ community were among her key messages in this campaign, punishable under the Penal Code and contrary to international and regional standards.<sup>20</sup>

## CIVIL SOCIETY AND CITIZEN OBSERVATION

After the 25 June elections, main civil society and citizen observer organisations have advocated for the importance of respecting the choice of citizens and the constitutional order, anticipating the need for reforms after the elections. This included MOE-GT, *Acción Ciudadana* and *Forum Guatemala*, among others. Requests to deploy over 8,000 accredited observers, included around 500 international observers, were made to the TSE. The two main groups of accredited national observers: MOE-Gt (1,800 observers) and USAC (2,100 observers), did not observe the aggregation of results at municipal or departmental level. As in the 25 June elections, MOE-GT conducted a parallel vote tabulation exercise (PVT), whose results were delivered to the TSE during the election evening. In addition to the TSE-accredited observers, the Office of the Ombudsperson (PDH) and *Mirador Electoral* redeployed around 3,600 and 120 observers, respectively, with *Mirador Electoral* primarily focusing on vote-buying. Also, the MP deployed monitors in the voting centers to prevent electoral crimes. The main international election observation organisations were present in the country to follow the post-25 June election events and redeployed their teams for the second round.

At local level, the organisation *Petén Inclusivo* deployed observers with disabilities in Petén department. The organisation has proactively engaged in domestic election observation, so far at departmental level only, showing an outstanding civic vision and responsibility.

## POLLING, COUNTING AND TRANSMISSION OF RESULTS

Election day was peaceful and calm with minor isolated incidents that did not tarnish an election day characterised by the democratic commitment of voters', election staff and party agents. Turnout was 15 percentage points lower than in the first round but higher than in the 2019 presidential run-off. EU

<sup>20</sup> [Tweet](#) of 8 August. [Article 202Bis](#). Penal Code. [Articles 20 and 26](#), ICCPR. [Article 9](#) Inter-American Democratic Charter.

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observers reported that opening, voting and counting procedures were properly followed by polling station members in the vast majority of the 632 observed polling stations.

In the 53 polling stations where EU observers observed the opening procedures, these were assessed as very well or well conducted. All UNE and *Semilla* party agents present in the observed openings signed the corresponding protocol. Voting was observed in 528 polling stations in all 22 departments and the capital city. EU observers reported that two thirds of the polling station commission members were women, and that 92.6 per cent of the staff worked in the 25 June elections. EU observers assessed polling procedures as very well or well conducted in respectively 83 per cent and 17 per cent of their observations. However, cases of food distribution by UNE outside the polling centres were documented by the EU observers in ten departments, suggesting vote buying.<sup>21</sup> Adherence to procedures such as identification of voters, handover of attributed ballots, signatures of voters in the voter list, and application of the indelible ink on voters' fingers were observed in 98 per cent of the observed polling stations of the observations.<sup>22</sup>

EU observers reported a positive assessment of the closing process in the 52 observed polling stations, with 40 very good and 12 good marks respectively. Both UNE and *Semilla* party agents took pictures of the polling station tally sheet and received a certified copy of the results in the overwhelming majority of the polling stations observed by the EU. Within two hours of the closing of the polls, the TSE had already published over 99 per cent of the tally sheets corresponding to the preliminary results, ensuring certainty and confidence in the polling process and the election results.

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An electronic version of this Preliminary Statement is available on the Mission website

[www.moeueguatemala2023.eu](http://www.moeueguatemala2023.eu)

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<sup>21</sup> Alta Verapaz, Chiquimula, Escuintla, Guatemala, Izabal, Jalapa, Petén, Quiché, Retalhuleu, Sololá and Totonicapán.

<sup>22</sup> EU observers witnessed 20 cases of voters dully not allowed to vote for instance for not being included in the voter list.