



**EUROPEAN UNION  
ELECTION OBSERVATION MISSION  
Ecuador 2009**



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**Republic of Ecuador – Presidential and Parliamentary Elections, 26 April 2009**

**ECUADOR HELD GENERAL ELECTIONS TO START A NEW CONSTITUTIONAL ERA. THE  
ELECTORAL FRAMEWORK SHOWED IMPROVEMENTS, LAYING A BASE FOR  
TRANSPARENT ELECTIONS. ELECTIONS WOULD HAVE BENEFITED FROM A LEVEL  
PLAYING FIELD IN THE CAMPAIGN**

**STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS**

**Quito, 28 April 2009** – Upon invitation and in accordance with the Memoranda of Understanding signed by the European Commission with the National Election Council and the Ecuadorian government, a European Union Election Observation Mission (EU EOM), led by Chief Observer Mr. José Ribeiro e Castro, Member of the European Parliament, was deployed.

The EU EOM assessed the conduct of the elections in accordance with international standards for democratic elections and adhered to the Declaration of Principles for International Election Observation. The EU EOM deployed 117 observers from EU Member States and Norway throughout the country and was joined by a five-member delegation from the European Parliament, led by Ms. Renate Weber, who endorses the views expressed in this document. On Election Day, EU EOM members visited 1,049 polling stations to observe voting and counting. The mission is currently monitoring the tabulation of results and will remain in country to observe post-election developments. This statement is preliminary; a final report will be published within two months after the end of the electoral process. The EU EOM is independent in its findings and conclusions from EU Member States, the European Parliament and the European Commission.

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**EXECUTIVE SUMMARY**

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The 26 April general elections marked a new era in the constitutional history of Ecuador. These elections were the first under the 2008 Constitution. They signified the end of an intense electoral succession of elections and referenda since late 2006. At the time of finalizing this Preliminary Statement, the official partial results showed that the incumbent President Rafael Correa is leading with 51 per cent of votes, followed by Lucio Gutierrez (28 per cent). Projections claimed that President Correa will be re-elected without the need for a second round. With regards to National Assembly elections, no meaningful official results are available thus far.

The elections of 26 April were generally conducted in line with international standards. They were organised within a tight timeframe and under challenging circumstances: five different levels of election, new categories of voters and the establishment of a new election administration. The elections took place in a peaceful manner with local exceptions. Freedoms of expression and assembly were generally respected. However the dominant presence of the incumbent President in the media during the campaign period did not serve to promote a level playing field. To some extent, a similar situation was mirrored in the campaigns of some incumbent Prefects and Mayors.



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The 2008 Constitution provided for the separation between the administrative and the judicial branches in the electoral power and the extension of voting rights to security forces and non-convicted prisoners. This is in line with previous EU EOM recommendations<sup>1</sup>. Regretfully, the proportionality of sanctions for campaign violations, an adequate procedure for the suspension of political rights and a more appropriate mechanism for updating the voter register, among others, were not included in legislation adopted up to now.

A large number of candidates registered to contest these elections. In pluri-personal elections, the electoral system permitted the voter to choose candidates amongst different lists and a gender alternation in the candidates' lists also applied. The voter had the maximum of choice. However, the National Election Council (NEC) could have concentrated more efforts on explaining the complexities of the electoral system to the electorate.

Overall, NEC and its decentralized bodies operated in a transparent and timely manner. Transparency was enhanced by an informative web page and the overseeing of the process by a large number of domestic and international observers. The NEC intensified its efforts to enhance transparency and confidence with an open communication strategy in the media and inviting parties and movements to participate in the Electoral Process Vigilance Commission to facilitate the overseeing of the process. However, the atmosphere of distrust towards the electoral authorities that was observed in previous elections persisted to some extent.

A comprehensive training of election officials was conducted, but its effectiveness would have been enhanced if it had reached a larger proportion of the electoral staff. On Election Day, this resulted in a number of problems observed in many polling stations, at the opening and closing, as well as in a lower comprehension of the procedures of counting. A broad voter education campaign was conducted by NEC, the media and civil society. While the voter register was generally considered inclusive and enjoyed the confidence of parties and movements, some shortcomings remained such as the under-registration of part of the electorate.

NEC made some innovative and encouraging efforts to enforce campaign regulations, *inter alia* by endeavouring to adopt and implement new sanctions. Some measures to suspend or to withdraw campaign materials that contravened the law were determined and applied. Nevertheless, the system globally proved unable to fully address the use of state resources for campaign purposes, as required by the 2008 Constitution.

The campaign was generally low-key and was characterised by a lack of robust competition and lively political discourse. Candidates were able to convey their messages without major impediments. There were some isolated incidents at local level including attacks against some candidates. The campaign of the incumbent President Correa was visible in all provinces. The other presidential candidates complained about not having the same facilities to campaign nationwide. Some of them also lacked meaningful national campaign structures. The prohibition of campaigning prior to Election Day was

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<sup>1</sup> The EU EOM 2007 and EU EOM 2008 Final Reports on elections in Ecuador are available at <http://www.eueomecuador.org>.



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generally respected. However, in some cases, the moratorium was ignored through the diffusion of government spots, news broadcast and other programmes relating to political actors.

The publicly financed media scheme whereby all candidates enjoyed an equal opportunity to present their messages to voters was further refined by introducing three television programmes for programmatic proposals of presidential candidates; however, this positive initiative did not fully achieve its objective, as the time allocated was insufficient. The spots were homogeneously distributed, but the saturation of the broadcasts made them ineffective. Electronic media failed to organise debates between presidential candidates, which lessened the opportunity for candidates to discuss their messages before the electorate.

The pre-election process and campaign were mainly covered through news programmes and bulletins in all electronic and print media. Freedom of speech was mostly respected and the overall climate for journalists remained generally within international standards. However, Ecuador still lacks a law that regulates and guarantees journalists' independence and pluralism in the state-owned media. Also, the political polarization seemed to increasingly engage the media, damaging an open democratic debate and an even level playing field.

The dominant coverage of the incumbent President in the electronic media, in particular the State media and through governmental programmes, fuelled permanent complaints from other candidates. The incumbent President also received the largest percentage of coverage in the news broadcast by the media, but with the private media adopting a largely critical tone.

The Election Disputes Tribunal (EDT)'s handling of complaints and appeals relating to campaign rules violations did not prove to be effective. Inadequate timelines, EDT's excessive focus on procedural issues, legal vacuums and diverging interpretations undermined the timely enforcement of campaign rules and the confidence of electoral stakeholders in obtaining an effective remedy. To the contrary, the handling of complaints and appeals relating to candidate registration was conducted adequately. EDT also carried out considerable organisational efforts to set up a new institution within a complex transitional period by establishing jurisprudence, the publication of cases in its comprehensive webpage and the launch of hotlines for enquiries on Election Day.

Election Day generally went smoothly and the atmosphere was largely calm, orderly and joyful. Observers assessed the opening and voting process for the most part positive. Procedural shortcomings were noted, including a lack of safeguard to the secrecy of voting in 16 per cent of the cases. Whilst the incumbent President set a very positive precedent by abstaining from attending and delivering a speech at the E-Day's inaugural ceremony, other presidential candidates were observed making proselytism inside voting centres and in some cases even displayed their ballots illustrating for whom they voted.

The counting was assessed more negatively than voting, as in many cases some procedural deficiencies were observed. Due to non realistic timelines for different stages of the process and a number of unexpected difficulties that appeared, the announcement of preliminary results fell behind the established schedule. In addition, some sporadic



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incidents of electoral violence were reported in some provinces, resulting in the suspension of voting and rescheduling of elections in some cantons of Manabí.

Most of the major important problems and shortcomings relating to E-Day derived from the fact that five elections were held on the same day, with six different ballot papers and, moreover, a complex voting and tabulation system for the two pluri-personal elections. This mounted pressure and too much stress upon a system with limited resources, which at different stages proved to be overwhelming.

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**PRELIMINARY FINDINGS**

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**BACKGROUND**

A new Constitution was adopted by referendum on 28 September 2008 with 63 per cent of the votes, expressing public support for the political and socio-economic reforms in Ecuador. On 23 November, the National Election Council (NEC) called for a general election. The elections held on 26 April marked the beginning of a new era in the constitutional history of Ecuador and closed an intense succession of elections and referenda since late 2006. The President and members of the National Assembly were elected for a four-year term. The delegates for the National Assembly were elected under an open-list proportional system; 15 seats contested in a single nationwide constituency, 103 in 24 provincial constituencies and 6 in 3 out-of-country constituencies.

In addition to Presidential and National Assembly elections, Ecuadorians voted for their representatives in the 24 provinces and 221 cantons. Elections to the local parishes and for the Andean Parliament were postponed to 14 June in order to facilitate the voting and counting process. The EU EOM observed the national elections and comments on the local and provisional elections only to the extent where they impacted on the conduct of Presidential and parliamentary elections or had a relevant political significance at national level. The EU EOM final report will include a more detailed account on the most relevant aspects of the elections at local and provincial level.

The EU EOM observed previous elections in 2007 and the 2008 referendum. The 2009 EU EOM brings to a close an intense cycle of observation following the democratic transition in Ecuador from the former to the new constitutional regime.

**LEGAL FRAMEWORK**

The 2009 general elections were governed by a diverse range of legislation which is generally in line with international standards: the *2008 Constitution*, including the *Transitory Dispositions* and the *Transitional Regime*; laws enacted prior to the 2008 Constitution that remained applicable in areas not covered by the Constitution, most importantly the *2000 Electoral Law*, the *2000 Law on Political Parties* and the *2000 Law Governing Expenditure and Electoral Publicity*; the regulations and directives adopted by the NEC and the Election Disputes Tribunal (EDT). Ecuador has ratified all major treaties containing international standards for elections.



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A new electoral law which was adopted on 13 April 2008 by the Transitional Legislative Commission was not applicable to these elections. In the absence of such general and consolidated electoral law, the legal framework for these elections was highly fragmented and dispersed. Besides, while the 2008 Constitution provided for a certain hierarchy of norms, the patchwork character of election related legislation led to a lack of clarity. In an attempt to harmonize the Constitution with the previous legislation, the NEC adopted the “*Codification of the General Norms for the Elections foreseen under the Transitional Regime*”. While these regulations clarified and detailed most aspects of the applicable legal framework, they contained some contradictions with EDT regulations<sup>2</sup>. All this resulted in diverging interpretations by both the authorities and political actors with respect to their application. For example, NEC and EDT have different understandings about NEC’s competence to adopt measures in cases of violations of campaign regulations.

The 2008 Constitution and norms adopted thereafter included provisions that coincided with some of the recommendations made by the EU EOM in 2007 and 2008, such as the separation between the administrative and the judicial branches in the Electoral Power and the extension of voting rights to security forces and non-convicted prisoners. Some of these provisions improved the election process, but others did not to the extent desired due to a lack of appropriate developments and implementation. Regretfully, some recommendations were not included in the new legal framework. These include the proportionality of sanctions in cases of violations of campaign regulations, adequate procedures for the suspension of political rights and the establishment of appropriate mechanisms for complaints and appeals regarding the voter register.

The electoral system for the National Assembly election is an open list proportional representation where voters could concentrate their vote in one list or distribute their votes across different lists, selecting nominally up to as many candidates as seats to be elected in the respective constituency. Each party list obtains as many seats as the total number of votes to candidates within that list encompassing the applicable quotient (Sainte-Laguë for these elections). Hence, the electoral system offered the voter the maximum of choice. Political stakeholders complained, however, that voters might not have been aware of how to best utilize their vote (*see voter education*).

#### **CANDIDATE REGISTRATION**

The 2008 Constitution allows for the participation of citizens’ movements, political movements, and political parties. However, under the legal framework, citizens could not run as independent candidates for the National Assembly contest. There were no restrictive requirements to register as either a parliamentary or Presidential candidate. This allowed a large number of candidatures. Eight political parties and movements fielded candidates to the Presidential elections<sup>3</sup>; in addition, two were rejected due to their failure to provide the required number of signatures.

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<sup>2</sup> The “*Indispensable Norms for the Exercise and the Implementation of the Competences of the Election Disputes Tribunal*” and the “*Regulation of the Procedures of the Election Disputes Tribunal*”.

<sup>3</sup> *Partido Sociedad Patriótica* (PSP), *Partido Renovador Institucional Acción Nacional* (PRIAN), *Red Ética y Democracia* (RED), *Movimiento Patria Altiva y Soberana* (MPaís), *Movimiento Tierra Fértil* (MTF), *Movimiento Independiente, Justo y Solidario* (MIJS), *Movimiento de Integración y Transformación Social* (MITS) y *Movimiento Triunfo Mil* (MTM).



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Besides, there were 13 political parties, 37 national movements and 180 local and provincial movements which registered 1,598 candidates for the National Assembly contest. Few complaints were lodged regarding the registration process. (*see Complaints and Appeals section*)

#### **ELECTORAL ADMINISTRATION**

Following the adoption of the 2008 Constitution, the NEC, tasked with the organisation of the elections, and the EDT, responsible for handling complaints and appeals, were the institutions in charge of the administration of these elections. The Constitution provided for a non-partisan recruitment of the members and outlined how they should function, thereby strengthening their independence. Their members were appointed by the Constituent Assembly according to public service procedures in October 2008. The selection process was apparently conducted following the established criteria<sup>4</sup>. However, some political parties maintained that some of the selected members were linked to the government. The selection of the members at lower levels of election administration also raised questions. This had an adverse effect on the confidence of the opposition parties in the impartial management of the elections.

NEC generally operated collegially and in a transparent manner. The sessions were public; they were however not announced well enough in advance which complicated the presence of the public, parties, media and observers. The NEC webpage provided the public with updated information on its decisions as well as on the electoral legislation. In the weeks prior to the elections, NEC intensified its efforts to enhance transparency and confidence with an open communication strategy in the media and inviting parties and movements to participate in a forum to scrutinise the election process, namely the Electoral Process Vigilance Commission (EPVC). Most parties and movements participated in this Commission. Nonetheless, the atmosphere of distrust that was observed in previous elections persisted to some extent, as demonstrated by some continuing allegations from opposition parties regarding possible irregularities and political bias.

NEC faced a complex process with five different elections, new categories of voters and the establishment of a new election administration, representing a huge challenge for the two new branches of the Electoral Power. Still, the logistical and technical preparations were generally conducted in an effective manner and according to schedule. NEC operated through its decentralised administration, composed of 24 Provincial Electoral Boards (PEB) and 24 Provincial Electoral Delegations (PED). The observers reported that these institutions generally worked well, although some discrepancies were noted with regard to the competencies of the PEB and PED. This situation resulted in some overlaps between the two provincial bodies on operational issues.

NEC organised training sessions for the election administration staff, for parties' and movements' delegates, as well as for members of the Police and Army. Their effectiveness would have been enhanced if they had reached a larger proportion of the targeted audience. NEC enacted numerous regulations, undertook different initiatives

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<sup>4</sup> See "Report on the appointment of transitional electoral authorities", The Carter Center.



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aimed at accelerating the tabulation process, made considerable efforts to update the voter register and conducted a comprehensive public outreach programme to voters.

NEC made some innovative and encouraging efforts to enforce campaign regulations, *inter alia* by endeavouring to adopt and implement new sanctions. Some measures to suspend or withdraw campaign materials that contravened the law were determined and applied. To date, NEC decided on a total of 49 cases, including the suspension of electoral advertisements of several Presidential and National Assembly candidates<sup>5</sup> and governmental publicity<sup>6</sup> for different breaches of the election campaign regulations<sup>7</sup>. It also took action to enforce the moratorium period from the close of the campaign to Election Day, including prohibiting the presidential *Informe Sabatino* on 25 April. Both aspects were an improvement when compared with previously observed elections and referendum. Nevertheless, the system globally proved unable to fully address the use of state resources for campaign purposes, as required by the 2008 Constitution.

Ecuador has a passive voter register with data drawn from the civil registry. The 2008 Constitution extended the right to vote to citizens between 16 and 18 years old, members of the Police and Armed Forces, foreign citizens with more than 5 years of legal residence and non-convicted prisoners. Voting is compulsory for Ecuadorian civilian citizens between 18 and 65 years old living in the country. A total of 10,529,765 electors were eligible to vote: an increase of more than 10% compared to the 2008 Constitutional referendum. The voter register was considered inclusive and enjoyed the confidence of political parties and movements. However, the Civil Registry estimated that at least 500,000 qualified voters, who mainly emanate from the Amazonian indigenous population, are not registered.

### **VOTER EDUCATION**

NEC has implemented a nation-wide voter incentive campaign, informing the new electorate (16-18 years old, security forces, foreign residents, prisoners) and the Ecuadorian Diaspora about their right to vote. A second campaign promoted NEC's call centre, website and information centres on the location of their polling stations. At provincial level, the EU EOM observed that the NEC mainly focused on the 16-18 year old electorate through a network of institutions and NGOs. However, these campaigns lacked a uniform implementation, especially amongst the rural and minority electorate. The NGO *Participación Ciudadana* also conducted a campaign on *How to Vote Responsibly*. The media took the leadership in offering abundant information about the electoral process and party programmes.

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<sup>5</sup> On 31 March NEC took action against President Rafael Correa campaigning in favour of *Movimiento País* during the weekly "radio and television address" of 28 March and also virulently attacking his opponents Lucio Gutierrez and Alvaro Noboa, which is forbidden according to the present legislation. The NEC issued a warning stating that if Correa were to commit the same violation, his weekly address to the nation would be suspended henceforth. A spot of Melva Jacome, Presidential candidate for the movement *Tierra Fertil*, was suspended for the use of children.

<sup>6</sup> TV spot by the Ministry of Education was suspended for including the incumbent Vice-President, Lenin Moreno.

<sup>7</sup> These cases are related to the inclusion of the acting Guayas prefect, Jaime Nogales (PSC), in a TV spot sponsored by the provincial Government. The election administration in Pichincha has also removed billboards that were posted without authorization.



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The electoral system for the National Assembly elections is complex and would have required adequate voter information enabling voters to participate meaningfully. While NEC made some efforts to explain the modalities of voting, it did not direct the same efforts to explain in detail the electoral system to the general public.

#### **CAMPAIGN ENVIRONMENT**

Overall, the campaign atmosphere was peaceful. Freedoms of expression and assembly were generally respected, with some violent incidents reported<sup>8</sup>.

The Presidential election campaign was conducted in a low key manner, apparently due to a perceived lack of genuine competition. The main forms of campaigning consisted of small-scale events and door-to-door canvassing. Posters and billboards for displaying campaign material have also been widely used. Observers reported that a large number of violations of campaign rules relating to billposting were evident around the country<sup>9</sup>.

The incumbent President Correa has toured the country extensively, securing strong attention from the local media. Observers stated that it was difficult to distinguish between his role as President and his campaign as candidate, although in many cases events as President and as candidate were formally separated. The President's use of State owned means of transport during his countrywide tour evoked many complaints. Furthermore Correa's frequent appearances in governmental television programmes (*see Media section*) also fuelled further discussions on the use of state resources for campaign purposes. The opposition claimed that these events undermined their capacity to campaign fairly as they did not have the same access to the same facilities. This did not promote a level playing field amongst the candidates.

The level playing field was also affected to some extent in the campaigns of some incumbent Prefects and Mayors. For example, the Prefect of Loja, candidate for Lista 63, promoted himself via governmental projects; as did the Prefect of Santo Domingo de los Tsáchilas, running for *MPaís* by distributing water packages with the logo of his movement on it, and the Mayor of Tena who published his achievements on billboards all around the city.

The prohibition of campaigning during the moratorium was generally respected by the political actors. However, there were some breaches by the electronic media through the diffusion of government spots. Another case was the programme broadcast by *Gama TV* on 24 April against the administration of Mayor Jaime Nebot. With regards to the latter, NEC reacted promptly by ordering the immediate suspension of any similar programmes and the opening of the corresponding case file. Nonetheless, there have been instances

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<sup>8</sup> On 7 April, *TV Telecosta* and *Radio Gaviota* stations in Esmeraldas were attacked. The owners of the station accused the MPD followers of this attack, MPD being the leading party in the province. In addition, *MPaís* complained to the EU EOM on 5 April that their supporters allegedly suffered several aggressions by metropolitan police agents and members of Guayaquil Mayor's movement *Madera de Guerrero*. In Ambato, four *MPaís* campaign activists were arrested on 14 April, being accused of destroying campaign materials from other movements.

<sup>9</sup> EU EOM observers reported that many billboards were placed in unauthorised places and without the NEC logo.



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whereby the Electoral Administration has failed to react to violations. There were several cases of government spots and inadequate news<sup>10</sup> broadcast during the moratorium. At the local level there were a few isolated incidents whereby a pocketful of candidates continued to disseminate their messages via various means. Furthermore, many electronic messages supporting different candidates were sent to citizens' cell phones during the moratorium and, even more, on Election Day.

### **THE MEDIA**

Preliminary findings of the EU EOM monitoring illustrated that media provided election related coverage mainly through news programmes.

A more equitable system for candidates was introduced by establishing a publicly financed scheme both for advertising/campaign spots (*promoción electoral*) and platforms (*franjas electorales*)<sup>11</sup>. Within this positive scheme, candidates enjoyed an equal opportunity to present their messages to voters regardless of any differences of financial resources.

During the monitored period, the broadcast of spots was extensive in all the private media. On the one hand, some interlocutors deemed that the saturation of the broadcasts rendered them ineffective. On the other hand, the *franjas* were an innovation introduced by NEC allowing the presidential candidates to present their platforms in three television programmes. However, interlocutors criticised the system as the airtime provided to candidates was considered insufficient. Few special programmes dedicated to elections were broadcast and no debates between presidential candidates were organised. This lessened the opportunity for them to discuss their messages before the electorate.

Freedom of speech was mostly respected and the overall climate for journalists remained within the relevant international standards<sup>12</sup>. However, the political polarisation seemed to increasingly engage media, damaging an open democratic debate and an even level playing field. Since 2007 President Correa set a hostile tone towards the press, frequently criticizing some media and defining them as “corrupt and mediocre”. The media often responded to these criticisms or acted with a similar tone. In addition, Ecuador still lacks a law that regulates and guarantees journalists' independence and pluralism in the state-owned media.

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<sup>10</sup> For instance, on 24 and 25 April, a report by *Teleamazonas* and a news bulletin in the newspaper *Hoy*, respectively, attacked the incumbent President for the use of the governmental airplane during the campaign period. This could be interpreted as illegal campaigning against a political subject during the moratorium period.

<sup>11</sup> The program was broadcast on three different days during prime time hours and the rerun was broadcast on Saturday at 20:00. Each candidate had up to 3 minutes to present their programs each day. The schedule of the program was prepared by NEC and the order of appearance was allocated through a lottery system on 7 April.

<sup>12</sup> NGO Reporters without Borders defined the freedom of media in Ecuador as “enviable” compared to its neighbours Colombia and Peru (Report 2008). The *Editorial Association of Ecuadorian newspapers* considered that Ecuador had good tradition of freedom of expression compared with other Latin American countries. On the contrary, recently, the Interamerican Press Society (SIP) issued strong criticism about alleged government attacks against the media and journalists in the country, and NGO *Fundamedios* (Centre of protection of freedom of expression) reported on the deterioration of journalistic conditions.



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The State-owned media are characterised by a widespread use of “institutional propaganda”, while candidates seemed to prefer not to place their electoral spots on the State TV due to its poor ratings. *Ecuador TV* and *Radio Pública del Ecuador* allocated extensive coverage of the activities and statements of the incumbent President through the compulsory broadcast *Cadena Nacional*<sup>13</sup> and the addresses to the nation *Informe Sabatino*. These programmes are a privilege of the President and his cabinet to inform the citizens on governmental activities. The opposition parties and movements protested severely as they consider that they were used for electoral campaigning. Examples include, for instance, the Government attacking the opposition in the spot of the latest reform of the Penal Code.

On 12 April the TV state channel initiated a new weekly programme “*Ciudadano TV*” which was broadcast by 600 radio and 50 television provincial and local channels (private and public) during prime-time hours. This programme aimed at providing information on the government’s administration was launched by the President and advertised on print media by *MPaís* using its NEC financed budget for campaigning.

The EU EOM monitoring demonstrated that State TV devoted 44 per cent of its news coverage to Rafael Correa, 6 per cent to Lucio Gutiérrez (mainly portrayed in negative tone) and 2 per cent to Alvaro Noboa. *TC Television* and *Gama TV* - seized by the Government in 2007 - dedicated a significant portion of their coverage to the activities of President Correa (17 per cent in both channels). The other seven candidates received a combined 42 per cent of the electoral coverage in TC Television and 26 per cent in Gama TV, mostly in a positive or neutral tone.

On private televisions *Ecuavisa* and *Telemazonas*, Rafael Correa received 23 per cent and 14 per cent respectively of news coverage, but was often criticised. *Teleamazonas* in particular portrayed him in a negative tone. Private radios focused their political and election news reporting on local candidates’ activities and statements. The monitored newspapers provided a range of views although they focused their coverage on the incumbent President Rafael Correa.

#### **COMPLAINTS AND APPEALS**

The 2008 Constitution conferred the competence to handle complaints and appeals against decisions taken by NEC and the decentralized election administration to the newly created Election Disputes Tribunal (EDT). Furthermore, EDT was competent to sanction violations of election regulations, especially with regards to the norms governing financing, propaganda and election expenditure. The establishment of the EDT was a positive contribution to the election process that could have led to an increased independence of the settlement of election disputes if adequately implemented. This was positively demonstrated by the EDT’s effective and timely handling of 80 complaints concerning the registration of candidatures.<sup>14</sup>

The tribunal made considerable organisational and administrative efforts to establish itself as new institution against the background of the complex transitional situation,

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<sup>13</sup> The *Cadena Nacional* had to be broadcast by all private media as well.

<sup>14</sup> This figure did not include the complaints concerning candidate registration for the Parish boards.



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namely through a good webpage, the establishment of lines of jurisprudence, the publication of tables of cases and launching hotlines for concerned citizens for Election Day.

However, regarding more politically sensitive election cases such as the adjudication of complaints and appeals related to campaign rules violations, the EDT decisions were being problematic. Firstly, the EDT's procedures and time limits did not prove to be effective<sup>15</sup> and contradicted the need for a speedy response to violations of campaign regulations that should have been decided prior to Election Day. Secondly, EDT judges seemed to focus on preliminary issues such as the procedures to be followed rather than dealing with the substantive issues of the cases, they exhausted deadlines even when the case did not seem to require such a long deliberation period. Such EDT action undermined both the timely enforcement of election rules and the confidence of election participants in an effective remedy. Finally, EDT's strong objection to NEC's competence to sanction campaign rule violations with monetary fines further emasculated effective reactions to such violations. EDT, for its part, putting into effect the powers conferred to it by the Transitional Regime<sup>16</sup>, did not adopt norms needed to fully implement the new constitutional order as to providing a new sanctionary framework. EDT believes this should have been done only by law and that it did not have the transitional exceptional powers to provide for an immediately applicable new framework.

The most striking example is the appeal lodged by *MPaís* on 12 March against a NEC decision related to a governmental spot where an *MPaís* slogan was displayed. This case was only decided on 16 April. While upholding the suspension of the governmental spot, EDT left without effect the NEC's deduction of US\$ 650 of the *MPaís*' total of campaign expenditure, disputing the NEC's competence to sanction. EDT's decision, however, also raised other important aspects as to NEC's appealed decision, namely as to publicity, motivation and due process. Although frustrating the sanctionary measures applied by NEC, EDT's decisions, nonetheless, confirmed and reinforced previous NEC's measures as to suspend or forbid irregular broadcasts.

#### **PARTICIPATION OF WOMEN**

The 2008 Constitution established extensive protection for women's rights providing for a gender alternation in pluri-nominal lists amongst others. Only 3 women (2 Afro-descendants, 1 indigenous) were heads of the total of 18 national lists presented for the National Assembly elections. Regarding the Presidential elections, 2 of the 8 candidates were women. The Constitution further provided for an equal representation of women and men in State administration, specifically in decision-making institutions. As a positive example, 3 out of the 5 EDT judges as well as 2 out of the 5 NEC members were women, notably the President and the Vice-President of the EDT. While the legislation required an equal representation of women also at lower levels of the election administration, women were Presidents of JPEs only in 25% of the cases. Women's rights or issues were rarely addressed in the campaign.

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<sup>15</sup> 30 days with an additional 3 days for notification and 7 days of proof period.

<sup>16</sup> Art. 15 of the Transitional Regime.



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#### **PARTICIPATION OF INDIGENEOUS AND AFRO-ECUADORIAN PEOPLES**

The 2008 Constitution generally recognized the rights of indigenous and afro-Ecuadorian peoples by stipulating, for instance, the right to create and maintain their own organisations as well as providing for the possibility to establish autonomous entities in areas where indigenous or afro-Ecuadorian peoples are the majority. These peoples make up nearly 12 per cent of the overall population<sup>17</sup>. However, some shortcomings still remain for them to fully exercise their political rights. Although the civil registry used mobile teams to endeavour to improve registration in remote areas, observers still reported cases of under-registration in indigenous populated areas (*see election administration section*). On a positive note, NEC conducted some voter education activities in Kichwa, the most spoken indigenous language. Likewise, regional radios played a crucial role regarding voter and civic education activities in native languages. While capacity building for electoral staff was undertaken in Kichwa, it was only very exceptionally conducted in Shuar. Indigenous and minority related issues were rarely addressed in the election campaign.

#### **DOMESTIC AND INTERNATIONAL OBSERVERS**

The registration of observers was inclusive and in line with international standards. A large number of domestic observers were accredited by the NEC. *Participación Ciudadana*, a well-respected Ecuadorian civil society organisation, conducted a long-term comprehensive observation of the process, deployed around 8,000 election-day observers and conducted a quick count survey. In addition, parties and movements fielded authorised representatives, who were present in 15 per cent of polling stations observed. The elections were also monitored by some international organisations, including the International Organisation for Migrations, which monitored the out of country voting, and the Organization of American States. .

#### **ELECTION DAY**

Election Day generally went smoothly and the atmosphere was largely calm. All over the country, Ecuadorian citizens in general went to vote in large numbers and in a peaceful and joyful atmosphere. Overall, voting was conducted in a orderly manner throughout the 1,049 polling stations visited during Election Day. EU EOM observers largely assessed the opening and voting processes as positive. Nonetheless, some sporadic incidents of electoral violence occurred in some provinces, resulting in one canton of Manabí with the suspension of voting and rescheduling of elections in some cantons after 22 polling stations were attacked and materials were set alight amongst other incidents. Other incidents of electoral violence occurred in other cantons within the same province and in the provinces of Los Rios, Loja, and Zamora Chinchipe.

The incumbent President Correa decided to abstain from attending the opening ceremony of the elections inaugurated by NEC and from delivering a speech therein. His abstention set a positive precedent for the future and avoided possible criticism for violating the moratorium on E-Day. On the contrary, other presidential candidates were observed

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<sup>17</sup> According to the 2001 census, 6.8% of the Ecuadorian population identified itself as indigenous and 5% as Afro-descendant.



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making proselytism inside the polling centres while casting their votes and, in some cases, even displayed their ballots illustrating for whom they voted. This was namely the case with Lucio Gutierrez, Alvaro Noboa and Martha Roldos. Such behaviour could be interpreted as breaking the silence period and breaching campaign regulations.

Polling generally opened on time or within 30 minutes of the scheduled time. However in 14 per cent of cases, voting commenced more than one hour late. Essential material, such as ballots, voters' lists, voting certificates and ballot boxes, were in place in the majority of the polling stations.

Despite an overall positive assessment of the voting procedures in 94 per cent of the visited polling stations, EU EOM observers noted a number of shortcomings. The most widespread concern in 16 per cent of cases was that the size of the polling booth did not always completely safeguard the secrecy of the vote. In 93 per cent of stations observed, voters were unable to access information on how to cast their ballot as no indication was available. Party delegates, mainly representing *MPaís*, were monitoring the process in 78 per cent of polling stations. Domestic observers accounted for 15 per cent of the stations visited.

For the first time, members of the Police, the Army and non-convicted prisoners could vote. EU EOM observers reported that members of the Army could not vote in a significant number of visited polling centres, as they were not included in the voter lists of the polling station where they were supposed to vote. Nevertheless, it seemed apparent that police were indeed included on said lists and therefore were able to vote in more significant numbers. The voting of non-convicted prisoners took place on 24 April in prisons in an orderly manner and without incident

The counting was assessed as negative in 45 per cent of the polling stations observed. In 69 per cent of cases, polling staff did not follow the order of counting as established, which led to delays in the delivery of the result protocols to the tabulation centres. Determination of the validity of the ballots was carried out in a consistent manner in the majority of the observed polling stations; still, observers noted that due to the complexity of the results tally, involuntary mistakes were made. This does not appear to have an effect on the overall results. Party agents were present during the counting in 99% of the polling stations.

The introduction of the Intermediary Tabulation Boards was a positive step in the right direction in enhancing expediency of the tabulation process, whilst maintaining its transparency. Yet, due to the non realistic timelines for the delivery of the protocols to the tabulation centres by the NEC, the announcement of preliminary results fell behind the established schedule. In addition, the transmission of results suffered frequent bottlenecks during election night. Nonetheless, the tabulation process appeared to expedite the announcement of results when compared to previous elections. The publication of scanned copies of all the election results on the NEC website and the allowing of political parties to check the data entry process through online technologies also enhanced the transparency of the whole process.

Most of the major important problems and shortcomings relating to E-Day derived from the fact that five elections were held on the same day, with six different ballot papers



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and, moreover, a complex voting and tabulation system for the two pluri-personal elections. This mounted pressure and too much stress upon a system with limited resources, which at different stages proved to be overwhelming.

At the time of finalizing this Preliminary Statement, with 77.8 per cent of protocols referring to the presidential voting already processed, the official partial results showed that the incumbent President Rafael Correa is leading with 51.9 per cent of votes, followed by candidates Lucio Gutiérrez (28.0 per cent), Alvaro Noboa (11.6 per cent) and Marta Roldos (4.4 per cent). Projections based on exits polls and a quick count claim that President Correa will be re-elected without the need for a second round on 14 June. With regards to the National Assembly elections, a very low number of the respective protocols have been processed and there are still no meaningful official results available.

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