



PRELIMINARY STATEMENT

Colombia elects its Congress in a transparent process and introduces innovative peace constituencies hampered by serious obstacles

Bogotá, 15 March 2022

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 the tabulation of official results and the adjudication of petitions. The EU EOM is now only in a position to comment on observation undertaken to date. The mission will also observe the Presidential Election. After the completion of the process, the EU EOM will publish a final report, including full analysis and recommendations for electoral reform.

Summary

- On 13 March, Colombian citizens elected their representatives to both Houses of Congress. Those who wished to also participated in one of three presidential primaries, the largest and most pluralistic ever in the country. Colombians living in the municipalities hardest hit by the conflict were also able, for the first time since the Peace Accord, to elect representatives in special transitory peace constituencies (CITREPs), designed to give victims direct representation in Congress.
- Election day was peaceful in most of the country, despite unrelated instances of violence which cost the lives of two soldiers. Polling stations were well staffed, predominantly by young people, and voting and counting procedures were transparent and efficient. Party representatives were generally able to work without restrictions, including photographing results forms where they observed counting. The introduction of separate ballots successfully lowered the rate of spoiled ballots, and the Registraduría swiftly published detailed preliminary results, as well as scans of the polling station results forms.
- The Colombian electoral legal framework is complex and dispersed, but provides a solid basis for holding democratic elections. The Constitution and laws enshrine political rights and freedoms and establish effective mechanisms for their protection, supported by a robust judicial system and Constitutional Court. However, the framework also has some shortcomings and lacunae, notably on candidate registration. A new Election Code approved by Congress in late 2020 introduced a number of reforms in line with the recommendations made by the 2018 EU Election Expert Missions. The new Code, under judicial review since 2020, is not yet in force.
- The Registraduría registered 2835 candidates for the legislative elections: 934 for the Senate and 1901 - including a remarkable 403 candidates for the special peace constituencies - for the House. Only 26 candidates were revoked by the *Consejo Nacional Electoral* (CNE), a low number that reveals a generally inclusive system. However, the Constitutional provision that

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

those convicted of any intentional crime shall be ineligible for elective office for the rest of their lives, regardless of the length of the sentence imposed on them, appears in contradiction with Colombia's international commitments in relation to the right to stand.

- The Registraduría, responsible for the organisation of the elections, demonstrated high levels of professionalism, consistent with the consolidated nature of the institution and the long established implementation of elections in Colombia. With a view to facilitating voters' access, particularly in rural areas, the Registraduría increased the number of voting centres. The establishment of the new centres was challenging given security concerns in some rural areas, not least the CITREPs, but no voting locations were cancelled for security reasons.
- With a view to lowering the rate of spoiled ballots (*votos nulos*), separate ballots were introduced for Colombians' different - and complex - options for electing their Congress members, and the Registraduría made intensive efforts to inform citizens and polling staff of new voting procedures. However, the Registraduría leadership communicated only in general terms about guarantees, rather than providing information about the transparency and traceability measures that are built into the election system, from polling station to final national results.
- For the 2022 elections to Congress, 38,819,901 Colombians were registered to vote, constituting a 7 per cent increase since the last general elections. Alongside the modern identity card system, automatic enrolment in the voter register is conducive to ensuring an inclusive register, and the Registraduría actively sought information from several sources to remove redundant entries and draw up an accurate Voter Register.
- The electoral campaign, pluralistic and with abundant debates in the media, was more focused on inter-party consultations than on the congressional elections. While candidates did not generally face major problems in the most populated areas of the country, the persistence of armed violence in other parts of Colombia limited both candidates' right to campaign and citizens' right to participate in the campaign. The CNE lacks the resources to effectively enforce campaign finance rules, a particularly complex task given widespread use of cash.
- EU EOM observers witnessed numerous instances and indications of vote buying, especially in the Atlantic coastal region and in departments with the most vulnerable populations, including CITREPs. Recent high-profile judicial cases have once again highlighted this practice, which often relies on sophisticated or coercive mechanisms, and is widely considered to be common in large parts of the country.
- The Havana Peace Accord established an innovative affirmative action mechanism to strengthen the political representation of the victims of the armed conflict: the creation, during two legislatures, of 16 special peace constituencies in the areas most affected by violence. Their implementation has revealed some design flaws, not least the exclusion from their geographical delimitation of the municipal capitals, where many displaced people from conflict zones actually live. Additionally, the CITREPs had to be put in place within a very short timeframe. These difficulties were compounded by the climate of violence in many municipalities, as well as the other significant challenges faced by candidates who, despite the

government's efforts, found their security schemes insufficient, and also found it virtually impossible to access public funding. In addition, elections in the CITREPs were subject to allegations of infiltration by candidates supported by political parties and armed groups. The registration of candidates with family ties to well-known victimisers has been met with heavy criticism.

- Freedom of expression and freedom of the media were generally respected throughout the process. However, EU observers reported instances of self-censorship, intimidation or limitations to freedom of movements for local journalists in nine departments of the country. Media provided extensive information to voters but prioritised coverage of the primaries, somewhat overshadowing the Congressional election, and demonstrated some imbalances, to the detriment of Pacto Histórico.
- In its analysis of candidates' accounts, the EU EOM social media monitoring unit did not identify any instances of hate speech or dangerous rhetoric during the observed period, and found that 20 per cent of the users interacting with posts by congressional candidates displayed characteristics consistent with bots. During the electoral campaign, the fact-checking organisation Colombia Check reported on just 21 disinformation posts related to the legislative elections and presidential primaries. The mission's monitoring also found no evidence of systematic disinformation campaigns.
- According to the preliminary results, 29 per cent of the newly elected Congress members will be women, as compared to 20 per cent in the outgoing Congress. Progress in this respect is similar in both chambers, as well as in the indigenous and Afro-descendant constituencies. However, despite the parity lists, only three women won their seats in the 16 CITREPs.

The European Union Election Observation Mission has been present in Colombia since 25 January following an invitation from the Comisión Nacional Electoral and the Registraduría Nacional del Estado Civil. The Mission is led by Chief Observer Javi López, Member of the European Parliament (Spain). In total, the EU EOM deployed 130 observers from 23 EU Member States, Norway and Switzerland across the country to assess the entire electoral process against international obligations and commitments for democratic elections as well as the laws of Colombia. On 13 March, they observed in 451 polling stations (of which 35 in 11 CITREP) in 30 departamentos. A delegation from the European Parliament, headed by Izaskun Bilbao Barandica, MEP, also joined the mission and endorses this Statement.

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

Preliminary Findings

Background

The election system for the 13 March 2022 legislative elections is infused with provisions implementing the 2016 Peace Accord, some of which are being applied for the second time – such as the minimum five seats reserved for the *Comunes* (FARC-derived) party in each of the houses of Congress – and others introduced for the first time, namely the transitory special peace

constituencies (*Circunscripciones Transitorias Especiales de Paz, CITREP*), agreed to ensure direct representation to the victims of conflict, and established in the 167 municipalities most afflicted by the previous decades of violence. The special constituencies will add 16 seats to the House of Representatives for the next two legislatures.

These provisions from the Peace Accord are introduced into an already complex electoral system, wherein both chambers of Congress have reserved seats for indigenous people (two in the Senate and one in the House of Representatives) and others reserved for Afro-descendants (two seats in the Senate), all elected from a single nationwide constituency. Voters choose whether to vote for the reserved seats in either chamber, or whether to vote for the 'ordinary' election of 100 Senators, from a nationwide constituency, and House representatives (161 representatives elected from 33 constituencies corresponding to the country's 32 departments and Bogota DC). One seat in the House represents Colombians voting from abroad. For all types of elections, parties may field open or closed lists, and seats are attributed based on the proportional d'Hondt system. The Constitution established, as of 2014, a mechanism to update the number of seats in each ordinary constituency according to its demographic evolution. However, no such update has been carried out since then.

Also on 13 March, Colombians who wished to participated in one of the inter-party consultations to determine the presidential candidates for the three coalitions created for the purpose, covering the left, centre-left and right-wing of the political spectrum.

Legal Framework

Colombia has ratified most relevant international and regional treaties concerning electoral rights and the 1991 Constitution, which has undergone continuous reforms since its promulgation, regulates numerous aspects of Colombia's electoral processes, often in an unusually detailed manner. The Election Law of 1986 is among numerous laws which govern the electoral process, and pre-dates the Constitution. In fact, many of the Law's provisions have been repealed or are inconsistent with the 1991 Constitution (and its successive amendments), or with subsequent laws.

The Colombian electoral legal framework is complex and dispersed, but provides a solid basis for holding democratic elections. The framework has some shortcomings and lacunae nonetheless, notably the permanent ineligibility for elective office of those convicted of any offence, as well as the lack of deadlines for submissions and resolution of complaints about candidate registration, which may result in denial of effective legal remedy. The current rules on gender parity on electoral lists have limited effectiveness.

The Congress approved a new Election Code in December 2020, which introduced a number of recommendations of the 2018 EU Election Expert Missions (EU EEMs), such as an increase of the minimum quota for women candidates from 30 per cent to 50 per cent in legislative lists, the extension of the voting day by one hour and improvements in the procedure for complaints on candidate registration. However, the new code is still under judicial review by the Constitutional Court. Nonetheless, other EU EEM recommendations whose implementation does not require legislative reform have been implemented, such as the provision of separate ballots for different elections, in a bid to reduce the rate of invalid votes. In addition, in an approach compatible with

the State Council's ruling to that effect, software used for results processing is either the property of the Registraduría, or, in the lower levels, designed to be auditable.¹

Electoral Administration

Colombia's *Organización Electoral* is composed of two institutions whose mandates complement each other to organise and administer the elections: the *Registraduría Nacional del Estado Civil*, RNEC, National Civil Registry) and the *Consejo Nacional Electoral* (CNE, National Elections Council).

The Registraduría is responsible for the operational organisation of the elections, from preparing the voter register, to the logistical preparations for voting, counting and aggregating results. Both at central level and in the country's departments and municipalities, the Registraduría demonstrated high levels of organisation and professionalism, consistent with the consolidated nature of the institution and the long established implementation of elections in Colombia. The Registraduría facilitated the EU EOM's access to electoral information, locations, and events throughout the country.

With a view to facilitating access, in particular for people in rural areas, the Registraduría increased the number of voting centres, to 12,512, from 11,231 in 2018. One third of the new centres were established in rural areas, of which 167 in the CITREPs. The establishment of the new centres were subject to a challenging balance between facilitating voters' access and the feasibility of ensuring security.

Over 720,000 polling station workers (*jurados*) were selected, by the established system of selecting at random from a pool of proposals from a range of actors, including political parties, education establishments, and public and private entities. The deadline for proposals was extended at the request of political parties, and lists of the selected staff were made public. Training materials for polling station staff were of high quality, and the organisation of many training slots, alongside flexibility to ensure that selected *jurados* could attend, combined to optimise familiarity often complex voting and counting procedures.

The Registraduría made commendable efforts to inform citizens of new voting procedures in light of the new, separate ballots, with a variety of features in the media and social networks. In addition, Colombian citizens had several options for informing themselves on where they were registered to vote. However, the Registraduría leadership communicated only in general terms about guarantees, rather than providing information about the transparency and traceability measures built into the system, from polling station to final national results.

Although the new electronic platform handling accreditations for candidate and list representatives in polling stations and aggregation centres was at times challenging for users, it was an innovative solution to enable accreditation requests up until the eve of election day, while also ensuring effective distribution of the credentials.

¹ A 2018 *Consejo de Estado* ruling on a MIRA party appeal challenging the 2014 election to Congress established that election results processing software should be the property of the Electoral Organisation, so as to ensure a possible audit.

Contrary to the Registraduría, the CNE lacks budgetary autonomy and has insufficient resources and territorial presence to effectively carry out its extensive mandate, which includes overseeing compliance of campaign regulations and campaign finance, granting or revoking the legal status of political parties and determining candidates' eligibility, as well as acting as last administrative recourse on appeals and complaints concerning every stage of the electoral process.

Voter Register

For the 2022 elections to Congress, 38,819,901 Colombians were registered to vote, of whom 908,566 reside abroad, representing an increase of some 7 per cent since the last general elections in 2018.

Alongside the modern identity card system, automatic enrolment in the voter register is conducive to an inclusive voter register and it is widely considered that few Colombians remain outside the system. The Registraduría sought information from several sources to remove redundant entries and draw up an accurate Voter Register. Controversially, over 42,000 people were stripped of their Colombian citizenship following an investigation led by the Registraduría, which concluded that there had been flaws in these Venezuelans' application for Colombian citizenship on the grounds of having a Colombian parent, most concluded several years ago. Together, these initiatives resulted in the removal of almost 1.4 million entries, and with the exception of those stripped of their citizenship, there were no reported complaints of undue removals. The Registraduría reports that 2,650,079 people registered a change of address, of whom more than half did so remotely.²

Candidate Registration

The *Registraduría* registered 2835 candidates for the legislative elections: 934 for the Senate and 1901 (including a remarkable 403 CITREP candidates) for the House of Representatives.

The CNE may revoke, ex officio or following a complaint, the registration of candidates who are found to be ineligible. As well as reasonable ineligibility criteria, such as holding certain functions or offices or failing to comply with the gender quota in the lists, the Constitution establishes that candidates who have committed intentional crimes, regardless of the severity of the offence or length of the sentence are *permanently disqualified*.³ Permanent ineligibility is disproportionate and does not meet Colombia's commitments in relation to the right to stand. In fact, of the 26 candidates to Congress who were disqualified, 17 were disqualified on these grounds, in most cases due to offences committed a long time ago.

The law enables a party or movement to replace a disqualified candidate, provided the CNE decision is issued more than one month before the election. However, the law does not establish deadlines for either the submission or resolution of complaints, leading to disqualifications beyond the time in which candidates may be replaced. Six candidates could not be replaced in

² Some citizens' requests to change residence were not confirmed, following the Registraduría's retrospective announcement that some remote address requests were subject to confirmation through facial recognition, which posed technical difficulties.

³ Article 179.1 of the 1991 Constitution establishes that candidates who have been convicted by court judgment to imprisonment *at any time*, except for political and non-intentional crimes, cannot be elected for the Congress. Demobilized ex FARC members have been exempted by The Peace Accords.

their lists, nor removed from the ballot paper. While in ordinary constituencies, votes obtained by disqualified candidates are allocated to their party's tally, in CITREPs, the disqualification of one candidate leads to the elimination of the entire list as it no longer complies with the gender parity criterion, and this occurred to one list.

Campaign Environment

The Colombian legal framework guarantees civil liberties as well as political participation rights. However, the persistence of violence in parts of the country acts as a limit on these rights in practice.⁴ Fighting between the *Ejército de Liberación Nacional* (ELN) guerrilla and FARC dissident groups, as well as violent acts and threats by other clans and criminal groups limited freedoms of assembly and movement and impeded campaigning in several regions.

Already high violence levels⁵ further increased during the 23-26 February armed strike of the ELN, and there remains a profoundly disconcerting trend of assassinations of community leaders.⁶ While no candidates were killed in this election process, at least one was kidnapped, and EU EOM observers reported threats and attacks against candidates in nearly all of the country's departments. This had an adverse effect not only on campaign activities but also on citizens' willingness to vote, especially in the CITREPs. While 40 per cent of candidates reportedly received some form of protection under the Ministry of Interior's *Plan Ágora 2*, many claimed the security schemes were deployed late or were insufficient.

In-person campaign events were mostly small-scale, while in the media and social networks, the campaign was lively and included dozens of debates enabling candidates to express their policy proposals and initiatives in an open and free environment. The fact that nearly all major forces participated in one of the three inter-party presidential primaries resulted in the congressional campaign being overshadowed by the primaries.

Although the national regulations for campaigning were generally respected, the CNE sanctioned several cases of illegal election propaganda and there are numerous pending cases for violations of campaign rules. EU EOM observers reported that specific municipal campaign advertising regulations were not fully respected in most regions and a quarter of the country's municipalities never issued any such regulations.

EU EOM observers witnessed numerous instances and indications of vote buying, especially in the Atlantic coastal region and in departments with the most vulnerable population. Recent high-profile judicial cases have once again highlighted this practice, which often relies on sophisticated or coercive mechanisms, and is widely considered to be common in large parts of the country.

Campaign Finance

⁴ In its report Alerta Temprana 004, 17.02.2022, the *Defensoría del Pueblo* identified 521 municipalities (46 per cent of all municipalities of the country) presenting risks of violence due to the presence of illegal armed groups.

⁵ According to the 2022 report of OHCHR (https://www.hchr.org.co/documentoseinformes/informes/altocomisionado/03-03-2022A_HRC_49_19_UnofficialEnglishVersion.pdf), violence in Colombia is back to its highest level since 2014.

⁶ Indepaz (Instituto de Estudios para el Desarrollo y la Paz) <https://indepaz.org.co/lideres-sociales-defensores-de-dd-hh-y-firmantes-de-acuerdo-asesinados-en-2022/>

Most campaign financing is private, but State campaign financing is also available. This is disbursed both through advance payments and reimbursements of campaign costs. Despite the CNE's announcement on 1 February that funds were available at a historically early stage of the election process, few candidates were able to take advantage of this opportunity, due to the difficulty of obtaining the obligatory insurance policies to counter the risk of having to refund advances. In addition, many candidates reported significant difficulties in opening the legally required single bank account, contributing to an uneven playing field tilted in favour of larger, institutionalised parties and more affluent candidates.

Comunes party, which enjoys its own special financial regime thanks to the Peace Accord, received its State funds - guaranteed by the Constitution - only two weeks before e-day, limiting its ability to conduct an effective campaign.

Candidates are required to report all campaign spending and income to the CNE after the elections. In addition, a CNE resolution requires them to report their finances during the course of the campaign, on the *Cuentas Claras* digital platform. However, this is not a binding obligation and in practice reporting to the platform is very limited.⁷ The CNE has not been provided with sufficient resources and mechanisms to effectively control campaign spending and funding. According to EU EOM interlocutors, many expenses are paid in cash, which poses further challenges to tracing funds and verifying compliance with spending limits. Although sanctions are established for campaign finance violations, they have not been enforced in past elections, with the exception of some relatively low and rarely imposed fines.

Transitory Peace Constituencies (CITREP)

The 2016 Peace Accord established a framework for the political participation of the victims of the armed conflict, by introducing, for the 2022-26 and 2026-30 terms, 16 seats in the House of Representatives elected from special transitory peace constituencies (CITREP), to represent the people in 167 of the municipalities most affected by the conflict. Candidates had to be certified victims of the conflict and political parties were excluded from this contest. In addition, delimitations of the 16 special transitory peace constituencies excluded municipal centres so as to exclusively represent rural areas, thus leaving many displaced citizens perplexed at being excluded from the CITREP design.

The implementation of these constituencies has faced several challenges. Security conditions challenged the election administration's initiative of establishing new polling centres in some remote areas, and security schemes were provided to a majority of CITREP candidates due to the ongoing violence in most of these constituencies. Observers in nearly all departments with CITREPs reported direct threats or attacks on candidates.

Heavy administrative requirements put in place for the registration of candidates and nominating organisations in these constituencies seem to have resulted in the exclusion, rather than the

⁷ According to a report by Transparencia por Colombia (<https://transparenciacolombia.org.co/2022/03/01/primer-informe-seguimiento-en-tiempo-real-elecciones-legislativas-2022/>), as of 10 March, only 41 per cent of congressional candidates had reported campaign spending and 43 per cent reported on funding.

desired inclusion, of many genuine aspirants and social organisations. In addition, NGOs and investigative journalists identified dozens of candidates as not genuine victims, but rather, proxies of traditional political parties or even armed groups. The registration of candidates with family ties to well-known victimisers was met with criticism.

In the days leading up to the election, more than a dozen candidates from several CITREPs filed official appeals to postpone the elections and several withdrew their candidacies, citing the lack of basic conditions for campaigning. CITREP candidates found it significantly more difficult to meet requirements than other candidates. They were unable to obtain the insurance policies which are a prerequisite to receiving advances on State campaign funding until very late in the campaign period. The few candidates who did obtain advance funds only received these on the eve of election day. Although private campaign funding is prohibited outside of candidates' own personal assets, some candidates conducted extensive campaigns, which drove suspicions of illicit campaign financing.

Media

Freedom of expression and media freedoms were generally respected throughout the campaign period. However, EU observers reported instances of self-censorship, threats and intimidation of local journalists in Cundinamarca, Atlántico, Antioquia, Risaralda, Arauca, Norte de Santander and Tolima, as well as limitations of freedom of movement for local press due to the hostile environment in Meta and Valle del Cauca. The EU EOM also found that the community radio station in Pailitas, Cesar department, was forced to stop broadcasting on 25 February, due to the armed strike called by the ELN guerrillas.

National print and broadcast media provided regular information to citizens on the electoral process. Interest in the primaries translated into a large number of studio interviews and televised debates between presidential pre-candidates, alongside candidates not participating in the primaries, from across the political spectrum. However, media coverage, notably by national TV stations, prioritised the primaries, somewhat overshadowing the congressional election. In a welcome initiative, some national media broadcast information on different aspects of the process, including voting procedures, while digital media and online editions of national newspapers made commendable efforts in providing detailed information on candidates to the Senate and House of Representatives.

EU EOM media monitoring results⁸ reveal that primaries-related coverage favoured Coalición Centro Esperanza which received 49.7 per cent of airtime on radio and 36.1 per cent of airtime on TV, followed by Equipo por Colombia (26.2 and 27.8 per cent of airtime on radio and TV, respectively) and Pacto Histórico (13.2 and 20.9 per cent of airtime, respectively). In newspapers the distribution of space was balanced, but Pacto Histórico was the coalition which received the greatest amount of coverage in a negative tone: 19.2 per cent. Regarding the Congress race, right-wing parties received the greatest amount of coverage on radio (42.7 per cent of airtime), TV (40.6 per cent of airtime) and newspapers (38.1 per cent of space) against 21.8, 37.1 and 32.3

⁸ Media monitoring started on 13 February and ended on 12 March 2022. Analysed media included Señal Colombia, Canal 1, Caracol TV, RCN TV, Radio Nacional de Colombia, Caracol Radio, RCN Radio, Blu Radio, La W, La FM, *El Tiempo* and *El Espectador*.

per cent of coverage, respectively, allocated to centre parties and 27.5, 20.2 and 24.2 per cent of coverage, respectively, devoted to left-wing parties. Here too Pacto Histórico received the most coverage in negative tones on radio (20.4 per cent of its coverage was negative) and TV (6.2 per cent of its coverage was negative).

According to EU EOM monitoring, Coalición Centro Esperanza made the greatest investment in electoral propaganda both on the radio and TV (29.4 per cent and 20.6 per cent of all paid-for spots, respectively), followed, on the radio, by Centro Democrático (15.5 per cent) and Pacto Histórico (13.4 per cent) and, on television, by Equipo por Colombia (12.3 per cent) and Nuevo Liberalismo (11.6 per cent).

Social media

The EU EOM social media monitoring unit, focused on candidate accounts, did not identify any instances of hate speech or dangerous rhetoric during the observed period.⁹ The mission found that posts by congressional candidates generated a high number of interactions, and that 20 per cent of the users interacting with them displayed characteristics consistent with bots.

During the electoral campaign, the fact-checking organisation Colombia Check¹⁰ reported on just 21 disinformation posts related to the legislative elections and presidential primaries. Eleven of these relayed false information about pre-candidate Gustavo Petro. The mission observed only three of these among the sampled candidates' posts, indicating that so far, there is no evidence of systematic disinformation campaigns.

Candidates are obliged to report all campaign spending to the CNE, including online. In Colombia, Facebook's Ad Library is fully available.¹¹ According to its data, Centro Democrático spent the most on Facebook advertising (75,000 EUR), followed by Pacto Histórico (50,000 EUR) and Nuevo Liberalismo (25,000 EUR). Of the 10 congressional candidates who spent most, seven were from Centro Democrático and three from Alianza Verde. For the primaries, the pre-candidates who invested most were Federico "Fico" Gutiérrez (Equipo por Colombia), David Barguil (Equipo por Colombia), Gustavo Petro (Pacto Histórico), Sergio Fajardo (Centro Esperanza) and Alejandro Gaviria (Centro Esperanza).

Women's participation

According to the preliminary results, 29 per cent of the newly elected Congress members will be women, as compared to 20 per cent in the outgoing Congress. Progress in this respect is similar in both chambers, as well as in the indigenous and Afro-descendant constituencies. However, despite the parity lists, only three women won their seats in the 16 CITREPs.

The Colombian legal framework incorporates the most relevant international principles for the protection of women's rights, and the Constitution was amended in 2015 to introduce the

⁹ EU EOM Colombia 2022 social media monitoring unit document and analyse data from Facebook and Twitter with a sample of social media accounts of a selection of congressional candidates (415) and all presidential pre-candidates, parties, alliances, state agencies and ex-presidents.

¹⁰ <https://colombiacheck.com/>

¹¹ <https://www.facebook.com/ads/library/> (Feb 9 - Mar 10, 2022)

principles of parity and alternation, albeit only through gradual legal reform. The *Ley de cuotas*, the name given to Colombia's Law 581 of 2000, stipulates that at least 30 per cent of senior public positions must be held by women.

Law 1475 of 2011 on political parties, which predates the 2015 constitutional reform and is still in force, introduced a requirement that women make up at least 30 per cent of candidate lists in constituencies with at least five seats – which is the case of under half of the country's constituencies. However, where parties present open lists, this does not necessarily translate into elected outcomes, and where parties present closed lists, the law does not require parties to place women candidates in any particular position, much less alternate between women and men throughout the list. In part for these reasons, women make up just under 20 per cent of the outgoing Congress – 55 of the 279 seats. In 2014, 56 of the 268 seats were won by women.

The 2020 draft election code, still under review by the Constitutional Court, will bring the framework closer to parity, as it requires that lists for more than five possible seats include at least 50 per cent women, and at least 30 per cent for constituencies with fewer than five seats. However, the law does not require alternation or that women head any lists.

Almost 40 per cent of candidates to the Congress in 2022 were women, which constitutes a six per cent increase compared with 2018 legislative elections and overall complies with the minimum participation criteria. Some parties and coalitions committed to greater degrees of parity and alternation in their closed lists to the Senate.¹² Lists for CITREPs must strictly comply with the principle of parity, which is a novelty in elections to Congress.

Women are generally under-represented in election management bodies' decision-making levels. The CNE President is the only woman among 9 magistrates, contrary to the *Ley de Cuotas*. Women made up more than half of all polling station staff.

Participation of Ethnic Minorities

In the most recent national census (2018), 4 per cent of Colombians identified themselves as indigenous and some 10 per cent as black, Afro-Colombian, Raizal or Palenquero. The Constitution recognises ethnic and cultural diversity and protects the rights of ethnic minorities. Their political representation is enshrined in the Constitution, which establishes special constituencies for indigenous populations in the Senate and special constituencies for both indigenous and Afro-Colombian members in the House of Representatives. Thirty-four candidates ran for two seats for indigenous peoples in the Senate and one reserved seat in the House, while 128 Afro-Colombian candidates competed for two seats in the House of Representatives.

EU EOM observers have reported a lack of targeted voter education and materials in indigenous languages. On election day, they also observed a number of instances in which voters were not given the option to vote for the special constituencies, but were only provided with the ballot for

¹² *Pacto Histórico's* list alternates men and women candidates up to the 22nd position and *Nuevo Liberalismo* up to the tenth. *Estamos Listas* presented an almost all-women list, with five men in the last positions.

the ordinary constituency. In fact, on election day, the Registraduría issued a statement reminding polling stations to offer all voters the choice between the different ballots.

Participation of People with Disabilities (PWD)

It is estimated that about 6 per cent of Colombians have some form of disability.¹³ The Constitution enshrines the rights of disabled people, and national legislation obliges the State to adopt the necessary measures for their inclusion. To this end, the Registraduría adopted a series of measures to ensure people with disabilities could exercise their rights, such as guaranteeing their access to polling stations, adapting special voting booths, and offering ballot papers in Braille for visually impaired voters. EU EOM observers reported that most (80 per cent) polling stations were accessible for people with disabilities.

Election day

In most of the country, election day was peaceful, although several events recalled the backdrop of violence, notably paramilitary groups blocking roads in Magdalena (CITREP 12) in a bid to impede voting, as well as the deaths of two soldiers in separate explosive attacks.

Election day was largely orderly and calm. The Registraduría's Infovotantes app, which for the past weeks has provided information on where to vote, was unavailable following high demand overnight and in the early hours of election day, but was soon re-established. Almost all observed polling stations opened on time, and all essential materials were available. EU EOM observers evaluated the performance of polling staff positively in almost all cases. A high proportion of students were among polling staff.

Throughout the day, polling stations were well-staffed, and voting procedures were generally well-applied. In particular the several stages of voter identification were all implemented in all polling stations observed. In 6 per cent of stations observed, the EU EOM noted citizens turned away because they were not registered in that polling station, consistent with earlier reports that some residence changes had not been fully processed.

Some 88 per cent of visited polling stations had adequate conditions to host voting, and the layout in 80 per cent of stations adequately guaranteed secrecy of vote. In 18 per cent of observed cases however, voters' secrecy was not fully respected. Further, in 7 per cent of polling stations observed, the EU EOM recorded indications of vote-buying practices, such as voters attempting to photograph or leave identification on their ballots. Campaign activities were noted around voting centres.

The new, separate ballots increased polling station staff's responsibilities when issuing ballots and in a majority of observed cases, this was implemented according to procedures. However, there was confusion over the different instructions to polling station staff on how to offer the ballots for each of the elections. For Congress, in principle, they were supposed to offer the voter the different options - ballots for the ordinary constituency or for the special indigenous or Afro

¹³ Although Colombia does not have an official register of PWD, according to the most DANE census on this topic, (2005) 2,624, 898 persons (6.1%) referred to having some form of disability.

constituency - while in the primaries, staff was only supposed to offer a ballot if a voter requested it. These guidelines were not always applied correctly, leading to protests from parties and candidates. Throughout the course of the day, measures introduced to support voters through complex voting procedures were applied to varying degrees: in 85 per cent of the polling stations, an instructions poster was placed in the cubicles, but in only 28 per cent of observations were voters offered the guidance book prepared to provide more detailed information on candidate lists, including photographs.

At least two party representatives were present in 32 per cent of polling stations observed, and at least one in 65 per cent. These were able to watch the voting process without undue restrictions in the vast majority of stations observed. Observers from the Colombian civil society MOE were present in 13 per cent of all polling stations visited. EU EOM observers considered the transparency of voting procedures positively in 88 per cent of polling stations observed and evaluated polling staff's performance positively in 82 per cent of polling stations. They considered voters understood procedures sufficiently well in 71 per cent of stations observed.

Closing procedures were also transparent in the vast majority of observed polling stations. At least two party representatives were present in 69 per cent of the observed polling stations, and these were able to observe procedures without undue restrictions, and take photos of results forms. Polling staff made use of tools provided by the Registraduría to facilitate closing procedures, such as the procedural aide-mémoire and the tally form. Contrary to long-standing rumours on the subject, in 91 per cent of observed cases, polling staff marked blank spaces in results forms to prevent later fraudulent changes.

Preliminary results were rapidly published (98 per cent by midnight) and provided a wide range of statistics, including confirmation that the rate of spoiled ballots (votos nulos) had dropped to 4,5 per cent on average in the Senate (from 6.5 per cent in 2018) and 5.2 per cent (from 9.4 per cent in 2018). In the indigenous and Afro-descendant constituencies significantly higher rates of spoiled ballots were recorded. Turn-out remained similar to that of 2018, at 46.5 per cent in the Senatorial election, and 47.5 per cent in the election to the House of Representatives. Turn-out in the CITREPs averaged 34 per cent.

Most E-14 results forms from polling stations (97.8 per cent) were published on the Registraduría website by the close of the night. The web page available to political parties to follow the aggregation of official results foresees a wide range of data and documents to ensure high levels of transparency, including a detailed record of complaints and results for each polling station in exploitable format. The EU EOM will continue to observe the aggregation of official results.

An electronic version of this Preliminary Statement is available on the Mission website
(<http://www.moeucolombia2022.eu>).

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