

European Union Election Observation Mission

Final Report

Presidential Elections

Venezuela 2006

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Table of Contents

1. Executive Summary

2. Mission Background

3. Political Context

3.1. From the 2005 Parliamentary Elections to the 2006 Presidential Elections

3.2. Candidatures and Presidential Candidates

4. Legal Framework

4.1. The Executive Power within the Venezuelan Political and Administrative Framework

4.2. Registration of Candidates for the Presidential Elections

4.3. Electoral Law

5. Electoral Administration

5.1. The Electoral Power

5.2. Procedures for the Selection of the *Consejo Nacional Electoral* (CNE)

5.3. The Current CNE Board

6. The *Registro Electoral Permanente* (REP)

6.1. General Considerations

6.2. Inscription into the Electoral Register

6.3. The Voter Lists

6.4. REP Audits

6.5. The REP in the 2006 Presidential Elections

7. The Electronic Voting System

7.1. General Considerations

7.2. The Voting Machines

7.3. Communications Infrastructure

7.4. The Aggregation System

7.5. The Biometric Voter Authentication System

8. The Media in the Election Campaign

8.1. Media Background

8.2. The Legal Framework

8.3. Media Monitoring

8.3.1. Methodology

8.3.2. General Conclusions of the Analysis

8.3.3. Television

8.3.4. Written Press

8.4. Sanctions

9. The Pre-electoral Context

9.1. Main Pre-electoral Demands

9.2. Voter Education Campaigns

9.3. Training of Voting Machine Operators and Polling Station Staff

9.4. The Election Campaign

9.5. Participation of Public Servants in the Election Campaign

9.6. Institutional Publicity, Pressure, and Use of State Resources

9.7. The Election Campaign Supervision Plan

9.8. Election Observation

10. Election Day

10.1. Deployment

10.2. Polling Station Setup and General Atmosphere

10.3. Campaign Materials and Activities

10.4. Intimidation

10.5. Party Representatives

10.6. Voting Centre Coordinators

10.7. *Plan República*

10.8. The Protocols

10.9. The Fingerprint Readers

10.10. The Voting Machines

10.11. Voter Assistance

10.12. Interruption of Voting Machine Operations

10.13. Closing

10.14. Audit of Closing

10.15. Polling Station Staff's Understanding of Procedures

10.16. Evaluation of the Election Process

11. Regarding the Vote and Participation of Women

12. Regarding the Vote and Participation of Indigenous Populations

13. Appeals and Post-election Complaints

14. Recommendations

14.1. General Considerations

14.2. Legal Framework

14.3. Election Administration

14.4. Electronic Voting System

14.5. The Media

15. Annexes

Annex 1: Results of the 2006 Presidential Elections

Annex 2: List of Audits of the 2006 Venezuelan Presidential Elections

Annex 3: Media Monitoring Statistics and Tables

The European Union Election Observation Mission drafted this report, which presents the conclusions of the Mission that observed the Venezuelan Presidential Elections in 2006. These conclusions have not been adopted or approved in any manner whatsoever by the Commission and must therefore not be considered as a declaration of the Commission. The European Commission does not guarantee the accuracy of the data included in this report nor does it accept any responsibility that could arise from their use.

1. Executive Summary

1. Overall, the 2006 Presidential Elections were held in respect of national laws and international standards concerning electoral administration and the electronic voting system. The high turnout, and peaceful atmosphere in which they were held, together with the acceptance of results by all those involved, represent significant progress as compared to the 2005 Parliamentary Elections. Furthermore, these are powerful arguments in favour of continuing to advance the dialog with political parties and civil society organisations to increase the level of trust for future election processes.

2. The EU EOM applauds the efforts made by the CNE Board, the political parties, and civil society movements in creating sufficient conditions to be able to hold elections accepted by all involved stakeholders. In the development of the election campaign the EU EOM has identified relevant problems in three areas: the existence of strong institutional publicity, unbalanced news coverage by the media, and the participation of public servants in the campaign, be it of their own free will or due to pressure from third parties. Such problems could be overcome if the CNE exercised the sanctioning powers that the law authorises.

3. The EU EOM considers that the suspension of institutional publicity, be it at a national, state or local level during the election campaign, would ensure the strict compliance with existing Venezuelan laws and international election good practices. Additionally, this would put an end to persistent accusations of advantageous treatment and of the use of public resources for the benefit of certain candidates.

4. Despite the clear indications enshrined in laws and electoral resolutions, the great majority of the media, both public and private, did not abide by their obligations, and offered information that was often biased and partisan, in open support for one of the two main presidential candidates. Thereby, the media did not provide the voters with a comprehensive and balanced vision of the different election platforms.

5. The EU EOM believes that the participation of State public servants in campaign activities, as well as the circulation of manifestoes of adhesion of public servants in favour of President Hugo Chavez's candidature, regardless of whether this participation was voluntary or induced, would also be contrary to Venezuelan law itself, and infringes against international election good practices.

6. There is a lack of clarity regarding some election procedures, which could be solved through the approval by the National Assembly of a General Basic Law or with a General Electoral Regulation adopted by the CNE, which could finally establish valid regulations for all processes. Whichever the option chosen, it is crucial that the new legal text should count with the consensus of the country's main political forces, including those without parliamentary representation.

7. The REP was a legally valid instrument, that was accepted by all parties, in the 2006 Presidential Elections. The EU MOE recommends that joint actions be organised by the offices responsible for the civil and electoral register, with the aim of cleaning, renewing and restoring the integrity of the REP.

8. The electronic voting system established in Venezuela is efficient, secure and auditable, and the competence of the technical experts is in line with its advanced technological level. Having said this, and despite the CNE's efforts, throughout Election Day it was observed that numerous citizens, mainly older persons, did not know how to use the voting machine nor the electronic ballot. This phenomenon led to another problem, which was the greater need of assistance on the part of the voters from the Polling Station staff, political party representatives, and members of the *Plan República*, which according to what was reported by EU EOM observers, on occasions compromised the secrecy of the vote.

9. The EU EOM confirms that the fingerprint reading devices (*captahuellas*) neither violate the secrecy of the vote, nor are a source of fraud. Nonetheless, they are not part of the election process *per se*; and some sectors of the electorate have a negative perception of them. Furthermore, their use, on occasions, slowed down the voting process on Election Day. If the decision is taken to continue using these devices, and providing that the mistrust of the electorate and the political forces is overcome, Polling Station efficiency could be improved by extending their use throughout the country, using them to substitute the hard-copy voter lists, and using a really effective indelible ink in order to avoid double voting. This measure should be followed by an extensive public outreach campaign regarding the operation, and purpose, of these machines. It is up to the sovereign Venezuelan authorities to take this decision, assessing its economic cost and the need to provide far more developed technical training to the Polling Station staff.

10. EU EOM observers evaluated the quality of the process positively in 85% of the visited Polling Stations on Election Day. When the process was qualified as "poor" or "very poor", this was attributed only in a minority of cases, to deliberate intent. The evaluation of EU EOM observers indicates that there is a significant margin for improvements in the voting system, in the training of Polling Station staff, and in voter education.

2. Mission Background

Responding to an invitation of the *Consejo Nacional Electoral* (CNE) of the Bolivarian Republic of Venezuela to observe the Presidential Elections of the 3rd of December 2006, the European Union Election Observation Mission (EU EOM) initiated its deployment in the country on the 15th of November 2006.

The Mission led by Monica Frassoni, Member of the European Parliament (MEP), totalled 154 observers from European Union Member States, as well as from Norway and Switzerland. The observers were deployed in 17 States and in the Capital District, to follow and observe the elections. The observation work included the analysis of the pre-electoral political situation, the campaign, voting on Election Day (the 3rd of December), the counting, transmission, and aggregation of results. All of these observation activities were carried out according to: the European Union's established methodology; the "Declaration of Principles for International Election Observation", adopted under the aegis of the United Nations in October 2005; the Regulation for International Election Observation for the 2006 Presidential Elections, adopted by the CNE on the 5th of October 2006; and the Observation Agreement signed by the *Consejo Nacional Electoral* of the Bolivarian Republic of Venezuela and the European Union on the 15th of November 2006. A delegation of the European Parliament, headed Manuel Medina Ortega (MEP) and comprising six other MEP's joined the EU EOM on the 30th of November.

The members of the Mission's Core Team were the following:

Thomas Boserup (Denmark) – Deputy Chief Observer
Antonia Gutierrez (Spain) – Electronic Voting Expert
Maria Helena Alves (Portugal) – Electronic Voting Expert
Paolo Salvia (Italy) – Observer Coordinator
Andrea Malnati (Italy) – Media Expert
Cathy Giorgetti (Luxemburg) – Press Expert
Olivier Dauzon (France) – Legal-Election Expert
Xabier Meilan (Spain) – Political Expert
Pedro Guerra (Portugal) – Operations Expert
Manuel Amarilla (Spain) – Security Expert

The European Union Election Observation Mission remained in the country until the 19th of December 2006 to observe the post-election period. In February 2007, the Mission will send a delegation of representatives to Caracas to present the final conclusions of its observation.

The EU EOM would like to express its gratitude towards the *Consejo Nacional Electoral*, the institutional authorities, political parties, observation groups and Venezuelan civil society for the cooperation and availability that they afforded the Mission during its stay in the country.

For further information on the Mission's goals, participants, activities, documentation, and statements, these can be found on the Mission's Webpage:
<http://www.eucomvenezuela.org>.

3. Political Context

3.1. From the 2005 Parliamentary Elections to the 2006 Presidential Elections

The political context in which Venezuela faced the 2006 Presidential Elections was characterised by a significant reduction in political tension compared to the situation in the country on the eve of the 2005 Parliamentary Elections.

In 2005, the debate on ideas and programmes that is expected of an election campaign was pushed to the background due to the heavy criticism levelled against the lack of independence of the *Consejo Nacional Electoral* (CNE), and demands for improvements in election administration as expressed by the main opposition parties. These opposition parties eventually excluded themselves from the process, in protest against the alleged lack of conditions to hold free and transparent elections.

The CNE was dragging a strong legitimacy crisis since its controversial handling of the 2004 Recall Referendum. On that occasion, those opposed to President Chavez were obliged to reconfirm thousands of the signatures required to call for the referendum, which were not accepted by the electoral authorities due to formal errors. The Recall Referendum was finally held on the 15th of August 2004 and won by President Chavez with nearly 60% of the valid votes.

The following regional elections, held on the 31st of October 2004, together with the municipal and parish elections on the 7th of August 2005 dealt heavy blows to the opposition. It lost an important part of its representation in local institutions amidst rising abstention rates, of approximately 50% in the elections for state Governors, and of 70% in the municipal elections.

In the months prior to the 2005 Parliamentary Elections, opposition political parties and citizen movements incessantly denounced before the nation's public opinion the use of the Tascon and Maisanta lists, as instruments to pressure and intimidate voters. The first of these lists, which takes its name from the ruling party (*oficialista*) member of the National Assembly, Luis Tascon, who distributed it on the Internet, contained the names of voters that had signed in favour of holding the 2004 Recall Referendum. The Maisanta list expanded the information included in the Tascon List, with a larger amount of these voters' personal details. The opposition blamed the CNE of not fulfilling its obligation to safeguard the list of voters in favour of the referendum, facilitating their inclusion into black lists or increasing the risk of voters losing their positions in the State civil service, or their benefits from social welfare programmes.

A few days prior to the elections, the discovery of a flaw in the electronic voting system, which opened up a remote possibility of discovering the direction of a citizen's vote, led the opposition parties to impose an ultimatum on the CNE to withdraw the fingerprint reading devices from the voting process. Although the CNE accepted the request, the opposition parties withdrew from the elections nonetheless, leaving the National Assembly entirely in the hands of parties in favour of the Government. This outcome led the European Union Election Observation Mission (EU EOM) to consider that the 2005 Parliamentary Elections were technically acceptable, but with an abstention rate of 75%, they represented a "lost opportunity" to overcome the fracture within Venezuelan society.

The impending Presidential Elections in 2006 quickly opened up the debate within political parties and society as a whole between those who favoured participation in the upcoming

elections as the only way to start to regain their share of power in institutions and those who were frontally opposed to the existing election ground rules. The latter criticised the partiality of the electoral authority, the bias towards the Government, and in general the lack of real conditions to hold credible elections.

From this debate emerged a shift in political strategy that was adopted by the majority of opposition parties, which consisted in overcoming their own partisan divisions, in order to present a single candidate, capable of contesting the Presidency against Hugo Chavez. For this shift to be successful the parties had to make tremendous efforts to mobilize their potential electoral base, which they themselves had pushed to abstain in the past, through their frontal criticism against the electoral authority and the ground rules that it had established.

The appointment of a new CNE Board in April 2006 was an important factor in the process of regaining trust in the institutions¹. Although appointed by a National Assembly totally dominated by pro-Government parties, the new CNE managed to create election conditions, through a policy of dialog and constant agreements with the parties, which were deemed sufficient by the opposition parties to compete in the Presidential Elections to be held on the 3rd of December 2006. Nevertheless, the CNE's attitude was not capable of totally eradicating the doubts that exist among some sectors of the opposition that still consider it as an institution that is not sufficiently independent from other State powers, as regards the entire election process.

The unity and consensus among parties, and the new CNE's management have been fundamental in the acceptance of the electoral conditions, as has the role of Venezuelan civil society movements. Among the latter, the NGO *Ojo Electoral*, a civil association that has observed all the recent election processes in Venezuela, has stood out above the rest. Its follow-up of all the preparatory phases for the 3rd of December 2006 Presidential Elections, participating as observers in all the phases of the electronic voting system audits, and its continuous contacts with parties and electoral authorities, must be recognised as an important factor for the participation of all actors in the election process.

3.2. Candidatures and Presidential Candidates

The process for the nomination of candidates to the 2006 Presidential Elections began on the 5th of August and ended on the 8th of September, with the resolution of appeals against candidatures. The process concluded with the nomination of 22 presidential candidates, 20 of which were presented by political organisations and voter groups, and two on their own initiative. Eight of these 22 withdrew their candidatures before Election Day.

Based on the number of political organisations that gave their support and public backing, two candidates rose above the rest: President Hugo Chavez, and the Governor of the State of Zulia, Manuel Rosales. The former was backed by 24 political organisations. These included: the *Movimiento V República*, which Chavez belongs to since 1997; the coalition of parties that form the *Bloque Parlamentario del Cambio* in the National Assembly, of which the larger in terms of parliamentary representation are *Patria Para Todos*, *Podemos*, the *Partido Comunista de Venezuela*; and other left-wing political organizations, many of which are not represented in parliament.

Manuel Rosales was the candidate backed by the greater number of organisations, a total of 42, including the *Un Nuevo Tiempo* party, originally a regional party through which he was

¹ For further information on the CNE, please refer to Chapter 5 of this report, Electoral Administration.

elected for two consecutive mandates (in 2000 and 2004) as Governor of the State of Zulia. Most of the opposition parties backed Rosales such as: *Primero Justicia*, *COPEI*, *MAS*, *La Causa Radical*, *Izquierda Democrática*, *Convergencia*, *Bandera Roja* and *Venezuela de Primera*, among others. The most significant absence among the parties that supported him was that of *Acción Democrática*, the traditional Venezuelan social-democrat party, of which Rosales was an active member until the year 2000. This absence was due to the decision to support the call to abstain from the elections, as expressed by the party's Secretary General, Henry Ramos Allup.

Rosales' candidature was the product of consensus among the major opposition parties, which after long debates and consultations with the public chose him as their only candidate on the 9th of August 2006. He was chosen over other potential contenders such as: Julio Borges, of *Primero Justicia*; Sergio Omar Calderon, of *COPEI*; or Teodoro Petkoff, who withdrew their candidatures to support him.

Among the remaining presidential candidates: only Benjamin Rausseo, a comedian known as "*El Conde del Guácharo*", garnered ephemeral attention in the media, until he withdrew from the presidential race on the 15th of November. Rausseo called for his supporters to vote for Manuel Rosales.

Of the seven other candidates who withdrew from the race, six called upon their supporters to vote for Hugo Chavez, and one, Jesus Caldera Infante, candidate of the *NAPO* party, expressed his support for Manuel Rosales. Given that Caldera Infante expressed this support beyond the deadline, ten days before Election Day, the CNE ruled that the votes that he received were to be considered as null votes.

4. Legal Framework

4.1. The Executive Power within the Venezuelan Political and Administrative Framework

As defined in the Constitution of 1999, the Bolivarian Republic of Venezuela is a federal, decentralized State with five national public powers. These are: the three traditional ones (Legislative, Executive, and Judicial), as well as the Electoral Power, which resides in the *Consejo Nacional Electoral*², and the Citizen Power, which is exercised by the Republican Moral Council, composed of the Ombudsman, the General Attorney, and the National Audit Office of the Republic.

The structure of the national public powers extends towards the inferior territorial spheres through the so-called state and municipal public powers, with their own executives (headed by Governors and Mayors), legislative councils, and audit offices.

The 1999 Constitution established six-year mandates for the President of the Republic, and four-year mandates for Governors and Mayors. Additionally, it established the possibility of calling for recall referendums for all these positions once half their respective mandates have expired, and at the request of at least 20% of the voters in their respective constituencies.

The new Constitution of 1999 also lifted the prohibition of running for consecutive re-elections, but maintained the two-mandate limit. For this reason, the 2006 Presidential Elections are the first in which a President runs for immediate re-election, having reached the end of the first mandate.

The President of the Republic is the Head of State and of the National Executive, and has broad competences, including the appointment and dismissal of the Vice President and Ministers, the direction and exercise of supreme leadership as Commander in Chief of the National Armed Forces, and the administration of the National Public Treasury (*Hacienda*), among others³.

4.2. Registration of Candidates for the Presidential Elections

The President is chosen by universal, secret, and direct suffrage. There is one vote per citizen, and the vote is for one single candidate (i.e. without substitutes or candidates for the Vice Presidency). The election system is based on a relative majority; the chosen candidate is the one with the largest number of valid votes in one single round.

Candidates to the Presidency of the Republic can be nominated by political parties, voter groups or citizen associations, or can present their candidature on their own initiative. To constitute a voter group or citizen association, and nominate a candidate, or to present a candidature on one's own initiative, a minimum number of signatures, at least 0.5% of the voters registered in the Electoral Register, is required.

Different political organisations can constitute alliances to present a common candidate, but each organisation maintains its own independent space on the presidential ballot, and the votes of each organisation are counted separately. The political organizations that were unable to obtain more than 1% of the valid votes in an election must compile signatures

² See Chapter 5 of this report, Electoral Administration.

³ See Article 236 of the Constitution of the Bolivarian Republic of Venezuela.

corresponding to at least 0.5% of the voters included in the Register, to legalize their status before the CNE, in the year after the elections, to avoid being legally discarded.

The candidates must all comply with certain eligibility conditions, as enshrined in the Constitution, among which are: being Venezuelan by birth, being at least thirty years old, a layperson, and not subject to any final legal conviction. Furthermore, Article 229 of the Constitution establishes an additional restriction, which had to be clarified by the CNE for the 2006 Presidential Elections with an *ad hoc* regulation. The relevant part of this regulation reads as follows: “Whosoever is in a position of Executive Vice President, Minister, Governor or Mayor on the day of their nomination as candidate or at any moment between this date and that of the elections cannot be elected as President of the Republic”. This Article raised doubts about whether Manuel Rosales could be a Presidential candidate, without resigning, definitively or temporarily, from his position as Governor of the state of Zulia.

Citing a sentence of the Supreme Court of Justice (TSJ) dated 29th of July 2006⁴, according to which those public servants who aspire to be elected to positions different to those which they already had must resign from their previous position, the CNE concluded that Manuel Rosales must resign from his position as Governor, albeit only temporarily. The CNE’s decision was formalised in Resolution 060808-713, which in Article 3 stated that the separation had to be “between the day prior to the nomination and until after the election”.

4.3. Electoral Law

Despite the legal specificities of the Presidential Elections, the Bolivarian Republic of Venezuela is endowed with a legal corpus that regulates all kinds of popular consultations.

This legal corpus comprises: the Law of Political Parties, Public Meetings, and Demonstrations (LPPRM, 1965); the Basic Law of Suffrage and Political Participation (LOSPP, 1998); the Electoral Statute of the Citizen Power (EPPP, 2000); and the Basic Law of the Electoral Power (LOPE, 2002).

The fact that the first two laws mentioned date back to before the 1999 Constitution has led to various clashes with the laws of the so-called “constitutional block” which have had to be solved by the Supreme Court of Justice. In a sentence, of the 18th of November 2002, the TSJ established that regulations approved after the promulgation of the 1999 Constitution, “have a superior value as compared to any pre-constitutional regulations such as those included in the Basic Law of Suffrage and Political Participation, which would only maintain its applicability in matters where it does not contradict the 1999 Constitution or its principles⁵”.

Having said this, the LOSPP is still the legal texts that defines with greatest breadth and detail the procedures that rule the holding of elections in Venezuela, and has determined important particularities of the election processes, such as the progressive automation of these elections, and the guiding principles in the design of electronic voting applications.

The EU EOM had already raised the issue of the existence of this clash of legal regulations in its observation of the 2005 Parliamentary Elections. To date, the CNE has not resolved the issue, forcing it to adopt various resolutions for each election that has been held so far.

⁴ See *Expediente* N° 06-0737, Constitutional Chamber of the Supreme Court of Justice.

⁵ See *Expediente* N° 02-1662, Constitutional Chamber of the Supreme Court of Justice.

For the 2006 Presidential Elections, the CNE adopted ten resolutions that regulated critical aspects of the process, such as: candidate nomination, the position of candidates on the ballots, the regulations for campaign funding, the procedures for the accreditation of political party representatives, and regulations on election campaign publicity and propaganda. Some of these regulations were adopted at a very late stage in the election process, especially the accreditation procedures for party representatives, whose publication was delayed until the 22nd of November (two weeks before the elections). The delays in the definition of procedures could have raised problems for the adequate planning and organisation of the parties that competed in the elections.

There are two alternatives to put an end to this lack of definition, previously observed by the EU EOM in 2005. The first one would be the approval by the National Assembly of a General Basic Law that clearly establishes all the key aspects of the election process according to the new Constitution, and in accordance with international principles and good practices. Alternatively, the CNE could approve a new General Electoral Regulation that would finally, establish valid regulations for all processes. Regardless of the chosen option, it would be crucial that the new legal text count with the consensus of the country's main political forces, including those that lack parliamentary representation.

5. Electoral Administration

5.1. The Electoral Power

The Electoral Power is one of the five autonomous branches of national public power, established by the 1999 Constitution of the Bolivarian Republic of Venezuela. It is exercised by the *Consejo Nacional Electoral* (CNE), which is endowed with organic independence as well as functional and budgetary autonomy.

Among its main functions are the regulation of electoral laws and the resolution of doubts that may arise from these, the management of all types of elections, be they nationwide general elections or local elections, as well as those for trade unions and guilds. It is also responsible for the organisation of the inscription and registration of political groups, the adoption of compulsory directives regarding funding and political-electoral publicity, as well as maintaining and supervising the civil and electoral registers.

The CNE has three subordinate bodies: the National Electoral Junta, the Civil and Electoral Register Commission, and the Political Participation and Financing Commission, each presided by one of the five main members (*rectores*) that compose the CNE.

The National Electoral Junta is responsible for the direction, supervision, and control of the election processes and registers; the regional, municipal, metropolitan, and parish boards, as well as Polling Stations are all accountable to it. The members of all these electoral bodies accountable to the National Electoral Junta are of a temporary nature and are selected by the CNE two months prior to the respective elections or referendums.

The Civil and Electoral Register Commission centralises the information regarding the civil status of physical persons, undertaking the creation, organisation, supervision, and update of the civil and electoral register⁶.

Lastly, the Political Participation and Financing Commission is responsible for the inscription, control, and regulation of the funds of political groups and the funding of their election campaigns.

5.2. Procedures for the Selection of the *Consejo Nacional Electoral*

The Basic Law of the Electoral Power (LOPE) defines the complex procedures for the selection of the five *rectores*, and ten substitutes, whose mandate is of seven years, with the possibility of two additional re-elections.

Firstly, the National Assembly selects the 21 members of the Election Nomination Committee, eleven of which are members of the National Assembly. The remaining ten candidates are nominated by other sectors of society, and are chosen by the aforementioned eleven members of parliament. All of the successful candidates, be they members of the national Assembly or of civil society, must obtain the backing of two-thirds of the members of the National Assembly.

The Election Nomination Committee prepares a list of eligible candidates for the five positions of CNE *rectores*, and their substitutes, among the list of candidates proposed by the Councils of the Faculty of Legal and Political Science of the national universities, which present three candidates, the Citizen Power which proposes nine, and each civil society

⁶ See Chapter 6 of this report: The *Registro Electoral Permanente* (REP).

organisation that nominate 3 candidates each. All the candidates must comply with the legally established criteria: Venezuelan nationals, over the age of thirty, in full possession of their civil and political rights, in possession of a university degree, etc.

Finally, the National Assembly designates the *rectores* and substitutes with the favourable vote of two-thirds of the house. Three of the main *rectores* and six of the substitutes are chosen among the list of candidates nominated by civil society, and the other two, together with the four remaining substitutes among the list presented by the Citizen Power and the Faculties of Legal and Political Science.

5.3. The Current CNE Board

After the approval of the LOPE, in September 2002, the National Assembly was unable to reach an agreement of at least two-thirds of its members for the nomination of the five CNE *rectores*. For this reason, the Constitutional Chamber of the Supreme Court of Justice, invoking the principle of legislative omission⁷, named the five members of the CNE Board, as well as the presidents of its three subaltern organs in August 2003.

After the Recall Referendum in 2004 and the dismissal of the CNE president and one of the CNE *rectores*, the TSJ had to intervene once more to fill both vacancies, one of which was not taken up by one of the previously designated substitutes.

The provisional nature of the CNE Board, the controversy regarding the manner of its appointment, the debate regarding their management of the Presidential Recall Referendum, and repeated accusations of impartiality levelled continuously against it by the opposition, subjected the electoral authority to an intense process of exhaustion, and a strong legitimacy crisis, as well as a loss of trust.

The National Assembly appointed a new CNE Board on the 27th of April 2006, which was entrusted with the organisation of the 2006 Presidential Elections. The new Board is composed of the following five *rectores*: Tibisay Lucena, President of the CNE and of the National Electoral Junta; Janeth Hernandez, CNE Vice President; Sandra Oblitas, President of the Civil and Electoral Register Commission; Vicente Diaz, President of the Political Participation and Financing Commission; and German Yopez.

Although appointed by a National Assembly in which the opposition parties are not represented, the current Board has managed to be perceived as being more technical and impartial than its predecessor. Only one of its five *rectores* is considered as disaffected towards the Government (Vicente Diaz). Through its policy of constant dialog with extra-parliamentary forces and social movements that are active in the field of elections, the CNE has managed to create sufficient conditions for the opposition parties to agree to compete in the 2006 Presidential Elections. Nonetheless, this has not been an obstacle for some sectors of the opposition to continue qualifying the CNE as insufficiently independent from the Executive and Legislative Powers, throughout the election process.

Through dialog with the opposition, the CNE managed to implement significant improvements regarding some aspects of the electoral administration that in the previous elections had served to justify the withdrawal of forces opposed to the Government in the 2005 Parliamentary Elections. Among these issues were: the election of Polling Station staff through a public lottery audited by the political parties; an increase in the number of Polling Stations in which voting receipts were audited (from 47% in 2005 to 54% in 2006,

⁷ See Article 336(7) of the Constitution of the Bolivarian Republic of Venezuela.

percentages which are based on all the Polling Stations in the country); and audits in which political party technical experts and international observer groups were allowed to be present, and where a high degree of consensus was noted among all the involved actors, as regards the proper operation of the electronic voting system.

6. The *Registro Electoral Permanente* (REP)

6.1. General Considerations

Venezuela uses a *Registro Electoral Permanente* (REP) as an instrument to establish the status of the voter, and the eligibility of citizens that participate in national, regional or local elections, as well as referendums or any other form of citizen consultation.

The REP's legal framework is based on the 1999 Constitution, the Basic Law of Suffrage and Political Participation (LOSPP) of 1998, and the Basic Law of the Electoral Power (LOPE) of 2002. These last two basic laws establish that the CNE is responsible for the Electoral Register. The LOPE further establishes that the CNE is responsible for the civil register, and creates the Civil and Electoral Register Commission.

The Civil and Electoral Register Commission is subdivided into three offices: the National Registry and Electoral Office (ONRE), the National Office for the Supervision of Civil Registration and Identification, and the National Office of the Civil Register.

Currently, only the ONRE is fully operational. The Civil Register is still administered by the Ministry of the Interior and Justice through the offices of the parish administration. The ID Cards are managed by the Identification Office of the aforementioned Ministry, better known as ONIDEX. Having said this, there is a link between the ID Card database and the Electoral Register: every 22 days the ONIDEX sends an electronic copy of its ID Card database to the CNE. The goal is to maintain permanent synchronisation between the REP's data and the ID database, to ensure that the ID data is validated and updated.

The ONRE is responsible for maintaining the national voter file, of controlling and updating the inclusion and exclusion of Venezuelan citizens, of eliminating multiple entries for one same voter, of preparing the voter lists, and of elaborating and updating electoral constituency maps. These constituencies are groupings where approximately 1,200 voters reside, who all vote in one same voting centre.

In Venezuela, neither the inscription in the REP nor the exercise of the right to vote are mandatory, but all citizens must be registered as voters in order to be able to vote. As well as the database that contains voters' personal details and their eligibility status, the REP includes a file on all the requests for inscription presented by citizens.

6.2. Inscription into the Electoral Register

All Venezuelan citizens aged eighteen and above, who are not subject to any civil prohibition or political restrictions have the right to vote in elections, and inscribe themselves in the REP according to their place of residence. Foreigners, who have resided legally in the country for over ten years are entitled to vote in those municipal and parish elections, which correspond to their place of residence, in the same conditions established for Venezuelan citizens.

To be inscribed in the REP, citizens must present themselves at an ONRE Update Centre, with their ID Card and a specific application indicating their place of residence.

The REP must contain the following data for every voter: name, surname, ID number, gender, date of birth, nationality, occupation, physical disabilities, an indication of whether they can read and write, address (including the electoral constituency, parish, municipality,

and federal entity), any suspensions if applicable, as well as the voting centre and Polling Station where they are entitled to vote.

This latter information and the indication of whether they can read and write are necessary for the process of selecting voters who are to be members of the electoral bodies and Polling Stations. This selection is carried out through a public lottery for each voting centre.

It is ONRE's responsibility to locate a voter in the electoral constituency that corresponds to the voter's place of residence.

Venezuelan and foreign citizens can permanently register or update the data included in the Electoral Register in any of the 1,233 electoral register and update centres established by the CNE. Moreover, it is ONRE's exclusive competence to locate a voter in the electoral constituency that corresponds to the place of residence.

6.3. Voter Lists

The CNE determines the cut-off date for the Electoral Register, at least six months prior to the elections. This closing date has to be at least ninety days before the polls open. The CNE also publishes the national list of citizens, whose inscription has been cancelled or suspended since the previous election process, detailing the reasons. The national lists must be made available to be verified by citizens in all update centres and offices of the National Registry and Electoral Office.

Upon closing the register, the REP must reflect all the pending updates to publish the legally valid version in the following thirty days. During this thirty-day period, changes can be introduced through appeals presented after the closure date. For these elections, the CNE closed the REP on the 4th of September 2006 and published the final voter list on the 27th of September. The final list included 16,083,986 voters, of which 15,921,223 were Venezuelan nationals, and 162,763 foreign nationals, not entitled to vote in the Presidential Elections.

The ONRE printed the voter lists per voting centre and Polling Station based on this final list, between the 27th of September and the 21st of October. These voter lists include the voter's name, ID number, and three blank spaces to add whether the voter turned up to vote (VOTED/ DID NOT TURN UP), the voter's fingerprint, and signature. The CNE invited political party representatives to audit these voter lists.

The CNE also printed complementary voter lists, which included the names of voters that were not incorporated into the voter lists but who were authorised to vote in each respective Polling Station. This measure was mainly envisaged for the members of the *Plan República* deployed in specific Polling Stations, but that were not technically supposed to vote there. Nonetheless, some of the complementary voter lists also included voters that had changed their place of residence.

The EU EOM was unable to find any regulation regarding these complementary voter lists, and observed that in several Polling Stations, these lists created confusion and mistrust with respect to the official voter lists. The EU EOM suggests that these complementary voter lists be eliminated, or that they be exclusively used for the members of the *Plan República*.

6.4. REP Audits

Prior to the 2005 Parliamentary Elections, the Centre for Electoral Promotion and Assistance (CAPEL) of the Inter-American Human Rights Institute, (IIDH) audited a copy of the REP, dated 7th of May 2005. It concluded that, despite the inconsistencies that should be the object of analysis and possible adjustments, its technical team had not found reasons that would imply the legal invalidation of the REP as an instrument to hold elections.

In the first months of 2006, the CNE invited various universities and the *Instituto Venezolano de Investigaciones Científicas* to organise an audit of the REP with the technical assistance of the Latin American Council of Election Experts (CEELA). For this audit, the Register cut-off date was May 2006, despite the fact that the CNE had still not finalised the process of correcting some of the inconsistencies detected by the CAPEL audit. The conclusions reached by the Universities and CEELA were similar to those reached by CAPEL.

The political parties accepted the results of these audits, as well as the audit of the printed voter lists, in which its technical teams were permitted to participate, and which was carried out based on the REP that was closed on the 4th of September 2006.

Therefore, the political parties assumed that the REP was a legally valid instrument for the 2006 Presidential Elections. Notwithstanding, the REP was still criticised for the existence of deceased persons, and citizens with more than one ID Card, as well as cases of citizens registered at an address different to that of their place of residence, and foreigners (especially Colombians) who were suspected of having fraudulently acquired their ID Cards.

The list of voters over the age of 100 is published on the CNE's Web page, and includes 21.880 cases. In this manner, the CNE is hoping that the relatives of the deceased will request the update of data through the presentation of the corresponding death certificate.

6.5. The REP in the 2006 Presidential Elections

Despite not being explicitly provided for in the LOSPP, the ONRE initiated a process to incorporate voters' fingerprints in the REP. On the cut-off date prior to these elections, over 7 million voters and their respective fingerprints had been included.

The purpose of this process would seem to be the migration towards a completely digitalised civil register, and a passive electoral register, in which all citizens who have reached voting age, would be automatically included into the voter register.

Since 2003, over 2 million new voters have been added to the register, of which a large percentage is composed of young citizens. This figure is considered to be consistent with the current distribution of the Venezuelan population, according to the audits. Nevertheless, the CNE estimates that to date there are over 1 million youths, over the age of 18, who have yet to be registered into the Electoral Register.

The EU EOM observed that many of the problems identified by various civil society organisations regarding the REP stem from the civil register and ID system. For the CNE to win over the citizen trust in the electoral register, the integrity of both of these systems must be guaranteed. To this end, the EU EOM suggests that joint actions be organised by the offices responsible for the civil register, the electoral register, and the ID Card system

to allow to tidy, update, and restore the integrity of the respective databases in a synchronised manner.

The concern regarding organised movements of voters from one electoral district to another is not relevant in a Presidential Election, given that the entire country is considered one single electoral constituency. Nonetheless, the EU EOM suggests that the study and observation of the phenomenon of voter migration be continued, as it could have a significant impact on future election results. The EU EOM also proposes that a specific regulation be designed to give citizens an incentive to keep the details on their place of residence updated in the electoral register, in order to be allowed to vote for the representatives of the electoral district in which they reside.

7. The Electronic Voting System

7.1. General Considerations

The CNE is the body responsible for the management and coordination of the automation of the Venezuelan election system. The legal basis for this process of automation is found in Article 33(42) of the LOPE (2002), and in Article 154 of the LOSPP (1988). Taking into account the fact that this electronic voting system has already been used in the past in Venezuela, in four national elections, and given the effectiveness of the technological platform that was observed during the 2006 Presidential Elections, the CNE has demonstrated its capacity to ensure the technical sustainability and continuous improvement of the system.

The technological platform setup by the CNE incorporates various automated components that support different functions of the election process, such as: the *Registro Electoral Permanente* (REP), voting machines, the aggregation system, communications infrastructure, and the biometric voter authentication system (*captabuellas*). Three of these systems have a direct application on Election Day: the voting machine, which is the instrument through which the vote is exercised and counted at each Polling Station; the communications infrastructure, which supports the transmission of information; and the aggregation system that adds up and adjudicates the results.

The *Registro Electoral Permanente* is used as the basis to obtain the voter lists and to select, by lottery, the members of Polling Station staff. Similarly, the fingerprint readers (*captabuellas*) help to improve the quality of the Register, and other accessory functions of the polling on Election Day. The CNE has also established automated solutions for other aspects of the election process such as candidate registration, the system of alliances, and the accreditation of party representatives, all of which are managed through Web applications.

For the implementation of this electronic voting solution, the CNE relied on various foreign providers, mainly: Smartmatic for the voting machines and the aggregation system, Cantv for the communications infrastructure, and Cogent Systems for the fingerprint reading devices.

In the 2006 Presidential Elections the percentage of voters that voted through electronic procedures rose up to 99.81%. Only 33,014 voters exercised their right to vote manually, both in the country and in the diplomatic delegations of the Bolivarian Republic of Venezuela abroad. The CNE based the decision to establish manual Polling Stations in the country obeying to criteria of demographic density and in specific locations, such as inhospitable areas.

As well as this quantitative improvement, as compared to the 2005 Parliamentary Elections, qualitative improvements have also been observed regarding electronic voting. For example, changes were introduced in the voting machine's application to avoid the probability of reconstructing the voting sequence; changes were also made to the programme installed in the fingerprint reading devices to avoid the sequential transmission of data to the register; and a different code was used for the encryption of data in each voting machine.

For the 2006 Presidential Elections, the CNE created a certifying authority, with two subordinated certifying authorities, one for the transmission infrastructure, and another for the voting machines, in order to generate cipher and signature certificates. Based on the analysis of the electronic system, the EU EOM considers that both the physical security of

the system, backup and contingency plans, together with the logic security, encryption and electronic signature, are defined in conformity with internationally accepted security mechanisms and standards.

In addition, this electronic voting system contains various verification instruments that allow for the identification of possible inconsistencies in the different phases of the polling process and therefore, permits the definition of audit procedures. Among these procedures are included: the watermarked voting receipts, security ink and unique non-sequential identifiers, the voting machines' fixed and extractable memories, the polling protocol, the protocol and votes transmitted to the aggregation centre, as well as the aggregation protocol.

The audit plan defined by the CNE for the electronic voting system was developed during the two months prior to the Presidential Elections (see Annex 2: List of Audits of the 2006 Venezuelan Presidential Elections). External technical experts, presidential candidate representatives, and national observers (*Ojo Electoral*) were present during the audits. The EU EOM was also present during several of these audits; although not with the aim of auditing *per se*, but to carry out its observation mandate.

In general, a good degree of cooperation was observed between the CNE and the external technical experts. However, the technical cooperation was not always accompanied by administrative agility; the CNE's excessive bureaucracy on occasions hindered the fluidity of communications. The lack of a procedure by which the CNE could respond in a timely and formal manner to questions and observations, which could have increased the degree of transparency of the system, was also noted.

The political party technical experts and the observers that participated in the audits contributed to increase the level of trust in the security and transparency of the system, although the conclusions of the audits were not always communicated by the leadership of political parties to the general public or the media during the election campaign. Thereby, doubts persisted regarding the reliability of the system among the citizenry. Having said this, and despite its scarce influence on the campaign, the importance of the political parties' confidence in the system was observed in their acceptance of the results.

The CNE and its providers managed the technical support and monitoring of the voter authentication system as well as the aggregation system and the transmission infrastructure, in real time, and in a centralised manner.

The tests and audits carried out on the electronic system, together with the existence of verification instruments lead to the conclusion that, although the existence of some inadvertent errors cannot be totally excluded, this electronic voting system is effective, secure, and auditable.

According to the analysed documents, and the information provided by those who participated in the audits (CNE, election observers, political parties, and external auditors), the EU EOM considers that the CNE has correctly managed both the logistics of this election process as well as the audit plans, and in general, the technical aspects of the electronic vote.

However, we must also take into account that the success of the electronic system, and the acceptance by voters of the technological change, depend largely on the training of the

persons that work in the Polling Stations and on the procedures that define their functions. Both these issues, although not purely technical, were directly relevant in the perception of the problems that occurred during the setup and polling, which together with the established periods for the resolution of incidents, were the weakest points of the electronic voting system. Nonetheless, these did not seriously compromise the process.

Similarly, the degree of automation of the election processes in Venezuela require a greater effort on behalf of the CNE in voter education and information to avoid the level of undue voter assistance observed on Election Day in the use of the voting machines.

Overall, the CNE managed the automated voting system adequately in the 2006 Presidential Elections, with improvements as compared to that used in the 2005 Parliamentary Elections; it was secure and reliable, despite persistent doubts among the citizenry. Nevertheless, there is still room for improvements in the training of electoral workers, and in the definition of their specific roles and the procedures they are to follow.

7.2. The Voting Machines

The electronic voting system installed in the voting machines performs three main electoral functions: registration of ballots, counting, and transmission. Furthermore, it includes a menu with additional operations for the printing of protocols, the viewing of logs, and component diagnostics. The CNE deployed 32,175 voting machines in Venezuela's 24 states. These machines were of two different types, the SAES3000 and the SAES3300, of which approximately 30% were SAES3300s, which include performance and ergonomic improvements, although both operate with the same software.

The voting machines include two types of memory, the internal fixed memory, and the extractable, USB, memory; two modems (for cell phones and landlines); a network card (LAN/VSAT/FrameRelay); an internal printer; a touch-screen; two PS2 ports, for the electronic ballot and the unblock button; and the Windows XP Embedded operating system. They had no wireless devices.

The ballot is an electronic membrane on which the voter selects his vote, by pressing on an oval situated on the right of the box of the chosen candidature. The unblock button is the peripheral device that the Polling Station Chairperson uses to initiate each voters' voting session.

During the setup of the Polling Stations and on Election Day it was observed that of these elements, those that were most prone to error were the electronic ballot and the internal printer. In the case of the electronic ballot, beyond technical flaws, it was also noted that voters had difficulties in understanding their correct operation. It may have been easier for the voters if the entire box around the candidature could be activated, by pressing on it, and not only the adjacent oval.

The logic security of the voting machines, that is to say their availability, confidentiality, authenticity, and the integrity of the data is based upon standard security mechanisms: synchronisation of files between the internal and external memory, ciphering of data with a unique symmetrical code per voting machine, and electronic signature.

The presence of external technical experts during the audits, and especially in those involving the voting machines, positively influenced the improvement of the verification

process for the electronic voting system through the requests raised before the CNE, and the agreements reached.

This cooperation was reflected, for example, in the use of various software applications for the tests (verification of electronic signature, sequential checks, generation of a library tree and dependants, and the verification of the hardware applications), and in the use of three electronic signature algorithms: MD5, SHA1, and SHA256.

The encryption and signature codes were generated through a code that was shared among the candidate representatives and the CNE. Each one chose their part of the code, and was responsible for its custody. As regards the voting machine, the electoral application was signed, as were the configuration files and the operating system files, which enabled the external technical experts to check the integrity of the software installed in the machines, in various moments of the audit process, by comparing the initial signature with the one generated at that moment.

For the Presidential Elections held on the 3rd of December 2006 the setup of the Polling Stations was initiated on the Friday prior to the election. Voting machine operators and support personnel together with Polling Station staff participated in the setup phase. Their main purpose was to verify the election material and the voting machine.

The setup process proceeded normally, although it was noted that on several occasions, there were unclear definitions as to the procedures to be followed by machine operators and Polling Station staff, as well as a need for a greater level of training to improve efficiency in the development of such procedures. The same conclusion was reached after the observation of proceedings on Election Day, as regards the procedures for the opening, the resolution of contingencies arising during polling, closing, and the transmission of results and audits of closing.

As for the voting centre contingency plans, the operators and technical support personnel were responsible for solving technical problems directly in the Polling Stations with the assistance of various levels of technical support by telephone. Backup material was distributed in collection centres around the country. The deployment of technical personnel to voting centres summed up 13,400 voting machine operators and 1,600 technical support staff.

During Election Day, the most recurrent problems that were observed involved the electronic ballot, and difficulties in efficiently solving incidents through the established procedures, which at times excessively slowed down the delivery time for substitute equipment. Out of the 3,100 supplementary voting machines, the CNE had to use 1,600, together with other items such as ballots and unblock buttons. Manual voting had to be resorted to for 225 machines, for irreversible damage (in 90 machines) or due to the expiration of the delay for replacements, which was established by the CNE in two hours.

All the actors involved in the process put special emphasis throughout the election campaign on the importance of the audit of closing, which consisted in the manual count of the voting receipts produced by the voting machines, as an instrument to verify the election process. The number of Polling Stations that carried out manual counts at closing was increased from 47% in the 2005 Parliamentary Elections to 54.32%. The percentage of audited Polling Stations is unnecessarily large from a statistic perspective; nevertheless, the

CNE considered that it was suitable to increase the transparency of the process, taking into account that it is a public count.

The effort undertaken by the CNE to extend the audit of closing to all electronic voting centres produced a positive result in the sense of improving the electorate's confidence, as well as that of the political class, in the transparency of the electronic vote and in the correct operation of the voting machines. The observed discrepancies between the protocols printed by the machines and the counting of voting receipts were not significant.

In the following audit, carried out on the 8th of December, the CNE once again verified the operation of the voting machines through the recount of the Polling Stations that performed an audit of closing in 1% of the total voting centres, a total of 175 Polling Stations. As in previous audits, presidential candidates' technical experts and election observers were present.

The goal of this audit was to evaluate the discrepancies between the voting receipts and the polling protocol transmitted to the aggregation centre, through the comparison of the data on the voter list, polling protocol and counted voting receipts. As well as identifying the rate of error, the analysis of the causes of such discrepancies would be useful to improve future election processes.

The most frequent cause of discrepancy related to problems with blank votes. Some Polling Station Chairpersons, facing the protests of voters that had issued a blank vote by mistake, decided to consider these blank votes as invalid votes, and allowed the voters to vote again, and to discard the receipt of the previous blank vote. This led to a numeric discrepancy between the voter list, the polling protocol, and the box of voting receipts, as one single voter was registered in the voter list, whereas the same voter was registered twice in the protocol issued by the machine (one blank and one valid vote), and only one receipt was included in the receipt box.

The results of this audit concluded that the rate of error was insignificant; the differences between the receipts and the transmitted protocol were of 0.19%, confirming the efficacy of the electronic voting system.

In conclusion, the audits contributed significantly to increase the reliability of the voting machines, whose weakest elements on Election Day proved to be the electronic ballot paper and the internal printer. The procedures to resolve incidents that appeared did not always respond in an agile manner.

7.3. Communications Infrastructure

The term "communications infrastructure" designates the means of transmission used between the voting machines and the aggregation centres. The fingerprint reading devices used a totally independent transmission channel, and even used a different provider.

The communication between the voting machines and the aggregation centre was based on a dedicated WAN network, provided by Cantv. Taking into account the logistical possibilities of each centre, a direct transmission solution was established between the voting centres and the aggregation system for 89% of the electronic centres, some by cell phone transmission, and others through a landline, with a cell phone line as backup. For the remaining 11%, and as a backup for those centres where direct transmission failed, extractable memories were sent to the contingency transmission centres, from where the

transmissions were made towards the aggregation centre. The CNE had 99 contingency transmission centres operating throughout the country, of which 15 used satellite transmissions.

The security of the transmissions of this infrastructure was based on the authentication at the network level, a white list of permitted telephone numbers, firewalls, systems for the prevention and detection of intruders, and security tunnels between the communications systems and the aggregation centre. Additionally, the transmitted information was ciphered and signed. Both the servers and the WAN links were inactive until they received the CNE's authorisation to initiate transmissions after the Polling Stations had closed. Previously, on the Saturday prior to the elections, the CNE and Cantv had carried out transmission tests and further tests on the Sunday morning.

Within the audit plan, the CNE presented the external technical experts with the transmission network and the different installed security systems. Moreover, this was not really an audit, but rather a presentation of the joint CNE, Cantv, and Conatel (the National Telecommunications Commission) communications project, as the CNE considered that its own technical staff is responsible for the verification and audit of the communications infrastructure.

The CNE defined and certified a white list of cell phones and landlines, as a security system to avoid any external transmissions. The CNE also certified the configuration of the channelling of transmissions by signing it electronically before to the elections, to be able to verify, once the transmissions had concluded, whether any changes had been made without its authorisation.

On Election Day, the monitoring of the communications infrastructure was carried out jointly by Cantv and the CNE -in Cantv's facilities- with the aim of identifying any flaws or contingencies, and thereby be able to plan solutions to potential problems.

The EU EOM has received no reports of problems of any kind as regards the integrity and security of communications between the voting machines and the aggregation centres on Election Day.

7.4. The Aggregation System

The aggregation system receives and stores the polling protocols issued by the voting machines and performs the aggregation and adjudication of results. It is composed of various modules: configuration, alliance changes, reception of protocols and consultation of aggregation results.

All the applications that require user interaction control security issues through permits. The client/server communications are carried out by means of security and encryption standards, using SSL/TSL and certificates with asymmetric 2048-bit codes. As to the physical security, beyond the standard mechanisms of storage redundancy and physical units, the aggregation system is established in two symmetrical aggregation centres.

The primary aggregation centre is the data processing centre that receives all the information from the voting machines and the results processing. The information of the primary centre's database is replicated in real-time in the secondary aggregation centre, which is configured to assume the functions of the primary centre in case of serious contingencies. The existence of a backup centre, as in this system, is one of the most

effective standard physical security measures. The centres must be located at a distance from one another to reduce the probability of being both affected by one same catastrophe, having said this in this case, both centres were located in the city of Caracas and relatively close to each other.

On the day before the Presidential Election, Saturday the 2nd of December, the CNE technical expert team, together with political party experts, revised the configuration of the different units of the aggregation system, and signed them electronically. On Election Day, at noon, these signatures were revised jointly as well, and the CNE President, Tibisay Lucena, generated the certificates for transmission with her code, based on secure protocols.

During the transmission of the polling protocols to the aggregation system, the CNE monitored and administered the operation of all the system's components with the presence of external technical experts, and without being able to access election results. The breaching of the firewall to start receiving transmissions took place once voting had ended, at 16:20. Until 19:00, the transmissions from contingency transmission centres were deactivated. At that point, over 50% of the protocols had been received, and once the first result bulletin was issued, at 21:30, 78% had been received. The presentation of the first results bulletin was also carried out in the presence of political party representatives and observers, and was accompanied, at the request of the external technical experts, with a report on the identifiers of the protocols that were included in this bulletin.

The aggregation system stores registers of all the operations carried out in each module of the system. Specifically, the module for the consultation of results stores all the actions performed by users, and of the protocol reception module in a log. With this log it is possible to monitor all that is taking place in the system without seeing electoral information. As a complement to the direct monitoring in the aggregation centres, the CNE submitted logs of the primary and secondary aggregation centre systems to external technical experts for their subsequent revision, as previously agreed to.

7.5. The Biometric Voter Authentication System

The biometric voter identification system, known as the fingerprint reading device (*captahuellas*), consists of a scanning unit and biometric software that interprets the physical sample and transforms it into a numeric sequence (*minutia*).

The CNE has 12,000 fingerprint readers at its disposal, which are also used as an instrument of the Electoral Register to capture and store fingerprints in the process for the registration and modification of voter data in the REP, in which the ten fingerprints are captured. On Election Day, the reader only captures the fingerprints of both thumbs.

The electronic comparison of fingerprints is not based on the image of the print, but on the minutia that it represents. According to CNE data, this system's rate of error is of less than 1%. During the Election Day, for those checks for which the system did not offer a totally reliable response (a grey area of 1%), and for the validation of negative responses, the CNE relied upon a group of thirty dactyloscopists, as a second level of visual fingerprint verification.

Since the Recall Referendum in 2004, the fingerprint readers have been used in various elections, but without ever having enough machines to cover all the voting centres in the country, therefore the CNE has been rotating them in the different election processes.

For the 3rd of December Presidential Elections, the CNE decided to use the fingerprint readers in 3,028 voting centres in 8 states (the Capital District, and the states of Miranda, Zulia, Tachira, Carabobo, Anzoategui, Monagas, and Apure), based on specific characteristics of high demographic density, their situation along the borders, and rejecting centres with less than 700 voters. The purpose behind this decision was to maximise the massive turnout of voters on Election Day to improve the quality of the register, incorporating biometric data of the largest possible number of voters. This goal was successfully achieved, given that the CNE managed to incorporate new biometric data for a million and a half voters, which added to the fingerprints that the REP already contained prior to the election, sums a total of nine million voters whose biometric data are included in the system.

For these Presidential Elections the fingerprint readers were located at the entry point of the voting centres, as a previous and obligatory step before exercising the right to vote. The procedure defined by the CNE consisted in verifying whether the voter belonged to that specific voting centre based on the ID Card number. If this were the case, the voter would be given a ticket that included the respective Polling Station, as well as the exact location in the voter list (book, page, and line); at this point both thumbs were scanned. According to the CNE, the ticket handed over to the voters helped to organise the queues in the voting centres. Moreover, during Election Day, the EU EOM observed that at times the fingerprint readers slowed down the voting process, generating large queues, partly due to the lack of readers per voting centre or the lack of operators in the early hours of polling.

The fingerprint readers store the voter's data and compare them with the voter database of the voting centre that corresponds to each voter, and whether that person has already voted. Both these functions that the readers carry out are redundant because of the legally established mechanisms in place to identify voters and to prevent multiple voting, such as the voter list and the indelible ink. Although in this case, the EU EOM also observed that the indelible ink did not work properly, proving to be easily washed off.

Furthermore, the fingerprint readers also send the identifier of the ID Card and the fingerprints of the voters that are entering the voting centre to the central server, located at the data processing centre in the *Universidad Bolivariana*. In the central server, the system compares the voter's biometric data with that of the rest of the electorate throughout the country, thus helping to identify irregular situations such as multiple voting.

The server sends out a positive response when the voter's fingerprint is different to that of voters that have previously voted and corresponds to the data linked to the ID Card. On the contrary, if the system response is negative, due to different possible reasons: nationalised persons previously registered as foreigners, with two entries in the REP; persons who presumably have more than one ID Card, by comparing the data with data captured in previous elections, or the use of various ID Cards in the 3rd of December elections; and alleged impersonations to obtain multiple votes.

The analysis of the system's negative responses offer the CNE the possibility to study the irregularities that have occurred with the aim of taking specific measures depending on each case. Although the system produces a negative response, this does not imply that the voter will not be allowed to continue and access the Polling Station. If the voter list does not indicate that the voter has already voted, the voter will be allowed to cast a ballot.

The transmission between the fingerprint readers in voting centres and the REP was carried out through by satellite through a network of antennas deployed for the occasion, and different from the communications infrastructure used by the voting machines.

The CNE included in its audit plan, activities regarding the fingerprint reading system, which allowed the external technical experts to analyse part of the application. More specifically, the experts were able to observe the code signature and configuration of the machines installed in the voting centres. As regards the fingerprint reader system, the external technical experts noted a lesser degree of technological transfer between the provider corporation and the CNE's technical staff, than in the case of the voting machines and the aggregation system. This was principally due to the fact that Cogent Systems is the proprietor of the biometric comparison software.

The fingerprint readers raise doubts and fear among the population, based on the perception of a possible control by the authorities that could bring about negative consequences for their personal and working life. A fear exists in some sectors of the population that the fingerprint readers allow for the reconstruction of the voting sequence and thereby violate the secrecy of the vote, but this fear is unfounded. Taking into account the information provided by the CNE, political party technical experts, and observer groups that participated in the audits, the fingerprint readers neither allow for the reconstruction of the voting sequence nor violate the secrecy of the vote. The reason being, that the fingerprint readers store the data locally in a random manner, and the transmission of data is unrelated to the voter sequence, and there is no telematic connexion, of any kind, between the fingerprint reader and voting machine.

Therefore, the EU EOM confirms that the use of fingerprint readers neither violates the secrecy of the vote nor opens up the possibility of fraud. Moreover, the readers are not truly part of the electronic voting procedure established by law. Besides, during Election Day it was observed that part of the electorate has a negative perception of the system and that at times it slowed down the voting process, generating large queues. In these elections, the main function of the fingerprint readers was the improvement of the electoral register, and this function, does not apparently have any direct relevance on the exercise of the right to vote.

Taking into account that fingerprint readers could be used to identify voters, to validate their right to vote, and to verify that they only vote once, should the CNE decide to continue using them in future elections, it could fully integrate them in the voting process, as long as it has sufficient machines to deploy to all electronic voting centres and providing that the mistrust of the electorate and the political forces is overcome. In this manner, and through the gradual automation of the entire election process, as established in Venezuelan law, the efficiency of the Polling Stations could improve using the fingerprint readers to substitute the hard-copy voter lists, and using an effective indelible ink to avoid multiple voting. This measure should be followed by a broad reaching public outreach campaign to inform about the operation of these machines.

This decision corresponds to the sovereign authorities of Venezuela, taking into account the economic cost of investing in new fingerprint reading devices, and the need to provide a far more advanced degree of technical training to Polling Station staff, who should know how to handle a far more complex device than that which exists at present.

8. The Media in the Election Campaign

8.1. Media Background

A varied set of media with near national coverage is available in Venezuela. The majority of the media are privately owned. Antitrust legal regulations ensure that large corporations do not dominate the market.

Four main private television channels broadcast openly: *Venevisión*, *Televén*, *RCTV* and *Globovisión*. The latter is a news channel that broadcasts 24-hours a day, whereas the others are more focused on entertainment. The three main newspapers are: *Últimas Noticias*, a popular tabloid, that enjoys the largest readership in the country, *El Nacional* and *El Universal*, both in broadsheet format and critical with the current Government. *Unión Radio* is the largest chain of radio stations and covers the entire country. One of its four stations is dedicated to news, whereas the other three broadcast music and entertainment programs.

The State owns the *Venezolana de Televisión* (VTV) television channel, the educational television channel *Vive TV*, and *Telesur*, a Pan-American 24-hour news channel, as well as the *Radio Nacional de Venezuela*, radio station.

8.2. The Legal Framework

The 1999 Constitution, in Article 57, recognises freedom of expression and prohibits censorship and messages that incite violence. The following article, Article 58, recognises the right of Venezuelans to opportune, true, and impartial information.

An Ethical Code (1976) establishes the basic principles for the practice of journalism. The Law on the Practice of Journalism (1994) regulates journalistic activities and bestows the National Journalists Association with the right to supervise its fulfilment. The Law of Social Responsibility in Radio and Television (2004) regulates the contents of the electronic media, establishing three daily time-frames and setting limits on contents for each one of them, as well as different quotas for national productions.

Two legal instruments, the Basic Law of Suffrage and Political Participation (1998) and the Regulation on Publicity and Propaganda in the Election Campaign (31st of July 2006)⁸, have defined the nature of the political parties' access to the media during the campaign for the Presidential Elections of the 3rd of December.

Among other issues, the regulations adopted by the CNE⁹ state that: "The media, both public and private, shall offer comprehensive and well balanced news coverage of all newsworthy items related to the election campaign. To this end, they will observe a rigorous balance regarding the space and hierarchy of information regarding the activities carried out by all candidates, political organisations, and voter groups nationwide".

These regulations are also very clear in prohibiting the "incorporation of any type of propaganda and electoral publicity, in favour or against any political organisation or presidential candidate, in the information regarding public works, and in official messages and statements"¹⁰. In this sense the Basic Law of 1988 does not seem to leave much room for interpretation: "Within the period of any of the election campaigns foreseen in this

8 *Normas sobre publicidad y propaganda de la campaña electoral para la Elección Presidencial Diciembre 2006*.

9 *Ibid*, Article 18.

10 *Ibid*, Article 20(4).

Law, the national, state, or municipal governments will not be allowed to publicise or make propaganda in favour or against any individual or organization for election purposes and shall be limited to purely informative programs. [...] The *Consejo Nacional Electoral* shall take the pertinent measures to prevent or put an end to deviant or interested interpretations of this provision. The ministries, autonomous institutes, State companies, or those in whose capital the State has a determinant participation, and all other organs of the National Government, or of the state or municipal governments, cannot make propaganda that could influence the voters' decision".¹¹

Despite the fact that both the Basic Law and the CNE's regulations contemplate sanctioning measures in cases of non-compliance with the regulations regarding publicity and propaganda, the CNE, as we shall see later on, did not exercise these powers strictly. This could be either because its Board did not reach a majority vote in favour of sanctions, or because it did not act of its own initiative, estimating that the strong institutional publicity that was observed during the election campaign and the pre-electoral period, did not promote any one candidate.

8.3. Media Monitoring

8.3.1. Methodology

The EU EOM monitored a sample of Venezuelan media to determine the extent of their compliance with regulations on the election campaign, and to evaluate whether their coverage was fair and balanced. The analysis methodology used in this case is the same that is normally followed by the European Union election observation missions, and which has been defined and established by the European Commission¹².

Six media monitors were trained to measure the time and space allocated in the media to the political actors (parties and candidates, but also the President, the Executive and Legislative Powers, and the regional and local governments). The monitors were also required to note the tone (negative, neutral, or positive) used by the media when reporting on political actors. The media sample included 5 open-air television channels (*RCTV*, *VTV*, *Televén*, *Venevisión*, and *Globovisión*) as well as six newspapers (*Últimas Noticias*, *El Nacional*, *El Universal*, *Vea*, *El Nuevo País*, and *El Mundo*), all of which were selected among the national media with the greatest following. These media outlets were monitored between the 16th of November and the 1st of December. The media monitoring was carried out during the hours of maximum audience (6 hours a day, from 18:00 to 00:00).

8.3.2. General Results of the Analysis

Some of the conclusions are relevant in general to all the monitored media:

- Despite the clear indications included in the laws and relevant electoral resolutions, the great majority of the media, both public and private, did not comply with their obligations, offering information that was often biased and partisan, and openly supporting one or another of the main presidential candidates. As a result, they did not provide the voters with a balanced or comprehensive vision of the different election platforms of the various candidates.

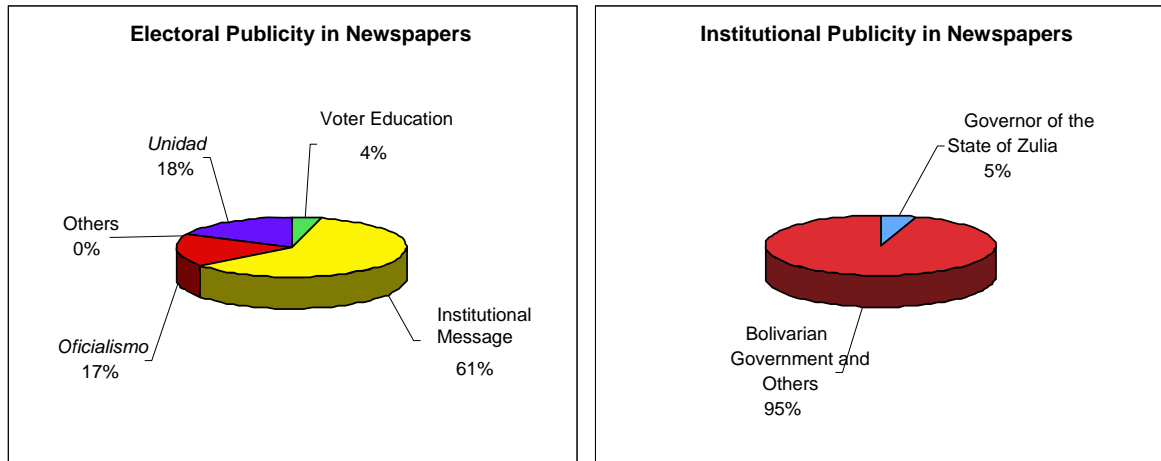
¹¹ Basic Law of Suffrage and Political Participation (1998), Article 210.

¹² See

http://ec.europa.eu/comm/external_relations/human_rights/eu_election_ass_observ/docs/handbook_es.pdf

- The excessive resort to various forms of institutional propaganda (publicity paid by a State institution, such as a Ministry, a public corporation or regional or local authorities) played in favour of the President and candidate, Hugo Chavez's campaign. To a much lesser extent, the EU EOM also noted the existence of institutional information, in the State of Zulia, in favour of the governor of that state, and presidential candidate, Manuel Rosales.

The following graphs respectively illustrate the incidence of the “institutional messages” (61%) in the total of election publicity bought in newspapers, and the difference (of 19 to 1) between the messages perceived to be in favour of Hugo Chavez (95%) and those in favour of Manuel Rosales (5%).



- The CNE has not taken the sanctioning measures that it is endowed with by law¹³ to modify this situation, even when the *rector* responsible for the media, Vicente Diaz, publicly declared on the 28th of November 2006 that the news coverage on the State channel, *VTV*, was largely unbalanced in favour of candidate Hugo Chavez. It must also be noted that this conclusion was not formally confirmed by the CNE Board, and has not brought about any sanctions.
- On the other hand, the EU EOM took note of the drastic reduction of the Presidential *cadenas* (statements issued simultaneously on all channels) and the temporary suspension of the *Aló, Presidente* television program during the election campaign, which disappeared totally from the media during the EU EOM's presence in the country. This fact represents a positive advance as compared to the situation observed in 2005.

8.3.3. Television

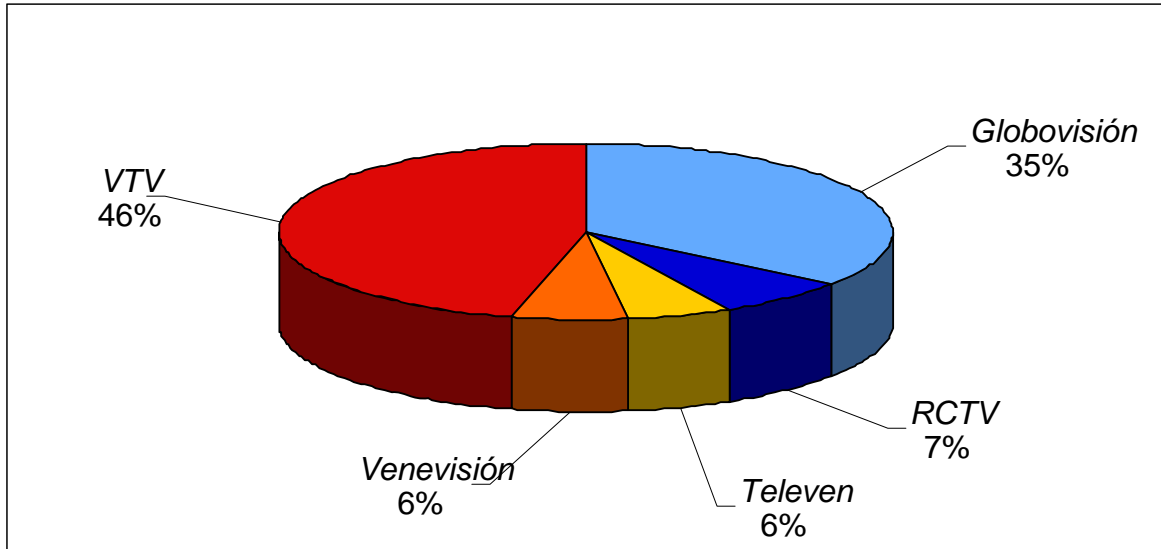
The results of the EU EOM media monitoring clearly show the extreme polarisation of the open-air television channels that were monitored.

It is worth highlighting that those channels that devoted greater time to political information were noticeably the State television channel, *VTV*, and the privately owned *Globovisión*, while *RCTV*, *Venevisión*, and *Televén* devoted far less time to political information. This difference was slightly reduced in the final days of the campaign, when the latter two channels broadcast special programs on the last interventions of both main

¹³ Regulation on Publicity and Propaganda in the Election Campaign, Chapters V, VI, and VII.

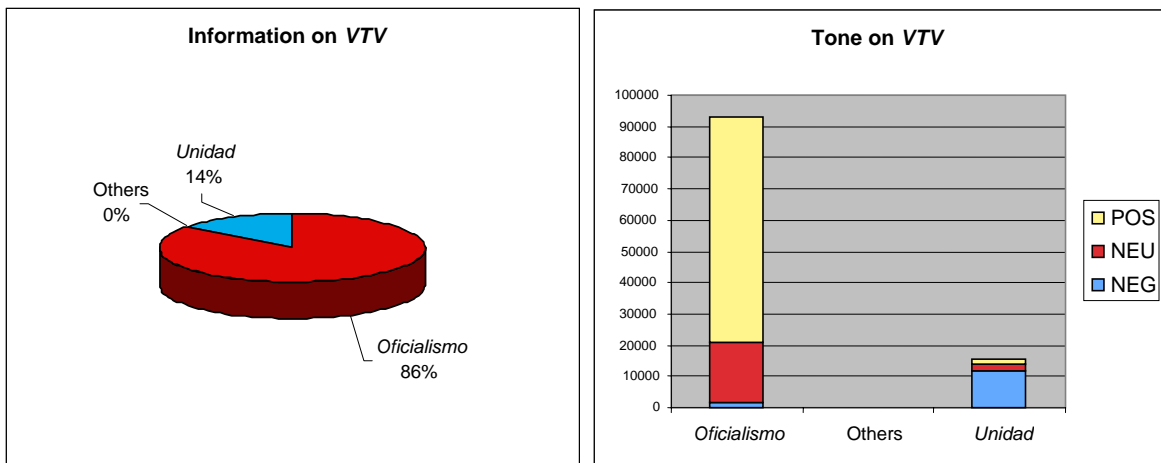
candidates, especially President Chavez’s interview on the Thursday before the end of the campaign period, which was transmitted live on four different channels.

Political Information by Television Channel



VTV devoted 86% of its political information time (excluding publicity) to the position of the *oficialista* candidate and the tone of this information was predominantly positive (nearly 80%), whilst the coalition *Unidad* and its candidate Rosales received only 14% of that same television channel’s airtime, and in a predominantly negative tone (over 70%).

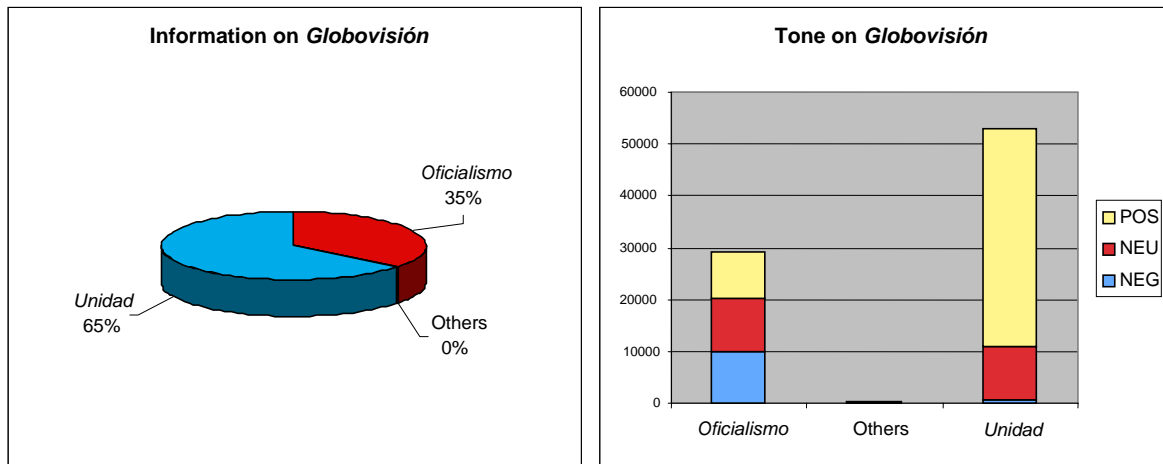
Quantity and Tone of Political Information on VTV



On the other hand, *Globovisión* and *RCTV*, the two main private information television channels, show the opposite situation.

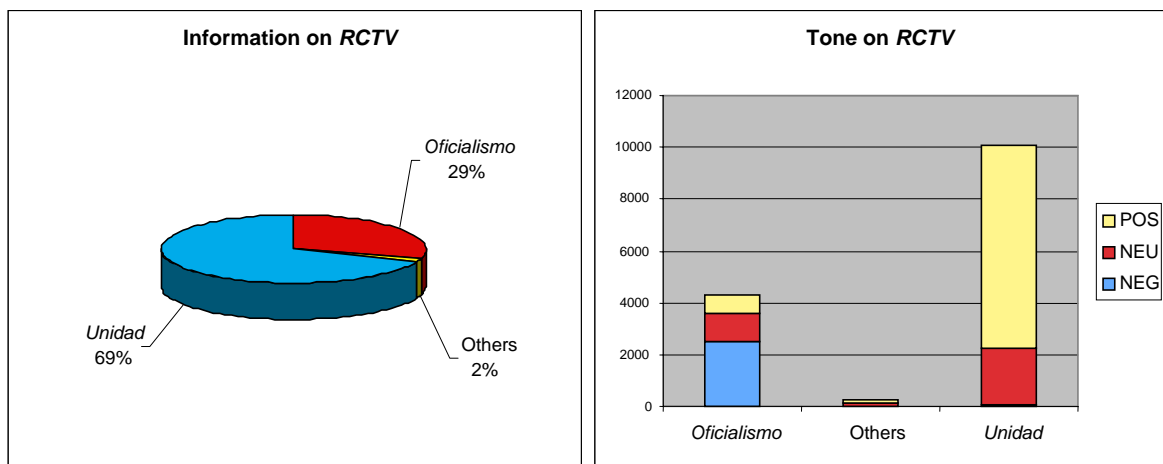
In *Globovisión*, Manuel Rosales' candidature received 80% of the political information coverage, as opposed to 35% for President Hugo Chavez, and the tone was equally biased: 80% of Rosales' airtime was positive (and only 1% was negative), while over one third of the airtime for Chavez was negative.

Quantity and Tone of Political Information on *Globovisión*



On *RCTV*, the *Unidad* coalition obtained 69% of the airtime, and in a generally positive tone (77%), whereas the *oficialismo* candidature obtained 29% of airtime, over half of which (58%) was negative.

Quantity and Tone of Political Information on *RCTV*



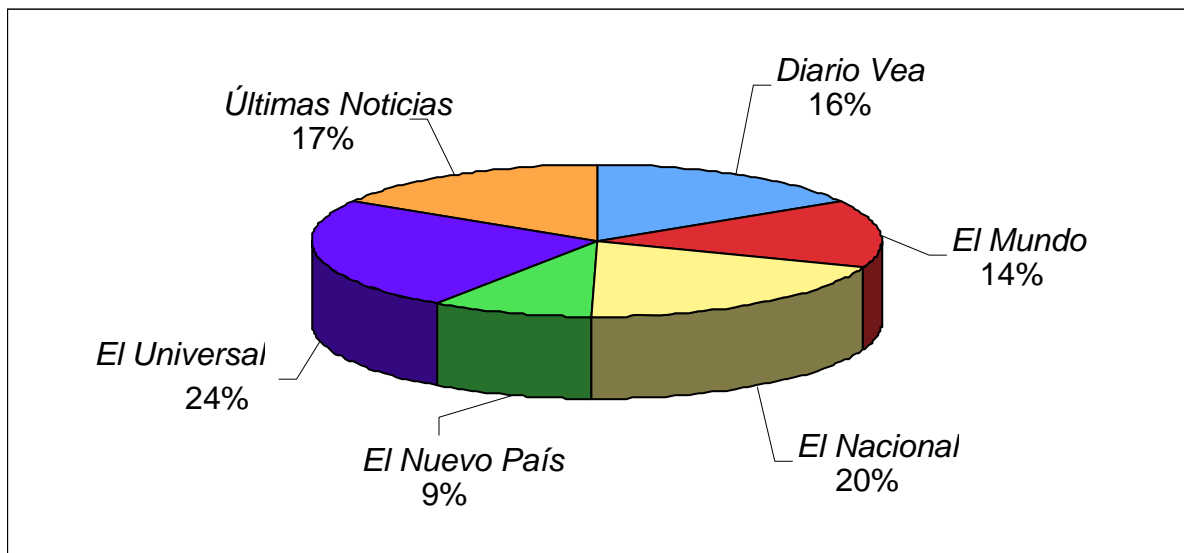
The tone of the coverage on *Televén* and *Venevisión* was generally not very critical with either of the leading coalitions, but, from a quantitative point of view, both openly favoured the *oficialista* position (for the graphs on these television channels, see Annex 3: Media Monitoring Statistics and Tables).

Venevisión devoted 84% of its political information to the *oficialista* position, and only 16% to the *Unidad* coalition, whereas *Televén* gave 68% of its political information coverage to Chavez's coalition, and 32% to Rosales'.

8.3.4. Written Press

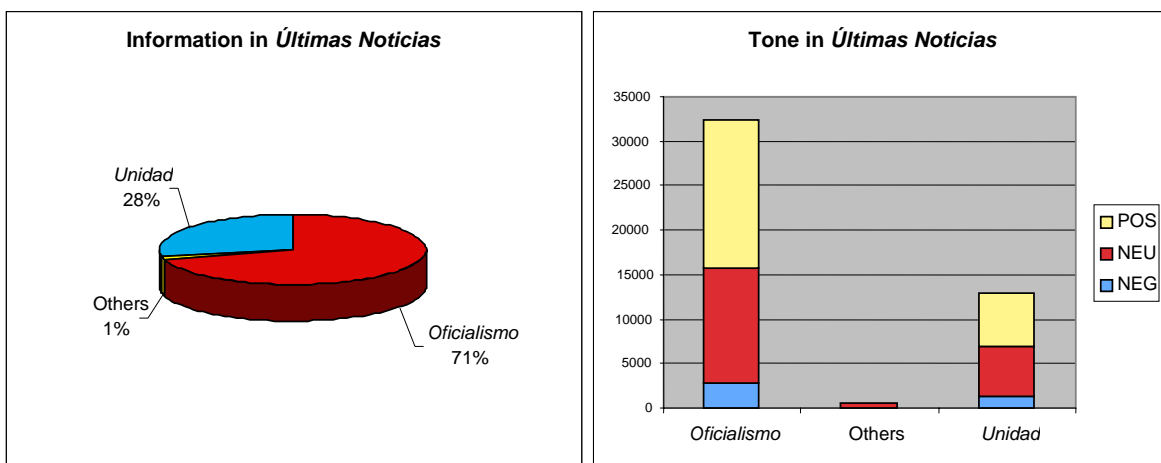
Among the analysed newspapers, *El Universal* was the one that devoted greater space to political information, followed by *El Nacional*, *Últimas Noticias*, *Vea*, and *El Mundo*. *El Nuevo País* was the newspaper that gave less space to this matter.

Political Information per Newspaper



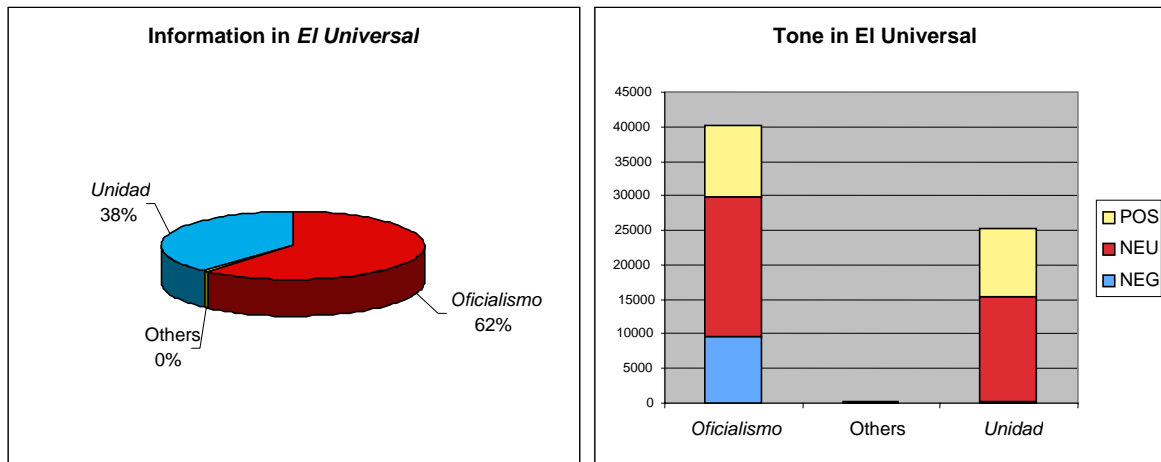
Últimas Noticias stood out for its positions in favour of the *oficialismo* candidate (71% of the space devoted to political information, and predominantly in a positive tone), but it did not express an excessively critical position against the opposition candidate (only 10% of the space that it offered this political option was negative).

Quantity and Tone of Political Information in *Últimas Noticias*



El Universal devoted more space to the *oficialista* position but a quarter of this space was critical, whereas the *Unidad* coalition only summed up 1% of negative space.

Quantity and Tone of Political Information in *El Universal*



El Nacional dedicated 35% of its space to the *Unidad* coalition, and 65% to the *oficialista* coalition, although one third of this was of a negative tone.

El Nuevo País, devoted 39% of its political information to Rosales' coalition and 60% to Chavez's, but 45% of the space devoted to the *oficialista* candidate was of a negative nature.

Vea is the newspaper whose political affiliation was most obvious, in favour of President Chavez. The President, and candidate, obtained 85% of the political coverage (practically always of a positive or neutral tone), whereas Rosales only managed 15% (of which 80% was negative).

El Mundo characterised itself as being the most balanced newspaper during the last weeks of the campaign. It dedicated 58% of its coverage to the *oficialista* position, of which 60% was neutral, 28% was positive, and 12% was negative. Rosales' *Unidad* coalition obtained 42% of the space, of which: 4% was negative, 45% was neutral, and 51% was positive¹⁴.

8.4. Sanctions

It must be noted that the electoral authorities initiated an administrative inquiry to clarify a possible violation of electoral regulations by the *Telesur* television channel, which is partly owned by the State. *Telesur* broadcast the results of a survey before the CNE had communicated its first election result bulletin on the 3rd of December, Election Day. In a statement made on the 8th of December the CNE *rector*, Lucena, declared that the administrative inquiry initiated against *Telesur* was still under consideration, following strictly what is established in the Constitution and laws. She added that a sanction¹⁵ was possible if it was determined that the channel had breached a regulation. Such a sanction was never implemented.

¹⁴ The graphs for these last four newspapers are to be found in Annex 3 of this report, Media Monitoring Statistics and Tables.

¹⁵ Regulation on Publicity and Propaganda in the Election Campaign, Article 35: "[...] those media that broadcast information regarding the election process during Election Day, in the times established for polling, and until that time that the *Consejo Nacional Electoral* establishes through a special resolution to this effect, shall be sanctioned with a fine equivalent to one thousand five hundred (1,500) to three thousand (3,000) tax units".

In general, it would be recommendable that the CNE assume a more active and effective role to ensure the respect of the clear indications established in electoral laws and resolutions regarding the activities of private and public media, as regards the “coverage of information of newsworthy items relating to the election campaign”, which should be “balanced and comprehensive”.

Furthermore, the suspension of institutional publicity, be it at the national, state or local level during the campaign period should, in the EU EOM’s opinion be a guarantee of the strict compliance with existing Venezuelan laws and international election good practices,. Similarly, this could put an end to the persistent accusations of favouritism and of use of public resources in favour of certain candidatures.

9. The Pre-electoral Context

9.1. Main Pre-electoral Demands

In the week prior to the Presidential Elections the opposition parties raised the possibility of not acknowledging the election results if the CNE did not honour a series of demands that it had explicitly agreed to with parties and national observers. Miguel Rosales' campaign team presented these petitions to the EU EOM, which could be summed up within the following six demands: training and accreditation of all voting centre staff selected by public lottery; the guarantee that party representatives, duly accredited by their parties, would be accepted in all electoral spaces, including the CANTV transmission room; the aggregation of voting receipts in pre-selected Polling Stations and according to the agreed selection procedures; the communication of election bulletins including the identification codes and number of protocols on which they are based; the closure of all voting centres as of 16:00 of the 3rd of December, if there are no longer any voters waiting to vote; and the subjection of the *Plan República* to the electoral authorities as opposed to the Executive.

Due to their own nature, none of the requests formulated at that moment by the opposition could be duly verified until Election Day, the 3rd of December. The threat of not acknowledging the election results generated some degree of tension, resurrecting the spectre of the events that surrounded the 2005 Parliamentary Elections, when opposition parties withdrew from the elections.

The CNE assured the EU EOM that all these demands would be fulfilled, including the most awkward one –the access to the CANTV transmission room in Caracas, to which the CNE had previously denied access to alleging the high “operational stress” that would be experienced in this room during Election Day. On the 3rd of December, the EU EOM deployed one observer to the aforementioned room, where other international observers (OAS), national observers (*Ojo Electoral*), and party representatives were also present. As regards the role of the *Plan República*, the CNE clarified their role in *cadenas* broadcast on the days prior to the elections. In general, the CNE complied with all of the opposition's demands¹⁶, which in turn accepted the election results, just a few hours after the end of polling.

9.2. Voter Education Campaigns

For the 2006 Presidential Elections, the CNE developed numerous public information outreach campaigns through the media, its Webpage, and in public spaces such as shopping malls and underground railway stations, which were dubbed electoral fairs.

These electoral fairs operated as information points where visual materials were distributed explaining the electronic voting system and all the election procedures related to the exercise of the right to vote. Samples of the electronic ballot were also distributed. In some shopping malls, and up to two weeks prior to the elections, voting machines, operated by CNE operators, were installed, to acquaint the citizens with their use.

Political parties also contributed positively in mobilising the electorate, as opposed to what had occurred during the 2005 Parliamentary Elections, by cooperating to improve the information and trust of voters in the electronic voting system.

¹⁶ The six demands are dealt with in detail in Chapter 10 of this report, Election Day.

The media also assigned airspace for the CNE organised voter awareness campaign. Some written media also informed their readers, primarily through adverts inserted by the CNE (*Diario Vea*, *El Nacional*, and *El Mundo*), whereas others combined the Electoral Power's publicity campaign with informative articles on the voting process (*El Universal*, *Últimas Noticias*, and *El Nuevo País*).

Television, being the media outlet with the greatest coverage, was the main source of voter education, through the *cadena*s broadcast by the CNE, as well as specific publicity and election information. It is interesting to note that of all the television channels monitored by the EU EOM, the State-owned channel *Venezolana de Televisión* (VTV), followed by *Globovisión*, were the those that offered the greatest amount of information to voters, with various *cadena*s, CNE publicity, special features on the elections, news programmes, which corresponds with its special responsibility as a State-owned channel. On the other hand, *RCTV*, *Televén*, and *Venevisión* limited voter education almost exclusively to the CNE's *cadena*s.

In terms of content, the CNE's *Haz democracia* information campaign was broad reaching and massive, including publicity in national and regional written press, as well as television and radio with messages calling for citizen participation on Election Day. Additionally it stressed the importance of the vote, the reliability of the electronic voting system, the secrecy of the vote, and invited citizens to attend electoral fairs and public training sessions, as well highlighting the simplicity of the voting system. Despite all this, within the media outlets themselves, institutional voter information was often mixed with opinions and disinformation from various political actors and civil society organisations, which led to confusion and controversy regarding the electronic voting system, and especially the legitimacy of the fingerprint readers.

Despite this effort to promote and demystify the electronic voting system, the EU EOM observed that during Election Day many citizens, especially older persons, but also some younger ones, did not know how to use the voting machines or the electronic ballots. This phenomenon led to a further problem, which was the greater need for assistance required of Polling Station staff, party representatives, and members of the *Plan República*, which on occasions compromised the secrecy of the vote.

9.3. Training of Voting Machine Operators and Polling Station Staff

EU EOM members observed that many of the problems that arose regarding the voting process on Election Day were due to vaguely defined procedures and, in many cases, insufficient training of Polling Station staff and voting machine operators, which were unable to compensate for the deficiencies in the procedures.

The automatic voting system implanted in Venezuela requires that the Chairperson or at least one of the Polling Station staff have a minimal understanding of the technology that is being used. This greater degree of training would avoid doubts raised regarding technical problems, and could even facilitate the solution of simple problems, avoiding unnecessary delays.

Polling Station staff was selected by means of a public lottery from the list of voters registered in each voting centre that could read and write. Generally, they received their accreditation upon completing the training session. Nonetheless, some Polling Station staff obtained their accreditation when they turned up on the day established for setting up the Polling Stations, and received basic training at that moment. In some cases, the accreditations were handed out on Election Day itself, during the opening of the voting

centres. Once a person has been selected as part of a member of a Polling Station, the CNE should hand over the accreditation when the person turns up to the respective duty station, regardless of the training received.

Voting machine operators are responsible for a maximum of four machines in a voting centre. These operators received a specific training session and a further recall session that should allow them to solve those problems of the automatic system that are considered to be basic, according to the procedures defined in the Manual of Activities of Voting Machine Operators.

If the operator is unable to solve the problem that has arisen with the voting machine, resort can be made to the technical support staff, each of whom assists ten operators. These technicians receive a more technical training session, and follow the procedures laid out in the Manual of Activities of Support Technicians.

The training for voting machine operators and technical support staff is organised by the CNE, but their contract is with the voting machine provider. Having completed their training sessions, they must pass an examination.

However, and as in the case of Polling Station members, there are incomplete details in the respective manuals for operators and support technicians that do not seem to have been accounted for in the training programmes. EU EOM observers witnessed large delays, of over two and three hours, while the maximum delay established to solve a technical problem prior to initiating manual voting was of 120 minutes. The procedures indicated that if the operator could not solve the problem that appeared in the operation of the voting machine within thirty minutes, the support technician had to be called in, who in turn had ninety minutes to solve the problem.

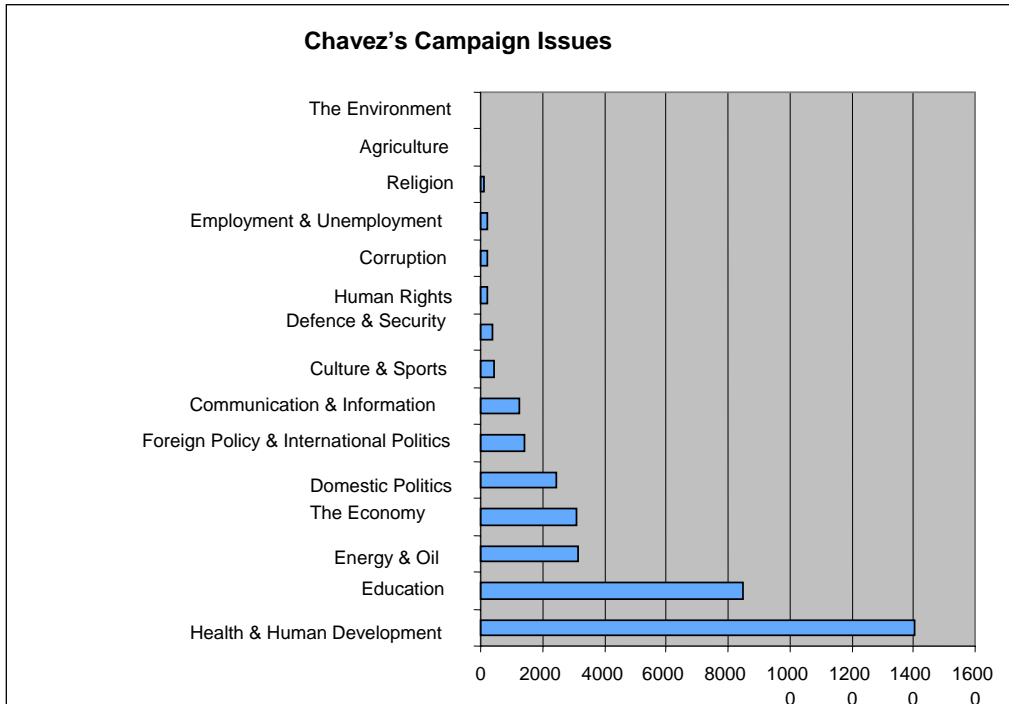
9.4. The Election Campaign

The election campaign for the 2006 Presidential Elections started on the 1st of August and lasted 123 days until the 1st of December at 06:00. The election campaign was typical of a presidential election. The main candidates visited the country's most important cities, holding massive rallies, with a large display of publicity in mass media, with posters, messages broadcast by megaphone, and the distribution of clothing bearing party symbols.

In general, the campaign turned out to be peaceful, except for some isolated accusations of attempts by national or local authorities to hinder public acts, or aggressions against party leaders, especially Manuel Rosales. The EU EOM was present at the closing of the campaigns for both main candidates in Caracas, and witnessed the enormous mobilisation of supporters in both cases, which took place in a peaceful and festive atmosphere.

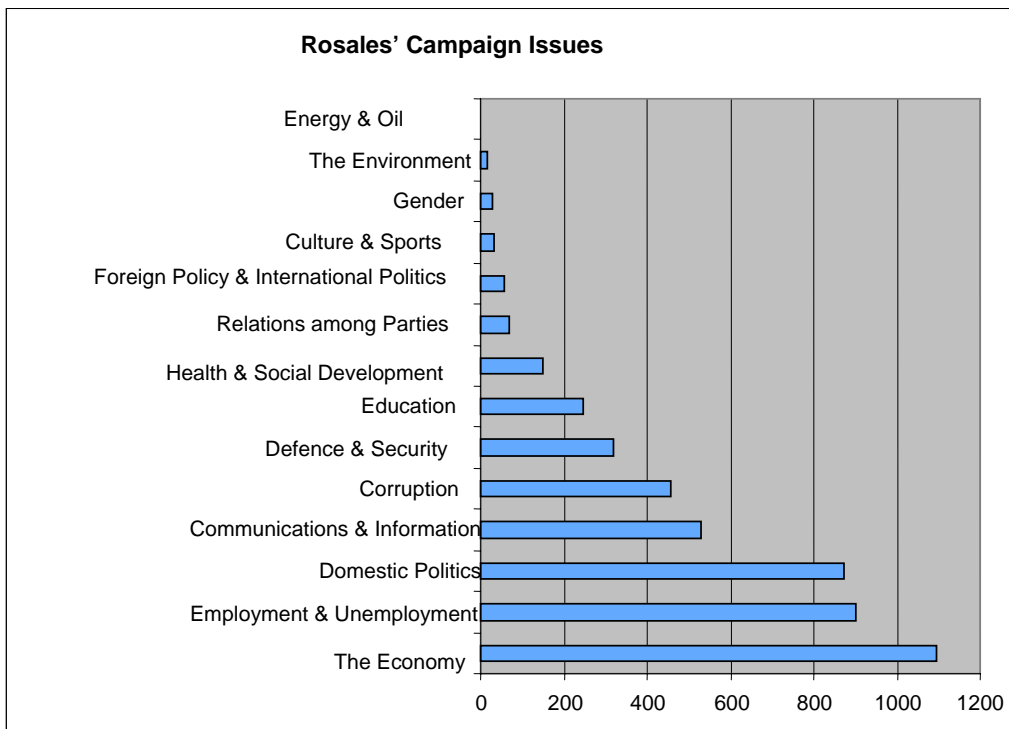
The main issues of Hugo Chavez's campaign were health and social development. Chavez called for the Venezuelan public to vote for him to continue with the development of his social policy programmes (*misiones*) and guaranteed that the profits obtained by the sale of oil and energy resources would be used to promote social progress.

Hugo Chavez's Campaign on Television (data from EU EOM media monitoring)



On the other hand, Manuel Rosales focused his political message on economic development, improving security, and a fair distribution of oil profits through instruments such as the *Mi Negra* card. This debit card would be aimed at bringing the most vulnerable families away from poverty in the short run.

Manuel Rosales' Campaign on Television (data from EU EOM media monitoring)



9.5. Participation of Public Servants in the Election Campaign

During the course of the campaign, the EU EOM was able to establish that State public servants, identified as such, participated in partisan acts.

The majority of electoral laws at the international level limit the participation of public servants in this kind of campaign activities. The basis of this practice is enshrined in Article 25 of the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly in 1966, which defends the rights of every citizen “to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the voters”. Clearly, for elections to be considered as genuine and as an expression of the will of the voters, the impartiality of State institutions must be guaranteed.

Venezuelan legislation is no exception to this practice. Article 215 of the Basic Law of Suffrage and Political Participation (LOSPP) states that: “The employees and workers of the national, state, and municipal administrations are obliged to maintain political impartiality in the exercise of their functions, and as a result may not abandon their normal working duties to participate in electoral activities or those of political parties, voter groups, or candidatures for positions obtained through public elections, or display electoral propaganda in the premises in which they perform their duties in accordance with what is stipulated in this Law”. The EU EOM considers that the participation of State public servants in campaign activities, as well as the distribution of manifestoes of adhesion of public employees to President Hugo Chavez’s candidature, be it voluntary or induced, could contradict Venezuelan law in itself, and international election good practices.

9.6. Institutional Publicity, Pressure, and Use of State Resources

Other problems that emerged during the campaign were the strong institutional propaganda in favour of the President and candidate Hugo Chavez, and to a much lesser extent in favour of the Governor of Zulia, and candidate, Manuel Rosales, and the unbalanced media coverage, by both public and private media¹⁷.

The EU EOM received numerous complaints regarding pressure being exerted on public servants to vote in favour of President Hugo Chavez or to subscribe to manifestoes that supported his candidature, allegedly financed with State resources. Although the Mission lacked the necessary instruments to evaluate the authenticity and generalisation of each case, it was able to evaluate the most notorious case among those that reached the public during the election campaign. The speech by Rafael Ramirez, the Minister of Energy and Oil before employees of the State oil company led to the initiation of an administrative enquiry by the CNE, that acted of its own initiative and by unanimity. The CNE did not issue any verdict on the case before the elections.

Without prejudice of the CNE’s authority to issue a verdict on the case, the EU EOM considers that such statements could clash with the international principle of the freedom of the vote. More specifically, they could be contrary to Article 4(5) of the 1994 Declaration on Criteria for Free and Fair Elections, of the Interparliamentary Union, of which the Venezuelan National Assembly is a party. According to this aforementioned article: “States must take all necessary and appropriate measures to ensure that the principle of the secrecy of the vote is respected and that voters can exercise their right to vote freely, without fear or intimidation”.

¹⁷ Regarding the media, see Chapter 8.3.2, of this report, General Conclusion of the Analysis.

9.7. The Election Campaign Supervision Plan

The CNE had 48 regional election prosecutors (*fiscales regionales*) –two per state-, 18 national financial advisors, and 12 legal advisors that worked with the CNE's Political Participation and Financing Commission to supervise the compliance with regulations regarding the election campaign.

If the election prosecutors consider that an accusation is worthy of prosecution, they send it to the Substantiation Commission, which can order the application of preventive measures and raise the case to the CNE for the initiation of an administrative enquiry. If this is the case, the accused has the right to present the case and any evidence for its defence, before the CNE Board determines, by a majority vote, to take a decision.

By the 20th of November, the prosecutors had filed 1,135 accusations, of which only 61 (around 5%) reached the CNE. By this same date, the CNE Board had only managed to decide, by majority vote, on the imposition of definite sanctions for five cases (less than 0.5% of the total accusations). The lack of sanctions reflects the fragile nature of the sanctioning instruments, and possibly, the low priority that the CNE confers to this aspect of the process.

As regards the funding of election campaigns, the CNE issued the Regulations for the Financing of the December 2006 Electoral Campaign, on the 7th of August. According to these regulations, the control, regulation and investigation of financing were assigned to the CNE's Political Participation and Financing Commission.

Based on these regulations, political organisations, voter groups, and candidates on their own initiative had to open a single bank account in any one of the national financial entities to manage their financial incomes and expenditures. The possibility of having auxiliary accounts for each federal state was contemplated.

The main obligations regarding the Political Participation and Financing Commission are the presentation of a general balance at the beginning of the election campaign, a review of incomes at the beginning of each month, and a general balance upon the closure of the campaign. The deadline for the presentation of the final balance ends sixty days after the Presidential Elections. This is the last milestone in the 2006 Presidential Elections, and it is set for the 1st of February 2007.

At the time of the EU EOM's departure from the country, the political parties had communicated the global amounts received until the end of the campaign (18.2 billion bolivars for Hugo Chavez's campaign, and 9.3 billion bolivars for Manuel Rosales' campaign). Moreover, they had yet to conclude the presentation of the balances, the proof of entries, and the breakdown of incomes and expenditures, as well as payments due and owed.

The EU EOM was unable to obtain confirmation by the CNE regarding the initiation of an enquiry into Manuel Rosales' campaign team for having managed income through two different accounts (and not one single one as established in Article 6 of the Regulation for the Financing of the December 2006 Election Campaign) and for having allegedly published press adverts with a Fiscal Information Register number different to that of the two accounts that had been opened to manage incomes and expenditures.

9.8. Election Observation

Four international election observation missions and three national observation groups were accredited to follow the 2006 Presidential Elections.

The four international election observation missions (the EU EOM, the Organisation of American States, The Carter Center, and the MERCOSUR) had to govern their activities by the Regulation for International Election Observation for the 2006 Presidential Elections, adopted on the 5th of October 2006 by the CNE.

The international observation regulations imposed more restrictive conditions than those that existed in 2005 as regards statements to the media and the distribution of the EU EOM reports. For such conditions to be in line with the European Union's observation methodology and the Declaration of Principles for International Election Observation, and the Code of Conduct for International Election Observers, adopted under the aegis of the United Nations in October 2005, and ratified by the European Union; the CNE and the European Union signed an Observation Agreement on the 15th of November 2006 which guaranteed the recognition of the principles which govern EU election observation missions.

As to national observation, the CNE established a quota of 400 observers for each of the three accredited organisations: *Ojo Electoral* (the only group with prior observation experience), the *Asamblea de Educación*, and *Profesores por la Equidad*. The EU EOM considers that the application of this quota was insufficiently justified, limiting the possibilities of these observer groups. The EU EOM suggests that for future election processes no limit be imposed on the number of participants in national observation groups, as long as these fulfil the necessary requirements to perform their tasks.

As in the 2005 Parliamentary Elections, the NGO *Súmate* did not request the accreditation to observe the elections, justifying its decision by recalling the inexistence of a specific regulation regarding national observation. Due to the absence of such a regulation, *Súmate* did not make use of the right to petition the CNE to observe the elections, as did *Ojo Electoral*, forcing the CNE to reply. Nonetheless, *Súmate* established an important supervision mechanism to follow the elections.

Both *Ojo Electoral* and *Súmate* carried out quick counts on the eve of the Election Day, which confirmed the CNE's results.

10. Election Day

10.1. Deployment

The EU EOM deployment began on the 1st of December to observe the process of Polling Station setup. On that day, 61 observer teams were activated in the 17 states with EU EOM presence¹⁸, as well as the Capital District, which observed the setup in 81 Polling Stations.

On the 3rd of December, Election Day, the Mission had a total of 154 observers from European Union Member States as well as Switzerland and Norway, deployed in the same 17 states, and the Capital District, to accompany and evaluate the election process. Furthermore, on Election Day a delegation from the European Parliament, led by the Member of the European Parliament, Manuel Medina Ortega, and six other parliamentarians joined the EU EOM.

Observation was carried out in 943 Polling Stations in total, including the opening, polling, closing, and the audits of closing.

10.2. Polling Station Setup and General Atmosphere

The voting process was carried out in a peaceful atmosphere and with a high turnout (74.87%) in all the States and in the Capital District. No serious cases of disturbances or violence were observed in any of the States, with the exception of some instances of tension when Polling Stations were closing (see Chapter 10.4).

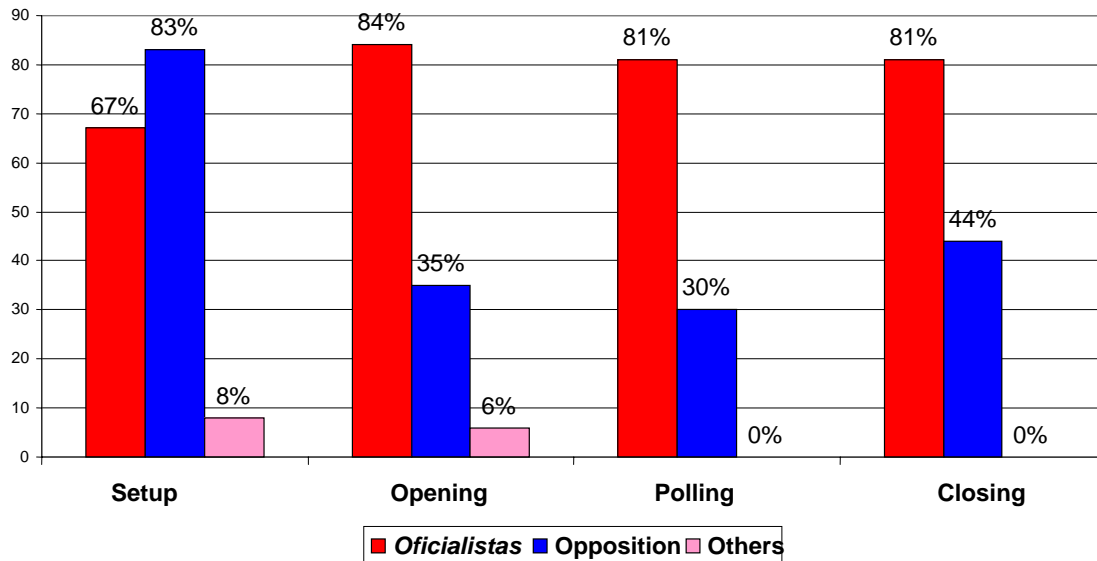
10.3. Campaign Materials and Activities

Throughout Election Day, EU EOM observers detected the presence of party symbols or campaign activities in 34% of the observed Polling Stations.

Oficialista symbols or activities were present in the large majority of these cases (80%), whereas that of the opposition parties was detected in far fewer cases (between 30% and 40%).

¹⁸ The 17 states were: Anzoategui, Aragua, Barinas, Bolivar, Carabobo, Falcon, Guarico, Lara, Merida, Miranda, Monagas, Portuguesa, Sucre, Tachira, Nueva Esparta, Yaracuy, and Zulia, to which is added the Capital District. The EU EOM was not present in the states of: Amazonas, Apure, Cojedes, Delta Amacuro, Trujillo, and Vargas.

**In 34% of the visited Polling Stations
campaign activities or party symbols were observed**



EU EOM observers highlighted the presence of propaganda materials (posters, banners, and pamphlets) or party activities (presence of militants with red or blue t-shirts, dresses and caps, distribution of pamphlets, food distribution).

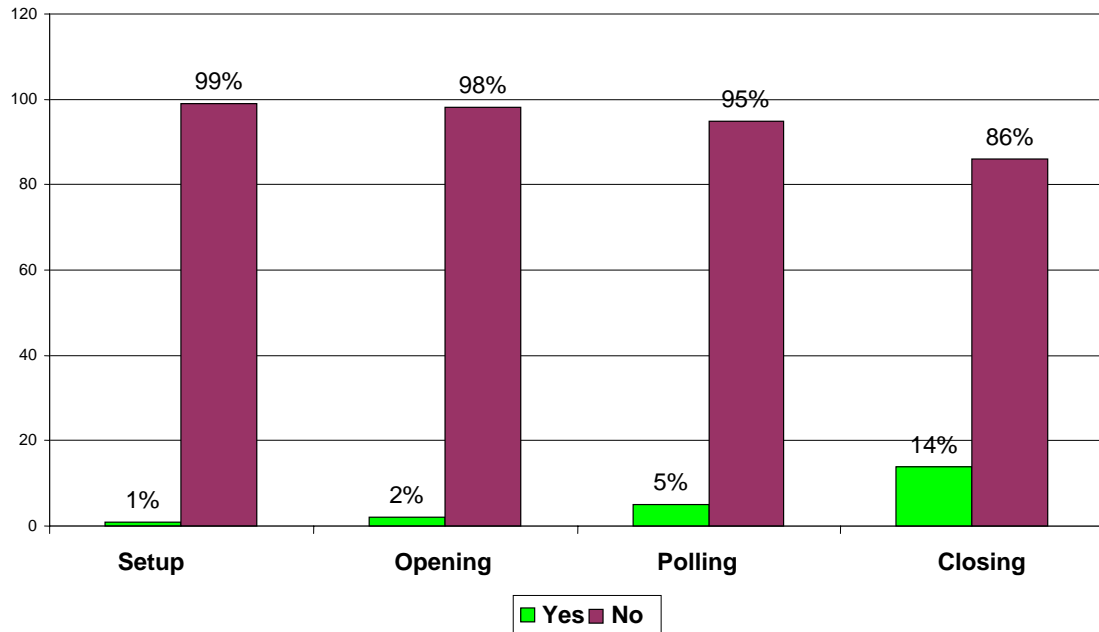
In 5% of the observed Polling Stations, these activities were perceived by the observers as being intimidating.

10.4. Intimidation

The main situations that were considered as intimidating by EU EOM observers were:

- The presence of well known persons in communities, or groups of militants outside (and occasionally inside) the voting centres, wearing items of clothing that identified them as members of a party, or taking notes of voter names.
- The role of party representatives that interfered in the polling process, as observed in Tachira, Zulia, Carabobo, Merida, and Sucre.
- The excessive prominence of the components of the *Plan República*, especially during the closing of Polling Stations.
- In Monagas, the scarce or null guarantees of the secrecy of the vote in the voting centre setup in the local prison.

Intimidation observed in Polling Stations

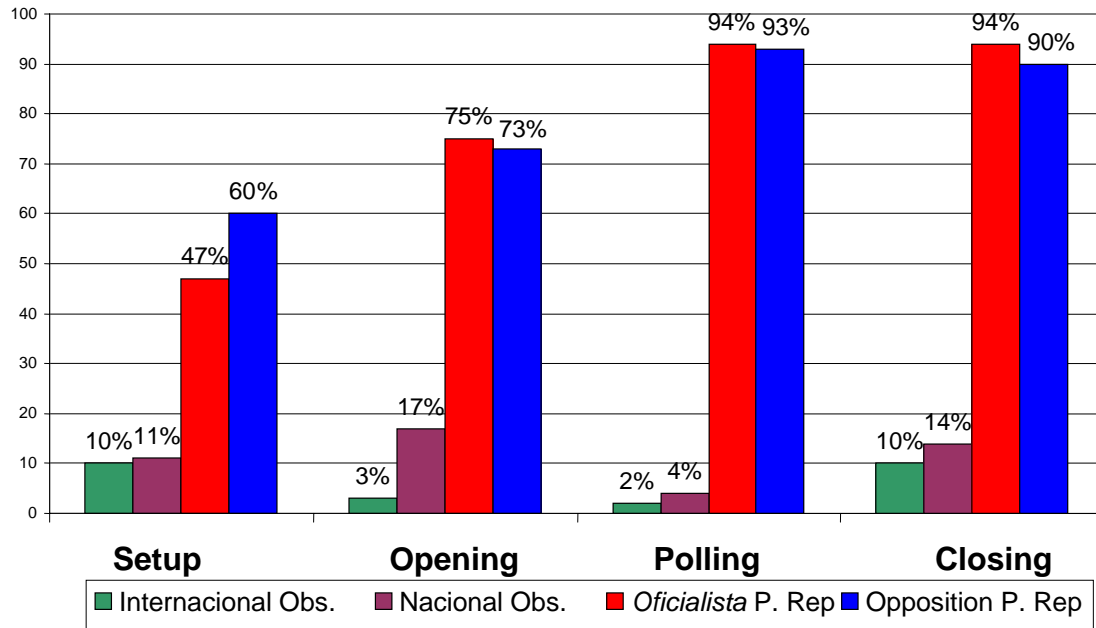


The most relevant data regards intimidation at closing, which was observed in 14% of the visited Polling Stations. Various cases of interference by components of the *Plan República* were noted, when the time came to assume the responsibility of closing the Polling Stations, or not (in the Capital District, Falcon, Monagas, Bolivar, Zulia, Lara, and Anzoategui). Nevertheless, in the majority of these cases the extended polling time (in centres where there were no voters queuing waiting to vote) was due to the wait for clear instructions from the electoral authorities, and the decision taken by the CNE in the previous elections to extend the hour for closure, rather than to let certain voters vote after-hours. This fact confirms, in any case, the need for clearer information and for a stricter application of what is established by law regarding the closing of Polling Stations.

10.5. Party Representatives

The presence and active role of party representatives, both for the *oficialismo* and the opposition, have constituted an important characteristic of the voting process.

Presence of Observers and Party Representatives



EU EOM observers confirmed the generalised presence, throughout the country, of party representatives, both for *oficialista* parties and opposition parties, in all the phases of the process. This characteristic was highlighted in the statements by various opposition leaders on the day before the elections, as well as during polling, as a guarantee of transparency and control of the work of the Polling Stations.

Given the possibility of obtaining the polling protocol with the results of the corresponding Polling Station, the presence of party representatives also guaranteed the possibility of verifying the results as proclaimed by the CNE (a fact that probably influenced the rapid decision by the opposition candidate to accept the results).

On the other hand, on various occasions EU EOM observers reported that party representatives went beyond the passive role that the law establishes. They occasionally participated in the tasks of Polling Station organization, and voter assistance (at times in excess) for those that experienced problems with the electronic voting system, and on occasions even substituted Polling Station staff (in the Capital District, Sucre, Tachira, Guarico, Zulia, Anzoategui, Bolivar, Zulia, Portuguesa, Barinas, and Nueva Esparta). Such attitudes were observed both among *oficialista* party representatives as well as in opposition party representatives, and in some cases even by CNE “national observers”.

However, no obstacles or hindrances were observed in the performance of party representatives’ functions. Furthermore, EU EOM observers confirmed the existence of a generally peaceful relation among party representatives of competing candidatures.

The presence of national observers was noted in only 4% of the observed Polling Stations, between opening and closing, which clearly reveals the limited number of national observation groups as well as the sparse number of observers allocated to each one of them.

10.6. Voting Centre Coordinators

EU EOM observer reports did not mention any problems as regards the performance of voting centre coordinators' duties.

They generally performed their duties in a professional and neutral manner (as observed in: the Capital District, Sucre, Anzoategui, Barinas, Bolivar, Carabobo, Falcon, Guarico, Miranda, Monagas, Tachira, Zulia, Nueva Esparta, and Yaracuy) and were even considered at times to be crucial for the proper operation of the voting process on Election Day (Bolivar). Only in one case were they observed taking positions in favour of the *oficialista* candidature (Miranda).

10.7. *Plan República*

The members of the *Plan República* limited themselves to the exercise of their competences, and were considered professional and well prepared as regards the election process (Anzoategui, Barinas, Bolivar, Guarico, Lara, Monagas, Sucre, Tachira, and Nueva Esparta).

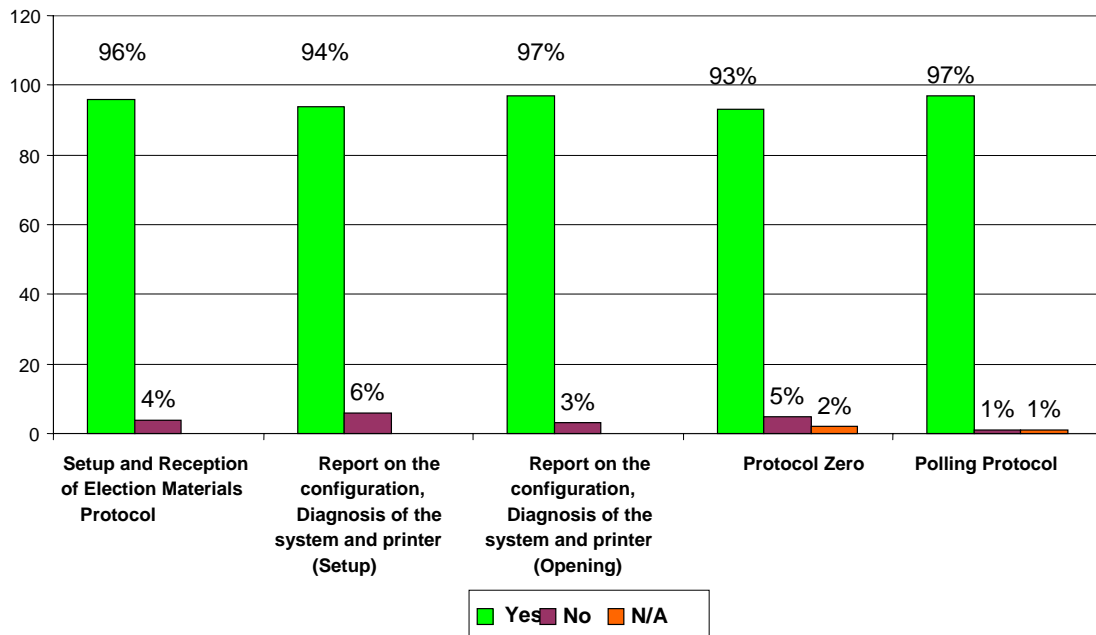
Moreover, in isolated cases they acted beyond their competences and took on an excessive prominence, according to what was observed in: Bolivar, Barinas, Carabobo, Guarico, Nueva Esparta, Yaracuy, Zulia, Lara, Monagas, and Sucre. On other occasions, their actions were on the fringe of intimidation (in the Capital District, Portuguesa, Anzoategui, and Miranda).

As was previously mentioned, many of these cases occurred as Polling Stations were closing. It is worth reiterating that the intervention of the *Plan República* components does not seem to have been aimed at ensuring that certain voters could vote beyond the established time. No complaints were raised to the EU EOM's attention, nor were specific anomalous interventions observed, as regards the work of those members of the Reserve deployed on Election Day under the discipline of the *Plan República*.

10.8. The Protocols

In this, as in other election processes, Polling Station members have numerous protocols and reports to fill in at critical points of the process.

Correct Printout of Reports and Protocols



In this election, this task was completed with great efficiency as is demonstrated by the results obtained in the observation forms. Without a doubt, the fact that several of these documents were produced by the voting machines contributed to this high percentage.

10.9 The Fingerprint Readers

The fingerprint reading devices contributed, at times, to slowdown the process, and led to the creation of queues, especially in the early phases of polling.

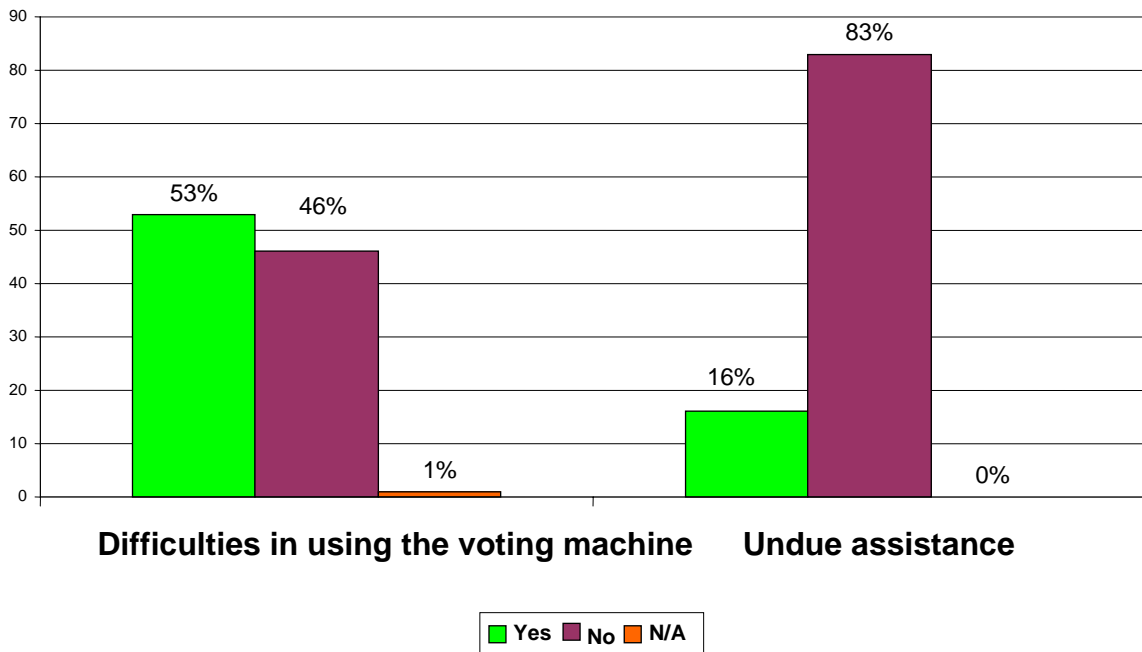
EU EOM observers, both in their reports prior to Election Day, as well as in their observation forms, confirmed that a certain degree of mistrust still exists regarding these machines both among political parties (especially opposition parties) and in the public at large.

10.10. The Voting Machines

In practically half of all the observed Polling Stations, and in the entire country, problems were noted in the voters' use of voting machines, especially among older people and in rural areas.

This fact led to a greater need of assistance from third parties, which could have caused interferences with the respect for the secrecy of the vote.

Electronic Voting # 2



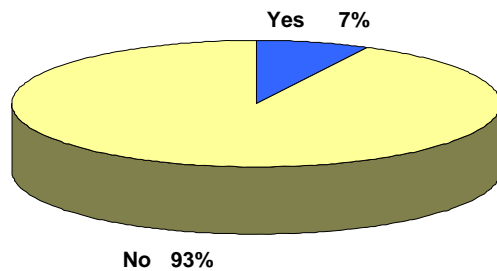
10.11. Voter Assistance

In the Capital District, Anzoategui, Bolivar, Falcon, Lara, Monagas, Yaracuy, Guarico, Barinas, and Portuguesa many voters had to be assisted by party representatives, which in the majority of cases were from *oficialista* parties.

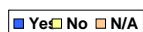
Despite the fact that the law allows for assisted voting, it was observed that an excessive use was made of the freedom established by law with the aim of reaching the election goals of participants. Therefore, it would be advisable, that for future elections, this matter be regulated in a stricter manner and with greater conformity with the spirit of the law, to guarantee the respect for the secrecy of the vote.

10.12. Interruption of Voting Machine Operations

In 7% of the observed Polling Stations, it was noted that the operation of the voting machines had been interrupted due to technical problems (Carabobo, Anzoategui, Lara, and Bolivar). In Portuguesa, of the seven Polling Stations visited by one observer team, three registered voting machine problems.



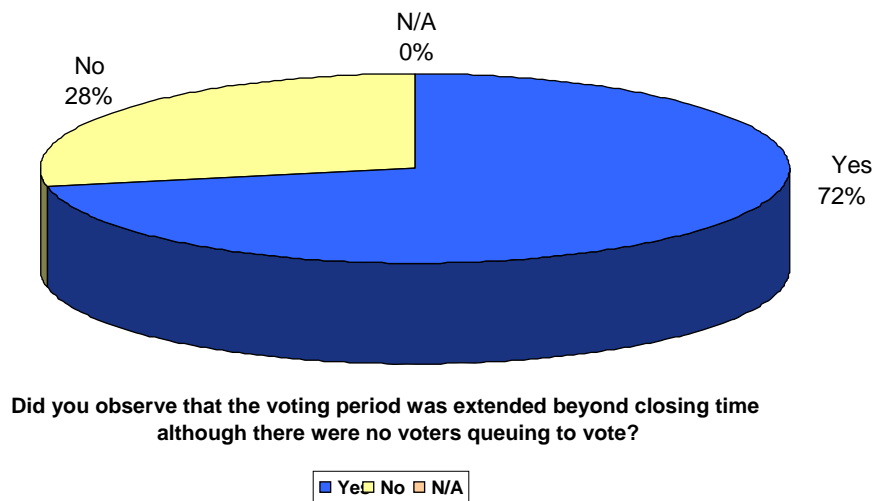
Did you observe any interruption in the operation of the voting machine due to technical problems?



In many cases, the decision to proceed with manual voting was excessively delayed, waiting for the possibility of substituting the voting machine, creating significant delays and confusion in the voting process.

10.13. Closing

In the majority of visited Polling Stations, the closing time was extended without there being any voters queuing waiting to vote, in many cases awaiting instructions from the CNE. As mentioned previously, there are no indications that these delays pursued any partisan objectives.

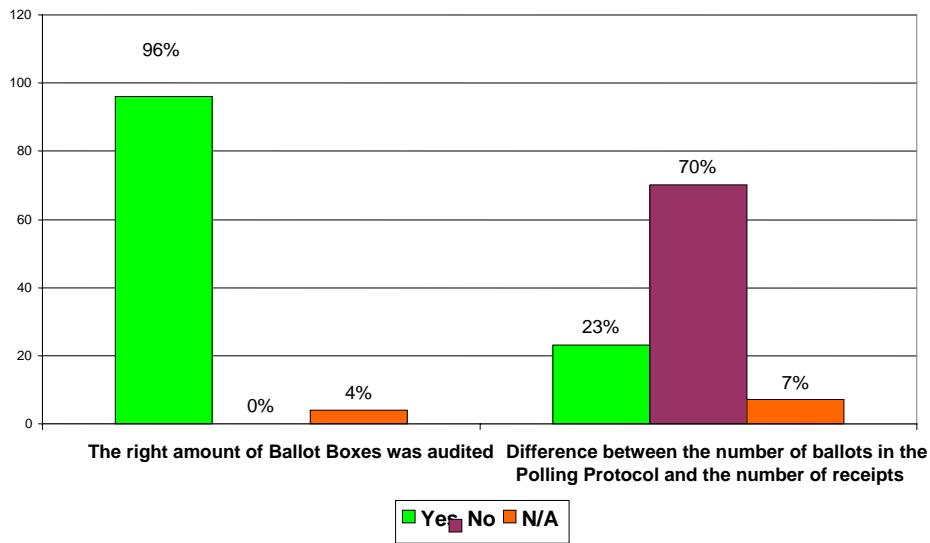


The EU EOM suggests that, in order to ensure a greater rigour in the application of the regulations, and following regional and international practices, the Polling Stations close at the stipulated time, allowing only those persons who are queuing to vote, to do so after this hour. To authorise the vote of those persons who join the queue after closing time, as is current practice in Venezuela opens up the door to irregular applications of the regulations that have led to complaints in recent election processes.

10.14. Audit of Closing

Regarding the audit of closing, the selection (by lottery) of Polling Stations to be audited and the counting of voting receipts were carried out without any significant problems. In all the observed voting centres the right amount of ballot boxes were audited.

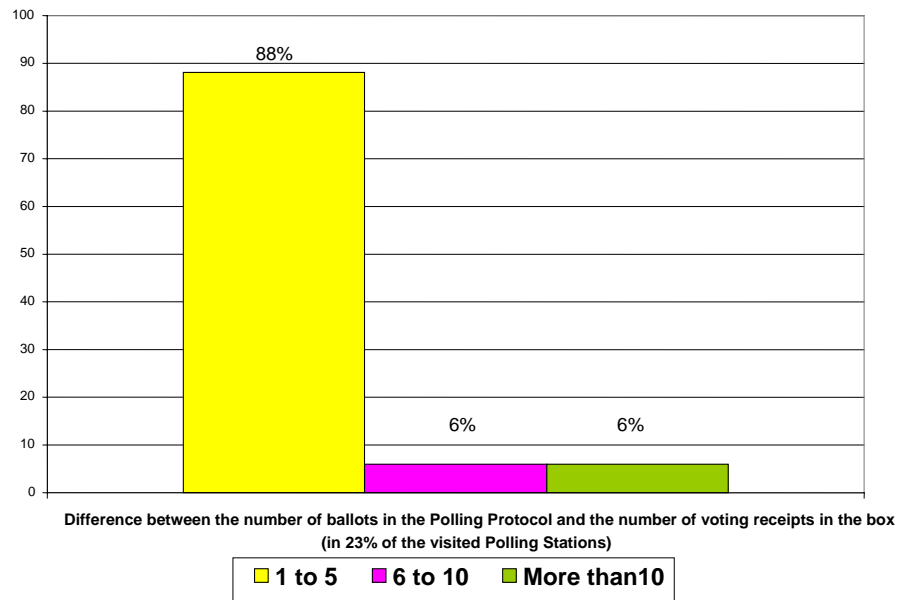
Electronic Vote # 2



The cases where discrepancies were found between the counted votes and the audited votes (23% of the observed audits of closing) were limited in the great majority of cases to a small number of votes (between one and five).

The reasons manifested by EU EOM observers to explain these discrepancies are either the vote of the components of the *Plan República* or the repetition of votes (due to the printout of blank voting receipts or because of printing errors)¹⁹.

Electronic Vote # 4

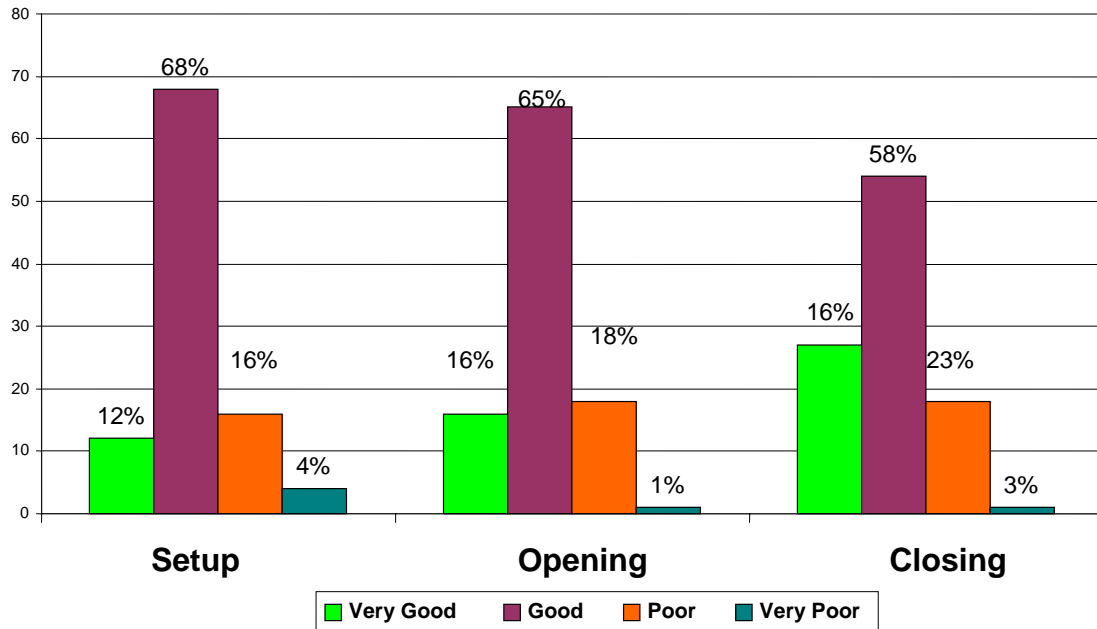


¹⁹ See Chapter 7.2. of this report The Voting Machines.

10.15. Polling Station Staff Understanding of the Procedures

The evaluation of the Polling Station's staff's understanding of electoral procedures that were being setup (1st of December), during the opening and closing (3rd of December) was positive in 80.4% of the cases.

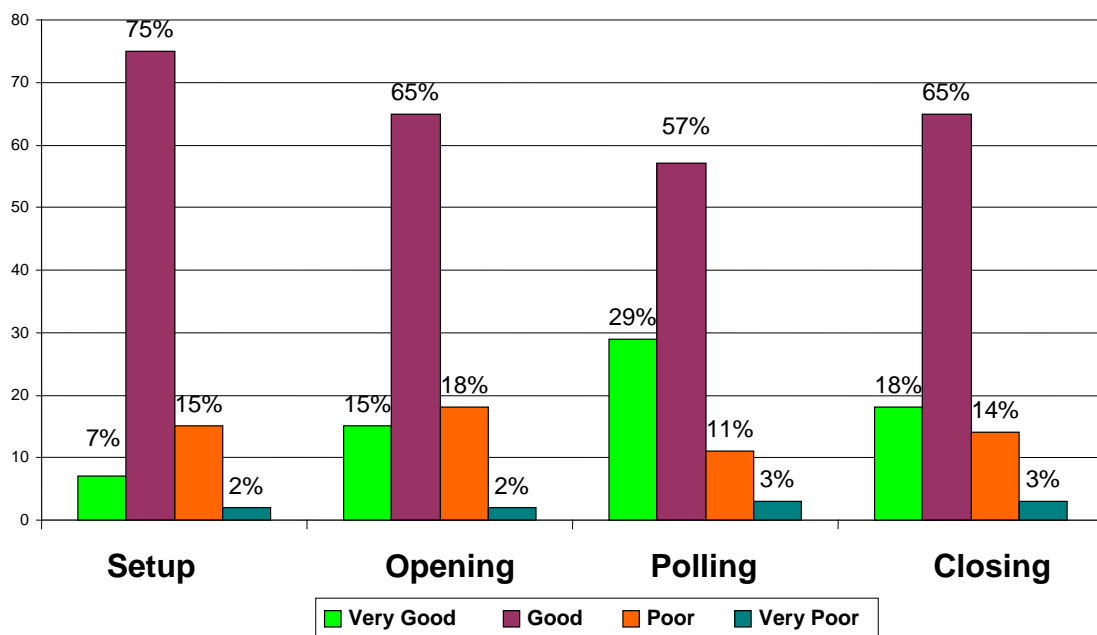
Evaluation of Understanding of Procedures



10.16. Evaluation of the Election Process

EU EOM observers gave a positive evaluation regarding the quality of the election process in 85% of the cases.

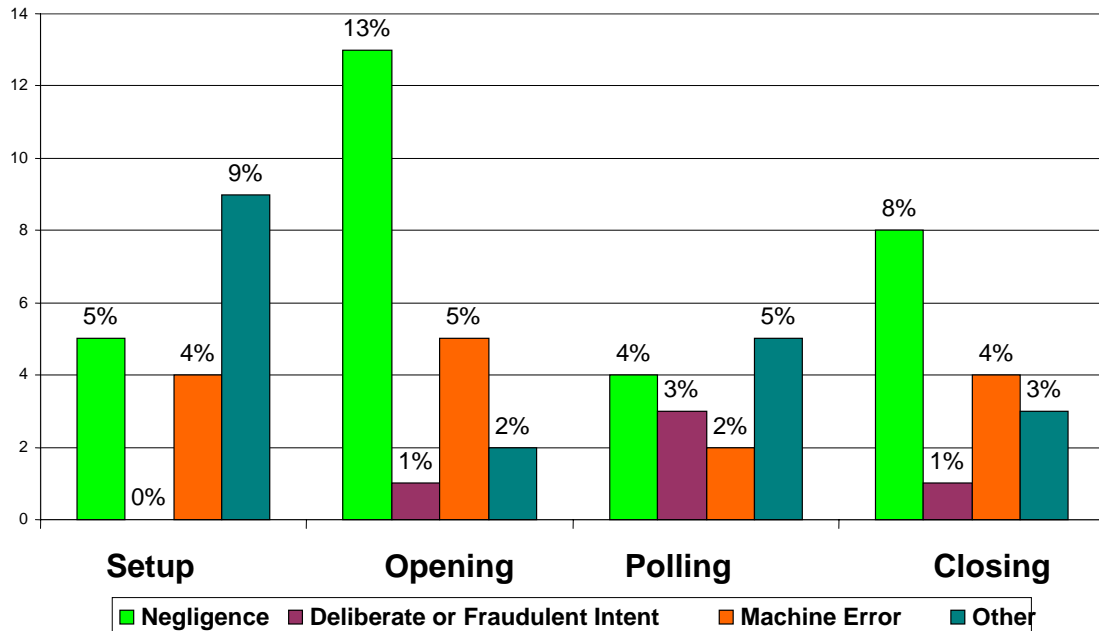
Evaluation of the Election Process



As for those evaluations that considered the process to be either “poor” or “very poor”, in a minority of cases the reason mentioned was deliberate or fraudulent intent.

%

Reasons for “Poor” and “Very Poor” Evaluations



Such data leave a significant margin for improvements in the voting system, in the training of Polling Station staff, and in voter education.

11. Regarding the Vote and Participation of Women

According to projections made by the National Institute of Statistics (INE) of the Bolivarian Republic of Venezuela, women constituted in 2004 a bit less than half of the country's population (13,001,547 women out of 26,127,351, exactly 49.76%). Nonetheless, according to the CNE's data, the number of women was greater than that of men in the Electoral Register, in a percentage of 50.02% as compared to 49.98%.

Despite all this, women are not represented proportionately to their demographic weight in the decision-making organs of the five State Powers, with the exception of the Electoral Power. In December 2006 there were only five women ministers (20% of a total of 25 ministries), and only 28 women in the National Assembly (17% of the total), and eight magistrates in the Supreme Court of Justice (25%). Furthermore, no woman chaired any of the three organs of the Citizen Power (Ombudsman, General Attorney, and National Audit Office of the Republic).

As mentioned above, the exception to this rule is in the *Consejo Nacional Electoral*, where of the five *rectores*, three are women, including the President and Vice President. Women also represented the majority in the lower echelons of the electoral administration, as members of Polling Stations.

In local and state entities, the female deficit is even greater. As an example, of the 23 state Governors only two are women, less than 9%.

Of the 22 candidates running for the 2006 Presidential Election, six were women, two of which withdrew during the election campaign. For a single candidate election, such as a presidential election, the Basic Law of Suffrage and Political Participation (LOSPP) does not contemplate the 30% quota that exists for elections to the national, state, municipal, and parish deliberating bodies.

Finally, and according to the EU EOM's media monitoring, carried out between the 16th of November and the 1st of December 2006, gender issues occupied a marginal space in the media's information agenda on the campaign, and women were practically non-existent subjects in political information segments²⁰.

²⁰ See Annex 3 of this report, Media Monitoring Statistics and Tables.

12. Regarding the Vote and Participation of the Indigenous Population

The Bolivarian Republic of Venezuela's indigenous population is comprised of 534,816 persons, belonging to 28 ethnic groups and three different linguistic families, according to the 2001 Census, the most recent carried out to date. More than half of this population (62.28%) lives in the State of Zulia. The other two states that concentrate a larger number of indigenous populations are those of Amazonas (11.17%) and Bolivar (9.42%). In terms of the percentage of indigenous populations as compared to the total population of the different states, the indigenous population of the state of Amazonas represents nearly half of the population (49.95%), in Delta Amacuro the percentage is 23.63% and in Zulia 10.33%.

According to CNE data from 2004, the percentage of indigenous persons in the electoral census is very similar to that of the rest of the population (between 58.15% in Bolivar and 68.95% in Nueva Esparta, with a national average of 64.29%). The electoral participation in the 2006 Presidential Elections in states with large indigenous populations was not significantly different to the national average of 74.75% (for further details see the table bellow). There is no specific data on the participation of indigenous populations in the elections, given that race is not specified in the Electoral Register.

STATE	Indigenous ²¹ Population	Total Population	% of Indigenous Population	% of Indigenous Population to National Population	Census ²²	% of Census to Total Population	Participation of States with Indigenous Populations in 2006 Elections
Amazonas	59,718	119,564	49.95%	11.17%	73,129	61.16%	72.65%
Delta Amacuro	31,088	131,557	23.63%	5.81%	93,170	70.82%	74.04%
Zulia	333,058	3,224,204	10.33%	62.28%	1,962,996	60.88%	73.18%
Bolivar	50,361	1,351,520	3.73%	9.42%	785,924	58.15%	71.67%
Apure	9,481	414,107	2.29%	1.77%	251,641	60.77%	73.30%
Monagas	8,735	744,615	1.17%	1.63%	482,867	64.85%	75.68%
Anzoategui	14,633	1,323,655	1.11%	2.74%	834,524	63.05%	74.92%
Nueva Esparta	3,540	391,106	0.91%	0.66%	266,164	68.05%	73.56%
Sucre	3,814	838,840	0.45%	0.71%	533,207	63.56%	69.62%
Others	20,388			3.81%			
Country Total	534,816	24,765,581	2.16%	100%	15,921,223	64.29%	74.75%

The 1999 Constitution was the first that expressly recognised the right of the indigenous population to political participation; and guaranteed their representation in the National Assembly, in which they have three seats allocated, and in the deliberating bodies of the federal and local entities of states with indigenous populations.

In a single candidate election such as the presidential election, there are no quotas for indigenous populations. None of the presidential candidates presented a candidature based on indigenous origins.

²¹ Source INE, Based on data from the 2001 Census.

²² Source CNE, Based on data from the Electoral Census for the 2004 Recall Referendum.

13. Appeals and Post-election Complaints

The Basic Law of Suffrage and Political Participation sets the mechanisms for the annulment and revision of electoral protocols. There are three possible appeals against these measures: the hierarchical, interpretation, and electoral contentious.

Hierarchical appeals can be presented by political parties, voter groups, and natural or legal persons before the CNE within the twenty days that follow the election activities. This delay can be extended to thirty days when polls or polling protocols are challenged regarding a Presidential Election. The body that files the hierarchical appeal (a political party, voter group, or person) must do so before the relevant National Electoral Junta or the corresponding state Register and Electoral Office, from where the appeal is sent to the CNE. When the CNE receives the appeal, it channels it to its Legal Consulting Department, which opens up a file and summons the interested parties to investigate the appeal. Once this step has been carried out, the CNE has an additional twenty days to take its decision. The lack of response within this period is interpreted as a rebuttal of the appeal.

The electoral contentious appeal is that which attempts to challenge the actions and measures taken by the CNE, and can be filed within fifteen days after the occurrence of the event or decision that motivates the appeal. If the appeal seeks to annul the election of a presidential candidate, there is no applicable deadline. The Political-Administrative Chamber of the Supreme Court of Justice is the competent authority to judge on the electoral contentious appeal.

Finally, the interpretation appeal may be filed by parties, voter groups, physical persons, or the CNE itself, directly before the Political-Administrative Chamber of the Supreme Court of Justice. The Chamber must then determine whether the regulations and procedures that govern election processes are adapted to the existing laws.

By the 19th of December, the date on which the EU EOM left the country, the CNE's Legal Consulting Department had not received any kind of appeals. Nonetheless, members of the EU EOM have been informed of the presentation of appeals after this date.

The number of appeals regarding the Presidential Elections has been very low. The large margin obtained by candidate Hugo Chavez and the acknowledgement of the results by the opposition parties could have been factors that limited the level of interest in the filing of appeals.

14. Recommendations

The EU EOM wishes to present, for the consideration of the sovereign Venezuelan authorities the following suggestions to improve future election processes. These recommendations are presented in compliance with the commitments established in the Regulation for International Election Observation for the 2006 Presidential Elections, adopted by the *Consejo Nacional Electoral* (CNE) on the 5th of October 2006²³, and the agreement signed, in Caracas on the 15th of November between the CNE President, Tibisay Lucena, and the European Union, represented by the Head of the European Commission Delegation in Venezuela, Antonio Garcia Velasquez, regarding International Observation for the Presidential Elections.

14.1. General Considerations

- The EU EOM recommends that the electoral authorities of the Bolivarian Republic of Venezuela continue to develop the process of dialog with political parties and civil society organisations in order to increase the level of trust in future election processes. The high turnout registered in the Presidential Elections, the generally peaceful atmosphere in which they were held, and the general acceptance of the election results by political parties, are powerful arguments in favour of this necessary dialog.
- The role of national observation is critical for the credibility of elections. The EU EOM recommends that the participation of national observation organisations in future processes be promoted. Similarly, it proposes that limitations on the number of observers that they can deploy be dropped, as long as they comply with the requirements that guarantee effective and independent work.

14.2. Legal Framework

- The laws that govern election processes contain inconsistencies and vacuums that could be solved through the approval, by the National Assembly of a General Basic Law, or with a new General Electoral Regulation adopted by the CNE. These texts should establish clearly and definitively all the key aspects of election processes in accordance with the 1999 Constitution, and international principles and good practices. In this manner, the CNE would be exempted from having to publish such a large number of regulations for all election processes, at times at very advanced stages of the process. The EU EOM had already detected this failing in 2005, which the Basic Law of Suffrage and Political Parties of 1998 contemplated solving with the approval of a General Electoral Regulation. Whatever the chosen formula, be it an Organic Law or a General Regulation, it would be important that it be adopted in consensus with the largest possible number of the country's political forces, regardless of whether they are represented in the National Assembly, or not.

14.3. Electoral Administration

- The EU EOM recommends that the CNE give greater priority to the sanctioning instruments for electoral crimes and faults as foreseen in the Basic Law of Suffrage and

²³ “Article 15. **Final report.** The international election observation shall terminate with the presentation before the *Consejo Nacional Electoral* of a written and confidential report of the corresponding observation team or mission, which shall contain the conclusions, analysis, and suggestions that have resulted from the observation activity carried out. This report shall be presented once the election process has concluded with the proclamation of the elected candidate”.

Political Participation and reflected in the regulations that it has adopted. Inasmuch as possible, the goal is to dissuade and punish the perpetration of such actions, before the end of the election campaign. The EU EOM further proposes that the participation of public servants in election campaign activities, be it voluntary or induced, be investigated and sanctioned, in accordance with Venezuelan law and international election practices. The exercise of the sanctioning powers, which the CNE is endowed with by law, would benefit the credibility and legitimacy of the Electoral Power, and of election processes *per se*.

- The New Basic Law or the new General Electoral Regulation could contribute to put an end to the controversy around certain procedures of the electoral administration, especially giving a legal foundation to the role of election coordinators, and of components of the *Plan República* in election processes. Although in the Presidential Elections both figures limited themselves, in general, to the fulfilment of their basically logistical and security functions in a professional, effective, and neutral manner, with some minor exceptions. Despite the fact that their role in the process was clarified through CNE public declarations destined to this end; their participation in the election process is still viewed with mistrust by some parties and citizens.
- Furthermore, the EU EOM recommends that at the designated closing time for voting centres on Election Day, only those voters that are queuing to vote at that moment be allowed to vote, and not those that join the queue afterwards. Such a measure would require amending existing legislation, and would put Venezuela in line with common practice in neighbouring countries and internationally; putting an end to the accusations of interested extended voting hours, which have been repeatedly heard in recent election processes, including the 2006 Presidential Elections, although in this case they were more subdued than in the past.
- If the use of indelible ink is to be continued as one of the mechanisms to prevent double voting, it is recommended that the ink that is used be less easily erased, than that which was used for the 2006 Presidential Elections.

14.4. Electronic Voting System

- The EU EOM proposes that the CNE extend the period of the public testing campaigns of the voting machines right until a few days before to the elections. In this manner, it would help to familiarise voters with the technology and lead to a better understanding of the electronic voting system. The CNE could organise this voter education campaign together with national civil society organisations.
- Better training for Polling Station members, voting machine operators, and support technicians, together with a more precise definition of the procedures for voting centres and Polling Stations could avoid uncertainties or contradictions in the performance of their tasks. This improvement would directly reduce the reaction time in case of contingencies, and bring about greater efficiency in the processes carried out in Polling Stations, such as the setup, polling, transmission, or audit of closing.
- The EU EOM recommends that if the CNE decides to continue using the fingerprint readers in the future, it clearly defines and delimits their use as part of the voting process. In case of having sufficient fingerprint readers so as to incorporate them to all voting centres, and in accordance with the directive to develop the electronic voting system, as established by Venezuelan law, the readers could substitute the hard copy voter lists, as well as serving for the identification of voters, and the verification of their

right to vote, providing that the current mistrust of the electorate and the political forces is overcome. They could also be used as a method to avoid multiple voting, accompanied by a really effective indelible ink. In the EU EOM's opinion, these measures should be followed by a broad reaching public outreach campaign to eliminate the existing prejudices that exist among voters regarding the fingerprint readers. The Electoral Power, responsible for such a sovereign decision, should assess the economic costs of such a measure, and consider the need to provide far more technical training to Polling Station staff, which should be able to handle a more complex device than that which is in use at present.

- On the basis of the positive results of the audits performed during the 2006 Presidential Elections, and taking advantage of the degree of expertise acquired by the technical experts of the different candidates and national election observation groups, it would be a positive step for the CNE to systematically maintain programmes for quality management with external technical experts, both for the REP as well as for the electronic voting system. This would increase the level of trust of the political parties, the media, and the public in general in the system.
- The EU EOM observed that many of the problems that had been identified by various civil society organisations in the REP are due to the civil registration and ID Card system. For the CNE to win over the trust of the citizens in the electoral register, the integrity of both these systems must be ensured. To this end, it suggests that joint actions be organised between the offices responsible for the civil register, the electoral register, and the ID Cards to tidy, update, and restore the integrity of the respective databases in a synchronised manner.

14.5. The Media

- The suspension of institutional publicity be it at a national, state, or local level and a clear limitation on the public activities of all public servants and elected positions during the election campaign period would put an end to the risk of institutional bias, and the use of state resources in benefit of some candidates. Both the Basic Law of Suffrage and Political Parties²⁴, and international good practices, contemplate such limitations. Furthermore, the CNE, and then Venezuelan Public Ministry should make use of the sanctioning instruments they have at their disposal to combat violations, which can also be denounced by any citizen or the legal representatives of the political parties.
- Furthermore, the EU EOM recommends that the Venezuelan media adopt self-regulatory measures, to avoid the excessive partisan bias with which the majority cover the election campaign. Impartiality is a specific mandate enshrined in Venezuelan law and of exacting professional journalistic standards, and need not contradict the right of the private media to express openly and honestly the editorial line of their choice.

²⁴ See Article 210 and Chapter 8 of this report, dedicated to the Media.

15. Annexes

Annex 1: Results of the 2006 Presidential Elections

Name of Candidate	Votes	Percentage of valid votes
Hugo Chavez	7,309,080	62.84%
Manuel Rosales	4,292,466	36.9%
Luis Reyes	4,807	0.04%
Venezuela Da Silva	3,980	0.03%
Carmelo Romano Perez	3,735	0.03%
Alejandro Suarez	2,956	0.02%
Eudes Vera	2,806	0.02%
Carolina Contreras	2,169	0.01%
Pedro Aranguren	2,064	0.01%
Jose Tineo	1,502	0.01%
Yudith Salazar	1,355	0.01%
Angel Yrigoyen	1,316	0.01%
Homer Rodriguez	1,123	0.01%
Isbelia Leon	793	0.01%
Valid Votes	11,630,152	98.64%
Null Votes	160,245	1.35%
Total Votes	11,790,397	
Participation		74.75%
Based on the aggregation of 99.08% of the protocols		
Source: <i>Consejo Nacional Electoral</i> , 29 th of January 2007.		

Annex 2: List of Audits on the 2006 Venezuelan Presidential Elections

Audit of Printed Voter Lists	From the 27/09/2006 to the 21/10/2006
<p>Verification by candidate representatives of the data in printed voter lists, both of the complete digitalised file (in PDF format), and a significant sample in hard copy. Candidate technical experts were present, and positively evaluated both the voter lists initially obtained from the Register, as well as the subsequent complementary voter lists, that reflected the modifications made by voters that updated their addresses, and the data regarding the <i>Plan República</i>.</p>	
Audit of Voting Machine Software	From the 10/10/2006 to the 27/10/2006
<p>Revision of the voting machine's data and source code, and electronic signature of all the application's files. Candidate technical experts and national observers were present.</p>	
Audit of Infrastructure	20/10/2006
<p>Presentation of the CNE's technological platform. Candidate technical experts and national observers were present.</p>	
Audit of the Voter Authentication System (SAV)	From the 23/10/2006 to the 29/10/2006
<p>Presentation of the application's modules, validation and electronic signature. Candidate technical experts and national observers were present.</p>	
Audit of the Production of the Voting Machines	From the 24/10/2006 to the 20/11/2006
<p>Follow-up and control of the isolation of the voting machines; verification of the application's signature, configuration and operating system; lottery and taking of samples for the pre-dispatch audit. This audit was coordinated by professors from the <i>Universidad Central de Venezuela</i> and was carried out in the presence of candidate technical experts as well as national and international observers.</p>	
Audit of the Aggregation System	From the 25/10/2006 to the 11/11/2006
<p>Presentation and analysis of the application's modules, revision of the source code and of the application's electronic signature. Candidate technical experts and national observers were present.</p>	
Audit of the Production of the Voter Authentication System (SAV)	From the 26/10/2006 to the 04/11/2006
<p>Follow-up and control of the isolation of the units that compose the SAV system, selection and sample taking to verify the application's electronic signature. Candidate technical experts and national observers were present.</p>	
Audit of Electronic Ballots	03/11/2006

Validation and certification of the position of political organisations on the electronic ballot, and is correct operation. Randomly selected electronic ballots, taken from the production line, were tested. Candidate technical experts and national observers were present.

Audit of the Pre-dispatch of the Voting Machines 25/11/2006 and 26/11/2006

Simulation of polling, transmission, and aggregation to verify a zero rate of error in a sample of 0.5% (164) voting machines, chosen randomly during the audit of production, together with six additional contingency machines.

This audit was coordinated by professors of the *Universidad Central de Venezuela*. Candidate technical experts as well as national and international observers were present.

As well as the simulation, the electronic signatures of the voting machines and of the aggregation systems obtained in previous audits were also verified.

The machines that were used in the simulation were returned to the production line, to be used as contingency units on Election Day.

Audit of Closing 03/12/2006

Manual count of voting receipts in Polling Stations chosen by lottery.

The audit of closing was carried out directly in the Polling Station, once polling had ended, the polling protocol had been printed, data had been transmitted to the aggregation centre, the nine copies of the protocol had been printed, and the lottery to determine the Polling Stations to be audited had been carried out.

This was done in all electronic voting centres. The number of machines to enter the lottery was based on a table provided by the CNE in the Polling Station Manual, which included 54.31% of the electronic Polling Stations in the country.

This audit was public, with the only limitation of the physical space available in the Polling Station.

Post Audit 08/12/2006

Counting of voting receipts of the audited Polling Stations in 1% of the voting centres, to backup the audit of closing.

The voting centres were chosen by a lottery, which took place at noon on Election Day in the presence of party representatives and election observers, to ensure that the members of the *Plan República* could organise the transport of materials to perform the audit five days after the elections.

This audit was coordinated by professors of the *Universidad Central de Venezuela*. Candidate technical experts as well as national and international observers were present.

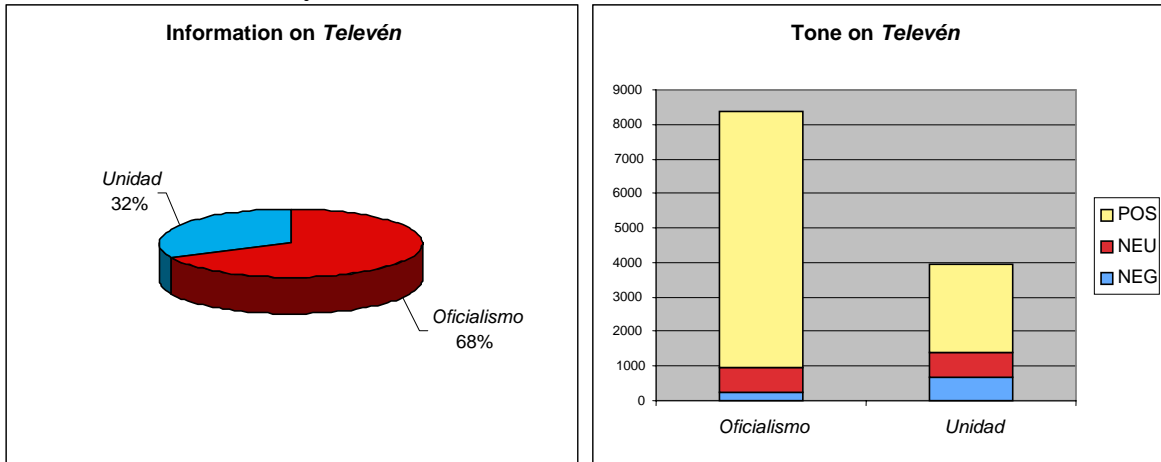
Backup Audit and Extraction of Data from the Extractable Memories of the Voting Machines As of the 07/12/2006

The process of receiving, backing-up, and deleting the extractable memories of the voting machines used during the election process, as well as the deletion of data in the voting machines' internal memory.

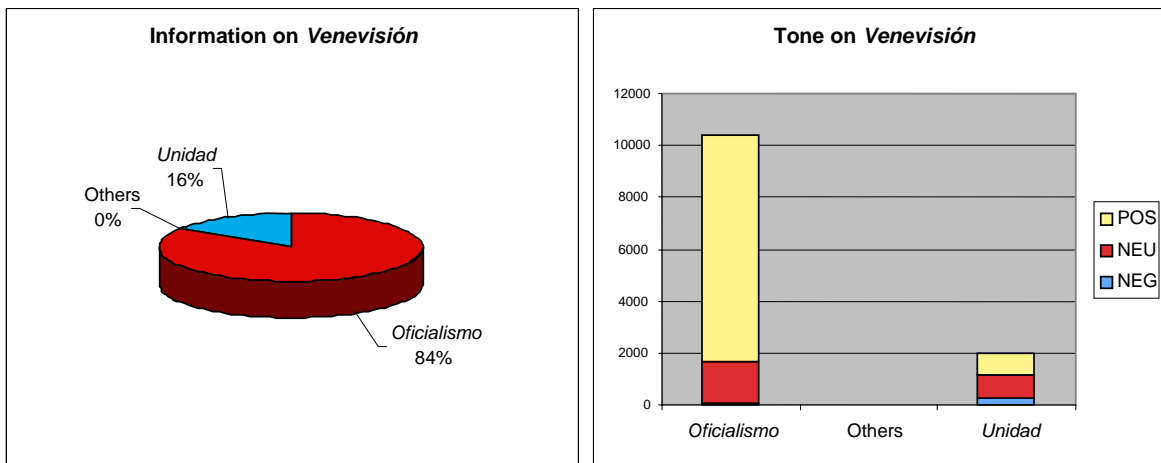
Candidate technical experts and national observers were present.

Annex 3: Media Monitoring Statistics and Tables

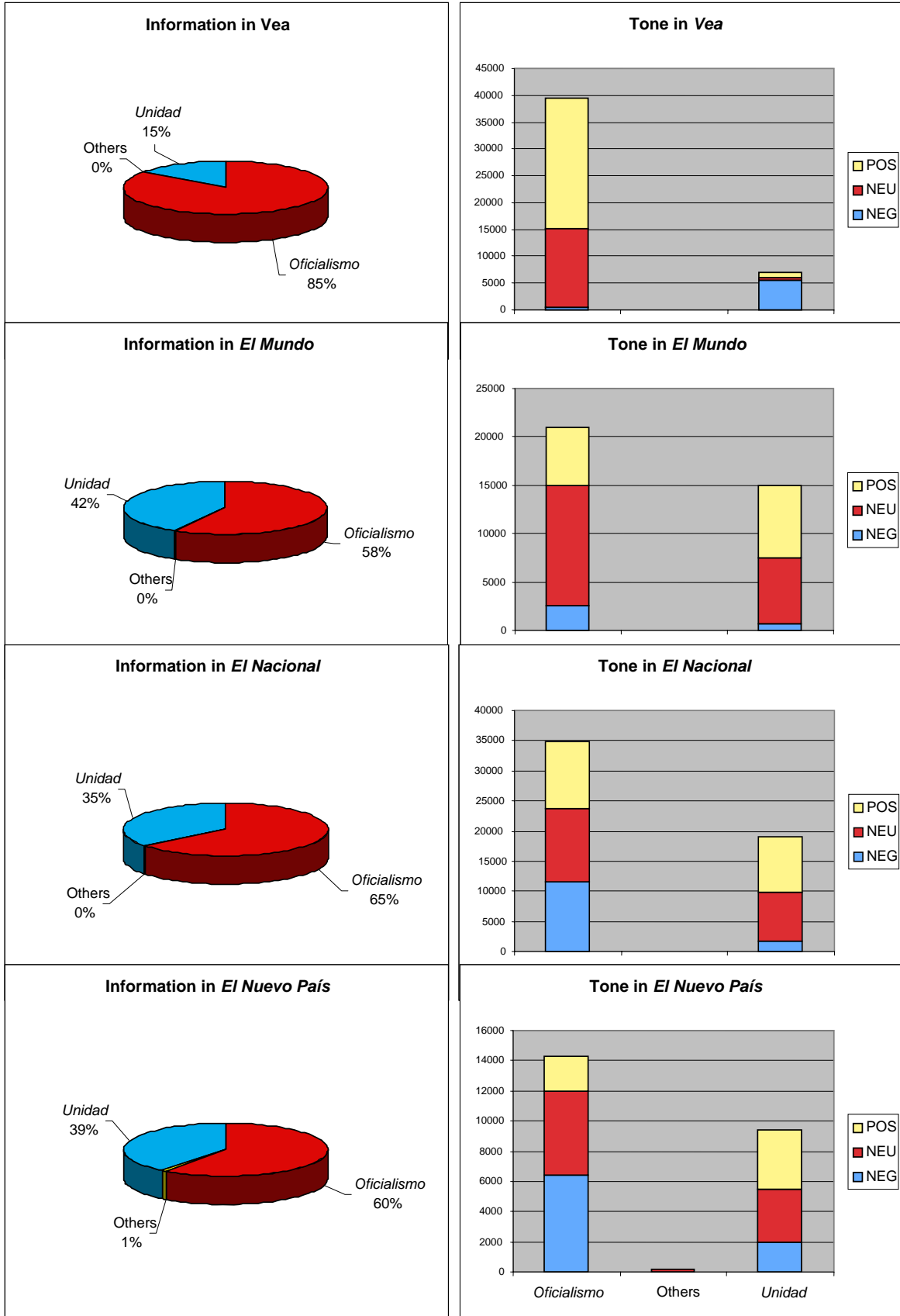
Quantity and Tone of Political Information on *Televén*



Quantity and Tone of Political Information on *Venevisión*

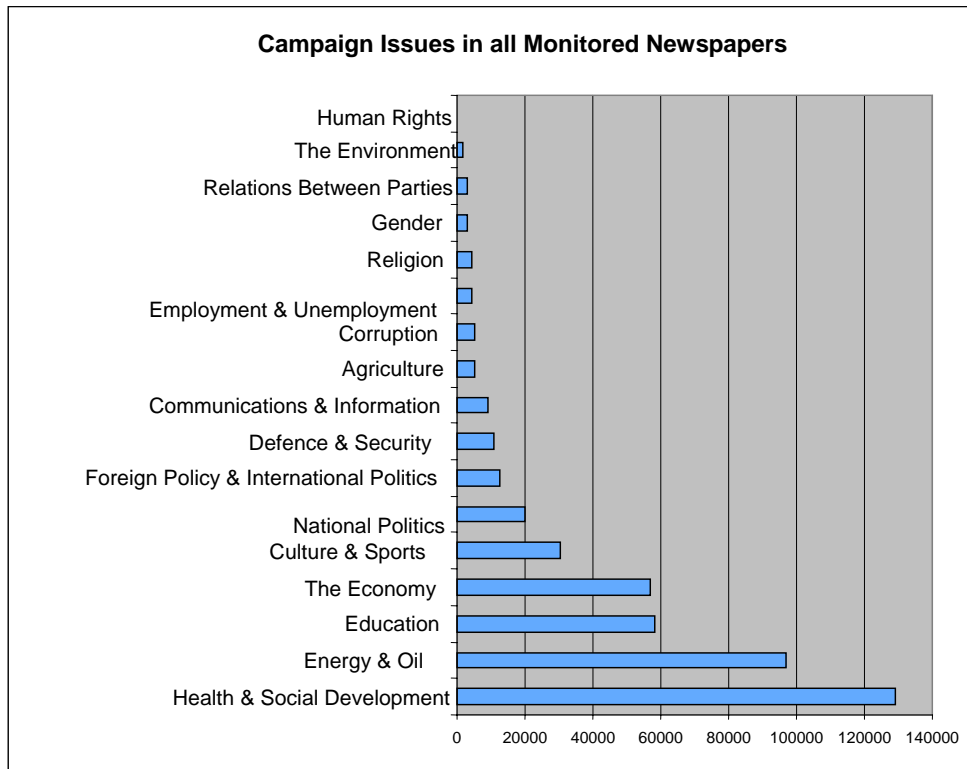


Quantity and Tone of Political Information in Newspapers

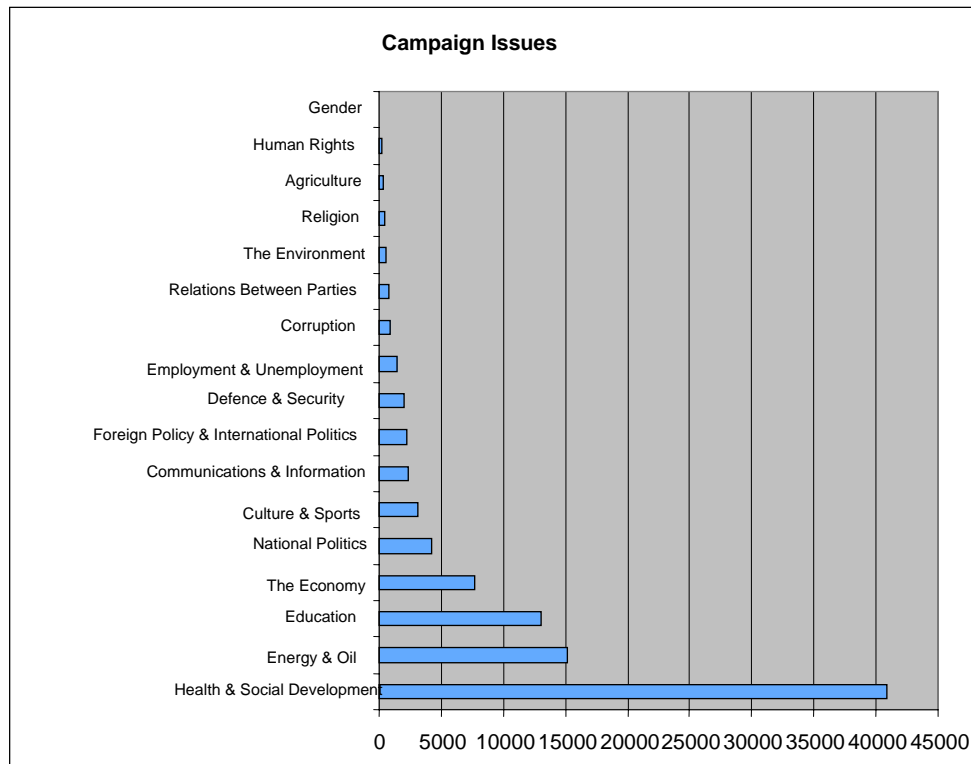


Campaign Issues in Newspapers and Television

NEWSPAPERS

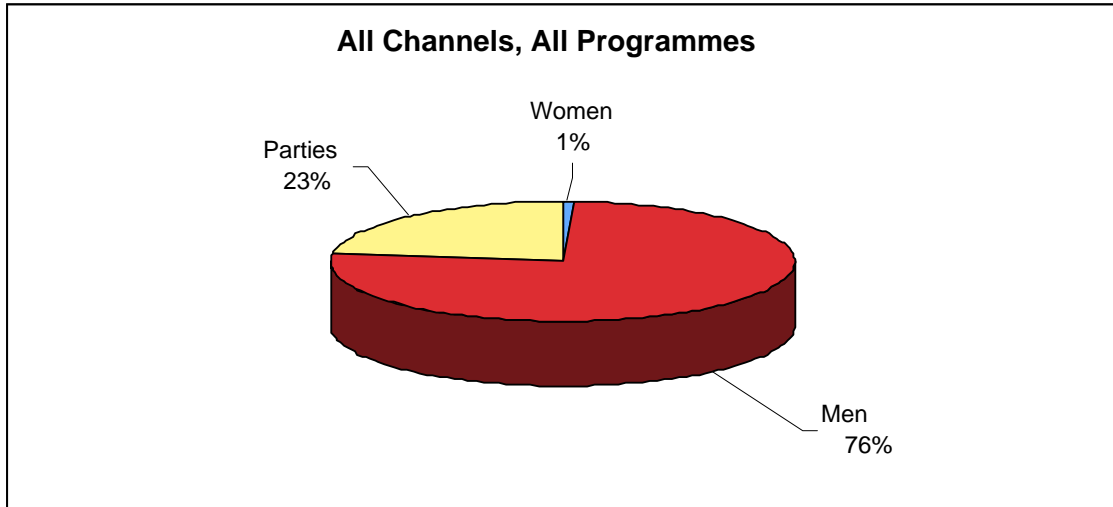


TELEVISION



Subjects of Political Information in the Media

TELEVISION



NEWSPAPERS

