



European Union
Election Observation Mission

COLOMBIA 2022

Final Report



Legislative elections

13 March 2022

Presidential election

29 May 2022

Presidential run-off

19 June 2022



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Only the original English version is official.

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I. Executive summary

On 13 March, Colombian citizens elected their representatives to both Houses of Congress. Those who wished to also voted in one of three presidential primaries, the largest and most pluralistic ever in the country. As provided for in the Peace Accord, Colombians living in the municipalities hardest hit by the conflict were also able, for the first time since the Peace Accord, to elect representatives in special transitory peace constituencies (CITREPs), designed to give victims direct representation in Congress. The calm and well-organised election day was marred by serious errors in the transmission of the provisional results which, although corrected in the aggregation of the official results, led to a deterioration in public perception of the process. The legislative elections resulted in a surge in representation in Congress for Gustavo Petro's *Pacto Histórico*. Traditional parties (*Liberal* and *Conservador*) succeeded in maintaining their significant parliamentary groups, while ruling party *Centro Democrático* lost a substantial number of seats.

Eight candidates registered their candidacies for the presidential election, held on 29 May. The three winners of the primaries, Gustavo Petro (*Pacto Histórico*), Sergio Fajardo (*Coalición Centro Esperanza*) and Federico Gutiérrez (*Equipo por Colombia*), were joined on the ballot by five other candidates, including Rodolfo Hernández (*Liga de Gobernantes Anticorrupción*). Election Day was conducted in an orderly and transparent manner, and the publication of results was swift and accurate, which helped to restore the credibility of the *Registraduría*. A second round between Gustavo Petro and Rodolfo Hernández followed on 19 June. Petro was elected president with 50.44 per cent of the vote, while Hernández, who swiftly acknowledged defeat, obtained 47.3 per cent. Within hours, the results were also recognised both by President Duque and the *Centro Democrático* leader, former president Álvaro Uribe. Turn-out was the highest in Colombian elections in over 20 years. Petro's election was the first of a left-wing president in Colombia, and constituted an unprecedented political alternation.

Several of the **recommendations made by the EU Electoral Expert Missions** (EEMs) deployed in 2018 were reflected in the draft electoral code which was approved by Congress in 2020, such as measures to increase women's access to positions of power and the extension of voting hours. However, the draft law was declared unconstitutional by the Constitutional Court on procedural grounds. Nonetheless, some EU EEM recommendations could be implemented even in the absence of legislative reform, including the introduction of separate ballots where voters must choose which constituency to vote for, in order to reduce the historically high rate of invalid votes. In addition, the purchase of some of the results aggregation software was consistent with EU EEM recommendations, as were the efforts to register citizens in remote areas who still did not have an identity card.

The Colombian **electoral legal framework** is complex and dispersed, sometimes to the point of making it unclear which legislation is in force and applicable, but overall provides a solid basis for holding democratic elections. The Constitution and laws enshrine political rights and freedoms and establish effective mechanisms for their protection, supported by a robust judicial system and Constitutional Court. However, the framework also has some shortcomings and lacunae, notably on candidate registration, deadlines for complaints and oversight of campaign finance.

The *Registraduría Nacional del Estado Civil* launched **election preparations** in the midst of a generalised loss of confidence in public institutions, and its credibility was questioned almost throughout the election process, not least following errors in the preliminary results for Congress. Nonetheless, the *Registraduría* demonstrated high levels of organisation and professionalism, and succeeded in organising ordered and transparent polling and results for all three election days.

The *Registraduría* increased the number of voting centres (*puestos de votación*), including in difficult-to-serve rural areas, not least the CITREPs. The *Registraduría* took the opportunity to revise procedures before the presidential elections, and introduced several improvements, notably double data entry for results processing, as well as more practical and targeted training for polling staff, and increased opportunities for party representatives to view polling station results. The *Registraduría* demonstrated great flexibility in facilitating the accreditation of candidate representatives to polling stations and aggregation centres, and no political parties reported being unable to deploy representatives as a result of administrative hurdles.

In Colombia, **voter registration** is automatic upon being issued with an identity card, and it is widely considered that this passive enrolment has ensured a highly inclusive Voter Register, and that few Colombians remain outside the system. Furthermore, the Voter Register is generally considered to be accurate and largely free of extraneous entries. In 2021, the *Registraduría* launched an online platform for electoral address changes, which hitherto had only been possible by attending *Registraduría* offices. This mechanism however returned high rates of unsuccessful applications, most of which were due to failure to adequately complete the online process, rather than ineligibility. In recognition of the difficulties incurred by the online system, the *Registraduría* opted, in the lead-up to the presidential election, to suspend online applications earlier than in-person applications, in order to ensure all processes could complete.

Colombian legislation provides for generally inclusive eligibility criteria for the **registration of candidates**, with the notable exception of the Constitution's permanent disqualification of candidates who have committed intentional crimes, regardless of the severity of the offence or the length of the sentence. In fact, of the 26 candidates to Congress who were disqualified, 17 were disqualified on these grounds, in most cases due to offences committed a long time before. For the presidency, no candidate was disqualified.

The **election campaign** was pluralistic and, in general, took place in a peaceful environment. In most of the country, candidates and voters were able to freely organise and attend public events, and with the exception of the second round of the presidential election, there were numerous debates between candidates. However, the increasing violence imposed mainly on rural communities by illegal armed groups, the 23-26 February armed shutdown of the *Ejército de Liberación Nacional* (ELN), and that imposed by the *Clan del Golfo* armed group between 4 and 8 May, as well as the continuing trend of assassinations of community leaders all had debilitating effects on campaigning in many areas and impacted on freedom of movement and assembly of both candidates and citizens, throughout the process.

Candidates are required by law to report all **campaign finance** to the *Consejo Nacional Electoral* (CNE) within two months of election day. However, the CNE has not been provided with sufficient resources and mechanisms to effectively control campaign spending and funding. Given the CNE's current capacities, it is extremely difficult to trace or sanction those companies and entrepreneurs' associations alleged to make contributions to campaigns without reporting them, as was reported from several departments by EU EOM observers. This particularly applies to contributions made in kind or in cash to campaigns locally, which the CNE has no way of controlling, not least given its lack of a nationwide territorial structure.

Elections in the **new special peace constituencies** faced several challenges as major design flaws were revealed during their implementation. Although new polling centres were established in the CITREPs and security schemes were provided to a majority of candidates, many of them asserted the schemes were insufficient and EU EOM observers reported direct threats or attacks on candidates in nearly all CITREPs. Their delimitation excluded municipal centres, thus excluding many displaced citizens. In addition, NGOs and investigative journalists identified dozens of candidates as not genuine victims, but rather, proxies of traditional political parties or interest

groups. The registration of candidates with family ties to well-known victimisers was also met with criticism. Citing the lack of basic financial conditions such as the impossibility of obtaining campaign advances and security concerns, more than a dozen candidates from several CITREPs filed official appeals to postpone the elections and several withdrew their candidacies in the days leading up to the election.

In early May, the *Procuraduría* ordered a disciplinary investigation and the temporary suspension of four elected mayors for allegedly participating in the presidential campaign. Bearing in mind that participation in politics is inherent to the functions of elected officials, it is questionable whether the prohibition on public servants' involvement in election campaigns applies to elected officials, which would clearly not meet international standards on political participation. Furthermore, the removal, albeit temporary, of an elected official by an administrative authority rather than by a competent judge in criminal proceedings was declared in breach of the American Convention on Human Rights by an Inter-American Court of Human Rights binding judgement against Colombia.

The **legal framework for media** in Colombia provides for fundamental rights such as freedom of expression and access to information. However, several regulations on relevant areas such as institutional advertising and libel and slander crimes in the media are not in line with those rights or need further improvement. Freedom of expression and media freedoms were generally respected throughout the different campaign periods and most media were able to cover the entire electoral process without major limitations. However, security conditions in some regions, especially Arauca and Bajo Cauca, restricted journalist freedom to work and forced some local radio stations to temporarily interrupt broadcasting.

Overall, national media provided extensive information on the electoral process to citizens in a pluralistic way. This included broadcasting of studio interviews, debates and reports on campaign activities by contenders, who also benefited from free-of-charge electoral propaganda slots on TV, as provided for by law. Nevertheless, EU EOM **media monitoring** findings demonstrated that some private media showed clear bias in their coverage throughout the three campaign periods to the detriment of *Pacto Histórico* and Gustavo Petro. Full results of the EU EOM media monitoring are available in the EU EOM website.

Use of **social media** in the campaign, still unregulated, was extensive, with relatively low rates of disinformation, mostly of which was directed at Gustavo Petro. Candidates posted a relatively low number of messages confronting their adversaries. However, the EU EOM detected an increasing amount of toxic language and hate speech in mentions of the candidates, peaking in the second round of the presidential election. Francia Márquez was the target of more hate speech than other candidates in both rounds of the presidential elections. Analysis of Twitter profiles interacting with candidates' posts revealed that at least 19 per cent displayed characteristics consistent with bots.

The constitutional reform of 2015 introduced the principles of gender parity and alternation in party and candidate lists, albeit only through gradual legal reform. In fact, the 2011 law on political parties, still in force, introduced a requirement that women make up at least 30 per cent of candidate lists in constituencies with at least five seats. **Women's participation** increased significantly in the 2022 elections, in terms of both registered and elected candidates. For the 2022-2026 legislative period, women will make up 29 per cent of the new Congress: 9.4 per cent more than in the outgoing Congress.

The Constitution establishes special seats for **ethnic minorities** and, for the first time, an Afro-Colombian woman has been elected vice-president. The *Registraduría* introduced creole language election materials, but there is still a lack of voter information in minority languages.

All three **election days** were peaceful for the most part, although each recalled regrettable evidence of the backdrop of violence that prevails in several parts of the country. All three election days were well-organised, and EU EOM observers found polling staff carried out their duties with competence and transparency. Secrecy of vote was not fully respected in 18 per cent of polling stations visited during congressional elections, a figure which improved for presidential polling. The EU EOM recorded indications of vote-buying in 7 per cent of polling stations observed, a practice which significantly reduced during presidential polling.

The complexity of the elections to Congress presented particular challenges but these were largely overcome. Notably, the introduction of separate ballots clearly helped reduce the rate of invalid votes. The *Registraduría* made concerted efforts to address weaknesses identified after the legislative election and these, combined with the relative simplicity of the presidential elections, ensured that the next two election days were particularly smoothly run. Party representatives were able to observe all stages without undue restriction, and take photographs of the completed results forms.

Transparent official **results processing** enabled traceability from polling station to final results, accuracy of which was improved by double data entry in both presidential rounds. Errors in the legislative preliminary results triggered wider allegations and public mistrust. Public trust in the electoral process could have been enhanced by clearer communication on the existing transparency mechanisms.

Following the legislative elections, 2974 **complaints** on results in both chambers of Congress – each concerning one polling station- were received at municipal level and 3725 at departmental level. At the national level, the plenary of CNE also received 1328 complaints challenging ordinary seats in the Senate, referring to approximately 50.000 polling stations. In contrast to the elections to Congress, a relatively low number of complaints were received following the two rounds of the presidential election, which enabled official results to be declared just four days after the vote, almost a month earlier than the results of the Senate and the last house seats. The law does not provide deadlines for the submission of administrative complaints on results.

Priority recommendations

The EU EOM made 24 recommendations with a view to further enhance the conduct of elections in Colombia and to support efforts to bring them fully in line with international obligations and standards for democratic elections. They are made for the consideration of the newly elected Congress, the new government, the election administration and Colombian society. A table with all the mission's recommendations can be found at the end of this report. Priority recommendations include:

1. To provide the CNE with the necessary human, financial and logistical resources in order to increase its capacity to carry out effective control of campaign finances.
2. In order to strengthen measures aimed at increasing women's access to power, the minimum quota in candidate lists could be raised to require parity (50 per cent), and, further, be applied to all constituencies. To the same end, alternation between men and women could be required for closed lists. Lastly, mechanisms could be explored to make parity effective when parties present open lists.
3. A public information campaign emphasising the right to a secret vote, as well as a better voting booth design and training on voting booth placement would help further improve guarantee of secrecy of vote. In fact, secrecy of vote and awareness of this right is a key prevention measure against the recognised phenomenon of vote-buying.

4. To eliminate the permanent ineligibility from running for Congress or President for those convicted of intentional crimes. If suspension of the right to stand is maintained as a sentence associated with imprisonment, the period of disqualification should be proportionate to the severity of the offence or the length of the sentence.
5. In order to align Colombian legislation with the American Convention on Human Rights and the jurisprudence of the Inter-American Court of Human Rights, to suppress the power conferred by the Constitution to the *Procuraduría* - an administrative institution - to suspend or remove elected officials from office for disciplinary offences. This power should be exclusively in the hands of the judiciary, following due process.
6. To approve clear regulation on institutional advertising to guarantee its allocation in the media through objective criteria of fairness, equity and transparency, so as to minimise the risk of public institutions advertising being used as a mechanism of economic pressure against critical media.

II. Introduction

The European Union Election Observation Mission began work in Colombia on 25 January, in response to an invitation from the *Consejo Nacional Electoral* (CNE) and the *Registraduría Nacional del Estado Civil* (RNEC). The Mission was led by Chief Observer Javi López, Member of the European Parliament (Spain). The EU EOM deployed between 110 and 140 observers¹ from 27 EU Member States, Norway and Switzerland in 31 of the 32 departments of Colombia and the district of Bogotá to assess the entire electoral process against international obligations and commitments for democratic elections as well as the laws of Colombia. A delegation from the European Parliament, headed by Izaskun Bilbao Barandica, Member of the European Parliament, joined the mission for each of the three election days.

The mission published a preliminary statement after each election, on 15 March, 31 May and 21 June. The EU EOM remained in Colombia until 14 July, to observe post-electoral disputes process. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation endorsed at the United Nations in October 2005.

III. Political background

The 2022 elections were held in the highly polarised environment. The last year of President Duque's mandate was marked by a third wave of social protests (*Paro Nacional*)² that broke out in some regions of the country on 28 April 2021 in response to a tax reform bill that, according to its detractors, increased the tax burden on a middle class already weakened by the pandemic. Despite the withdrawal of the bill on 2 May 2021, the protest movement continued until June and its demands expanded into other areas, such as denouncing the corruption of the traditional political

¹ Figures varied on the three election days.

² Social protests began in late 2019. The covid-related lockdown from March 2020 effectively suspended the protests, which nonetheless revived in full force as confinement rules were lifted in September 2020. After a period of calm, the tax reform catalysed the April 2021 protests.

establishment. In some cities, the protests took a violent turn, with clashes with the police, who were accused of excessive use of force and violations of the protesters' human rights.³

During much of the same period, the country saw increasing levels of violence, as the space left by the FARC guerrillas – demobilised after the 2016 Havana Peace Accord – was filled by competing illegal armed groups, and fighting by and between these groups increased. The ongoing fighting has caused forced displacement and severely impacts on the lives of citizens in several departments, mainly on the Pacific coast and along the border with Venezuela.⁴ The 12 months prior to the elections were reported to be the most violent since 2014, and 110 community leaders and signatories of the Peace Accord were reported to have been assassinated in the first six months of 2022 alone.⁵ The pandemic in turn gave rise to an increase of common street crime, which further eroded public safety.

The government of President Iván Duque's *Centro Democrático* was composed of former president Santos' *Partido de la U*, the traditional *Partido Conservador*, and the small evangelical parties *MIRA* and *Colombia Justa Libres!*. The *Partido Liberal* and *Cambio Radical* declared themselves as independents in Congress but generally supported the government. Due to the poor public standing of the government and an increasingly popular demand for change from the politics of the past 20 years, the traditional right-wing and centre-right parties struggled to maintain their support base. The leader of *Centro Democrático* and emblematic figure of the right, Álvaro Uribe, resigned from his Senate seat in 2020 and did not run in this year's election.

After losing the last presidential election in 2018 – but having increased the political representation of the left – Gustavo Petro became a fierce critic of the Duque government as the leader of the opposition. He used this position to build his and his party's reputation as potential contenders in the 2022 elections, constructing coalitions and developing grassroots local organisations. This, coupled with the social movements of the previous year, which he strongly supported, provided Petro with significant political capital and by the time he announced his candidacy and the formation of the *Pacto Histórico* coalition in September 2021, he was leading in opinion polls.

Legislative elections

On 13 March Colombian voters went to the polls to elect the bicameral Congress: 102 senators and 181 House representatives. The 2016 Havana Peace Accord established a framework for the political participation of the demobilised FARC guerrillas, as well as the victims of the armed conflict, by way of a temporary increase in the number of seats in the Congress. For the 2018-22 and 2022-26 terms, FARC's political successor *Comunes* party has five guaranteed seats in both chambers, while 16 transitional peace constituencies (CITREP) were established to represent the victims in 167 of the municipalities most affected by the conflict in the House of Representatives for the 2022-26 and 2026-30 terms (*see Annex 10*).⁶ Candidates for those seats had to be certified victims of the conflict⁷, and traditional political parties were excluded from this contest. A remarkable 403 candidates registered for the 16 seats on 203 candidate lists, each consisting of one woman and one man.

³ The Ombudsman's Office registered the deaths of 42 civilians and two policemen during the protests. The NGO Human Rights Watch reported 67 deaths. Disappearances and assaults of various kinds, including sexual assaults, were also reported.

⁴ The departments most affected are Nariño, Cauca, Valle del Cauca, Chocó, Antioquia, Córdoba, Norte de Santander and Arauca.

⁵ See UNOHCHR, 03.2022 (https://www.hchr.org.co/informes_anuales/informe-de-la-alta-comisionada-de-las-naciones-unidas-para-los-derechos-humanos-sobre-la-situacion-de-derechos-humanos-en-colombia-durante-el-ano-2021/) and Indepaz (Instituto de Estudios para el Desarrollo y la Paz) <https://indepaz.org.co/lideres-sociales-defensores-de-dd-hh-y-firmantes-de-acuerdo-asesinados-en-2022/>

⁶ Acto Legislativo 03/2017, Acto Legislativo 02/2021

⁷ They had to be registered as such with the *Unidad para la Atención y Reparación Integral a las Víctimas*.

The *Registraduría* registered 2835 candidates for the legislative elections by the 13 December deadline: 934 for the Senate and 1901 for the House of Representatives. Sixteen lists representing 25 parties and political movements were registered in the national constituency for the Senate, and nine others in the special indigenous constituency. Three of the 16 lists represented coalitions, notably *Pacto Histórico*, *Coalición Centro Esperanza* and the coalition of evangelical parties, *Nos Une Colombia*.⁸ For the House, 263 lists were registered in the territorial constituencies and 45 for the special indigenous and Afro-Colombian ones. In the House election, parties frequently entered regional alliances which depended on local dynamics and lay outside of official party lines defined by the respective Senate coalitions.

Colombian election legislation allows both open and closed party lists. Eight parties or coalitions ran on closed lists for Senate and eight lists were open, with a single preferential vote.⁹ Similarly for the House of Representatives, where candidates are elected in departmental constituencies, around three quarters of party lists were open. The preferential voting implied that candidates were running almost independently, thus creating a rather atomised campaign environment. This system has often been accused of reinforcing traditional clientelist practices including vote buying, indications of which were observed by EU observers, especially in the Atlantic coastal region and in departments with the most vulnerable population. This practice frequently relies on sophisticated, often coercive mechanisms, and is widely considered to be common in large parts of the country. The elimination of open party lists has been proposed on several occasions by different groups in Congress since their introduction in 2003.

Presidential elections

For the first time, most parties participated in the inter-party presidential consultations held in conjunction with the legislative elections. All Colombians eligible to vote, without regard to party affiliation, could vote for one of the 15 candidates competing in the three different coalitions: *Pacto Histórico* (left), *Coalición Centro Esperanza* (centre), and *Equipo por Colombia* (right). Former president Uribe's *Centro Democrático* did not participate in the primaries and their presidential candidate, Oscar Iván Zuluaga, withdrew one day after the results of the primaries became known. The *Partido Liberal*, traditionally one of the strongest parties in Congress, did not field a presidential candidate.

Eight candidates registered their candidacies for the presidential election. The three winners of the primaries, Gustavo Petro (*Pacto Histórico*), Sergio Fajardo (*Coalición Centro Esperanza*) and Federico Gutiérrez (*Equipo por Colombia*) were joined on the ballot by Rodolfo Hernández (*Liga de Gobernantes Anticorrupción*), John Milton Rodríguez (*Colombia Justa Libres!*) and Enrique Gómez (*Movimiento de Salvación Nacional*). Ingrid Betancourt (*Partido Verde Oxígeno*) and Luis Pérez (*Colombia Piensa en Grande*) remained on the ballot papers as they withdrew from the race a few days before election day, when these had already been printed.

The first round of the presidential election was held on 29 May, followed by a runoff on 19 June.

⁸ Pacto Histórico: Colombia Humana, Polo Democrático, Unión Patriótica, Alianza Democrática Amplia (ADA) and Movimiento Alternativo Indígena y Social (MAIS), Centro Esperanza: Alianza Social Independiente (ASI), Dignidad, Verde Oxígeno and Colombia Renaciente, Nos Une Colombia: MIRA and Colombia Justa Libres!

⁹ Art. 13. Acto Legislativo 01/2003

IV. Implementation of previous EU Electoral Expert Missions recommendations

The election administration implemented some of the 2018 EU EEM recommendations which did not require legal reform

Several of the recommendations made by the EU Electoral Expert Missions (EEMs) deployed in 2018 were reflected in the draft electoral code which was approved by Congress in 2020, such as measures to increase women's access to positions of power and the extension of voting hours. However, more than one year later, the draft law was declared unconstitutional by the Constitutional Court on procedural grounds. Nonetheless, some EU EEM recommendations were implemented as they did not require legislative reform, including the introduction of separate ballots where voters must choose which constituency to vote for, in order to reduce the high rate of invalid votes. In addition, the purchase of some of the results aggregation software was consistent with EU EEM recommendations, as were the efforts to register citizens in remote areas who still do not have an identity card.

V. Legal framework

The Colombian legal framework, complex and dispersed, provided a solid basis for holding democratic elections but some inconsistencies and gaps remain

The Colombian legal framework generally complies with international standards for democratic elections. Colombia has ratified most relevant international and regional treaties covering political rights,¹⁰ and the 1991 Constitution, which has undergone continuous reforms since its promulgation, regulates numerous aspects of the electoral process, often in an unusually detailed manner. In Colombia, international treaties are part of national legislation and, except for the Constitution, take precedence over the laws of the country.¹¹

The Election Law of 1986 is among numerous laws which govern the electoral process, and predates the Constitution. In fact, many of the Law's provisions have been repealed or are inconsistent with the 1991 Constitution and its successive amendments,¹² or with subsequent laws. In addition to the Constitution and the Election Law, elections are framed by the 2011 Law on Political Parties and Electoral Processes, Law 996/2005, known as *Ley de Garantías*, which specifically regulates the presidential elections, and several other laws.¹³

¹⁰ Colombia is party to the International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of all Forms of Racial Discrimination (ICERD), Convention on the Elimination of all forms of Discrimination against Women (CEDAW), United Nations Convention against Corruption (UNCAC), Convention on the Rights of Persons with Disabilities (CPRD) and the Indigenous and Tribal Peoples Convention (ILO c. 169). Colombia is also party to the American Convention on Human Rights (ACHR), Inter-American Convention on the granting of political Rights to Women, Inter-American Convention Against Corruption (IACAC), Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities and the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance (A-68), which Colombia signed in 2014 but has not ratified yet.

¹¹ Article 93 of the 1991 Constitution.

¹² Between its entry into force in 1991 and January 2022, the Constitution has been amended 52 times. Article 375 establishes that to amend the Constitution through *Acto Legislativo*, the vote of a majority of the members of each chamber is required.

¹³ Law 130/1994 Statute on Political Parties and Movements, Law 1909/2018 Statute of the Political Opposition, Law 163/1994, and Law 1864/2017, which adds five new election offences to the 11 already established in the Penal Code.

All laws on elections are defined as *Leyes Estatutarias* and are hence subject to review by the Constitutional Court prior to their entry into force and as such, the Court's decisions are an important element of the legal framework. The same applies to the jurisprudence of the *Consejo de Estado*, the highest judicial authority on electoral matters. The Colombian legal framework is completed by numerous regulations issued by the *Consejo Nacional Electoral (CNE)* to whom the Constitution conferred ample regulatory powers.

In December 2020, the National Congress approved a new Election Law, which included some recommendations of the 2018 EU Election Expert Missions (EU EEMs) such as increasing the gender quota for Congress elections and extending the voting day. Nonetheless, on 21 April 2022, after more than a year of awaiting judicial review as a condition of entering into force, the new Election Law was declared unconstitutional on procedural grounds.¹⁴ Thus, the applicable Election Law remains one that pre-dates the Constitution, and several positive developments included in the draft law are on hold.

Although the Colombian legal framework provides an adequate basis for holding democratic elections, its dispersal across numerous instruments, as well as administrative regulations and resolutions renders it complex, sometimes to the point of undermining legal certainty, as it is unclear which legislation is applicable. Inconsistencies persist not only in the main Election Law but also, for example, in Law 996/2005 on the election of the President of the Republic, which contains several articles on presidential re-election, eliminated by the constitutional reform of 2015,¹⁵ and as a result interpretation of some campaign rules for the presidential election is difficult. In addition, the framework suffers from a lack of clear provisions establishing deadlines in pre-electoral and post-electoral phases of the process, as well as gaps in areas such as political participation of elected public servants and oversight of campaign finance.

Recommendation: *to consolidate electoral legislation into a limited number of laws, ideally into one electoral code and one law on political parties and movements.*

Election system

The President and Vice-President of Colombia are elected for a period of four years. If no candidate obtains 50 per cent of the valid votes in the first round, a second round takes place three weeks after the first.¹⁶ The Legislative Act 02/2015 re-introduced a prohibition on re-election and granted a seat in the Senate to the presidential candidate who comes second. The runner-up vice-presidential candidate is granted a seat in the House of Representatives.

The Colombian Congress is composed of the Senate and the House of Representatives. Of the *Senate's* 108 members, 100 are elected in a national constituency, on lists that can be open or closed, depending on the choice made by the coalitions, parties or political movements that present them. Colombian law establishes a threshold, with the aim of reducing fragmentation in the upper house: only those lists that obtain at least 3 per cent of the valid votes may take up their seats. Seats are

¹⁴ The Constitutional Court's ruling was based on the following grounds: the bill was passed in extraordinary sessions, that is, outside the legislative term, and sessions were held partly remotely, instead of predominantly in person as required for *leyes estatutarias*. The absence of a broad, far-reaching, and meaningful debate; prior consultations of indigenous and tribal communities as well as lack of a fiscal impact study were also pointed out as grounds for declaring the unconstitutionality of the bill. Six magistrates voted in favour and three against the Court's decision. The three magistrates who opposed the Court ruling formulated dissenting opinions.

¹⁵ Article 197 of the 1991 Constitution was amended in 2004, during the first mandate of President Uribe, to allow re-election, and in 2015, at the beginning of the second mandate of President Santos, to prohibit it once again.

¹⁶ Article 190, Constitution. The 'voto en blanco' ('none of the above' option) is a valid vote in all elections. In a second presidential round, the candidate with most votes wins, regardless of the rate of 'voto en blanco'.

allocated in proportion to the votes obtained by each list that has passed the threshold, according to the d'Hondt method.¹⁷

In addition, two senators are elected for the special indigenous constituency, also of national scope, but for which the 3 per cent threshold does not apply. Voters choose whether to vote for the special indigenous constituency or for the ordinary constituency. Finally, in application of the peace accord, the 2017 constitutional reform guarantees the successor party to the FARC-EP guerrillas, *Comunes*, a minimum of five seats in the Senate during the 2018-2022 and 2022-2026 periods, even in the event that this political force does not obtain sufficient support in the elections.¹⁸

The *House of Representatives* elected in 2022 is composed of up to 188 members. Of these, 162 are elected in 33 ordinary territorial constituencies on lists that may be open or closed. The constituencies correspond to the 32 departments of the Republic and the district of Bogotá. Seats are distributed by the d'Hondt system among the lists that have passed the threshold in their constituency.¹⁹

As well as the representatives elected in ordinary territorial constituencies, there are two seats in the special constituency for Afro-descendant communities and another in the special indigenous constituency. Both constituencies are national, and voters must choose between voting for their ordinary territorial constituency or for one of the special constituencies. Another member of the House is elected by Colombians living abroad, who may vote in the embassies and consulates.²⁰ Also, as mentioned above, the second most voted-for vice-presidential candidate can, if he or she wishes, take up a seat in the chamber. During the 2022-2026 period, the FARC party for the last time is guaranteed 5 seats in the House of Representatives.

Finally, the 2022 legislative elections saw the introduction, for the first time, of 16 special transitional peace constituencies in the 167 municipalities most affected by the conflict, with the aim of giving victims direct representation in the House of Representatives for two legislatures: 2022 – 2026 and 2026 - 2030.²¹ In these special constituencies, known as *Circunscripciones Transitorias Especiales de la Paz* (CITREPs), voters cast ballots for their special CITREP representative, as well as for their other choice for House of Representatives election.

Colombia's highly complex system for electing Congress facilitates numerous choices for political movements and voters about how they wish to participate, and places correspondingly complex demands on both voters and the election administration, including poll workers. The option of running open lists also makes it difficult to introduce effective measures to increase women's access to elected posts.

¹⁷ Seats for the movements that presented open lists are attributed to the candidates of the list who obtain the highest number of preferential votes. Each voter has only one preferential vote, or may choose, alternatively, to simply vote for the party.

¹⁸ In the 2018 elections, the *Comunes* Senate list obtained just 0.34% of the valid votes, well below the 3% threshold. In 2022, *Comunes* obtained even fewer votes: 25.708 votes for the Senate (0.19 per cent) and 21.508 votes for the House (0.12 per cent).

¹⁹ For the House of Representatives, the threshold corresponds to 50% of the electoral quotient, i.e. the figure resulting from dividing the valid votes cast in a constituency by the number of seats to be distributed. If none of the lists exceeds the threshold, which is likely only in very small constituencies, the threshold will be ignored. Where only two candidates are to be elected, the threshold is set at 30% of the electoral quotient.

²⁰ Colombians living abroad may also vote for the President/Vice-President and for the Senate.

²¹ The Peace Constituencies were foreseen in the 2016 Accord and were introduced into the Constitution through a constitutional reform voted in 2017. However, the Senate's bureau then considered that the reform had not obtained a sufficient majority for its approval. Four years later, the Constitutional Court (SU 150/2021) considered that such a majority had indeed been obtained and ordered that the elections for the peace seats, provided for in the Peace Accord for the periods 2018-2022 and 2022-2026, take place in the 2022 and 2026 congressional elections.

Constituency delimitation

The president and the Senate are elected from a single nationwide constituency, while members of the House of Representatives are elected from the country's 32 departments and Bogota DC, in addition to one representative for Colombians resident abroad. The Constitution established, as of 2014, a mechanism to update the number of seats in each ordinary constituency according to its demographic evolution.²² However, no such update has been carried out,²³ because a 2015 ruling by the State Council prohibited the use of census data for these purposes unless the census had first been approved by Congress.²⁴ As a result, the attribution of seats still rests on the 1985 census. In Colombia, there is a significant over-representation in the House of Representatives of the least populated departments and a correlated under-representation of the most populated ones. For example, although on average each seat corresponds to some 210,000 voters²⁵, seats in Bogota DC and La Guajira correspond to more than 320,000 voters, while in nine departments, each seat corresponds to between 100,000 and 200,000 voters. In departments like Vaupés, Guainía, Amazonas and Vichada, each seat corresponds to between 11,700 and 25,900 voters.²⁶ Although this disparity is principally due to the reasonable constitutional provision guaranteeing minimum representation for the least populated departments of the Amazonia and Orinoquia regions, it is exacerbated by the fact that it has been so long since there was an update of the number of seats by department.

Recommendation: *in the short term, it would be conducive to equality of vote – and implementation of the Constitutional provision to that effect - if Congress were to swiftly approve the most recent census carried out in 2018, in order to update the attribution of seats in the House of Representatives in line with demographic evolutions. The EU EOM further recommends a legal reform to ensure that in future, application of census data need not be contingent on Congress approval, so as to facilitate regular review of the attribution of seats to constituencies.*

²² Article 176.2 establishes that each constituency will have two representatives and one more for every 365,000 inhabitants or fraction greater than 182,500 in excess of the first 365,000. The 2015 constitutional reform also foresaw that the constituency formed by the three large islands of the Colombian Caribbean (San Andrés, Providencia and Santa Catalina) would also elect a Representative of the Raizal community (English Creole-speaking Afro-descendants) of that department. However, the Constitution's provision for this Raizal seat has not been developed in legislation and has not yet been implemented.

²³ The CNE/RNEC 3202 Joint Resolution of April 2021 noted the impossibility of updating the calculation of seats in the absence of a new population census approved by law since the 1985 census, as required by the Fifth Chamber of the Council of State in 2015. Moreover, the national statistics agency the *Departamento Administrativo Nacional de Estadística* (DANE) acknowledged that it is impossible to project the current population from such a remote census.

²⁴ Article 7 of Ley 79 de 1993 addressing national census, stipulates that any new national census must be presented to Congress for approval, within one year. In 2015, after the Registraduría attempted to apply the Constitution's provision for updating the attribution of seats, the State Council (15 October 2015, case number 2014 - 00835) recalled the above legal provision and ordered the President and National Statistics Agency (DANE) to present the most recent census (then the 2005 census) to Congress by 16 March 2016. However, this did not happen, and no census has been put to Congress since.

²⁵ Not including out-of-country voters.

²⁶ For further detail, see annex 1.

VI. Election Administration

The Registraduría demonstrated high levels of professionalism and successfully organised transparent elections, despite some weaknesses in communication and the challenge of being almost constantly questioned

Structure of the election administration

The Colombian *Organización Electoral* is made up of two bodies: the National Election Council (*Consejo Nacional Electoral*, CNE) and the National Civil Registry (*Registraduría Nacional del Estado Civil*, RNEC). While the former is mainly an administrative oversight body, the RNEC is in charge of organising the elections.

Consejo Nacional Electoral

The CNE is an administrative body charged with overseeing the electoral process. Among its functions are granting or revoking the legal status (*personería jurídica*) of political parties; determining candidates' eligibility; overseeing compliance with campaign regulations and campaign finance provisions regulating political parties' access to State media; aggregating votes at departmental and national level as well as votes from abroad, declaring results and acting as last administrative recourse on appeals, challenges and complaints concerning every stage of the electoral process.²⁷

The CNE is composed of nine magistrates elected for a period of four years by the Congress, through a system of proportional representation established by the Constitution.²⁸ A transitory provision enacted in 2017 provides for a 10th magistrate, representing the FARC-derived *Comunes* party, who participates in deliberations but does not have a vote.²⁹

Registraduría Nacional del Estado Civil (RNEC)

The *Registraduría* is, first, the National Civil Registry, and as such responsible, since 1948, for maintaining the civil registry and issuing identity documents. It is also the institution responsible for the logistical preparations for organising the elections, including updating the voter register, selecting and training polling station staff, and announcing preliminary results. The *Registraduría* has permanent offices in the departments and municipalities, which provide logistical support to organise the elections.³⁰ The *Registrador Nacional del Estado Civil* (head of the RNEC) is selected by the Presidents of the Constitutional Court, the Supreme Court and the State Council, (*Consejo de Estado*), following a competitive selection process.

Public trust in the election administration

The *Registraduría* launched election preparations in the midst of a generalised loss of confidence in public institutions, and indeed its credibility was almost constantly questioned throughout the election process, despite a generally sound performance and impartial treatment of contenders. The sources of such questioning varied over time: in the lead-up to the congressional elections, former president Andrés Pastrana spearheaded a campaign alleging the purchase of software for aggregating official results was connected to plans for fraud. Until late 2021, the *Pacto Histórico*

²⁷ Article 265, Constitution

²⁸ Article 264, amended by article 14 *Acto Legislativo 1 de 2003*. De facto, the CNE is thus a body with political representation.

²⁹ *Acto legislativo 03 del 23 de mayo del 2017* and Auto N° 499/17 de la Corte Constitucional. This transitory provision is to be applied until 2026.

³⁰ As well as 33 departmental offices, including Bogotá DC, the *Registraduría* has 1060 municipal offices, 26 district offices (all in Bogotá), and 39 and 40 auxiliary and special offices, respectively. Colombia has 1102 municipalities.

had also questioned the electoral software, and by the legislative elections, mistrust spread across the political spectrum. Public trust severely deteriorated in the wake of differences between the preliminary results (*preconteo*) and final, official results (*escrutinio*) for the 13 March Senate elections.³¹ Despite the fact that the *preconteo* has no legal value, and that the briefly injured party (PH) was satisfied with the official results process, these errors were used as a springboard to question the whole process, and former president Álvaro Uribe asserted he did not recognise the results and called for a recount, although the results process was still underway.³² On 19 March, a majority of parties from across the political spectrum rejected the call for a fresh legislative election count, asserting that although imperfect, the *escrutinio* process did not indicate fraud, and did allow for corrections where necessary.

Nonetheless, public trust in the *Registraduría*'s efficiency and impartiality was seriously eroded in the period between the March legislative elections and the first presidential round in May. The *Registrador Nacional* Alexander Vega faced a succession of cases in court,³³ none of which have reached any negative conclusions on the electoral process, but which served as an almost daily reinforcement of negative perceptions: departmental and municipal Registrars reported the difficult impact of public mistrust in their work. The successful organisation of the first round of the presidential elections on 29 May generated recognition of the election administration's efficiency and a significant boost in public confidence. However, this was short-lived, as before the second presidential round, the *Pacto Histórico* increasingly communicated its mistrust in results software.

Although ultimately none of the allegations proved to be well-founded, the *Registraduría*'s standing was made vulnerable by its failure to communicate sufficient information to the public about the specific safeguards and transparency measures built into the electoral process in general and the results process in particular. Rather than assertions that fraud was impossible, greater emphasis and more detailed explanations of these transparency mechanisms would have contributed to reassurance on the transparency of the results processing system, particularly for the electorate. Equally, public statements by the *Registrador Nacional* in the lead-up to the second presidential round, alluding to one candidate having to accept the results, were not in keeping with the election administration's institutional responsibility to generate confidence amongst all contenders.

Election preparations

Throughout the election process, both at central level and in the country's departments and municipalities, the *Registraduría* demonstrated high levels of organisation and professionalism, consistent with the consolidated nature of the organisation and the long established implementation of elections in Colombia. In all consequential actions, including the provision of information, the *Registraduría* acted impartially towards election contenders, and succeeded in organising ordered and transparent polling and results for all three election days. The *Registraduría* facilitated the EU EOM's access to electoral information, locations and events throughout the country.

³¹ See Results Processing section for further details.

³² Unexpectedly, this call was echoed by President Duque and the Registrador Nacional, Alexander Vega.

³³ Cases opened against the Registrador Nacional, Alexander Vega, included Andres Pastrana's appeal for protection (*tutela*) in the Tribunal Superior de Bogotá (4 April) demanding answers from Vega on a number of electoral topics; a 'private citizen's' appeal to the Tribunal de Cundinamarca to have Alexander Vega removed (19 April), and a disciplinary process opened by the Office of the Attorney General (*Procuraduría General de la Nación*), which is the competent body for recommending the destitution of the Registrador Nacional (8 April 2022). On 13 May, the Registraduría complied with the Procuraduría's request for a report outlining improvements planned for the presidential election. In addition to the cases above, challenges to Alexander Vega's nomination submitted to the State Council shortly after his 2019 appointment and which had been dormant since, were revived by the State Council on 6 April 2022.

With a view to facilitating access and potentially increase turn-out,³⁴ the *Registraduría* increased the number of voting centres (*puestos de votación*) by 1280 since the previous elections, bringing the total to 12,512 and constituting an 11 percent increase, slightly higher than the 7 percent increase in the number of registered voters. One third (441) of the new centres were in the more-difficult-to-serve rural areas, of which 167 in the CITREPs, an average of one for every municipality in the special constituencies. The establishment of some of the new centres was subject to a challenging balance between facilitating voters' access and the feasibility of ensuring security but coordination with security forces was successful and the new voting centres were maintained throughout the election process. EU EOM observers found that some voters still had to travel significant distances to reach their polling station and that some voting centres housed such large numbers of polling stations that there was insufficient space, sometimes to the detriment of vote secrecy.

Recommendation: *recognising the advances achieved in this area in 2022, the EU EOM recommends further increases in the spread and number of voting centres (puestos de votación), in both rural and urban areas.*

In a bid to reduce Colombia's historically high rates of invalid votes,³⁵ the 2022 legislative elections saw the introduction of separate ballots for each of the different types of election: one for the standard Senate, and one for the indigenous Senate seats, as well as one ballot for the department's House of Representatives candidates, one for the House indigenous seat, and one for the House Afro-descendant seats. Voters therefore chose from among the ballots one for each chamber of Congress.³⁶ In previous elections, voters had received one ballot for the House of Representatives and one for the Senate, and each one displayed options for several types of elections, although voters could only vote in one.³⁷ The new approach followed the system already used for inter-party consultations, and was approved of across the political spectrum. The *Registraduría* made commendable efforts to inform citizens of new voting procedures in light of the new, separate ballots, with a variety of features in the media and social networks, and the notable drop in invalid votes confirms the success of the initiative.

The *Registraduría* demonstrated significant flexibility in facilitating the accreditation of candidate representatives to polling stations and aggregation centres, extending the deadline for accreditation applications to the eve of election day in all three cases, as parties tended to leave this task to the last minute. Accreditations were issued electronically and could be printed or presented electronically, which overcame distribution problems and enabled the late deadlines. Thus, even though some political parties complained about difficulties in uploading representatives' details, ultimately none reported being unable to deploy representatives as a result of administrative hurdles. Following the reported difficulties experienced leading to the legislative elections, the *Registraduría* nonetheless made the application process more flexible and provided more support to parties: for the presidential election days, parties could either use the online platform previously provided, or could register their proposed representatives at municipal and departmental *Registradurías*, where staff could ensure all parts of the application were correctly filled.

³⁴ In 2018, 49 per cent and 53 per cent turned out for the legislative and presidential elections, respectively.

³⁵ In Colombia, all ballots include the option of 'voto en blanco', equivalent to 'none of the above', which is a valid vote. In addition, unmarked ballots are counted separately. Since these opportunities to communicate dissatisfaction with electoral options are provided, it can be reasonably assumed that in general, 'voto nulo' is the outcome of an unwillingly badly filled ballot.

³⁶ In CITREPs, voters also received a ballot for the special transitory constituency.

³⁷ The higher rate of invalid votes for the House of Representatives – for which there are three options of election – compared to those for the Senate – for which there are two – supports the hypothesis that many invalid votes were due to marking the ballot in more places than allowed. In 2018, while invalid votes in the presidential election were less than 1.5 per cent, invalid votes in elections to the Senate reached 6.38 per cent, and in elections to the House of Representatives, 9.24 per cent.

The selection of the more than 720,000 polling station workers (*jurados*) was undertaken in accordance with the established system of selecting at random from a pool of proposals from a range of actors, including political parties, educational establishments, and public and private entities. The system was implemented with transparency: public selections were carried out in all municipalities, and selected names were published locally and on the *Registraduría* website, and in the lead-up to the presidential elections the *Registraduría* shared improved data on the composition of polling staff. However, the system is unnecessarily complex and time-consuming for electoral authorities, as well as prone to arousing suspicions, as contenders question the political affiliations of different sectors. In addition, in a context where it is already a struggle for political parties to deploy candidate representatives to all polling stations, the opportunity to nominate polling staff is arguably a surplus strain, which no longer has the relevance it did in a biparty system.

Although polling staff for the legislative elections generally performed well, their collective reputation did not survive effectively being blamed by the *Registrador Nacional* for the errors which took place during the preliminary results transmission.³⁸ A new selection was carried out in advance of the presidential elections, in application of the same system but giving priority to electoral experience: as such, just over half of the poll workers were replaced, in large part with people with experience from previous elections.

Training materials for polling station staff were of high quality, and the organisation of many training slots, alongside flexibility to ensure that selected *jurados* could attend, combined to optimise familiarity with often complex voting and counting procedures. As part of its ongoing revision and improvement measures, the *Registraduría* introduced more practical exercises to training sessions prior to the presidential elections and provided more step-by-step guides for polling staff. In addition, training and materials introduced an important emphasis on giving priority to voters' clear intentions when determining votes. The *Registraduría* reported that over 70 per cent of polling staff attended training sessions.

Following the legislative elections and as part of its efforts to improve communication and consensus, the *Registraduría* arranged for a series of meetings (*mesas técnicas*) between political parties and election administration directors and technicians, to explain, discuss and potentially adapt upcoming procedures.

Hosted by the Minister of Interior – and Governors and Mayors at lower levels – the *Comités de Seguimiento Electoral* merit mention in the context of election preparations, as these meetings were a useful forum for all stakeholders to meet to share information and raise concerns. As well as political parties, meeting participants included representatives from the *Registraduría* and the CNE, *Fiscalía*, *Procuraduría* and security forces, as well as election observers and international organisations. *Comités de seguimiento electoral* were convened at national, departmental and municipal levels. At national level, all political parties were always invited and almost all participated, while at departmental and municipal levels political parties' participation was less consistent, sometimes by choice and sometimes because they were not always informed.

Although the EU EOM did not observe out-of-country voting, it recognises the significant undertaking of arranging elections in 67 countries, where voting took place over the course of a whole week, up to and including each election day in Colombia.

³⁸ Polling staff are not involved in the communication of the preliminary results, however they do complete the E-14 results forms on which both preliminary and official results are based. The Registrador's criticism was mainly in reference to excessive or messy markings on these forms. The PH also made incorrect assertions implying polling staff were involved in communicating or scanning results forms.

Recommendation: To simplify the system for selecting polling station staff, for example by selecting them from the Voter Register.

Results processing software

Although apprehensions about results processing software in Colombia pre-date the 2022 elections,³⁹ the subject was a particular focus of attention, and, most often, controversy. The *Registraduría* announced that in compliance with the 2018 State Council ruling,⁴⁰ it had purchased a system from the Spanish company INDRA, although it later emerged that the purchased software would only be used for the final, national level aggregation of results. Aggregation of results at the previous levels would be carried out using software provided by DISPROEL, the temporary consortium of companies registered in Colombia, which was also contracted, as has been customary for decades, to ensure the printing and packing of all election materials, and the processing of preliminary results.⁴¹

As addressed in more detail below,⁴² both sets of software used for consolidating official results proved to be reliable and transparent, enabling results to be traced throughout their journey from polling station to part of the final results. In conjunction with other transparency measures ensured by the *Registraduría*, particularly the immediate publication of polling station results forms, known as E-14 forms, this ensured that any error or attempt to change the results could be detected and challenged.

Nonetheless, the software used for consolidating official results was subject to almost continuous allegations of irregularities, from, at different times, actors from different parts of the political spectrum, none of which proved to be based on any real flaws. The allegations ranged from general allegations about the contracting of the software, implying it was designed to favour the *Pacto Histórico* - primarily voiced by former Presidents Pastrana and Uribe, in the lead-up and aftermath of the elections to Congress - to assertions by the *Pacto Histórico*, in the lead-up to the presidential run-off, that the movement had not been granted access to the software's workings, and that they had no trust in its ability to reflect the votes cast. However, the *Registraduría* did facilitate full access to the software's workings to all contenders.

On 1 April, the CNE ordered an audit (both retrospective and prospective) of the software used for official results aggregation, as well as that used for recording changes of electoral residence, and *Infovotantes*, the smartphone app designed to inform voters of their polling station, among other things. Although funds were freed to facilitate this, and a call for tenders was launched, the audit

³⁹ MIRA appealed against the 2014 Senate results, according to which the party had not crossed the 3 per cent threshold enabling it to take up seats. Almost four years later, the State Council found in their favour and MIRA took up three seats in the Senate for the few remaining months before the 2018 elections.

⁴⁰ Having accepted that MIRA's failure to cross the minimum 3 per cent threshold was due to errors in the counting and aggregation process, the State Council ruled on several aspects of the case, including the finding that the party had been prevented from examining certain elements of the aggregation software, on the grounds that it was private, commercial property. On that basis the State Council determined that software used for aggregation ensure results could be traced from polling station to final results, and, further, that it be the property of the Electoral Organisation, so as to ensure commercial interests did not impede access to its functioning. 8 February 2018 ruling n° 11001-03-28-00-2014-00117-00.

⁴¹ The contract awarded in September 2021 encompassed the Youth elections (held in November 2021), the 2022 elections to Congress and the 1st round of presidential elections. This contract is cited as one reason why the results processing software purchased from INDRA only handled the last stage of results aggregation.

⁴² See section on aggregation of official results.

was not contracted,⁴³ and this was cited among the *Pacto Histórico*'s concerns in the lead-up to the second round of the presidential election.

Without prejudice to the EU EOM's evaluation that the results processing system at all levels ensured transparency of election results, it would have been conducive to public trust in the electoral process had the *Registraduría*'s communication been clearer on the subject of software, first by being upfront about the use of two different systems, and an accurate and consistent use of the concept of auditing, as well as by proactively providing explanations to the public regarding the crucial transparency mechanisms which enabled political parties to identify and challenge any alleged mistake or attempt to alter the results.

VII. Voter registration

A generally inclusive and accurate Voter Register, although citizens were insufficiently guided through the new online platform for address changes prior to elections for Congress

The right to vote

Colombian law reflects the principle of universal suffrage, although for administrative reasons, youngest citizens cannot vote unless they turn 18 at least four months before election day.

Citizenship and voting rights are conferred to all Colombians from the age of 18. Active members of the armed and police forces cannot vote, and nor can citizens who are the subject of a judicial sentence suspending their right to vote. The Constitution establishes that participation in public matters is a civic duty, but voting is not obligatory in Colombia.⁴⁴

Currently, the voter register is closed to new entries and to changes in address two months before a given election.⁴⁵ However, with respect to young people turning 18 years old and obtaining their first identity card (*cédula de ciudadanía*), new entries are suspended four months before election day.⁴⁶ As a result, this administrative process effectively disenfranchises Colombia's youngest citizens.

Recommendation: *It would be conducive to universal suffrage to envisage a mechanism to identify those Colombians who will be 18 by election day, with a view to providing them with an identity card and including them in the Voter Register, even if cards are only collected upon turning 18.*

Voter registration process

In Colombia, voter registration is automatic upon being issued with an identity card: it is widely considered that this passive enrolment has ensured a highly inclusive Voter Register, and that few Colombians remain outside the system.

⁴³ At least in part because initially interested bidders withdrew.

⁴⁴ Articles 40, 98, 219 and 258 of the Constitution. There are nonetheless some benefits for those who can present their 'electoral certificate' proving they have voted, such as a 10% discount on student fees, a discount on the cost of passport processing, or a half a day's paid leave, or a one-month reduction of compulsory military service.

⁴⁵ The draft new electoral code provides for this suspension of changes to the VR be five months before election day.

⁴⁶ Article 66 of the Electoral Code (Decreto 2241 de 1986), as modified by Article 6 of Ley 6 de 1990, provides for the suspension of new identity cards four months before an election.

In view of the implementation of the special transitory peace constituencies (CITREP), the *Registraduría* launched a ‘*campana de cedulaación*’ (registration drive) in the special constituencies.⁴⁷ As a result, 1029 citizens obtained identity cards. The relatively low number was reported to be due in part to existing high rates of registration, but also to the short notice and short duration of the registration drive, in challenging terrain.

For the elections to Congress on 13 March 2022, 38,819,901 Colombians were registered to vote, (of whom 908,566 were resident abroad), constituting a 7 per cent increase since the last general elections in 2018. The Voter Register for the presidential elections, held on 29 May and 19 June, included 39,002,239 voters, of whom 972,764 resided abroad, a slight increase consistent over the Congress VR, consistent with the 10 weeks between closing VRs for the respective elections.⁴⁸

The Voter Register is generally considered to be accurate and largely free of extraneous entries. The *Registraduría*’s *depuración* efforts included removing entries for both directly reported and unreported deceased citizens (296.037 and 316.317, respectively, the latter verified through governmental welfare, pensions and insurance agencies), as well as cancelling entries for people who had not renewed their registration since the introduction of the ‘yellow’ ID card in 2000⁴⁹ (744 219 entries, mainly considered to be emigrants, but also victims of violence, for whom no death certificate was ever issued). Finally, following an investigation carried out jointly with immigration services, the *Registraduría* cancelled the identity documents of 43,022 Colombo-Venezuelans who had qualified for Colombian citizenship as a result of at least one of their parents being Colombian.⁵⁰ Affected people complained they were notified neither of the investigation nor the decision, and became undocumented overnight. Together, these initiatives resulted in the removal of almost 1.4 million entries, and with the exception of those stripped of their citizenship, there were no reported complaints of undue removals.

Changes of address (*inscripción de cédula*)

Since 8 January 2003, Colombians are automatically assigned to a polling station when they receive or renew their identity card. They may update their address – in a process known as *inscripción de cédula* - during the year prior to elections, up to the two months before election day.⁵¹ Electoral address changes for the congressional elections were thus possible between 13 March 2021 and 13 January 2022.

In 2021, when covid-related conditions still limited movement and in-person public services, the *Registraduría* launched an online platform enabling electoral address changes, which hitherto had only been possible by attending municipal or departmental *Registraduría* offices. This mechanism

⁴⁷ Due to the longstanding prevalence of violence in these areas, citizens were more likely to have been left out of the Civil Registry system.

⁴⁸ The Voter Register for the congressional elections closed on 13 January, two months before 13 March polling. The Voter Register for the presidential election closed on 29 March, two months before first round polling on 29 May.

⁴⁹ The ‘*cedula amarilla*’, which includes the bearer’s fingerprint as well as photograph, was introduced in 2000, and was the only valid ID document between 2010 and July 2021, when a new digital ID became legally valid. Voluntary uptake of the new digital ID is still in early stages.

⁵⁰ The *Registraduría* asserted it studied the registries of some 300 000 Venezuelans who had entered Colombia since 2014, and who had obtained Colombian citizenship adducing they had Colombian parents. While the Registrar Alexander Vega asserted that falsehoods and fraudulent actions had been found, other *Registraduría* sources stated, more specifically, that certain documents presented as part of the application should have been notarised in the country of origin, and were not. Some affected people asserted local representations of the *Registraduría* could not explain what happened, or how to proceed, while others claimed they were subject to a random selection of people.

⁵¹ Article 49, Law 1475 / 2011. Article 4 of Law 163/ 1994 also notes that ‘residence shall be considered the address at which the vote is registered on the voter register. Upon registering or updating their address, the voter swears under oath that he resides in the municipality in question.’ Article 183 of Law 136 (2 June 1994) defines residence, for the purposes of article 316 of the Constitution, as ‘the place where a person lives or regularly spends time, works, or owns a business.’

however returned extremely high rates of unsuccessful applications, the vast majority of which were due to failure to adequately complete the online process, rather than ineligibility. Indeed, almost half of all online applications failed for reasons connected to the requirement for uploading a photograph to confirm the applicant's identity within two days of submitting the application: of the 1,622,102 online change of address applications, 715,343 failed either because no photograph was sent (483,609), or the photograph did not comply with required standards (231,734).⁵² A further 138,111 online applications failed because an email address was provided which was already being used in another application. The EU EOM considers that the launch of a new, potentially challenging technological solution ensuring effective exercise of a fundamental right puts the onus on the institution to explain and guide citizens through the process. Furthermore, final confirmation of an address change's success or failure was only available once the final Voter Register was announced, when it was too late to rectify or complete application forms.⁵³ For those who now lived in a different city or country, this jeopardised their ability to vote.

Overall, 1,784,326 electoral address changes were confirmed prior to the March elections to Congress elections, of which almost one million were processed in person, and 808,427 online.

In the lead-up to the presidential election and in recognition of the difficulties incurred by the online system, the *Registraduría* suspended online applications two weeks before the deadline, to limit the risk of incomplete applications. Between 14 January and 29 March, 1,750,980 successful address changes were confirmed, of which the vast majority (1,171,736) were applied for in person, in *Registraduría* offices or in the outreach kiosks deployed around the country's town centres.⁵⁴ According to the *Registraduría*, just 65,000 of the *inscripciones de cédula* requested for the presidential election were from people who had tried and failed to register a change of address in time for the elections to Congress.

Citizens whose identity card was issued between 1 January 1998 and 7 January 2003 and who have not since then renewed their card or updated their address are assigned to a '*puesto censo*' (VR voting centre). There were 108 *puestos-censo* throughout the country for the 2022 elections, in which 1,518,349 voters were registered.⁵⁵ An average 855 voters were registered in each of the 1775 polling stations, more than double that of normal polling stations. While this is in deference to the lower likelihood that *puesto-censo* voters turn out,⁵⁶ *puestos censo* tended to be overcrowded.

Recommendation: *To make electoral address changes a permanent process rather than limit it to the year before elections, accompanied by a public campaign to raise awareness of this change.*

Recommendation: *in order to accelerate puestos-censo becoming redundant, it would be useful to launch a campaign targeting the 1.5 million people concerned, to encourage them to register an address and be assigned to a normal voting centre.*

⁵² The *Registraduría* asserted that in such cases, citizens were sent emails informing them to send a photograph within two days.

⁵³ Numerous reports, including in the media, cited citizens who assumed their address change process was complete, and who learnt only when the final VR data was published that in fact this was not the case.

⁵⁴ Almost 300,000 successful applications in this period were online, and over 80,000 online applications failed.

⁵⁵ In 2018, 1.893.116 citizens were assigned to 116 *puestos-censo* throughout the country, indicating a very slight decrease.

⁵⁶ This arrangement is in deference to the fact that a significant proportion of citizens registered in *puestos-censo* may be deceased or have left the country, but in the absence of evidence to that effect, the *Registraduría* rightly does not remove them from the VR. Through the renewal of ID cards or addresses, the long-term aim of the *Registraduría* is to progressively reduce recourse to *puestos-censo*.

Provision for voters with duties away from their registered polling station

Provision is made for polling staff to vote where they perform their duties, should it not be where they are registered to vote.⁵⁷ Widely broadcast allegations were made that this provision was exploited to vote twice,⁵⁸ however despite thorough investigations by the *Registraduría*, no evidence emerged to support the allegations which, while technically possible, would constitute an electoral offence and would be easy to detect after the event.

In addition, the electoral code⁵⁹ provides for certain categories of people to cast their ballots in polling stations where they are not registered, principally those whose identity card was cancelled based on the incorrect conclusion that the person was deceased, or for other instances of error or omission. Where these facts are established, affected citizens may request an ‘E-12 form’ from a *Registraduría* office, enabling them to vote.⁶⁰ In February 2022, the *Registraduría* published two resolutions⁶¹ extending this facility to public servants posted away from their usual residence (this applied to a significant number of electoral staff), as well as voters whose inclusion in the VR had been ordered by a judicial authority. After concern was raised about tens of thousands of temporary staff for the private company implementing parts of the electoral process being unable to vote because they were deployed throughout the country,⁶² the *Registraduría* considered extending E-12 provisions to them for the second round of the presidential election, but ultimately considered this could be a source of confusion or disinformation,⁶³ given the high levels of mistrust prevailing and the short time available before polling.

VIII. Candidate registration

Colombian legislation provides generally inclusive eligibility criteria for candidates, with the notable exception of the Constitution’s permanent disqualification of candidates who have committed intentional crimes, regardless of the severity of the offence or the length of the sentence

Political parties and movements with legal status can register candidates for the presidency and Congress individually or within a coalition, as can social movements and groups of citizens (*Grupos Significativos de Ciudadanos*), if they collect a sufficient number of support signatures.⁶⁴ Specific registration requirements apply to candidates running for special constituencies in Congress, such as ethnic minority seats, Colombians living abroad, and the CITREP transitory peace seats.⁶⁵ The

⁵⁷ The voter list for each polling station includes spaces for up to six poll workers to sign if they opt to vote where they work.

⁵⁸ This allegation was advanced by *Colombia Transparente*, an NGO founded in December 2021, was widely reproduced and eventually cited by presidential candidate Federico Gutiérrez.

⁵⁹ Article 117, Código Electoral

⁶⁰ Voters provided with an E-12 form should vote in the last polling station within the voting centre (which always has the fewest voters registered), where their name is added to the voter list and the E12 is stored with other sensitive materials.

⁶¹ Resolución 3832 de 2022 and Resolución 4753 de 2022

⁶² These included the operators of the 20,250 biometric devices installed in some voting centres, as well as staff involved in the transmission of preliminary results, among others.

⁶³ Instead, the *Registraduría* urged DISPROEL, the temporary consortium contracted for the electoral process, to facilitate their staff’s vote, where possible.

⁶⁴ For the Presidency in the 2022 election, a minimum of 580.620 support signatures was required, equivalent to 3 per cent of the valid votes cast in 2018 presidential election. For the Senate, a minimum of 50.000 signatures is required. For the House of Representatives, the number of signatures required varies, as it depends on the size of the constituency, and is never more than 50.000.

⁶⁵ For the ethnic minority seats, candidates must have held a position as traditional authority or leadership position in the respective community, certified by the organisation and by the Ministry of Interior. Candidates for the special transitory seats cannot be presented by political parties and must be officially registered and recognised as victims of

Registraduría Nacional del Estado Civil is the competent body for the registration of candidates, while the CNE is responsible for evaluating possible grounds for disqualification.

The President must be Colombian by birth and over thirty years old,⁶⁶ and citizens who have held certain offices in the year prior to the election cannot run for the presidency.⁶⁷ The Constitution prohibits election to more than one four-year presidential mandate. To be elected for the Senate, candidates must be thirty years old, and twenty-five years old for the House of Representatives.

The registration of candidates for Congress took place between 13 November and 13 December, which was followed by five days for modifications. The *Registraduría* registered 2835 candidates, of whom 934 were running for the Senate and 1901 for the House of Representatives. Of the 1901, 403 were candidates for the Special Transitory Peace Constituency.

The registration period for the Presidential elections ran between 29 January and 11 March, while pre-candidates registering for inter-party consultations had to register by 4 February. The *Registraduría* registered eight candidates presented by parties, movements, or groups of citizens⁶⁸ and these were joined by the three candidates who won the inter-party consultations. Of the eleven registered presidential candidates, three withdrew shortly after their registration⁶⁹ and two after the ballot paper had been printed.⁷⁰ Six presidential tickets ran in the 29 May election.⁷¹

The CNE may reject, *ex officio* or following a complaint, the registration of candidates found ineligible.⁷² Altogether, the CNE processed 186 petitions challenging candidates' registration for the Congress and 8 petitions for the presidency. As well as reasonable ineligibility criteria, such as holding certain functions or offices, double political affiliation or failing to comply with the gender quota on candidate's lists to the Congress,⁷³ the Constitution establishes that candidates to Congress who have committed intentional crimes, regardless of the severity of the offence or length of the sentence are permanently disqualified.⁷⁴ The same applies to the candidates to the Presidency.⁷⁵ Of the 26 candidates to Congress who were disqualified, 17 were disqualified on these grounds, in most cases due to offences committed a long time ago.⁷⁶ The EU EOM considers that *permanent*

the armed conflict. Their registration must be endorsed by the equivalent of 10 per cent of the voter register of the relevant constituency. The maximum number of support signatures is 20.000.

⁶⁶ Article 191 of the 1991 Constitution.

⁶⁷ Article 197 of the 1991 Constitution.

⁶⁸ Six candidates (John Milton Rodríguez, Enrique Gómez Martínez, Ingrid Betancourt Pulencio, Oscar Iván Zuluaga, Luis Gilberto Murillo and Germán Córdoba Ordóñez) were registered by political parties and two (Rodolfo Hernández Suárez and Luis Emilio Pérez Gutiérrez) by *Movimientos Significativos de Ciudadanos*.

⁶⁹ Oscar Iván Zuluaga from Partido Democrático, Germán Córdoba Ordoñez from Partido Cambio Radical and Luis Gilberto Murillo from partido Colombia Renaciente. The latter resigned his presidential candidacy to be part of Sergio Fajardo's ticket for the Centro Esperanza Coalition.

⁷⁰ Luis Emilio Pérez withdraw on 11 May, Ingrid Betancourt on 20 May.

⁷¹ Rodolfo Hernández and Maren Castillo (*Liga Gobernantes Anticorrupción*), John Milton Rodríguez and Sandra de las Lajas Torres (*Colombia Justa Libres!*), Federico Gutiérrez and Rodrigo Lara (*Equipo por Colombia*), Sergio Fajardo and Luis Gilberto Murillo (*Coalición Centro Esperanza*), Enrique Gómez Martínez and Carlos Cuartas Quiceno (*Salvación Nacional*), Gustavo Petro and Francia Márquez Mina (*Pacto Histórico*).

⁷² Articles 179 of the 1991 Constitution and Articles 2 and 28 of Law 1475/2011 on political parties and electoral processes.

⁷³ Law 1475/2011 establishes a 30 per cent minimum gender quota for women candidates for the Senate, and for the same minimum proportion of women on lists to the House, in constituencies electing more than five representatives. Art 6 of Acto Legislativo 02 de 2021 established that CITREP lists will be composed of two candidates, one of each gender.

⁷⁴ Article 122 and 179.1. of the 1991 Constitution establishes that candidates who have been convicted by court judgement to imprisonment *at any time*, except for political and non-intentional crimes, cannot be elected for the Congress. Demobilized ex FARC members have been exempted by The Peace Accords.

⁷⁵ Article 197 of the Constitution.

⁷⁶ CNE Resolutions 1631, 1388, 1164, 0990 (disqualifying two candidates), 1232, 1455, 1117, 1227, 1601, 1228, 1155, 1236, 1231, 1268, and 1279 (all of them of 2022).

ineligibility is disproportionate and does not meet Colombia's commitments in relation to the right to stand⁷⁷.

Recommendation: *to amend Article 179.1 and 197.2 of the Constitution to eliminate the permanent ineligibility from running for Congress or President for those convicted of intentional crimes. If suspension of the right to stand is maintained as a sentence associated with imprisonment, it is the view of the EU EOM that the period of disqualification should be proportionate to the severity of the offence or the length of the sentence.*

The law enables a party or movement to replace a disqualified candidate, provided the CNE decision is issued more than one month before the election. However, the law does not establish deadlines for either the submission⁷⁸ or resolution of petitions, leading to disqualifications beyond the time in which candidates may be replaced. For Congress, six candidates could not be replaced in the lists, nor removed from the ballot paper.

For the presidency, of the eight petitions challenging candidate's eligibility filed with the CNE, only one was resolved within the timeframe allowing candidate's replacement. Six were resolved in the week prior to the elections, and another, challenging Rodolfo's Hernandez candidacy, was still pending by election day. No presidential candidate was disqualified.

Recommendation: *to establish deadlines for filing petitions challenging candidates' eligibility and their resolution by CNE, to ensure that, if necessary, candidates can be replaced.*

IX. The election campaign

A pluralistic campaign in a generally peaceful environment, although violence by armed groups impacted on freedom of movement and assembly in many areas, especially in transitory peace constituencies

The law establishes a staggered system of campaign start dates, first allowing campaigning in public spaces, then free and later paid advertising in the press.⁷⁹ Campaigning is officially allowed four months before each election day. In reality, an unofficial campaign starts a year before elections, as some candidates and GSC (*Grupos Significativos de Ciudadanos*) start collecting the signatures necessary for candidate registration.

Congressional campaign

The campaign was pluralistic and, in general, took place in a peaceful environment. In most of the country, candidates and voters were able to freely organise and attend public events. However, the increasing violence imposed mainly on rural communities by illegal armed groups, the 23-26 February armed strike of the ELN, and the continuing trend of assassinations of community leaders all had debilitating effects on campaigning in many areas and impacted on freedom of movement and assembly of both candidates and citizens, throughout the process. No candidates were assassinated during the election process, although threats and attacks against candidates were reported from nearly all of the country's departments, and more frequently in CITREPs. While 40

⁷⁷ Colombian ratified the International Covenant on Civil and Political Rights on 21 December 1966 and its article 25 establishes that every citizen shall have the right and the opportunity to be elected, without unreasonable restrictions.

⁷⁸ CNE received 44 petitions after the deadline established for replacement of candidates (13 February).

⁷⁹ 1475/2011 Law on Political Parties and Election Processes

per cent of candidates reportedly received some form of protection under the Ministry of Interior's *Plan Ágora 2*, many claimed the security schemes were deployed late or were insufficient.

The congressional elections were characterised by the relative lack of programme proposals and, instead, more focus on individual local figures. *Pacto Histórico* made the most of the popularity of their presidential candidate, counting on Gustavo Petro's appeal to build momentum for their congressional candidates, while for other movements, the campaign was dominated by traditional local party machineries. The campaign was relatively low-key and in-person campaign events were mostly small-scale, partly due to the limited funds available and partly due to Covid-19 regulations. On the other hand, in the media and social networks, there was a lively campaign that included dozens of debates enabling candidates to express their policy proposals and initiatives in an open and free environment. The fact that nearly all major forces participated in one of the three presidential inter-party consultations, which were conducted in parallel to the legislative elections, resulted in the congressional campaign being overshadowed by the primaries. The majority of national media coverage, as well as of campaign activities, were focused on the primaries.

According to EU EOM observer reports, municipal campaign advertising regulations were not fully respected in most regions and a quarter of the country's municipalities had not issued any such regulations, despite these being foreseen by the law (Art. 29, Law 130/1994). This situation improved somewhat for the presidential campaign as the CNE issued a circular on 21 April calling on all municipalities to issue regulations on campaign advertising, although not all local councils complied. Where regulations were in place, sanctions for reported violations – mostly concerning the amount of outdoor advertising, observed in many departments – were also inconsistent. Such omissions frequently made for an unregulated environment where some candidates could gain an advantage. While there are abundant regulations for election campaigns, their disparate nature is not conducive to compliance.⁸⁰

Transitory Peace Constituencies (CITREP)

Sixteen transitory peace constituencies were created to give representation to victims in the 167 municipalities most affected by the armed conflict. Candidates had to be registered victims⁸¹ and political parties were excluded from the race. The elections in the special peace constituencies faced several challenges as major design flaws were revealed during their implementation.

Security schemes were provided to a majority of candidates due to the ongoing violence in most of these constituencies, although many asserted the schemes were insufficient. EU EOM observers in nearly all departments with CITREPs reported direct threats or attacks on candidates. In addition, delimitations of the 16 constituencies excluded municipal centres to exclusively represent rural areas, thus leaving many displaced citizens excluded from the CITREP design.

Heavy administrative requirements put in place for the registration of candidates and nominating organisations in these constituencies seemingly resulted in the exclusion, rather than the desired inclusion, of many genuine aspirants and social organisations. In addition, NGOs and investigative journalists identified dozens of candidates, many of whom were elected, as not genuine victims, but rather, proxies of traditional political parties or interest groups. The registration of candidates with family ties to well-known victimisers was met with criticism. Citing the lack of basic financial conditions such as the impossibility of obtaining campaign advances (see Campaign finance) and

⁸⁰ Campaign advertising is regulated by several statutory laws (1475/2011, 996/2005, 130/1994, 163/1994), as well as many CNE resolutions and municipal decrees.

⁸¹ Registered with the Unidad para la Atención y Reparación Integral a las Víctimas.

security concerns, more than a dozen candidates from several CITREPs filed official appeals to postpone the elections and several withdrew their candidacies in the days leading up to the election.

Presidential campaign

The March primaries drew much attention away from the congressional elections held on the same day, and the campaign intensified further once those were over and the presidential candidates were defined. Candidates were free to express their views without limitations on the public stage, and several massive events as well as many smaller-scale ones were organised throughout the country. Only two candidates, Gustavo Petro and Federico Gutiérrez, toured the country extensively to appear in person at events, while the others conducted more austere campaigns focused on social and traditional media and limited personal appearances.

The campaign was largely peaceful despite continuing violence in parts of the country. However, the armed shutdown imposed by the *Clan del Golfo* armed group between 4 and 8 May severely affected public order, limiting campaign activities and curtailing citizens' freedom of movement in parts of the north-west. Ongoing violence by and between illegal armed groups continued to affect numerous, mostly rural communities, resulting in the displacement of a significant number of people. Alleged reports of plots to assassinate Gustavo Petro in the first round and Rodolfo Hernández in the second prompted these candidates to cancel some public events.

In early May, the *Procuraduría* ordered a disciplinary investigation and the temporary suspension of four elected mayors, including those of Medellín and Ibagué, for allegedly participating in the presidential campaign. Considering the rights conferred by the Colombian Constitution,⁸² as well as international standards on political participation and freedom of expression, it is questionable that a prohibition on public servants' involvement in election campaigns applies to elected officials, which would clearly not meet international standards on political participation. Furthermore, the removal, albeit temporary, of an elected official by an administrative authority rather than by a competent judge in criminal proceedings was declared in breach of Art. 23 of the American Convention on Human Rights by a 2020 Inter-American Court of Human Rights binding judgement against Colombia.⁸³ In contrast, no sanction was issued to the commander of the armed forces who, breaching Art. 219. of the Constitution and a decades-long tradition, made public statements against one of the candidates.

Bearing in mind that participation in politics is inherent to the functions of democratically-elected officials, it is the view of the EU EOM that their participation in the campaign for an election they are not running for, should be viewed in the light of international standards which guarantee their right to freedom of expression and their political rights, while maintaining the prohibition of the use of public resources for campaign activities. These considerations do not apply to members of the judiciary and the armed forces, or other non-elected officials, whose duty of neutrality may reasonably take precedence over certain political rights.

⁸² Article 127 of the Constitution stipulates that State employees working in the judiciary, the electoral administration, oversight bodies and the security forces, are prohibited from taking part in political activities. The same article indicates that, for other public servants, the prohibitions shall be regulated in a *Ley Estatutaria*, which has not been adopted to date. Apart from the prohibition on misusing public resources, there is no statutory legislation restricting the right of elected officials to express their political views or even to actively participate in election campaigns. In fact, the mayors' suspension was made on the basis of a non-statutory law, the *Código General Disciplinario* of the public administration, which establishes the political participation of public servants as a disciplinary offence without explicitly mentioning elected officials (Art.60, Law 1952/2019, General Disciplinary Code).

⁸³ The Constitution authorises the *Procuraduría* to oversee the official conduct of the public servants, included those who are elected, and to impose disciplinary sanctions (Art. 277.6).

Recommendation: *In order to align Colombian legislation with the American Convention on Human Rights and the jurisprudence of the Inter-American Court of Human Rights, the EU EOM recommends that the power conferred by the Constitution to the Procuraduría - an administrative institution - to suspend or remove elected officials from office for disciplinary offences be suppressed. This power should be exclusively in the hands of the judiciary, following due process.*

At some campaign events observed by the EU EOM in seven different departments, direct or indirect evidence of participants being paid to attend was reported. At 14 per cent of events, observers received allegations that some public servants had been pressured to attend by local governments. During the campaign period, several high-profile business owners published messages warning employees not to vote for Petro.

In contrast to the intense and highly visible public campaigning for the first round, in the second round both candidates largely retreated from the public arena. As their campaign teams carried out door-to-door activities and mainly small local events, the candidates focused their campaign efforts on traditional and social media channels. Rodolfo Hernández chose not to participate in any debates and for much of the three-week period, disappeared from the public eye. His decision sparked a discussion on whether candidates should be obliged to participate in debates; the EU EOM is of the view that Colombian law establishes participation in debates as a right and not as an obligation. Despite a controversial court ruling obliging the candidates to jointly request such an event on national television on mutually agreed terms, this did not take place.⁸⁴ As opinion polls increasingly pointed to a virtual tie between the candidates, the tone of the campaign escalated, including strong personal attacks. The publication in mainstream and social media of private recordings of the Petro campaign team from mid-2021 fuelled a smear campaign against the candidate. The origin and legality of the recordings have not yet been determined.⁸⁵

X. Campaign finance

The CNE lacks the capacity and resources to exercise effective control of campaign financing

The disparate nature of campaign regulations is especially notable in relation to campaign financing, which is regulated across the Constitution, a dozen statutory and ordinary laws and decrees, and CNE and municipal resolutions. Provisions are frequently contradictory and there are many lacunae, which are exploited by parties and candidates to avoid sanctions. For example, the regulation on financing political parties is more permissive than that of campaigns. Candidates often use this loophole to finance campaigns by channelling donations made to parties, where – contrary to campaigns – there is no cap on individual donations.

Most campaign financing is private, but State financing is also available to all registered candidates during the campaign. This is disbursed both through advance payments – in accordance with votes received in the previous election – and reimbursements of campaign costs in proportion to the number of votes eventually received. Candidates who do not receive at least 4 per cent of valid votes must pay back any advance received and are not eligible for reimbursements. The CNE establishes

⁸⁴ The CNE denied a petition seeking to oblige the candidates to participate in debates on 8 June. (CNE Res. 3135/2022). Several other similar petitions were lodged in courts by private citizens, arguing that candidate debates were obligatory, based on the rights to elect and be elected, to take part in elections and to receive truthful and impartial information. The Superior Court of Bogotá ruled on these merged petitions, obliging the two candidates to organise a debate within 48 hours.

⁸⁵ On 11 June, the *Pacto Histórico* made an official complaint to the Attorney General's Office in connection with the videos, for violation of privacy, confidentiality, and interception of communications.

spending limits for each election, as well as the value of the reimbursement per vote received.⁸⁶ For parties which receive advance funding, the reimbursement value of each vote is halved,⁸⁷ which provision unduly favours parties and candidates that have more funds or personal wealth at their disposal. Moreover, for the parties whose legal status was re-established in 2021 following a Constitutional Court ruling (*Nuevo Liberalismo*, *Partido Verde Oxígeno* and *Movimiento de Salvación Nacional*), it was impossible to meet the criteria for receiving advance payments, which are based on previous election results.⁸⁸ As regulations do not provide for such an instance and the Constitutional Court did not suspend these criteria for the revived parties, they were unable to obtain advance campaign funding.

The complexity of the public-private funding system affected many candidates, who are required by law to open a single bank account. Some were able to comply with this requirement easily, while others – people without credit history, especially women – were denied these due to administrative requirements. This was reportedly partly due to banks' reluctance to deal with candidates, as they tried to avoid association with potential money-laundering and its related illicit activities, while some candidates considered that the refusal to open an account was often due to political bias. This phenomenon created an uneven playing field tilted in favour of larger, institutionalised parties and their candidates.

All parties and candidates are also required to present an insurance policy or bank guarantee to access advance payments from the State campaign fund. These financial products are not readily available on the market or come at a very high premium, which sets a severe burden on the participation of new or marginal political formations. Cumulatively, the requirements for insurance policies and bank accounts, alongside the penalising effect of halving reimbursements for those who obtain advance payments, create a set of restrictive conditions which can limit the right of political participation of small or new parties and candidates.

The financial constraints were especially severe for CITREP candidates, whose campaign financing was even more strictly regulated than in ordinary constituencies, in order to exclude the influence of traditional parties. Public financing was guaranteed by law to all candidates by way of advance payments, and direct private funding was prohibited. However, advance payments remained contingent on obtaining insurance, even though none of the candidates were able to do so. In early March, the CNE issued a resolution obliging *La Previsora*, the State insurance company, to provide insurance policies to candidates, however, most never received any advance payments and the very few who did, received them one day before election day. Thus, nearly all CITREP candidates were effectively denied the means to campaign, forcing them to rely on their own personal resources or resort to illegal campaign financing.

Recommendation: *To ensure that banks make accounts available to candidates and parties without undue restrictions, so that the requirement to centralise all campaign-related transactions in a dedicated bank account does not constitute a barrier to running.*

Recommendation: *To simplify the requirements for access to advanced funding, especially with regard to the need to obtain an insurance policy. In addition, to calculate reimbursement funds regardless of whether the candidate requested advance payment or not.*

⁸⁶ The spending limits were 27,453,094,557 Pesos (6.6 million EUR) for the first presidential round, 12,840,703,931 Pesos (3.1 million EUR) for the second round, and 96,215,827,231 Pesos (21.5 million EUR) per list for Senate. For House the campaign spending limit varied according to the population of the constituency (CNE Res. 1677/2021).

⁸⁷ CNE Res. 0227/2021, CNE Res. 1678/2021

⁸⁸ In its merged sentence (SU-257/2021), the Court ruled to reinstate the legal status of the three parties, on the basis the loss thereof had stemmed from the violence in Colombia which led to the termination of their political projects.

Candidates are required by law to report all campaign funds and spending to the CNE within two months of election day.⁸⁹ However, the CNE has not been provided with sufficient resources and mechanisms to effectively control campaign spending and funding. Given the CNE's current capacities, it is extremely difficult to trace contributions by companies and business associations when campaigns do not report them, as was reported from several departments by EU EOM observers. This particularly applies to contributions made in kind or in cash to campaigns locally, which the CNE has no way of controlling, not least given its lack of a nationwide territorial structure. Furthermore, although sanctions for campaign finance violations are established in the law, in practice the CNE imposed very few sanctions in the 2018 elections. This is often considered to be due not only to the CNE's limited resources, but also to its party-political composition, which can make it reluctant to act on certain issues that directly affect the parties, such as monitoring of their campaign finances, despite the fact that these are part of the CNE's mandate.

Recommendation: *to provide the CNE with the necessary human, financial and logistical resources, in order to increase its capacity to carry out effective control of campaign finances. To this end, temporarily transferring human and technical resources from specialised public bodies, could be considered.*

In addition to the ex-post reporting required by law, a CNE resolution requires candidates to report their finances during the campaign on the *Cuentas Claras* digital platform. However, this is not a binding obligation and in practice reporting on the platform is sporadic.⁹⁰ If complied with more rigorously and at shorter intervals (e.g. monthly) during the campaign, *Cuentas Claras* could be an important tool for public oversight and greater transparency of campaign finances.

Recommendation: *To make reporting to Cuentas Claras compulsory by law, in order to ensure accountability on campaign spending before the elections. To the same end, frequency of reporting on the platform could be increased, and the CNE provided with the power to sanction failure to report during, not just after the campaign period.*

According to the declarations on the *Cuentas Claras* platform, Gustavo Petro outspent all other candidates in the first round, slightly exceeding the established spending limit (28,517,124,029 Pesos / 6.3 million EUR reported). Federico Gutiérrez also spent close to the limit (24,414,904,488 Pesos / 5.4 million EUR). Rodolfo Hernández reported only 4,724,124,561 Pesos in costs (1 million EUR), while Sergio Fajardo spent more (8,710,549,712 Pesos / 1.9 million EUR) than the reimbursement he is entitled to based on the votes he obtained. In the second round, Petro remained under the spending limit (12,843,706,922 Pesos / 2.8 million EUR), and Hernández spent even less (2,966,007,685 Pesos / 0.65 million EUR).

After publicly admitting he was partly funding his own campaign, Rodolfo Hernández was accused of illegal campaign financing since his contributions to the campaign took place while he was on trial for an offence against the public administration. Surprisingly, the law prohibits donations not only from persons convicted of said offences, but also from those accused or charged with them, in violation of the constitutional principle of the presumption of innocence.⁹¹

⁸⁹ At the time of writing, the deadline of financial declarations for the presidential elections had not passed.

⁹⁰ According to a report by local CSO *Transparencia por Colombia*, as of 10 March – three days before the legislative election - only 41 per cent of congressional candidates had reported campaign spending and 43 per cent reported on funding. This increased to 81 per cent by the reporting deadline (<https://transparenciacolombia.org.co/2022/03/01/primer-informe-seguimiento-en-tiempo-real-elecciones-legislativas-2022/>)

⁹¹ Art. 27.5 Law 1475/2011

Use of public resources

Misuse of public resources was not widely reported in this election campaign. However, indications of public servants being paid and occasionally pressured to attend public campaign events were reported by EU EOM observers from several departments during campaign events for the *Equipo por Colombia* presidential candidate.

In May, the Constitutional Court struck down the suspension of the clause of the *Ley de Garantías* that prohibits public contracting in the four months prior to presidential elections.⁹² Although the Court's ruling prohibited public contracting for the remainder of the election period, contracts already undertaken remained valid, which may have resulted in public funds being used as incentives in the pre-electoral period or being channelled directly into the election campaign and thus contributed to an uneven playing field. Due to the timing of the court ruling – six months after the law was passed and just three weeks before the election – the prohibition was effectively suspended for most of the campaign period. Other provisions of the law, such as the prohibition on inaugurating public projects, were also violated during the campaign, without sanctions.

XI. Media

Freedom of expression and media freedoms were generally respected throughout the electoral process and national media provided extensive information to citizens in a pluralistic way, although some media outlets showed clear bias in their coverage of the process

Media landscape

The Colombian media landscape is extensive and includes a wide range of public and private media at the national, departmental, municipal and community levels. Colombia has more than 1,600 radio stations, some 50 television channels and more than 50 newspapers. Despite this, the concentration of the main media in the hands of a few private groups and their centralisation in the country's main cities limit plurality and access to information in a large part of the country. According to research carried out by the Foundation for Press Freedom (FLIP), in 353 municipalities of the country (3.9 million inhabitants) there are no media to provide local information to citizens.⁹³

Television is the most popular media in Colombia, with a penetration of 91 per cent of households and an average daily consumption of four hours. Despite the existence of more than 800 television stations in the country (national, regional, local, community and subscription), 80 per cent of the television audience is concentrated in two private free-to-air channels: *Caracol TV* and *RCN TV*. In addition, *Canal 1*, owned by the State but managed by a private consortium of media companies, is the third private free-to-air TV channel available in the country. There are 30 private subscription television channels and 10 public channels: *Señal Colombia* and *Canal Institucional*, of national scope and operated by *RTVC Sistema de Medios Públicos*, and eight regional channels, operated by different departmental or municipal entities.

As for radio, according to figures from the Ministry of Information and Communications Technologies (MinTIC), there are currently 649 commercial, 691 community and 312 publicly owned radio stations in Colombia. Of these last, 63 are operated by *RTVC Sistema de Medios Públicos*, including 12 *Emisoras de Paz* that have progressively become operational after the signing of the Peace Agreement between the Colombian State and the FARC in 2018. Of the 312 public

⁹² In its sentence (C-153/2022), the Court ruled that the modification of a statutory law through the approval of the ordinary Budget Law of 2022, in November 2021, was unconstitutional.

⁹³ *Cartografías de la Información* <https://flip.org.co/cartografias-informacion/>

interest radio stations, 106 are operated by entities attached to the Ministry of Defence such as the Police, the Army, the Navy or the Air Force.

With regard to print media, Colombia's only publications with national circulation are two daily newspapers - *El Espectador* and *El Tiempo* - and the weekly *Semana* magazine. In addition to these, there are several financial dailies and one printed media in each region of the country. The media landscape is completed by digital media such as *La Silla Vacía*, *Vorágine*, *El Armadillo*, *Cuestión Pública* and *Los Danieles*. These media have smaller audiences as a result of the limited penetration of fixed internet in the country (less than 30 per cent, according to MinTIC figures), but produce commendable investigative journalism.

Although the signing of the Peace Accord led to a decrease in the number of recorded attacks, Colombian journalists continue to suffer threats, physical violence and restrictions to their work on a regular basis. According to the annual report of attacks against the press prepared by Reporters without Borders (RSF), in 2021 Colombia was ranked as the second most dangerous country in Latin America for the practice of journalism. In the past five years, eight Colombian journalists have been murdered for reasons related to their work. FLIP's latest annual report recorded a total of 684 attacks against the press during 2021 (including one murder and 168 physical assaults). Several interlocutors also point to the common use of legal actions against journalists as a means of intimidation and the increasing dependence of many media on institutional advertising, which is insufficiently regulated, as areas of concern.

Legal framework for the media

The 1991 Constitution prohibits censorship and guarantees freedom of expression and the right to receive truthful and impartial information. The latter is complemented by the right of access to information, regulated by the Transparency Law of 2014, a pioneer law in Latin America which, in addition to public institutions, includes political parties as subjects with the obligation to routinely report on their activities which are of public interest. Despite this, journalists and representatives of the Colombian media sector consider that obtaining information from public institutions is still an arduous task.

The legal framework for media and telecommunications in Colombia includes several laws and regulations, including Law 72/1989 on the organisation of telecommunications in Colombia, Law 14/1991 regulating public radio and television services, and Law 335/1996 on the establishment of private television. The MinTIC regulates the radio spectrum and is responsible for granting broadcasting licenses, which entail economic compensation and public service obligations. Likewise, Law 1978/2019 gave life to the *Comisión de Regulación de Comunicaciones* (Communications Regulation Commission, CRC), a regulatory body in charge of monitoring that media comply with legal parameters.

Despite these numerous laws and the existence of a specific section in the 2016 Peace Agreement requesting actions on this subject,⁹⁴ assignment of institutional advertising in the media remains poorly regulated. Only one article of the Anticorruption Law (Article 10 of Law 1747/2011)⁹⁵ touches on the subject, although without establishing clear provisions on contracting and assignment of institutional advertising. According to media institutions and civil society organisations, this has resulted in the use of public institutions advertising, especially by local and regional administrations, as a mechanism of economic pressure against critical media.

⁹⁴ Section 2.3.3.2 of the Peace Agreement:

https://www.cancilleria.gov.co/sites/default/files/Fotos2016/12.11_1.2016nuevoacuerdofinal.pdf

⁹⁵ <https://secretariageneral.gov.co/transparencia/normatividad/normatividad/ley-1474-2011>

Recommendation: to approve clear regulation on institutional advertising to guarantee its assignment in the media through specific criteria of fairness, equity and transparency.

At the same time, the Colombian penal code provides penalties of up to 54 and 72 months of prison for crimes of slander and libel, respectively, and these penalties are increased by one sixth to one half if the crime is committed through the media. Although the number of Colombian journalists that have been convicted to prison sentences for libel or slander crimes is very limited, international standards on freedom of expression advocate for the elimination of prison sentences for slander and libel crimes in the media since they can represent an instrument of intimidation.

Recommendation: to replace prison sentences for slander and libel crimes in the media with proportionate economic sanctions.

With reference to elections, the Constitution grants all political parties with legal status the right of access to the State media at all times, while article 25 of the Law 996/2005 establishes the obligation of private radio and TV stations to guarantee pluralism, balance and veracity in their informative coverage of the presidential election. According to this provision, media should submit weekly reports of their electoral coverage to the CNE, which should make them public and, in case of detecting inequity, should request the concerned media outlets to correct. If necessary, the CNE can also agree with the MinTIC or the CRC and the concerned media other appropriate measures.

For its part, Law 1475/2011 regulates access to free-of-charge electoral propaganda spaces on radio and television, both public and private, for those political and social parties and movements that have candidates registered for elections to the Presidency and the Congress of the Republic, or that promote the blank vote, from two months before the date of the elections and up to 48 hours before the same. According to this law, the CNE issues specific resolutions and assigns free of charge spaces by lottery for subsequent broadcasting in prime-time slots. In the case of the congressional election, the assignment to each candidacy is made proportionally according to its representation in Congress.

Likewise, and by means of specific resolutions issued for each election, the CNE establishes the maximum number of television and radio paid-for spots of electoral propaganda that the different candidacies, as well as movements promoting a blank vote, may broadcast daily in the private media during the campaign period. The same applies with respect to the number of electoral propaganda adverts in written publications, which may not exceed 20 per cent of the authorised expenditure for each candidacy. For the 2022 elections, the CNE established the limits on electoral propaganda in private media at national, regional and provincial level for presidential, legislative and CITREP elections through resolutions number 0228, 1605, 1946 and 5879 (*see table in Annex 3*). National media monitored by the EU EOM complied with the provisions included on these resolutions.

Campaign in the media

Freedom of expression and media freedoms were generally respected throughout the different campaign periods and most media were able to cover the entire electoral process without major limitations. However, security conditions in some regions, especially Arauca and Bajo Cauca, limited journalists' work. EU observers reported instances of threats and intimidation of local journalists in Cundinamarca, Atlántico, Antioquia, Risaralda, Arauca, Norte de Santander and Tolima, as well as movement limitations for the local press in Cauca, Valle del Cauca, Caquetá, Meta and Guaviare, mainly due to the hostile environment produced by illegal armed groups active in these areas. The EU EOM also found that the community radio station in Pailitas, Cesar department, was forced to stop broadcasting on 25 February, due to an armed shutdown (*paro armado*) called by ELN guerrillas, and 22 radio stations in Antioquia, Sucre and Córdoba departments were forced to interrupt broadcasts for five days at the beginning of May, after being

threatened or intimidated by members of the *Clan del Golfo*, which imposed an armed shutdown in several parts of the country.

Overall, national media provided extensive information on the electoral process to citizens in a pluralistic way. Nevertheless, some media outlets showed clear imbalances and bias in their coverage of the process throughout the three campaign periods, to the detriment of *Pacto Histórico* and Gustavo Petro (*see below Media monitoring findings section*).

Media coverage included broadcasting studio interviews and debates with presidential and vice-presidential candidates (except during the campaign period of the second round of the presidential election), as well as reports on campaign activities by contenders of the different political options. For their part, and especially during the campaign period for the legislative elections, digital media and online editions of national newspapers made commendable efforts to provide detailed information on candidates to the Senate and House of Representatives. In a positive initiative, many national media broadcast voter education (*pedagogía electoral*) and useful information on different aspects of the process, including voting procedures.

Based on the weekly reports submitted by 18 TV and radio stations, the CNE approved on 24 May its report on “Balance and Informative Pluralism” evidencing a lack of balance by several media outlets in the electoral coverage of the first round of the presidential election. The CNE called the CRC, MinTIC, presidential candidates and media directors to a meeting to address the situation and adopt necessary measures. This initiative, however, was ineffective since it was taken only five days before election day and was not seconded by the CRC, who considered it was not its responsibility to adopt measures to re-establish the informative balance. The CNE did not publish the aforementioned report (as provided for by Law 996/2005) and only approved a report on the media coverage related to the first round of the presidential election, but none for the second round of this election, nor for the presidential primaries.

Recommendation: *It would be advisable that the CNE establish a media monitoring unit to detect imbalances in electoral media coverage based on its own findings – rather than media outlets’ reports- and that it publish relevant reports in an effective and timely manner.*

Positively, and as provided for by law, the CNE allocated to parties and candidates free-of-charge electoral propaganda slots in 29 TV channels (four national, eight regional and 17 local channels, covering both public and private stations) from 4 February to 10 March (legislative, primaries and CITREP elections)⁹⁶, from 7 of April to 26 of May (first round of presidential elections) and from 6 to 16 June (second round of presidential elections).

⁹⁶ Free-of-charge electoral propaganda slots for candidates contesting the CITREPs were allocated only in the eight regional TV channels.

Media monitoring findings

From 13 February to 18 June the EU EOM monitored all election-related information broadcast and published by 12 national media outlets⁹⁷ in order to assess whether political parties and candidates had free and equitable access to the media and whether the information provided to the citizens was presented in a neutral and balanced way. The media monitoring covered three different periods according to the three elections conducted:

- Monitoring period one (legislative elections – including CITREP - and presidential primaries): from 13 February to 12 March 2022.
- Monitoring period two (first round of presidential elections): from 20 April to 28 May 2022.
- Monitoring period three (second round of presidential elections): from 31 May to 18 June 2022.

The monitoring revealed that, overall, national media provided extensive information on the electoral process to citizens in a pluralistic way. However, some media outlets showed clear imbalances and bias in their coverage, to the detriment of *Pacto Histórico* and Gustavo Petro.⁹⁸

The two public media analysed by the mission, *Señal Colombia* and *Radio Nacional de Colombia*, provided considerably less coverage of the electoral process than the private media. Both of these public media mainly limited their electoral coverage to summarising campaign activities by different candidates around the country although they also conducted some studio interviews with candidates or their representatives. Although *Radio Nacional de Colombia* showed some imbalance, the coverage of the process by both public media was generally neutral in tone and did not show clear bias towards a specific candidature. Both *Señal Colombia* and *Radio Nacional de Colombia* made considerable efforts to conduct voter education.

As for private media, EU EOM media monitoring demonstrated different degrees of imbalance in the different phases of the electoral process, with four media outlets (*La FM*, *RCN TV*, *RCN Radio* and *El Tiempo*) showing a trend of biased coverage against *Pacto Histórico* and Gustavo Petro throughout the three campaign periods.

During the campaign period for the legislative elections and presidential primaries, interest in the latter translated into a large number of studio interviews and televised debates between presidential pre-candidates, alongside candidates not participating in the primaries, from across the political spectrum. However, media coverage, notably by national TV stations, prioritised the primaries (66 per cent of total TV election-related coverage and 61 per cent of total radio election related coverage), somewhat overshadowing the congressional election (*see monitoring chart number 1 in Annex 4*).

EU EOM media monitoring revealed that primaries-related coverage favoured *Coalición Centro Esperanza*, which received 49.7 per cent of airtime on radio and 36.1 per cent of airtime on TV, while *Equipo por Colombia* received 26.2 and 27.8 per cent of airtime on radio and TV, respectively, and *Pacto Histórico* 13.2 and 20.9 per cent of airtime, respectively. In newspapers the distribution

⁹⁷ The sample included public media *Señal Colombia* and *Radio Nacional de Colombia*, and private media *Canal 1*, *Caracol TV*, *RCN TV*, *Caracol Radio*, *RCN Radio*, *La W*, *La FM*, *Blu Radio*, *El Tiempo* and *El Espectador*. For radio and TV stations, prime time programmes and main news bulletins aired from 5am to 11:30pm were monitored.

⁹⁸ Full results of the EU EOM media monitoring are available on the following links:

Legislative elections: https://www.eeas.europa.eu/eom-colombia-2022/media-monitoring-charts-eu-eom-colombia-2022-legislative-elections-and_en?s=4512

First round of presidential elections: https://www.eeas.europa.eu/eom-colombia-2022/media-monitoring-charts-eu-eom-colombia-2022-1-st-round-presidential-elections_en?s=4512

Second round of presidential elections: https://www.eeas.europa.eu/eom-colombia-2022/media-monitoring-charts-eu-eom-colombia-2022-2nd-round-presidential-elections_en?s=4512

of space was balanced, but *Pacto Histórico* was the coalition which received the greatest amount of coverage in a negative tone: 19.2 per cent (*see monitoring chart number 2 in Annex 4*). Regarding the Congress race, right-wing parties benefited from the largest amount of coverage on radio (42.7 per cent of airtime), TV (40.6 per cent of airtime) and newspapers (38.1 per cent of space) against 21.8, 37.1 and 32.3 per cent of coverage, respectively, allocated to centre parties and 27.5, 20.2 and 24.2 per cent of coverage, respectively, devoted to left-wing parties. Here too *Pacto Histórico* received the most coverage in a negative tone on radio (20.4 per cent of its coverage was negative) and TV (6.2 per cent of its coverage was negative). (*See monitoring chart number 3 in Annex 4*).

Regarding the first campaign period for the presidential election, campaign activities and messages by Gustavo Petro, Federico Gutiérrez, Sergio Fajardo and Rodolfo Hernández dominated the media attention. According to EU EOM media monitoring results, during the analysed period most of the monitored private media made a reasonably balanced allocation of airtime and space among the different candidates, in proportion to their political weight. However, the monitoring also showed that Gustavo Petro was the candidate who received the greatest amount of coverage in a negative tone on TV (5.4 per cent of his coverage), radio (13.9 per cent) and newspapers (9.5 per cent). (*See monitoring chart number 4 in Annex 4*).

During the second-round campaign period, national media continued to provide extensive information on the electoral process, including interviews with the candidates and campaign team members, as well as reports on campaign activities by both contenders. Nevertheless, and contrary to previous campaign periods, no presidential debates were organised by television stations, since Rodolfo Hernández opted not to participate in such events. In addition, five days after the start of the second campaign period, Hernández stopped giving interviews to Colombian media.

Bias in the coverage by some media outlets became more pronounced in this second-round campaign period, favouring Hernández and to the detriment of Petro. In this case the EU EOM media monitoring found that, overall, Gustavo Petro received 32.5 per cent of coverage in a negative tone (16.6 per cent on radio, 5.6 per cent on TV and 10.3 per cent on newspapers) against 7.7 per cent of negative coverage assigned to Rodolfo Hernández (2.1 per cent on radio, 0.4 per cent on TV and 5.2 per cent on newspapers). In terms of the amount of coverage, the Hernández/Castillo ticket received 53 per cent of airtime on TV against 46.8 per cent of airtime allocated to Petro/Márquez, whereas on radio the Petro/Márquez ticket received 55.2 per cent of airtime, against 44.6 per cent devoted to Hernández/Castillo. In the newspapers, overall, the distribution of space to each candidacy was balanced (*see monitoring chart number 5 in Annex 4*).

EU EOM media monitoring also found that during the second-round campaign period, media devoted very limited attention to the vice-presidential candidates, who only received 4.2 per cent (Marelen Castillo) and 2.1 per cent (Francía Márquez) of all candidate-related coverage (*see monitoring chart number 5 in Annex 4*).

Regarding paid-for electoral propaganda, during the first campaign period of the presidential election Federico Gutiérrez was the candidate with the greatest number of spots on TV (36.7 per cent of all the candidates' spots), closely followed by Gustavo Petro (33.3 per cent) and Sergio Fajardo (14.7 per cent), while on the radio, the candidate registering the greatest amount of electoral propaganda was Fajardo (37 per cent of all candidate spots), followed by Petro (34.8 per cent) and Gutiérrez (27 per cent). (*See monitoring chart number 6 in Annex 4*). For the second-round campaign period Gustavo Petro significantly reduced his investment in electoral propaganda both on radio (59 per cent fewer spots than in the first round) and TV (46 per cent fewer spots than in the first round). (*See monitoring chart number 7 in Annex 4*).

XII. Social media

Use of social media in the campaign, still unregulated, was extensive, with relatively low rates of disinformation, mostly of which was directed at Gustavo Petro

Social media environment

Colombia has greater recourse to social media than the Latin American average, with 82 per cent of Colombians being active users.⁹⁹ Adult usage of Internet is extensive, positioning the country second in the region in terms of time spent on social media, only surpassed by Brazil.¹⁰⁰

Facebook is the most used social media platform in Colombia (91.7 per cent of adult users of social media), followed by Instagram (84.4 per cent), TikTok (69.5 per cent) and Twitter (50.8 per cent). Candidates campaigned on all these platforms, but the EU EOM's social media monitoring focused on Twitter and Facebook, preeminent political arenas.

Among instant messaging services, WhatsApp leads the user statistics (90.7 per cent), followed by Facebook Messenger (70.4 per cent) and Telegram (20.6 per cent). In the Colombian elections, some candidates used WhatsApp to recruit supporters and broadcast campaign messages. However, instant messaging services were not within the EU EOM's monitoring scope.

Legal framework

The Colombian Constitution guarantees freedom of expression and the right to privacy.¹⁰¹ There are no laws or regulations related to political campaigning on social media.

In 2020, the *Consejo Nacional Electoral* (CNE) issued a statement declaring that posts on social media promoting candidates would be considered political advertising. However, since the CNE did not provide further clarification on the scope or specifics of this statement - nor an explanation on how to deal with online advertising or electoral silence on social media - interpretation of this statement, which was not legally binding, was left to the discretion of the parties and candidates. The EU EOM observed that candidates did not respect campaign silence on Twitter and Facebook on election days.

The lack of a normative framework highlights the need to regulate online campaigning, as a first step towards the CNE monitoring compliance.

The 2020 draft electoral code, declared unconstitutional by the *Corte Constitucional* on 21 April, introduced some regulations on campaign in social media, such as the obligation to report online advertising expenses, campaign silence, and the prohibition to post opinion polls outside specified timeframes.

Recommendation: *the EU EOM recommends that election campaigning in social media to be regulated by law. The CNE could conduct social media monitoring to ensure that candidates' and parties' accounts abide by these rules.*

Social media monitoring findings

The EU EOM social media monitoring unit selected a sample of candidates' Facebook and Twitter accounts for each election (legislative, presidential primaries and both rounds of the presidential elections). User interactions with candidates' posts were also collected to determine those that

⁹⁹ Digital 2022: Colombia, DataReportal, 2022. <https://datareportal.com/reports/digital-2022-colombia>

¹⁰⁰ Digital 2022: Global Overview Report, DataReportal, 2022. <https://datareportal.com/reports/digital-2022-global-overview-report>

¹⁰¹ Articles 15 and 20 of the 1991 Constitution.

generated most discussion, and identify the possible presence of toxic messages, hate speech, and bots.¹⁰²

The volume of interactions recorded by the EU EOM during the three elections (50 million on Twitter and 97 million on Facebook) confirmed the extensive use of social media in Colombia. In the first round of presidential elections Gustavo Petro, Rodolfo Hernández, and Federico “Fico” Gutiérrez accounted for 92 per cent of all user interactions (with Petro alone accounting for half of that percentage). In the second round, Gustavo Petro accounted for 72 per cent and Rodolfo Hernández, 28 per cent. Twitter users mentioned both candidates in a negative tone in two of every three messages.

Candidates posted a relatively low number of messages confronting their adversaries (2 per cent of all posts in the legislative election, 8 per cent in the first round of the presidential election and 12 per cent in the second round), and no hate speech was observed among these. Almost all criticism from contenders was directed at Gustavo Petro.

However, the EU EOM detected an increasing amount of toxic language and hate speech in mentions of the candidates, peaking in the second round of the presidential election, when 3 of every 100 messages contained toxic language and 1 of every 100 included hate speech (racist, sexist, xenophobic or LGTBI-phobic content). Francia Márquez (Petro's vice-presidential candidate) was the target of more hate speech than other candidates in both rounds of the presidential elections.

Analysis of Twitter profiles interacting with candidates' posts revealed that at least 19 per cent displayed characteristics consistent with bots.¹⁰³ Of these, 47 per cent interacted in support of the left, 36 per cent in support of the right and just 2 per cent in favour of the centre of the political spectrum.

Some political actors warned of the possibility of electoral interference and the spread of disinformation conducted from abroad.¹⁰⁴ However, the EU EOM observed no indications of a systematic and massive campaign. Colombian fact-checkers¹⁰⁵ reported 120 disinformation online post/articles, a relatively small number for a five-month observation period. In the first round of presidential elections, 59 per cent of disinformation targeted Gustavo Petro, 20 per cent Federico “Fico” Gutiérrez and 12 per cent Francia Márquez. In the second round, Gustavo Petro and Rodolfo Hernández were targeted almost equally.

Meta Ads Library,¹⁰⁶ available in Colombia, reports all political advertising running on Facebook and Instagram. The total amount spent by candidates and political parties on online campaigns during the three elections was at least 1,800,000 EUR. In the legislative elections, *Centro Democrático* spent the most (75,000 EUR), followed by *Pacto Histórico* (50,000 EUR) and *Nuevo Liberalismo* (25,000 EUR).

In the first round of the presidential elections, the candidate who invested most in Meta advertising was “Fico” Gutiérrez (250,000 EUR), followed at a distance by Gustavo Petro (78,000 EUR), John Milton Rodríguez (21,000 EUR) and Sergio Fajardo (18,000 EUR).

¹⁰² The EU EOM monitoring unit collected Twitter interactions with the candidates between 17 December 2021 and 20 June 2022.

¹⁰³ The EU EOM monitoring unit processed 200,000 users with Botometer, a bot detector developed by Indiana University, selecting those with a probability greater or equal than 80 per cent of being bots. The monitoring unit checked and labeled those users manually to discard incorrectly labeled profiles.

¹⁰⁴ Elecciones 2022 y los temores de la injerencia extranjera. *El Espectador*, 11 February 2022. <https://www.elespectador.com/politica/elecciones-colombia-2022/elecciones-2022-y-los-temores-de-la-injerencia-extranjera/>

¹⁰⁵ ColombiaCheck, La Silla Vacía and AFP Factual.

¹⁰⁶ <https://www.facebook.com/ads/library/>

Rodolfo Hernández used social media intensively during the first round (mostly Tiktok videos). Gustavo Petro tripled his investment in online advertising during the second round (260,000 EUR), while Hernandez only spent 10,000 EUR and continued to record free videos.

In both rounds of the presidential elections, negative advertising was contracted against Gustavo Petro and *Pacto Histórico*. In the first round, the EU EOM detected at least 15 Facebook pages publishing smear campaigns against candidates (mainly Gustavo Petro), at a total cost of 65,000 EUR. In the second round, at least three Facebook pages run by undisclosed organisations spent 104,000 EUR on short videos targeting Gustavo Petro and *Pacto Histórico* members. These videos were closed with the slogan "Colombia needs a new leader" alongside a photograph of Rodolfo Hernández. Facebook did not suspend these pages even though it prohibits anonymous political advertising.

The Google Transparency Report¹⁰⁷, which contains information about political advertising on Google Ads and YouTube, is not available in Colombia.

The EU EOM social media monitoring unit reviewed, on a daily basis, more than 500 accounts which were the official pages for State institutions, high-rank officials, departmental governments, and major municipalities. The Mission did not detect any significant instances of campaigning through official or institutional social media accounts.¹⁰⁸

XIII. Women's participation

Although the number of women elected to Congress increased, legislative measures ensuring effective parity remain necessary.

The 1991 Constitution establishes that women and men have equal rights and opportunities¹⁰⁹ and the constitutional reform of 2015 introduced the principles of parity and alternation in party and candidate lists, albeit only through gradual legal reform. Law 1475 of 2011 on political parties and electoral processes, which predates the 2015 constitutional reform and is still in force, introduced a requirement that women make up at least 30 per cent of candidate lists in constituencies with at least five seats – which is the case in nearly half of the country's constituencies to the House of Representatives.¹¹⁰

Several factors limit the effectiveness of the minimum quota. Where parties present open lists this does not necessarily translate into election outcomes and where parties present closed lists, the law does not require them to place women candidates in any specific position, much less alternate between women and men throughout the list. Of the 25 lists presented by political parties to the Senate, 12 were open lists and 13 were closed, and only a few parties and coalitions committed to greater degrees of parity and alternation in their closed lists.¹¹¹ One closed 'zip' list (alternating

¹⁰⁷ <https://transparencyreport.google.com/>

¹⁰⁸ The EU EOM only detected three instance of misuse of official social media accounts: Alcaldía of Magdalena (events with slogan and logo with the colours of *Pacto Histórico*), Alcaldía of Barranquilla (Rodolfo Hernández campaign billboard) and Alcaldía of Yopal (a post on Facebook calling to vote for Fico Gutiérrez was published and then removed; a statement indicating that it was an error was issued <http://shorturl.at/hQZ57>).

¹⁰⁹ Article 43 of the Constitution.

¹¹⁰ Out of 33 departments (32 departments and Bogotá district) 14 are obliged to implement the gender quota: Antioquia, Atlántico, Bogotá, Bolívar, Boyacá, Caldas, Córdoba, Cundinamarca, Magdalena, Nariño, Norte de Santander, Santander, Tolima, Valle del Cauca.

¹¹¹ *Pacto Histórico's* list alternated men and women candidates up to the 22nd position, *Partido Comunes* almost entirely and *Nuevo Liberalismo* up to the tenth position. *Estamos listas*, a feminist party, presented an almost all women list, with five men in the last positions.

women and men throughout), that of the *Pacto Histórico*, produced a visible impact on female representation by obtaining 10 of the 32 seats won by women in the Senate.

Women's political participation was promoted in the design of the 16 special transitory peace seats, which required that lists be composed of equal numbers of men and women.¹¹² However, this obligatory parity in candidate lists did not translate to the results, as only three women candidates won their seats.

Women's participation increased significantly in the 2022 elections, in terms of both registered and elected candidates. Forty per cent of the registered candidates for Congress were women (1131 out of 2835 candidates), a 5 per cent increase since the 2018 elections. For the 2022-2026 legislative period, women will make up 29 per cent of the new Congress: 9.5 per cent more than in the outgoing Congress. Specifically, the Senate will include 32 women (30 per cent) and the House of Representatives, 54 women (29 per cent).

The departments which elected the highest proportion of women to the House of Representatives are Amazonas (100 per cent), Quindío and Sucre (both with 67 per cent), while parity was achieved in Arauca, Caquetá, Chocó, Huila, and the islands of San Andrés, Providencia, and Santa Catalina. Nevertheless, in 11 of the 19 departments where the minimum gender quota is not mandatory (as less than five representatives are elected), no woman was elected.

Recommendation: *In order to strengthen measures aimed at increasing women's access to power, the minimum quota in candidate lists could be raised to require parity (50 per cent), and, further, be applied to all constituencies. To the same end, alternation of men and women could be required for closed lists. Lastly, mechanisms could be explored to make parity effective when parties present open lists.*

In 2022, no women candidates ran for the presidency, as the only woman candidate, Ingrid Betancourt (*Partido Verde Oxígeno*), withdrew from the race a few days before the election. Of the six candidacies in the first round of the presidential elections, three included Afro-Colombian women as candidates for Vice-President. For the first time, both vice-presidential candidates - Marelén Castillo (*Liga de Gobernantes Anticorrupción*) and Francia Márquez Mina (*Pacto Histórico*) - who ran in the second round, were Afro-Colombian women.

XIV. Participation of Indigenous and Afro-Colombian peoples

The Constitution establishes special seats for ethnic minorities and, for the first time, an Afro-Colombian woman has been elected vice-president. .

The 1991 Constitution recognises ethnic and cultural diversity and protects the rights of ethnic minorities.¹¹³ Similarly, the jurisprudence of the Constitutional Court establishes a series of principles, rights and guarantees to safeguard the life, integrity, and territories of Colombia's indigenous peoples. Colombia has furthermore ratified the International Labour Organisation's Convention 169 for Indigenous and Tribal Peoples, the UN Declaration on the Rights of Indigenous Peoples, and the American Declaration on the Rights of Indigenous Peoples.

According to the most recent national census¹¹⁴ (2018), 4 per cent of Colombians identified themselves as indigenous and some 10 per cent as black, Afro-Colombian, Raizal or Palenquero.

¹¹² Art. 6 of Acto Legislativo 02 de 2021 established that CITREP lists will be composed of two candidates, one of each gender.

¹¹³ Article 7 and article 246 of the 1991 Constitution.

¹¹⁴ <https://www.dane.gov.co/files/investigaciones/boletines/grupos-etnicos/presentacion-grupos-etnicos-2019.pdf>

The political representation of national minorities is enshrined in the Constitution, which establishes special constituencies for indigenous populations in the Senate and special constituencies for both indigenous and Afro-Colombian members in the House of Representatives.

Afro-Colombian communities presented 48 lists with 128 candidates for two seats in the House of Representatives, while the indigenous communities presented 22 candidates on 9 lists for two seats in the Senate, as well as 12 candidates on 7 lists for their single House seat. One of the indigenous Senate seats was won by the party *Autoridades Indígenas de Colombia* (AICO) and the other by the party *Alternativo Indígena y Social* (MAIS), which also won the House seat. The movements *Palenque de la Vereda Las Trecientas y del Municipio de Galapa* and *Consejo Comunitario Fernando Ríos Hidalgo* won the two Afro-Colombian special seats in the House of Representatives. Two of the five candidates elected in these special constituencies are women, a positive development from 2018 when no women were elected to represent the indigenous and Afro-Colombian communities. It is worth noting that the member of the House elected by Colombians living abroad is a leader of the Wayuú community.

The presence of Afro-Colombian candidates for the vice-presidency was noteworthy. Of the six candidates who ran in the first round, four were Afro-Colombian¹¹⁵ (three women and one man) and both candidates in the second round were Afro-Colombian women. For the first time in Colombian history, the vice-presidency will be held by an Afro-Colombian woman.

For the first time, ahead of the presidential elections the *Registraduría* produced ballot papers in creole language for Raizal Afro-Colombian voters who live in the islands of San Andrés, Providencia and Santa Catalina, constituting an important first step in the availability of election materials in different languages.

EU EOM observers reported on the lack of targeted voter education and availability of public information materials in indigenous languages in both legislative and presidential elections.

The higher rates of invalid votes in elections of reserved indigenous seats in both the Senate and the House of Representatives (11.73 per cent and 7.49 per cent) as compared to the rates in the main national Senate and House elections (4.06 per cent and 4.8 per cent) merit evaluation, and may indicate the need for more targeted voter information in indigenous languages.

Recommendation: *in order to continue improving all voters' access to information, it would be useful for the Registraduría to expand its production of ballots to indigenous languages, and also to produce voter information packages in minority languages.*

XV. Participation of Persons with Disabilities

The Registraduría implemented several measures to ensure people with disabilities could exercise their right to vote independently

Colombia has ratified the UN Convention on the Rights of Persons with Disabilities, which establishes the responsibility of the State to resolve situations of disadvantage for persons with disabilities. The Constitution upholds and protects the rights of people with physical or mental disabilities and establishes the State's duty to take effective measures to ensure their inclusion. The national legal framework provides for different laws and regulations being the most relevant Law 1618 of 2013 which addresses their participation in public and political life. Colombia does not have

¹¹⁵ Marelén Castillo (*Liga de Gobernantes Anticorrupción*), Sandra de Las Lajas (*Colombia Justas Libre!*), Francia Márquez Mina (*Pacto Histórico*) and Luis Gilberto Murillo (*Centro Esperanza*).

an official register of persons with disabilities, and the existing statistical data estimating the population with some form of disability varies considerably and lacks accuracy.¹¹⁶

Both the *Instituto Nacional para Sordos* (INSOR) as well as *Instituto Nacional para Ciegos* (INCI) are State policy advisory bodies whose role in elections is to collaborate with *Registraduría* on voter education. While INSOR provided advice on communication about elections in sign language, INCI supported *Registraduría* in preparing voter education materials appropriate for visually impaired voters. As a result of a partnership agreement between INCI and RNEC, visually impaired voters were provided with Braille ballots. The *Registraduría* distributed 90,000 Braille ballots for each election day, and instructed polling staff to liaise with other polling stations to ensure adequate supply at any given time.

For the 2022 elections, the *Registraduría* and CNE worked with institutions representing people with disabilities to issue a protocol for the support of persons with disabilities.¹¹⁷ This protocol included instructions to polling staff and other authorities involved in the election process to ensure persons with disabilities could vote independently. In addition, the *Registraduría* also issued a series of memoranda and circulars to ensure appropriate measures for disabled voters such as guaranteeing their access to polling stations, adapting special voting booths, offering ballot papers in Braille for visually impaired voters as well as providing guidelines on respectful treatment of disabled voters. EU EOM observers reported that 80 per cent of polling stations were accessible to people with limited mobility.

The law establishes that voters with physical limitations, the elderly over 80 years old and visually impaired voters may be assisted to vote by a person of their own choice. The law prohibits party representatives from assisting voters and the *Registraduría*'s instructions to polling staff extended this prohibition to assistance by electoral staff and several other categories, in a bid to exclude the possibility of undue influence or exploitation of assisted voting. EU EOM observers found that in general, these instructions were complied with.

XVI. Participation of LGBTI persons

The Colombian legal framework guarantees the political participation of LGBTI persons, including the right to reflect their perceived gender in the Civil Register and identity card. The CNE issued a resolution and the *Registraduría* a protocol which included guidelines on respectful treatment to transgender voters by polling station staff to ensure their right to vote in equal conditions, without discrimination.¹¹⁸ Furthermore, for the first time in a presidential election, the Colombian *Misión de Observación Electoral* (MOE) deployed 95 observers from the trans community to observe if the protocol was duly implemented by the polling station staff and other authorities involved in the election process.

¹¹⁶ While *Departamento Administrativo Nacional de Estadística* (DANE) census on this topic performed in 2005 estimated that about 6 per cent of Colombian present with some form of disability, the *Registro de Localización y Caracterización de Personas con Discapacidad* performed in 2019 estimated 2,3 per cent.

¹¹⁷ The Protocol was prepared by *Registraduría*, CNE, *Consejería Presidencial para la Participación de las Personas con Discapacidad*, *Procuraduría*, *Instituto Nacional para Ciegos*, *Instituto Nacional para Sordos*. Available at: <https://www.registraduria.gov.co/IMG/pdf/protocolo-discapacidad.pdf> Protocol for the Presidential elections: https://registraduria.gov.co/IMG/pdf/20220529_protocolo-discapacidad.pdf

¹¹⁸ CNE Resolution 3480 de 2020. Polling staff guidelines; https://www.registraduria.gov.co/IMG/pdf/20220419_lineamiento-jurados-trans.pdf

XVII. Election observation

The CNE and the Registraduría provided accreditations without undue restrictions and free access to all relevant locations, events and information to all accredited observers

The existing legal framework allows for election observation, and the CNE did not impose any unreasonable conditions on accreditation requests, whether from national or international organisations. For its part, the *Registraduría* granted access to all relevant locations and events to all accredited observers, facilitated meetings with electoral authorities and technical staff alike, and provided all requested information.

The Colombian *Misión de Observación Electoral* is a platform of civil society organisations which works on electoral monitoring on an ongoing basis, and has, in addition to its central office, representatives throughout the country. The MOE has a longstanding high profile in Colombia's electoral landscape and issues regular pre-electoral reports. On election days, the MOE deployed over 3000 observers. The Fundación Karisma, associated to the MOE, issued its own report, primarily focusing on electoral technology.

The CNE issued 146 accreditations to other Colombian organisations, such as the Red de Veedurías de Colombia (RIVECOL).

In addition to the national observation missions and the international deployments by the EU EOM, the OEA, the Carter Center and UNIORE among others, the *Registraduría* organised a '*Misión Internacional Técnica*', composed of electoral experts from several international electoral organisations, who attended *Registraduría*-organised events over the course of the many months of the election process. While it is a common and legitimate practice for election administrations to invite experts, the *Registrador Nacional's* portrayal of the *Misión Internacional Técnica* often conflated this initiative with all international observers, including independent missions.

XVIII. Polling, counting and tabulation of results

Polling and counting

Well-organised, orderly polling and counting, freely attended by candidate representatives

All three election days were well-organised, and EU EOM observers found that polling staff performed well.¹¹⁹ The complexity of the elections to Congress presented particular challenges but these were overcome, with the exception of mistakes made in the preliminary results transmission for this election. Notably, although sometimes difficult for polling staff to handle, the introduction of separate ballots clearly helped reduce the rate of invalid votes, which dropped to 4.06 per cent on average for the Senate (from 6.5 per cent in 2018) and 4.8 per cent for the House of Representatives (from 9.4 per cent in 2018), and just 3.63 per cent in the CITREP elections. Significantly higher rates of invalid votes were nonetheless recorded among votes for the indigenous and Afro-descendant seats: 11.73 per cent and 7.49 per cent in the Senate and House indigenous seats respectively, and 8.95 per cent in the House of Representatives Afro-descent election. In the presidential election, fewer than 1.2 per cent of votes cast were invalid.

¹¹⁹ For the legislative elections on 13 March, the EU EOM observed in 451 polling stations (of which 35 in 11 CITREP) in 30 departments. For the presidential first round on 29 May, they observed in 472 polling stations in 26 departments, and on 19 June, for the second presidential round, the EU EOM observed in 448 polling stations in 26 departments.

The *Registraduría* made concerted efforts to address weaknesses identified after the first election day and these efforts, combined with the relative simplicity of the presidential elections, ensured that the next two election days were particularly smoothly run. Turn-out, at 47.84 per cent for the Senate and 47.43 per cent for the House of Representatives, was similar to the 2018 elections, and the 42.80 per cent turn-out in the CITREP constituencies was only slightly lower than average, in a positive outcome despite security concerns among others. Participation in the presidential elections was higher - 54.97 per cent in the first round, rising to 58.17 per cent in the second – the highest turn-out in Colombian presidential elections in over 20 years.¹²⁰

All three election days were peaceful for the most part, although each recalled regrettable evidence of the backdrop of violence that prevails in several parts of the country: on the day of elections to Congress, paramilitary groups blocked roads in Magdalena (CITREP 12) in a bid to impede voting, and two soldiers were killed in separate explosive attacks. At the end of polling day for the first presidential round, poll worker Nelly Bedolla, was killed while carrying out her duties in Vista Hermosa, in the Meta, in an attack by an armed group which also injured a soldier. On election day for the second presidential round, it was reported that a *Pacto Histórico* representative, Roberto Carlos Rivas, was killed in Guapi, El Cauca.

The *Registraduría*'s *Infovotantes* app and website, primarily used by voters to check where they were registered to vote, crashed under high demand on the eve of polling for Congress and was unavailable for several hours early on election day. The *Registraduría* launched several initiatives to ensure this problem was not repeated during presidential elections, and these were successful. As well as significantly increasing the capacity of the app and website, and creating further websites with the same information, the *Registraduría* also widely distributed copiable databases to departmental and municipal *Registraduría* offices, to be freely shared with political parties and civil society organisations. These did not require an internet connection to obtain information.¹²¹ In addition to providing further information at voting centres, these initiatives contributed to greater calm and order on election days, as voters were well informed or guided regarding their assigned polling station.¹²²

On all election days, almost all observed polling stations opened on time, thanks to sufficient presence of polling staff, and of all necessary materials. EU EOM observers evaluated opening procedures positively in all observed cases.

Voting procedures were also evaluated positively on all election days, notably the careful verification of voters' identities and registration, and EU EOM observers found polling staff carried out their duties with competence and transparency. The introduction of separate ballots for different types of elections to Congress and the interparty-consultations successfully reduced the number of spoiled ballots, but the number of different ballots, and the complex set of instructions on how to make these available to voters was sometimes challenging for polling staff.¹²³ Variable application of these guidelines led to protests from parties and candidates. Throughout the course of the day, measures introduced to support voters through complex voting procedures were applied to varying degrees: in 85 per cent of the polling stations observed, an instructions poster was placed in the

¹²⁰ See Annex 6 for all turn-out and invalid vote figures.

¹²¹ The databases reproduced the website and app, in the respect that they enabled individual requests for information, based on entering one person's identity card number.

¹²² On election day for Congress, the EU EOM noted citizens turned away because they were not registered in that polling station, in 6 per cent of observed polling stations. In contrast, on presidential election days, such instances were noted in some 2 per cent of observed polling stations.

¹²³ For elections to Congress, in principle, polling staff were supposed to offer voters the different options - ballots for the ordinary constituency or for the special indigenous or Afro constituency - while for the inter-party consultations, staff was only supposed to offer a ballot if a voter requested it.

cubicles, but in only 28 per cent of observations were voters offered the guidance book prepared to provide more detailed information on candidate lists, including photographs.

The vast majority of visited polling stations had adequate conditions to host voting, and the layout in most stations adequately guaranteed secrecy of vote – some 80 per cent in the first election day, and over 90 per cent of stations by the presidential elections. In practice, secrecy of vote was not fully respected in 18 per cent of polling stations visited during congressional elections, a figure which improved for presidential polling. During elections to Congress, the EU EOM recorded indications of vote-buying practices in 7 per cent of polling stations observed, such as voters attempting to photograph or leave identification marks on their ballots, a practice which significantly reduced during presidential polling. EU EOM observers noted that often, voters did not particularly protect the secrecy of their vote.

Party and candidate representatives were able to view all stages of polling without undue restrictions in the vast majority of stations observed on all three election days. During voting for Congress, at least two party representatives were present in 32 per cent of polling stations observed, and at least one in 65 per cent. During first round presidential election day, party representatives were present in 70 per cent of polling stations visited during the day, and almost all stations during counting: the *Pacto Histórico* was present in 51 per cent throughout the day (rising to 80 per cent for counting), *Equipo por Colombia* in 29 per cent (and over 50 per cent during counting), and the *Liga de Gobernantes Anticorrupción* in 6 per cent of observed polling stations. For the second round of the presidential election, both candidates increased their deployment of representatives, and during the day the EU EOM found *Pacto Histórico* representatives to be present in 56 per cent of polling stations, and *Liga de Gobernantes Anticorrupción* representatives in some 28 per cent. By closing and counting, *Pacto Histórico* representatives were present in 80 per cent of polling stations observed, and *Liga* representatives in almost 40 per cent.

Closing and counting was also reported by EU EOM observers to be orderly and transparent on all three polling days. Polling staff made use of tools provided by the *Registraduría* to facilitate closing procedures, such as the procedural aide-mémoire and tally sheets (*cuenta-votos*), and for the presidential rounds, updated counting and results form guides. EU EOM observers found that votes were correctly attributed, due priority was given to the clear intention of the voter, and results were correctly consigned to E-14 results forms. Nonetheless, results forms for the elections to Congress – each of which must be manually completed in three copies¹²⁴ were extremely long and complex, not least because although parties presenting closed lists required just one result to be recorded, others presented open lists with up to 100 candidates.¹²⁵ Pre-electoral debate, largely conducted over social media,¹²⁶ caused confusion about how to fill empty boxes in results forms to avoid the possibility of results being altered later, resulting in polling staff spending more time filling empty squares than consigning results to the forms. Further, the *Registraduría* asserted that this approach – which had not been part of official training instructions – contributed to difficulties in quickly identifying figures to communicate towards preliminary results. Given the relative simplicity of the

¹²⁴ The E-14 forms all come in three original copies, which each have a function: the *transmisión* copy is used to communicate preliminary results by telephone; the *delegados* copy is scanned for immediate publication on the Registraduría website, and the *claveros* copy is brought to aggregation centres, where it contributes to the official results.

¹²⁵ The E-14 for the Senate was 11 pages long and contained 7722 squares for numbers (*casillas*).

¹²⁶ The CNE Magistrate Luis Guillermo Pérez contributed significantly to what amounted to a campaign, which was also explicitly supported by Gustavo Petro, and led to the commonly held conclusion that polling staff should fill each square with an asterisk. Original Registraduría training instructions were to use a hyphen or asterisk in the blank squares adjacent to recorded results, to prevent figures being amended at a later stage. The campaign urged polling staff to fill every single square with asterisks, even those where no results were recorded, for example for the many candidates in open lists who received no votes.

presidential elections – and the consequently clearer, shorter results forms - these problems did not arise on presidential polling days.

In all observed cases, party representatives were able to observe without undue restriction, and take photographs of the completed results forms. In recognition of the fact that no political movement had the capacity to deploy representatives to every polling station,¹²⁷ the *Registraduría* introduced further measures to make it easier for party representatives to take pictures of the E-14 forms from numerous polling stations: the first was to invite party representatives to see all forms from voting centres after transmission of preliminary results. This was successfully implemented in half of observed voting centres, while in other cases party representatives did not wait this long. The second extra measure was to post polling stations results forms at the location of the *comisiones escrutadoras*, where official results were aggregated. This was implemented in almost all observed *comisiones escrutadoras*.

Recommendation: *considering the recognised and controversial phenomenon of vote-buying, and the evidence that secrecy of vote is not always guaranteed in polling stations, a public campaign emphasising the right to a secret vote would be a useful measure. In addition, voting booth design and training on voting booth placement would help further improve guarantee of secrecy of vote.*

Results processing

Transparent official results processing enabled traceability from polling station to final results, accuracy of which was improved by double data entry

Preliminary results

Colombia's preliminary results system provides extremely rapid indications of election outcomes, as polling station results forms are phoned through as soon as they are available. Together with the company this task is outsourced to, the *Registraduría* held numerous rehearsals and technical trials to prepare, and for the elections to Congress, 98 per cent of all results had been published by midnight, including a wide range of data on turn-out. Within a few days however, errors became evident, and these particularly affected the *Pacto Histórico*: the Senate results obtained by the movement in some 29,000 of the 112,009 polling stations had been omitted. Once this was recognised, the main reason advanced for this error was attributed to a design flaw in the Senate E-14 results form, which provided the *Pacto Histórico*, which presented a closed list, with only a small sliver at the bottom of a page otherwise taken up by the 100 candidates presented in an open list by the *Partido de la U*. While the order of parties' appearance on the results form reflected the order of their appearance on ballots, which was randomly drawn, the *Registraduría* recognised that better care could have been taken to address difficulties incurred by some parties presenting open lists. EU EOM observers also found that trial runs for the preliminary results had focused mainly on technical and connectivity issues, to the detriment of practising accurate communication of results. Errors of omission affected some other parties as well, but to a much lesser extent. Final results indicated that the *Pacto Histórico* obtained 20 seats in the Senate, whereas preliminary results indicated the movement would obtain 16 seats. As detailed above, the errors in the preliminary results were used a springboard for numerous allegations against the electoral process as a whole.

¹²⁷ In the second presidential round, the *Pacto Histórico* accredited 83,209 representatives, for 102,152 polling stations, and the *Liga* accredited 75,535 representatives. In the first round, for 112,009 polling stations, *Equipo por Colombia* and the *Pacto Histórico* accredited 79,994 and 77,447 representatives respectively, after which no movement accredited more than 9,000 representatives.

Preliminary results for the presidential elections were processed very rapidly, and without error, largely thanks to the simplicity of presidential elections. In addition, the *Registraduría* instructed technical staff to double check the communication of results. For the presidential elections, the preliminary results only deviated 0.1 per cent from the final, official results.

Publication of polling station results forms

On all three election nights, E-14 results forms from almost all polling stations were published on the *Registraduría* website within a few hours - by midnight on for the elections to Congress, and by 8pm for the more straightforward presidential elections, just four hours after polls closed.

Aggregation of official results

Official election results are aggregated by *comisiones escrutadoras* (aggregation commissions) in a pyramid system, starting with municipal aggregation (*escrutinios auxiliares – zonales, municipales o distritales*),¹²⁸ under the authority of judges or solicitors (*notarios*) appointed by the District Court (*Tribunal Superior del Distrito Judicial*); followed by aggregation at departmental level (*escrutinios generales*), under the authority of judges appointed by the CNE and finally, aggregation of national results (*escrutinio nacional*), under the authority of the CNE.

EU EOM observers attended aggregation at all stages of each election, where they consistently found transparent, well-organised data entry, in full view of party representatives. Polling station results forms were projected on screens, alongside a view of data entry. Although this direct and immediate view of results aggregation is secondary to other transparency measures, it is nonetheless positive and it was a useful improvement when, for the presidential elections, screen projections of documents moved according to the section being processed, enabling a better view of data being entered.

The most important transparency measures were the provision of progressive results data, both on site and online: in aggregation centres, party representatives were provided with partial aggregation forms at the end of each day, and the final aggregation forms when each stage (for example, municipal) was complete.¹²⁹ Every level of aggregation produced forms known as E-24 and E-26: the latter displayed the totals of votes consolidated by the *comisión escrutadora* concerned, while the former also included desegregated data, enabling traceability.¹³⁰

Online, political parties had access to the information outlined above in .pdf format, as well as real-time spreadsheets with entered data, which facilitated analysis and constituted a crucial element of verification.¹³¹ When results rose above departmental aggregations to national aggregation using INDRA software and a different website and platform, traceability was retained. However, for users, there was no advantage to the shift in software and interface. While the documentation available during the 2022 elections guaranteed traceability of results, both the spreadsheets and the aggregated forms could yet be made more user-friendly. The online platform for political parties also displayed submitted, resolved and outstanding complaints, and a log which displayed every action taken in each aggregation centre, including technicians' log-ins.

¹²⁸ In small municipalities, polling station results are aggregated in a municipal aggregation centre first. Larger municipalities are divided into zones, and polling station results are first aggregated there, in *comisiones escrutadoras auxiliares*, before moving up to municipal aggregation.

¹²⁹ Provision of data at the end of each working day was systematic, but EU EOM observers also reported that in general, party representatives were provided with data and documents on request.

¹³⁰ For example, a municipal E-24 aggregation form would include a table with results from all polling stations in the area.

¹³¹ The EU EOM and other observation missions who requested credentials had access to the same information.

Early on in the results aggregation for elections to Congress, the EU EOM noted that the mistakes which had taken place during the preliminary results – omission of some results, predominantly affecting the *Pacto Histórico* – were also taking place in the processing of official results, albeit to a much lesser extent. Following the EU EOM’s communication of this finding,¹³² the *Registraduría* circulated a request to *comisiones escrutadoras*, who are not under the *Registraduría*’s authority, requesting that they go back and verify the accuracy of all aggregated results. Over time, the EU EOM was able to establish that generally, corrections were introduced. In response to these errors, before the presidential elections, the *Registraduría*, which contracts the technical services employed by *comisiones escrutadoras*, introduced a double entry system, to ensure that any errors entering data from polling station results forms would be immediately detected.¹³³

The official results aggregation process incorporates a preclusive complaints system, whereby parties may challenge the accuracy of results being entered: the complaint is either resolved by the *comisión escrutadora*, or referred to the next stage of aggregation. Although in theory a party representative may detect an error on screen in the moment of data entry, the system’s accountability mainly depends on parties having the time to study online spreadsheets, alongside the E-24 and E-26 aggregation forms. The time available to parties to revise documentation and submit a challenge is not regulated, despite the CNE’s attempt to do so in 2019.¹³⁴ As a result, there was initially great variation in the amount of time the different *comisiones escrutadoras* granted to submit challenges, in some cases less than an hour. However, parties’ decision not to support a recount and instead trust the ongoing aggregation, alongside the *Registraduría*’s requests to *comisiones escrutadoras* and the CNE’s own commitment to flexibility cumulatively enabled complaints to be heard.

Final results for the first and second round of the presidential election were announced by the CNE within four days of polling. Final results for Congress were announced on 19 July.

Although the *Registraduría* generally published a wide range of data, the public’s access to information on such as turn-out and regional or municipal results was only available on the basis of preliminary results website, while the same information based on official results was not published.

Recommendation: *With a view to ensuring accuracy of both preliminary and official results, it would be useful to introduce double data entry as a standard practice in both processes.*

Recommendation: *To clearly communicate to the public the transparency mechanisms in place, namely the timely provision of disaggregated data in exploitable form, ensuring the traceability and verification of all election results, in order to generate confidence among both contenders and the electorate, substantially before polling begins. In addition, it would be useful if the precise format, timing and means of access to results data were presented to contenders in advance of the campaign period, so that candidates may plan how to best verify results.*

¹³² The EU EOM communicated its finding to the *Registraduría*, and also issued a press release. <https://twitter.com/moeuecolombia22/status/1504889965313986565>

Subsequently, the *Registraduría* circulated a request to *comisiones escrutadoras*, who are not under the *Registraduría*’s authority, requesting that they go back and verify the accuracy of all aggregated results.

¹³³ Although not a classic double blind entry system whereby two different people enter the same data separately, the system introduced comparable advantages: the same technician entered data twice, and the system detected and flagged any differences in the two sets of data. Previously, the system only triggered an alarm if the votes cast were greater than the number of registered voters, making it all too easy for errors to go undetected.

¹³⁴ In 2019, the CNE issued a regulation (Resolución 1706 de 2019) which guaranteed at least one day between the provision of complete aggregation forms and associated spreadsheets, and parties’ deadline for submitting challenges. However this was struck down by the State Council the following year, on the grounds that such provisions should be in law, not regulation.

XIX. Complaints and appeals

Deadlines should be introduced for the submission and resolution of administrative complaints and appeals on results

The aggregation of results is based on an incremental and preclusive process at successive levels (*comisiones escrutadoras* at the zonal, municipal and departmental level, CNE at the national level) in which administrative complaints and petitions can be lodged on specific grounds.¹³⁵ The CNE as the last instance at the administrative level, has jurisdiction to decide on complaints regarding the decisions by departmental aggregation commissions. The State Council, the highest judicial authority on electoral issues, can declare the annulment of CNE's declaration of results.

Congress elections

The CNE's departmental aggregation commissions declare the results of both the ordinary seats and the special transitory seats (CITREP) in the House of Representatives, while the CNE at national level declares the ordinary and special seats in the Senate, the special seats in the House (ethnic minorities and Colombians voting from abroad) as well as the seats allocated to the *Comunes* party both in the Senate and in the House. In addition, the CNE declares the election of ordinary seats in the House if they have been appealed or when a *comisión escrutadora departamental* was unable to reach a decision.¹³⁶

Following the legislative elections, 2974 complaints regarding the official results process for both chambers of Congress – each concerning one of the 112,009 polling stations - were received at municipal level and 3725 at departmental level.

Concerning ordinary seats in the House of Representatives, the plenary of the CNE received 20 appeals against the results aggregated by the *comisiones escrutadoras departamentales* from the departments of Antioquia (8 appeals) and Norte de Santander (12 appeals).¹³⁷ Concerning the minority seats, which are elected in a national constituency and declared by the plenary of the CNE, the *Consejo* received 30 complaints, disputing one Afro-Colombian special seat.

In the case of Antioquia, the CNE rejected seven appeals, upholding the decision of the *comisión escrutadora departamental* and partially accepting one appeal, making a correction of six votes in favour of a *Centro Democrático* candidate but without altering the result. The appeals filed in the department of Norte de Santander concerned a dispute between two members of the same party (*Centro Democrático*) who had a difference of seven votes between them. The CNE either rejected the appeals or inhibited itself from deciding, upholding the *comisión escrutadora departamental* decision and maintaining the seat of the initially elected member.

The Afro-Colombian special seat had been disputed between two candidates, Miguel Abraham Polo Polo from Consejo Comunitario Fernando Ríos Hidalgo and Lina del Pilar Martínez García from Consejo Comunitario de la Comunidad Negra Limones. After *Consejo's* review of 1012 *mesas de votación* the seat was declared for Miguel Abraham Polo Polo.

¹³⁵ Article 192 of the Election Law establishes that claims can be submitted on 12 grounds. The most frequent are those related to arithmetical errors, erasures, and amendments in results forms. In addition to these, and specifically for legislative elections, it is common to request a vote recount if there is a difference of at least 10 per cent between the votes for the list of candidates in the Senate and in the House.

¹³⁶ Art. 187 of the Election Law establishes CNE competence in resolving disagreements.

¹³⁷ In addition, the CNE received a complaint from Vichada on which the departmental *comisión escrutadora* has been unable to reach an agreement to declare results.

The CNE also received 1328 complaints¹³⁸ challenging ordinary seats in the Senate, referring to approximately 50.000 polling stations. The outcome of these appeals had no impact on the allocation of seats in the Senate.

The existing legislation does not provide deadlines for the submission of complaints on the grounds established in Art. 192 of the Election Law. In an attempt to close this procedural gap in 2010 and again in 2019,¹³⁹ the CNE issued a protocol containing rules of procedures for challenges and appeals, but this was annulled by the State Council on the grounds that such regulation could only be introduced through a *Ley Estatutaria*.

In the absence of deadlines for launching complaints, the *comisiones escrutadoras* applied a variety of deadlines ranging from one to twenty-four hours. The law does not provide deadlines for the resolution of complaints and appeals by *comisiones escrutadoras* or the CNE, which leads to long periods of time before the declaration of election results. The CNE must resolve all complaints and appeals before the opening of the new Congress (20 July) and the inauguration of the President of the Republic (7 August).

Recommendation: *To establish deadlines for the submission of complaints and appeals at the comisiones escrutadoras and the CNE, as well as for their resolution, compatible with the timeframe for each election.*

Presidential elections

In contrast to the elections to Congress, a relatively low number of complaints were received following the two rounds of the presidential election. Just 116 complaints – each concerning one of the 102,152 polling stations- were submitted at the lowest level of aggregation, of which 41 were accepted and corrected. Twenty complaints were submitted at the departmental level, and none were received by the CNE at national level. Similarly, after the second round of the presidential election, 123 complaints were filed at the lowest level of aggregation, of which 36 were accepted and corrected. Fifty-eight complaints were submitted at the departmental level, and none were received by the CNE at national level. The most frequent grounds for submitting complaints in both election rounds was arithmetic errors, followed by erasures or alterations in results forms. The very low number of complaints together with the well-organised and transparent work performed by the *comisiones escrutadoras* enabled official results to be declared just four days after the vote.¹⁴⁰

Electoral Offences

The Penal Code foresees sixteen electoral offences against democratic participation.¹⁴¹ The Office of the Prosecutor General (*Fiscalía General de la Nación*, FGN), as the competent authority to investigate offences and to fight against the corruption, developed a specific strategy for the 2022 elections. The *Unidad de Delitos Electorales* (which is part of the *Dirección Especializada contra la Corrupción*) was established in 2011 and is led by four prosecutors specialised in electoral offences.

The *Unidad de Recepción Inmediata para la Transparencia Electoral*, (URIEL), established by the Ministry of Interior, is the most frequently-used channel to receive election-related complaints. From URIEL, complaints are forwarded to the *Fiscalía*. The platform received 996 complaints during the course of Election Day in Congress elections, 604 complaints during the first round and 511 during the second round of the presidential elections. Most of these complaints referred to

¹³⁸ The 1358 complaints refer to approximately 50.000 polling stations.

¹³⁹ Resolution 754/2010 and Resolution 1706/2019.

¹⁴⁰ Resolution 2979 of 2 June, declaring the results after the first round and Resolution 3235 of 23 June, declaring the results after the second round of the presidential election.

¹⁴¹ Title XIV, Law 599/2000, modified by Law 1864/2017.

polling station staff behaviour, irregularities in the election process as well as voter intimidation and vote buying.

In addition to URIEL, two other platforms forward election-related criminal complaints to the *Fiscalía*: the official CNE application, *Riesgos Electorales*, and *Pilas con el Voto*, the platform run by the Colombian NGO *Misión de Observación Electoral*. Lastly, election day complaints may also be reported in person, to the *Mesas de Justicia* which are set up in voting centres. They are made up of officials from the *Procuraduría*, *Fiscalía*, *Contraloría* y *Defensoría del Pueblo*.

Challenges to results to the State Council

In Colombia, the Fifth Section of the State Council is responsible for the judicial oversight of legality of the CNE resolutions and to resolve petitions to annul the declaration of results, which may be brought on specific grounds¹⁴². The annulment petitions can be launched by any citizen within 30 working days of the declaration of results. As of 4 August, 108 complaints had been received by the State Council against the results declaration of the House of Representatives. The results declaration of the departments of Antioquia and Norte de Santander (declared by CNE on 16 July) can be challenged until 26 August. So far, 12 annulment petitions have been filed on the election to the Senate as winners were only declared on 19 July.

The State Council has received three petitions against the declaration of results for the presidential election.

Art. 264 of the Constitution provides that annulment of the election results must be resolved within six months for single instance petitions, which is the case in legislative and presidential elections. In practice, due to the effort required to review the evidence in each case as well as due to lack of resources, some cases have been resolved in a timeframe incompatible with the principle of expeditiousness, fundamental in electoral justice.¹⁴³

Recommendation: *to reinforce the Fifth Section (Sección Quinta) of the State Council with human resources in the most critical post-election phase to conclude before the newly elected officials take office, thus ensuring that the electorate's choice is respected.*

¹⁴²Article 275 of the Law 1437/2011 establishes eight grounds for annulment, being the most frequently challenged the following three: electoral documents contain untrue information or have been altered for the purpose of changing the election results, candidates are elected, or persons are appointed who do not meet the constitutional or legal requirements or who are subject to disqualifications and finally, candidates who incur in double political affiliation during the election.

¹⁴³ State Council's 8 February ruling 11001-03-28-00-2014-00117-00 on the annulment petition submitted by MIRA party in 2014. The State Council found in favour of MIRA, which was contesting the 2014 election results, but the ruling was issued just one month before the election of a new Congress and five months from the end of the Congress constitutional mandate.

XX. Results and post-election environment

*Swift acceptance of results and smooth transfer of power after a divisive campaign***Election Results**

After the elections, 17 political organisations gained representation in the Senate and a total of 31 – including organisations and movements from the special peace constituencies – in the House of Representatives (see Annex 9). Although no single party or coalition obtained a majority, *Pacto Histórico* won the popular vote in all three elections (Senate, House and presidential primaries) and obtained 47 seats in Congress (20 senators and 27 representatives). Members of this coalition, *MAIS* and *AICO*, also won both seats in the indigenous constituency for Senate and the indigenous seat in the House, as well as the House seat representing Colombians living abroad, bringing *Pacto Histórico's* total to 51. The two traditional parties, *Partido Liberal* and *Conservador* maintained their legislative presence with 46 (14 senators, 32 representatives) and 40 seats (15 senators, 25 representatives), respectively. The *Centro Esperanza* coalition established itself as a significant force in Congress, winning 28 seats (13 senators, 15 representatives).¹⁴⁴

The other traditional parties which had participated in the governments of the past two decades significantly reduced their representation. *Centro Democrático*, winner of the previous election, lost nearly half of its Congress members, going from 51 in 2018 to 29 (13 senators, 16 representatives). *Cambio Radical* and *Partido de la U* also saw their representation diminish: the former won 29 seats (11 Senate, 18 House), down from 46, and the latter went from 38 to 26 (10 senators, 16 representatives). The coalition of evangelical parties *MIRA* and *Colombia Justa Libres!* won five seats (4 Senate, 1 House), which almost halved the size of their group (6 senators and 2 representatives in 2018). Lastly, four other political organisations and several different regional coalitions of large national parties each won one seat in the House.

In the presidential race, Gustavo Petro won the first round with 40.3 per cent of the vote, while second place went to Rodolfo Hernández, who obtained 28.1 per cent, edging out Federico Gutiérrez (23.9 per cent). Sergio Fajardo obtained 4.2 per cent, while the remaining two candidates did not exceed 2 per cent of the vote. Of the 39,002,239 citizens registered to vote, a total of 21,441,605 went to the polls for a turnout of 55 per cent, similar to that of the 2018 election (54.2 per cent).

In the second round, Gustavo Petro was elected the first left-wing president in Colombian history, reaching 50.4 per cent of the vote. Rodolfo Hernández obtained 47.3 per cent, losing by over 700,000 votes. On this occasion the turnout increased significantly, reaching 58.2 per cent (22,687,910), the highest since the 1998 elections. Contrary to many analysts' expectations, the number of blank votes (2.2 per cent) and invalid votes (1.2 per cent) remained low.

¹⁴⁴ On 16 July, *Partido Oxígeno Verde* expelled the only two members who had been elected: Humberto de la Calle in the Senate, and Daniel Carvalho in the House of Representatives. These two congressmen will thus serve as independents, and the *Oxígeno Verde* has no representation in Congress.

Post-election environment

Rodolfo Hernández's immediate acceptance of his defeat and outgoing president Iván Duque's swift recognition of the results helped ensure a peaceful process of transferring power. Gustavo Petro also held talks with long-time emblematic leader of the right, Álvaro Uribe. Immediately after winning the election, president-elect Gustavo Petro started making conciliatory gestures to ease the tension of the divisive election campaign, calling on the different political forces to reach a "national agreement" (*Gran Acuerdo Nacional*). The parties that had supported Hernández's candidacy in the second round responded positively to the calls for dialogue and the leaders of *Partido Liberal*, *Partido Conservador*, *Partido de la U* and *Cambio Radical* all stated that they would not be in opposition and were willing to support the legislative agenda of the new government. By securing the support of these centre-right and right-wing parties besides his natural allies *Alianza Verde* and *Comunes*, Gustavo Petro begins his presidency with a sound parliamentary majority. At the time of closing this report, *Centro Democrático* was the main party to have declared itself as opposition.

Both Rodolfo Hernández and his vice-presidential candidate, Marelen Castillo, accepted the Senate and House seats to which they are entitled according to the provisions of the Opposition Statute Law. Both declared they would be in opposition.

XXI. Recommendations

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
LEGAL FRAMEWORK					
1	<p>Although the Colombian legal framework provides an adequate basis for holding democratic elections, its dispersal across numerous laws, as well as administrative regulations and resolutions renders it complex, sometimes to the point of undermining legal certainty, as it is unclear which legislation is in force and applicable. Inconsistencies persist not only in the main Election Law, but also for example, in Law 996/2005 on the election of the President of the Republic.</p> <p><i>Final report, page 9</i></p>	<p>To consolidate electoral legislation into a limited number of laws, ideally into one electoral code and one law on political parties and movements.</p>	<p>Election Law</p> <p>Law 996/2005 on the election of the President of the Republic Law 1475/2011 Law 130/2994</p>	National Congress	<p>RULE OF LAW</p> <p>ICCPR, Article 2.2: “Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognised in the present Covenant”.</p> <p>ICCPR GC 34, para. 25 “A norm, to be characterised as a “law”, must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public”.</p> <p>UN Human Rights Council, Resolution 19/36 of 2012 (A/HRC/RES/19/36), paragraph 16: “Calls upon States to make continuous effort to strengthen the rule of law and promote democracy by c) ensuring that a sufficient degree of legal certainty and predictability is provided in the application of the law, in order to avoid any arbitrariness”.</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
2	<p>Although since 2014 the Constitution provides a mechanism to update the number of seats in House of Representatives for each ordinary constituency, according to its demographic evolution, the attribution of seats still rests on the 1985 census as the law currently requires Congress to approve a census before it can be used to carry out an update, and no such approval has occurred.</p> <p><i>Final report, page 11</i></p>	<p>In the short term, it would be conducive to equality of vote – and implementation of the Constitutional provision to that effect - if Congress were to swiftly approve the most recent census carried out in 2018, in order to update the attribution of seats in the House of Representatives in line with demographic evolutions.</p> <p>The EU EOM further recommends a legal reform to ensure that in future, application of DANE census data need not be contingent on Congress approval, so as to facilitate regular review of the attribution of seats to constituencies.</p>	<p>Article 7 of Ley 79 de 1993, por la cual se regula la realización de los Censos de Población y Vivienda en todo el territorio nacional.</p>	<p>National Congress</p>	<p>EQUALITY OF VOTE</p> <p><u>UN (CCPR): General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (Article 25), para. 21</u></p> <p>“The principle of one person, one vote, must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely.”</p>
ELECTION ADMINISTRATION					
3	<p>Although secrecy of vote for provided for and respected in general, in a significant number of cases, the layout of polling stations and polling booths, small spaces and some voters' own lack of regard resulted in votes not being secret.</p> <p>Secrecy of vote and awareness of this right is a key prevention measure against the recognised phenomenon of vote-buying.</p> <p><i>Final report, page 43</i></p>	<p>A public campaign emphasising the right to a secret vote would be a useful measure. In addition, voting booth design and training on voting booth placement would help improve guarantee of secrecy of vote.</p> <p><i>Priority recommendation</i></p>	<p>No legal reform required</p>	<p>Registraduría</p>	<p>SECRECY OF VOTE</p> <p><u>UN (CCPR): General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (Article 25), para. 20</u></p> <p>“States should take measures to guarantee the requirement of the secrecy of the vote during elections, including for absentee voting, where such a system exists. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process.”</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
4	<p>The existing system for selecting polling staff based on proposals by several sectors, including political parties, is complex, time-consuming, and prone to arousing suspicions, despite its transparent application.</p> <p><i>Final report, page 16</i></p>	<p>To simplify the system for selecting polling station staff, for example by selecting them from the Voter Register.</p>	<p>Electoral Code</p>	<p>National Congress</p>	<p>RIGHT AND OPPORTUNITY TO PARTICIPATE IN PUBLIC AFFAIRS</p> <p><u>UN (CCPR): General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (Article 25), para. 20</u></p> <p>“An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.”</p>
5	<p>Although the increase in voting centres was a positive measure, some voting centres remain difficult to access for voters, and some voting centres have such large numbers of polling stations that they can result in overcrowding.</p> <p><i>Final report, page 14</i></p>	<p>Recognising the advances achieved in this area in 2022, the EU EOM recommends further increases in the spread and number of voting centres (<i>puestos de votación</i>), in both rural and urban areas.</p>	<p>No legal reform required</p>	<p><i>Registraduría</i>, in concert with municipalities and security forces</p>	<p>RIGHT TO VOTE</p> <p><u>UN (CCPR): General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (Article 25), para. 11</u></p> <p>“States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed.”</p>
RIGHT TO VOTE AND VOTER REGISTRATION					
6	<p>Currently, the voter register is closed to new entries and to changes in address two months before a given election. However, with respect to young people turning 18 years old and obtaining their first identity card (<i>cédula de ciudadanía</i>), new entries are suspended four months before election day. As a result, this administrative process effectively disenfranchises Colombia’s youngest citizens. <i>Final report, page 17</i></p>	<p>It would be conducive to universal suffrage to envisage a mechanism to identify those Colombians who will be 18 by election day, with a view to providing them with an identity card and including them in the Voter Register, even if cards are only collected upon turning 18.</p>	<p>Electoral Code Ley 6 de 1990 (which amended the Electoral Code)</p>	<p>National Congress</p>	<p><u>UN (CCPR): General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (Article 25), para. 11</u></p> <p>“States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed.”</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
7	<p>Currently, inclusion in the Voter Register is an automatic, permanent process, but changes to registered residence in the Civil Registry – and therefore electoral address – may only be effected during the 10 months that begin one year before an election.</p> <p>Time-limited address changes has several disadvantages: it associates address changes with electoral participation, when in fact it has many other relevant implications, and it reduces the time available both for citizens and the Registraduría for this administrative process.</p> <p><i>Final report, page 19</i></p>	<p>To make electoral address changes a permanent process rather than limit it to the year before elections, accompanied by a public campaign to raise awareness of this change.</p>	<p>Electoral Code</p>	<p>National Congress Registraduría</p>	<p><u>UN (CCPR): General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (Article 25), para. 11</u></p> <p>“States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. (...) Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.”</p>
8	<p>Although <i>puestos-censo</i> are a reasonable provision for people who have not registered an electoral address since 2003, they are often over-crowded and further from voters’ homes than normal voting centres. Although the aim is to gradually make these special voting centres unnecessary, 1.5 million people are still assigned to <i>puestos censo</i>.</p> <p><i>Final report, page 19</i></p>	<p>In order to accelerate <i>puestos-censo</i> becoming redundant, it would be useful to launch a campaign targeting the people concerned, to encourage them to register an address and be assigned to a normal voting centre.</p>	<p>No legal reform required</p>	<p>Registraduría</p>	<p><u>UN (CCPR): General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (Article 25), para. 11</u></p> <p>“States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. (...) Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.”</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
REGISTRATION OF CANDIDATES					
9	<p>As well as reasonable ineligibility criteria .../...the Constitution establishes that candidates to Congress who have committed intentional crimes, regardless of the severity of the offence or the length of the sentence are permanently disqualified. The same applies to the Presidency. Of the 26 candidates to Congress who were disqualified, 17 were disqualified on these grounds, in most cases due to offences committed a long time ago.</p> <p><i>Final report, page 22</i></p>	<p>To amend Article 179.1 and 197.2 of the Constitution to eliminate the permanent ineligibility from running for Congress or President for those convicted of intentional crimes.</p> <p>If suspension of the right to stand is maintained as a sentence associated with imprisonment, the period of disqualification should be proportionate to the severity of the offence or the length of the sentence.</p> <p><i>Priority recommendation</i></p>	<p>Article 179.1 and Article 197.2 of the 1991 Constitution Article 280.1 of Law 5/1992</p>	<p>National Congress</p>	<p>RIGHT AND OPPORTUNITY TO PARTICIPATE IN PUBLIC AFFAIRS AND HOLD OFFICE ICCPR, Article 25(b): “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: b) 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 electors.”</p> <p>ICCPR, General Comment No. 25.4: “Any conditions which apply to the exercise of the rights protected by article 25 should be based on objective and reasonable criteria”.</p>
10	<p>The law enables a party or movement to replace a disqualified candidate, provided the CNE decision is issued more than a month before the election. However, the law does not establish deadlines for either the submission or resolution of petitions, leading to disqualifications beyond the time in which candidates may be replaced.</p> <p><i>Final report, page 22</i></p>	<p>To establish deadlines for filing petitions challenging candidates’ eligibility and their resolution by CNE, to ensure that, if necessary, candidates can be replaced.</p>	<p>Electoral Code</p>	<p>National Congress</p>	<p>RIGHT AND OPPORTUNITY TO PARTICIPATE IN PUBLIC AFFAIRS AND HOLD OFFICE ICCPR, Article 2.3 (a): “To ensure that any person whose rights or freedoms as herein recognised are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity”.</p> <p>American Convention on Human Rights, Article 25.1: “Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognised by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by person acting in the course of their official duties”.</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
ELECTION CAMPAIGN					
11	<p>The <i>Procuraduría</i> ordered a disciplinary investigation and the temporary suspension of four elected mayors, including those of Medellín and Ibagué, for allegedly participating in the presidential campaign. The removal, albeit temporary, of an elected official by an administrative authority rather than by a competent judge in criminal proceedings was declared in breach of Art. 23 of the American Convention on Human Rights by a 2020 Inter-American Court of Human Rights binding judgement against Colombia.</p> <p><i>Final report, page 25</i></p>	<p>In order to align Colombian legislation with the American Convention on Human Rights and the jurisprudence of the Inter-American Court of Human Rights, to suppress the power conferred by the Constitution to the <i>Procuraduría</i> - an administrative institution - to suspend or remove elected officials from office for disciplinary offences. This power should be exclusively in the hands of the judiciary, following due process.</p> <p><i>Priority recommendation</i></p>	<p>Article 277.6, Constitution</p>	<p>National Congress</p>	<p>RULE OF LAW, RIGHT AND OPPORTUNITY TO PARTICIPATE IN PUBLIC AFFAIRS AND HOLD OFFICE American Convention on Human Rights, Article 23.2: “The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.”</p> <p>ICCPR, General Comment No. 25.16.b: "The grounds for the removal of elected office holders should be established by laws based on objective and reasonable criteria and incorporating fair procedures."</p> <p>IACHR Sentence 8 July 2020, Case Petro Urrego vs. Colombia, para. 136: “(...) the Court concludes that the provisions authorizing the Attorney General’s Office to disqualify and dismiss democratically elected officials, as established in the Colombian legal system and particularly in the Single Disciplinary Code, together with the rules that could result in the Comptroller’s Office ordering an individual’s disqualification from exercising their political rights, as mentioned in this chapter, violated the obligation to adopt provisions of domestic law.”</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
CAMPAIGN FINANCE					
12	<p>The complexity of the public-private funding system affected many candidates, who are required by law to open a single bank account. Some were able to comply with this requirement easily, while others – people without credit history, especially women – were denied these because of the administrative requirements of banks. This was reportedly partly due to the reluctance of banks to cooperate with candidates as they tried to avoid association with potential money-laundering and its related illicit activities, while some candidates considered that the refusal to open an account was often due to political bias. This widespread phenomenon created an uneven playing field tilted in favour of larger, institutionalised parties and their candidates.</p> <p><i>Final report, page 26</i></p>	<p>To ensure that banks make accounts available to candidates and parties without undue restrictions, so that the requirement to centralise all campaign-related transactions in a dedicated bank account does not constitute a barrier to running.</p>	<p>Amend Article 25, Law 1475/2011</p>	<p>National Congress <i>Superintendencia Financiera</i></p>	<p>EQUAL RIGHTS, EQUAL ACCESS TO ELECTION CAMPAIGN, TRANSPARENCY AND THE RIGHT TO INFORMATION UN Convention Against Corruption, Article 1: “The purposes of this Convention are: (c) To promote integrity, accountability and proper management of public affairs and public property.”</p> <p>UN Convention Against Corruption, Article 7.3: “Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.”</p>
13	<p>In order to obtain advances on the State campaign funding, parties and candidates are required to present an insurance policy or bank guarantee. These financial products are not readily available on the market or come at a very high premium, which sets a heavy burden on the participation of new or marginal political formations. Cumulatively, the requirements for insurance policies and bank accounts, alongside the penalising effect of halving reimbursements for those who obtain advance payments, create a set of restrictive conditions which can limit the right of political participation of small or new</p>	<p>To simplify the requirements for access to advanced funding, especially with regard to the need to obtain an insurance policy. In addition, to calculate reimbursement funds regardless of whether the candidate requested advance payment or not.</p>	<p>Article 22, Law 1475/2011</p>	<p>National Congress</p>	<p>EQUAL RIGHTS, EQUAL ACCESS TO ELECTION CAMPAIGN, TRANSPARENCY AND THE RIGHT TO INFORMATION ICCPR, Article 25(b): “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: b) 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 electors.”</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
	<p>parties, and particularly, CITREP candidates.</p> <p><i>Final report, page 26</i></p>				
14	<p>Candidates are required by law to report all campaign funds and spending to the CNE within two months of Election day. However, the CNE has not been provided with sufficient resources and mechanisms to effectively control campaign spending and funding. Given the CNE's current capacities, it is extremely difficult to trace or sanction those companies and entrepreneurs' associations alleged to make contributions to campaigns without reporting these, as reported from several departments by EU EOM observers. This particularly applies to contributions made in kind or in cash to campaigns locally, which the CNE has no way of controlling, not least given its lack of a nationwide territorial structure.</p> <p><i>Final report, page 27</i></p>	<p>To provide the CNE with the necessary human, financial and logistical resources, in order to increase its capacity to carry out effective control of campaign finances. To this end, temporarily transferring human and technical resources from specialised public bodies, could be considered.</p> <p><i>Priority recommendation</i></p>	<p>Article 5, Ministry of Finance Decree 2085/2019</p> <p>Annual budget laws</p> <p>Decree 267/2000</p>	<p>Government National Congress Comptroller General CNE</p>	<p>RULE OF LAW, TRANSPARENCY AND THE RIGHT TO INFORMATION</p> <p>UN Assembly General Resolution A/RES/68/164(2013), point 6: <i>"The Assembly General notes the importance of adequate resources for the administration of efficient and transparent elections at the national and local levels, and recommends that Member States provide adequate resources for those elections, including considering the possibility of establishing internal funding, where feasible."</i></p> <p>UN Convention Against Corruption, Article 6.2:</p> <p><i>"Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided."</i></p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
15	<p>In addition to the ex-post reporting required by law, a CNE resolution calls on candidates to report their finances during the campaign on the <i>Cuentas Claras</i> digital platform. However, this is not a binding obligation and in practice reporting on the platform is sporadic. If complied with more rigorously and at shorter intervals (e.g. monthly) during the campaign, <i>Cuentas Claras</i> could be an important tool for public oversight and greater transparency of campaign finances.</p> <p><i>Final report, page 27</i></p>	<p>To make reporting to <i>Cuentas Claras</i> compulsory by law, in order to ensure accountability on campaign spending before the elections. To the same end, frequency of reporting on the platform could be increased, and the CNE provided with the power to sanction failure to report during, not just after the campaign period.</p>	<p>Modify Article 25, Law 1475/2011</p>	<p>National Congress CNE</p>	<p>TRANSPARENCY AND THE RIGHT TO INFORMATION UN Convention Against Corruption, Article 5.1: “Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.”</p> <p>UN Convention Against Corruption, Article 13.1: “Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector (...) in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as: (b) Ensuring that the public has effective access to information.”</p>
MEDIA					
16	<p>Assignment of institutional advertising in the media remains poorly regulated. Only one article of the Anticorruption Law (Article 10 of Law 1747/2011) touches on the subject, although without establishing clear provisions on contracting and assignment of institutional advertising. According to media institutions and civil society organisations, this has resulted in the use of public institutions advertising, especially by local and regional</p>	<p>To approve clear regulation on institutional advertising to guarantee its allocation in the media through objective criteria of fairness, equity and transparency.</p> <p><i>Priority recommendation</i></p>	<p>A new law on institutional advertising, or specific provisions in another relevant law.</p>	<p>National Congress</p>	<p>FREEDOM OF OPINION AND EXPRESSION</p> <p>Inter-American Commission on Human Rights, Declaration of Principles on Freedom of Expression, Article 13: “...The arbitrary and discriminatory allocation of official advertising and official credits; the granting of radio and television frequencies, among others, with the aim of pressuring and punishing or rewarding</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
	<p>administrations, as a mechanism of economic pressure against critical media.</p> <p><i>Final report, page 30</i></p>				<p>and privileging social communicators and the media according to their lines of information, violates freedom of expression and should be expressly prohibited by law. The media have the right to carry out their work independently. Direct or indirect pressures aimed at silencing the work of social communicators are incompatible with freedom of expression”.</p>
17	<p>The Colombian penal code foresees penalties of up to 54 and 72 months of prison for crimes of slander and libel, respectively, and these penalties are increased by one sixth to one half if the crime is committed through the media. Although the number of Colombian journalists that have been convicted to prison sentences for libel or slander crimes is very limited, international standards on freedom of expression advocate for the elimination of prison sentences for slander and libel crimes in the media since they can represent an instrument of intimidation.</p> <p><i>Final report, page 30</i></p>	<p>To replace prison sentences for slander and libel crimes in the media with proportionate economic sanctions.</p>	<p>Amendment to the Penal Code</p>	<p>National Congress</p>	<p>FREEDOM OF OPINION AND EXPRESSION</p> <p>ICCPR General comment 34, para. 47: “States parties should consider the decriminalisation of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty”.</p> <p>ICCPR General comment 34, para. 9: “The harassment, intimidation or stigmatisation of a person, including arrest, detention, trial or imprisonment for reasons of the opinions they may hold, constitutes a violation of article 19, paragraph 1”</p>
18	<p>Based on the weekly reports submitted by 18 TV and radio stations, the CNE approved on 24 May its report on “Balance and Informative Pluralism” evidencing a lack of balance by several media outlets in the electoral coverage of the first round of the presidential election. The CNE called the CRC, MinTIC, presidential candidates and media directors to a meeting to address the situation and adopt necessary measures. This initiative, however, was ineffective</p>	<p>It would be advisable that the CNE establish a media monitoring unit to detect imbalance in electoral media coverage based on its own findings - rather than media outlets’ reports- and that it publish relevant reports in an effective and timely manner.</p>	<p>No legal reform required</p>	<p>CNE</p>	<p>EQUAL ACCESS TO ELECTION CAMPAIGN</p> <p>ICCPR, GC 25, para. 20: An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
	<p>since it was taken only five days prior to election day and was not seconded by the CRC, who considered it was not its responsibility to adopt measures to re-establish the informative balance.</p> <p><i>Final report, page 30</i></p>				
DIGITAL COMMUNICATION AND SOCIAL MEDIA					
19	<p>In 2020, the Consejo Nacional Electoral (CNE) issued a statement declaring that posts on social media promoting candidates would be considered political advertising. Since the CNE did not provide further clarification on the scope or specifics of this statement —nor an explanation on how to deal with online advertising or electoral silence on social media— interpretation of this statement, which was not legally binding, was left to the discretion of the parties and candidates.</p> <p>The lack of a normative framework highlights the need to regulate online campaigning, as a first step towards the CNE monitoring compliance.</p> <p><i>Final Report, page 34</i></p>	<p>To regulate election campaigning in social media by law. Further, the CNE could conduct social media monitoring to ensure that candidates' and parties' accounts abide by these rules.</p>	<p>Election Law and regulations on political campaigning on social media.</p>	<p>National Congress CNE</p>	<p>RULE OF LAW, ACCESS TO CAMPAIGN</p> <p>ICCPR, GC 25, para. 20: An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.</p>
WOMEN'S POLITICAL PARTICIPATION					
20	<p>Current legislation establishes a minimum 30 per cent quota on Congress candidate lists, in constituencies which elect five or more House Representatives. Where parties present open lists this does not necessarily translate into election outcomes and where parties present closed lists, the law does not require them to place women candidates in any specific position, much less alternate between women and men throughout the list.</p>	<p>In order to strengthen measures aimed at increasing women's access to power, the minimum quota in candidate lists could be raised to require parity (50 per cent), and, further, be applied to all constituencies.</p> <p>To the same end, alternation of men and women could be required for</p>	<p>Election Law Article 28, Law 1475/2011</p>	<p>National Congress</p>	<p>WOMEN'S PARTICIPATION IN PUBLIC AFFAIRS / EQUALITY BETWEEN MEN AND WOMEN</p> <p>ICCPR, Article 3: “The State Parties to the present Covenant undertake to ensure the equal rights of men and women to the enjoyment of all civil and political rights set forth in the present Covenant”.</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
	<i>Final report, page 37</i>	<p>closed lists. Lastly, mechanisms could be explored to make parity effective when parties present open lists.</p> <p><i>Priority recommendation</i></p>			<p>CEDAW, Article 7(a): “State parties shall take appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies”.</p>
PARTICIPATION OF INDIGENOUS AND AFRO-COLOMBIAN PEOPLES					
21	<p>EU EOM observers reported on the lack of targeted voter education and availability of public information materials in indigenous languages in both legislative and presidential elections.</p> <p>The higher rates of invalid votes in elections of reserved indigenous seats in both the Senate and the House of Representatives (11.73 per cent and 7.49 per cent) as compared to the rates in the main national Senate and House elections (4.06 per cent and 4.8 per cent) merit evaluation and may indicate the need for more targeted voter information in indigenous languages.</p> <p><i>Final report, page 38</i></p>	<p>In order to continue improving all voters' access to information, it would be useful for the <i>Registraduría</i> to expand its production of ballots to indigenous languages, and also produce voter information packages in minority languages.</p>	<p>Decree 1010 of 2000 issued by the Ministry of Interior, Ministry of Finance and Public Credit on Ballot Design</p>	<p><i>Registraduría Nacional del Estado Civil</i></p>	<p>TRANSPARENCY AND THE RIGHT TO INFORMATION</p> <p>ICCPR, Article 19.2: “Everyone shall have the right to freedom of expression, this right shall include freedom to seek, receive and impart information and ideas of all kinds; regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.</p> <p>ICCPR, Art. 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.</p> <p>ILO c. 169, Article 28.3: “Measures shall be taken to preserve and promote the development and practice of the indigenous languages of the peoples concerned”.</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
ELECTION DISPUTES					
22	<p>Existing legislation does not guarantee a minimum amount of time between the publication of aggregated results and the submission of possible complaints to the <i>comisiones escrutadoras</i>. This is in part because the CNE’s attempt to regulate such deadlines was cancelled by the State Council, on the grounds that such regulation could only be introduced through a <i>Ley Estatutaria</i>. As a result, <i>comisiones escrutadoras</i> imposed very different deadlines, including, at times, unreasonably short periods, increasing the risk that complaints were referred to the next level of aggregation.</p> <p>Art. 264 of the Constitution provides that annulment of the election results must be resolved by the State Council within six months for single instance petitions, which is the case in legislative and presidential elections. In practice, due to the effort required to review the evidence in each case as well as due to lack of resources, some cases have been resolved in a timeframe incompatible with the principle of expeditiousness, fundamental in electoral justice.</p> <p><i>Final report, page 48</i></p>	<p>To establish deadlines for the submission of complaints and appeals at the <i>comisiones escrutadoras</i> and the CNE, as well as for their resolution, compatible with the timeframe for each election.</p> <p>To reinforce the Fifth Section (<i>Sección Quinta</i>) of the State Council with human resources in the most critical post-election phase to conclude before the newly elected officials take office, thus ensuring that the electorate’s choice is respected.</p>	<p>Election Law</p> <p>Title II, Chapter II of Law 1475/2011 - CPACA</p> <p>Annual Budget Law</p>	<p>National Congress</p> <p>State Council</p> <p>Ministry of Finance and Public Credit</p>	<p>RIGHT TO AN EFFECTIVE REMEDY</p> <p>ICCPR, Article 2.3 (a): “To ensure that any person whose rights or freedoms as herein recognised are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity”.</p> <p>ICCPR, General comment 32.27: “An important aspect of the fairness of a hearing is its expeditiousness. While the issue of undue delays in criminal proceedings is explicitly addressed in paragraph 3 (c) of article 14, delays in civil proceedings that cannot be justified by the complexity of the case, or the behavior of the parties detract from the principle of a fair hearing enshrined in paragraph 1 of this provision. Where such delays are caused by a lack of resources and chronic under funding, to the extent possible supplementary budgetary resources should be allocated for the administration of justice.”</p> <p>American Convention on Human Rights, Article 25.1: “Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognised by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by person acting in the course of their official duties”</p>

No.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN THE LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	KEY INTERNATIONAL & REGIONAL OBLIGATIONS / GOOD PRACTICE
RESULTS PROCESSING AND PUBLICATION					
23	<p>The errors in the preliminary results for the elections to Congress severely impacted the credibility of the election process as a whole, and were apparently due to undetected errors while figures were communicated over the phone.</p> <p>Although to a lesser degree, similar errors occurred at the outset of the official results processing. Double data entry following later elections helped ensure any errors were swiftly identified and corrected.</p> <p><i>Final report, page 45</i></p>	<p>With a view to ensuring accuracy of both preliminary and official results, it would be useful to introduce double data entry as a standard practice in both processes.</p>	<p>No legal reform required</p>	<p>Registraduría, CNE</p>	<p>GENUINE ELECTIONS THAT REFLECT THE FREE EXPRESSION OF THE WILL OF THE PEOPLE</p> <p>ICCPR, General comment 25, para. 20 “There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.”</p>
24	<p>Political parties were provided with the disaggregated and progressive data required to trace and verify elections results, but this was not explicitly required by law, despite being a keystone of transparent elections, which ensured that any error or attempt to change results could be detected and challenged.</p> <p>However, the <i>Registraduría</i> did not explain these to the public, leaving the election process vulnerable when allegations were made by political figures.</p> <p><i>Final report, page 45</i></p>	<p>To clearly communicate to the public the transparency mechanisms in place, namely the timely provision of disaggregated data in exploitable form, ensuring the traceability and verification of all election results, in order to generate confidence among both contenders and the electorate, substantially before polling begins.</p> <p>In addition, it would be useful if the precise format, timing and means of access to results data were presented to contenders in advance of the campaign period, so that candidates may plan how to best verify results.</p>	<p>No legal reform required</p>	<p>Registraduría</p>	<p><u>UN (CCPR): General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (Article 25), para. 20</u></p> <p>There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes. (...) Electors should be fully informed of these guarantees.</p> <p>UN General Assembly Resolution 55/96 (2001) on promoting and consolidating democracy The General Assembly 1. Calls upon states to promote and consolidate democracy by... (iv) ensuring, through legislation, institutions and mechanisms... the transparency and fairness of the electoral process...”</p>

XXII. Annexes

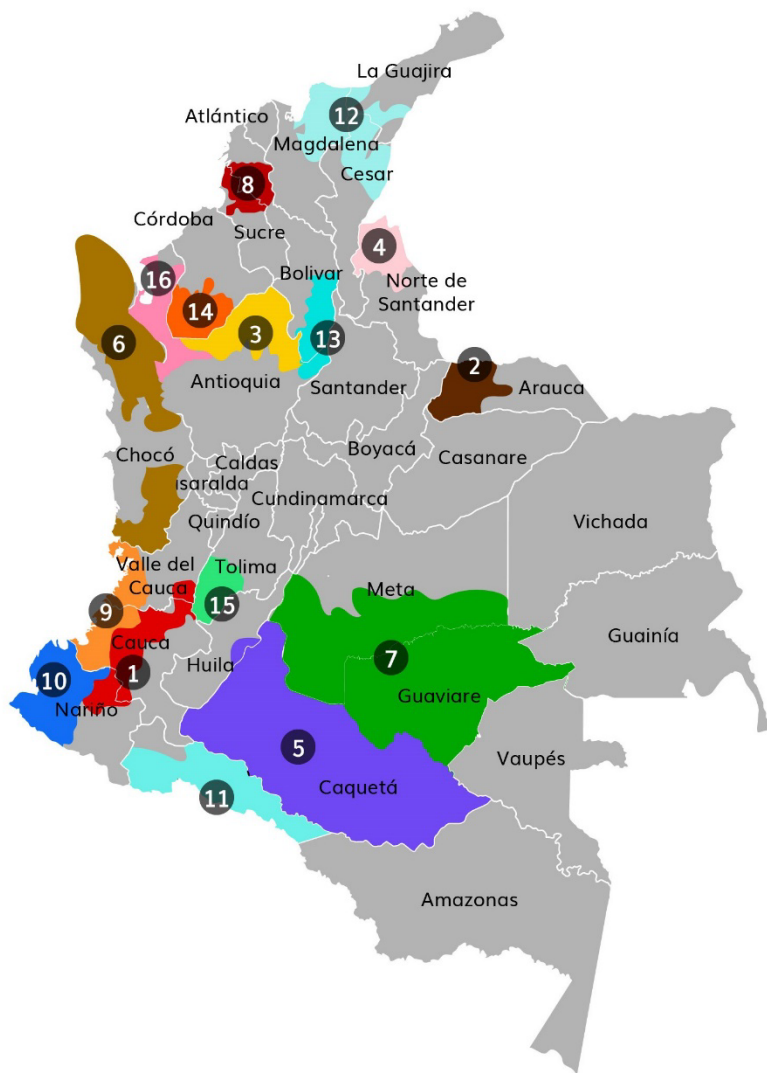
Annex 1: Registered voters per seat

Elections to Congress 2022: Registered voters, Seats in the House of Representatives and Voting centres.								
Department	Men	Women	Total	Polling stations	Voting centres	Seats in the House of R.	Gender quota	Registered voters per seat
Amazonas	26.638	25.149	51.787	160	26	2		25.894
Antioquia	2.434.663	2.632.186	5.066.849	14.483	1.160	17	yes	298.050
Arauca	108.979	103.590	212.569	629	68	2		106.285
Atlántico	964.129	1.046.559	2.010.688	5.760	297	7	yes	287.241
Bogotá D.C.	2.796.051	3.171.467	5.967.518	16.579	901	18	yes	331.529
Bolívar	837.431	852.554	1.689.985	5.023	607	6	yes	281.664
Boyacá	491.990	503.980	995.970	2.985	395	6	yes	165.995
Caldas	395.894	414.494	810.388	2.389	307	5	yes	162.078
Caquetá	157.592	152.310	309.902	922	135	2		154.951
Casanare	153.500	150.205	303.705	952	164	2		151.853
Cauca	500.050	519.060	1.019.110	3.217	786	4		254.778
Cesar	430.691	437.738	868.429	2.551	290	4		217.107
Chocó	163.820	169.236	333.056	1.162	419	2		166.528
Córdoba	657.034	662.756	1.319.790	3.898	518	5	yes	263.958
Cundinamarca	1.013.467	1.056.608	2.070.075	5.989	503	7	yes	295.725
Guainía	16.798	15.096	31.894	103	24	2		15.947
Guaviare	36.081	28.629	64.710	205	38	2		32.355
Huila	436.164	443.883	880.047	2.538	233	4		220.012
La Guajira	312.400	331.443	643.843	1.891	194	2		321.922
Magdalena	509.906	512.602	1.022.508	3.004	358	5	yes	204.502
Meta	391.779	389.077	780.856	2.306	268	3		260.285

Elections to Congress 2022: Registered voters, Seats in the House of Representatives and Voting centres.								
Department	Men	Women	Total	Polling stations	Voting centres	Seats in the House of R.	Gender quota	Registered voters per seat
Nariño	574.972	604.870	1.179.842	3.728	905	5	yes	235.968
Norte de Santander	632.130	664.633	1.296.763	3.786	430	5	yes	259.353
Putumayo	122.624	119.089	241.713	737	104	2		120.857
Quindío	234.910	252.891	487.801	1.401	128	3		162.600
Risaralda	398.977	434.626	833.603	2.380	199	4		208.401
San Andrés	24.701	26.684	51.385	144	8	2		25.693
Santander	866.340	906.590	1.772.930	5.406	777	7	yes	253.276
Sucre	368.374	362.658	731.032	2.232	400	3		243.677
Tolima	553.568	563.049	1.116.617	3.315	460	6	yes	186.103
Valle del Cauca	1.716.593	1.952.776	3.669.369	10.628	1.082	13	yes	282.259
Vaupés	12.734	10.648	23.382	78	25	2		11.691
Vichada	28.785	24.434	53.219	177	53	2		26.610
Consulados en el Exterior	418.281	490.285	908.566	1.251	250	1		908.566

Election	Voter Register			Voting centres		Polling stations	
	Colombia	Out-of-country	Total	Colombia	Out-of-country	Colombia	Out-of-country
Congress	37.911.335	908.566	38.819.901	12.262	250	110.758	1251
Presidential	38.029.475	972.764	39.002.239	12.263	250	100.809	1343

Annex 2: Map of the CITREPs



CITREP	Number of municipalities
Constituency 1 - Cauca Nariño	24
Constituency 2 - Arauca	4
Constituency 3 - Bajo Cauca	13
Constituency 4 - Catatumbo	8
Constituency 5 - Caquetá	17
Constituency 6 - Chocó Antioquía	14
Constituency 7 - Sur de Meta - Guaviare	12
Constituency 8 - Montes de María	15
Constituency 9 - Pacífico - Valle del Cauca	4
Constituency 10 - Pacífico - Nariño	11
Constituency 11 - Putumayo	8
Constituency 12 - Cesar	13
Constituency 13 - Sur de Bolívar	7
Constituency 14 - Sur de Córdoba	5
Constituency 15 - Sur del Tolima	4
Constituency 16 - Urabá	8
Total	167

Annex 3: Regulation of electoral propaganda in the media

PRESIDENTIAL ELECTION		
RADIOS	Capital district	Other cities
From three months before first round of elections	Up to 50 spots per day Up to 30 seconds each spot	Up to 25 spots per day Up to 30 seconds each spot
NATIONAL, REGIONAL and LOCAL TVs From 30 days before first round of elections	Up to 10 spots per day Up to 30 seconds each spot	
NEWSPAPERS AND NATIONAL MAGAZINES From three months before first round of elections	Up to eight adverts per day One page maximum size of each advert	
OTHER NEWSPAPERS AND MAGAZINES From three months before first round of elections	Up to four adverts per day One page maximum size of each advert	

CONGRESSIONAL ELECTION			
	2nd to 6th category municipalities	1st and special category municipalities Department Capitals	District Capital
RADIOS From 60 days before election day	Up to 30 spots/day Up to 15 seconds each spot	Up to 70 spots/day Up to 30 seconds each spot	Up to 100 spots/day Up to 30 seconds each spot
NEWSPAPERS AND MAGAZINES From 60 days before election day	Up to three adverts/day One page maximum size of each advert	Up to five adverts/day One page maximum size of each advert	Up to 10 adverts/day One page maximum size of each advert
NATIONAL, REGIONAL and LOCAL TVs From 60 days before election day	Ordinary and special constituencies One spot per day Up to 30 seconds each spot		

ELECTIONS IN THE CITREPs		
	2nd to 6th category municipalities	1st and special category municipalities Department Capitals
NEWSPAPERS AND MAGAZINES From 90 days before election day	Up to four adverts/day One page maximum size of each advert	Up to six adverts/day One page maximum size of each advert

Annex 4: Media monitoring results

From 13 February to 18 June the EU EOM monitored all election related information broadcast and published by 12 national media outlets in order to assess whether political parties and candidates had free and equitable access to the media and whether the information provided to the citizens was presented in a neutral and balanced way. The sample included public media *Señal Colombia* and *Radio Nacional de Colombia*, and private media *Canal 1*, *Caracol TV*, *RCN TV*, *Caracol Radio*, *RCN Radio*, *La W*, *La FM*, *Blu Radio*, *El Tiempo* and *El Espectador*.

Full results of the EU EOM monitoring of all 12 national media analysed are available in the following links:

- Legislative elections: https://www.eeas.europa.eu/eom-colombia-2022/media-monitoring-charts-eu-eom-colombia-2022-legislative-elections-and_en?s=4512
- First round of presidential elections: https://www.eeas.europa.eu/eom-colombia-2022/media-monitoring-charts-eu-eom-colombia-2022-1-st-round-presidential-elections_en?s=4512
- Second round of presidential elections: https://www.eeas.europa.eu/eom-colombia-2022/media-monitoring-charts-eu-eom-colombia-2022-2nd-round-presidential-elections_en?s=4512

Chart 1: Legislative elections and presidential primaries coverage comparative.

Monitoring period: From 13 February to 12 March 2022

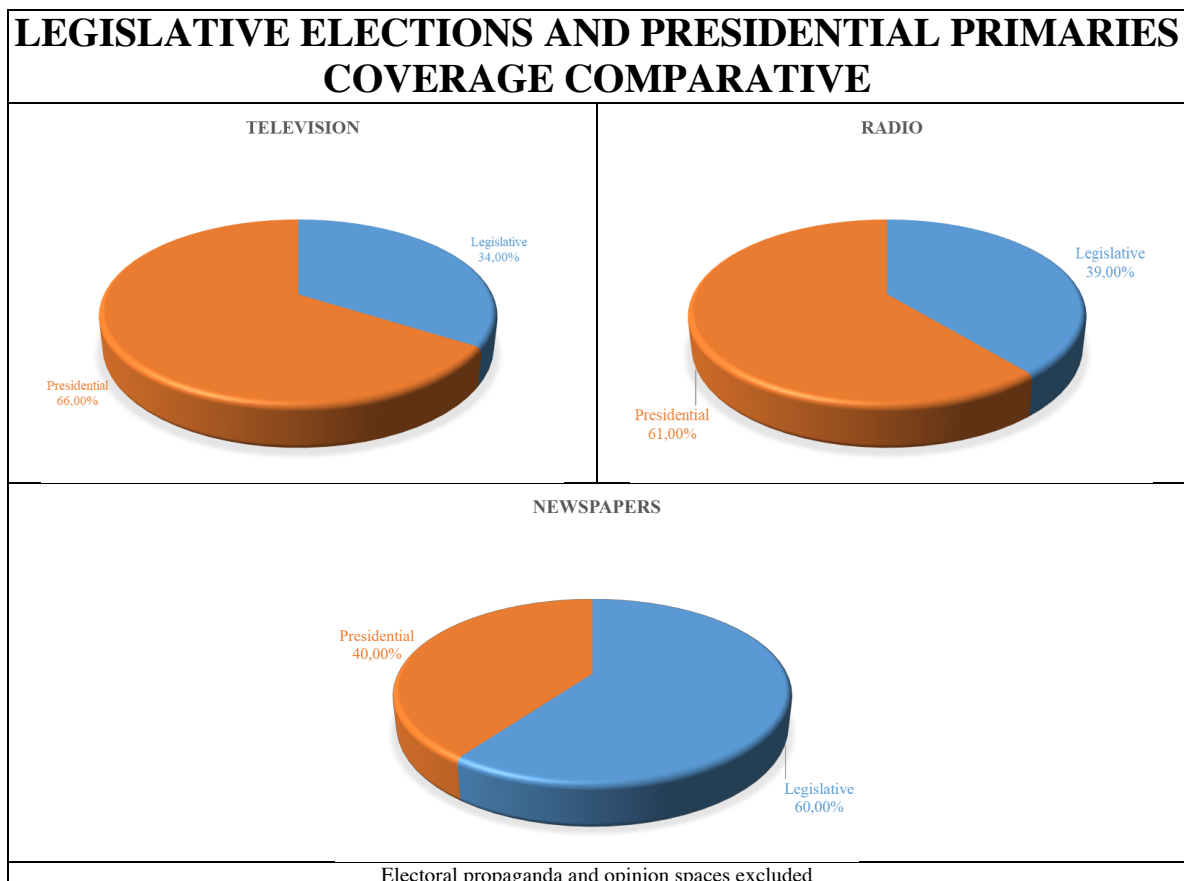


Chart 2: Presidential primaries coverage

Monitoring period: From 13 February to 12 March 2022

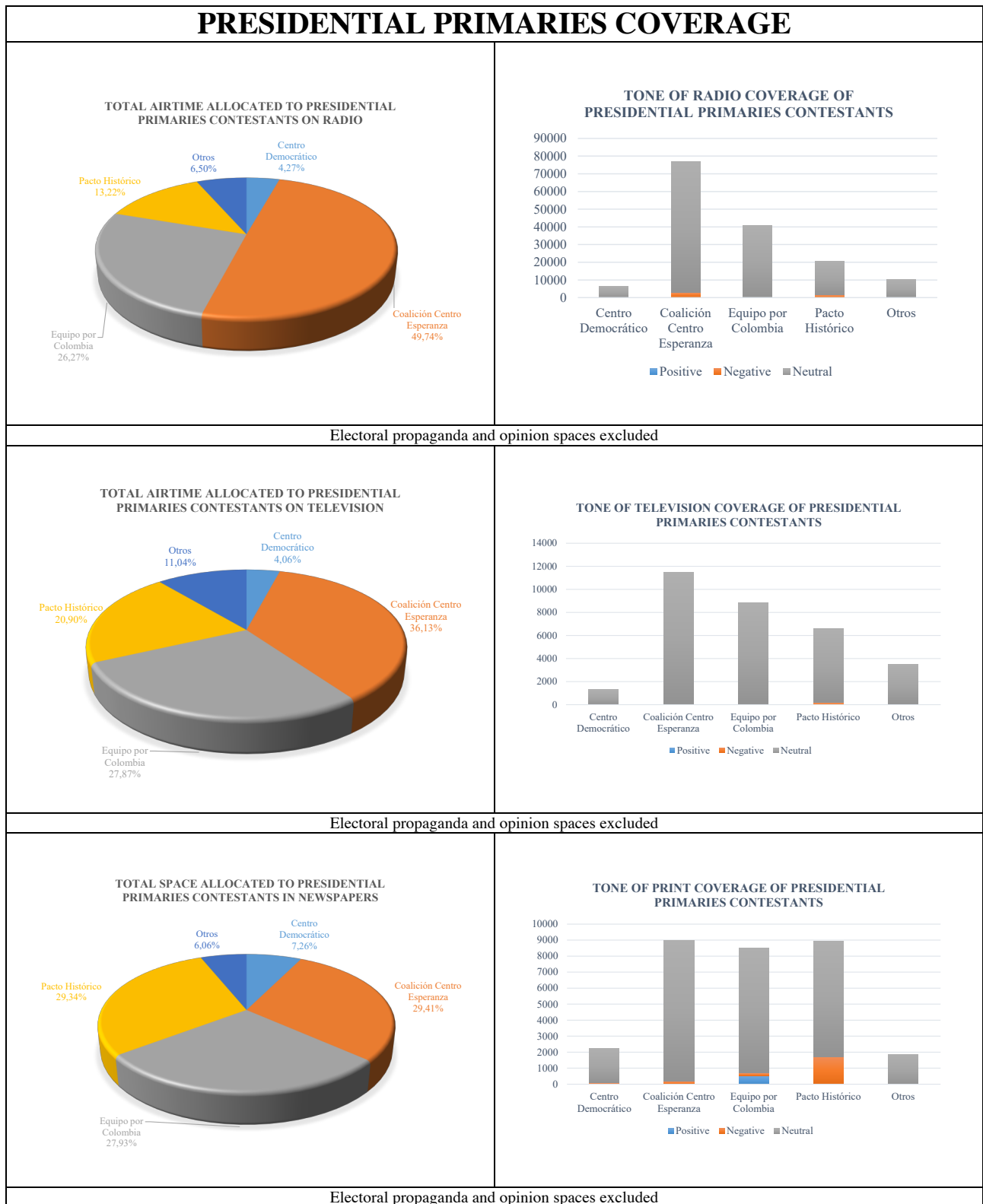


Chart 3: Congressional election coverage.

Monitoring period: From 13 February to 12 March 2022

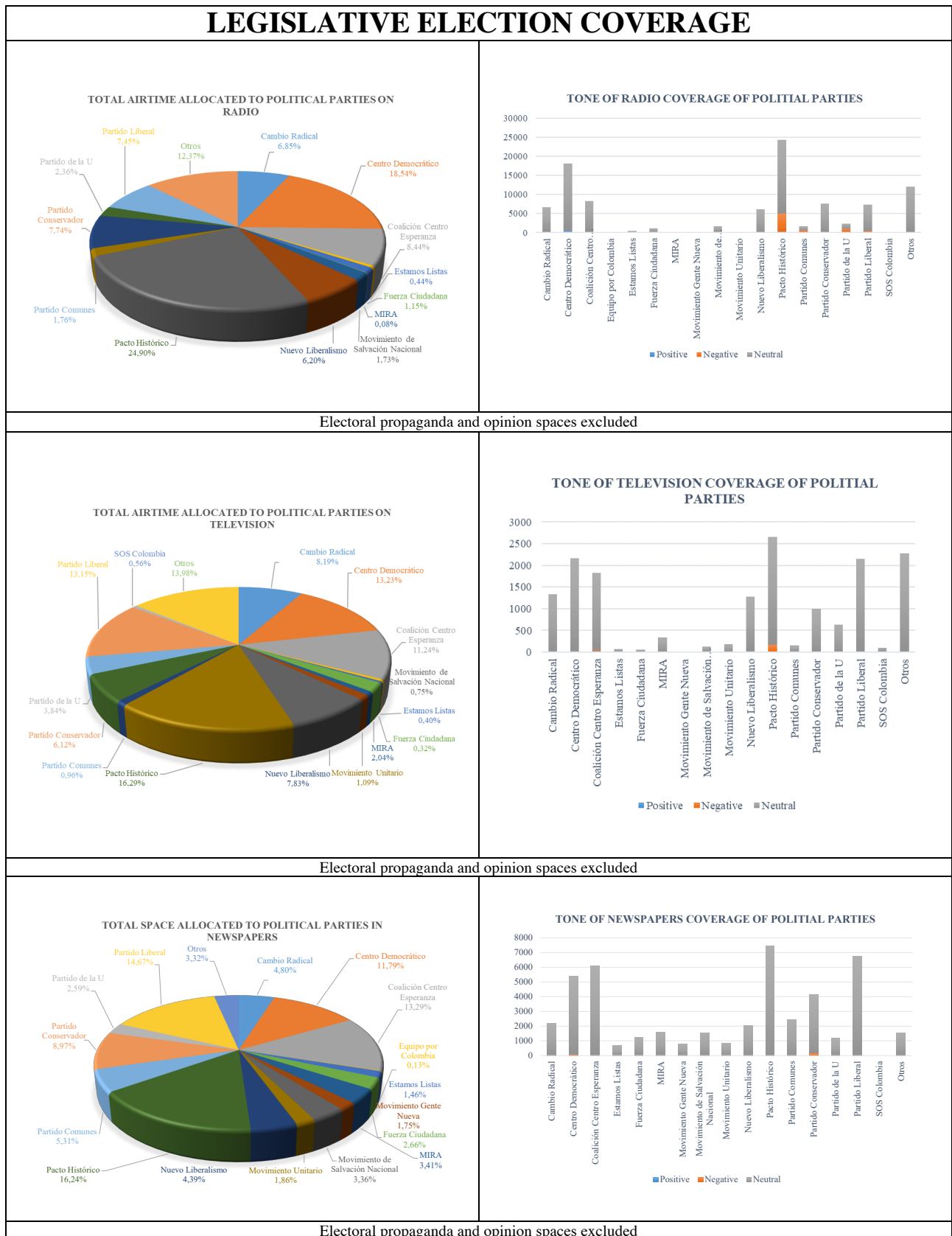


Chart 4: Presidential election first round coverage.

Monitoring period: From 20 April to 28 May 2022.

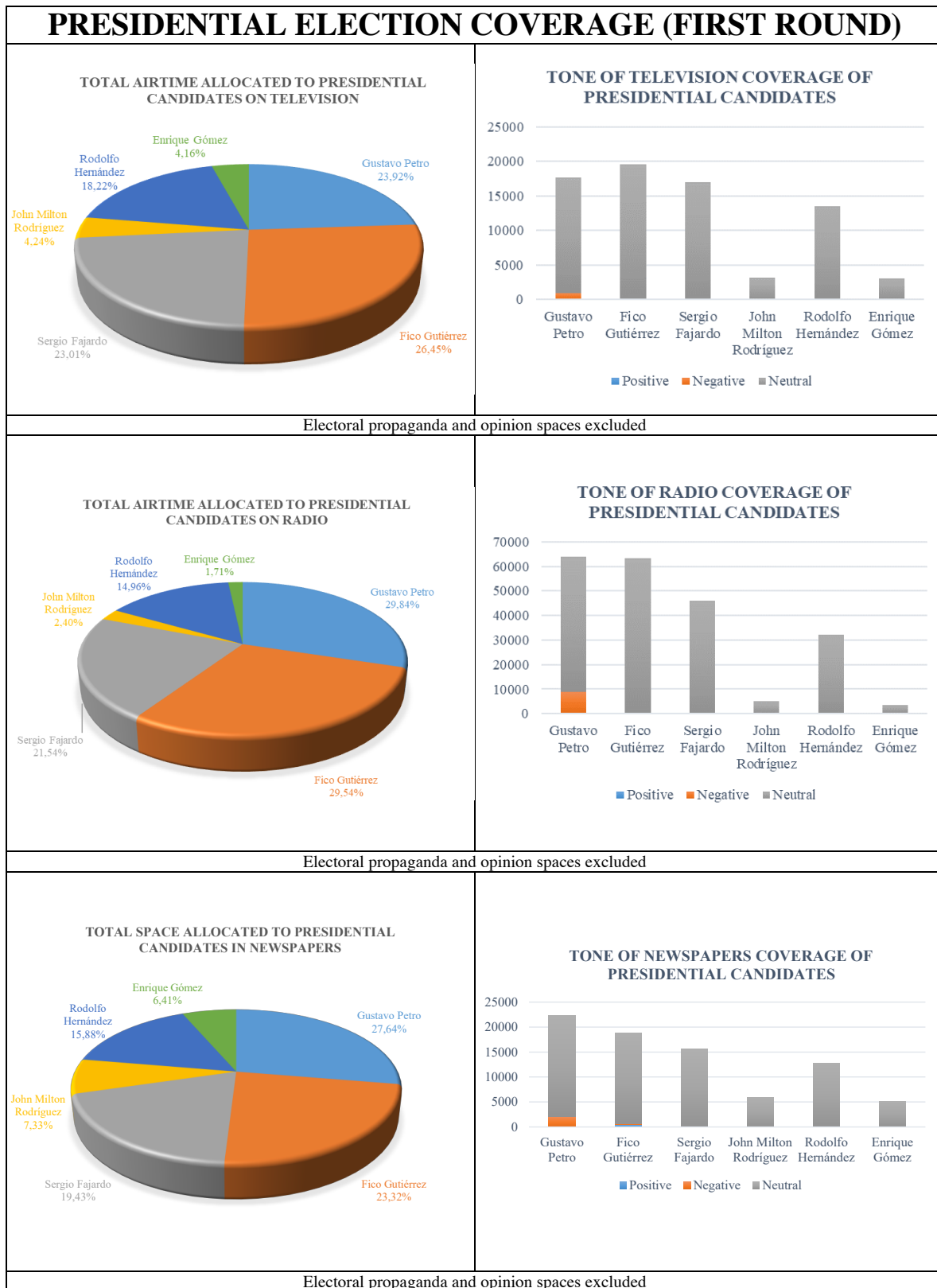


Chart 5: Presidential election second round coverage.

Monitoring period: From 31 May to 18 June 2022.

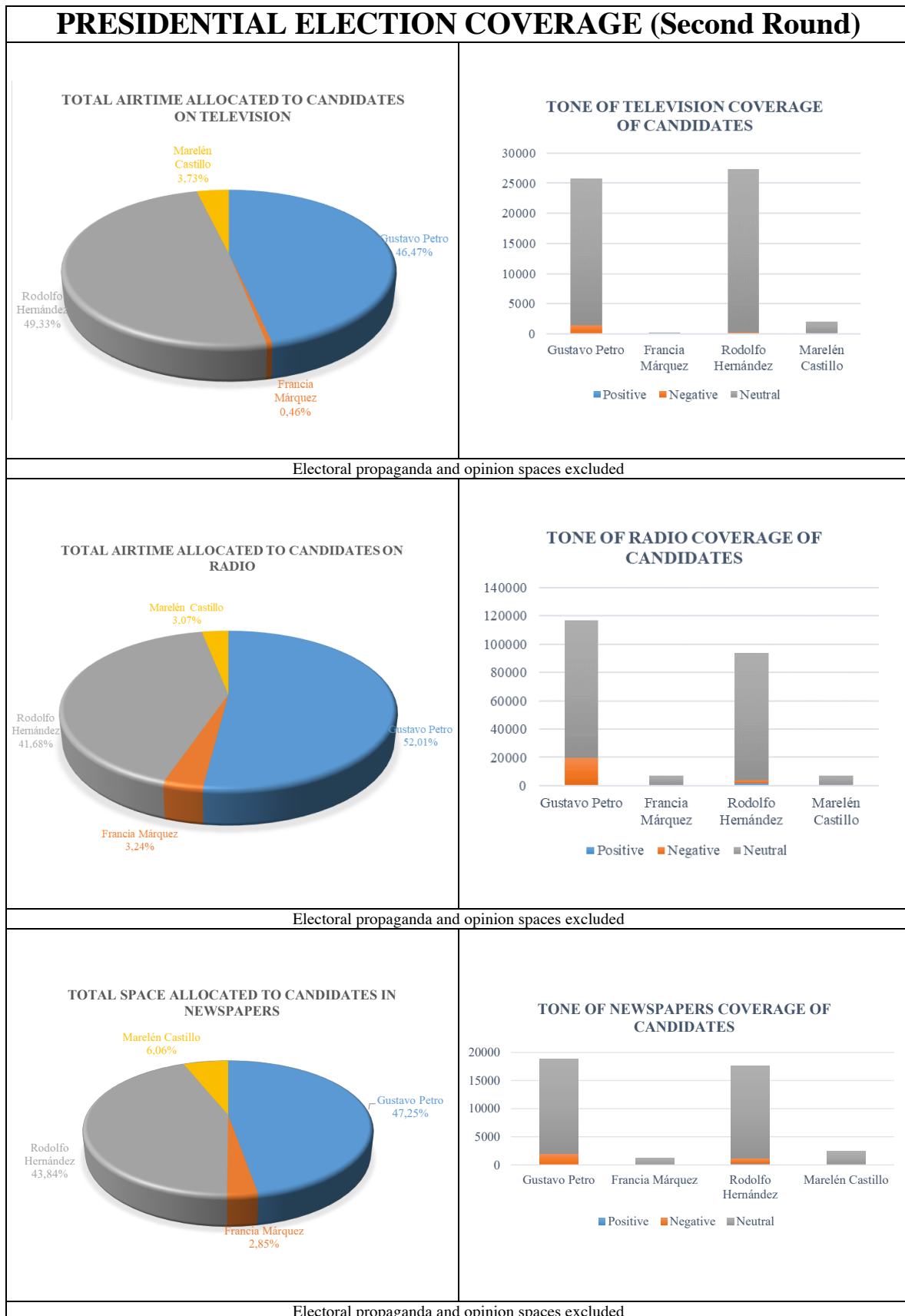


Chart 6: Electoral propaganda in electronic media. First round presidential election.

Monitoring period: From 20 April to 28 May 2022.

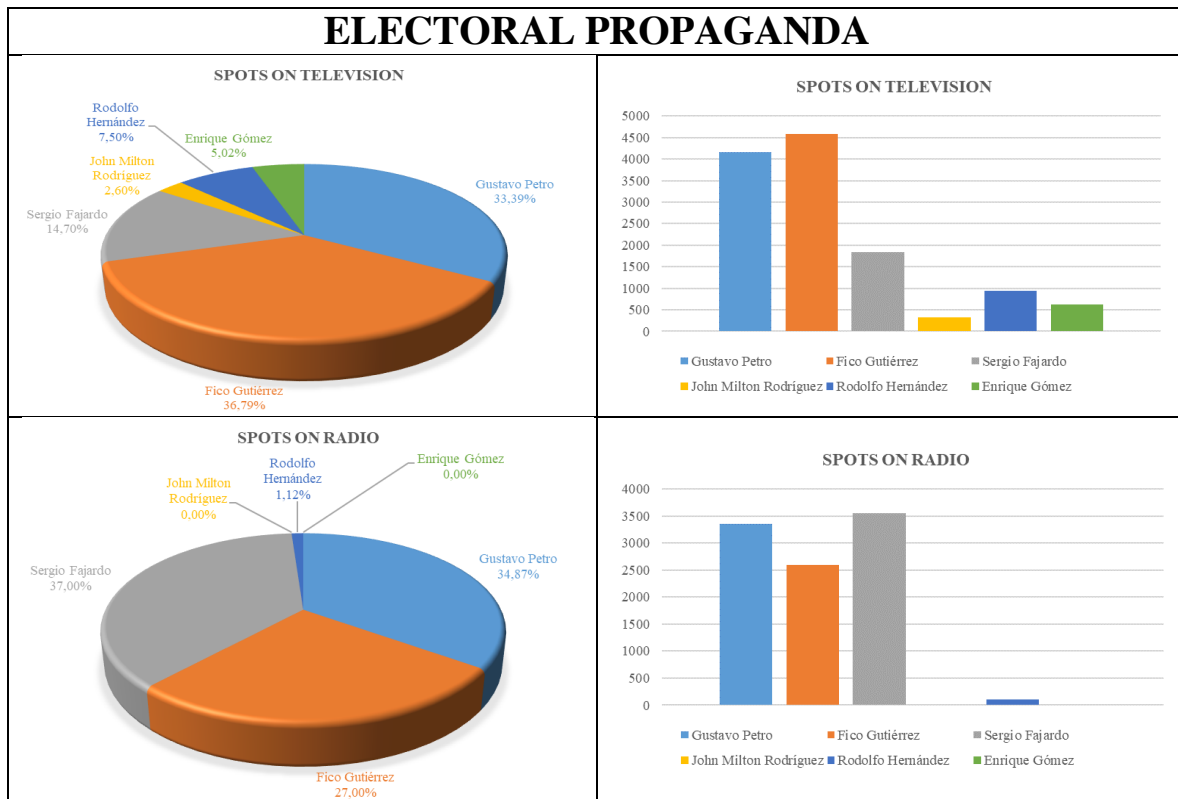
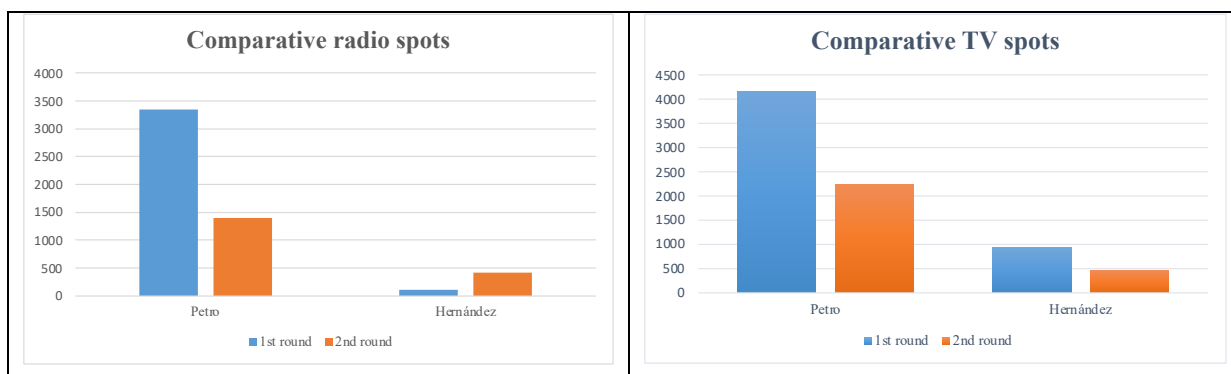


Chart 7: Comparative of electoral propaganda in electronic media, first and second round of presidential election.

Monitoring period: From 20 April to 28 May 2022 and from 31 May to 18 June 2022.



Annex 5: Social media monitoring findings

Methodology

The EU EOM Colombia 2022 monitored 1,075 Facebook and Twitter accounts from a sample of political actors and state organisations. The monitoring timeframe was from 14 February 2022 until 30 June 2022.

The sample included the following official accounts:

- Congress candidates, presidential pre-candidates, and presidential and vice-presidential candidates (first and second rounds).
- Political parties.
- Electoral Bodies (*Registraduría* and *Consejo Nacional Electoral*) and prominent representatives.
- Former presidents of Colombia.
- Public institutions and major representatives.
- Departments and major municipalities.

Sample accounts	Number of Facebook pages	Number of Twitter profiles
Congress candidates	367	52
Presidential pre-candidates	20	22
Presidential and vice-presidential candidates (first round)	12	12
Presidential candidates and vice-presidential candidates (second round)	2	2
Political Parties	26	4
CNE/Registraduría	7	5
Former presidents	10	11
State institutions, high-rank officials, departments, major municipalities	459	60

The EU EOM Social Media monitoring unit considered the following critical issues to observe:

- detecting misuse of administrative resources,
- analysing the tone of the online campaign (whether it was informative or based on discrediting/attacking the opponents),
- documenting episodes of dangerous/hate speech,
- monitoring whether campaign silence is followed,
- registering episodes of disinformation
- analysing paid political ads placed by political parties and candidates.

Tone of the online campaign

EU EOM analysed every candidate's post in the sample to determine whether it was informative, critical, or aggressive to opponents. Criticism increased as the election process progressed, peaking at 10 per cent in the second round of the presidential election.

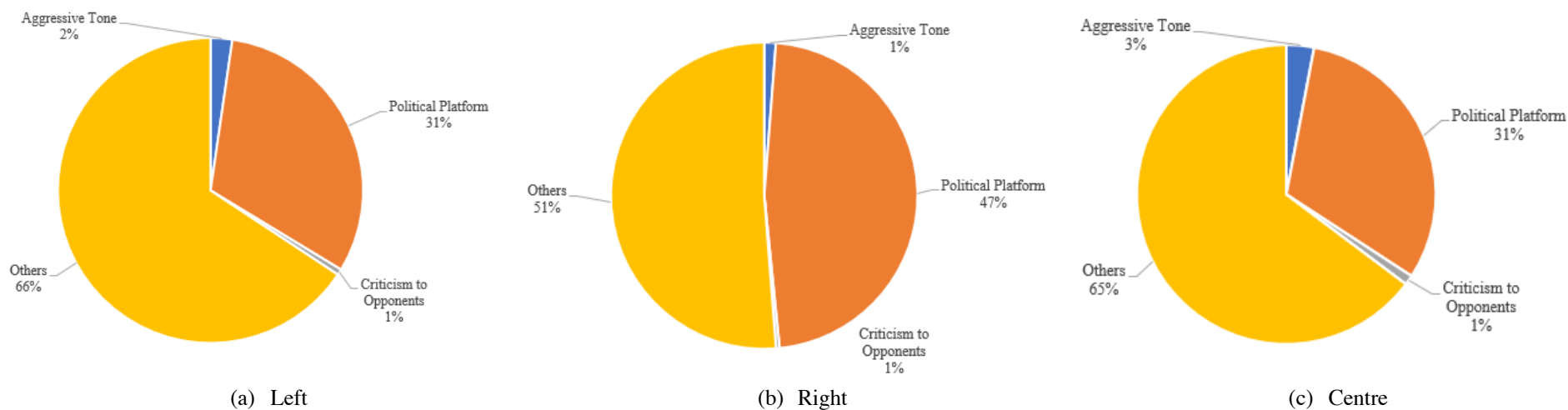


Figure 1. The tone of congressional candidates' campaigns grouped by alliance.

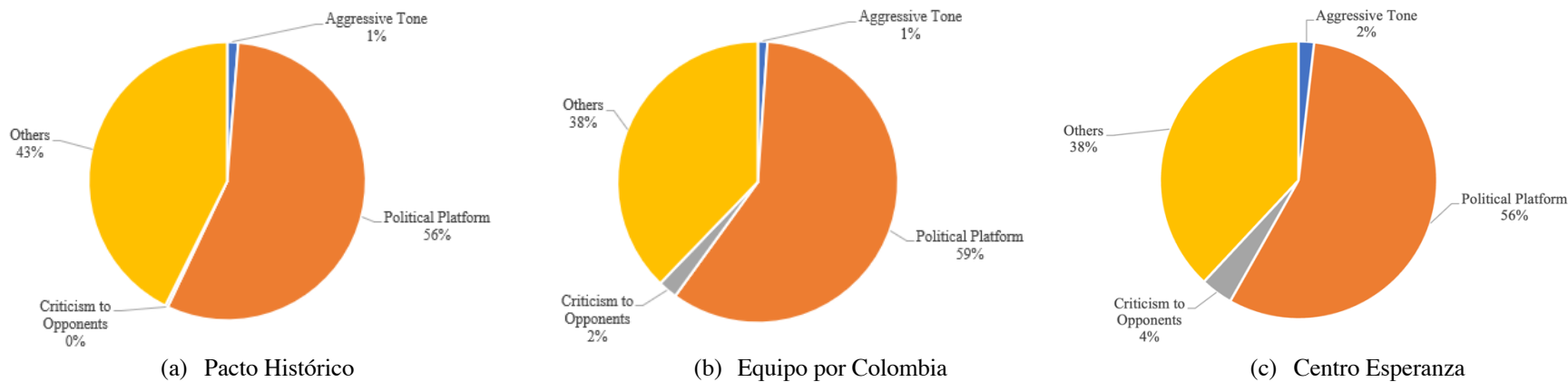


Figure 2. The tone of presidential pre-candidates' campaigns grouped by the alliance.

In the first round of the presidential elections, almost all criticism from contenders (4% of total posts from candidates) was directed at Gustavo Petro.

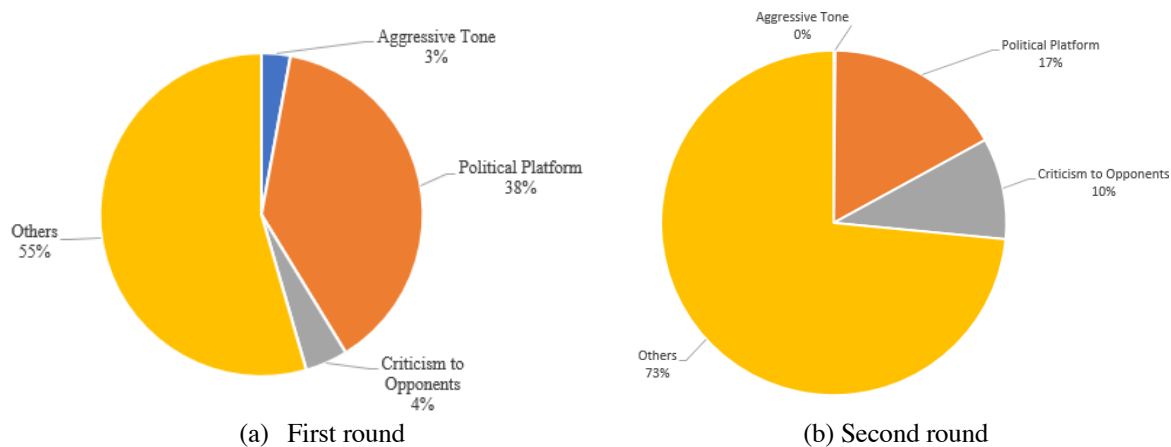


Figure 3. The tone of presidential elections.

In the second round, EU EOM monitoring unit analysed a sample of Twitter interactions with candidates to detect if they used a positive, negative, or neutral tone.¹⁴⁵ Both candidates received more than half of the comments in a negative tone.

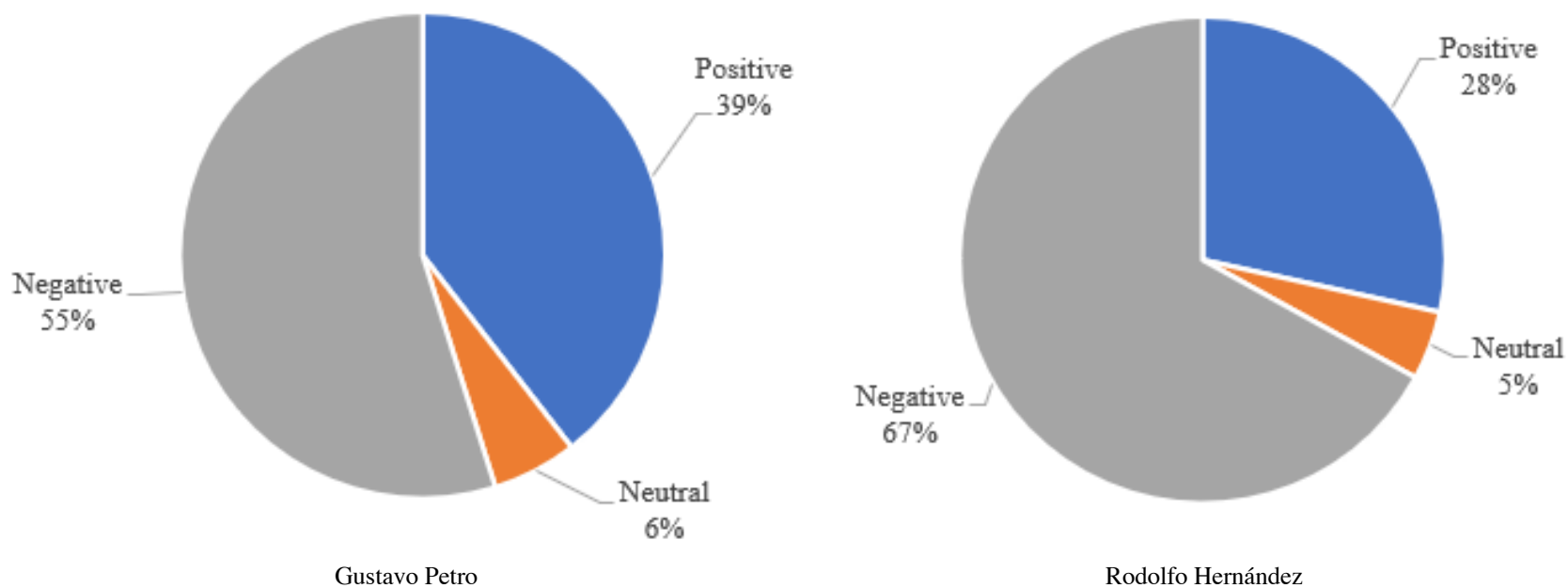


Figure 4. The tone of responses on Twitter to the candidates in the second round of the presidential election.

¹⁴⁵ A random sample of 15442 tweets between 31 May to 20 June, mentioning Rodolfo Hernández and Gustavo Petro.

Interactions with candidates

The following figures show how the conversation around candidates was distributed on Facebook during the different elections. This information was obtained by exporting candidates' data from Crowdtangle reports. The volume of interactions recorded by the EU EOM during the three elections on Facebook was 97 million.

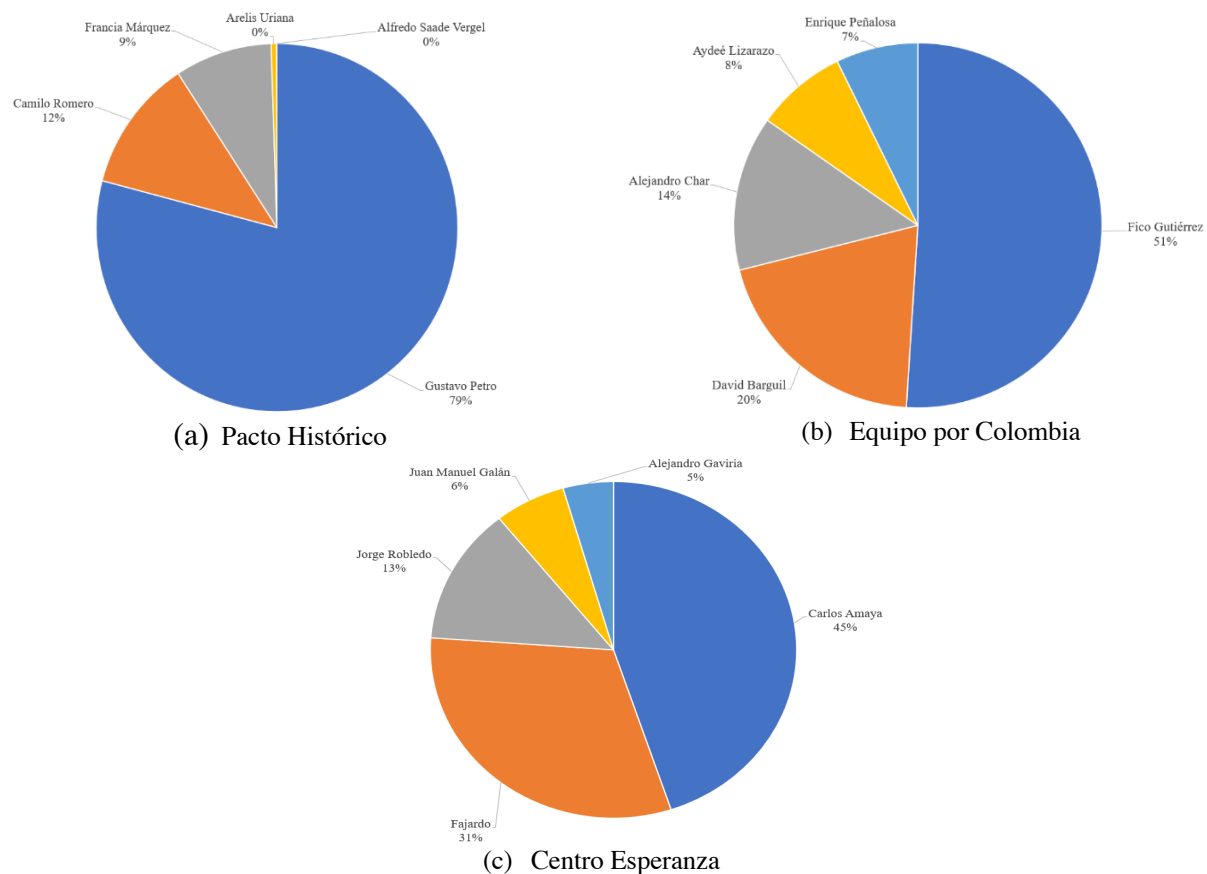


Figure 5. Percentages of interactions on Facebook for each presidential pre-candidate, grouped by alliance.

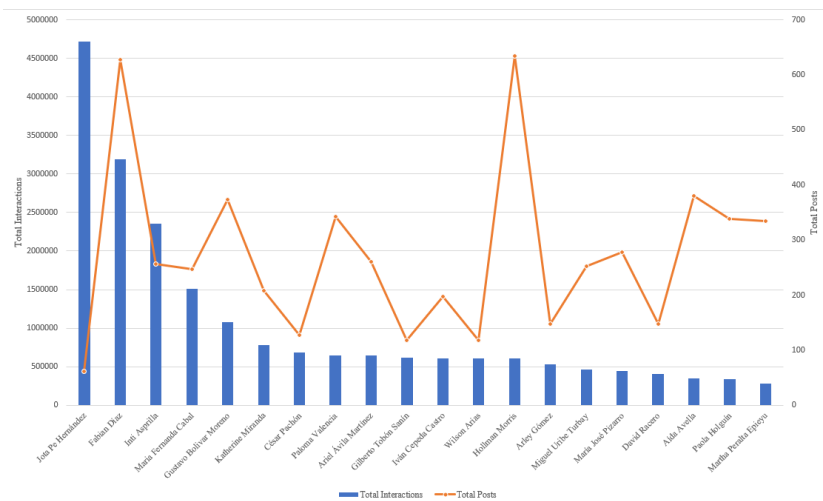


Figure 6. Interactions vs. number of posts on Facebook for pre-candidates grouped by alliance.

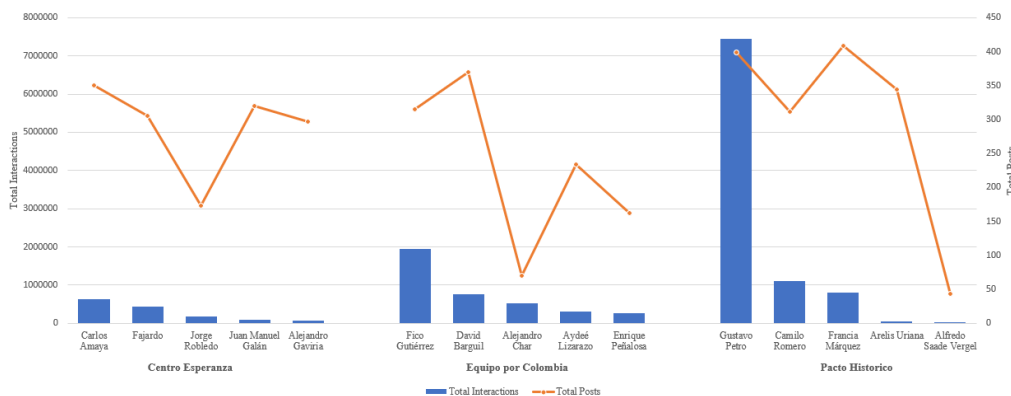


Figure 7. Interactions vs. number of posts on Facebook for congressional candidates (17 December 2021 to 13 March 2022).

Figures 6 and 7 compare the numbers of posts and interactions generated for the presidential pre-candidates and a subset of Congress candidates (those who generated the most interactions). In Figure 6, Gustavo Petro — as a presidential pre-candidate — published 400 Facebook posts and received a high number of interactions (more than 7 million). Jota Pe Hernández, a congressional candidate with fewer than 100 posts published, generated 4.5 million interactions.

Figures 8 and 9 show the proportion of interactions received on Facebook by the presidential and vice-presidential candidates in the first and second rounds.

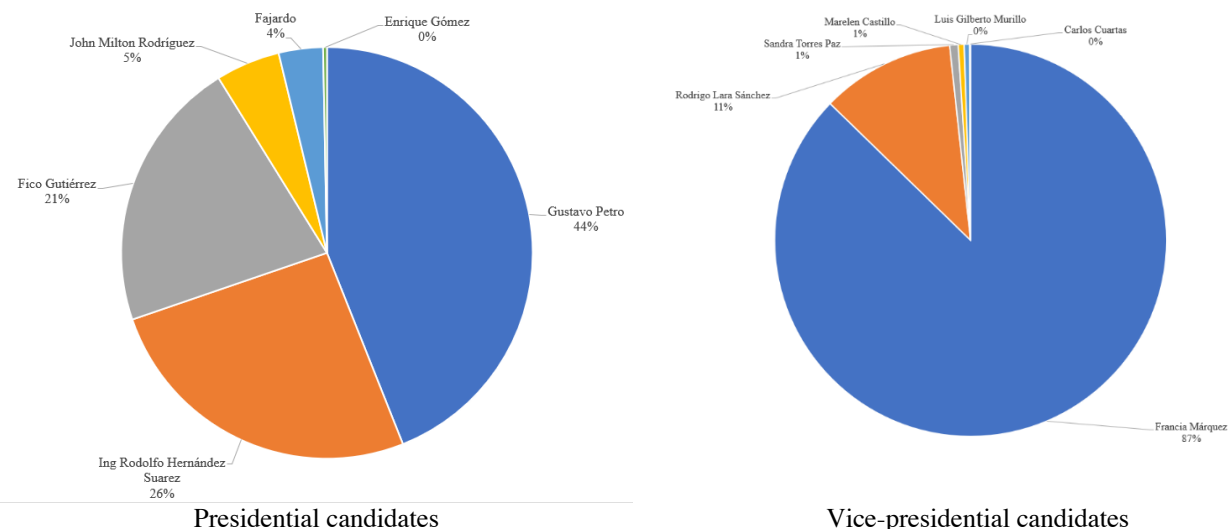


Figure 8. The percentage of interactions on Facebook for each presidential and vice-presidential candidate in the first round of the election.

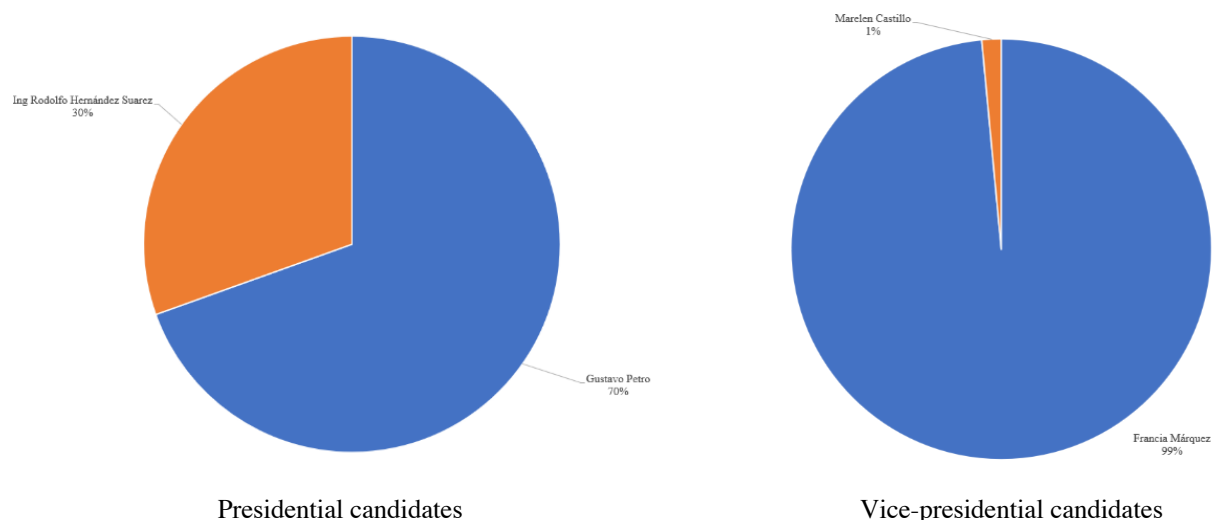


Figure 9. Percentage of interactions on Facebook for each presidential and vice-presidential candidate in the second round of the election.

Toxic language and hate speech

The EU EOM monitoring unit analysed a random sample of tweets sent or received by candidates during each campaign period. This sample was processed with Perspective,¹⁴⁶ a machine learning model to detect toxic language. In this context, toxic language is defined as rude, disrespectful or unreasonable comments likely to cause someone to leave a discussion.

EU EOM monitors analysed tweets classified as toxic to verify the algorithm's labelling and confirm those tweets labelled as hate speech.¹⁴⁷ Also, monitors classified hate messages according to their nature (racism, xenophobia, homophobia, sexism, classism, segregation). The EU EOM monitoring unit verified and tagged 23,000 tweets.

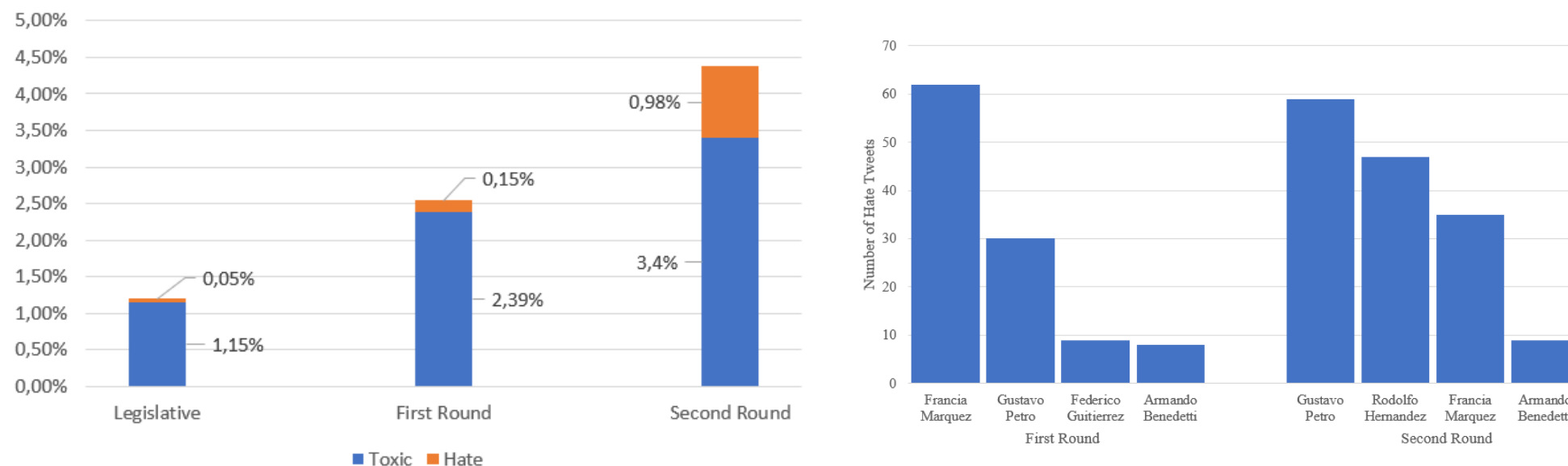


Figure 10. The percentage of toxic language and hate speech detected in Twitter interactions for each election.

Figure 10 shows how the percentage of toxic language and hate speech progressively increased, peaking in the second round of the presidential election.

¹⁴⁶ <https://www.perspectiveapi.com/>

¹⁴⁷ In this context, hate speech is understood as any oral, written, or behavioral communication that attacks or uses derogatory or discriminatory language concerning a person or group based on who they are: religion, ethnicity, nationality, race, color, ancestry, gender or other identity factors.

Figure 11 shows the percentages of the different forms of hate speech identified during the first and second rounds of the presidential elections.

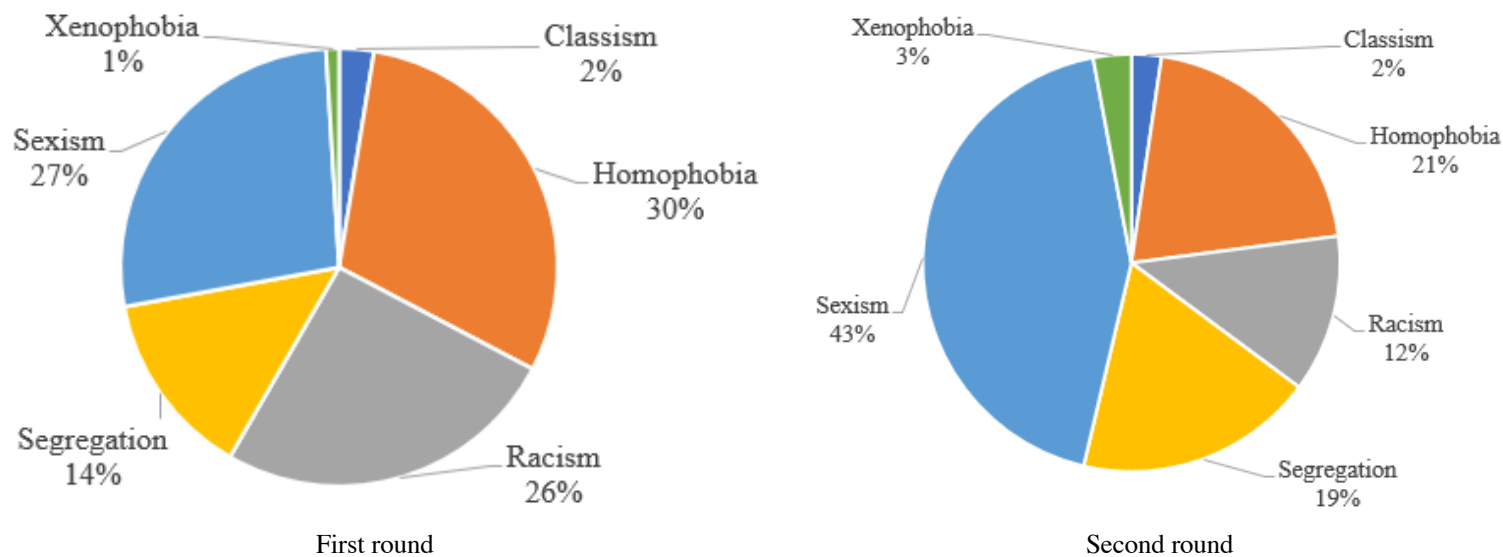


Figure 11. Forms of hate speech detected in each presidential rounds.

Bot detection

The monitoring unit processed 200,000 profiles that interacted with candidates on Twitter to detect possible bots. Those profiles were processed with Botometer, a bot detector developed by Indiana University, selecting those with a probability greater or equal to 80 per cent of being bots. The monitoring unit checked and labelled a sample of 44,000 bot candidates manually to discard those incorrectly marked by Botometer. This analysis of Twitter profiles interacting with candidates' posts revealed that at least 19 per cent displayed characteristics consistent with bots. Of these, 47 per cent interacted in support of the left, 36 per cent in support of the right and just 2 per cent in favour of the centre of the political spectrum. Fifteen per cent could not be classified into any political tendency, although they showed automated activity.

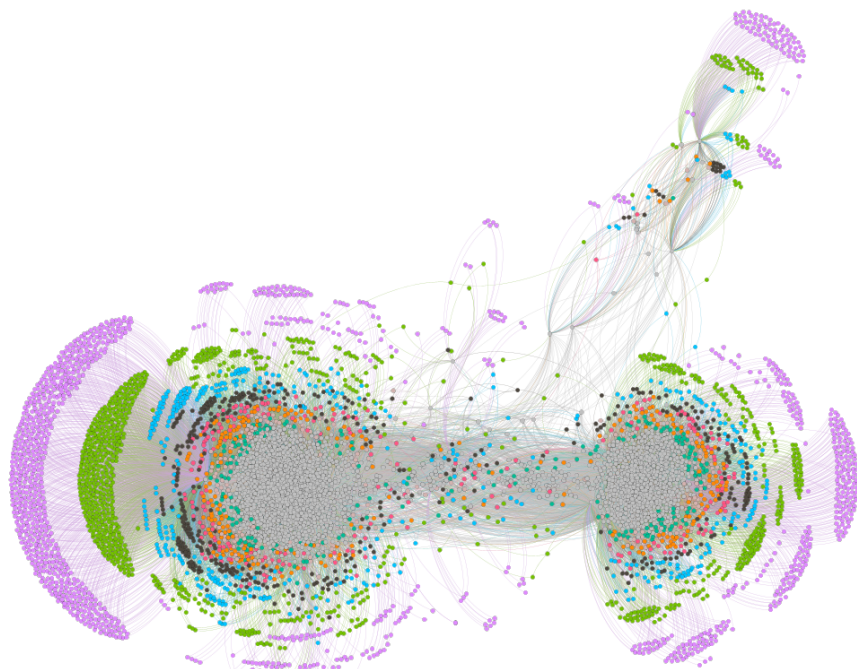


Figure 12. Cluster of bots detected on Twitter during the observation (made with Gephy).

The EU EOM monitoring unit was unable to identify specific bot farms (*bodegas*). However, the information about the “follow” relationship from a sample of 6,000 Twitter bots was used in Gephi¹⁴⁸ to visualise whether they were interconnected. In the graph, each node is a bot and the connections are Twitter following relationships. After discarding isolated bots (those that do not follow any bot in the sample), the graph in Figure 12 was obtained.

The groups of bots on the left and right of the figure are bots identified by the monitoring unit as left and right-wing bots, respectively. This information was not provided to Gephi, which recognised the clusters automatically from Twitter follower relationships. The area of bots who connect the two large groups corresponds to bots identified as centre or undefined.

The sub-groups formed within each group on the left or the right, or the union of several of them, are most likely to be bot farms amplifying pro- or anti-candidate messages.

¹⁴⁸ <https://gephi.org/>

Annex 6: Turn-out and Invalid votes

ELECTION	TURN-OUT	INVALID VOTES	VALID VOTES	VOTO EN BLANCO ¹⁴⁹	UNMARKED BALLOTS
CONGRESS					
Senate¹⁵⁰	47,84%				
National constituency		4,06%	93,01%	6,34%	2,91%
Indigenous constituency		11,73%	78,07%	24,52%	10,18%
House of Representatives	47,43%				
Territorial constituencies ¹⁵¹		4,80%	93,15%	6,35%	2,04%
Indigenous constituency ¹⁵²		7,49%	84,28%	22,69%	8,21%
Afro-Colombian constituency ¹⁵³		8,95%	83,80%	18,65%	7,23%
CITREP ¹⁵⁴	42,80%	3,63%	85,97%	6,15%	10,39%
PRESIDENTIAL					
First round ¹⁵⁵	54,97%	1,12%	98,74%	1,72%	0,12%
Second round ¹⁵⁶	58,17%	1,19%	98,71%	2,23%	0,09%
Primaries¹⁵⁷					
Centro Esperanza	5,89%	2,84%	94,39%	-	2,75%
Pacto Histórico	14,98%	1,91%	95,98%	-	2,10%
Equipo por Colombia	10,67%	1,91%	96,23%	-	1,85%

Source: CNE and RNEC 2022.

¹⁴⁹ “None of the above”. In Colombia there is a dedicated space on ballots to choose the *voto en blanco*.

¹⁵⁰ *Escrutinio nacional* CNE (27 April 2022).

¹⁵¹ *Preconteo* RNEC (14 March 2022) with 99,41 per cent of PSs reported.

¹⁵² *Escrutinio nacional* CNE (7 July 2022).

¹⁵³ *Escrutinio nacional* CNE (7 July 2022).

¹⁵⁴ *Preconteo* RNEC (14 March 2022) with 95,76 per cent of PSs reported.

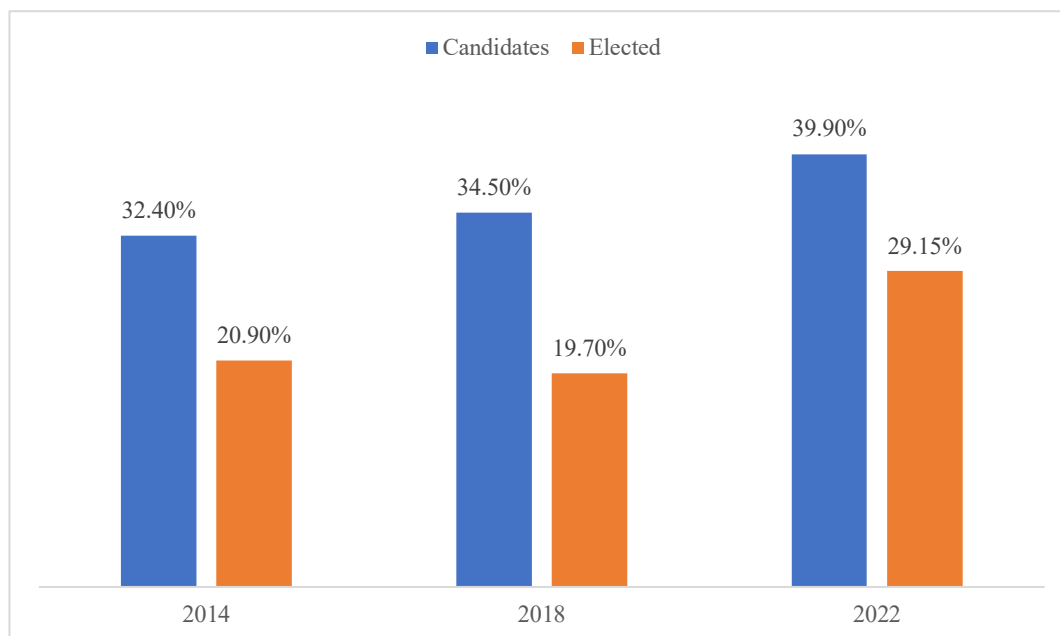
¹⁵⁵ *Escrutinio nacional* CNE (2 June 2022).

¹⁵⁶ *Escrutinio nacional* CNE (23 June 2022).

¹⁵⁷ The Electoral Organisation and the political parties agreed that the results of the primaries would be determined by the *preconteo*. *Preconteo* RNEC (17 March 2022) with 100 per cent of PSs reported.

Annex 7: Women in Congress 2014 – 2022

Women candidates vs women elected in Congress 2014 – 2022



Elaborated by Sisma Mujer based on data from *Registraduría*

Annex 8: Senate election results

Senate election results			
Party / Movement	Votes		Seats
Coalición Pacto Histórico			
Polo Democrático Alternativo	2,880,254	17.0%	5
Unión Patriótica			4
Colombia Humana			4
Alianza Democrática Amplia			2
Movimiento Alternativo Indígena Social MAIS			5
Partido Conservador	2,238,628	13.2%	15
Partido Liberal	2,112,528	12.4%	14
Coalición Centro Esperanza			
Alianza Verde	1,958,369	11.5%	8
Alianza Social Independiente ASI			4
Verde Oxígeno			1*
Colombia Renaciente			
Centro Democrático	1,949,905	11.5%	13
Cambio Radical	1,609,173	9.5%	11
Partido de la Unión por la Gente	1,506,567	8.9%	10
Coalición Nos Une Colombia			
MIRA	584,806	3%	3
Colombia Justa Libres!			1
Fuerza Ciudadana	431,166	2.5%	
Nuevo Liberalismo	368,345	2.2%	
Estamos Listas	115,120	0.7%	
SOS Colombia	56,767	0.3%	
Movimiento Gente Nueva	37,063	0.2%	
Movimiento de Salvación Nacional	31,289	0.2%	
Partido Comunes	25,708	0.2%	5
Movimiento Unitario Metapolítico	12,165	0.1%	
Total votes for parties	15,917,903	93.7%	
Blank votes	1,072,401	6.3%	
Valid votes	16,990,304	100%	
Invalid votes	740,139	4.1%	
Unmarked ballots	530,581	2.9%	
Total	18,261,024		
Indigenous constituency election results			
Party / Movement	Votes		Seats
Movimiento Alternativo Indígena Social MAIS	89,199	30%	1
Movimiento Autoridades Indígenas de Colombia AICO	63,373	22%	1
Partido Indígena Colombiano	28,312	10%	
Mandato Ambiental	14,825	5%	
Asociación de Cabildos Indígenas por Colombia	13,580	5%	
Resguardo Campo Alegre	4,749	2%	
Asociación Nacional de Cabildos y Autoridades Indígenas en Colombia	3,757	1%	
O.S.A Organización Socio Política Ancestral	2,052	1%	
Democracia Desde Abajo La Palma	1,580	0.5%	
Total votes for parties	221,427	75%	
Blank votes	71,978	25%	
Valid votes	293,642	100%	
Invalid votes	44,088	12%	
Unmarked ballots	38,215	10%	
Total	375,945		
Total participation in national and indigenous constituencies	18,636,969		
Registered voters	38,819,901		
Participation	48.0%		

* *Partido Verde Oxígeno's* elected senator, Humberto de la Calle, will serve as an independent.

Annex 9: House of Representatives election results

House of Representatives election results			
Party / Movement	Votes		Seats
Pacto Histórico	2,549,276	17.4%	25
Partido Liberal	2,329,045	15.9%	32
Partido Conservador	2,052,060	14.0%	25
Centro Democrático	1,610,666	11.0%	15
Partido de la Unión por la Gente	1,426,736	9.8%	15
Cambio Radical	1,391,339	9.5%	17
Partido Alianza Verde - Coalición Centro Esperanza	1,408,416	9.6%	14*
MIRA - Colombia Justa Libres!	289,959	2.0%	1
Nuevo Liberalismo	280,522	1.9%	1
Liga de Gobernantes Anticorrupción	166,908	1.1%	2
Coalición Cambio Radical, Colombia Justa Libres!, MIRA	137,252	0.9%	1
Coalición Partido de la U, Partido Conservador	111,236	0.8%	1
Coalición Partido Conservador, Centro Democrático	97,124	0.7%	1
Pacto Histórico, Alianza Verde	93,874	0.6%	1
Coalición Cambio Radical, MIRA	84,040	0.6%	1
Pacto Histórico (regional coalition)	83,186	0.6%	1
Pacto Histórico (regional coalition)	78,723	0.5%	1
Coalición Partido Liberal, Colombia Justa Libres!	68,598	0.5%	1
Fuerza Ciudadana	66,990	0.5%	1
Partido Colombia Renaciente	62,543	0.4%	1
Alternativos (Alianza Verde, Polo)	60,737	0.4%	2
Gente en Movimiento	54,557	0.4%	1
Pacto Histórico, Verdes	54,501	0.4%	1
Coalición Juntos por Caldas	36,910	0.3%	1
Comunes	21,182	0.1%	5
Votes for parties that obtained a seat	14,623,109		
Blank votes	1,037,812		
Invalid votes	841,639		
Unmarked ballots	358,433		
Indigenous constituency election results			
Party / Movement	Votes		Seats
Movimiento Alternativo Indígena Social MAIS	84,637		1
Afro-Colombian constituency election results			
Consejo Comunitario Palenque de la Vereda las Trecientas y del Municipio de Galapa	66,474		1
Consejo Comunitario Fernando Ríos Hidalgo	39,106		1
Blank votes	87,814		
Invalid votes	50,317		
Unmarked ballots	40,607		
Participation	47.4%		

* *Partido Verde Oxígeno's* elected representative, Daniel Carvalho, will serve as an independent.

Annex 10: CITREP election results

CITREP election results		
CITREP	Winning organisation	Votes
Constituency 1 - Cauca Nariño	ASOINTC	12,229
Constituency 2 - Arauca	Asociación de Víctimas Intercultural y Regional	2,501
Constituency 3 - Bajo Cauca	Asociación de Desplazados del Municipio de Briceño	2,022
Constituency 4 - Catatumbo	Asociación de Familias Desplazadas de Hacarí	7,056
Constituency 5 - Caquetá	Fundación Igualdad Social	4,106
Constituency 6 - Chocó Antioquía	Consejo Comunitario Mayor de Novita	9,369
Constituency 7 - Sur de Meta - Guaviare	ASOCAMPROARIARI	3,009
Constituency 8 - Montes de María	Corporación Narrar para Vivir	19,253
Constituency 9 - Pacífico Valle del Cauca	Consejo Comunitario del Río Naya	4,950
Constituency 10 - Pacífico Nariño	Corporación Red de Consejos Comunitarios del Pacífico Sur	12,584
Constituency 11 - Putumayo	Consejo Comunitario los Andes	6,932
Constituency 12 - Cesar	Asociación Paz es Vida	17,457
Constituency 13 - Sur de Bolivar	APROCASUR	3,472
Constituency 14 - Sur de Cordoba	Asociación Agropecuaria Mujeres Víctimas de Jericó	6,987
Constituency 15 - Sur del Tolima	Asociación Víctimas Núcleos Santiago Pérez	2,996
Constituency 16 - Urabá	Yo soy Urabá	10,372

Annex 11: Presidential election results

Presidential election results - first round			
Candidates	Political party	Votes	
Gustavo Petro Francia Márquez	Pacto Histórico	8,541,617	40.4%
Rodolfo Hernández Marelen Castillo	Liga de Gobernantes Anticorrupción	5,965,335	28.2%
Federico Gutiérrez Rodrigo Lara	Coalición Equipo por Colombia	5,069,448	24.0%
Sergio Fajardo Luis Gilberto Murillo	Coalición Centro Esperanza	885,268	4.2%
John Milton Rodríguez Sandra de las Lajas Torres	Colombia Justa y Libres	271,372	1.3%
Enrique Gómez Martínez Carlos Cuartas Quiceno	Movimiento de Salvación Nacional	48,685	0.2%
Íngrid Betancourt José Luis Esparza	Partido Verde Oxígeno	14,161	0.1%
Luis Pérez Cefarino Mosquera	Colombia Piensa en Grande	11,507	0.1%
Total votes for candidates		20,781,725	98%
Blank votes		365,764	2%
Total valid votes		21,147,489	100%
Unmarked ballots		26,630	0.1%
Invalid votes		241,818	1%
Total		21,441,605	
Registered voters		39,002,239	
Turn-out		55%	

Presidential election results - second round			
Candidates	Political party	Votes	
Gustavo Petro Francia Márquez	Pacto Histórico	11,291,986	50%
Rodolfo Hernández Marelen Castillo	Liga de Gobernantes Anticorrupción	10,604,337	47%
Total votes for candidates		21,896,323	98%
Blank votes		500,043	2%
Total valid votes		22,396,366	100%
Unmarked ballots		21,459	0.1%
Invalid votes		270,085	1%
Total		22,687,910	
Registered voters		39,002,239	
Turn-out		58.2%	

