



HONDURAS

**FINAL REPORT
General Elections 2017**

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

www.moeue-honduras.eu

This report has been produced by the European Union Election Observation Mission (EU EOM) to Honduras 2017 and contains the conclusions of its observation of the general elections. The contents of this report do not necessarily reflect the official position of the European Union.

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	3
II. THE EU EOM AND THE 2017 GENERAL ELECTIONS.....	8
III. POLITICAL CONTEXT.....	9
IV. ELECTION SYSTEM	9
V. ELECTION CAMPAIGN	10
VI. LEGAL FRAMEWORK	13
VII. CIVIL REGISTRY AND VOTER REGISTER	15
VIII. CANDIDATE REGISTRATION	17
IX. VOTING, AGGREGATION AND PUBLICATION OF RESULTS	20
X. COMPLAINTS AND APPEALS	23
XI. MEDIA.....	27
XII. WOMEN’S PARTICIPATION	32
XIII. PARTICIPATION OF INDIGENOUS AND AFRO-HONDURAN CITIZENS	33
XIV. PARTICIPATION OF THE LGBTI COMMUNITY	34
XV. PARTICIPATION OF PEOPLE WITH DISABILITIES.....	35
XVI. NATIONAL OBSERVATION.....	35
XVII. ANALYSIS OF THE RESULTS	35
XVIII. RECOMMENDATIONS	36

I. EXECUTIVE SUMMARY

The 2017 general elections, in which parties and candidates from across the Honduran political spectrum competed, took place in a context of significant polarisation, which was exacerbated by the candidacy of the outgoing President, Juan Orlando Hernández, following a ruling by the Supreme Court which found that the prohibition on presidential re-election was inapplicable. The main opposition parties strongly contested the ruling. Following a campaign characterised by inequality of resources and of media coverage, in favour of the ruling party, election day was well-organised and generally peaceful, and the vote counting in polling stations respected voters' will, and took place in the presence of representatives of the main political parties. The Tribunal Supremo Electoral implemented a publication system which ensured that candidates and citizens alike were able to verify all election results.

The EU EOM deplores and condemns the deaths of at least 22 people during the post-electoral protests, and reiterates its call to the Honduran authorities to respect the right to peaceful demonstration.

Political context

On 26 November, Honduran citizens elected – with a slightly lower turn-out than in 2013 - their President, the 128 members of the National Congress, and mayors and councillors in the 298 municipalities, as well as their 20 members of the Central American Parliament (PARLACEN). Ten political parties competed in the elections, and some independent candidates ran in the municipalities. Nine candidates ran for the Presidency. The *Partido Nacional* (PN), *Partido Liberal* (PL) and Libre chose all their candidates through primary elections held in March 2017. The parties which competed in the elections represented the full spectrum of Honduran politics, and candidate registration processes did not impose undue limitations or unjustified conditions on the right to stand.

For the first time since the promulgation of the Constitution in 1982, a President in office ran for re-election - Juan Orlando Hernandez (JOH), of the National Party (*Partido Nacional*, PN). This came in the wake of a 2015 ruling by the Supreme Court, which declared the Constitutional prohibitions on re-election inapplicable. The court decision, which *de facto* removes presidential term limits, was strongly contested from the outset and continues to be denounced by the main opposition forces, although these nonetheless decided to take part in the elections.

The issue of presidential re-election, so sensitive in Honduras that it triggered the *coup d'état* of 2009 and the removal from power and the country of then President Manuel Zelaya, overshadowed a polarised election process. As it has stated since its arrival in the country, it is not for the EU EOM to comment on the decision of the Supreme Court Chamber's decision. However, the mission considers that, if Honduran stakeholders agree, it would be useful to hold a debate on the subject, with a view to reaching a broad consensus among political forces on how to regulate an issue that is of such importance and sensitivity in the Honduran context.

Election Campaign

During the election campaign, which lasted three months and only gained intensity in its final stretch, candidates from all political forces and independent candidates alike were generally able to enjoy, without undue restrictions, their rights to freedom of assembly and association, as well as freedom of expression and freedom of movement; although this last was sometimes limited in areas with a strong presence of organised crime. Nonetheless, despite the fact that the campaign was generally peaceful, the EU EOM is aware of cases of violence during the campaign period against candidates and activists from different parties – which included the murder of six activists for the *Partido Nacional*, Libre and the *Partido Liberal* – the motive of which, political or otherwise, has not been established.

The different contenders' unequal economic resources, to the advantage of the *Partido Nacional* and its candidate Juan Orlando Hernández, was evident throughout the election campaign. This imbalance was particularly acute in the media, but was also visible, albeit to a lesser extent, in election propaganda materials. The inequality of resources was exacerbated by instances of the use of State resources for campaign purposes and, most frequently, the very blurred distinction between the Government and the *Partido Nacional* during the distribution of goods or services in the context of State social programmes.

The adoption, in 2016, of the Clean Politics Law (*Ley de Política Limpia*) clearly constitutes a significant improvement, as it strengthens the requirements regarding transparency of campaign funding sources and spending, as well as fixing limits on the latter, with the aim of confronting corruption, illicit funding or parties and candidates, including the penetration of money from drug trafficking and other organised crime in election campaigning. The law's first implementation coincided with a notable drop in the estimated spending on the 2017 campaign as compared to 2013. However, the spending limits did not ensure a level playing field for the different parties and candidates, at least partly because the ceiling set by the *Tribunal Electoral Electoral* (TSE) was still fairly high, allied with the fact that the two main opposition parties were not able to secure significant private funding.

Legal framework

The legal framework for elections in Honduras generally provides an adequate basis for holding democratic elections, in line with the country's international commitments. Although the National Congress has launched numerous electoral reform initiatives since 2014, only two relatively minor modifications have been approved. As such, with the exception of the new Clean Politics Law, the number of electoral reform initiatives which have been approved are very limited in number.

The Election Law suffers from some inconsistencies and gaps which it would be advisable to update and complete through electoral reform, prior to future election processes. This is the case regarding responsibility for transmission and aggregation of results, which the law attributes to the TSE's decentralised bodies, the *Tribunales Electorales Departamentales and Municipales* (TED and TEM), although the process has for many years been computerised and centralised at the TSE. Equally, where the Election Law does not specify deadlines for appeals and their resolutions, the application of deadlines established by the Administrative Procedures Law (LPA) results in delays which are not compatible with the electoral timeframe

With regard to regulation, the EU EOM has identified some areas which could be improved for future electoral processes. These include the advisability of clearly establishing, either by regulation or even in the Election Law itself, the need to present evidence to support citizens' requests for changes of residence in order to demonstrate that they are genuine, before they are entered in the Voter Register. Equally, the current regulation establishing the mechanisms for alternation between men and women erodes the principle of parity enshrined in the Election Law, since it permits parties to begin alternation in candidate lists for Congress at the third, fourth or fifth position on the list, depending on the number of Congress members assigned to the Department in question.

Voter register

The voter register, drawn up by the TSE on the basis of data from the Civil Register (*Registro Nacional de las Personas*, RNP), is generally considered to be inclusive, but insufficiently accurate, as it contains a significant although unquantified number of entries of deceased people, as well as entries for Hondurans who live abroad but have not communicated their new residence, and therefore remain registered in the towns and villages of origin, where they are very unlikely to vote. The presence of entries for deceased people and emigrants in the voter register has traditionally fuelled suspicions about the risk of fraudulent voting, although the Honduran electoral system has a number of important safeguards against such attempts. Nonetheless, as it did in 2013, the EU EOM

considers that it would be useful to carry out an updating exercise of the civil register, in order to ensure an accurate voter register.

Election administration

The current TSE was elected by the outgoing Congress in early 2014, just a few weeks before the inauguration of the new Congress. As a result, its composition does not reflect the multiparty landscape which emerged following the 2013 elections, since the members of Congress from the emerging parties, Libre and the *Partido Anticorrupción* (PAC), did not participate in the election of the TSE magistrates. In a context of political polarisation, the absence of magistrates close to these new parties has had a negative effect on perceptions of the TSE's neutrality, both among opposition parties and in public opinion. These perceptions have been compounded by the adoption of some decisions which opposition parties consider to be in the interests of the *Partido Nacional*, and which have been widely echoed in the media, such as the contracting of the company originally responsible for the transmission and processing of results, denounced by the *Partido Liberal* as close to the ruling party. The TSE's erratic communications strategy regarding incoming results on the night of the elections clearly did nothing to improve its image.

Despite this perception, the TSE actively fostered consultation and consensus with political parties, albeit not always with success, both within the *Consejo Consultivo* (the forum for information and debate between the TSE and all political parties), and through informal meetings with party leaders, including during the post electoral crisis period. The TSE has guaranteed access to all stages of election process for all political parties, from giving them copies of the voter register, to enabling their attendance at special recounts following the elections, and granting unrestricted access to its data centre. The TSE implemented a system for the transmission, aggregation and publication of results which prioritised transparency and verifiability of information.

The EU EOM observed that negative public perceptions of the TSE's neutrality, generated mistrust of the system for voting and counting, despite the fact that it was designed to ensure that any attempt to manipulate results would be easily detectable.

Election day

Election day was peaceful and calm, although invasive strategies for attracting voters' support in the vicinity of voting centres were frequently observed. Despite abundant evidence of trafficking of polling staff accreditations between political parties, vote counting was transparent. The National, Liberal and Libre parties were represented in more than 90% of the 409 polling stations observed and, like those from other parties, received certified copies of the results forms. Neither the late replacement of the company responsible for results transmission nor the difficulties encountered in hiring the personnel responsible transmitting results (*custodios electorales*) had a negative impact on the electronic transmission of results forms, which took place successfully in 71.5% of observed cases, a similar success rate to that in 2013.

Processing and publication of results

In the early hours of 27 November, the TSE made its first announcement since the end of voting. With 57% of polling stations tabulated, the candidate for the *Alianza de Oposición* had a 5% advantage over the incumbent President Hernández. Results forms that were not electronically transmitted from polling stations were transported to the TSE warehouse, in the days following the elections. As the results from these forms – almost all from rural polling stations – were entered into the system, a change in the trend of presidential results occurred, until Juan Orlando Hernández came to be one and a half points ahead of Salvador Nasralla.

During this process, in the afternoon of 29 November, one of the servers at the TSE data centre had technical difficulties and eventually had to be replaced, which resulted in an interruption of several hours in the entry of data from results forms. EU EOM technical experts, who were in the data centre at the time, confirmed the purely technical nature of the incident, which was due to an inadequate amount of space on the server's hard drive, and they did not observe any indication of alterations to the database which, had it occurred, would have

been easily identified by checking the results published by the TSE against those on results forms held by political parties.

Post-electoral tensions

In the context of very tight results, in which both Salvador Nasralla and Juan Orlando Hernández had declared victory on the night of 26 November, the reversal of the trend in results as data entry progressed and the doubts about the system's integrity triggered by the replacement of one of the TSE servers, both contributed to significantly heighten post-electoral tensions.

The opposition denounced what it considered to be an electoral fraud, to the benefit of the ruling party candidate. During some of the demonstrations called in different parts of the country, confrontations broke out between demonstrators and security forces, who were often accused of excessive force. The clashes resulted in a high death toll, primarily among demonstrators, but also among the ranks of the police force. The Office of the United Nations High Commissioner for Human Rights reported that at least 22 people were killed in the context of post-electoral protests, of whom 13 were killed by security forces. The opposition denounced cases of torture, illegal detention and extra-judiciary killings. An increasing discomfort developed in police ranks, some of whom refused to participate in what they considered to be a repressive operation, triggering a brief strike by the whole police force. Numerous roads were cut off, and in some parts of the country, looting of shops and businesses took place.

On 1 December, the government, which several national and international organisations accused of violating human rights, decreed a 10-day curfew which suspended freedom of movement during the night time, except for journalists accredited by the TSE (an exception that was later extended to all journalists) and election observers. On the same day, the EU EOM Chief Observer, Marisa Matias, spoke publicly to Honduran actors, condemning all acts of violence and calling for the right to peaceful assembly to be respected.

Recount of the polling stations which reversed the trend in results

It was in this context, and in response to growing international pressure, that the TSE proceeded to a recount of the votes from the close to 5000 polling stations from which results were not electronically transmitted on the night of the elections, and which were at the source of the very slight lead of Juan Orlando Hernández. Despite numerous invitations from the TSE, neither of the two parties which had denounced irregularities attended the recounts and verifications, nor did they come to compare their copies of results forms with the TSE originals. The recount, which the EU EOM attended, did not reveal any significant differences from the results previously published on the TSE website.

Challenges against the vote and the Declaration of results

Given the cumulative delays, the TSE extended the deadline for submitting challenges, in order to ensure that political parties and candidates would have sufficient time to prepare and document any complaints they wished to submit. The *Partido Liberal* and the *Alianza de Oposición* each presented challenges calling for the annulment of the presidential vote – though not the votes for Congress or the municipalities – but they did not request any recounts. Neither of the appeals was accompanied by a statistically significant number of results forms, which could have confirmed the alleged divergences between the forms in the parties' possession, and those published on the TSE website, on the basis of which results were declared. Both challenges were rejected by the TSE, who declared the results on 17 December.

On 12 December, when the period for presenting challenges against the vote was over, the *Alianza de Oposición* delivered a digital file to the EU EOM, containing their copies of 14,363 results forms, of the total 18,128 polling stations across the country. The EU EOM did not receive copies of the remaining forms. Following a cross-check

between a large random sample of the results forms provided by the *Alianza* and the originals published on the TSE website, the Mission concluded that there was virtually no difference between the two sets of results forms.

The media

Freedom of expression, guaranteed by the Constitution, was generally respected during the election campaign period, in the respect that national and international media were able to carry out their work without significant impediments, despite the security problems normally faced by media professionals in Honduras. However, both in the days leading to the crisis and afterwards, Honduran authorities suddenly increased immigration controls on journalists seeking to enter the country, although in almost all cases, entry was granted within a few hours. The EU EOM also notes with concern the recent adoption of regressive legal dispositions in the Penal Code, such as those concerning the crime of apology of terrorism in the media, which could constitute serious limitations on journalists' freedom of expression.

The regulatory body for audiovisual media, the *Comisión Nacional de Telecomunicaciones* (CONATEL), whose commissioners are designated by the President of the Republic, enjoys significant disciplinary powers over broadcast media. In addition, the mechanisms for appealing against the body's decisions are insufficiently robust. It was in this context that in May 2016, that CONATEL ordered the closure of *Globo TV*, a media outlet that was critical of the Government, alleging it had not submitted a licence renewal request. This decision undoubtedly contributed to the current imbalance in the political landscape of the media, which favours the Government.

Since 2013, legal provisions enable media outlets to pay for their outstanding tax debts by publishing or broadcasting institutional advertising, in accordance with conditions established by the President of Republic. This mechanism, which affords the President ample discretion to establish the terms and conditions, could result in a conditioning of the concerned media outlets' freedom of expression. The EU EOM considers it to be contrary to international standards and recommends that it be repealed.

EU EOM media monitoring

Analysis of the election campaign coverage in the media monitored by the EU EOM reveals a notable imbalance between the candidates, to the advantage of Juan Orlando Hernández. In paid electoral propaganda, Juan Orlando Hernández obtained much greater visibility (64%) than his two main competitors: Salvador Nasralla, of the *Alianza de Oposición* (15%), and Luis Zelaya, for the *Partido Liberal* (17%). The remaining candidates did not gain more than 4% of the coverage. In news programmes too, the PNH candidate received 44% of the coverage, much more than Salvador Nasralla's 21%, Luis Zelaya's 10%, or the 25% shared between the remaining candidates. Both private and public media made efforts to present the candidates' programmes and activities, albeit often with a clear bias. *Televisión Nacional de Honduras* (TNH) clearly discriminated against the *Alianza de Oposición* and its member parties, which received just 6% of the news coverage, against the PNH's 36% and the PLH's 22%.

Women's participation

The 2012 reform of the Election Law established the principle of gender parity for the 2017 elections. However, the TSE regulation which details the mechanisms for implementing the principle of parity for the different elections, actually hampers genuine alternation between men and women in the lists for candidates to Congress, by only making it obligatory from the third, fourth or fifth position on the candidate list, depending on how many members were being elected in the Department in question. In contrast, the TSE Regulation did respect the intended alternation in the municipal lists, although in practice political parties opted for placing men as the candidate for mayor (first place on the municipal candidate list) in 75.95% of cases, overwhelmingly relegating women to candidates for deputy mayor. Just 27 women were elected as National Congress members for 2018 – 2022, 21.09% of all members, which constitutes a step back as compared to the previous Congress, where 25.7%

of members were women. These figures show to what extent the TSE's mechanism for alternating men and women whilst ostensibly respecting parity with regard to the number of women and men in the candidate lists, simultaneously allows parties to place men as candidates in the majority of seats which have better prospects.

Recommendations

Just as its predecessor did in 2013, the EU EOM submits, at the end of this report, a series of recommendations which aim to contribute to the improvement of future election processes in Honduras, for consideration by the State, electoral authorities, political parties and civil society.

Some of the 2013 recommendations have been reflected in new laws or TSE initiatives, as is the case for the creation of ceilings on campaign spending, and the adoption of transparency requirements for campaign funding, as well as the prohibition on broadcasting institutional propaganda during the election campaign. The TSE also implemented programmes aimed at facilitating participation for people with disabilities and developed voter information campaigns in indigenous and Afro-Honduran languages.

Other recommendations, however, were not considered, or did not generate sufficient consensus among different political parties. Among these, the Mission highlights the advisability of updating the RNP's registry database (which forms the basis of the voter register), and the application of corrective measures to the severe imbalances in coverage of different candidates' election campaigns. The report also includes, among other recommendations, that of adopting legislative reforms to strengthen the independence of the media regulatory body, whose commissioners are currently appointed by the President of the Republic without any participation of the National Congress, as well as improving conditions for the exercise of freedom of expression for journalists, which is potentially under threat as a result of the recent adoption of some regressive legal provisions.

The Mission also recommends the adoption of a new regulation to guarantee the genuine alternation between men and women in the candidate lists for the National Congress, in accordance with the principle of parity enshrined in the Election Law.

II. THE EU EOM AND THE 2017 GENERAL ELECTIONS

In response to an invitation by the Honduran authorities to observe the 26 November 2017 general elections, the European Union Election Observation Mission (EU EOM) was deployed on 11 October and remained in the country until 20 December 2013. Led by Chief Observer Ms Marisa Matias, member of the European Parliament, the Mission deployed 106 short-term and long-term observers from all the European Union countries, to 17 of the country's departments. The Mission's mandate was to assess the election process with reference to Honduran legislation and international standards for democratic elections, in accordance with EU observation methodology and the *Declaration of Principles for International Election Observation*, adopted under the auspices of the United Nations in October 2005. The European Union also deployed an EU EOM to Honduras in 2013.

A delegation from the European Parliament, led by Mr José Inácio Faria, joined the EU EOM for the observation of election day. The EU EOM observed the process until its completion, including the consolidation and publication of results and the management of complaints and appeals. The EU EOM published a preliminary statement on 28 November, complemented by two further statements on 8 and 18 December, all of which are available on the Mission's website (www.moeue-honduras.eu), both in English and in Spanish. This report aims to offer a more detailed account of its findings on different elements of the election process and also includes a number of recommendations based on these findings.

The EU EOM wishes to thank Honduran citizens, the TSE, the Ministry of Foreign Affairs and other national authorities, as well as the political parties, national and international observation missions and other Honduran civil society organisations, for their cooperation and warm welcome throughout the mission's presence in the country. Equally, the EU EOM appreciates the support it received from the European Union Delegation in Honduras, and from the diplomatic missions of European Union member states.

III. POLITICAL CONTEXT

On 26 November, Honduran citizens elected their President, the 128 members of the National Congress, and mayors and councillors in the 298 municipalities, as well as, indirectly, their 20 members of the Central American Parliament (PARLACEN).¹ Nine candidates ran for the Presidency - one of whom, Salvador Nasralla, ran for the *Alianza de Oposición contra la Dictadura*, a coalition of *Libertad y Refundación* (Libre) and the *Partido Innovación y Unidad* (PINU). Ten political parties competed in the general elections, as well as independent candidates in the municipalities. The *Partido Nacional* (PN), *Partido Liberal* (PL) and Libre chose their candidates by holding primary elections in March 2017.

For the first time since the promulgation of the Constitution in 1982, a President in office ran for re-election - Juan Orlando Hernandez (JOH), of the National Party (*Partido Nacional*, PN). This came in the wake of a 2015 ruling by the Supreme Court, which declared the Constitutional prohibitions on re-election inapplicable. The court decision, which de facto removes presidential term limits, was strongly contested from the outset and continues to be denounced by the main opposition forces, although these nonetheless decided to take part in the elections. Clearly, the issue of presidential re-election, which triggered the *coup d'état* of 2009 and the removal from power (and from the country) of then President Manuel Zelaya, overshadowed an already polarised election process.

IV. ELECTION SYSTEM

The President of Honduras is elected by simple majority in a one-round election, from a nationwide constituency. The same applies to the three vice-presidents, who also appear on the presidential election ballot, and whose duties are determined by the President. Of the nine candidates who ran for the Presidency in 2017, eight were put forward by political parties², and one by a coalition.³ The 20 members of the Central American Parliament (PARLACEN) reserved for Honduras are distributed proportionately among the parties according to the results they obtained in the presidential election, with the significant caveat that the Election Law guarantees that each party should have one seat in the PARLACEN, regardless of their candidate's results.

The 128 members of the National Congress⁴, as well as their 128 deputies, are elected by a proportional system⁵, on open lists in 16 of the 18 constituencies (these are the country's territorial departments) – those which elect more than one Congress member. For the remaining two departments, where just one Congress member is elected, the election is won by a simple majority. There is no minimum threshold for representation in Congress.

¹ The 20 seats reserved for Honduras in the Central American Parliament are attributed to political parties in function of their results in the presidential elections.

² Juan Orlando Hernández (PN), Luis Zelaya (PL), Romeo Vásquez (*Alianza Patriótica Hondureña*), Marlene Alvarenga (*Partido Anticorrupción*), Lucas Aguilera (*Partido Demócrata Cristiano de Honduras*), José Díaz Narváez (*Unificación Democrática*), Isaias Fonseca (*Frente Amplio*), Eliseo Vallecillo (*Va Movimiento Solidario*).

³ Salvador Nasralla, candidate for the Opposition Alliance against the Dictatorship (*Alianza Opositora contra la Dictadura*), composed of the Libre and PINU parties, exclusively for the purposes of the presidential election.

⁴ Ten parties contested the elections: *Partido Nacional de Honduras*, *Partido Liberal*, *Libertad y Refundación*, *Alianza Patriótica Hondureña*, *PINU*, *Partido Anticorrupción*, *Partido Demócrata Cristiano de Honduras*, *Unificación Democrática*, *Frente Amplio* and *Va Movimiento Solidario*.

⁵ D'Hondt method.

In the constituencies with several seats, the parties present lists of as many candidates as there are seats in the constituency, and all lists appear on a single ballot. Voters may mark as many candidates as there are seats to be elected, from one or several parties. The seats are attributed in accordance with the number of votes obtained by each political party, and successful candidates are those who obtain the most votes within their party's list. As such, it is possible that a candidate is elected because his or her party received many votes in the constituency in question, despite the fact that an individual candidate from another party may have obtained more votes.

This method for allocating seats, based on the votes received by each party rather than those obtained by individual candidates, took on particular relevance in the 2017 elections as the TSE adopted a new regulation regarding how ballots could be marked, which was approved by a majority vote of the TSE magistrates – the magistrate close to the Liberal party voted against.⁶ Previous versions of this regulation only considered valid those votes which were marked individually on each of the chosen candidates. The new regulation accepted votes marked as a single continuous line ('*voto en línea*') across each of the candidates from a particular party. The new regulation, which did not contradict the provisions of the Election Law, provoked string criticism from the opposition, which considered it to be a concession from the TSE to the National Party's strategy. The PN, more centralised and hierarchical than the main opposition parties, actively promoted the *voto en línea* during its election campaign, and significantly limited its candidates' individual campaigns, although these had hitherto been traditional in Honduras.

V. ELECTION CAMPAIGN

During the election campaign, candidates from all political forces - representing the full political spectrum in Honduras - were generally able to enjoy, without undue restrictions, their rights to freedom of assembly and association, as well as freedom of expression and freedom of movement, although this last was sometimes limited in areas with a strong presence of organised crime. Although the campaign was generally peaceful, lamentably several political activists were murdered, for motives – political or otherwise - which have not been established.

The campaign made clear that there was a significant disparity between the resources and media access available to different candidates, and that this imbalance favoured the ruling party. The EU EOM recorded instances of State resources being used for campaign purposes, which is prohibited by law. Most cases involved the party political use of governmental social programmes.

The Mission welcomes the approval of the Law on Clean Politics, which includes some of the recommendations made by the EU EOM in 2013, such as the establishment of limits on campaign spending as well as transparency measures concerning the source of individual candidates' campaign funding. However, the law does not extend these requirements to political parties' campaign funding and spending. In addition, the Unit created to oversee compliance with the new rules did not have the resources necessary for carrying out its duties efficiently. For these reasons, the EU EOM recommends extending the new law's requirements to political parties, and reinforcing the resources available to the Clean Politics Unit.

The election campaign officially began on 28 August and lasted 90 days, until 20 November. During this time, candidates from all political forces and independent candidates alike were generally able to enjoy, without undue restrictions, their rights to freedom of assembly and association, as well as freedom of expression and freedom of movement; although this last was sometimes limited in areas with a strong presence of organised crime. Nonetheless, despite the fact that the campaign was generally peaceful, the EU EOM is aware of cases of violence against candidates and activists from different parties in seven departments.⁷ However, considering that investigations are still underway, it is difficult to determine whether some or all of these incidents – which

⁶ Acuerdo 11-2017 del TSE, 28 July 2017.

⁷ Francisco Morazán, Olancho, Copán, Atlántida, Cortés, La Paz, Comayagua.

included the murder of six activists for the *Partido Nacional*, Libre and the *Partido Liberal* – were of a political nature or not.

In the absence of televised debates involving all nine presidential candidates, and a very limited number of events with massive attendance, the campaign was largely low-key, with an emphasis on door-to-door activities, caravans and small political rallies. Only the main presidential candidates held larger-scale rallies in the departmental capitals of the country, particularly in the last fortnight of the campaign.⁸

The campaign took place in an extremely polarised atmosphere and was marked by the notable inequality of resources between competitors, to the advantage of the ruling party, as well as by Libre and the PL's claims of planned electoral fraud to ensure the victory of the PN's presidential candidate.⁹ The *Partido Liberal* and the *Alianza de Oposición* focused much of their messaging on questioning the TSE's neutrality and they demanded that the company contracted for the transmission of results be changed, as they accused its senior managers of having strong links to the *Partido Nacional*. The ruling party, for its part, launched a centralised campaign which championed the achievements of its presidential candidate and actively promoted the vote for all its candidates for Congress (a 'continuous line' vote), as opposed to the traditional legislative campaigns in Honduras, wherein candidates for the same party competed against each other for the vote, within the open list system. Security, poverty, job creation and the fight against corruption were the topics which dominated most parties' electoral agenda.

Inequality of election campaign resources and use of State resources

The different contender's unequal economic resources, to the advantage of the *Partido Nacional* and its candidate Juan Orlando Hernández, was evident throughout the election campaign. This imbalance was particularly acute in the media, both with regard to the presence of different candidates in news coverage and the volume of paid propaganda (see Media section), but was also visible in the streets and squares, as confirmed by the two random samples of posted election propaganda analysed by the EU EOM.

On 4 November, observers in 11 Departments of the country were asked to count the first 25 campaign posters they saw, following a random route from their base. After weighting to reflect the different poster types, the distribution among parties was as follows: PN 42.2%; PL 21.5%, Libre 13.1%; DC 6.5%, *Alianza de Oposición* 4.4%; PINU 3.3%; UD 2.9%; FA and VAMOS 2.2% each; APH 1.5% and PAC 0.3%. The exercise was repeated on 16 November, four days before the end of the campaign, counting the first 50 posters on a new route. On this occasion, 32.27% of the posters belong to PN, 13.64% to PL; 22% to Libre; 5.82% to DC; 3.64% to the *Alianza de Oposición*; 7.27% to PINU; 3.27% to UD; 0.91% to FA; 1.92% to VAMOS; and just 0.18% belonged to *Alianza Patriótica*.

The inequality of resources was exacerbated by instances of using State resources for campaign purposes (prohibited by the Election Law), almost always carried out by the President's party. The EU EOM observed this practice in four Departments (Lempira, Cortés, Olancho y Copán) for the benefit of *Partido Nacional* candidates and one (in Choluteca) for *Partido Liberal* candidates. The pattern was similar throughout the country, with numerous observations of campaign use of State-owned vehicles, public institutions and spaces, and

⁸ Between 28 October and 20 November, the EU EOM observed 55 campaign events in 13 departments of the country (Francisco Morazán, Atlántida, Colón, Comayagua, Copán, Cortés, Lempira, Olancho, Santa Bárbara, Ocotepeque, Yoro, La Paz, Valle). The observers attended 19 campaign events by the PL, 16 by the PN, 14 by the *Alianza de Oposición*, 3 by Libre, 2 by VAMOS and one by the APH.

⁹ On 17 October, the Liberal and Libre parties signed an 'agreement in defence of transparency, as a democratic guarantee,' with a list of demands, largely directed at the TSE. The leading signatories constituted a committee to monitor the fulfilment of their demands and announced that they were uniting their political forces in order to 'fight in the streets against *continuismo* [maintenance of the status quo], the imposition of dictatorship and electoral fraud,' as well as its withdrawal from the *Consejo Consultivo*.

mobilisation of public servants. In some cases children were used for campaign purposes during school hours, for example in the Department of Lempira.

However, the most pertinent and certainly most frequently observed phenomenon was that of the very blurred distinction between the Government and the *Partido Nacional* during the distribution of goods and services in the context of State social programmes, such as *Bolsa Solidaria* (Solidarity Bag), *Vida Mejor* (Better Life) or Bono 10,000. For example, in Cortés the PN stored and distributed goods through the government's *Vida Mejor* programme in response to floods which affected the northern part of the country just weeks before the elections, from the party headquarters.

Campaign financing and the Clean Politics Law

Political parties finance their campaigns through both public allocations and private donations. Public funding is known as the *deuda política*, and is delivered in two parts: the first 60% is provided within 15 days of elections being called, and the remaining 40%, based on the election results, is provided in the first trimester of the year following elections. For this election process, the *deuda política* was set at 39.39 lempiras (1.5 euros) per vote, in addition to a contribution for transport.¹⁰

In order to improve regulation of private financing of campaigns, and in line with the 2013 EU EOM's recommendation, in 2016 the National Congress approved the Law on Financing, Transparency and Auditing of Political Parties and Candidates, known as the *Ley de Política Limpia*, the Clean Politics Law. The new law strengthens the requirements for transparency regarding the sources and uses of campaign financing and sets spending limits, with the aim of tackling corruption, illicit party and candidate funding, and the penetration of money from drugs trafficking and other organised crime in election campaigns.¹¹

The Clean Politics Law is clearly an improvement in terms of transparency, and its first implementation coincided with a notable drop in the estimated spending on the 2017 campaign as compared to 2013, both in the media and in conventional propaganda. However, although spending limits can be a useful mechanism for contributing to a more level playing field for the different parties and candidates, this was clearly not the case for the 2017 process, as was seen in the previous section. According to most of the EU EOM's interlocutors, this paradox would seem to be due to the fact that the ceiling set by the TSE is still fairly high, allied with the difficulties encountered by the two main opposition parties in securing funding from the business sector.

The Law established a Unit for Finance, Transparency and Auditing, known as the Clean Politics Unit, as a unit within the TSE with significant investigative and auditing powers, as well as the power to sanction parties and candidates which violate the financing rules or fail to fulfil their financial reporting duties.¹² The Unit is led by three magistrates who were however appointed on 20 May 2017, just three months before the start of the election campaign.

The EU EOM identified serious budgetary, personnel and logistics deficiencies which limited the Clean Politics Unit's operational capacity in this first exercise, particularly considering the numerous tasks it was charged

¹⁰ In 2017 the PN received 45.2 million lempiras; Libre 35.3 million; PL 24.9 million; PAC 16.5 million; and the UD, DC, PINU, FAPER and APH parties each received 6.7 million lempiras.

¹¹ As well as setting limits on campaign spending, the Law limits private donations and regulates both donations of money and donations in kind, for candidates in all of the elections. All contributions must be made to a bank account for the purpose, and both political parties and candidates are required to designate finance officers and present a report on the amounts received, whether these are monetary or in kind.

¹² For the first time in the electoral context, parties and candidates who failed to submit their financial reports could be sanctioned. The sanctions range from cumulative fines to the cancellation of a political party's registration. In cases where the Finance Unit, mandated to oversee the implementation of the law, discovers a candidate's use of resources from illegal sources, the sanctions are more severe, and can include retroactive ineligibility.

with.¹³ In this respect, it is important to note that although the new law grants the Unit technical and operational autonomy, as well as the independence to manage its own budget, in reality the Unit was only able to work thanks to loans from the TSE.

Only once the Clean Politics Unit is genuinely operational will it be possible to evaluate the impact of its auditing, and indeed its independence, which has been questioned in some circles due to the political affiliation of its three commissioners to the PNH, PLH and Libre.¹⁴ At the time of writing, the Clean Politics Unit is still verifying candidates' reports on campaign spending and funding.¹⁵

VI. LEGAL FRAMEWORK

The legal framework for elections in Honduras generally provides an adequate basis for holding democratic elections. Nonetheless, the Election Law suffers from some inconsistencies and gaps which it would be advisable to update and complete through electoral reform, prior to future election processes. This is the case regarding responsibility for aggregation of results, which the law attributes to the TEM and TED, although the process has for many years been computerised and centralised at the TSE. Equally, where the Election Law does not specify deadlines for appeals and their resolutions, the application of deadlines established by the Administrative Procedures Law (LPA) results in delays which are not compatible with the electoral timeframe. The TSE made use of its ample regulatory powers and approved the regulations necessary for the effective implementation of the Election Law, although in some cases, it did so with significant delays. In a positive measure taken in line with recommendations by the 2013 EU EOM, the regulation on annulment petitions and special recounts, included, for the first time, clearly-established criteria according to which citizens could request special recounts, as well as deadlines and procedures for doing so. For the first time, a special recount could be requested without simultaneously calling for the vote to be cancelled.

The legal framework for elections in Honduras generally provides an adequate basis for holding democratic elections, in line with the country's international commitments. Honduras has ratified the main regional and international treaties on human rights, which enshrine the rights to political participation, freedom of expression, assembly and association.¹⁶ In Honduras, international treaties are part of national legislation and, with the exception of the Constitution; they take precedence over the remaining laws of the country.

The legal framework for the 2017 electoral process in Honduras was principally defined by the 1982 Constitution, the 2004 Election Law (*Ley Electoral y de las Organizaciones Políticas*) and the 2005 Civil Registry

¹³ The Unit concluded the hiring of 10 auditors just a week before the elections, and was thus deprived of essential staff during almost the entire election campaign. Due to restrictions on the budget and personnel, the Unit was unable to attend candidates' or political parties' events in order to corroborate the veracity of their reports, and was only able to carry out a partial audit of the posters and billboards in the streets.

¹⁴ See section in Campaign Funding.

¹⁵ Due to limited staff, the Unit limited the number of candidates whose funding and spending must be audited by law to 3,930 – this figure includes all 'main' candidates, and excludes the *suplentes*, or candidates for deputy positions.

¹⁶ In the *context of the United Nations*, key treaties include the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of Persons with Disabilities, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, The Indigenous and Tribal Peoples Convention (ILO 169), and the Convention Against Corruption. In 2002, Honduras ratified the Statute of the International Criminal Court.

In the *regional context*, important commitments include the American Convention on Human Rights, Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, Inter-American Convention against Corruption. Honduras has not signed the Inter-American Convention against Racism and All Forms of Discrimination (a 68) of 2013.

With regard to international commitments not included in treaties, key undertakings include the 1948 American Declaration on the Rights and Duties of Man, and the 2001 Inter-American Democratic Charter.

Law (*Ley del Registro Nacional de las Personas*). This framework was notably enriched by the promulgation, in January 2017, of the Law on Financing, Transparency and Auditing of Political Parties and Candidates (known as the *Ley de Política Limpia*, the Clean Politics Law) which, consistent with one of the main recommendations made by the 2013 EU EOM, introduced limits on election campaign spending as well as on campaign funding, among other measures.

Since 2014, the National Congress has launched numerous electoral reform initiatives but only two relatively minor modifications have been approved. The first, a *Libre* and *Partido Nacional* initiative, enables alliances between a party's internal movements in the context of primary elections (art. 166 of the Law), and the other reformed the Election Law to make it consistent with the provisions of the Law on Financing and Transparency (art.83 of the Law). As such, with the exception of the new Clean Politics Law, the number of electoral reform initiatives which have been approved are very limited in number.

The Election Law suffers from some inconsistencies and gaps which it would be advisable to update and complete through electoral reform, prior to future election processes. This is the case regarding responsibility for aggregation of results, which the law attributes to the TEM and TED, although the process has for many years been computerised and centralised at the TSE. Equally, where the Election Law does not specify deadlines for appeals and their resolutions, the application of deadlines established by the Administrative Procedures Law (LPA) results in delays which are not compatible with the electoral timeframe.¹⁷

TSE Regulations

The Tribunal Supremo Electoral (TSE) made use of its ample regulatory powers, and approved 27 decisions, ranging from the convocation of primary and general elections, to the corresponding declarations of results, as well as 16 Regulations and Instructions on different aspects of the process. These include the development of key elements of the process, such as the status and responsibilities of the *custodios electorales*, the application of the principle of parity in candidate lists, and the application of the Law on Clean Politics, and election observation. In general, the TSE adopted regulations in good time, with the exception of the regulation on the transmission and aggregation of results¹⁸ and that on *acciones de nulidad* (annulment petitions)¹⁹ and special recounts, which were published just two days before the elections.

The regulation on the manner of marking ballot papers enables marking by means of a single continuous line through all candidates from one party (so-called *voto en plancha*) in the elections to the National Congress, while the previous regulation established that each vote should be an individual mark for each of the candidates of choice. This new provision by the TSE, which carries with it important practical effects in the Honduran system of open lists, was supported by the Partido Nacional (which promoted the continuous line as one of its main campaign messages to improve its prospects in Congress) and was strongly criticised by the Alianza and other opposition parties. The EU EOM notes that while the TSE's new position on the matter did nothing to assuage perceptions of the institution's partiality, it is also true that it did not contradict the provisions of the Elections Law (art. 124) since, in any case, it did not make the newly-mentioned marking obligatory, but merely an option for voters.

¹⁷ According to the LPA, the TSE has up to 60 days to resolve the appeals or complaints it receives.

¹⁸ As will be seen below, both the *Partido Liberal* and the *Alianza* rejected the Mapa Soluciones company contracted for the transmission and aggregation of results, which resulted in a replacement of the company charged with these responsibilities barely a month before the elections. Mapa Soluciones had been contracted for the electronic transmission of results since the 2009 primary elections. The National Anticorruption Council presented a complaint to the Public Prosecutor's Office, denouncing several management figures in the TSE for serious irregularities in the procurement process leading to hiring the company.

¹⁹ An *accion de nulidad* is essentially an appeal to the TSE to cancel the vote in a particular polling station, for one of the reasons established by the law. A polling station's vote can be cancelled where the right to vote was not respected, if there was violation of the right to a secret vote, or where there is evidence that results forms have been altered with the intention of changing the result.

Notably, the regulation on the transmission and aggregation of results introduced the possibility of political parties' technical auditors attending all stages of the process. In addition, the regulation proposed that a server be installed in party headquarters, in order to facilitate parties' immediate access to the results. However, the regulation did not specify the number of signatures required to make a results form valid, although in practice the TSE applies its criterion of a minimum of four signatures. Equally, the regulation did not list all of the *casos de uso*, that is, the criteria according to which a results form may be sent to the Monitoring Hall for further study, before being validated or sent for a special recount.

Finally, positive measures taken in the regulatory framework include the regulation on annulment petitions and special recounts, as this was the first time that there were clearly-established criteria according to which citizens could request special recounts, as well as deadlines and procedures for doing so. For the first time, a special recount could be requested without simultaneously calling for the vote to be cancelled.

The Clean Politics Law

As noted above, the new Clean Politics Law constitutes an important improvement to the electoral framework, by imposing limits on campaign spending,²⁰ limits on candidate financing, and by reinforcing the transparency of candidates' income and spending. The new law also strengthens the prohibition on using State resources or goods for campaign activities and makes the penalties for infractions more severe. The elections on 26 November were the first test for the new law's mechanisms, which were not applied during the primaries.

Nonetheless, the law suffers from some important gaps, such as the absence of ceilings on campaign spending for political parties (the limits established by the law refer exclusively to spending for individual candidates), and the lack of regulation for campaign spending through social networks. The same can be said regarding the lack of sanctions for delays in opening the bank account through which candidates must process all their campaign funding and spending (as a guarantee of the operations' transparency and traceability), or for instances where candidates fund their campaigns through crowdfunding events, without notifying the auditing body.

In order to implement its provisions, the Clean Politics Law established an Auditing Unit, attached to the TSE but enjoying a certain autonomy, which began its activities just three months prior to the start of the elections campaign and with serious budgetary limitations, affecting both personnel and logistical capacity. The Unit did not enjoy regulatory powers, although it was able to adopt its own operational protocols, such as the Protocol for the protection of whistleblowers and sanctions for false accusations.²¹

VII. CIVIL REGISTRY AND VOTER REGISTER

The voter register, prepared by the TSE on the basis of data from the Civil Registry (RNP, Registro Nacional de las Personas), is generally considered to be inclusive, but insufficiently accurate, as it contains superfluous entries. The inclusion of entries for deceased people and emigrants has long catalysed suspicions concerning the risk of

²⁰ The TSE has regulated campaign spending limits (Regulation N^o. 7-2017), elaborating on the provisions of article 14 of the Clean Politics Law, and developing formulae for calculating said limits, based on the number of voters and a figure for the cost of a vote (39 Lempiras). The Regulation of the Clean Politics Unit (N^o. 13-2017) also complements the law by detailing what candidates and parties should address in their reports, and by providing some clarifications on private financing and sanctions in case of infringements of the law.

²¹ The Protocol develops on the provisions of article 64 of the Clean Politics Law, the objective of which is to protect citizens and public servants who report cases of corruption, abuse of State resources or other violations of the law, as well as to avoid false accusations. Although the Protocol was approved on 8 September, it was not published until 10 November, as a result, according to the Clean Politics Unit, of excessive workload and insufficient resources. So far, the impact of the Protocol has been limited since, in addition to its late publication, the mechanisms for facilitating reports of violations were not fully and effectively implemented.

fraudulent voting by means of impersonation, although the Honduran system retains numerous safeguards against such attempts. On these grounds, as in 2013, the EOM considers it important, in order to ensure an accurate voter register, that the Civil Register be updated and inaccurate entries be removed. In addition, given the persistent practice of fraudulent changes of registered residence, which can have some impact on the outcome of municipal elections, the Mission recommends that in future it be obligatory, by regulation or even the Election Law, to provide evidence to show that requests for residence changes are genuine, before change can be reflected in the voter register.

The Constitution guarantees the right to vote for all citizens aged 18 or above, in line with the principle of universal suffrage. This right is suspended for serving members of the armed forces and the police force, as well as those subject to a judicial suspension, or those who have been sentenced to six or more years of imprisonment. However, in practice there is no provision to facilitate the vote for prisoners serving shorter sentences, nor for those in pre-trial detention. The Electoral Law provides for voting from abroad for the presidential election. For budgetary reasons, the TSE organised voting centres only in the seven cities in the United States of America with the greatest number of Honduran citizens.²²

The voter register is drawn up by the TSE, on the basis of figures provided by the *Registro Nacional de las Personas* (RNP), and it therefore reflects the same strengths and weaknesses as the civil registry.²³ The register is generally considered to be inclusive, but insufficiently accurate, as it contains superfluous entries. Both the RNP and the TSE recognise the existence of a significant although unquantified number of entries of deceased people, because these deaths have not been reported to the RNP. In addition, the majority of Hondurans who live abroad do not communicate their new residence, and therefore remain registered in the towns and villages of origin, where they are very unlikely to vote. The presence of entries for deceased people and emigrants in the voter register has traditionally fuelled suspicions about the risk of fraudulent voting, although the Honduran electoral system has a number of important safeguards against such attempts. These include the fact that the voter lists in polling stations contain citizens' photograph as well as their identity number, the high quality of identity cards, which must be presented in order to vote, and the presence of political parties in polling stations.

Just as in 2013, the EU EOM received allegations of fraudulent changes of registered residence, undertaken with the aim of increasing the prospects of municipal candidates, by transferring voters from one municipality to another. The EU EOM has collected some credible evidence that this practice persists in rural municipalities, although it has not been able to establish the scale of the problem.²⁴

In the weeks prior to the elections, the RNP deployed mobile teams to facilitate the distribution of identity cards requested by citizens. EU EOM observers noted that although this was a positive exercise and generally took place without interference by political parties, better communication to the public about distribution times from voting centres and better coordination between the RNP and the municipal civil registrars and municipalities would have enabled a greater number of deliveries. Nonetheless, undelivered identity cards were stored in the municipal registry officers, where they could be collected by their owners.

²² Houston, Los Angeles, Miami, New Orleans, New York, Washington and Atlanta. Of the 50,617 citizens officially registered with the Honduran authorities as residing in the US (a small proportion of the number of Hondurans actually settled there), just 5% turned out to vote.

²³ Although on occasions there is insufficient coordination between the TSE and the RNP regarding their respective databases.

²⁴ The RNP received almost 290,000 requests to change residence, and these need to be authorised by the TSE in order to be reflected in the voter register. Of these, the EU EOM considers that approximately half of the changes involved a change of municipality—the only type of change which could have an impact on the elections. According to the TSE, 31,000 requests were rejected, due to errors in the request or because it was found that the change was unfounded.

VIII. CANDIDATE REGISTRATION

Neither the Constitution nor the Election Law imposes unreasonable limitations on the right to stand. As such, political parties representing the full spectrum of Honduran politics were able to register their candidates, without undue interference from the election administration. The Supreme Court's ruling, declaring inapplicable those constitutional precepts that prohibit presidential re-election, was contested by the main opposition forces although they nonetheless decided to take part in the elections. It is not for the EU EOM to comment on the decision of the Supreme Court's decision and considers that, if Honduran stakeholders agree, it would be useful to seek a broad consensus among political forces on how to regulate an issue that is of such importance and sensitivity in the Honduran context.

Presidential re-election

For the first time since the promulgation of the 1982 Constitution, a President in office ran for re-election. The ruling in April 2015 by the Supreme Court's Constitutional Chamber declared inapplicable the constitutional precepts prohibiting presidential re-election, on the grounds that these were contrary to the principle of equality and the right to political participation enshrined in the Constitution and in the international treaties ratified by Honduras.²⁵ This ruling came in response to a constitutional challenge submitted by a group of Congress members from the *Partido Nacional* and the *Unificación Democrática* (UD) parties, alongside another by the former President Callejas Romero.

The court's decision, which de facto removes presidential term limits, was strongly contested by the main opposition forces which, nonetheless, decided to take part in the elections.²⁶ It is not for the EU EOM to comment on the decision of the Supreme Court's decision and considers that, if Honduran stakeholders agree, it would be useful to hold a debate on the subject, with a view to reaching a broad consensus among political forces on how to regulate an issue that is of such importance and sensitivity in the Honduran context.

The TSE, the Supreme Court's Constitutional Chamber and the Public Prosecutor's Office²⁷ have all received challenges and appeals against the registration of President Juan Orlando Hernández as candidate. All have been rejected, declared unfounded, or left unanswered to date.

²⁵ Article 42.5 and 239, and part of article 374, regarding the impossibility of changing the Constitution's provisions prohibiting re-election.

²⁶ It is worth noting that the re-election ruling is not the only Supreme Court ruling which has been severely criticised by the opposition for being favourable to the interests of the ruling party. Such was also the case of the ruling in January 2016 which, on similar grounds, reinstates the legal status of two parties, the *Frente Amplio Político Electoral en Resistencia* (FAPER) and the *Alianza Patriótica Hondureña*, cancelled by the TSE for not having obtained, in 2013, the minimum number of votes required by the election law to remain in existence. These parties have been repeatedly accused by the opposition of being void of any popular support, but instrumentalised to the benefit of the ruling party, in the respect that, according to the main opposition parties, they enable the ruling party to ensure a greater presence and influence in polling stations and in the municipal and departmental electoral tribunals.

²⁷ The EU EOM is aware of at least five lawsuits for treason (a crime that figures in several provisions of Honduran legislation – the application of which has been suspended by the Constitutional Chamber – and includes instances of apology of presidential re-election, or approval of Constitutional reform with the aim of introducing the possibility of presidential re-election.)

1) Congress members from the *Partido Anticorrupción* (PAC) against former president Rafael Leonardo Callejas and magistrates for the Constitutional Chamber of the Supreme Court of Justice 25/04/15; 2) The *Frente Patriótico de Defensa para la Constitución*, against former magistrates of the Constitutional Chamber of the Supreme Court 26/04/16; 3) Libre primaries candidate (of the MRP internal movement), Rasel Tomé, against Juan Orlando Hernández 7/11/16; 4) René Adán Tomé, former Special Prosecutor for the defence of the Constitution, against Saúl Escobar and David Matamoros (TSE) 9/3/17; 5) Salvador Nasralla, against the plenary of TSE magistrates 11/5/17. According to the information received by the EU EOM, the Public Prosecutor's Office has not taken in action in relation to these legal challenges.

Among the challenges submitted to the TSE against the President's registration as a candidate, two had a particularly big impact in the media during the election campaign: firstly, that presented on 17 October by a group of 37 citizens, and secondly that submitted on 19 October by *Convergencia contra el Continuismo*, a platform made up of civil society groups, together with the Alianza coordinator, former president Zelaya Rosales, Alianza's presidential candidate Salvador Nasralla, and the President of PINU-SD, Guillermo Valle.²⁸

Both challenges outline legal arguments regarding the illegality of re-election and the Constitutional Chamber's ruling that enables it, which they consider blatantly unconstitutional. On that basis, they reproach the TSE for having accepted the ruling and enabled President Hernández to run in the primary elections for his party, and they ask the TSE to re-consider. Lastly, the challenges underline the incompatibility, established in the Constitution, between being a candidate for the presidency and being Chief of the Armed Forces, Police and security forces.²⁹

Candidate registration

Neither the Constitution nor the Election Law imposes unreasonable limitations on the right to stand. As such, political parties representing the full spectrum of Honduran politics were able to register their candidates, without undue interference from the election administration. Independent candidacies are allowed, and for this electoral process, the TSE registered 45 independent candidacies at municipal level, and rejected 12, almost always for not having provided the minimum number of signatures of support required by law.

Primary elections are obligatory for those parties that have declared they have more than one internal movement. This was the case for three of the 10 registered parties - the PNH, the PLH and Libre - which elected their candidates for all elections on 12 March 2017. For the first time, following a reform of the Election Law which was supported by the Partido Nacional and Libre, alliances between internal movements were allowed.³⁰

Finally, it is worth noting that although the Election Law forbids candidates who were unsuccessful in their party's primary elections to run with other parties or as independent candidates (article 131), application of this provision was suspended by the Constitutional Chamber on 28 June 2013, on the grounds that it unreasonably restricted the right to stand. The EOM noted several cases of municipal candidates who, having been unsuccessful in *Partido Nacional* primaries, ran for election for VAMOS, a newly created party.³¹

V. ELECTION ADMINISTRATION

The TSE organised the elections in a generally efficient manner, guaranteed access to parties and observers to each of the process' stages and implemented a transparent system for the publication of results which enabled verification by candidates and citizens alike. In addition, the Tribunal was flexible with the deadlines for submitting post-electoral challenges. Nonetheless, perceptions of the TSE's neutrality were marred by the fact that its magistrates were elected without any participation by the new political forces which emerged from the 2013 elections. Perceptions of the TSE were also damaged by the adoption of some decisions which the main

²⁸ The first challenge was declared inadmissible for being out of time and for some formal deficiencies. The same fate was reserved for the second challenge, presented by *Convergencia contra el Continuismo*, for not having registered the movement as a legal entity, nor its members as official representatives. Later, the TSE declared the same challenge, as submitted by the other three appellants, to be manifestly inadmissible.

²⁹ According to article 245 of the Constitution, the President bears the afore-mentioned responsibilities. According to article 240, the Head of the Armed Forces, the Police and the Security Forces may not be a presidential candidate.

³⁰ Reform of article 116 of the Election Law, recognising the possibility of complete or partial alliances between internal movements.

³¹ The EOM is aware of cases in Copán y Ocotepeque.

opposition parties considered to be favourable to the ruling party. These opposition parties denounced electoral fraud.

The current TSE was elected by the outgoing Congress in early 2014, just a few weeks before the inauguration of the new Congress. As a result, its composition does not reflect the multiparty landscape which emerged following the 2013 elections, since the members of Congress from the emerging parties, Libre and the *Partido Anticorrupción* (PAC), did not participate in the election of the TSE magistrates. In 2016, Congress debated and voted on the first reading of a proposal to increase the number of TSE magistrates, which would have enabled including the new political forces, but the reform was never approved.

In a context of political polarisation, the absence of magistrates close to these new parties has had a negative effect on perceptions of the TSE's neutrality, both among opposition parties and in public opinion. These perceptions were compounded by the adoption of some decisions which opposition parties considered to be in the interest of the *Partido Nacional*, and which were widely echoed in the media, such as the regulation concerning how to mark ballots³² or the contracting of the company originally responsible for the transmission and processing of results, denounced by the *Partido Liberal* as close to the ruling party.³³ The TSE's erratic communications strategy regarding incoming results on the night of the elections clearly did nothing to improve its image.

Despite this perception, and partly in response to it, the TSE actively fostered consultation and consensus with political parties, albeit not always with success, both within the *Consejo Consultivo* (the forum for information and debate between the TSE and all political parties), and through informal meetings, particularly after the main opposition parties withdrew from the *Consejo* on 25 October. In addition, the TSE guaranteed that all political parties had access to all stages of the election process, from giving them copies of the voter register, to enabling their attendance at recounts following the elections.

Furthermore, the TSE implemented a system for the transmission, aggregation and publication of results which prioritises transparency and thus verifiability of information. The system enables political parties, candidates and the general public to compare the official copy of the results form (*acta de cierre*) given to party representatives in polling stations, against the scanned image of the form which is used to process and compile results, which is published on the TSE website. Moreover, the results recorded by polling station staff are entered into the database by TSE operators by means of a double-blind data entry system, which serves to protect the system from any operator's possible political bias, as well as from human error. The EU EOM observed that results processing took place transparently and in the presence of those political party representatives who chose to attend, although it is regrettable that publication of results forms was interrupted for several hours during the evening of 26 November, before being restored in the early hours of 27 November.

EU EOM observation confirmed that in the election administration's representations throughout the country – the *Tribunales electorales departamentales y municipales* (TEDs and TEMs) - and among polling station staff (*mesas receptoras de voto*, MER), the main responsibilities were equitably distributed among representatives from all political parties, in accordance with the law. However, as was the case in 2013, the EU EOM observed on numerous occasions that some TED and TEM members barely knew which party they were representing, or even admitted to working for a different party to the one they were supposedly representing. EU observers reported that although there has been some improvement in communication between the TSE and its representations at departmental and municipal level, whose responsibilities have become largely limited to logistical activities, the TEDs and TEMs frequently lacked information and, in particular, the necessary resources to carry out their roles efficiently.

³² The new regulation allows voters to select all candidates for Congress from one party by drawing a continuous line, rather than marking each candidate separately, as has hitherto been traditional in the Honduran open list system. The *Partido Nacional*, more centralised and hierarchical than other parties, focused its campaign for the elections to Congress on calling for '*voto en línea*' and restricted its candidates' individual campaigns.

³³ The company was finally replaced by the TSE just one month before the elections.

In general terms, the TSE carried out logistics operations in an efficient manner, in some cases with the neutral and professional support of the Armed Forces, and it almost always met the deadlines set out in its electoral preparations programme. The TSE deployed an intensive training programme tailored to the different actors in the process, relying on high-quality materials and professional trainers, and also prepared voter education activities, primarily through advertisements in the media and information kiosks in the department capitals. Neither the late replacement of the company responsible for results transmission and nor the difficulties encountered in hiring the *custodios electorales* had a negative impact on the electronic transmission of results forms, which took place successfully in 71.5% of observed cases, a similar success rate to that in 2013.

IX. VOTING, AGGREGATION AND PUBLICATION OF RESULTS

Election day

Election day was peaceful and generally well organised by the TSE. Voting went smoothly, people were able to vote freely, and secrecy of the vote was respected. The performance of polling station staff and their respect for procedures was evaluated to be good or very good, as was the work carried out by the *custodios*³⁴, who were present in almost every voting centre attended by the Mission. In the polling stations observed by the EOM, women made up 62% of polling station staff, and 55% of polling staff presidents. The EU EOM observed that some electoral material was missing in 13% of the polling stations it attended, and that in 90% of cases, this was remedied before midday.

The observers considered that in 30% of cases, the presence of political parties in the immediate surroundings of voting centres included activity which could influence voter's choice. Throughout the country, the EU EOM observed all parties carrying out campaign activities and attempts to attract voters' support, often in an invasive manner; in addition, the EU EOM observed lotteries and distribution of goods by candidates in the Caribbean departments of Atlántida, Colón and Gracias a Dios, as well as in Lempira.

The National, Liberal and Libre parties were represented in more than 90% of the polling stations observed (99.4%, 93.6% and 92.7%, respectively), while others were present to a much lesser extent, such as PAC (22.1%) and PINU (64.85%). Throughout the country, EU EOM observers frequently noted signs of a traffic in accreditations, generally to the advantage of the PNH.³⁵ Nonetheless, the impact on the work of polling station staff was limited by the presence of the bigger parties in almost all polling stations observed. The EU EOM did not consider that the trafficking in accreditations had any notable impact on the counting process, which took place in a transparent manner, with the results correctly recorded in the forms in all the polling stations observed. In addition, the number of disputed votes, adjudicated by the PS staff, was very limited.

Transmission and publication of preliminary results

In the early hours of 27 November, the TSE made its first announcement since the end of voting. With 57% of polling stations tabulated, the candidate for the *Alianza de Oposición* had a 5% advantage over the incumbent President Hernández. This announcement preceded an interruption of several hours in the publication of

³⁴ The main responsibilities of the *custodios electorales* are the delivery of the election materials, as well as the electronic transmission of results.

³⁵ As outlined earlier in the report, polling station staff, like TED and TEM members, sometimes could not name the party they were representing, or admitted they were working for a party other than the one they supposedly represented. In the latter case, most often they admitted that in reality they were working for the PNH, rather than the small party they were accredited by. A party may be motivated to 'buy' accreditations from smaller parties (place its own supporters in the place allocated to a smaller party, which may in any case not have the resources to staff many polling stations), in order to influence the management of the polling station.

scanned *actas* (results forms) on the TSE website, which should normally have been published immediately upon entering the TSE's server. The interruption was decided by the TSE, but no explanation was given.

It is important to point out that those first partial results were exclusively based on tabulated and validated *actas* electronically transmitted from polling stations during the night of the elections. As such, the results announced that night did not include those from polling stations which were unable to transmit electronically, due to lack of phone coverage or other technical problems (close to 29% of the total).

Results forms that were not electronically transmitted from polling stations were transported together with the rest of electoral documentation to the TSE warehouse, with support from the armed forces, in the days following the elections. Once there, these results forms were scanned and transmitted to the data centre server, in the order given by the TSE magistrates' instructions. As the results from these forms were entered into the system, a change in the trend of presidential results occurred, until Juan Orlando Hernández came to be one and a half points ahead of Salvador Nasralla.

The EU EOM's preliminary analysis shows that this second group of results forms, those which led to the change in the trend of presidential results, were in the vast majority of cases (more than 90%) from rural polling stations³⁶, where conditions for electronic transmission were worse. The analysis also shows that the number of registered voters in rural areas is greater than that of urban areas, and that turn-out in these areas was also higher.

During this process, in the afternoon of 29 November, one of the servers at the TSE data centre³⁷ had technical difficulties and eventually had to be replaced, which resulted in an interruption of several hours in the entry of data from results forms. EU EOM technical experts, who were at the data centre at the time, confirmed the purely technical nature of the incident, which was due to an inadequate amount of space on the server's hard drive, and they did not observe any alteration to the database, which, had it occurred, would have been easily identified by checking the results published by the TSE against those on results forms held by political parties.

In this regard, it is important to underline the principle purpose of the system for the publication of results, which, together with the presence of political parties in polling stations, constitutes the principal guarantee of transparency in the Honduran election system. The main purpose of the publication system is to make public both the images of the results forms for each polling station, and the results themselves once they are entered, in order to ensure that parties, candidates, observers and citizens may compare them with the copies they have available, or with the results they observed. The EU EOM noted that the results forms and the results data for all of the country's polling stations, for all three elections, were published on the TSE website and were easily accessible. As noted above, the Mission also observed that on election day, representatives of the main political forces were present in virtually all polling stations observed, and that they received certified copies of the results forms.

Special recounts (escrutinios especiales)

Once the results from all *actas* had been entered, the conclusion of the aggregation of preliminary results was suspended for a few days while recounts (opening of the ballot box and recount) were carried out for some 1000 polling stations whose results forms had some anomaly meriting verification, such as mathematical incongruencies, very high percentages for one or other candidate, or, in a small number of cases, an insufficient number of [polling staff] signatures, or where the *acta* was missing altogether in the election materials kit.³⁸ The special recounts were initially delayed because the *Alianza de Oposición* refused to send its representatives to the recounts unless the TSE first agreed to a series of demands.³⁹

³⁶ According to the TSE's own classification, which is designed for logistical planning.

³⁷ The server dedicated to data entry.

³⁸ These are the main indicators of a possible anomaly in the results form which can trigger the TSE to carry out a special recount. The criteria are established in the TSE's regulation on counting and publication of election results.

³⁹ The Alliance's demands, which originally consisted of 11 points later modified over the course of the week, consisted of three types of requests: 1) Lists of the polling stations which had been submitted for special recounts, and the polling

Over the course of several days of difficult and frequently interrupted negotiations between the TSE and the *Alianza*, and in a context of increasing street protests, the Tribunal agreed to delay the start of special recounts, in the hope of an agreement. During this process, the TSE agreed to all but three of the *Alianza's* demands. In two of these cases, the TSE explained its refusal.⁴⁰ The third demand which was not granted, nor even addressed in the TSE's written reply to the *Alianza* on the night of 2 December, concerned the recount of all votes in the departments of Lempira, Intibucá and La Paz – where there had been a higher turn-out than the national average and the results favoured the PNH candidate - either before or at the same time as the special recounts ordered by the TSE. It remained that, like the other political parties, the *Alianza* had the option of requesting recounts for all of the polling stations it considered necessary, by means of an official challenge.

In the absence of an agreement after three days of negotiations and the *Alianza's* ongoing refusal to send its representatives, the TSE decided to start the special recounts on Sunday 3 December, in the presence of numerous national and international observers, as well as the media. The difference between the two presidential candidates barely changed.

Post-electoral tensions

In the context of very tight results, in which both Salvador Nasralla and Juan Orlando Hernández had declared victory on the night of 26 November, the reversal of the trend in results as data entry progressed and the doubts about the system's integrity triggered by the replacement of one of the TSE servers, both contributed to significantly increase post-electoral tensions. The candidate in the third place, *the Partido Liberal's* Luis Zelaya, publicly recognised Nasralla's victory.

The opposition denounced what it considered to be an electoral fraud, to the benefit of the ruling party candidate. During some of the demonstrations called in different parts of the country, confrontations broke out between demonstrators and security forces, who were often accused of excessive force. The clashes resulted in a high death toll, primarily among demonstrators, but also among the ranks of the police force. The Office of the United Nations High Commissioner for Human Rights reported that at least 22 people were killed in the context of post-electoral protests, of whom 13 were killed by security forces. The opposition denounced cases of torture, illegal detention and extra-judiciary killings. An increasing discomfort developed in police ranks, some of whom refused to participate in what they considered to be a repressive operation, triggering a brief strike by the whole police force. Numerous roads were cut off, and in some parts of the country, looting of shops and businesses took place.

On 1 December, the government, which several national and international organisations accused of violating human rights, decreed a 10-day curfew which suspended freedom of movement during the night time, except for journalists accredited by the TSE (an exception that was later extended to all journalists) and election observers. On the same day, the EU EOM head, Marisa Matias, spoke publicly to Honduran actors, calling for calm and condemning all acts of violence, and calling on the authorities to respect the right to peaceful assembly.

stations from which there was no electronic transmission of results 2) Information regarding the activity of the TSE's data entry server and its replacement following the breakdown. Information about the software used and other technical specifications. A list of the people executively responsible, as well as of the technicians working on the system of counting and processing of results (the SIEDE system) 3) Accreditation of at least one representative per special recount table, and to have representatives of the most-voted political parties carry out the recount, echoing the politically-composed shape of polling stations on election day. Crucially, also a demand to recount all of the polling stations in the departments of Lempira, Intibucá and La Paz.

⁴⁰ The TSE did not hand over the list of SIEDE workers, for reasons connected to these individuals' personal security, and nor did it change the structure of the personnel carrying out the special recounts. Special recounts are carried out by TSE trainers, and subject to reinforced transparency measures through the accreditation of observers from the Alliance and the PNH, as well as the presence of numerous national and international election observers in the recount rooms.

Recount of the polling stations which reversed the trend in results

It was in this context, and in response to growing international pressure, that the TSE proceeded to a recount of the votes from the close to 5000 polling stations which had not electronically transmitted the results forms on the night of the elections, and which, as mentioned above, were the source of the very slight lead of Juan Orlando Hernández. The recount was undertaken in conditions of full transparency and in the presence of national and international observers.

Despite numerous invitations from the TSE, neither of the two parties which had denounced irregularities attended the recounts and verifications, nor did they come to compare their copies of results forms with the TSE originals. The recount, which the EU EOM attended, did not reveal any significant differences from the results previously published on the TSE website.

Challenges against the vote and the Declaration of results

Given the cumulative delays, the EU EOM suggested to the TSE that it be flexible with regard to the deadlines for submitting challenges, in order to ensure that political parties and candidates would have sufficient time to prepare and document any complaints they wished to submit. Once the deadline was extended, the EU EOM noted the TSE's open approach to possible complaints. The Mission expressed its conviction that, given the tense political conditions prevalent in the country, nothing could better contribute to reassuring the public than for political parties and candidates to present all the challenges and demands for recounts that they judged necessary.

The Mission's call underlined the responsibilities of different actors to the Hondurans citizens, namely, on the one hand, the TSE's responsibility to agree to all reasonable demands for verification, and on the other, the responsibility of the parties alleging manipulation of the results, to support their allegations with their copies of results forms or other evidence in their possession, and to participate in the verifications when they were carried out.

As will be further detailed in the following section, the *Partido Liberal* and the *Alianza de Oposición contra la dictadura* each presented challenges calling for the annulment of the presidential vote – though not the votes for Congress or the municipalities – but they did not request any special recounts, which would have enabled a verification of the votes. Neither of the appeals was accompanied by a significant number of results forms, which would have served to demonstrate what the alleged divergences were between the forms in the parties' possession, and those published on the TSE website, which formed the basis of the declaration of results. Both challenges were rejected by the TSE, who declared the results on 17 December.

On 12 December, when the period for presenting challenges against the vote was over, the *Alianza de Oposición* delivered a digital file to the EU EOM, containing their copies of 14,363 results forms, of the total 18,128 polling stations across the country. The EU EOM did not receive copies of the remaining forms. Following a cross-check between a large random sample of the results forms provided by the *Alianza* and the originals published on the TSE website, the Mission concluded that there was virtually no difference between the two sets of results forms.

X. COMPLAINTS AND APPEALS

The Election Law and TSE regulations establish a system for electoral appeals – both before the TSE itself and before the Supreme Court – which is comprehensive and provides reasonable deadlines for submitting complaints. In this respect, the regulations published by the TSE for these elections largely reflected the 2013 EU EOM's recommendation that regulation of disputes be clarified and completed. However, the length of time

taken by the Supreme Court to issue rulings on appeals has at times meant that decisions in favour of the appellants are made too late to be executed, and therefore the Mission recommends that the Court's resources be bolstered during electoral periods, or that election-related cases be given priority. Both the TSE and the Supreme Court resolved all post-electoral disputes within the legal deadlines.

Both the *Tribunal Supremo Electoral* and the Constitutional Chamber of the Supreme Court, as a last recourse, have mandates to resolve challenges and appeals at different stages of the electoral process, from those arising from the voter register (as is the case with allegedly fraudulent changes of residence) and candidate registration, to, in the post-electoral phase, calls for annulment (*demandas de nulidad*) regarding the vote in a polling station, or regarding the declaration of results.

The Election Law⁴¹ and Regulation nº 20-2017 establish the mechanisms and deadlines for submitting a *demanda de nulidad*, a call for annulment. This type of challenge can be submitted by any citizen, candidate or political party, and must, in writing, set out the alleged facts the challenge is based on, including the legal provisions allegedly violated, accompanied by reliable evidence. As mentioned earlier, the new regulation clarifies the status of calls for annulment of the vote and differentiates them from calls for an *escrutinio especial*, which is limited to requesting a recount and verification of the votes in a particular polling station.

In general, the deadlines prescribed by the law provide adequate time for the preparation and presentation of challenges, and EOM interlocutors did not call them into question.⁴² For its part, the TSE has up to 10 working days to resolve a challenge, from the time that it is presented.⁴³ Through its Secretariat and its Legal Department, the TSE analyses challenges and puts resolutions forward to plenary of Magistrates, who decide by a majority vote. The TSE's resolution marks the end of administrative recourse, although it may be appealed before the Constitutional Chamber of the Supreme Court of Justice within 10 working days of notification.

Lastly, the grounds for calls for annulment, whether of the vote in a polling station or of the declaration of results, are listed in the Election Law, and are wide-ranging and comprehensive.⁴⁴ The burden of proof lies with the appellant and the TSE does not carry out *ex officio* investigations, nor does it consult the polling stations Incidents Sheets (where polling station staff record any irregularity or incident), unless this is explicitly requested by the appellant.

Electoral disputes prior to 26 November

In addition to the challenges against the registration of President Juan Orlando Hernández as a candidate, the TSE received a small number of appeals against some of its resolutions prior to the election campaign. The most significant of these denounced the practice, prohibited by law, of employing public servants as members of the departmental and municipal representations of the TSE. Following analysis of the complaint, the TSE requested that those TEM and TED members found to be public servants be replaced.⁴⁵ The TSE did not register any official complaints concerning the election campaign.

⁴¹ Chapter VII of the Election Law, on annulment of the elections and its effects, articles. 199 – 207.

⁴² A *demanda de nulidad* against the vote may be submitted up to 10 working days after election day, and demands for the annulment of results must be submitted within five working days of the results' publication in the *Diario Oficial de La Gaceta*.

⁴³ In order to calculate deadline, the TSE chose to consider all calendar days as working days, thus shortening the available timeframes, as it has done during previous processes. Resolution 241-2017 (14-9-2017).

⁴⁴ Art. 201, regarding annulment of the vote, cites, among others, the following grounds: installation of polling station in an unauthorised location; alteration with intent of the results forms; violation of the right to vote or of the right to vote in secret. Article 202, regarding annulment of the results, cites, among other grounds: convening the elections without legal grounds; appropriation or removal of sensitive electoral documentation; unjustified interruption of the electoral process; falsification or alteration of the results forms and electoral certificates.

⁴⁵ Certification 1203-2017/2018.

The Constitutional Chamber of the Supreme Court of Justice also received challenges against President Hernández' registration as candidate, but also others, such as appeals against the TSE's decision not to register some independent municipal candidates, and those against certain results in the primary elections of March 2017.⁴⁶ The Constitutional Chamber takes a particularly long time to adopt its resolutions, including in electoral cases, and can take up to two or three years from the time the appeal is submitted, a delay which obviously infringes on the right to an effective and timely remedy.

Electoral disputes after 26 November

a) Challenges against the vote in polling stations

The TSE decided to prolong the deadline for submitting challenges against the vote from 10 to 12 days after election day (the open period thus being from 27 November to 8 December), in order to ensure sufficient time for parties, candidates or citizens to prepare their challenges, given the delay in the publication of preliminary results.

During this period, the TSE received 125 challenges, including both *acciones de nulidad* (calls for annulment) and requests for special recounts (*escrutinios especiales*). Four of these concerned the presidential elections (submitted by the *Partido Liberal*, the *Alianza*, and two citizens), 43 concerned the elections to Congress, and 78 concerned the municipal elections.⁴⁷ Given their particular importance, the EU EOM fully analysed the calls for annulment of the presidential vote submitted by the *Partido Liberal* and the *Alianza*, which were rejected by the TSE.

The *Partido Liberal* centred its claim⁴⁸ on the unconstitutionality of the presidential re-election, as well as on other contentions such as the violent intervention of the armed forces in the electoral process (in relation to the curfew decreed by the Government on 1 December, five days after the elections), the removal of election materials, the interruption of the election process and the alteration of results forms. The *Partido Liberal's* challenge did not explain in what way or to what extent the cited events impacted on the election results. Despite a general reference to 'thousands of irregularities' upon checking their copies of the presidential results and those published by the TSE, the challenge only specifically referred to six polling stations, and even then without referring to the party's original results forms, but rather to photocopies of the results forms published by the TSE.⁴⁹

For its part, the *Alianza de Oposición contra la Dictadura* sought the annulment of the presidential vote and the published results by the TSE in 18,103 polling stations, but did not request any special recounts in any of these. The *Alianza* denounced an allegedly fraudulent and generalised alteration of results forms, only in the presidential election,⁵⁰ but it did not provide its copies of results forms to support these contentions, or highlight the alleged discrepancies between the results published by the TSE and those in the forms held by the party. It bears noting that each political party representative in polling stations receives a copy of the results form for the polling station in question. The TSE's forms are electronically transmitted from voting centres or physically brought to the TSE in Tegucigalpa, where they are published on the website in such a way that political parties

⁴⁶ Despite several attempts, the EU EOM was not able to meet with the Constitutional Chamber of the Supreme Court of Justice.

⁴⁷ The *Partido Liberal* presented 50 challenges in all (of which 35 for municipal elections); the *Partido Nacional* 31 (25 regarding the municipals); Libre presented 24 (14 for the municipals); PINU presented 5, PAC 4, AP 4, PDCH 1, UD 1. In addition, two further challenges were submitted by citizens regarding the Congressional and municipal elections.

⁴⁸ *Demanda de declaración de nulidad total contra las votaciones a nivel nacional y extranjero para el cargo de Presidente y Designados de la República.*

⁴⁹ The following polling stations were cited: MER 10728 Francisco Morazán; MER 16012 Santa Bárbara; MER 5275 Cortés; MER 13105 y 13156 Lempira; MER 08234 El Paraíso.

⁵⁰ Art. 201 of the Election Law, regarding annulment of vote in a polling station: The vote in a polling station shall be annulled when there is evidence of [...] 4) alteration with intent of the results forms.

can easily compare them with the results forms obtained by their representatives in polling stations. On election day, the EU EOM noted that *Alianza* representatives were present in virtually all observed polling stations.

Neither of the petitions for annulment explains why the denounced irregularities would only affect the presidential elections and not those for Congress or the municipalities, despite the fact that the vote for all three elections took place in the same polling stations and were managed by the same electoral administration.

Of the 125 challenges received in all, the TSE declared 74 inadmissible, either for lack of evidence or for basing the call to annul on reasons not listed as criteria in the law. Another 43 petitions were partially accepted and three were wholly accepted. In the great majority of these 46 petitions, special recounts were carried out.

b) Challenges against the Declaration of results

On 17 December, the TSE issued its Declaration of results (Resolution No. 22-2017), considering that the period for disputes concerning the vote was over. Although all three of the TSE magistrates voted in favour of the Declaration, Magistrate Erick Rodríguez included his reasoned opinion in which he outlined his objections to the Supreme Court's ruling that the constitutional prohibitions on re-election were inapplicable. This was in line with his earlier reasoned opinions, against the registration of President Hernández as a presidential candidate. The Declaration was published the following day in the *Gaceta de Honduras*.

The TSE received 12 challenges against the Declaration: seven against the results of the presidential elections (one from the *Partido Liberal*, another from the *Alianza* and five from citizens), one against the results of the elections to the National Congress, submitted by UD, and four against the results of the municipal elections, (one submitted by the PL, and three by the PN.)

The challenges against the declaration of presidential results submitted by the *Partido Liberal* and the *Alianza*⁵¹ largely reproduce the arguments made in their earlier calls to annul the vote. For their part, the five appeals submitted by citizens centred on the unconstitutionality of the presidential re-election.

On 5 January 2018, the *Tribunal Supremo Electoral* announced the end of the period for administrative appeals, although recourse to the courts remained open.⁵² As in the earlier appeals period, the TSE dismissed all the challenges to the presidential election,⁵³ although on this occasion the TSE provided more extensive and detailed analyses of the appellants' arguments, and more detailed responses to these. The TSE based its dismissal of the appeals on two main grounds, namely that a) the decision regarding the constitutionality or otherwise of the presidential re-elections lies with the judiciary, not the TSE and b) that the grounds cited by the appellants for annulling the declaration of results were not among those listed in the Election Law.⁵⁴ Furthermore, the TSE noted that none of the cases put forward evidence to support their allegations.

Electoral offences. Public Prosecutor's Electoral Offences Unit.

⁵¹ The *Alianza* presented a petition through its Coordinator, Manuel Zelaya, contrary to the appeal presented against the vote, which was submitted by the candidate Salvador Nasralla.

⁵² At the time of writing (25/01/2017), the TSE has been informed of nine appeals against its resolutions: one regarding the presidential elections, submitted by the *Barra de Abogados Anticorrupción*; three by the *Partido Liberal* regarding the municipal elections (two in Gualaco – Olancho and one in Sabanagrande – Fco. Morazán); four submitted by the *Partido Nacional*, also regarding municipal elections (Goascorán – Valle, Cucuyagua – Copán, La Unión – Copán y Curarén – Fco. Morazán); one by the *Alianza Patriótica* regarding the elections to Congress in Fco. Morazán.

⁵³ Resolution No. 358-2017, challenge presented by Manuel Zelaya Rosales, Coordinator of the *Alianza de Oposición*; Resolution No. 361-2017, challenge presented by Octavio Pineda, General Secretary of the *Partido Liberal*; Resolution No. 355-2017, challenge presented by Mario René Rojas; Resolution No. 360-2017, challenge presented by Carlos Antonio García; Resolution No. 356-2017, challenge presented by José Benedicto Santos Castro; Resolution No. 353-2017, challenge presented by Melvin López; Resolución No. 362-2017, challenge presented by Guillermo Valle and other citizens.

⁵⁴ Article 202 of the Election Law regarding annulment of the results, cites, among other grounds: convening the elections without legal grounds; fraud in the addition of results; falsification or alteration of the results forms.

Section XII of the Election Law defines electoral offences and misdemeanours, among which are included the offences of coercion and electoral threats, and the falsification of electoral documents (an offence comparable to falsification of public documents), which can incur prison sentences of between four and six years, alongside disqualification and/or ineligibility, in the case of public servants. Misdemeanours include the destruction of posted propaganda or unjustified failure to assist the election administration. The Election Law also lists numerous 'electoral infractions', such as the use of children or adolescents in electoral propaganda, the use of public resources for party ends and broadcasting anonymous propaganda or propaganda inciting non-participation.

In September 2013, the Special Unit Against Electoral Offences (*Unidad Especial Contra Delitos Electorales*, UECDE) was created, within the Public Prosecutor's Office. The Unit was re-activated in September 2016, with a view to the upcoming primary and general elections in 2017. The Unit had little personnel (three prosecutors and three investigative police officers) and very limited resources, considering its responsibilities.⁵⁵

Prior to election day, the Unit reported having received more than 120 complaints, most alleging fraudulent changes of residence (particularly in Ocotepeque, Santa Bárbara and Olancho), the majority of which were still being investigated at the time of writing. As for election day, the Public Prosecutor's Office reported 130 complaints, for vote buying, impersonation of voters, the selling of accreditations, and the bearing of arms, among others. Numerous EU EOM interlocutors have confirmed that the UECDE had limited impact on the investigation of electoral crimes and offences, and highlighted the lack of investigative follow-up that will arise when the Unit is closed down after the end of the process.

XI. MEDIA

Freedom of expression, guaranteed by the Constitution, was generally respected during the election campaign period, despite the security problems normally faced by media professionals in Honduras, and which prompt the EU EOM to recommend, as its predecessor did in 2013, that measures be taken to reinforce both the investigation of crimes committed against journalists, and the protection afforded to journalists who are threatened. Both in the days leading to the crisis and afterwards, Honduran authorities suddenly increased immigration controls on journalists seeking to enter the country, although in almost all cases, entry was granted. The EU EOM also notes with concern the recent adoption of regressive legal dispositions in the Penal Code which could constitute serious limitations on journalists' freedom of expression, such as those concerning the crime of apology of terrorism in the media, as well as the maintenance of potential prison sentences for the offences of libel, slander and defamation, and recommends the reform or removal of these provisions.

The EU EOM considers that the appointment of commissioners to the media regulation body (CONATEL) by the President, without any involvement of the National Congress, brings the CONATEL within the exclusive influence of the President and carries the risk of eroding its independence, and as such the Mission recommends a review of the system for appointing commissioners. For the same reason, the Mission also recommends the elimination of the mechanism which allows media outlets to pay their debts to the State by broadcasting or printing institutional propaganda, in accordance with terms and conditions established by the President. The Mission welcomes the prohibition on broadcasting governmental propaganda during the campaign period, which was recommended in 2013, and which was generally respected.

Analysis of the coverage of the election campaign by media monitored by the EU EOM revealed a significant imbalance between the different candidates, and in favour of Juan Orlando Hernández. This was the case both in public media, which openly discriminated against the candidate for the Alianza de Oposición, and in the majority of private media. Therefore, the EU EOM reiterates its recommendation from 2013, regarding the introduction of measures towards equity in the coverage of election campaigns in the private media, and neutrality in public media.

⁵⁵ The receipt and investigation of reports of electoral offences in its area of responsibility.

Media landscape

The country's media landscape is wide-ranging and competitive, and is dominated by television and radio, the main sources of information for Hondurans for both national and local news: there are 1,075 radio stations, 110 television channels, and 240 cable television companies.⁵⁶ The main public media are *Televisión Nacional de Honduras* (TNH) and *Radio Nacional de Honduras* (RNH). There are four national dailies: *El Heraldo*, *La Prensa*, *La Tribuna*, and *El País*. Media on the internet and social networks are rapidly developing.

In general terms, the Honduran media landscape is polarised, in the sense that most media hold a very clear political line, and asymmetric, in the respect that the media supporting the ruling party far outweigh those which support the opposition, both in terms of number and reach. A substantial number of media outlets are linked to the *Partido Nacional* or the *Partido Liberal*, and a smaller number are linked to Libre. Some of the biggest media companies belong to private groups which often have interests in economic sectors regulated by the government, or for which the government is the main contractor.⁵⁷

Advertising for government institutions constitutes a significant source of income for the main private print and broadcast media. In this regard, it is noteworthy that since 2013, legal provisions enable media outlets to pay for their outstanding tax debts by publishing or broadcasting institutional advertising, in accordance with conditions established by the President of Republic.⁵⁸ Although institutional advertising is prohibited during the election campaign and this prohibition was generally respected, it is clear that this mechanism for paying fiscal debts through the provision of space or airtime for propaganda, under terms and conditions which are left to the President's discretion, could result in a conditioning of the concerned media outlets' freedom of expression. The EU EOM considers that the mechanism, widely criticised by both organisations representing professional journalists and civil society groups, is contrary to international standards.⁵⁹

Organisations representing professional journalists⁶⁰ have recorded the murders of 72 journalists and media professionals since 2001, four of which took place in 2017,⁶¹ and emphasise that in the majority of these cases, impunity has prevailed, despite the creation in 2014 of special units within the Public Prosecutor's Office.⁶² In this regard, the EU EOM welcomes the establishment in law, in 2015, of the National System for the Protection of Human Rights Defenders and Journalists, an official mechanism for providing security to threatened journalists⁶³, although the selection and training of the police officers assigned to this task has been criticised by some organisations representing professional journalists.

⁵⁶ The main broadcast media with nationwide reach and the biggest audiences are: *Canal 5*, HCH, *Canal 11* and *Canal 10* (television stations) and HRN, *Radio América*, *Radio Cadena Voces*, *Radio Globo* (radio stations). Community media include 3 television stations and 11 radio stations, according to official figures.

⁵⁷ The main media groups are: Grupo OPSA, Grupo Editorial *Hablemos Claro*, Corporación Televisión Centro/Grupo Emisoras Unidas, Grupo América Multimédios, Grupo Periódicos and Revistas SA.

⁵⁸ Article 2 of the Law concerning Voluntary programme for support for the communications sector of June 2013 (*Ley del Programa Voluntario de Rescate, Promoción y Fomento del Sector de las Comunicaciones*), states that media outlets 'may agree with the Government to pay the relevant debt (...) through advertising, in a manner to be determined exclusively by the President of the Republic or the person s/he delegates.'

⁵⁹ General Comment 34 (remark no 41) on the International Covenant on Civil and Political Rights notes that 'care must be taken to ensure that systems of government subsidy to media outlets and the placing of government advertisements are not employed to the effect of impeding freedom of expression.'

⁶⁰ *El Colegio de Periodistas de Honduras* (CPH) and the *Asociación de Prensa Hondureña* (APH).

⁶¹ A total of four media professionals (confirmed cases) were murdered in Honduras in 2017, including a PNH candidate for Congress in June, and two reporters since September.

⁶² The Inter-American Commission on Human Rights (CIDH) has repeatedly called on Honduras to investigate this type of crime in an effective manner, in order to determine whether or not they were based on the victims' status as journalists.

⁶³ So far, 104 threatened individuals, including 22 journalists and media workers, have been provided with protection measures such as the installation of security cameras, private or public police protection, and changes of residence. These measures have been provided under the National System for the Protection of Human Rights Defenders, Journalists, Social

The EU EOM notes that, at least in part due to the above-mentioned climate of violence and impunity, journalists frequently find themselves in situations that lead to censorship or self-censorship. In some instances, journalists who try to carry out in-depth analysis are subject to heavy external pressure, threats or even attacks.⁶⁴ These realities result in a serious lack of investigative journalism, and a corresponding limit on access to information. It is also true that the recourse to *machaca* (a journalist's demand for money from political or economic actors in exchange for publishing or quashing particular information, or bribes offered to journalists by these figures), strongly criticised by professional organisations for journalists, damage the profession's credibility and constitutes a threat to freedom of expression.

Freedom of expression during the election campaign

Freedom of expression, guaranteed by the Constitution, was generally respected during the election campaign period, in the respect that national and international media were able to carry out their work without significant impediments, other than the security problems normally faced by media professionals in Honduras. Nonetheless, the EU EOM noted that both in the days leading to the crisis and afterwards, Honduran authorities suddenly increased immigration controls on journalists seeking to enter the country although in almost all cases, entry was granted within a few hours. In addition, during the same period of time, several opposition media outlets asserted they were subject to pressure from the authorities and the ruling party.

Three Honduran journalists were murdered in the months prior to the elections, including a PNH candidate for Congress, a social communicator who had been critical of the mining industry, and the producer of a political satire programme, and to date it has not been established whether or not there was a link between these individuals' deaths and their professional activities.⁶⁵

Four foreign journalists for international media *Al Jazeera* (Qatar) and *Telesur* (Venezuela) were detained and interrogated by immigration agents for several hours on 20 November, on their arrival in Honduras. All had been accredited by the TSE to cover the elections, and were eventually allowed to enter the country.⁶⁶ Several freelance journalists were expelled on 5 December, when they sought entry at Tegucigalpa airport.⁶⁷ The Honduran UNE TV television station, a significant opposition broadcaster, publicly stated on 30 November that the *Comisión Nacional de Telecomunicaciones* (CONATEL) was seeking to close the station down for political reasons. CONATEL denied the accusations and the station was not in fact closed down. Radio Progreso, critical of the government, alleged it had been the subject of a smear campaign as well as acts of sabotage.

On 1 December, the Government published a decree establishing a curfew, which for 10 days limited free movement between six in the evening and six in the morning, with certain exceptions, notably journalists accredited by the TSE. Given that the number of journalists working in Honduras is significantly greater than the number accredited by the TSE, this measure clearly constituted an obstruction to freedom of expression in the

Communicators and Justice Workers, created by the *Ley de Protección para las y los defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia* (2015).

⁶⁴ Johny Lagos, Director of the monthly investigative journal *El Libertador*, reported having suffered a shooting attack on 24 August, in connection to his investigation of the murder in March 2016 of the indigenous activist Berta Cáceres and significant corruption cases allegedly involving the Government.

⁶⁵ Osmin España Chávez, the producer of a political satire television programme, was murdered on 4 October in the Department of Copan; Carlos William Flores, a television programme director known for his criticism of the mining industry, was murdered on 13 September in the Department of Cortes, and Víctor Fúnez, television presenter and candidate for Congress for the *Partido Nacional*, was killed on 15 June, in La Ceiba.

⁶⁶ Mariana Sánchez, of Peruvian nationality, y Rafael Pieroni, a Brazilian, are journalists for the international *Al Jazeera* channel; Adriana Sivori and María José Díaz, both Nicaraguan, are journalists for the Venezuelan television station *Telesur*.

⁶⁷ According to the Honduran Human Rights NGO *C-Libre*, the immigration authorities did not allow entry to the country to the independent journalists Reed Linsay (USA), Fahema Abdel Hafiz Sokaika (UK) y Edward Philip Augustin (New Zealand) because they travelled from Cuba. The EU EOM sought information on this case from the National Institute for Migration, which did not respond.

sensitive post-electoral period.⁶⁸ In response to protests from the sector, on 3 December, the Government extended the curfew exemption to all journalists registered in the police database.

Legal framework

Although guaranteed by the Constitution, the EU EOM notes with concern the recent adoption of regressive legal provisions, the applications of which could constitute serious limitations to freedom of expression. In this respect, both the introduction in February 2017 of article 335-B to the Penal Code, penalising apology of terrorism in the media, and the approval in 2014 of what is known as the Officials Secrets Law, are contrary to international standards regarding freedom of expression, which only allow for exceptional and justified limitations to its free exercise.⁶⁹ The same could be said of the Penal Code's provision for prison sentences for the offences of defamation, libel and slander.⁷⁰

The EU EOM notes that in any case, the *Comisión Nacional de Telecomunicaciones* (CONATEL), the regulatory body for audiovisual media, whose commissioners are designated by the President of the Republic, enjoys significant disciplinary powers over broadcast media. In addition, the mechanisms for appealing against the body's decisions are insufficiently robust. It was in this context that in May 2016, CONATEL ordered the closure of *Globo TV*, an important media outlet that was very critical of the Government. Although this decision was issued with legal arguments (namely, the expiration of the broadcasting licence), it is considered to be clearly political by the opposition and it undoubtedly contributed to the reduction of pluralism in the media sector, which favours the Government.⁷¹ It should be noted that the request to renew the broadcasting licence submitted to CONATEL in June 2016 by *Globo TV's* owner is still being processed.⁷²

Regulation of the election campaign in the media

Regulations for the election campaign in the media are adopted by the TSE, in accordance with the Election Law and the new Law on Financing of February 2017⁷³ that introduces limits to campaign spending by candidates, which has had a direct impact on the amount of paid propaganda in the media.⁷⁴ According to most consulted

⁶⁸ Only 700 Honduran journalists were accredited by the TSE, out of a total of some 3000 journalists in the country. Some 70 foreign journalists were also accredited by the TSE to cover the elections.

⁶⁹ Article 335-B of the Penal Code introduced sentences of up to eight years imprisonment for media professional found guilty of apology or glorification of terrorism. Although to date sentence has been issued for this crime, the profession considers it to be a hanging threat and the Inter-American Commission on Human Rights (CIDH) has qualified the legal reform as regressive. As for the so-called Official Secrets Law (*Ley para la Clasificación de Documentos Públicos Relacionados con la Seguridad y la Defensa Nacional*), which has indeed been applied, it prevents the publication of information classified as related to the 'security, national defence and attainment of national objectives.' The Mission to Support the Fight Against Corruption and Impunity in Honduras (MACCIH), established by the General Secretary of the OAS, has recommended that it be revised.

⁷⁰ The Penal Code establishes sentences of between two and three years for slander, one to two years for libel and up to four years for defamation in the media. David Romero, director of *Radio Globo*, an opposition media, was sentenced to 10 years in prison in 2016 for slander and defamation, is awaiting the resolution of his appeal to the Supreme Court of Justice. The journalist Ariel Armando D'Vicente (*Canal 21*, Choluteca) was sentenced to three years in prison on 2016, and is also waiting for the outcome of his appeal.

⁷¹ Amendment to the Basic Law on Telecommunications, March 2014 (Art. 15): 'CONATEL shall be composed of three members and two deputy members, named by the President of the Republic.'

Updating of the Basic Law, October 1997 (Art. 43): 'The application of sanctions should never be used as an indirect method for affecting or limiting freedom of expression.'

⁷² According to a statement made by email by CONATEL on 16 November 2017.

⁷³ The Law on Financing, Transparency and Auditing of Political Parties and Candidates.

⁷⁴ The Law on Financing also established a Financing, Transparency and Auditing Unit within the TSE, responsible for overseeing such spending, and with the power to request accounting documents both from candidates and parties, as well as from media outlets.

media, candidates' investment in propaganda has dropped significantly since 2013.⁷⁵ EU EOM monitoring has shown, however, that the overall decrease in spending on advertising has not resulted in a correction of the striking inequality between different candidates' paid propaganda, already recorded in 2013, probably due to the main opposition parties' difficulties in obtaining private financing. It should be noted that this inequality was one of the main reasons for which the 2013 EU EOM recommended the introduction of measures limiting campaign spending.⁷⁶

Similarly, although the Election Law enshrines the general principles of impartiality, equality and equity, the Honduran framework does not establish any mechanism which could effectively ensure any degree of balance between different parties' and candidates' access to news programmes, either in private media nor, more seriously, in public media. In this respect, the EU EOM underlines the lack of specific legal provision regulating the coverage of the election campaign in public media, which, as is made clear by the EU EOM monitoring, fell far short of offering reasonably balanced coverage of the different candidates. The EU EOM also notes that, unlike in 2013, *Televisión Nacional de Honduras* (TNH) did not provide free airtime to candidates.

Honduran law assumes the constitutional precept which forbids more than one presidential mandate, and therefore does not regulate coverage of the President's institutional activities during the campaign period, in the case that the President runs for re-election, although said news coverage clearly grants him a significant advantage over other candidates.⁷⁷

EU EOM media monitoring (See detailed results in Annex II)

EU EOM monitoring of media coverage of the election campaign reveals a notable imbalance between the candidates, to the advantage of Juan Orlando Hernández.⁷⁸ In paid electoral propaganda, Juan Orlando Hernández obtained much greater visibility overall in the monitored media (64%) than his two main competitors: Salvador Nasralla, of the *Alianza de Oposición* (15%), and Luis Zelaya, for the *Partido Liberal* (17%). The remaining candidates did not gain more than 4% of the coverage. In news programmes too, the PNH candidate received 44% of the coverage, much more than Salvador Nasralla's 21%, Luis Zelaya's 10%, or the 25% shared between the remaining candidates. Both private and public media made efforts to present the candidates programmes and activities, albeit often with a clear bias, and they broadcast several voter information packages produced by the TSE. *Televisión Nacional de Honduras* (TNH) clearly discriminated against the *Alianza de Oposición* and its member parties, which received just 6% of the news coverage, against the PNH's 36% and the PLH's 22%.

EU EOM monitoring did not detect any significant instances of government institutional propaganda during the campaign period, prohibited by law, which constitutes an improvement since the 2013 election campaign, when there was a considerable amount of this type of propaganda. However, President Hernández, who declined to participate in any of the televised debates, benefited from a greater presence on news programmes, thanks to coverage of his institutional activities, which made up 33% of the coverage he received overall. While not illegal, this constituted a clear advantage over his rivals. EU EOM monitoring thus noted a significant asymmetry between the majority of media, with a clear inclination towards Juan Orlando Hernández and the *Partido Nacional*, and a smaller number of media who openly favoured the *Alianza de Oposición* or Libre. In this respect,

⁷⁵ According to the Honduran monitoring agency *Publisearch*, candidates' and political parties' spending on propaganda has dropped from 17.5 million euros in 2013 to 4.5 million in 2017 (between 01/08 al 31/10).

⁷⁶ According to the EU EOM's monitoring of paid electoral propaganda (27 October to 20 November), Juan Orlando Hernández obtained much greater visibility (64%) than Salvador Nasralla (15%), or Luis Zelaya (17%). The remaining candidates did not gain more than 4% of the coverage.

⁷⁷ EU EOM monitoring shows that Juan Orlando Hernández obtained 33% of his news coverage as President, and the remaining 67% as candidate.

⁷⁸ Between 27 October and 20 November, the EU EOM monitored the election campaign in a sample of media, which included television stations (*Canal 5*, *HCH*, *Televisión Nacional de Honduras* - TNH, UNE TV), radio stations (HRN, Radio Globo) and daily newspapers (*El Heraldo*, *El País*, *La Prensa*, *La Tribuna*).

the media landscape suffered from a serious imbalance which favoured the presidential camp. The election campaign was intense and often aggressive in social networks, with ample recourse to false profiles and trolls, as well as many accusations of corruption or links with organised crime and drugs trafficking.

XII. WOMEN'S PARTICIPATION

As well as to the Convention on the Elimination of All Forms of Discrimination Against Women and to the Inter-American Convention on the Granting of Political Rights to Women, Honduras has committed itself to the Quito Consensus and the *Norma Marco del PARLATINO para consolidar la Democracia Paritaria* (2015).⁷⁹ The Constitution recognises women's and men's equality.

The 2012 reform of the Election Law increased the minimum percentage of women in candidate lists from 30% to 40% for the 2013 elections, and provided for the principle of parity for the 2017 elections (Article 105.A) which, furthermore, would also have to be applied to the leadership positions of political parties. However, the TSE regulation which details the mechanisms for implementing the principle of parity for the different elections,⁸⁰ approved in 2016, actually puts the brakes on a genuine alternation between men and women in the lists for candidates to Congress, in a clear contradiction of the spirit of the Election Law. Indeed, the TSE regulation establishes that alternation between men and women on the lists for the National Congress elections is only obligatory from the third, fourth or fifth position on the list onwards, depending on how many positions are to be elected in the Department in question.⁸¹

The TSE Regulation did respect the intended alternation in the municipal lists, although in practice the parties opted for placing men as the candidate for mayor in 75.95% of cases (first position on the municipal list), overwhelmingly relegating women to candidates for deputy mayor (75.68%).

In 2017, just one woman competed for the presidency, Marlene Alvarenga for the *Partido Anticorrupción* (PAC), while among the candidates for vice-president, 63% were men and 37% were women. Women made up 44.93% of the candidates to Congress. Of all the political parties, PINU presented the greatest number of women candidates to Congress (47%) and for mayor (32%), while among the candidates Libre put forward for Congress, just 30% were women, and among the *Partido Liberal's* candidates for mayor, just 7.4% were women.⁸²

Just 27 women were elected as National Congress members for 2018 – 2022, 21.09% of all members, which constitutes a step back as compared to the previous Congress, where 25.7% of members were women.⁸³ Of these 27 women Congress members, 13 were from PN lists, eight represented Libre, three the PL, one the Alianza Patriótica and another PINU.⁸⁴ These figures show to what extent the TSE's mechanism for alternating men and women ostensibly respects parity with regard to the number of women and men in the candidate lists, but simultaneously allow parties to place men as candidates in the majority of seats with better prospects. The EU EOM therefore recommends that a new regulation ensure effective alternation throughout the entirety of candidate lists.

⁷⁹ The Latin American and Caribbean Parliament's Framework for Equal Democracy. Honduras has not, however, signed up to the 1999 Additional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women.

⁸⁰ Regulation for application of the principle of parity and the alternation mechanism in women and men's political participation in electoral processes (Resolution No. 3-2016).

⁸¹ In the Honduran election system, voters may choose the candidate(s) of their choice, regardless of where they are situated on the list. However, placing women lower down the list does not support their prospects of being elected, as can be testified by the 2017 election results.

⁸² January 2018, The majority of women excluded from political representation, Report by N-26 and National Democratic Institute. (*Boletín nº 1: Mujeres, la mayoría excluida de la representación política.*)

⁸³ Fifty-one women were also elected as 'suplentes', comparable to deputy. In all, 78 of the 256 seats in Congress (main and deputy positions combined) were won by women.

⁸⁴ <https://resultadosgenerales2017.tse.hn/Integracion.html?id=1>

Department N ^a of Congress members		Women elected %		Department N ^a of Congress members		Women elected %	
Atlántida	8	2 PN, 1 LIBRE	37,50	Intibucá	3	1 LIBRE	33,33
Colón	4	1 PN	25,00	Islas Bahía	1	0	0,00
Comayagua	7	1 PL	14,29	La Paz	3	1 PN	33,33
Copán	7	1 PN	14,29	Lempira	5	0	0,00
Cortés	20	3 LIBRE, 1 PN, 1 AP	25,00	Ocotepeque	2	0	0,00
Choluteca	9	2 PN	22,22	Olancho	7	1 PN	14,29
El Paraíso	6	1 PN	16,67	Santa Bárbara	9	1 PN	11,11
Fco. Morazán	23	2 LIBRE, 2 PL, 2 PN, 1 PINU	30,43	Valle	4	0	0,00
Gracias a Dios	1	0	0,00	Yoro	9	1 AP, 1 LIBRE	22,22
TOTAL : 128 posts to elect; 27 women elected to Congress, representing 21.09% of all legislators.							

The Election Law requires all political parties to approve a gender equity policy (Art. 104), as well as a report on its implementation during the six months prior to the call for primary elections. Just three parties presented their formulations of a gender equity policy (PN, PINU and PDCH), although none of these presented any report on its implementation and the TSE did not apply the sanctions provided-for by the law for this failure to comply.⁸⁵ As for the TSE's Gender Unit, planned-for in the TSE organigramme as a means of supporting and reinforcing gender equality policies in the electoral context, it never became operational.

Civil society was very involved in following and monitoring the election process, including with regard to women's participation. The PoletikaH platform reported on the absolute absence of any subjects of particular interest to women in the campaign discourse of the three main presidential candidates.⁸⁶ The *Observatorio político de Mujeres* reported, in its second bulletin on violence against women⁸⁷, a total of 26 cases of violence between 27 November and early January 2018, noting an increase as compared to the 14 cases reported prior to the elections, between 15 September and 26 November 2017.

XIII. PARTICIPATION OF INDIGENOUS AND AFRO-HONDURAN CITIZENS

The Constitution enshrines the principle of self-determination and the protection of the rights of indigenous and Afro-Honduran communities. Honduras has furthermore ratified the International Labour Organisation's Convention 169 for Indigenous and Tribal Peoples. According to the National Statistics Institute⁸⁸, some 700,000 people make up the indigenous and Afro-Honduran communities, approximately 8% of the country's population.⁸⁹ No figures are available regarding the inclusion of indigenous and Afro-Honduran citizens in the voter register. Nonetheless, it is clear that inequality, poverty and the lack of basic social services for these communities constitute obstacles to their access to public positions, State institutions and political participation.⁹⁰

⁸⁵ Art. 104: Failure to comply with the gender parity conditions is sanctioned by a fine, equivalent to 5% of the party's *deuda política*, which is public party funding.

⁸⁶ <https://www.facebook.com/PoletikaH/>

⁸⁷ 2^a Boletín, *Observatorio Político de las Mujeres, la Coalición Todas y la Red de Mujeres Inter-partidarias*.

⁸⁸ 2013 Census, (XVII Censo de Población y VI de Vivienda)

<http://170.238.108.227/binhnd/RpWebEngine.exe/Portal?BASE=CPVHND2013NAC&lang=ESP>

⁸⁹ These figures include the indigenous communities the Miskito, Tawahka, Maya Chortí, Nahua, Pech, Lenca and Tolupán, as well as the Afro-Honduran Garífuna and English-speaking communities.

⁹⁰ Report by the Special Rapporteur on the Rights of Indigenous Peoples following her visit to Honduras A/HRC/33/42/Add.2, 2016. "The situation of the indigenous peoples of Honduras is critical, since their rights over their lands, territories and natural resources are not protected and they face acts of violence when claiming their rights."

For the first time, and in line with the 2013 EU EOM's recommendation, the TSE's Inclusion Unit prepared several initiatives aimed at promoting indigenous and Afro-Honduran participation in the elections. These activities included radio spots broadcast in indigenous languages from 15 November until the elections, as well as the publication of voter education documents in these languages, distributed by civil society groups.

The number of candidates from indigenous communities remains very limited, though some have run for Libre, PNH and PLH.⁹¹ Some Miskita candidates ran in the Department of Gracias a Dios. Seven Afro-Hondurans were elected to Congress – three in Cortés (the one PAC Congress member elected in Cortés, as well as two running for PN and PL), one in Atlántida (PINU), two en Francisco Morazán (LIBRE y PN) y one in Islas Bahía (PL).

XIV. PARTICIPATION OF THE LGBTI COMMUNITY

Political participation by LGBTI citizens is extremely limited, largely due to a social environment that is unfavourable, alongside the impunity that has prevailed in the vast majority of cases of attacks on LGBTI people, as recently highlighted by the UN Human Rights Committee.⁹² According to CONADEH figures, 174 hate crimes have been committed against LGBTI people in Honduras in the past five years. Very few have been investigated.

In the March 2017 primary elections, among the more than 39,000 would-be candidates, four people identified themselves as LGBTI, all of whom were from Libre, and one of whom was elected and ran in the party list for the PARLACEN (Central American Parliament). In the general elections, seven candidates to Congress and to the PARLACEN openly stated their LGBTI identity, in the lists for Libre, PINU, FAPER and UD.

Rihana Ferrera Sánchez, a trans candidate to the National Congress for PINU in the Department of Francisco Morazán, submitted an appeal to the TSE, requesting that they change her name on the ballot paper, printed alongside her photograph, to her assumed name. The appeal was rejected by the TSE⁹³, which asserted that there was no provision in the Civil Registry Law (*Ley del Registro Nacional de las Personas*) for a person's name to be officially changed on the basis of a change in gender identity. On 2 November, Ms Ferrera Sánchez appealed to the Constitutional Chamber of the Supreme Court against the TSE decision. At the time of writing, the Constitutional Chamber has not issued any ruling.

For the first time, the TSE signed an observation agreement with the LGBTI Centre for Development and Cooperation (SOMOS CD).⁹⁴ In its final observation report, SOMOS CD emphasised that, according to their surveys, 36% of trans people were unable to exercise their right to vote because polling station staff did not recognise their assumed identity, which did not match the data on their national identity cards.

For this reason, the EU EOM suggests that consideration be given to a legal provision for a person to change their registered name and gender in the Civil Registry (*Registro Nacional de las Personas*, RNP), so that identity cards (and, subsequently, the Voter Register) reflect their identity, thus ensuring they are able to exercise their right to vote.

⁹¹ Two Congress members are of Lenca origin, one of whom is Olivia Zúñiga Cáceres (Libre).

⁹² Concluding observations on the second periodic report on Honduras, 22 August 2017.

⁹³ Resolution 268-2017 of 13.10.2017, stating that the candidate's current photograph could be printed on the ballot paper, but her name could not be changed from that in her identity papers.

⁹⁴ <http://somoscdc.hn/> ; <http://www.votoporlaigualdadhonduras.com/>; SOMOS also led the 'Vote for Equality' campaign during the election campaign, primarily in the capital Tegucigalpa.

XV. PARTICIPATION OF PEOPLE WITH DISABILITIES

Honduras has ratified the International Convention on the Rights of Persons with Disabilities. According to civil society organisations, men and women with disabilities are often socially marginalised and, like other vulnerable groups, their political participation is extremely limited.

Throughout the election process, the TSE was alert to including disabled people, and signed agreements with several organisations⁹⁵, with the aim of promoting their participation in the elections.

Throughout 2017, a technical assistance project was run by the Ecuadorian National Council for the equality of people with disabilities and the Ecuadorian election administration (*Consejo Nacional para la Igualdad de Discapacitados* and the *Consejo Nacional Electoral*), which focused on support to Honduran civil society. In line with a recommendation by the 2013 EU EOM, the TSE adopted a regulation regarding voter registration and the exercise of suffrage for voters with disabilities,⁹⁶ and launched a pilot project to facilitate voting from home for people with severe mobility problems, and which was used by 15 voters.

XVI. NATIONAL OBSERVATION

The TSE's new regulation on election observation and international '*acompañamiento*'⁹⁷ complies with international declarations of principles for national and international observation. In terms of national observation, the TSE signed a number of agreements with civil society organisations, as well as with professional private sector bodies. Among civil society groups, *Coalición N-26* carried out long-term observation.

According to available figures, the TSE accredited 4932 Honduran election observers, 389 international observers and 148 international *acompañantes*. The EU EOM found that national observers were present in 27% of the polling stations it attended, where they were able to observe without restrictions.

XVII. ANALYSIS OF THE RESULTS⁹⁸

The TSE declared the final elections results on 17 December. Of the 6,046,873 voters registered in the country, 3,476,419 had turned out, as well as a small proportion of those registered in the USA,⁹⁹ as a result of which the overall turn-out was 57.52%, slightly lower than that recorded in 2013 (61%).¹⁰⁰ The Departments with the highest turn-outs were Lempira (80%), La Paz (74%) and Ocotepeque (73%), all in the Western part of the country. Invalid ballots accounted for 3.88% of all votes in the presidential election, and 4.19% in the elections to Congress.

The outgoing President and *Partido Nacional* candidate, Juan Orlando Hernández was re-elected with 42.95% of the vote (1,410,888), granting him a narrow advantage (1.63%, 50,446 votes) over his main rival, the candidate for the *Alianza de la Oposición contra la Dictadura*, Salvador Nasralla, who obtained 41.42% (1,360,442 votes).

⁹⁵ *Federación Nacional de Organismos de Personas con Discapacidad de Honduras* (FENOPDIH), *Federación Nacional de Padres de Personas con Discapacidad de Honduras* (FENAPAPEDISH) and *Coordinadora de Instituciones y Asociaciones de Rehabilitación de Honduras* (CIARH).

⁹⁶ N° 18-2017, 21 November

https://www.tse.hn/web/documentos/Acu-2017/Acuerto_18_2017_Reglamento_electores_con_discapacidad.PDF

⁹⁷ International 'accompaniers', accredited by the TSE, attend the process at the invitation of a political party or civil society group. They have the same rights and responsibilities as observers, and are subject to the same code of conduct.

⁹⁸ See Annex I

⁹⁹ In the US, registered Honduran could vote in Atlanta, Houston, Los Angeles, New York, Miami, New Orleans y Washington. Some 5% of the 50,617 registered voters turned out.

¹⁰⁰ The turn-out was comparable to those recorded in the most recent elections in the neighbouring countries of El Salvador (55.32% first round, 60.88% second round) and Guatemala (56.32% in the second round).

European Union Election Observation Mission, Honduras 2017
Final Report on the General Elections

For his part, the candidate for the *Partido Liberal*, Luis Zelaya, obtained 14.74% of the vote (484,187 votes), the poorest result obtained by any Liberal candidate in the Honduras' democratic history. None of the remaining candidates obtained 1% of the vote.

The new legislative chamber will have members from eight of the 10 parties that participated in the elections, as just FAPER and the newly-created party VAMOS failed to achieve any parliamentary representation. The *Partido Nacional*, with 61 seats, 13 more than in the previous parliament, significantly strengthened its representation, and is just four seats short of a majority. Libre won 30 seats, seven fewer than in 2013, and the *Partido Liberal* lost one seat, bringing its group to 26 Congress members. PINU, which allied itself with Libre for the presidentials as part of Salvador Nasralla's *Alianza de Oposición contra la dictadura* but competed alone in the legislative elections, and the Alianza Patriótica de Honduras, each won four seats, the best result to date for both parties. In addition, one seat each was obtained by *Democracia Cristiana* and *Unificación Democrática*. The *Partido Anticorrupción*, now without its founder Salvador Nasralla, plummeted from the 13 seats won in 2013 and obtained just one seat.

Finally, the municipal elections illustrated the strength of the two traditional parties at local level. The PN won in 173 of the 298 municipalities, which constitutes a significant improvement since 2013 and will enable the party to create new local governments in Departments where hitherto it had had relatively little presence, such as Cortés, Santa Bárbara, Yoro and El Paraíso. The *Partido Liberal* gained twice as many votes at local level as it did in the presidential election, obtaining 91 mayoral offices, and taking back eight municipalities, in the Departments of Francisco Morazán, Yoro, Atlántida, Olancho, Santa Bárbara y Valle. Libre held on to its 31 mayoral offices. DC, *Alianza Patriótica* and VAMOS each gained one mayoral office (in Francisco Morazán, Cortés and Copán, respectively.) Just two of the 45 independent lists won their municipal elections: the movements *Salvemos nuestro Municipio* and *Unidos por Esquías* in Comayagua.

XVIII. RECOMMENDATIONS

Just as its predecessor did in 2013, the EU EOM submits, at the end of this report, a series of recommendations which aim to contribute to the improvement of future election processes in Honduras, for consideration by the State, electoral authorities, political parties and civil society.

Context	Recommendation	Change in legal framework or administrative action required	Responsible Institution	Applicable international or regional instruments
1. Voter register				
<p>The Honduran voter register is considered to be generally inclusive but also with superfluous entries.</p> <p><i>Page 16 of this report.</i></p>	<p>In order to ensure a more accurate voter register, it would be useful to carry out an updating exercise of the civil register on which the voter register is based.</p>	<p>Planning, provision of necessary resources and execution of an updating and 'cleansing' of the Civil Registry database.</p>	<p>Government National Congress Civil Registry (RNP)</p>	<p>General Comment 25, paragraph 11</p>
2. Changes of registered residence (<i>traslados domiciliarios</i>)				
<p>The registration of fraudulent residence changes can have an impact on municipal elections.</p> <p><i>Page 16</i></p>	<p>It would be advisable to require, by means of regulation or even the Election Law, the provision of evidence to show that requests for residence changes are genuine, before registering the change in the voter register.</p>	<p>New TSE regulation regarding residence changes, or reform of the Election Law.</p>	<p>National Congress TSE</p>	<p>General Comment 25, paragraph 11</p>
3. Election Administration: responsibilities of the departmental and municipal election administration bodies (TED and TEM)				
<p>The Election Law attributes to the TEDs and TEMs the responsibility for aggregating election results, although the process has for many years been computerised and centralised at the TSE.</p> <p><i>Pages 14, 19</i></p>	<p>It would be advisable to eliminate the TED and TEM responsibilities relating to results aggregation, now defunct.</p>	<p>Reform of the Election Law</p>	<p>National Congress</p>	<p><i>EL, articles 20, 23</i></p>

4. Right to effective remedy : appeals to TSE				
<p>Gaps in the Election Law regarding the time available to the TSE to resolve challenges and appeals concerning some areas of the electoral process, sometimes result in subsidiary application of the deadlines provided-for in the Law on Administrative Procedure. These are often too lengthy, and incompatible with an electoral timeframe.</p> <p><i>Pages 13, 14</i></p>	<p>It would be advisable to close gaps in the Election Law regarding the time available to the TSE to resolve complaints concerning some areas of the electoral process, in order to avoid subsidiary application of the deadlines provided-for in the Law on Administrative Procedure.</p>	<p>Reform the Election Law, or regulation through TSE regulation on complaints and appeals.</p>	<p>National Congress TSE</p>	<p>ICCPR, Article 2.3 a)b)c) General Comment 25, paragraph 20 UDHR, article 8 American Convention on Human Rights (ACHR), art. 25</p>
5. Right to effective remedy: appeals to the Supreme Court on electoral matters				
<p>Delayed resolutions of appeals to the Constitutional Chamber of the Supreme Court can result, in some electoral areas (appeals against TSE decisions on procedure, party and candidate registration, voter register) in decisions favourable to the appellants being issued too late for them to be applied.</p> <p><i>Pages 23, 25</i></p>	<p>Accelerate resolution of electoral appeals to the Supreme Court.</p>	<p>Reinforce capacity of SCCS during electoral period and/or priority handling of electoral appeals.</p>	<p>Supreme Court</p>	<p>ICCPR, Article 2.3 a)b)c) General Comment 25, paragraph 20 UDHR, article 8 American Convention on Human Rights, art. 25</p>

6. Auditing of election campaign funding				
<p>The new Law on Financing, Transparency and Auditing of Political Parties and Candidates (Clean Politics Law) established limits on campaign spending and transparency requirements for funding for candidates, but not for political parties.</p> <p><i>Pages 10, 15</i></p>	<p>It would be useful to introduce spending ceilings and campaign transparency requirements to political parties.</p>	<p>Reform of the Law on Financing, Transparency and Auditing of Political Parties and Candidates and its accompanying regulation.</p>	<p>National Congress</p>	<p>General Comment 25, paragraph 19</p> <p>UN Convention against Corruption (UNCAC), article 1 and 7</p>
7. Strengthen Clean Politics Unit				
<p>The EU EOM identified serious budgetary, personnel and logistics deficiencies in the Clean Politics Unit, mandated to implement the new Clean Politics Law, which limited its operational capacity.</p> <p><i>Page 12</i></p>	<p>Provide the Clean Politics Unit with an independent and sufficient budget, in order to ensure it can carry out its numerous duties in an efficient and autonomous manner.</p>	<p>Budgetary support to the Clean Politics Unit.</p>	<p>Government</p> <p>National Congress</p>	<p>General Comment 25, paragraph 19</p> <p>UN Convention against Corruption (UNCAC), article 1 and 7</p>
8. Neutrality of public media				
<p>The public media <i>Televisión Nacional de Honduras</i> (TNH) and <i>Radio Nacional de Honduras</i> (RNH) covered the election campaign in an imbalanced way, in favour of the ruling party.</p> <p><i>Pages 27, 31</i></p>	<p>Promoting the adoption, through legislation and professional good practice, of mechanisms to guarantee equity between different parties and candidates, in terms of both time and tone, in public media coverage, of election campaign period.</p>	<p>Reform of the Election Law.</p>	<p>National Congress</p> <p>TNH</p> <p>RNH</p>	<p>Articles 19 and 25, ICCPR</p> <p>General comment 34, to the ICCPR, paragraph 16</p> <p>ACHR (art13, para1,3)</p>

				Inter-American Declaration of principles on Freedom of Expression (IACHR), art. 5
9. Paid propaganda in private media				
The EU EOM noted a severe inequality among different parties' and candidates' paid propaganda in private media. <i>Pages 27, 31</i>	Establishment of specific ceilings for spending on paid propaganda in the media, or, alternatively, reasonable limits on daily airtime per party.	Reform of the Law on Financing, Transparency and Auditing of Political Parties and Candidates. (Art.28)	National Congress	CADH (art.13, par 1,3) Inter-American Declaration of principles on Freedom of Expression (IACHR), art. 5
10. Independence of private media				
Since 2013, legal provisions enable media outlets to pay for their outstanding tax debts by publishing or broadcasting institutional advertising. This mechanism for paying fiscal debts through the provision of space or airtime for propaganda, under terms and conditions which are left to the President's discretion, could result in a conditioning of the concerned media outlets' freedom of expression.	Elimination of the mechanism allowing private media to pay their tax debts by broadcasting (outside of election campaign periods) institutional propaganda according to conditions set by the President of the Republic.	Reform of the <i>Ley del programa voluntario de rescate, promoción y fomento del sector des las comunicaciones</i> , which authorises media outlets to pay their pending debts to the Government by means of institutional propaganda.	National Congress	General Comment 34 to the ICCPR, paragraph 41.

Pages 27, 28				
11. Conditions for journalists' freedom of expression				
<p>A. Although guaranteed by the Constitution, recently adopted legal provisions, could constitute serious limitations to freedom of expression.</p> <p>Pages 27, 30</p> <p>B. Impunity prevails in many cases of assault or murder of journalists. Equally, the protection measures for threatened journalists are insufficient.</p> <p>Pages 27, 28</p>	<p>Revision of article 335B of the Penal Code, which penalises apologies of terrorism in the media, so as to ensure its application is limited to very explicit and particularly grave cases and not a limit on freedom of expression and access to information.</p> <p>Removal of prison sentences for the offences of slander, defamation and libel.</p> <p>Improve the investigative capacities (including means) of the Public Prosecutor's Office in cases of journalists' murders.</p> <p>Strengthen protection measures for threatened journalists through the National System for the protection of human rights defenders and journalists. (<i>Sistema nacional de protección para personas defensoras de derechos humanos, periodistas colaboradores de medios y operadores de justicia.</i>)</p>	<p>Reform of the Penal Code article 335-B (apology of terrorism in the media) and articles 155 and 161 (libel, slander and defamation).</p> <p>Revision of the 'Official Secrets Law'. (<i>Ley para la Clasificación de Documentos Públicos Relacionados con la Seguridad y la Defensa Nacional</i>)</p> <p>Capacity-building and reinforcement of the specialised investigation units of the Public Prosecutor's Office.</p> <p>Capacity-building and reinforcement for the National System for the protection of human rights defenders and journalists.</p>	<p>National Congress</p> <p>Public Prosecutor Office</p> <p>Government</p>	<p>ICCPR, articles 19 and 25</p> <p>General comment 34, paras 9, 13, 19, 20, 21-36, 46, 47.</p> <p>Inter-American Declaration of principles on Freedom of Expression, articles 4,6,8,9,10,11,13</p> <p>Background and Interpretation of the Declaration of Principles Paragraph 43</p>

12. Independence of CONATEL				
<p>The commissioners of the State regulator for audiovisual media, the <i>Comisión Nacional de Telecomunicaciones</i> (CONATEL) are appointed by the President of the Republic.</p> <p><i>Pages 27, 30</i></p>	<p>In the interest of greater independence and neutrality in performing its duties, it would be advisable that the appointment of CONATEL magistrates not depend exclusively on the President of the Republic. An appointments process involving the National Congress, as pluralist constitutional power, would undoubtedly strengthen CONATEL's independence.</p>	<p>Revision of the Basic Law on the sector of Telecommunications.</p>	<p>National Congress</p>	<p>ICCPR (art 19, 25)</p> <p>General Comment 34, para 9,37,39,42</p> <p>CADH (art 13, para 3)</p>
13. Gender parity				
<p>The mechanism for alternation between men and women on candidate lists for Congress adopted by the TSE does not respect the principle of parity enshrined in the Election Law.</p> <p><i>Page 32</i></p>	<p>Adoption of a new regulation which guarantees, without exceptions, the effective alternation between men and women on the candidate lists for election to Congress.</p>	<p>Adoption of a new gender parity regulation, with mechanisms for alternation among candidates.</p>	<p>TSE</p>	<p>CEDAW Art. 2,3,4,7</p> <p>ICCPR, Article 3</p> <p>Consenso de Quito</p> <p><i>Norma Marco del PARLATINO (2015) para consolidar la Democracia Paritaria</i></p>
14. Oversight of political parties' gender policies				
<p>The TSE failed verify parties' compliance with the legal requirements on gender equality.</p> <p><i>Page 33</i></p>	<p>Effective oversight by the TSE regarding the fulfilment of political parties' obligations towards gender equality (formulation and application of a party gender policy).</p>	<p>Activation, with necessary staff and resources, the Gender Unit foreseen by the TSE organigramme</p>	<p>TSE</p>	<p>CEDAW Art. 2,3,4,7</p> <p>ICCPR, Article 3</p> <p>Consenso de Quito</p> <p><i>Norma Marco del PARLATINO (2015)</i></p>

				<i>para consolidar la Democracia Paritaria</i>
15. Political participation of trans people				
<p>Trans people often had difficulty being allowed to vote, because their assumed identity is not recognised by electoral authorities.</p> <p><i>Page 34</i></p>	<p>It would be useful to consider legally providing for changing a person's registered name and gender in the Civil Registry (<i>Registro Nacional de las Personas, RNP</i>), so that identity cards (and, subsequently, the Voter Register) reflect their identity, thus ensuring they are able to exercise their right to vote.</p>	<p>Civil Registry Law (<i>Ley sobre el Registro Nacional de Personas</i>)</p>	<p>National Congress</p>	<p>ICCPR, Article 2</p>