

EU Electoral Follow-Up Mission to Peru

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LIST OF ACRONYMS

AP	Popular Alliance (<i>Alianza Popular</i>)
APP	Alliance for the Progress of Peru (<i>Alianza por el Progreso del Perú</i>)
APRA	American Revolutionary Popular Alliance (<i>Alianza Popular Revolucionaria Americana</i>)
EEAS	European External Action Service
EFM	Election Follow-Up Mission
EU EOM	European Union Election Observation Mission
FA	Ample Front (<i>Frente Amplio</i>)
FP	Popular Force (<i>Fuerza Popular</i>)
GTRE	Working Group for Electoral Reform (Grupo de Trabajo para la Reforma Elecoral)
JEE	Special Electoral Juries (<i>Jurados Electorales Especiales</i>)
JNE	National Electoral Board (<i>Jurado Nacional de Elecciones, JNE</i>)
MP	Member of Parliament
NGO	Non-Governmental Organisation
ONPE	National Office for Electoral Processes (<i>Oficina Nacional de Procesos Electorales</i>)
PPK	Peruvians for Change (<i>Partido Peruanos por el Kambio</i>)
RENIEC	National Identity and Civil Status Registry (<i>Registro Nacional de Identificación y Estado Civil</i>)
SEA	Automated Counting System (<i>Sistema de Escrutinio Automatizado</i>)
UIT	Tax Unit (<i>Unidad Impositiva Tributaria</i>)
UIF	Financial Intelligence Unit (<i>Unidad de Inteligencia Financiera</i>)
OAS	Organisation of American States (Organización de Estados Americanos)

EXECUTIVE SUMMARY

- The European Union deployed an Election Follow-Up Mission (EFM) to Peru on 3rd October 2017 to assess the progress made in the ongoing electoral reform process. Renate Weber, Member of the European Parliament and Chief Observer of the 2016 EU EOM to Peru, led the EFM, which was supported by External Action Service officers and two election experts who were in Peru until 28th October 2017. The EFM was deployed as part of the continuing EU engagement and support to the deepening of Peruvian democracy.
- The EU EOM deployed for the 2016 general elections identified a number of shortcomings in the electoral process concerning internal party democracy rules, campaign financing, and the eligibility of voters and candidates, among other issues. The 2016 EU EOM also highlighted that a lack of clarity in the legal framework led to confusion and uncertainty, affecting the entire electoral process. Significant sectors of Peruvian society have supported the need for a comprehensive electoral reform to ensure the accountability of elected officials and to prevent deep-rooted corruption and manipulation of the political system.
- The 2016 general elections in Peru led to a situation where the opposition party Fuerza Popular (FP, Popular Force) had an absolute majority in Congress, whereas the ruling party only got elected a very small group of legislators. This situation, along with Government instability, widespread corruption allegations and internal divisions at FP, has drawn political attention away from the electoral reform.
- Since the end of 2016, a multi-party Constitutional Commission of Congress has been in charge of debating and proposing an electoral reform. A Working Group for Electoral Reform (GTRE, for its Spanish acronym) evaluated the various proposals, including those by the National Electoral Board (*Jurado Nacional de Elecciones*, JNE) and the Executive, and developed a proposal for a new Electoral Code, as recommended by the 2016 EU EOM. The need to adopt legislation in time to be applied during the 2018 regional and municipal elections led to the selection of a set of priority amendments, putting temporarily aside the adoption of a consolidated Electoral and Procedural Code.
- There have been numerous proposals and discussions, and the opportunity for a comprehensive electoral reform was generally welcome. However, at the time of writing, the only reform enacted since the 2016 general elections has been the Law on the Electoral Calendar, aimed at addressing the extremely compressed election calendar, which was regarded as a positive development. Regarding electoral administrative processes, there have only been few significant changes. The general assessment of the implementation of the 2016 EU EOM recommendations is that there have been genuine endeavours towards a more profound electoral reform; however there has been limited progress to date that could apply to the 2018 regional elections
- One of the key priorities in the reform process is the transparency of party financing. The Bill amending the Law on Political Parties still to be adopted intends to strengthen the limitations over sources of income and ceilings for contributions, and sets some transparency requirements for political parties. The enforcement of the provisions put forward remains unclear owing to the limited capacities foreseen to audit the required

financial disclosures and to impose sanctions for violations of campaign funding provisions, which are perceived as ineffective. Notwithstanding, the adoption of this bill would be a positive step towards the improvement of legislation for parties' financing and campaign.

- A bill proposing that applicable electoral laws should be promulgated until one year before elections was referred to the President and is pending enactment. Furthermore, a number of draft laws allegedly aimed at strengthening political parties have been presented to Congress for discussion. If adopted, these bills would impose severe restrictions to forming political parties and would exclude a potentially large number of candidates. Likewise, there were proposals requiring constitutional amendments awaiting parliamentary discussion, most significantly the return to the bicameral system and the elimination of the preferential voting system. Since they would affect important features of the Peruvian political system, these proposals require a political debate and the broadest possible consensus.
- Some recommendations by the 2016 EU EOM could be addressed by making changes to administrative procedures and would not require any legal amendment. Areas affected by said changes would be the system for counting and transmitting electoral results, which might be made faster and more efficient via electronic means, as well as the training of polling station staff, and voter and civic education. While progress regarding the materials to train polling officers and to educate citizens seems feasible, the adoption of e-vote would require a general acceptance by political parties which does not currently exist.
- The approval of a unified and coherent Electoral and Procedural Code in time to be applied for the 2021 general elections remains the ultimate objective of a genuinely profound electoral reform. This reform should adequately address the most pressing problems of Peruvian elections as identified by both national and international observer groups and ample sectors of civil society, and would at the very least include mechanisms to strengthen political organisations and to make political party funding more transparent. The European Union could consider supporting such a reform upon request by Peruvian authorities.

1. INTRODUCTION

The EU Election Follow-Up Mission (EFM) to Peru 2017 was deployed on 3rd October to assess the progress made by the ongoing electoral reform process in Peru following the 2016 general elections and in light of the recommendations formulated by the European Union Election Observation (EU EOM). According to the Commission Communication on Electoral Assistance and Observation [COM (2000)191], the EFM's findings will also be considered when deciding eventual EU assistance for electoral reform in Peru.

The EFM was led by Renate Weber, Member of the European Parliament and Chief Observer of the 2016 EU EOM to Peru. Ms Weber stayed in Peru from 14th to 20th October 2017. She was accompanied by European External Action Service officers and two electoral analysts deployed in the country from 3rd to 28th October 2017.

During its stay in Peru, the EFM met with all institutions proposing initiatives to reform the legal framework for elections, such as the Constitutional Commission of Congress and the National Electoral Board (*Jurado Nacional de Elecciones*, JNE), which was accompanied in this effort by the National Office for Electoral Processes (*Oficina Nacional de Procesos Electorales*, ONPE), and the National Identity and Civil Status Registry (*Registro Nacional de Identificación y Estado Civil*, RENIEC). In addition, the EFM held meetings with other State institutions and stakeholders dealing with elections, including political parties, spokespersons of Congress groups, national observer groups, civil society organisations, technical assistance providers, and media representatives, among others.

On 19th October, the EFM held a round table with participants of the aforementioned groups which was chaired by Ms Weber at the premises of the EU Delegation to Peru. Immediately after the round table, the EFM's Chief Observer attended a press conference to announce the main preliminary findings of the EFM.

2. POLITICAL CONTEXT

The results of the 2016 general elections have led to a political situation where the executive and the legislative are controlled by different political forces, and therefore it is not easy to reach a consensus needed for the electoral reform.

Pedro Pablo Kuczynski closely won the presidential election in the 5th June runoff with 50.12% of the valid votes, barely 41,000 more votes than Keiko Fujimori (49.88%). Fujimori had won the first round of the election with 6,000,000 valid votes (39.89%), almost twice as many votes as those obtained by Kuczynski (21.05%). Keiko Fujimori acknowledged the results on 10th June, five days after election day, deeming them as "confused", while denouncing the covert support of the outgoing government to Kuczynski.

Fujimori's FP holds the largest group in Congress, with 73 out of the 130 seats, enough to pass any legislative initiative on its own. The rest of seats were distributed among five political parties: the left-wing coalition Frente Amplio (FA, Ample Front), with 20, which split into two different groups shortly after elections; president Kuczynski's

Partido Peruanos por el Cambio (PPK, Peruvians for Change), 18; Alianza por el Progreso del Perú (APP, Alliance for the Progress of Peru), 9; Alianza Popular (AP, Popular Alliance), 5; and Acción Popular (Popular Action), 5.

Relationships between the executive and legislative powers

The Government and FP's majority group in Congress have maintained a tense relationship since the July 2016 inauguration. During their first year in office, the Education, Transport and Economy ministers were replaced after being interpellated by FP because of disagreement with Government policies or due to mismanagement accusations brought against them. In September 2017, anticipating that the new Education minister would be challenged by Congress, the president of the Council of Ministers, Fernando Zavala, asked for a vote of confidence for the whole cabinet. After Congress voted against granting it, president Kuczynski undertook a full Government reshuffle. The new cabinet led by Mercedes Aráoz obtained Congress confidence on 12th October 2017. According to the Peruvian Constitution, if Congress fails to give its confidence to the Government for a second time, the President would be entitled to dissolve the chamber and call for early elections.

Beyond an uneasy relationship between the Executive and Legislative powers, two other factors have contributed to draw the focus away from electoral reform. First, corruption allegations affecting several political parties. Second, FP's internal divisions, which ended up with two of its Congresswomen leaving the party during the first year of mandate. One of these Congress members was Patricia Donayre, who led the Working Group for Electoral Reform (GTRE) in Congress. After consulting with civil society organisations and election experts, Donayre had presented in May 2017 a proposal for a new Electoral Code. Donayre left the FP group considering her proposal had been overlooked by her own party.

Conclusively, the political atmosphere has not favoured electoral reform. On one hand, the Executive has seen popular support decreasing; on the other, FP had to struggle not to appear as groundlessly obstructing government action, while reminding that electoral amendments required the broadest possible consensus among political parties and were not its sole responsibility.

3. ELECTORAL REFORM

3.1. Reform Initiatives in Peru, 2001-2016

The first electoral reform after the demise of president Alberto Fujimori (1990-2000) took place during the period 2002-2003, when three electoral laws were passed: the Law on the Bases of Regionalization (*Ley de Bases de Regionalización*, 27783-2002), the Law on Regional Elections (*Ley de Elecciones Regionales*, 27.683-2002), and the Law on Political Organisations (*Ley de Organizaciones Políticas*, 28094-2003). These laws established both regional and local authorities, as well as the rules for their election.

It was after the second regional and municipal elections, held in 2006, that the political parties started integrating their Congress lists with candidates who were successful at the local level. The law, which aimed to open up the political space to new actors and to promote democratic participation, did not define accountability rules for new-born organisations. As a result, two undesirable consequences stemming from the law are currently considered to be pressing problems of Peruvian politics: the

commercialization of political participation, and extended corruption, due to the absence of adequate scrutiny instruments.

In 2016, the Law on Political Organisations was hastily amended and passed by Congress after the general election had already been called. Its approval created great confusion regarding its applicability and the massive use of a newly adopted mechanism to exclude candidates for vote buying, which was highly controversial and led to the exclusion of several candidates. As a result, the EU EOM advised against the late enactment of electoral amendments.

3.2. The 2016-2017 Electoral Reform Process

The process of electoral reform has been a long-held demand in Peru and all sectors of Peruvian society have recognised the urgent need for a comprehensive electoral reform to ensure the accountability of elected officials and to prevent the deep-rooted corruption and manipulation of the political system. The opportunity to consider such changes was largely welcomed. Civil society organisations such as Transparencia and Proética have been vocal in demanding significant change in electoral laws, thus influencing the debate over reform. The JNE and the Executive made also substantial contributions to the reform process (see below).

Beyond the individual efforts of these organisations, it is particularly worth noting the initiative known as Observatory of Integrity (Observatorio de la Integridad), launched by the two aforementioned organisations and two Peruvian universities, to boost measures improving integrity, transparency and the fight against corruption, in line with the recommendations issued by a Presidential Commission for Integrity. The initiative includes measures to promote and monitor the use of illicit money in election campaigns, and to disqualify candidates sentenced for money-laundering, corruption and drug trafficking.

In August 2016, the Constitutional Committee of Congress formed a Working Group for Electoral Reform (GTRE). The GTRE was comprised of MPs of all political parties represented in Congress and was commissioned with the mandate to analyse the entire legal framework for elections and to draft a new Electoral Code. Following extensive consultation and evaluation of the different proposals from the electoral bodies, NGOs, civil society actors, academia, governmental institution and development partners, the GTRE elaborated a consolidated Electoral Code proposal. With the financial support of the EU, International IDEA has provided technical assistance to the GTRE's work in drafting the electoral legislation.

In April 2017, the JNE submitted to Congress the Electoral Code Bill (No. 1313/2016-JNE) which was analyzed by the GTRE. The Executive also put forward a Bill (No. 1315/2016-PE) with a set of amendments to some specific aspects of the Electoral Laws regarding the transparency of party financing and mechanisms to strengthen the political organisations. The JNE's proposal, mostly focused on technical aspects, gave greater consideration to the list of EU EOM's recommendations. On the other hand, some EFM interlocutors noted that the government's proposal was more innovative while proposing changes both to the political and electoral system.

The GTRE proceeded quite smoothly and submitted a preliminary report to the Constitutional Commission on 11th May 2017. The report included an Electoral Code

proposal and was approved unanimously by all parties represented in the GTRE. The GTRE's final report shared with the Bill submitted by the JNE and the Executive a common objective of strengthening mechanisms to prevent or inhibit irregular financing of candidates and parties. They also provided a reasonable timeframe for the election process, as well as an increase of the gender quota from 30% to 50% and gender alternation on candidate lists.

However, they also showed discrepancies in other fundamental issues. For instance, the final report of the GTRE did not require the election administration to organise internal party elections as proposed by the JNE and the Executive, nor to vest the Financial Intelligence Unit with mechanisms to monitor campaign financial activities, as proposed by the Executive. Views also seemed to differ on the sanctions to be applied to candidates delivering gifts during the election campaign or on the contributions by domestic and foreign corporations. Unlike the GTRE and the JNE, the Executive recommended reducing the number of signatures necessary for party registration from 4% to 1%.

After the completion of the GTRE's work, the Constitutional Commission resumed its discussions on electoral reform. However, if the Bill to Enhance the Principle of Legal Certainty in the Electoral Process is enacted, all parliamentary procedures need to be finalised by the end of the current session period on 18th December 2017 for the amendments to be applied to the 2018 regional and municipal elections. This prompted a major shift in the dynamics of the reform process. The Constitutional Commission temporarily abandoned the idea of a unified Electoral Code and instead drew up a list of urgent reform priorities in a fragmentary approach, upon which some interlocutors feared that the adoption of ad hoc amendments may lead to having disconnected rules and adding further inconsistencies to the electoral legislation.

The following priority areas were identified by the Constitutional Commission: a) financing of political parties with a focus on preventing illegal sources of political funding; b) eligibility requirements and prohibitions for candidates; c) mechanisms to enhance transparency and democracy in the parties' internal processes for selecting candidates; d) strengthening political parties; e) electoral advertising, and f) gender and indigenous quotas. Since May 2017, five legislative initiatives have been approved in Congress, and only one of them has been promulgated, namely the Law on the Electoral Calendar (No. 30673) which was adopted on 20 October 2017. The Bill (No. 242) to Enhance the Principle of Legal Certainty in the Electoral Process and the Bill (No. 1323/2016-CR) amending the Law on Political Parties regarding campaign finance provisions have been adopted by Congress and have been referred to the President who may further suggest changes to the Bills prior to their enactment. There are two other initiatives that have been approved in Congress but have not yet been referred to the President; the Bill (No. 1329/2016-CR) to cancel municipal political organizations and the Bill (No 02076/2017-CR) on Eligibility Criteria of Candidates.

Reforms to the Electoral Calendar

On 20th October 2017, the Law on the Electoral Calendar (No. 30673) was adopted by Congress to set new timeframes for key election processes, in order to address the extremely compressed election calendar. The amendments impacted particularly on the deadlines for voters' and candidates' registration as well as on the adjudication of complaints and appeals which were largely unregulated by the previous norms.

Despite some shortcomings, these changes to the electoral calendar were generally positive and should contribute to increasing the effectiveness of electoral administration. However, a direct consequence of the reform in the electoral calendar is that it lengthens the electoral process and consequently requires a larger working period for the election staff. Therefore, to be effective, the amendments should be accompanied with sufficient financial resources to be allocated to the JNE so that adequate staff is hired for these purposes.¹

Reform to Enhance the Principle of Legal Certainty in the Electoral Processes

A second Bill (No. 242) to Enhance the Principle of Legal Certainty in the Electoral Processes intends to amend articles 4 and 79 of the Election Law, and establishes that changes to electoral laws should be promulgated and published up until one year before election. The Bill further proposed that, in order to be applicable, electoral regulations should be issued no later than the official call for elections. The Bill includes a transitional provision stating that, for the regional and municipal elections, electoral laws may be enacted up to one day before the call for elections, and that regulations may be issued up to one month after the call for elections. This Bill was approved by Congress on 20th September and referred to the President of the Republic on 26th September 2017 for its promulgation. However, the President returned the Bill with two objections related to the amendments of the regulations. At the time of this report, it was unclear whether the Congress would approve the objections made by the Executive or would instead adopt the law as it stands without further amendments.

Reform to the party and campaign finance provisions

One of the key priorities in the reform process was the transparency of party financing. On 9th November, Congress approved in its second reading the Bill (No. 1323/2016-CR) on amendments to the Law on Political Parties and the Public Contracting Law regarding campaign finance provisions. The most relevant changes proposed in the Bill were the following; first, it introduces specific prohibitions to certain sources of campaign financing. Second, it establishes ceilings on private contributions so as to minimise the purchase of political influence. Third, the bill narrowly defines the gifts that candidates may distribute in an election campaign. Fourth, it provides a classification and graduation of sanctions. Fifth, it introduces further reporting and accounting requirements. The Bill has yet to be promulgated by the President of the Republic, and therefore, it remains to be seen whether it will be adopted with the same drafting as it stands at the time of this report.

Reform to strengthen political parties

There have been a number of legislative initiatives towards strengthening political parties. For instance, on 3rd October, the Constitutional Commission issued a positive opinion on two Bills (No. 129/2016-CR and 1865/2017-CR). The CC's opinion was to firstly regulate the composition and the functions of the party electoral bodies and secondly to open up the possibility for electoral bodies to intervene in party elections as a mechanism by which to develop their internal democracy. Despite this, the proposed amendments fall far short of addressing the EU EOM recommendations and, if adopted, would mean a slight improvement over the prevailing norms.

¹ The JNE estimates that it will need S/13 million (around €3.4 millions) only to pay the salaries of the temporary members that the JNE will have to hire at departmental level during the election period.

However, this has not been always the case. For instance, on 7 November Congress adopted a Bill (No. 1329/2016-CR) intended to cancel political organisations at the municipal level which might be inconsistent with freedom of association. Furthermore, on 17th October the Constitutional Commission issued two opinions related to regional and municipal elections. The first refers to a Bill (No. 01840/2017-CR) aiming to eliminate the requirement for candidates to have effective residence in the constituency where they intend to run for the regional elections, which may also undermine geographic representation in the country. The second is in regard to a Bill (No. 01347/2016-CR) intended to increase from 30% to 40% the threshold needed to win the gubernatorial elections in the first round. Some interlocutors noted that, in the context of Peru, this amendment may play in favour of those parties with greater financial resources as they would enjoy much better conditions for a second round. These opinions have not been yet debated by the Congress Plenary.

During the EFM, at the centre of the reform debate was a Bill (No. 482/2016-CR) submitted to Congress in October 2016 by a member of the APRA party, requesting that to contest an election, political parties must have duly registered with the JNE three years before. Furthermore, candidates would be required to have been affiliated with the respective party for at least one year. According to EFM's interlocutors, all these initiatives have been launched so as to limit the ability of certain candidates to run for election. If approved, these amendments would impose severe restrictions on a candidate's right to run, and exclude a large number of otherwise eligible candidates. This is particularly important because independent candidates outside party lists are not allowed in Peru and would be contrary to Peru's international commitments on democratic elections.

Reforms to the electoral system

There were also some proposals requiring constitutional amendments. Most significantly, the return to the pre-1992 bicameral system²; the establishment of term limits for congressional mandates; an increase in the number of Congress seats; the elimination of the preferential voting system; the division of congressional seats among multi-member or single-member constituencies, among others³. As the election system is a matter subject to a national decision, the EU EOM did not make any recommendation in this regard, apart from recommending quotas for women and indigenous peoples. Practical experience shows the need for a broad political debate to reach national consensus on constitutional reforms for their implications in political life. The fact that a two-third majority in Congress is required for constitutional amendment should also be born in mind.⁴

² The Executive's proposal is that the total number of Congress members should remain at the current 130, with 100 serving in the House of Representatives and 30 in the Senate.

³ The intense rivalry between candidates in the preferential system is also regarded by some stakeholders as a channel for abuses and corrupt practices.

⁴ Article 206 of the Peruvian Constitution states that "Any initiative of constitutional reform must be adopted by Congress through an absolute majority of the legal number of its members, and must be ratified by a referendum. The referendum may be exempted when the consent of Congress is obtained in two successive session periods, and with the favourable vote of more than two-thirds of the legal number of congress representatives in each period."

Other reform proposals

On 2nd November, the Congress adopted the Bill (No 02076/2017-CR) on Eligibility Criteria of Candidates, that permanently prohibits people convicted of terrorism, advocacy of terrorism, drug trafficking or crimes against sexual freedom from running for elections. Public official and civil servants who have been convicted for collusion, embezzlement or corruption would also be deprived on their right to stand for election. The norm would not be applied to those granted amnesty. While addressing a generalised concern in Peruvian society, some aspects of the Bill might be found in violation of fundamental rights. The Bill has been referred to the President for its enactment.

The Constitutional Commission has announced that a number of amendments to electoral legal provisions will be discussed in Congress over the next few weeks, including electoral advertising, gender and indigenous peoples' quotas and alternation. The timeframe set by the Constitutional Commission seems insufficient to deliberate and develop the needed consensus to adopt these bills for reform in time for their application during the 2018 regional and municipal elections.

The Constitutional Commission noted that, during the deliberations in Congress, differences emerged on the scope of the reform and that there was insufficient time to find consensus between the various political parties on the adoption of a unified code and on a number of politically sensitive issues. However, the Commission expects to resume the discussions to adopt a harmonious election law after the 2018 regional and municipal elections. Good practice indicates that a weighted majority is preferable in order that the electoral reform be less contentious. However the expectations for an electoral reform are high among the Peruvian civil society who believes that the political forces are not sufficiently engaged in the electoral reform.

4. EU EOM RECOMMENDATIONS AND PROPOSED REFORMS

The 2016 EU EOM identified a number of shortcomings in the electoral process concerning internal party democracy rules, campaign financing, eligibility of voters and candidates, and the electoral justice system, among other questions, which implied undertaking legislative changes. The 2016 EU EOM also highlighted that a lack of clarity in the legal framework led to confusion and uncertainty affecting the entire electoral process. The need to prevent serious problems experienced in previous elections, most significantly de 2014 regional and municipal elections, have also shaped the debate on electoral reform.

4.1. Legal Framework

Legal Certainty of the Electoral Legal Framework

The introduction of last-minute amendments and dispersed electoral legislation generated problems with interpretation, added confusion and opened the floor to abuse during the 2016 elections. The EU EOM 2016 recommended (Rec. No. 1 and #2) the consolidation of all electoral legislation in a single and coherent Electoral and Procedural Code and to ensure certainty of the legal framework during electoral processes by limiting the window of time for amendments.

The Bill (No. 242, 2016) to Enhance the Principle of Legal Certainty in the Electoral Processes proposed that applicable electoral laws should be promulgated and published up to one year before election day. The Bill further proposed that, in order to be applicable, electoral regulations should be issued no later than the official call for elections.⁵ This Bill was approved by the Congress on 20th September and referred to the President of the Republic for its promulgation. However, the President returned the Bill with two objections related to the amendments of the regulations on the grounds that: a) they interfere with the JNE's regulatory powers; b) the regulations are administrative acts which should be subject to regular reviews throughout the electoral process. The JNE supported the objection of the Executive as it would allow them to interpret and supplement the electoral law for emergent needs, in particular those on technical questions, and to provide practical solutions to unforeseen contingencies.

Voter Eligibility

The EU EOM 2016 recommended establishing mechanisms to facilitate suffrage for all eligible voters, including those working in the electoral process (police, armed forces, and electoral workers), those hospitalised or in preventive detention and those who reach voting age after the registration cut-off date (Rec. No. 3). The recommendation has been partially addressed with the adoption of the Law on the Electoral Calendar (No. 30673/2017),⁶ as it allows for citizens who have turned 18 by election day to be included in the voter list.⁷ However, there were no other legislative changes on the restrictions to universal suffrage. Furthermore, the electoral authorities did not take positive steps to guarantee that all eligible voters, such as those hospitalised or in preventive detention, can exercise their right to vote. This would have required no legal reforms.

According to the Law on the Electoral Calendar, the voter register should be closed 365 days before election. Apparently, this amendment aimed to limit frivolous transfers of electoral residence aiming to favourably affect the outcome of municipal elections. However, this would mean that legitimate changes of residence would not be entertained during a full year before elections and might leave a number of electors effectively disenfranchised. The Election Law neither clarifies the sanction for illegitimate attempts to alter electoral residence, nor does it require proof of effective residence for processing requests. On a positive note, citizens who have turned 18 by election day would be included in the voter list, as recommended by the 2016 EU EOM.

International and National Observation

The EU EOM 2016 recommended the adoption of amendments to allow domestic and international observers access to information and documentation from the JNE which is specifically prohibited in the Election Law (Rec. No. 4). Both the GTRE and the JNE included in their respective reform proposals a provision in this regard, however this has not yet been discussed by the Constitutional Committee.

⁵ The bill includes a transitional provision stating that, for the regional and municipal elections, electoral laws may be enacted up to one day before the call for elections, and that regulations may be issued up to one month after the call for elections.

⁶ The amended article 201 of the Election Law states that the voter register should be closed 365 days before election and that citizens who have turned 18 by election day would be included in the voter list.

⁷ RENIEC estimates around 500,000 people who reach the age of 18 by election day will be able to vote in the regional and municipal elections.

4.2 Political-Electoral System

Candidate Eligibility

The EU EOM 2016 recommended determining the eligibility of parties and candidacies sufficiently in advance to ensure adequate appropriateness in terms of the right to participate in the elections and eventual redress measures (Rec. No. 5, 10 and 13). The recommendations aimed to avoid disqualifying candidates during campaigns for irregularities that should have been sanctioned during a previous phase of the process.

The amendments included in the Law on the Electoral Calendar (No. 30673) impacted particularly on the deadlines for candidate registration and the adjudication of complaints and appeals which were largely unregulated by the previous norms. For instance, it established that provisional lists of candidates must be published up to 60 days prior to an election; candidates may withdraw only until 60 days before election day; Candidates who do not meet eligibility requirements may be disqualified up to 30 days before the polls.

Following the objections submitted by the Executive prior to its adoption, the Law does not specifically require candidates to submit hard copies of their applications during registration. Although it is not explicitly stated in the Law, it is understood that the digital documentation system that was already in place during the 2014 regional elections will remain.⁸

Gradual Sanctions for Violations of the Political Party laws

The EU EOM 2016 recommended establishing gradual and proportionate sanctions for violations of the Political Party Law or rules on internal democracy and to provide alternatives to the drastic and immediate exclusion of parties and candidates (Rec. No. 6). The ONPE's application of severe fines for irregular donations, as well as the disqualification of some candidates from the electoral process by the JNE, had a great impact during the 2016 general elections.

The Bill (No. 1323/2016-CR) on amendments to the Law on Political Parties partially addressed the EU EOM recommendation. The Bill envisaged two types of sanctions in case of infringement of the law regarding the delivery of gifts by candidates: a) a fine in the event of initial non-compliance⁹, b) the disqualification of the candidates in case of recurrence.

The establishment of these sanctions has been criticised by some sectors since many fines imposed upon parties remain uncollected. However, this argument was not accompanied by an analysis of the underlying reasons for uncollected fines and the necessary control mechanisms to prevent such debts. In addition, the JNE has expressed concern about the consequences of those amendments related to the delivery of gifts as this may result in high caseloads during the 2018 regional and municipal elections with approximately 105,000 candidates contesting the elections.

However, the Bill removed the possibility of disqualification of parties and candidates in case of serious infringements of other provisions related to campaign financing.

⁸ At that time, the existence of digital copies of candidates' CVs allowed the NGO Transparencia to set up an automated system to check CVs, uncovering the existence of hundreds of candidates who had been convicted of drug trafficking, terrorism or corruption, among other serious crimes.

⁹ The envisage fine is of 30 UIT (Approximately €32,750).

Instead the proposed amendments provide for a fine of between 31 and 60 UITs, that is, a maximum of S/243,000 (€65,500) depending on the severity of the offence and the suspension of state grants and subsidies. This was questioned by some interlocutors who indicated that the latter would not fully serve its aim at deterring non-compliance because state funding is only allocated to national parties with representation in Congress.

Political Parties' Internal Democracy

The EU EOM 2016 recommended introducing mechanisms of internal democracy to make political parties' primaries mandatory, transparent and open to all party supporters, thus preventing party leaders from deciding autonomously on candidatures (Rec. No. 7). This is particularly relevant in Peru due to the political parties' lack of strong intra-party structures and because of a history of political clientelism, which severely affects the nomination process. As a result, only one fourth of the current Congress members are affiliated to a party. It was also recommended allowing party affiliates to challenge their political organisations for violating internal democracy requirements (Rec. No. 8).

The Electoral Code Bill (No. 1313/2016-JNE) proposed by the JNE incorporated the mandatory participation of electoral bodies in internal party processes to nominate their candidates, to be carried out simultaneously and open to party affiliates. The Bill also provided party members with the possibility to lodge challenges for violations of internal democracy norms and the JNE to be responsible for resolving disputes on second instance. However, the proposal of the GTRE kept the three modalities of candidate election envisaged in the Election Law including the direct designation by a party's committee and allowed that each party would determine the date of the internal elections within a pre-established period. In addition, the GTRE's proposal did not require the election administration to organize internal party elections and limited the possibility of technical assistance to the ONPE and RENIEC with no role assigned to the JNE. This matter is still under discussion in the Constitutional Commission.

Despite the proposed amendments would mean a slight improvement over the prevailing norms, they fall far short of addressing the EU EOM recommendations as they appear not to follow the purpose of strengthening the role of political parties as democratic institutions.

4.3 Electoral Justice

The EU EOM 2016 recommended reviewing the temporary nature, composition and mandate of the Special Electoral Juries (JEEs) by considering a permanent and professional JEE presence at departmental level, aimed at establishing a coherent system of electoral justice with consistent interpretations and applications (Rec. No. 11).

The Electoral Code Bill (No. 1313/2016-JNE) proposed by the JNE suggested specializing the electoral jurisdiction on first instance through the creation of Decentralised Electoral Boards (Jurados Electorales Especiales, JEE) at regional level, which will be constituted exclusively by lawyers (a judge, a prosecutor and a collegiate lawyer). Some JEE would be permanent and their members would be appointed for 4 years, while other JEE of a temporary nature would only function during the electoral process. The Constitutional Commission has not yet discussed this matter.

4.4 Electoral System

Political Participation of Women and Indigenous Peoples

The EU EOM 2016 recommended implementing affirmative actions to guarantee the representation of women and indigenous peoples in elected institutions (Rec. No. 16 and 17).

Despite that fact that the JNE, the Executive and the GTRE proposed an increase of the gender quota from 30% to 50% and gender alternation on candidate lists, which would considerably improve the level of representation that women today have at all levels of government, this matter has not yet been dealt with by the Constitutional Commission. In the case of indigenous populations, the JNE proposed an electoral quotient that would ensure indigenous representation at regional councils.¹⁰

On 23rd November 2016, several MPs from Frente Amplio submitted a Bill (No. 673/2016-CR) which provided a number of mechanisms to prevent political harassment against women. The Bill also proposed a range of administrative penalties including fines and the disqualification of political parties and candidates in case of repeated instances and to typify political harassment as a criminal offence. Provisions on political harassment against women were reflected in the JNE's Bill and in the GTRE's final report. Despite these efforts, the Constitutional Commission has not yet discussed any of these proposals.

Party Registration

The EU EOM issued several recommendations related to the thresholds for the maintenance of party registration and for the assignment of seats in Congress (Rec. No. 14 and 15). In their proposals for reform, the GTRE, the JNE, and the Executive included a clearer definition of both thresholds but maintaining the 5% threshold for both. This matter has not been yet discussed in the Constitutional Commission.

Notwithstanding, other matters related to party registration were part of the political discussion. For instance, the Executive proposed that the required number of signatures for electoral qualification should be lowered from 4% (733,716 signatures) to 1% (around 175,000). On the one hand, the required number of supporters' signatures appears to be excessive. It is important to note that registered parties have been accused of massive falsification and a trade in the collection of signatures, and credible reports show that citizens have signed multiple times.¹¹ On the other, Peruvian legislation imposes additional restrictions to the registration of parties such as the threshold to maintain party registration. As mentioned earlier in this report, there are a number of proposals aimed at avoiding political fragmentation by limiting the number of political parties entitled to participate in elections. The interest of political parties in Congress in limiting an excessive proliferation should be balanced against political pluralism and the right of political parties and candidates to stand for public office.

¹⁰ The current legislation establishes that 15% of the nominations are reserved for representatives of indigenous peoples for their provinces and regions. However, the established mechanisms to allocate seats makes the quota largely inefficient.

¹¹ Former presidential candidates Julio Guzmán and Verónica Mendoza are currently collecting the required number of signatures to register their parties.

4.5 Campaign Finance

The EU EOM 2016 offered a number of recommendations concerning most aspects of the funding of political parties and campaigns, including a) public funding; b) contribution limits; c) campaign finance disclosure; d) limits to campaign spending; e) functioning mechanisms to monitor and audit the funding of parties and candidates (Rec. No. 18, 19 and 20).

This Bill amending the Law on Political Parties and the Public Contracting Law regarding campaign finance provisions was considered by stakeholders as an improvement because it proposed strengthening limitations over sources of income and sets some transparency requirements. Despite these positive developments, enforcement of the provisions proposed remains unclear given the limited capacities foreseen to investigate or audit the required financial disclosures. According to some interlocutors, the Bill also lacked effective, proportionate and dissuasive sanctions for violations of campaign funding provisions.

Sources of funding

The EU EOM highlighted that rules regarding donations and private contributions need to prevent explicitly common ways of bypassing threshold limits and reporting duties. The Bill on amendments to the Law on Political Parties proposes to expand prohibited sources of funding. For instance, political parties and candidates would not be allowed to accept donations or contributions from persons accused or convicted of such crimes as, inter alia, money laundering, tax evasion, drug trafficking, human trafficking, illegal mining, illegal logging, or terrorism. The prohibition would go on up to ten years after the sentence has been served.¹² The Bill also proposed forbidding contributions from foreign individual or legal entities except those aiming to fund training and research activities. Contributions from Peruvian legal entities would also be banned.

Ceilings to contributions

The EU EOM recommended to introduce rules regarding donations and private contributions to prevent explicitly common ways of bypassing thresholds limits (Rec. No. 18). The Bill proposed to establish ceilings for the private contributions to political organisations that would be 120 UIT (approximately, €127,800) and 60 UIT (approximately €63,900) for each contribution to candidates in a year. These limits apply for both in cash and in-kind contributions. The Bill also proposes limits to the total amount that political organisations may collect in each fundraising event, which has been established in 250 UIT (approximately €266,250). However, the Bill did not provide for limits to the total amount that can be collected through these activities or the number of fundraising events that each party may organise, as proposed by the JNE. Despite the Bill's proposal to identify each contributor to these activities, EFM's interlocutors fear that the intended controls over fundraising activities are insufficient and would serve to circumvent prohibitions on contribution limits and sources.¹³

¹² In the run-up to the 2014 regional and local elections, hundreds of candidates were found to have been sentenced for serious offences, including terrorism, drug trafficking and corruption.

¹³ According to the NGO Transparency, the amount obtained in fundraising activities increased fivefold from 2006 to 2016, meaning an increase from 3% to 16% of the total amount collected by the political parties in this way. In the 2016 elections, Alianza Popular reported that 60% of its total income, and Fuerza Popular 31%, came from fundraising activities. The Presidential Integrity Commission proposed a ceiling of 10%.

Campaign Spending Limits

The EU EOM proposed to introduce reasonable campaign spending limits for candidates, parties and alliances (Rec. No. 19), which were inexistent. However, the Bill narrowly defined what is considered a ‘gift’ in an election campaign by adding the delivery of food, medicine, water, building materials or anything else of commercial value, whether directly or through third parties, to the prohibitions already established in the law. The Bill reduced the cap on handouts during the campaign period from 0.5% of an UIT to 0.3% of an UIT (approximately €3). If a candidate delivers a ‘gift’ which exceeds 5 UITs (approximately €5,325), s/he would be disqualified from the contest. Some analysts have indicated that despite great concern over vote-buying during the campaign, only a small percentage of all campaign expenditures are actually used to influence voters through financial incentives. However, the JNE has expressed concern about the consequences of these amendments regarding the delivery of gifts, as this may result in high caseloads during the 2018 regional and municipal elections.

Control of Political Party Finances

The EU EOM also recommended establishing a functioning monitoring and audit system with enforcement powers managed by the electoral authority, in order to provide transparency to the parties’ financial systems. The Bill proposed to prohibit anonymous contributions and that individual contributions higher than one UIT (approximately €1,065) be made through the banking system. However, the Bill did not provide the Financial Intelligence Unit (UIF) with the power to lift bank secrecy and access stock and tax information as recommended by the EOM. Since November 2016 the UIF may request from the courts the lifting of banking secrecy when there is any suspicion of money laundering. However, the UIF would not be allowed to share any information with the electoral authorities. The limited or inexistent access to the bank financial movements, and the inadequate technological facilities and human resources severely limits the real capacity of ONPE and JNE to conduct financial audits and thus the application of sanctions for non-compliance as provided by law.

Another EOM recommendation concerning the introduction of specific disclosure forms for each candidate and a system for effective monitoring, auditing and progressive sanctioning in case of violations. The Bill required that each political party should present a report recording the source and amount of expenses incurred during that year within 6 months after the closure of the annual financial period. The political parties also had to submit their campaign accounts within 15 days after the publication of the final results. ONPE would have four months to review the reports and to impose sanctions that include fines or the total withdrawal of public funds. These amendment proposals present some shortcomings including the fact that the time allocated to ONPE appears insufficient for a thorough review of the financial reports, and political organisations are no longer required to submit advance reports on their campaign finances. On a positive note, the Bill requires Media to file a consolidated report on parties’ election advertising.

The Bill introduced the obligation for all candidates to have a campaign treasurer at all levels of election, except presidential. However, the Bill also established that offences committed by candidates or their campaign treasurers do not compromise the political organisations with which they run for election. Therefore, the responsibility of political organisations for funding is diluted.

Public funding of political parties

Finally, the EOM recommended increasing the envisaged levels of public funding to allow parties and candidates to have sufficient resources to run operational activities. Following an administrative decision issued by ONPE in July 2017 (No. 165-2017-JN/ONPE),¹⁴ for the first time, the direct public funding established in the Law on Political Organisations has been implemented. During the 2017-2021 quinquennium, more than S/74 million (approximately, €20 million) will be allocated to political parties with parliamentary representation. The funding will be distributed by allocating 40 percent of the moneys on an equal basis and the remaining 60 percent on the basis of the share of votes they obtained during previous general elections. Fifty percent of the funding needs to be used for training and research and the other fifty percent for ordinary operational expenses. Some interlocutors stressed the need to strengthen ONPE's oversight of the newly allocated funds and to reshape their control strategies.

The Bill regulated neither indirect public financing during the campaign, nor the limits to campaign spending on mass media. Some analysts argued that these changes will not solve the fundamental problem of irregular financing, as political parties will continue to rely mostly on private contributions. They also pointed out that direct public financing should be the main source of income for political parties and candidates. Beyond this, they proposed expanding indirect public financing in the form of free air time and at the same time to restrict paid political advertising during electoral campaigns so as to reduce the need for candidates to raise large amounts of money.

4.6 Electoral Administration

Delimitation of competencies by electoral management bodies

No meaningful change has occurred regarding a clearer delimitation of the JNE and ONPE mandates to avoid overlapping competencies (Rec. No. 21). Both JNE and ONPE consider that there is no need for further delimitation, as advised by the EU EOM, and that procedures falling under the categories of electoral supervision and auditing, civil and voter education, and verification of signatures for registration of political delimitation are established clearly enough by the Constitution. Both institutions believe, however, that depending on eventual legal changes, new competencies might have to be clearly attributed. Monitoring of vote-buying violations, for instance, would be one of those ambiguous areas if the financing rules for political parties were finally amended.

Electronic voting and automatization

There have been a number of attempts by ONPE to introduce electronic voting in Peru since 2001, when it was first applied in the party and professional bodies' internal elections. From then until the 2016 general elections, when electronic voting and an automated counting system were implemented in 30 and 121 districts respectively, the election authorities were successful at overcoming technical problems, such as the lack of adequate Internet coverage or hardware failure, but were not able to gather the confidence and support of political parties. ONPE has used an electronic voting and counting system in June 2017 during recall gubernatorial and municipal elections. It plans to use it again for municipal elections in 18 newly created districts in December

¹⁴ See: <https://www.web.onpe.gob.pe/modMarco-Legal/Resoluciones/RJ-165-2017-JN.pdf>

2017, as well as in the 2018 regional and local elections, though only in the same number of districts as it was conducted during the 2016 general elections.

If the current electronic voting and counting system designed by ONPE were used, five of the 2016 EU EOM recommendations could potentially be implemented, at least in a partial manner. For example, the EU EOM recommended extending the Automated Counting System (*Sistema de Escrutinio Automatizado*, SEA) as a first step towards introducing an overall system of preliminary results (Rec. No. 22). According to ONPE estimates, this would allow the electoral authorities to have preliminary final results at 8:00 PM on election day. SEA would also print automatically-generated preliminary results protocols to deliver to political party agents, thus speeding up results delivery and minimizing human error (Rec. No. 23).

As both hardware and software for the electronic voting and counting system have been developed in-house by ONPE, which says to abide by an open-doors policy, parties and other civil society organisations would be allowed to audit the system (Rec. No. 25) and the monitoring of expenditure of procurement processes would become largely unnecessary (Rec. No. 26). According to ONPE, the Organisation of American States (OAS) has already been informally contacted to audit the software, which is open-source coded.

However, given the reluctance they have shown so far, political parties in Peru seem far from accepting a transition from an analogical to an electronic voting system. Their distrust could be at least partly explained by the lack of IT experts who can represent them at audits. The involvement of political parties in the introduction of new technologies (Rec. No. 24) currently appears to be especially challenging and will require active involvement by the electoral management bodies.

Electoral information

A set of three recommendations refer to various kinds of electoral information, including that needed to train polling station staff, and provide voter education and voter information.

Regarding the former (Rec. No. 28 on polling staff training), ONPE acknowledges that it is very difficult to reach a hundred percent of the staff via the Internet, since the required infrastructure only reaches the capital of each province. To overcome poor polling staff training, ONPE says it sends trainers to remote communities, and that these trainers sometimes need to be fluent in indigenous languages. ONPE also trusts that a better selection of polling station staff will help to improve training (see below, regarding Rec. No. 27).

The two other recommendations regarding electoral information are, first, to include comprehensive programmes on civil and political rights and an understanding of the democratic process in schools, in different languages (Rec. No. 29), and, second, a more practical and interactive approach for civic and voter education efforts, including studies to identify reasons for the high number of invalid ballots in congressional elections (Rec. No. 30).

Although voter and civic education fall under the mandate of the electoral authorities, ONPE considers that the ultimate responsibility of any change transforming the academic curriculum would rest with the Ministry of Education. As regards invalid ballots, ONPE believes that there are votes intentionally annulled by voters, others that

are invalidated by a delayed delivery of the results protocols from the electoral boards at departmental level, and finally, those votes annulled because of a discrepancy between the number of voters and the number of ballots cast at given polling stations. The latter may be largely due to human error and could be significantly minimised if an automated counting system were implemented.

Two ongoing initiatives could further improve the quality and extension of civic and voter education: firstly, ONPE's technical support during elections for school councils (*consejos escolares*) and universities, for which it has already provided electronic voting assistance, although so far restricted to Lima; secondly, JNE TV, which could be a useful tool to disseminate the knowledge about electoral topics among the general population. JNE's TV managers would have to devise formats which are appealing enough to draw attention from the fragmented TV and Youtube audiences, to which they already offer home-made shows.

Civil servants and delays during polling station opening

The practice of maintaining key civil servants in their role for different electoral cycles (contained in Rec. No. 21) is linked by JNE representatives to the labour structure of the three electoral authorities, which is strongly dependent on temporary workers. This is because newly designated managers usually recruit trustworthy personnel who leave the institutions with them when they end their mandate. Another reason for temporary positions is that the need for personnel of the electoral institutions disproportionately increases during election times. The likelihood that this changes soon is assessed as slim by members of Peruvian management bodies.

Finally, regarding delays in opening polling stations, the 2016 EU EOM recommended declaring non-present members absent at 8:00 AM, instead of waiting until 8:30 to replace them with substitutes from adjacent polling stations, as well as providing polling station staff with financial incentives (Rec. No. 27).

The JNE's proposal for a new Electoral Code suggests two measures to tackle polling staff members' absenteeism: a payment of 2 tax units (amounting to S/81 or approximately €21) to all polling officials, and a day off after elections, regardless whether the members of the staff work for a public or a private company. However, an ONPE request to pay polling station officials has so far been refused by the Executive. Furthermore, according to ONPE, improved staff selection including younger and better-educated citizens, as well as assigning officials to the polling centres closest to their homes, would improve staff attendance and efficiency. The latter measure could be taken once RENIEC has finished the georeferencing of voters' homes.

4.7 Media

The 2016 EU EOM recommended decriminalising press offences to limit self-censorship and improve freedom of the press (Rec. No. 32). No progress has been made in this regard. Media representatives say that not only has not been any legal initiative to decriminalise offences like the ones that brought journalists Rafael León and Fernando Valencia to the courts during the 2016 election campaign, but the threat of being accused of a press offence keeps hanging over journalists and might be triggering self-censorship among some of them.

Regarding the introduction of free regional airtime in Congress elections (Rec. No. 33) to guarantee political actors a minimum of access to regional audiovisual media, none of

the initiatives to amend the electoral framework included such a proposal. JNE representatives suggested, however, that should the free airtime be increased, it would be up to the parties to distribute it as they wish among their candidates. With the current preferential voting system, in which candidates run individual races on their own, such a possibility seems unlikely, however.

5. EU ELECTORAL SUPPORT

The European Union has developed cooperation programs in Peru in the area of democracy and human rights, including the support to the implementation of the 2016 EU EOM's recommendations. According to the EU EOM and EFM's findings, support could still be useful and recommendable through programs aiming at accompanying electoral reform, monitoring and making transparent political parties' funding sources, or implementing measures to increase gender parity and political participation of indigenous groups, among others.

Given the objectives of election observation missions, support to these electoral assistance programs should always stress the need to comply with Peru's international commitments for democratic elections. The timeframe for the programs could cover the period 2018 to 2020, at the end of which reforms should have been debated and approved if they were to be applied during the 2021 general elections.

More precisely, activities to be funded could include:

- Support to Congress members regarding knowledge of international practice in relevant electoral-related issues, such as party financing or gender and indigenous quotas
- Support the drafting of a coherent Electoral and Procedural Code by Congress, and the drafting of regulations by JNE
- Elaboration and dissemination of voter and civic education materials specifically tailored to minority linguistic communities, such as the Quechuan, Aymara, and other aboriginal ones
- Support JNE TV in the production of electoral-related content for the general public
- Specialized training for political parties so their IT experts can audit the electronic voting systems developed by ONPE. This support could be funnelled through ONPE itself or by means of a common call addressed to all political parties
- Strengthening JNE and ONPE capacities to audit political parties' financing reports
- Direct support to civil society organizations in their projects to monitor political party finances by, for example, analysing financing reports, monitoring campaign expenditures or publishing materials related to party finances

- Providing training to female candidates for successful campaigning
- Support civil society in the advocacy for rights to participate in the political life, for example, regarding gender or indigenous issues
- Supporting the JNE in the mainstreaming of a gender perspective into handbooks, guidelines and other materials
- Providing civil society organizations with technical/financial support in their election observation projects

6. CONCLUSION

The decision by Congress to set priorities to amend the electoral laws, so that any changes could be implemented during the 2018 regional and municipal elections, seems appropriate. However, the amendments passed so far fall short of the initial expectations that both the electoral authorities and civil society had about electoral reform. The ultimate goal of a genuinely profound electoral reform remains to be a new Electoral Code and Procedures that would put order in the currently dispersed electoral laws and would adequately address the most pressing problems of Peruvian elections as identified by both national and international observer groups and ample sectors of civil society.

Such a reform would ideally be passed in time for the 2021 general elections, avoiding the problems that led the 2016 EU EOM to consider the election process as anomalous. Amendments would at the very least include mechanisms to strengthen political organisations and to make political party funding transparent and accountable, and in order to be effective must be accompanied by adequate funding so that the electoral authorities can apply them.

ANNEX 1: LIST OF EU EOM 2016 RECOMMENDATIONS AND STATUS OF IMPLEMENTATION

No.	RECOMMENDATION	STATUS OF IMPLEMENTATION	COMMENT
LEGAL FRAMEWORK			
1	Consider the consolidation of all electoral legislation in a single and coherent Electoral and Procedural Code .	Proposed	There were several legislative initiatives for a unified Electoral Code. Its discussion was postponed and led to the selection of a set of priority amendments for the regional and municipal elections.
2	Contribute to ensure the certainty of legal framework during electoral processes and prohibit changes in the framework for elections in the year before elections.	Ongoing-To follow	A Bill addressing this issue was approved in Congress and referred to the President for its enactment.
3	Mechanisms to facilitate suffrage for all eligible voters , including those working in the electoral process (police, armed forces, electoral workers), those are hospitalised or in preventive detention, and those who acquire voting age after the registration cut-off date.	Implemented in part	<p>The Law on the Electoral Calendar provides for citizens who have turned 18 by election day to be included in the voter list.</p> <p>There has not been any progress to guarantee the vote of people in hospitals or in preventive detention, which would not require legal changes.</p>
4	It is suggested to change the law which prohibits observers to request information or official documentation from the JNE.	Proposed	Proposed in several legislative initiatives but not discussed in Congress yet.

POLITICAL-ELECTORAL SYSTEM			
5	Determine the eligibility of parties and candidacies sufficiently in advance to ensure adequate relevance to the right to participate in the elections and eventual redress measures.	Implemented	Provided in the Law on Electoral Calendar.
6	It is suggested to introduce progressive and proportionate sanctions for violations of the Political Party Law as for instance regarding the rules on internal democracy, parties and candidates.	Ongoing-To follow	<p>Proposed in the Bill on amendments to the Law on Political Parties.</p> <p>Two types of sanctions in case of infringement of the law regarding the delivery of gifts: a) a fine in the event of initial non-compliance, b) the disqualification of the candidates in case of recurrence</p> <p>It also removed the disqualification of parties and candidates in case of serious infringements of other provisions related to campaign financing. Instead proposed fines and suspension of state grants.</p>
7	Consider whether mechanisms of internal democracy could be introduced to make political parties primaries mandatory, transparent and open at least to all party supporters. There are various forms of primaries that could be considered, one modality that seems to find consensus in Peru, would include to entrust the electoral authorities with the logistical	Proposed	Proposed in several legislative initiatives. GTRE proposed to keep the direct nomination by party's committee; it did not require the election administration to organise internal party elections; limited the possibility of technical

	arrangements.		assistance to the ONPE and RENIEC.
8	Consider introducing a mechanism for party affiliates to allow them to challenge their political organisations for violating internal democracy requirements.	Proposed	Proposed in several legislative initiatives but not discussed in Congress yet.
9	Consider that a registration to stand in an electoral process is a full act of participation to the process and therefore those who withdraw in the process are to be considered as taking part to it.	Proposed-Not implemented	Both the GTRE and the Executive have proposed considering as participants those who register and later withdraw before the polls, but this has not been debated or passed in Congress.
ELECTORAL JUSTICE			
10	The swift and timely adjudication of petitions and appeals could be regulated to avoid pending proceedings to affect subsequent phases of the process, namely registered candidates while campaigning.	Implemented in part	The Law on Electoral Calendar provides that candidates who do not meet eligibility requirements may be disqualified up to 30 days before the polls (after the beginning of the campaign).
11	Review the temporary nature, composition and mandate of JEEs; consider a permanent JEE presence at the departmental level, overseen by civil servants with professional proficiency in electoral justice.	Proposed	Proposed in several legislative initiatives but not discussed in Congress yet. The JNE's Bill proposes that JEEs would be permanent and constituted exclusively by lawyers.
12	Clearly identify different categories of vote buying and introduce a measure of graduation for their sanctioning.	Ongoing- To follow	Included in the Bill on amendments to the Law on Political Parties.

	Different types of violations need to be categorized and sanctioned according to the magnitude of the offence committed, leaving only for extreme cases the exclusion of a candidate.		The Bill narrowly defines the gifts that candidates may distribute in an election campaign.
13	Consideration could be given to conclude the verification period of information provided in candidate's CVs before the start of the campaign , and foresee a period for additional clarification. Evaluate the graduation of sanctions in regard to false information provided in candidates' CVs.	Implemented in part	The Law on Electoral Calendar provides that candidates who do not meet eligibility requirements may be disqualified up to 30 days before the polls (after the beginning of the campaign).
ELECTORAL SYSTEM			
14	It is recommended to explicitly establish two different thresholds , one to keep the party's registration and another one to participate in the distribution of Congress seats, doing it, if possible, in a unified electoral code. Alternatively, there could be a single threshold for both purposes.	Proposed	The legislative initiatives provide for a clearer definition of both thresholds.
15	It is advisable to reduce the national threshold to distribute Congress seats or, alternatively, to establish a complementary regional threshold .	Not implemented	The legislative initiatives propose to maintain the current threshold of 5%.
16	It would be important to implement affirmative actions for indigenous peoples , such as the introduction of quotas, set aside seats, or fixed number of candidates in the upper part of the candidates lists, to guarantee their representation in	Proposed	Proposed in several legislative initiatives but not discussed in Congress yet. JNE proposed an electoral quotient that would ensure indigenous representation at regional

	elected institutions.		councils.
17	<p>Consider how to move towards implementation of gender quotas within political party structures and their decision-making bodies as a legal prerequisite for the registration as political organisations and parties’ primaries. Consideration should be given to the introduction of legal requirements to rank women high in party list, for example with alternative ranking order for the top 10 positions in each party list.</p>	Proposed	An increase of the gender quota from 30% to 50% and gender alternation on candidate lists have been proposed in several legislative initiatives but not discussed in Congress yet.
CAMPAIGN FINANCE			
18	<p>In order to make the upcoming implementation of public funding provisions effective, it would be necessary to improve the overall transparency, accountability and fairness in political financing. It is advisable to increase the envisaged levels of public funding to allow parties and candidates to have sufficient resources to run operational activities. The rules regarding donations and private contribution need to prevent explicitly common ways of bypassing thresholds limits and reporting duties. It is also recommended to introduce reasonable campaign spending limits for candidates, parties and alliances.</p>	Implemented in part	<p>Included in the Bill on amendments to the Law on Political Parties.</p> <p>Ceilings of private contributions – proposed.</p> <p>No overall campaign spending limit is foreseen.</p> <p>Limits to gifts and hand-outs- proposed.</p> <p>Direct public funding established in the Law has been implemented.</p>
19	<p>It would be crucial for a mixed system to establish clear monitoring and enforcement powers for the electoral</p>	Not implemented	Limited or inexistent access to the bank financial movements, and inadequate technological

	authority. The rules regarding donations and contributions need to prevent, explicitly, common ways of bypassing threshold limits and reporting duties. Introduce reasonable campaign spending limits for political parties and inclusion of effective, proportionate and dissuasive sanctions for violation of campaign finance provisions.		facilities and human resources severely limits the real capacity of ONPE and JNE to conduct financial audits and thus the application of sanctions for non-compliance as provided by law
20	The Financial Intelligence Unit (UIF) should have “ad hoc” access to the lifting of bank secrecy and timely access to the tax reserve , and be allowed to share such information with the electoral institutions. Anonymous donor contributions should be abolished. All contributions must be nominal and channelled to political parties’ dedicated treasurers. Consider the introduction of specific disclosure forms for each candidate and introduce a system for effective monitoring, auditing and progressive sanctioning in case of violations.	Ongoing-To follow	<p>Included in the Bill on amendments to the Law on Political Parties.</p> <p>No UIF access to lift bank secrecy and access stock and tax information unless granted by courts.</p> <p>Prohibitions of anonymous donors proposed.</p> <p>Candidates to have a campaign treasurer at all levels of election, except presidential – proposed.</p>
ELECTORAL ADMINISTRATION			
21	Improve the functional design of electoral bodies to avoid conflict arising from inconsistent legislation and duplication of competencies, as is the case with electoral supervision and auditing, civic and voter education, and verification of	Not implemented	The electoral authorities consider their competencies are clearly delimited. No bill has proposed an amendment regarding the electoral management bodies’ competencies.

	signatures for registration of political organisations.		
22	It is advisable to improve results management efficiency by continuing to extend the Automated Count System (<i>Sistema de Escrutinio Automatizado</i> , SEA). Consideration should be given to introduce an overall system of preliminary results managed by ONPE.	To follow	ONPE says to be ready to apply an electronic voting system, but there is no set date to do it due to parties' distrust in the system. There are no plans to extend SEA for the 2018 regional and local elections beyond what was already done in the 2016 general election.
23	It would be important to speed up the results systems by introducing digital results protocols to be transmitted over secure dedicated communication servers, at least for preliminary results announcements. Consideration can as well be given to reduce the number of original protocols to be completed by polling station staff in order to decrease the number of observed protocols due to human error.	To follow	ONPE intends that results protocols are automatically generate for the parties, thus reducing errors and paper waste, but this will not be possible until the SEA is generalised. Results protocols for JNE and JEE would still have to be manually filled.
24	On the road towards a larger implementation, highly important is the thorough involvement of political parties in the steps taken by ONPE for the introduction of new technologies . Earlier information sharing mechanism could be envisaged to ensure adequate knowledge dissemination on the various stages of the process.	Ongoing-To follow	ONPE says to follow an open-doors policy regarding access of political parties to all components of the electronic voting and counting system. Political parties, however, do not support full implementation of the electronic system and lack IT experts to audit it.
25	In the progressive development of this voting modality, greater confidence could be generated by conducting full external audit systems a few months before elections and immediately after each election, with the participation of	To follow	ONPE has so far informally contacted the Organisation of American States (OAS) to audit the electronic system, and declares to be open to external scrutiny. However, ONPE should take

	universities and civil societies.		more proactive steps to get the parties involved in the auditing of the electronic voting system.
26	It would be important to ensure full transparency on expenditure and procurement processes for software design and for full system implementation, including maintenance and upgrade.	Ongoing-To follow	As the electronic voting and counting system is now largely developed in-house by ONPE, full transparency would be easy to achieve in future processes.
27	The reduction of disproportionate delays in opening polling stations by declaring non-present members absent at the 08h00 opening time, instead of waiting until 08h30 to replace them, and undertake to substitute these with trained reserve members from adjacent polling stations. It would also be advisable to provide polling station staff with financial incentives to reduce absenteeism , late opening of polling stations and replacement of appointed staff with untrained voters from the queue.	Ongoing-To follow	<p>ONPE considers that if younger and more educated polling station officers were selected and assigned to polling centres closer to their homes the absenteeism would be substantially reduced. These two actions could be done when RENIEC finishes the georeferencing of voters' homes.</p> <p>Regarding the incentives for polling station officers, JNE has asked for a payment of S/. 81, approximately €21, and a free day for both public or private sector employees who work as polling station officers on election day, but none of this has been approved yet.</p>
28	The Electoral authority could strengthen its information and training campaign for polling station members.	To follow	ONPE believes it would be difficult to achieve a 100 per cent coverage when training polling station members. Only the province capitals are covered by optical fibre, and therefore the

			capability to train officers through the Internet is limited.
29	Within the framework of efforts aimed at increasing representation and participation, civic education activities could also include comprehensive programs in schools on issues of civic and political rights and understanding of the democratic process in different languages.	To follow	The electoral authorities argue that there is nothing they can do to change the educational curriculum, and therefore any plans to increase civic education subjects would depend on the Ministry of Education. JNE TV could play a role in civic education activities.
30	More practical and interactive approach for civic and voter education efforts. Consideration could be given to conduct a study to identify reasons for high number of invalid ballots for congressional elections and take corrective action.	To follow	ONPE thinks their technical assistance to the council elections of schools and universities, mostly in Lima, is a significant civic education effort. JNE TV could also play a significant role in this area. Regarding invalid votes, ONPE believes the automatisation of the results protocols would increase the rate of valid votes by minimising human error.
31	To continue with the effort of providing the best possible information to voters, it would be ideal to introduce procedures to hold presidential debates into the regulatory framework , to be organised in a collaborative effort with CSOs.	Not implemented	No bill has proposed an amendment regarding the celebration of presidential debates.

MEDIA			
32	It would be important to prevent and limit self-censorship and improve the freedom of press . The Peruvian authorities, especially the Congress, could consider reforming the penal code to decriminalize press offenses or limit them to more severe and evident cases.	Not implemented	There has been no move to reform the penal code to decriminalize press offences.
33	In order to ensure access of political actors, the law could better guarantee the minimal access of the political actors to regional audio-visual media . This could be done, for example, by introducing regional free airtime (<i>franja electoral</i>) in the Congress elections . Respect of the existing legal framework could be used as precondition for reimbursing the air-time programs by the State authorities.	Not implemented	JNE argues that it would be up to the parties to divide among their candidates the free airtime assigned to them. However, this is unlikely to happen due to the preferential voting system and the scarceness of the free airtime itself.

ANNEX 2: EU ELECTION FOLLOW-UP MISSION PRESS RELEASE

Renate Weber: "Esperamos que el Congreso prosiga con reformas más profundas con vistas a las elecciones generales de 2021"

Lima, 19 de octubre de 2017

La diputada del Parlamento Europeo Renate Weber, que fue jefa de la Misión de Observación Electoral de la Unión Europea para las elecciones generales de 2016 en Perú, ofreció hoy una rueda de prensa para hacer públicas sus conclusiones sobre los avances en el proceso de refirma electoral actualmente en marcha en Perú. Las declaraciones se producen al término de una estancia de una semana en el país, en la cual la diputada Weber, acompañada por un equipo de expertos electorales, ha mantenido reuniones con congresistas, instituciones del Estado, miembros de la sociedad civil y otros actores políticos que tienen relación con las reformas electorales.

Renate Weber valoró positivamente las enmiendas electorales realizadas para las elecciones regionales de 2018 y expresó su deseo de que el Congreso prosiga con su agenda de reformas profundas con vistas a las elecciones generales de 2021. La diputada Weber subrayó los avances en materia de financiamiento de los partidos y añadió: "Un código electoral único daría una coherencia a la legislación electoral que sería buena tanto para los partidos políticos como para los organismos electorales y evitaría la incertidumbre que afectó a las elecciones generales de 2016".

Entre los asuntos que los legisladores podrían abordar para las elecciones generales de 2021, la diputada mencionó una aportación mayor del Estado a la financiación de los partidos, unas cuotas para mujeres y comunidades indígenas que garantice la representación de ambos colectivos en los órganos electos, y una dotación presupuestaria más amplia que haga posible que los organismos electorales apliquen con eficacia las reformas.

En opinión de Weber es importante que los partidos políticos entiendan que una financiación pública y transparente va no sólo en su propio beneficio, pues los hace menos esclavos de la búsqueda de recursos, sino también del pueblo peruano, que reclama transparencia y rendición de cuentas, un reclamo que dice haber observado especialmente en los sectores más jóvenes de la población.

La diputada Weber afirmó también que los requisitos para la obtención de firmas son excesivamente onerosos y que no se debe temer a la proliferación de partidos, pues es el pueblo peruano el que con su voto decide en última instancia la pervivencia o desaparición de los partidos. "No hay democracia sin partidos políticos. Transparentar y fortalecer a los partidos significa convertirlos en vehículos apropiados para la expresión de la voluntad popular, y la necesidad de financiación o unos requisitos burocráticos excesivamente exigentes no deberían ser un obstáculo insalvable para que esa voluntad se exprese.", afirmó.

Por último, la diputada Weber afirmó que la Unión Europea está dispuesta a acompañar y apoyar el proceso de reformas siempre que Perú lo solicite.

ANNEX 3: LIST OF MEETINGS HELD

	Institution	Name and Position
1	Transparencia Civil Association	Gerardo Távara, Executive Director
2	IDEA International	Percy Medina, Head of Mission for Peru
3	National Office for Electoral Processes (Oficina Nacional de Procesos Electorales, ONPE)	Fernando Tuesta, former National Chief
4	PROETICA Peruvian Chapter of Transparency International	Walter Albán, Executive Director and former Peruvian Ombudsman
5	National Office of Elections, ONPE	Adolfo Castillo, National Chief
6	IDL-Reporteros	Gustavo Gorriti, Executive Director
7	National Electoral Board, (Jurado Nacional de Elecciones, JNE)	Enrique Pestana, Jessica Clavijo and Manuel Chuquillanqui, Advisors to the Presidency of the National Election Jury, JNE.
8	Financial Intelligence Unit, Superintendence of Banking and Insurance	Sergio Espinosa Chiroque, vice Superintendent and Director of the Financial Intelligence Unit
9	APRA Congress group	Jorge del Castillo, Spokesperson
10	Acción Popular Congress group	Víctor Andrés García Belaúnde, Spokesperson
11	Alianza por el Perú Congress group	César Villanueva, Spokesperson
12	Frente Amplio-Nuevo Perú Congress group	Alberto Quintanilla, Spokesperson
13	Former Prime Minister	Pedro Cateriano
14	IPSOS Perú	Alfredo Torres, President
15	Congress' Constitutional Commission	Úrsula Letona, President
16	Ministry of Foreign Affairs, Europe General Directorate	Cristina Ronquillo, General Director
17	Ministry of Foreign Affairs, Human Rights General Directorate	Hubert Wieland, General Director
18	Ombudsman Office	José Elice Navarro, Deputy
19	Frente Amplio Congress group	Wilbert Rozas, spokesperson
20	Congress of the Republic	Richard Acuña, Second Vice President
21	National Identity and Civil Status Registry (Registro Nacional de Identificación y Estado Civil, RENIEC)	Jorge Yrivarren, National Chief
22	National Electoral Board (Jurado Nacional de Elecciones, JNE)	Víctor Ticona Postigo, President
23	Congress of the Republic	Luz Salgado, Congresswoman and former President of the Congress
24	Center of the Peruvian Women Flora Tristan	Diana Miloslavich, Executive Director
25	Transparencia Civil Association	Gerardo Távara, Executive Director
26	National Office of Elections, ONPE	Frank Guzman, Manager of Information and Electoral Technology
27	National Election Jury, JNE	Jessica Clavijo and Manuel Chuquillanqui, Advisors to the Presidency of the National Election Jury, JNE.



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