



EUROPEAN UNION ELECTION OBSERVATION MISSION PLURINATIONAL STATE OF BOLIVIA

General Elections and Autonomy Referenda – 2009

PRELIMINARY STATEMENT

On a well-organised election day with high turnout, Bolivians voted for sustaining the reform process which started in 2005. However, the election process took place against the backdrop of a fragile justice system.

La Paz, 8 December 2009

*Following an invitation from the National Electoral Court (Corte Nacional Electoral, NEC) and the Government of the Plurinational state of Bolivia to observe the General Elections and Autonomy Referenda on 6 December 2009, the European Union Election Observation Mission (EU EOM) was established in Bolivia on 26 October 2009. The Mission is headed by **Dr Renate Weber, Chief Observer and member of the European Parliament**. The Mission deployed a total of 130 observers from 24 member states of the European Union, Norway and Switzerland observing more than 500 polling stations. The Mission's mandate is to assess the entire electoral process against international standards for elections and the electoral legislation of Bolivia, in accordance with EU methodology and "The Declaration of Principles for International Observers", adopted under the auspices of the United Nations in October 2005.*

The EU EOM was joined for election-day observation by a six-member delegation from the European Parliament, led by Mr. José Manuel García-Margallo, which endorses this statement of preliminary findings. The EU EOM will remain in the country to observe the process until its conclusion, including consolidation and announcement of final results and the management of possible electoral appeals. Within two months after conclusion of the process, a Final Report will be made public, offering the Mission's detailed evaluation regarding the various aspects of the process. The Final Report will include recommendations towards improvements for future elections. The EU EOM is independent from the European Commission and the European Parliament in its findings and conclusions.

Preliminary Conclusions

- The General Elections and Autonomy Referenda of the 6th December, the first to be held under the new Constitution of the Plurinational State of Bolivia, confirmed the support of the majority of the Bolivian electorate for the State reform project. The new Legislative Assembly should carry out, over the coming months, the broad legislative programme laid down in the Constitution.
 - The election process was generally conducted in accordance with international standards for democratic elections. From the start, the electoral process benefited of a register which was much more inclusive as compared to the previous one. The process was managed effectively and in a transparent and neutral manner by the National Electoral Court. The electoral campaign was conducted in a peaceful and competitive way. However, since the Constitutional Tribunal is not functional, the possibility to protect fundamental rights of candidates subject to criminal investigations from judicial decisions, and the rights of citizens against regulations of the electoral administration, were limited.
 - Election Day took place in a violence-free environment and saw a turnout which was unofficially estimated at 93.9%, which is unexpectedly high, even in a context of obligatory voting. Despite some isolated organisational problems which were quickly
-

and effectively attended to by the election administration, the observation mission evaluated the voting process as good or very good in 90% of polling stations visited.

- The legal framework that regulated the 6 December 2009 General Elections and Autonomy Referenda has provided a reasonable basis for the conduct of elections and referenda, and is generally in line with international and regional standards for democratic elections. The introduction of the voting of Bolivian diaspora in Argentina, Spain, USA and Brazil in the Transitional Electoral Law, represents considerable progress in the electoral legislation towards greater inclusiveness. On the other hand, the elimination of public funding of political parties and movements, and the loosening control over private funding have had a negative effect on the process in terms of transparency and equality of competition, and have also limited the campaigning capacities of small parties.
 - In general, the National Electoral Court has so far organised and administered the recent elections and referenda in a neutral, transparent, independent and effective manner in accordance with international standards for democratic elections. This was achieved with the substantial assistance of the nine Departmental Electoral Courts that contributed to the process with their experience and high degree of professionalism.
 - The EU EOM believes that the new biometric voter register establishes safeguards against double registration and provides guarantees for the voter lists that are based on it. It also constitutes a highly inclusive document representing a leap forward in the Bolivian election processes. Indeed there has been an increase of more than a million citizens listed on the voter register since the constitutional referendum in January 2009.
 - The campaign has been conducted in a generally peaceful way since its launch on 5 October, although some isolated incidents of violence were reported. In general terms, parties and candidates enjoyed the possibility to conduct their campaign activities freely. However, contrary to international standards on the equality of competition, a large proliferation of pro-government public service advertising was observed. Furthermore, the increased number of judicial investigations launched by the Public Prosecutor against relevant leaders of PPB-CN during the campaign period had a negative impact on their capacity to carry out canvassing activities, principally on account of the ensuing accumulation of court summons.
 - In accordance with international best practices, the new Constitution enshrines the principle of gender equality. However, its practical application demonstrates the persistence of a substantial deficit in female representation because of the final decisions taken by the different parties when nominating principal candidates.
 - In addition to a wide recognition of rights of indigenous peoples, the new Constitution establishes two important novelties in the electoral field aimed at strengthening the active involvement of indigenous minorities in institutional life: the special indigenous constituencies and the referenda on indigenous native peasant autonomies.
 - During the election campaign, the media benefited from an environment of respect for freedom of expression. The pluralism of media found in Bolivia offered a wide range of views to voters, though it is regrettable that there was an absence of debate between the major candidates during the campaign. In this context, the strong political polarisation was reflected in the means of communication and was particularly noticeable on television channels. On one hand, state radio and television channels favoured candidates of the ruling party during airtime and abused public service
-

advertising. On the other hand, most private channels and newspapers gave greater prominence to opposition candidates. Nevertheless, the obligation to provide free advertising space to all parties, as laid down in the law, was respected on radio and television.

- The electoral legislation regulates electoral crimes and offenses through a comprehensive system of sanctions which, together with the election-related complaints and appeals procedures, is in line with international standards for democratic elections. However, the absence of a functioning Constitutional Tribunal meant that the appeal on the grounds of unconstitutionality for fundamental electoral rights was rendered ineffective.
- The Bolivian civil society participated actively in the electoral process through the observation of the registration and electoral process, monitoring of the media and the participation of women in the electoral field. In this context, the work of *Bolivia Transparente* which consisted in mobilising approximately 4,000 volunteers on election day, is commendable.

Preliminary Assessment

Background

The 6 December General elections, convened by Law 4021/2009 of 14 April, in which Bolivian citizens voted for the President and Vice-President, as well as for the senators and deputies of both chambers that form the new Plurinational Legislative Assembly, were the first held after the Constitution of the Plurinational State of Bolivia (CPSB) entered into force on 7 February 2009. These elections are of particular importance given that, within six months of its constitution, the new Assembly will have to discuss and approve, as constitutional imperative, important laws such as the new Electoral Law, Law on the Plurinational Electoral Body, the Judiciary Act, the Plurinational Constitutional Tribunal Act, or the framework law on autonomy and decentralisation. Eight parties and movements participated in these elections¹. Along with the departmental elections next April, these elections mark the end of an election cycle which started in 2005. It has been characterised by the rise of state reform project sponsored by the *Movimiento Al Socialismo* (MAS) and the severe crisis of the traditional party system.

On 6 December, Bolivians voted in the referendum on autonomy in the departments of La Paz, Oruro, Potosí, Cochabamba and Chuquisaca, in the province of Gran Chaco (Tarija), and in twelve municipalities on indigenous native peasant autonomy.

¹ Movimiento Al Socialismo – Instrumento para la Soberanía de los Pueblos (MAS-IPSP, whose presidential candidate was Presidente Evo Morales), Plan Progreso para Bolivia – Convergencia Nacional (PPB-CN, Manfred Reyes Villa), Unidad Nacional (UN, Samuel Doria Medina), Alianza Social (AS, René Joaquino), GENTE (Román Loayza), Movimiento de Unidad Social Patriótica (MUSPA, Ana María Flores), Pueblos por la Libertad y la Soberanía (PULSO, Alejo Véliz), Bolivia Social Demócrata (BSD, Rime Choquehuanca).

Legal Framework

The legal framework² that regulated the 6 December 2009 General Elections and Autonomy Referenda provides an adequate basis for the conduct of elections and referenda, and is generally in line with international and regional standards for democratic elections. The coexistence between the Transitional Electoral Law and the previous Electoral Code, which in large part is still in force as a subsidiary norm, has generated a certain normative dispersion, which shall be resolved only by the future Electoral Law anticipated by the Constitution of 2009. The simultaneous application of the two norms, along with a vagueness of some provisions of the Transitional Electoral Law has obliged the National Electoral Court to fill major gaps in an interpretative way through Resolutions and Directives³.

The Transitional Electoral Law, passed after the new Constitution came into force and which set the date of the recent elections, introduced several significant improvements. These include in particular the effective exercise of suffrage for Bolivians residing abroad, as well as the ability to contest the vote at polling stations on the basis of a violation of the principles of suffrage.

For the first time in the Bolivian election process, 169,096 citizens registered in Argentina, Brazil, Spain and the USA had the opportunity to participate from their country of residence through consular voting. However, registration and voting abroad are still restricted to Presidential elections and have a legal ceiling limiting registration abroad to six percent of the overall national voter list (which in the end was not reached). In the same manner, the introduction of the right of party agents to challenge disputed votes during counting represents a significant advance in line with international standards for the legality of suffrage. The assertion of this right could potentially lead to the entire annulment of the results of a polling station due to a violation of the principles of suffrage, which would then require a repetition of voting in the relevant polling station.

In spite of the above-mentioned remarkable progress, a major step backwards in the field of financing of political campaign can be noted. Law 3925/2008 eliminated public financing of political parties as well as electoral campaigning and thus drastically reduced the credit worthiness of political organisations. Indirectly, this measure has also rescinded the limited provisions of the Law on Political Parties in the field of private campaign financing, both with regards to the limits and transparency of contributions, and to the auditing of expenses, since the only sanction related to the violation of these regulations was the withdrawal of public funding from the offender. The EU EOM considers that the absence of standards and effective enforcement mechanisms regarding limits, transparency and auditing of campaign financing is contrary to international best practices for elections.

² International conventions, the New Constitution of the State of 7 February 2009, the Transitional Electoral Law 4021/2009, the Electoral Code 1984/1999 as amended, the Law on Referendum 2769/2004, the Law on Political Parties 1983/1999, the Law on Citizen Groups and Indigenous People, and all specific Regulations and Resolutions issued by the National Electoral Court (NEC).

³ The most notable case is the Resolutions on the voters "under review" (*observados*). These voters were registered in the new biometric voter list, but had no entry in the civil register. As a result, there was a temporary suspension of the right to vote of more than 400,000 voters (see. Voter Registration) which was strongly criticised by both the ruling coalition (*officilismo*) and the majority of the opposition.

Electoral Administration

Overall, the National Electoral Court has so far organised and administered the recent elections and referenda in a neutral, transparent, independent and effective manner in accordance with international standards for democratic elections. This was achieved with the substantial assistance of the nine Departmental Electoral Courts with whom they had re-established a good cooperative relationship, especially following the preparation of the new biometric voter register, without sacrificing the decentralised status of DEC's.

With strong financial support from the government and active cooperation from the Bolivian population, the NEC managed to create and clean up the new biometric voter register as well as organise the election process within the limited period established in the Transitional Electoral Law. This was done with only three of its five members since two of its members' terms expired and the Congress was constitutionally unable to find a two-thirds majority to replace them. Their ability to manage such a task is largely owed to the fact that all of their plenary decisions were taken unanimously, and can also be attributed to the professionalism and experience that the Departmental Electoral Courts gained in the previous election processes. Nevertheless, the shortage of time caused some delays with respect to the deadlines set in the election calendar.

In terms of transparency, the NEC informed the public of its activities mainly through its website, press conferences and regular newsletters (which reproduced its Resolutions and Directives), and held regular meetings with delegates of political parties and candidates. The NEC delivered to political parties a digital version of the demographic data included in the register (name, address and ID number) but refused to disclose the biometric records of individuals (fingerprints and photographs) invoking citizens' right to privacy. This drew harsh criticism from some opposition parties. The EU EOM believes that the demographic data allow for easy auditing of the quality of voter register and understands that the protection of biometric data is in line with international standards (*habeas data*) on the publication of registers. The NEC has not yet published however the minutes of its meetings from the past few weeks.

The NEC showed independence and neutrality in the adoption of resolutions and decisions that were heavily criticised and put into question by the government as well as by the main opposition forces (e.g. freedom of expression of the candidate Fernández, or the decision to place over 400,000 registered voters under review, see below). Despite the strong political polarisation that marked the campaign and the fact that the NEC was sometimes discredited by candidates from both camps, the EU EOM considers that the NEC has shown an unambiguous will to conduct the process with respect for the law, while maintaining a strong technical profile.

Both the NEC and the Departmental Electoral Courts conducted media campaigns to encourage and explain the process of biometric voter registration. The final phase of the campaign which was neutral at all times focused on clarifying voting procedures. Radios were the most widely used medium for the dissemination of voter education messages in indigenous languages. Nevertheless, the information on the different autonomy referenda was limited, perhaps due to the current legislative vacuum in this field.

Voter Registration

After intense discussions between the government and the opposition, the adopted Transitional Electoral Law envisaged the creation *ex novo* of a biometric voter register, which was supposed to be ready in time for the 6 December elections. This task was completed in just two and half months by the NEC and the Departmental Electoral Courts with the technical assistance of the company NEC Argentina SA. The new register captured a total of 5,193,139 citizens, out of which 54,556 were cleaned or disqualified after the verification and cross-checking the data gathered by the NEC. After data cleaning procedures, the total number of registered voters fell to 5,138,538 including the 160,096 voters registered in the four countries where the out-of-country voting programme was implemented.

The EU EOM believes that the new biometric voter register establishes safeguards (photo of the voter, fingerprints) against double registration and provides guarantees for the polling station voter lists.. It also constitutes a highly inclusive document representing a leap forward in the Bolivian election processes. Indeed there has been an increase of more than a million citizens listed on the voter register (+27.69%) since the constitutional referendum in January 2009. During the brief period of registration the election administration had sufficient funds to mobilise a large number of registration officers that were deployed throughout the country. They received an unprecedented response from the population, which was undoubtedly spurred on by the intense political activity that marked the registration period.

Just two weeks before Election Day, the NEC's decision to put under review 400,671 citizens whose records did not appear to be supported by entries in the civil register, was especially controversial. A procedure for regularising their situation by presenting birth certificates at the Departmental Electoral Courts was subsequently established. At a later stage, the NEC decided to authorise certain categories of the citizens 'under review' to vote (e.g. those born before 1940, the year of establishment of the civil register) and decided to allow participation of those whose right to vote was confirmed by cross-checking the data with other registers. This drastically reduced the number of questionable entries. Finally, on 1 December, in a meeting with the presidents of the majority of Departmental Electoral Courts held in Santa Cruz, the election administration decided to authorise the remaining 95,737 citizens 'under review' to vote. These citizens however are required to present their birth certificates by the end of January in order to rectify their situation ahead of the April 2010 elections.

The EU EOM understands the strong reaction from both political forces and the public, provoked by the NEC's decision to put such a large number of citizens under review just a short time before the elections. However, in the light of the relevant Bolivian legislation, the EU EOM believes that it was a purely technical decision aimed at clarifying the discrepancies between both registers. The succeeding decisions of the electoral management body allowed to safeguard both the principle of inclusion and the legality of the register. In any case, this episode highlights the need to create a single, technologically advanced and constantly updated official register, which would provide a basis for both the issuance of a single identity card and the voter register itself.

Candidate Registration

In relation to the registration of candidates, the Bolivian electoral legislation does not impose any discriminatory or excessively burdensome requirements, in line with international standards in this area. However, the requirement of a five-year continuous residence in the country to be able to run in the presidential elections can be considered disproportionate, and therefore potentially discriminatory.

In practice, out of a total of 1,782 nominations submitted to the NEC, 735 were rejected for missing documents and inconsistencies not rectified in time, 244 candidates resigned, and 333 were replaced by their parties and movements. MAS presented by far the highest number of candidates thus demonstrating their superior organisational structure.

Electoral Campaign

Since its launch on 5 October, the election campaign had been conducted generally peacefully, although some isolated incidents of violence were reported, mainly in the departments of La Paz, Santa Cruz, Cochabamba, Chuquisaca and Oruro⁴. In general terms, parties and candidates enjoyed the possibility to conduct their campaign activities freely organising rallies. However, the increased number of judicial investigations launched by the Public Prosecutor against relevant leaders of PPB-CN within the campaign period had a negative impact on the capacity to carry out canvassing activities as planned, principally due to the ensuing accumulation of court summons⁵. Regardless of the legal nature of these measures, the high number of accusations brought against candidates from the main opposition party just a few weeks before the Election day suggests the desirability of adopting temporary immunity for candidates (limited to the campaign period) in order to avoid excessive interference of the Prosecutor's activity with the campaign, in line with the recent regulations adopted in various countries in the region⁶. On the other hand, the gradual disintegration of the Constitutional Tribunal, which began in 2007, had deprived the candidates facing trial of the right to appeal to defend their fundamental rights. The EU EOM considers that the full operation of the courts, as foreseen in the Constitution, is an enormously important guarantee of legality and a protection of fundamental rights during electoral processes; and regrets the lack of agreement in the legislature to revive the Constitutional Tribunal, that has lasted two years.

The campaign was marked by a considerably higher activity of MAS, which demonstrates a far greater organisational and mobilisation capacity than the opposition parties. The elimination of public campaign financing brought about serious limitations for smaller parties and highlighted the disproportion in campaign expenditures between the various contending parties. Moreover,

⁴ A particularly serious assault took place in Sucre on 2 December in which the PPB-CN Senate candidate Lourdes Millares incurred severe injuries.

⁵ The most notable case is that of the PPB-CN presidency candidate Manfred Reyes Villa against whom 13 investigations were launched during the campaign period. Moreover he was subjected to precautionary measures of restriction of out of country movement which effectively ruled out any possibility to carry out any campaign activities abroad.

⁶ Cf. Ecuador, Electoral Law 2009, and Panamá, Electoral Code 2003. Previously Guatemala, Electoral Law and Political Parties Act, 1985.

the EU EOM observed various instances of the use of public resources in favour of the ruling party⁷, especially through programmes in state-owned media.

In accordance with current legislation⁸, all parties delivered their political programmes to the NEC that then made them public on its website, and published the parties' thematic proposals in the newspapers. Nevertheless, campaign debates were rare among the leading candidates for the legislative assembly, and non-existent between the presidential candidates. Moreover, the speeches of key political actors lacked emphasis on programmatic issues, and the different autonomy referenda received negligible attention.

Media Environment

During the period of election campaign the EU EOM was monitoring both public and private media (print, radio and television) with the aim to evaluate quantitative and qualitative coverage of different actors involved in the election process⁹. As a result of this analysis, the EU EOM concludes that, overall, the media conducted their work in an environment of respect for freedom of expression. There were by and large no journalistic practices observed that would represent a breach of the codes of conduct of various press associations and trade unions. However, the EU EOM condemns the incidents of violence committed against the media in the course of the election campaign¹⁰.

The campaign in the media was conducted rather discreetly, partly due to the scarcity of economic resources and a clear lead of MAS in the opinion polls. Generally, the difference between factual information and opinion was respected and election advertisement was always clearly identified as such. Moreover, the absence of debates between the major presidential candidates deprived the public of an important tool to compare the various program proposals.

The wide range of media operating in Bolivia provides a considerable plurality of opinions for voters to learn about and compare different political options. However, the monitoring revealed an extreme polarisation in the Bolivian media, especially on television channels.

The state radio and television failed to fulfil its public function to ensure a balanced coverage of all contesting political parties, as recommended by international best practices for democratic elections. *Bolivia TV* dedicated 62.7% of its news programmes to MAS, while the seven opposition parties received together 37.2% of coverage, of which one fifth was open criticism.

⁷ Use of public buildings as local campaign HQ (*casa de campaña*) (Tarija, La Paz) and public vehicles for campaigning (La Paz, Beni, Potosi, Tarija)

⁸ Article 14 of the Law on Political Parties 1983/1999.

⁹ The sample studied by the Media Monitoring Unit of the EU EOM covers the period from 6 November to 3 December 2009. The analysed media were selected on the basis of their audience and coverage. The TV channels *Bolivia TV* (public channel), *Unitel*, *ATB*, *Red Uno*, *PAT* and *RTP* were monitored in prime time, i.e. from 6 PM to midnight. The following radios *Red Patria Nueva* (public radio), *Panamericana*, *Radio Fides* and *San Gabriel* were analyzed during their news programmes with major audience. In addition, the following newspapers: *La Razón* (La Paz), *La Prensa* (La Paz), *El Deber* (Santa Cruz) and *Los Tiempos* (Cochabamba) were monitored.

¹⁰ Namely, the case of the reprimands given to journalists from *Red Patria Nueva* and the damage caused to its facilities in Santa Cruz on 9 November; and the events of 12 November occurred at the Autonomous University Gabriel Rene Moreno in Santa Cruz, in which several TV and radio mobile units of different media were damaged.

This pattern was repeated on the state radio *Red Patria Nueva*, where 59.6% of airtime reserved for news, programmes and debates was attributed to MAS candidates, compared with 40% allotted to opposition candidates. Likewise, *Red Patria Nueva* relied on *Red de Radios Comunitarias* (Community Radios Network) to broadcast its programmes in the nine departments¹¹.

On the contrary, most private television channels favoured opposition candidates. On *ATB*, *Unitel* and *Red Uno* the opposition received greater prominence taking up 68%, 58% and 57% of the airtime, respectively. The *PAT* dedicated 54% of their informative programmes to the opposition while giving 46% to MAS, yet the information brought by this channel about the MAS candidates were the most critical in tone (almost a half in negative tone). Finally, the *RTP* channel achieved the greatest balance in their newscast both from the qualitative and quantitative point of view (MAS 45%, the opposition 55%).

Similarly, the private radio *Panamericana* appeared rather opposed to the proposals of MAS, as half of the 45% of time dedicated to their candidates included negative references. On the other hand, *Radio San Gabriel*, though more balanced from a quantitative point of view (54% MAS), voiced disagreement in a third of the time devoted to the proposals of the opposition candidates. *Radio Fides* was the most equitable private broadcaster both from the quantitative and qualitative point of view (52% MAS, 48% the opposition).

Written media proved to be more neutral in their coverage assigning 35% to MAS candidates and 65% to other candidates. However, the editorials of the four monitored newspapers were more critical of the ruling coalition than of the opposition parties, especially *El Deber* and *Los Tiempos*.

While the General elections received extensive coverage in the media, the autonomy referenda attracted little interest receiving only 3.5% of the political information delivered. The media coverage of the autonomy referenda was distributed as follows: 58.5% informative and 37.5% for the option 'YES', while the option "NO" received 3.5%.

On the other hand, the campaign was marked by a wide dissemination of public service advertising, especially on radio and television, even after the imposition of the ban 30 days before Election Day, which constitutes a violation of the provisions of the NEC and the Transitional Electoral Law. In addition, the state-owned TV and radio stations broadcast live proclamations of support from various social groups to the MAS candidates for the presidency and vice-presidency, thereby considerably exceeding the daily limit of 15 minutes of canvassing time per political party as established in the Electoral Code. Such activities, apart from violating the above-mentioned laws should also be regarded as a misuse of public resources.

During the campaign period, the NEC ordered the withdrawal of 30 television spots belonging mostly to opposition parties, for violating some of the prohibitions laid down by the Regulations for broadcasting election advertisements. However, in 12 cases the NEC's National Board of Civic Education issued a report that opens the way to fine the responsible medium. In this sense, the NEC operated diligently and in conformity with the law to meet the demands of different political parties and movements.

¹¹ Information provided by EU EOM observer teams.

The Electoral Code guarantees equal access for all political parties to free advertising space in state media in the period of 60 days before the Election Day. Within the analysed period, public TV and radios channels provided free airtime to all parties in accordance with the law.

Gender Issues

In accordance with international best practices, the new Constitution of the State enshrines the principle of gender equality which the Transitional Electoral Law¹² materialises in the requirement of parity and alternation in the nominations to the Chamber of Deputies and Senators. The alternation principle applies to the order of nominations on the candidate lists for the Senate and multi-member representation in the Chamber of Deputies, while on the candidate lists for single-member and special constituencies the gender alternation is established between the principal and reserve candidates.

Despite the unquestionable progress achieved by the new legislation on gender equality in the electoral field, its practical application demonstrates the persistence of a substantial deficit in female representation because of the final decisions taken by the different parties when nominating principal candidates. The most representative example is demonstrated in the analysis of the nominations in single-member districts: out of 286 principal candidates only 44 (15%) were women. Even more disproportionate were the nominations in the special constituencies in which there was only one woman among 18 candidates. This imbalance is also reflected in the scope of their presence in the media. According to the EU EOM monitoring, female candidates received scant media coverage, accounting for only 6% of the total of the references made to candidates in newspapers and radios. Yet, their share on television reached 18%.

The composition of the electoral administration shows a strong commitment to gender equality, with two women among the three members of the NEC and some 40% of the members of the Departmental Electoral Courts being women. For its part, the random selection of the polling staff guarantees a statistically adequate gender balance.

Participation of Indigenous Peoples

In addition to a wide recognition of rights of indigenous peoples and Afro-Bolivians, the new Constitution establishes two important novelties in the electoral field aimed at strengthening the active involvement of indigenous minorities in institutional life in accordance with best international practices.

The Constitution anticipates the creation of special indigenous constituencies in those departments where indigenous peoples and nations constitute a minority. In elaboration of this

¹² Articles 26 of the Constitution and 9 of the Transitional Electoral Law.

provision, the Transitional Electoral Law established seven special constituencies in which, however, all candidates ran under the banner of one of the eight parties participating also at the national level. There was no candidate proposed directly by indigenous peoples, even though the Electoral Code provides for this option.

In addition, the Constitution provides a possibility for indigenous minorities, fulfilling certain requirements¹³, to promote the creation of indigenous native peasant autonomies through municipal referenda, which were regulated by the Supreme Decree 0231/2009 of 2 August 2009. In agreement with this, the NEC approved the fulfilment of the requirements for twelve referenda, which were in turn called by the respective municipal councils, and rejected other seven initiatives for not satisfying the conditions.

The EU EOM observed a certain lack of information about the content of the indigenous autonomy in the municipalities that were to hold these referenda.

Civil Society

Two civil society organisations were accredited by the National Electoral Court to conduct national election observation. *Bolivia Transparente*, which mobilised approximately four thousand volunteers, deployed both in urban and rural areas of the nine departments, also observed the out-of-country voting. Moreover *Bolivia Transparente* observed the preparation of the biometric voter register and conducted media monitoring focused on election advertisements. For its part, *Voto Transparente* organised twenty brigades to observe the capital and provinces of the Santa Cruz department.

Another Bolivian NGOs followed, for example, the participation of women or the performance of the media: *Fundación UNIR* conducted a media monitoring (radio, television and print) observing the content of the electoral campaign, questions of gender and political financing and the behaviour of the media in relation to surveys; *Coordinadora de la mujer* followed the political participation of women through a campaign called: “*Mujeres listas para las listas*” (“Women ready for the lists”).

Complaints and Appeals

The electoral legislation regulates electoral crimes and offenses through a comprehensive system of sanctions which, together with the election-related complaints and appeals procedures (appeals to the DEC and claim of nullity or invalidity in the process of *de iure* to the NEC), is in line with international standards for democratic elections. Furthermore, the decisions of the National Electoral Court must be adhered to and cannot be revised or appealed, except in special cases through the judicial review before the NEC, or through an appeal on the grounds of unconstitutionality before the Constitutional Tribunal.

¹³ Articles 293, 294 and 302 of the Constitution, Final Dispositions III of the Transitional Electoral Law.

Due to the paralysis of the Constitutional Tribunal, the petition for review was the only effective instrument against the decisions of the NEC in the recent election process and has been used in two important cases: MAS against the NEC decision 238/2009, which recognised the right of the PPB-CN Vice-Presidential candidate Leopoldo Fernandez to conduct campaign activities from prison, where he remains in preventive detention, protected by the presumption of innocence (this appeal deemed unfounded by the NEC); and MAS requesting to annul the decision to place 400,661 citizens on the biometric register under review (this appeal was dropped after the NEC decision taken at a meeting with most of the DEC's in December to authorize all citizens listed in the voter register to vote).

Polling and Counting

The Election Day of December 6 was well organised by the different electoral courts and was conducted in a calm atmosphere, without any significant incidents¹⁴. The Police and the armed forces deployed throughout the country ensured the security of the elections, while maintaining neutrality without interfering with the voting process. In this incident free environment, Bolivians participated in high numbers and the turnout, according to provisional data provided by the NEC, reached 93.9%, which is unexpectedly high, even in light of the obligation to vote. This figure represents an increase of about 4% compared to the January constitutional referendum. However, because of the considerably higher number of people listed on the biometric register, the absolute number of voters who cast their vote augmented by about 1,300,000, which is a clear sign of inclusiveness of the recent electoral process, unprecedented in Bolivian history.

The EU EOM observed the process of opening, voting, closing and counting in a total of 510 polling stations in all nine departments. The opening process, which was assessed as good or very good in 84% of the polling stations observed, started punctually in 90% of the cases. In almost all voting centres visited the polling staff was present and voting materials complete.

Transparency of the voting was guaranteed by the presence of party agents, mainly of MAS and to a lesser extent, PPB-CN in 84.3% of the polling stations observed. Meanwhile observers from other organisations were present in only 11.5% of the cases. The voting process, which saw an increased influx in morning hours, took place in an orderly manner and was evaluated positively in 90.7% of the polling stations observed. The major problem detected was the attendance of duly registered voters whose names did not appear in the voter list. This was observed in 13.6% of the polling stations visited. While some of those affected managed to vote, thanks to fast track authorisations by election judges, others did not, which revealed certain shortcomings in the preparation of the voter lists. The NEC president publicly declared that not more than 4,000 people would be affected by this lapse, which he attributed to damaged hard drives of a few registration machines and errors in data transmission during the set up of the register. Although

¹⁴ The exception occurred in eight polling stations in the constituencies 32 and 33 (Oruro) in the voting centres Misael Pacheco Loma and Alto Oruro, where ballots were delivered by mistake to other constituencies, resulting in delays in opening and generated discontent among voters. In the first of the voting centres a member of the Oruro DEC was held hostage for a few hours. Finally, once the error corrected, the voting centres opened and respected the eight hours of voting.

progress has been made since the previous processes, the EU EOM found that in 33.1% of polling centres architectural barriers still hindered access of disabled voters. Cases of intimidation were reported in only 3% of the polling stations observed, all were in rural areas¹⁵.

The polling stations closed with very few comments or appeals. Security envelopes, duly signed in 85% of cases, were sealed and delivered to the electoral notaries for transport to the corresponding DECs. Even though the media began to publish projections of results based on exit poll surveys soon after the close of the polls, the NEC announced that it would publish official figures within 48 hours after the close of vote and provided they have received the results from at least 80% of polling stations.

The EOM would like to express its appreciation to the National Electoral Court and all national authorities as well as political parties, national and international observation missions, and Bolivian civil society organisations for their cooperation and warm welcome during the observation period. The EU EOM is grateful to the Delegation of the European Commission in Bolivia, the diplomatic missions of Member States and the International Organization for Migration, for their assistance throughout the mission.

An electronic version of this report is available on the official Mission website www.eueombolivia.eu [También en español]. For further information, please contact: *José Antonio de Gabriel*, Deputy Head of Mission, Tel: +591 214 1818. *María José Gámez*, Press Officer Tel: +591 606 47471

European Union Election Observation Mission
Hotel Europa; C/ Tiahuanaco # 64 piso 3
La Paz; Bolivia

¹⁵ There were cases of intimidation or undue interference by community authorities at the mixed polling station of Campo Grande and the special constituency polling station at Aguayrenda and Capirendita (Tarija). In the department of Cochabamba (districts 26 and 27, Chapare and Carrasco) and those of Potosí (Tinguipaya, Mariscal Sucre and Yocalla) party agents were assuming the functions of the polling staff.