



EUROPEAN PARLIAMENT

**ELECTION OBSERVATION OF  
PARLIAMENTARY ELECTIONS  
IN VENEZUELA**

**AD HOC DELEGATION**

*(2nd - 6th December 2005)*

**Report from the Chairperson of the ad hoc delegation,  
Mr. Arunas DEGUTIS**

**Annex: List of participants  
Programme  
EU-Election Observation Mission - Preliminary Statement**

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15 December 2005

## **Introduction**

In his letter of the 8th June 2005, Mr. Jorge Rodriguez, President of Consejo Nacional Electoral, invited the President of the European Parliament to send an ad hoc delegation to observe the parliamentary elections scheduled for the 4th December 2005.

On the 26th October 2005, the Conference of Presidents of the Political Groups decided to send a delegation of seven Members to Venezuela for election observation on the basis of the d'Hondt System. The Groups sent the following representatives: 3 Members from the EPP-ED, 3 Members from the PSE, 1 Member from ALDE.

The following Members were appointed: Mr. Arunas DEGUTIS, ALDE, (*Chairman*); Mr. Fernando FERNÁNDEZ MARTÍN, EPP-ED; Mr. Sérgio MARQUES, EPP-ED; Mr. José Javier POMÉS RUIZ, EPP-ED; Mr. Manuel MEDINA ORTEGA, PSE; Mr. Luis YAÑEZ-BARNUEVO GARCÍA, PSE; Mr. Emanuel Jardim FERNANDES, PSE.

Due to a storm which caused damaged at the airport at Canary Island, Mr Fernando FERNÁNDEZ MARTÍN was unable to take part in the delegation.

The secretariat organised the mission in cooperation with the Commission delegation in Caracas and with the EU Election Observation Mission (EU-EOM) for all matters relating to political briefings, observation on election day and the issuing of a statement after the elections.

## **Constitutive meeting**

On the 16th November 2005, the ad hoc delegation held its constitutive and preparatory meeting in Strasbourg.

Mr Arunas DEGUTIS was elected as chairperson of the ad hoc delegation.

A preliminary programme of briefings before election day was discussed and agreed amongst the members of the delegation.

For the election day itself, it was decided to split the members of the delegation into four teams, with the intention of visiting three different areas. The towns and regions chosen for this purpose were Caracas (2 teams), Vargas (1 team) and Nueva Esparta (1 team).

A first draft of the teams' composition was decided on the basis of preferences expressed by Members, of languages spoken and of experience in election observation.

## **Programme of the election observation mission**

Members of the delegation arrived in Caracas on Thursday, 1st December 2005.

The delegation began its work on Friday, 2nd December 2005 at 8.30 a.m. with an initial series of meetings, following the suggestions of the EU Election Observation Mission and the European Commission delegation.

Members were first briefed by Mr. José Albino Silva Peneda, Chief Observer of EU-EOM, on the present political situation in Venezuela, focusing particularly on the forthcoming elections and the organisation of the EU-EOM.

The strong polarisation that characterised the political situation appears to have created a widespread lack of confidence in the electoral authority. This was the main issue raised by the opposition block from its first meeting with the EU-EOM.

The Parliamentary Elections to the "Asamblea Nacional" (AN) were scheduled for the 4th December. In addition, voters were called to vote for the 12 Venezuelan representatives to the Latin American Parliament and the 5 Venezuelan seats in the Andean Parliament.

The AN is composed of 167 members elected through a mixed system with 24 constituencies (one per state), with 40% of the members elected proportionally and 60% elected through a plurality-majority formula, including single and multi-member constituencies. The formula used to allocate seats, combining the two different systems, led to the controversial phenomenon of duplication (or even multiplication) of parties known as *Las Morochas*.

The mixed system in use for the AN subtracts the number of seats gained by a party through the proportional list from the ones gained through the plurality-majority lists. Most of the parties, in order to avoid the consequences of this formula, present their candidates under different political party names for the two different lists. This strategy avoids the subtraction of the seats according to the allocation formula because the political parties *formally* presented in the lists are *different* political entities. This strategy of duplicating the party lists has been used by both coalition blocks in various constituencies as it is bound to favour those parties which are expected to be the majority in a given constituency. The legitimacy of this system was questioned before the Supreme Court (TSJ, the highest judicial instance in Venezuela) by *Action Democrática*, one of the leading opposition parties. On the 27th October the TSJ ruled in favour of upholding the system, provoking a vehement reaction among parts of the opposition.

Following an invitation from the *Consejo Nacional Electoral* (CNE) to observe the Parliamentary Elections, the European Union Election Observation Mission was deployed to Venezuela on the 7th November 2005. The EU-EOM deployed a total of 160 observers, in 20 of the 24 Venezuelan states, to follow and report on the electoral process in line with the principles of impartiality, objectivity and independence.

Mr. Silva Peneda pointed out the absence of political debate between the opposing political factions on their political platforms and social issues. He contrasted this with the debate in the media which is dominated by the alleged lack of guarantees for genuine elections. This is denounced by various sectors of the opposition, while reassurances are offered by the CNE which lists the various measures put in place by way of guarantee.

The overall impression of the EU-EOM experts at this stage was that the possibility of result manipulation and endangerment of the secrecy of the vote was remote, and probably even more difficult than in conventional elections. For this possibility to materialize would in fact require an expert user to access three different sources of information at the same time: the hard disk memory of the voting machines, the entire code of the encryption key and the hard disk memory of the fingerprint capturing machines (*maquinas captahuellas*).

The complicating factor is that information on the remote possibility of discovering the voting sequence was being manipulated by parts of the Press in a context of already considerable public mistrust.

In spite of the CNE's efforts to guarantee the secrecy of the vote, the oppositions decided, four days before election day, not to participate in the ballot.

Following this announcement a discussion took place, in which Mr. DEGUTIS, Mr. MARQUES, Mr. FERNANDES (MEPs) and Mr. Silva Peneda, Mr. Tuccinardi and Mr. Lacunza, from the EU-EOM Core Team of the EU-Election Observation Mission, participated.

This meeting was followed by another with representatives of pro-government parties. Mr. William Lara, MP, deplored the opposition's refusal to participate in the elections. According to him, all the opposition demands concerning the elections were satisfied and so the decision was inexplicable. Mr. Lara answered the questions posed by Mr. DEGUTIS, Mr. YAÑEZ-BARNUEVO GARCÍA, and Mr. FERNANDES.

The European Parliament delegation then had a meeting with representatives of the opposition parties: Mr. Cesar Pérez Vivas (COPEI) and Mr. Jorge Sucre (Proyecto Venezuela). They explained their position concerning the elections and justified their withdrawal by restating their suspicions about the electoral system. The opposition representatives also made references to the role of the media and the army.

Mr. DEGUTIS and Mr. FERNANDES took part in the discussion.

The delegation had subsequent meetings with representatives of Civil Society, *Súmate* and *Ojo Electoral*. *Súmate* is a civic movement, founded in 2002, whose first stated objective is the protection of democracy. Mr. Alejandro Plaz, Mr. Roberto Abdul and Ms. Corina Machado made clear their suspicion towards the electoral system. Furthermore they accused the *Consejo Nacional Electoral* (CNE) of being partial and defended the withdrawal of the opposition candidatures from the elections.

The *Súmate* representatives answered questions put by Mr. DEGUTIS, Mr. FERNANDES and MR. YAÑEZ-BARNUEVO GARCÍA .

The delegation had a meeting with another representative of Civil Society, *Ojo Electoral*. Its members, Carlos Genotios, Alejandro López and José Virtuoso, were of the opinion that the deficiencies of the electoral system (electronic voting, the *morochas* system, the partiality of the CNE) did not justify withdrawal by the opposition candidates.

These meetings were followed by another in the Ministry of Foreign Affairs with Ms. Delcy Rodríguez, Vice-Minister for relations with Europe. She expressed her disappointment with the opposition's attitude towards the elections. According to her this behaviour was quite unjustified because the CNE had addressed the opposition's concerns. The Vice-Minister answered questions put by Mr. DEGUTIS, Mr. FERNANDES and MR. YAÑEZ-BARNUEVO GARCÍA .

On Saturday morning, the European Parliament delegation had a working breakfast with OAS election monitors. Mr. Rubén Perina, head of the OAS electoral observation mission, explained to the Members the objectives of the OAS mission. He deplored the climate of polarisation and political tension apparent in the country. In terms of the electoral process, he confirmed the mutual distrust which constitutes a central element of the political context. This distrust is particularly evident between an important sector of the citizenry and governmental, electoral and party authorities, between the government and opposition, between the government and the privately owned news media and within the opposition parties themselves.

Mr. Perina answered questions put by Mr. Silva Peneda, Mr. MEDINA ORTEGA, Mr. POMÉS RUIZ and Mr. FERNANDES.

At 10.30 a.m. the delegation met the Core team of the EU-EOM. Mr. Silva Peneda, Head of the Mission, welcomed the delegation members. Several experts from the EU-EOM put forward their impressions of the Venezuelan media (Mr. Xabier Meilan and Mrs. Cathi Georgetti), the electronic vote (Mr. Pedro Lacunza), election observation (Ms. Charlemagne Gomez) and security (Mr. Frans Jennes).

In particular, during this briefing it was stressed that there is a distrust of the CNE on the part of a significant part of the opposition. This is expressed in criticisms of its initial creation and composition, the perception that the opposition has of partiality and lack of transparency in the CNE's actions, as well as in relation to the controversial application of some aspects of the electoral law. Despite the important guarantees offered by the CNE at the request of the opposition, the latter decided not to participate in the elections. It is worth noting that the guarantees that were offered included the elimination of the digital fingerprint machines and of the vast majority of the electronic voting notebooks, an increase in audits after the polls closed, the granting of additional space in the news media for electoral advertising, and the presence of witnesses and international observers during all phases of the electoral process.

Similarly, the efforts undertaken by the CNE in fulfilment of its mandate to automate the vote are worth mentioning. Nonetheless, given its complexity, the system requires permanent audits as well as technical and human safeguards, with the effective participation of all political parties, in order to generate the necessary levels of confidence.

The role of the media was also mentioned, namely the recurrent utilisation of the presidential *cadena*s (addresses to the nation, broadcast compulsorily and simultaneously on all radio and TV stations).

The delegation was thereafter received at the *Tribunal Supremo de Justicia* by its President, Dr. Omar Mora. He stressed that electoral participation contributes to the strengthening of democracy and the legitimacy of representative institutions. According to him, an inquiry showed that 80% of the Venezuelan population wishes to live in peace and democracy. Before the Venezuelan Constitution of 1999, voting was compulsory. Now it is a right, and so the right not to participate is also recognised. Overall, in his opinion the Venezuelan government had done its job in order to guarantee the election contest.

Mr. Omar Mora answered the questions put to him by the European Parliament delegation (Mr. DEGUTIS, Mr. MARQUEZ, Mr. FERNANDES, Mr. MEDINA ORTEGA and MR. YAÑEZ-BARNUEVO GARCÍA.)

At 5.00 p.m., the delegation met with Dr. Oscar León Uzcátegui, *Rector Electoral Principal* of the CNE. He referred to the following points:

- the institutional break of 1999 and the coexistence of different laws governing the electoral system;
- difficulties with the selection and ratification of the CNE members;
- CNE efforts aimed at guaranteeing the parliamentary elections of 4th December 2005;
- the withdrawal of the opposition parties and its repercussions.

Mr Uzcátegui answered questions put by Mr. DEGUTIS, Mr. FERNANDES and Mr. MEDINA ORTEGA.

## **Election Day**

Elections took place on Sunday, 4th December 2005.

The members of the delegation who stayed in Caracas divided into two teams, in order to cover the largest possible number of polling stations. One team was composed of Mr. DEGUTIS, Chairman, staff and interpreters, and the other of Mr. FERNANDES, Mr. YAÑEZ-BARNUEVO GARCÍA and staff. Another team went to the neighbouring state of Vargas. This group was composed of Mr. MEDINA ORTEGA, Mr. MARQUEZ and staff. The fourth and final group, composed of Mr. POMÉS RUIZ and staff, flew to the state of Nueva Esparta. The main objective was to observe different polling stations in different areas of the country.

On the morning of the 5th December 2005, the delegation met in Caracas with Mr. Silva Peneda, President of the EU-EOM, in order to compare views on the outcome of the elections and to share impressions. A common delegation position was clearly highlighted and shared with the EU-EOM.

On the morning of the 6th December 2005, Mr. DEGUTIS took part in a press conference where the Preliminary Statement of the EU Election Observation Mission (Annex C) was presented by Mr. Silva Peneda. Members of the EP delegation also participated.

As stated by Mr. DEGUTIS during the conference, the European Parliament's position on the parliamentary elections in Venezuela was in line with the findings of the Preliminary Statement of the EU-EOM as the EP delegation worked in close cooperation with the EU-EOM and was integrated into its framework.

## **Conclusions**

On 5th December in the morning, the delegation proceeded to an exchange of views on the observations carried out by its members in the various parts of the country and agreed on a common delegation position.

Then, at a subsequent meeting with Mr SILVA PENEDA, the input from the delegation was presented to the EU mission, in view of the drafting of the preliminary statement.

Finally, at a press conference where this statement was presented, Mr DEGUTIS Chairman of EP Delegation, read the following text:

Following an invitation from the Venezuelan authorities, a delegation of six Members of the European Parliament observed the elections in the framework of the EU Election Observation Mission led by Mr SILVA PENEDA, Member of the European Parliament.

The presence of this delegation is in itself a sign of how closely the European Parliament follows the political process in Venezuela, a country with which the Parliament has strong relations.

The delegation of the European Parliament fully endorses the preliminary statement of the EU mission and the conclusions presented by its Chief, Mr SILVA PENEDA.

In addition, the delegation would like to stress some issues resulting from its meetings and contacts with all of the actors involved, and from the observations made on Election Day.

First of all I would like to point out that for members of an elected parliament like us, a parliament (or several, considering Venezuelan participation in the Latin American and Andean Community assemblies) almost completely lacking an opposition is hard to imagine!

Furthermore we would also like to note:

- The regrettable lack of debate on concrete issues between political parties representing the government and opposition coalitions. Indeed, the level of acrimony prior to Election Day was high and raised concerns which have to be underlined.
- A lack of vision and planning for the future of the country on the part of all political parties involved. In this respect, Members of Parliament could observe no concrete debate on options and choices for the future.
- While the general situation of the media reflects a certain pluralism and offers a notable spectrum of information for the public, the misuse of this medium by the public authorities has been evident and is certainly not in line with international standards.
- While fully respecting political choices, the withdrawal of the opposition coalition from the contest at such a late stage has certainly not contributed to permitting the electors to choose from a wider range of political options.
- The problems associated with the electronic voting system, noticed very shortly before the elections, are unfortunate and contributed to undermining public confidence in the process.
- Despite this fact, the behaviour of the body responsible for the organisation of the elections has been fair as it proved able to react in a positive way when a difficult situation occurred.
- On Election Day, the excessive presence of military forces around the polling stations and the management of the closing time of polling stations raised questions and concerns.

Finally, a point to be stressed is the low turnout observed which could be seen as a key indicator of a lack of public confidence in the election process. Restoring confidence and building up a culture of dialogue clearly seems to be an issue to address in the forthcoming weeks and months.

Last, but not least, the European Parliament Members want to thank the Venezuelan authorities for the great welcome which has been extended to them during their stay in the country.

As it has done over the last 30 years, the European Parliament will continue to strengthen its cooperation with Venezuela, giving support to the political, social and economic development of this country.

**EUROPEAN PARLIAMENT**  
**LEGISLATIVE ELECTIONS IN VENEZUELA**  
**ELECTION OBSERVATION DELEGATION**

**2nd-6th December 2005**

**List of participants**

**Members of the delegation**

Mr. DEGUTIS, Arunas, ALDE, Lithuania (*Chairman*)  
Mr. MARQUES, Sérgio, EPP-ED, Portugal  
Mr. POMÉS RUIZ, José Javier, EPP-ED, Spain  
Mr. MEDINA ORTEGA, Manuel, PSE, Spain  
Mr YAÑEZ-BARNUEVO GARCÍA Luis, PSE, Spain  
Mr. FERNANDES, Emanuel Jardim, PSE, Portugal

**Political Group Staff**

Mr. Juan SALAFRANCA SANCHEZ-NEYRA (EPP-EP)  
Mr. José Carlos MARIN (PSE)  
Mr. Jean-Pierre TRAUFFLER (ALDE)

**Secretariat**

Mr. Pietro DUCCI, Administrator  
Mr. Pedro NEVES, Administrator  
Ms. Concepcion NAVARRETE RAMIREZ, Secretary

**Interpreters**

Mr. Enrique QUIJANO (team leader)  
Ms. Andrea SEBERCASEAUX-BATEMAN

**Abbreviations :**

EPP-ED European People's Party/European Democrats  
PSE Party of European Socialists  
ALDE Alliance of Liberals and Democrats for Europe  
Verts/ALE Greens/European Free Alliance

GUE/NGL  
IND/DEM  
UEN  
NI

European United Left/Nordic Green Left  
Independence/Democracy Group  
Union for Europe of the Nations Group  
Non-attached

# EUROPEAN PARLIAMENT

## DELEGATION FOR OBSERVATION OF ELECTIONS IN VENEZUELA

2nd-6th December 2005

### Programme

#### **Members of the delegation**

Mr. DEGUTIS, Arunas, ALDE, Lithuania, Chairman  
Mr. MARQUES, Sérgio, EPP-ED, Portugal  
Mr. POMÉS RUIZ, José Javier, EPP-ED, Spain  
Mr. MEDINA ORTEGA, Manuel, PSE, Spain  
Mr. YAÑEZ-BARNUEVO GARCÍA, Luis, PSE, Spain  
Mr. FERNANDES, Emanuel Jardim, PSE, Portugal

#### **Secretariat**

Mr. Pietro DUCCI  
Mr. Pedro NEVES  
Ms. Concepcion NAVARRETE RAMIREZ

#### **Political Staff**

Mr. Juan SALAFRANCA SANCHEZ-NEYRA (EPP-EP)  
Mr. José Carlos MARIN (PSE)  
Mr. Jean-Pierre TRAUFFLER (ALDE)

#### **Interpreters**

Mr. Enrique QUIJANO  
Ms. Andrea SEBERCASEAUX-BATEMAN

### Thursday, 1st December

*Afternoon*

Arrival of MEPs and staff in Caracas

Transfer to the hotel **InterContinental TAMANACO**  
Avenida Principal de Las Mercedes  
Caracas - Venezuela 1060 A  
Tel. +58-212-9097111  
Fax +58-212-9097116

## **Friday, 2nd December**

- Morning*
- Breakfast meeting with Mr. José Albino SILVA PENEDA, Chief Observer of EU-EOM  
*Venue: InterContinental, Tamanaco*
  - Meetings with political parties (divided in two blocks, pro-government and opposition)  
*Venue: EC delegation, (Av. Orinoco, Las Mercedes)*
- Afternoon*
- Meetings with Civil Society (Sumate, Ojo Electoral)  
*Venue: EU-EOM Office, Hotel Radisson - Eurobuilding*
  - Meeting with Ms. Delcy Rodriguez, Vice-Minister of Foreign Affairs for Europe  
*Venue: Ministerio Relaciones Exteriores - Casa Amarilla*

## **Saturday, 3rd December**

- Morning*
- Breakfast meeting with OEA representatives  
*Venue: InterContinental, Tamanaco*
  - Briefing with the EU-EOM Core Team on:
    - Political background
    - Electoral environment
    - Media coverage
    - Campaign issues*Venue: EU-EOM Office, Hotel Radisson - Eurobuilding*
- Afternoon*
- Meeting with Mr. Omar Mora, President of the Tribunal Supremo de Justicia  
*Venue: TSJ Headquarters*
  - Meeting with Mr. Oscar León Uzcátegui, Rector Principal del Consejo Nacional Electoral  
*Venue: InterContinental, Tamanaco*

Deployment of the delegation in the following parts of the country:

- ✓ **Caracas**
  - Mr. DEGUTIS Arunas, Mr. FERNANDEZ Emanuel Jardim, accompanied by Mr. Ducci from the staff, Mr. Trauffler from the ALDE Group, Mr. Quijano and Ms. Sebercaseaux -Bateman, interpreters
  - Mr. FERNANDEZ MARTIN Fernando, Mr. YANEZ-BARNUEVO GARCÍA Luis, accompanied by Ms. Navarette from the staff

- ✓ **Vargas** - Mr. MEDINA ORTEGA and Mr. MARQUES accompanied by Mr. Neves from the staff and Mr. Marin from the PSE group
- ✓ **Nueva Esparta** - Mr. POMÉS RUIZ accompanied by Mr. Salafranca from the EPP-ED group

The three groups receive briefings from Long Term Observers of the EU-EOM on election observation in the different areas.

### **Sunday, 4th December, election day**

- ✓ **Caracas: two teams**
  - Mr. DEGUTIS Arunas, Mr. FERNANDEZ Emanuel Jardim, Mr. Ducci, Mr. Trauffler, Mr. Quijano and Ms. Sebercaseaux -Bateman
  - Mr. FERNANDEZ MARTIN Fernando, Mr. YANEZ-BARNUEVO GARCÍA, Ms. Navarette
- ✓ **Vargas**
  - Mr. MEDINA ORTEGA, Mr. MARQUES, Mr. Neves, Mr. Marin
- ✓ **Nueva Esparta**
  - Mr. POMÉS RUIZ, Mr. Salafranca

### **Monday, 5th December**

Observation of counting and aggregation of results

Return of Members from different parts of the country

Meeting with Mr. José Albino SILVA PENEDA, Chief Observer of the EU-EOM  
*Venue: InterContinental, Tamanaco*

Meeting with Ojo Electoral  
*Venue: InterContinental, Tamanaco*

### **Tuesday, 6th December**

Meeting with the EU-EOM and the EC representatives to discuss the preliminary results of the election observation and a draft preliminary statement to be issued at the press conference  
*Venue: InterContinental, Tamanaco*

Joint press conference with the EU-EOM, issue of the preliminary statement on the election observation findings  
*Venue: Hotel Radisson - Eurobuilding*

End of the delegation's work



**EU Election Observation Mission to Venezuela  
Parliamentary Elections 2005**

**Preliminary Statement**

**Caracas, 6 December 2005**

*Following an invitation of the National Electoral Council (CNE) to observe the Parliamentary Elections (National Assembly, Latin-American Parliament and Andean Parliament) of 4 December, the European Union Election Observation Mission (EU EOM) was deployed in Venezuela on 07 November 2005. The Mission is led by **Chief Observer Mr. José Albino Silva Peneda, Member of the European Parliament**. In total, the EU EOM deployed 160 observers in 20 of the 24 states to follow and report on the electoral process in line with established EU methodology and the "Declaration of Principles for International Election Observation" adopted under the auspices of the United Nations in October 2005. A Delegation of the European Parliament, led by Mr. Arunas Degutis, and including six MEPs, joined in the EU EOM on 1 December. This statement is issued before the process is completed; the EU EOM will remain in country until 21 December to observe the post-election period, including electoral complaints. A Final Report will be issued in February 2006. The EU EOM wishes to thank the CNE, the Venezuelan authorities and all the other actors for the excellent cooperation and availability demonstrated throughout its stay in Venezuela*

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**Preliminary Conclusions**

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**Wide sectors of the Venezuelan society do not have trust in the electoral process and in the independence of the electoral authority.**

**The legal framework contains several inconsistencies that leave room for differing and contradictory interpretations.**

**The disclosure of a computerized list of citizens indicating their political preference in the signature recollection process for the Presidential Recall Referendum (so-called "Maisanta Program") generates fear that the secrecy of the vote could be violated.**

**The CNE, in a positive attempt to restore confidence in the electoral process, took significant steps to open the automated voting system to external scrutiny and to modify various aspects that were questioned by the opposition.**

**The CNE decision to eliminate the fingerprint capturing devices from the voting process was timely, effective and constructive.**

**The electoral campaign focused almost exclusively on the issue of distrust in the electoral process and lack of independence of the CNE. The debate on political party platforms was absent.**

**Both State and private media monitored showed bias towards either of the two main political blocks.**

**The EU EOM took note with surprise of the withdrawal of the majority of the opposition parties only four days before the electoral event.**

**Election Day passed peacefully with a low turnout. While the observers noted several irregularities in the voting procedures, the manual audit of the voting receipts revealed a high reliability of the voting machines.**

**These elections did not contribute to the reduction of the fracture in the Venezuelan society. In this sense, they represented a lost opportunity.**

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### **Preliminary Findings Pre-Election Environment**

The EUEOM takes note of the fact that wide sectors of the Venezuelan society do not have confidence in the electoral process and in the electoral administration. This standpoint, which has its roots in the high polarization that divides the Venezuelan society, became especially apparent during the Recall Referendum in 2004 as well as in the run up to these elections. The disclosure of a database containing more than 12 million citizens' personal data and their political preference (the so called "Maisanta" Program) expressed during the signature collection for the Recall Referendum generated widespread fears that this information could be used for intimidation purposes and undue influence on voters. This fact played a significant role in favor of the abstention.

The opposition parties focused their campaign on the perceived lack of neutrality of the CNE and alleged dangers posed to the secrecy of the vote by an automated voting system which was meant to include the fingerprint capturing devices. Central electoral campaign themes such as economics and tax policies, the importance of social programs, the role of the private sector in the economy or environmental policies were missing from the political parties' public interventions. The prohibition of state funds for electoral campaign purposes was often mentioned by parties as a factor, which impeded a more public and transparent campaign.

The use of state resources by pro-government parties to mobilize supporters was observed in Trujillo, Monagas, Anzoátegui, Carabobo and Guarico. Violations of the provision for public officials to take part in the campaign was observed in nearly all States and committed by almost all main political parties. The parties included quotes from local officials in their captions as well as pictures of officials in their campaign posters including in some cases, of the President. The violations observed in the last phase of the campaign were mainly carried out by pro-government parties.

Civil society organizations like *Sumate* and *Ojo Electoral* played, in different ways, a very important role in the elections. However, only *Ojo Electoral* sought and obtained accreditation to observe the elections.

In a context of mistrust and extreme polarization, the EU EOM acknowledges the efforts made by the CNE to increase the political parties' confidence in the process. These measures included reviews of various elements of the automated voting process such as the software of the electronic voting machines, the fingerprint capturing machines and of the results aggregation system, as well as the extension of the audit paper trail to encompass the manual recount of the voting receipts in 45 % of the polling stations.

The discovery of a design flaw in the software of the voting machines, with the consequent remote possibility to violate the secrecy of the vote was dealt with by the CNE in a timely and adequate manner. The possibility of endangerment of the secrecy of the vote was evaluated by EU EOM experts as remote.

The breach of the secrecy of the vote could only be possible if the sequence of both the identification of the voters and the votes cast was reconstructed. This reconstruction would require access to three different dispersed sources of information by a qualified user. These sources are the memory of the voting machines, the memory of the fingerprint capturing devices and the entire code of the encryption key (that was divided among the political parties and the CNE) used in the system to protect the voting data.

The elimination of the fingerprint capturing devices from the voting process was a significant move aimed at restoring the confidence of the parties. It was therefore with surprise that the EU EOM took note at this stage of the withdrawal of the main opposition political parties from the electoral contest without any new additional motivation.

### **Legal Framework**

The legal framework for the elections is composed of the Basic Law of Suffrage and Political Participation of 1998, the Constitution of 1999, the Electoral Statute of Public Power of 2000, the Basic Law of the Electoral Power of 2002. Due to the National Assembly's inability to find a qualified majority on the adoption of a new Basic Law, crucial aspects of the electoral process have not been harmonized with the provisions of the new Constitution 1999. These inconsistencies opened room for differing and contradictory interpretations of various aspects of the process (e.g. voter registration, CNE competences), and exemplified the already existing divide between opposing sectors of the society.

The current composition of the CNE Steering Board is a contentious issue. Following the inability of the National Assembly to reach the required majority to elect the CNE Steering Board, the Supreme Court, availing itself of the extraordinary powers granted by the Constitution in case where the National Assembly is unable to take a decision, designated the Members of the Steering Board before the Recall Referendum. More recently, one of the members of the Steering Board was nominated by the Supreme Court under a procedure contradictory to the one used for the first extraordinary nomination of the Steering Board.

The system of representation in force in Venezuela is described as one of "personalized proportionality" by the Basic Law of Suffrage and Political Participation of 1998. This ambiguous definition is used to designate a mixed member proportional system. The use of the electoral technique known as *Morochas*, which allows the duplication of parties in order to avoid the subtraction of the seats gained in the plurality-majority list from the proportional list, certainly defies the spirit of the Constitution, but it is technically allowed by the mixed system of representation laid out in the Basic Law of Suffrage and Political Participation.

The principle of the automated voting system is enshrined in Art. 154 of the Basic Law of Suffrage and Political Participation 1998 and in Art 33, Item 42 of the Basic Law of the Electoral Power of 2002. The current development and applications of the automated voting process have however surpassed in various aspects the legal framework.

### **Election Administration**

The National Electoral Council (CNE) is an institution with significant human and technical resources. The CNE technically administered the process well, and its logistical preparations for the electoral event were adequate. Its performance was however tainted by the accusations of bias and partisanship that have accompanied its work since the past Recall Referendum process. In the election preparations the CNE demonstrated a clear willingness to meet the demands of the opposition parties to increase confidence on the process. Among the main steps taken to reduce the opposition concerns over the automated voting process, the CNE increased the number of polling stations to be audited from an initial 33% to 45% and reduced the use of the electronic voter lists to 2%. However, this was perceived by the opposition parties as insufficient.

The security and transparency measures introduced in the automated voting process are in line with the most advanced international practice. The various types of system reviews put in place by the CNE represented an important opportunity to explain and review various aspects of the automated voting system to experts of political parties and observers. Apart from the paper trail audit on election day, there were four types of reviews that the EU EOM observed including of voting machines software and hardware, results aggregation software, voting machines assemblage and production, and election day simulation. Despite the fact that no proper audit procedures were agreed in advance, a significant disclosure of information was achieved. However, access to information for party experts could be further improved. The political parties were selective in presenting to the media the activities and the findings of the audit sessions.

The voter register (*Registro Electoral Permanente*, hereinafter REP), has been the source of continuous debate and several allegations of illegitimate entries. This is not a novelty in the Venezuelan elections; however, the sharp increase of registered voters before the Presidential Recall Referendum cast serious doubts on the composition and entries of the most recent REP. These suspicions were heightened in the pre-electoral period by the refusal of the CNE to make available the address of the voters to political parties due to an unclear constitutional data protection provision. However, political parties were given sufficient access to the voter register. Structural and long standing problems in the REP are likely to exist, and can only be solved in conjunction with the revision of the Identity Card program which is the basis for the voter registration system.

### **Media Coverage**

The Venezuelan media display a great diversity of political opinions. However, considered individually, the main media outlets only exceptionally referred to the various political actors in a manner which could be considered both fair and balanced. Most of the private media tended to offer more space to the views of the political forces critical of the Government, and when expressing their political preferences, they often disregarded basic journalistic principles.

On the other hand, state-owned media should provide fair recognition to the views of all Venezuelans and therefore has strong obligations in terms of objectivity, fairness and impartiality. However, it did not fulfill these obligations. The tone of the coverage of opposition parties in the publicly owned media was significantly more negative than the one reserved to the parties in government. Furthermore, the intense promotion of government policies on the state media during the campaign worked as an indirect publicity of the parties in power. The excessive resort to *cadena*s (addresses to the nation simultaneously broadcast through all the nation's electronic media) which proliferated in the days prior to the elections could represent a breach of the campaign silence.

The EU EOM notes that the frequent presence of the President on State TV and radio is an unusual practice and did not contribute to the improvement of the political climate.

The Mission believes that the excessively inflammatory opinions encountered in much of the Venezuelan media, especially after the withdrawal of most of the opposition parties' candidates, did not contribute to an informed and calm political atmosphere, but rather agitated further an already tense public opinion which seems to grow increasingly tired and cynical about politics.

The use of images featuring public officials for campaign purposes was widespread and must be condemned as a generalized, flagrant violation of CNE regulations on that matter. Furthermore, the excessive focus on parties and personalities given by the media in its coverage of the campaign has resulted in a striking scarcity of information about the platforms of the contesting parties.

## **Election Day**

Polling stations opened on average between 7,00 and 8,00 am. The delays were mainly due to the late arrival of the staff and a general slowness in the opening procedures. In 70% of the polling stations observed there were missing polling officials replaced by political party agents, reserves or ordinary voters.

The presence of the armed forces of *Plan República* inside the polling stations was noted in 25% of the polling stations observed. This was contrary to the provision that allowed the security forces to be inside the voting centres but not inside the polling stations.

The political party agents were observed in 70% of the polling stations visited. In 68 % of these cases there were only agents from pro-government parties. Domestic observers were present in 6% of the polling stations observed. Their presence was observed in 18% of the polling stations where the EU EOM observed the audit of the count.

The majority of the voters in the polling stations observed experienced problems with understanding the functioning of the voting machines and required assistance. In 41% of the cases observed there were voters unable to complete the process in the prescribed three minutes. This indicates both a lack of adequate voter information and training for election officials on the automated voting system. The assistance to the voters was often provided by the polling station staff, security forces and the political party agents, raising concerns about the secrecy of the vote.

Campaign activities in favor of pro-Government parties were noted in the vicinity of a large number of the polling stations observed. The type of campaign activities observed included food distribution, cars with megaphones and posters, information stands and provision of transport for voters. Few cases of intimidation were observed, with party members asking voters to sign and thumbprint on a piece of paper that they had voted and who they had voted for.

The polling hours were extended by the CNE throughout the country. The motivation for this decision was the delays in the opening and the bad weather conditions. This led to confusion and allegations of attempts from pro-government parties to boost the turnout.

The paper trail audit (manual recount) of the electronic count was observed in 75 different polling centers. Despite a lengthy implementation of the audit procedure, the results indicated a clear reliability of the results, with few cases of discrepancy observed between the number of voters marked in the voter register and those counted by the machine and between the paper receipts and the votes recorded in the voting machines. The general conclusion of the observers was that the voting machines seemed very reliable.

The aggregation of results proceeded with high speed. The announced preliminary results cover almost 90% of the results. The preliminary turnout announced by the CNE is of 25%. However, there is no clarity on the level of invalid votes that oscillate between 5 and 10%.

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**Preliminary Recommendations**

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The legal framework that governs the electoral process must be harmonized with the constitutional provisions on the elections.

The National Assembly should appoint a CNE Steering Board composed of independent professionals of various extractions that enjoy the trust of all the sectors of society.

The prohibition of public funding to parties for the electoral campaign should be reconsidered.

The electronic voting system should be audited by an independent institution.

The REP should be audited in conjunction with the ID register by an independent institution.

The CNE should launch as soon as possible training and civic education programs aimed at familiarizing electoral officials and the electorate with the electronic voting procedures.

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