



## **Preliminary Report of the OAS Electoral Observation Mission in Ecuador for the Referendum and Public Consultation of April 21, 2024**

April 23, 2024

The Electoral Observation Mission of the Organization of American States (OAS/EOM), led by the former President of the Board of Directors of the Electoral Service of Chile, Patricio Santamaría Mutis, salutes the citizens of Ecuador for their participation in the referendum and public consultation held on Sunday, April 21, and hails the civic commitment of those who turned out to exercise their right to vote. The Mission also congratulates the polling station teams, whose dedication enabled the successful completion of this exercise in democracy.

The Mission also recognizes the work of the National Electoral Council (CNE), taking into account, on one hand, the short preparation period that the law provides for this type of event and, on the other, the budgetary constraints it faced in organizing the electoral process.

Although the voting proceeded peacefully on Sunday, the Mission considers it important to note that the backdrop for this referendum and public consultation was a complex one, including the activities of organized crime groups, increasing violence, and assassinations of political figures. The OAS/EOM strongly condemned the deadly attacks that took place in the days leading up to the ballot, and deeply regretted the deaths of two mayors and the bodyguard of one of them in Azuay (Camilo Ponce Enriquez canton) and El Oro (Portovelo canton).<sup>1</sup>

In addition, the Mission notes that the turnout was lower than the last elections in Ecuador. According to preliminary data provided by the CNE, 72% of the electorate took part in the referendum and public consultation.<sup>2</sup> That figure is 9 percentage points lower than the average turnout for the three elections held in 2023,<sup>3</sup> and 10 points lower than the turnout for a similar plebiscite in 2018.<sup>4</sup> This is especially significant considering that voting is compulsory in Ecuador. As in other electoral processes in the region where this has occurred, the OAS/EOM stresses the importance of considering each poll as an opportunity for citizens to make their voice heard, particularly when they are called upon to make a direct decision on important issues for the country.

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<sup>1</sup> See [https://x.com/OEA\\_oficial/status/1780981404198682705](https://x.com/OEA_oficial/status/1780981404198682705) y [https://x.com/OEA\\_oficial/status/1781399869267038471](https://x.com/OEA_oficial/status/1781399869267038471)

<sup>2</sup> Press conference offered by the CNE after the closing of the polls. See <https://www.youtube.com/watch?v=vLVU9c9jxSQ> minuto 2:07:10.

<sup>3</sup> See preliminary reports of the missions deployed by the OAS for the processes in [February](#), [August](#) and [October](#) 2023.

<sup>4</sup> See [Final Report](#) of the OAS Electoral Experts Mission for the 2018 Referendum and Public Consultation.



The OAS Mission began arriving in stages starting on April 11, and comprised 15 international experts of 7 different nationalities. The Mission monitored key aspects of the process, including electoral organization, overseas voting, electoral technology, the electoral justice system, political finance, and specific elements of the direct democracy mechanism.

During its deployment, the Mission met with senior electoral and government officials, representatives of organizations registered to campaign, and representatives of civil society and academia. On the day of the poll, the Mission deployed in the Metropolitan District of Quito to observe the preparations and proceedings of the ballot.

## **PRE-ELECTORAL STAGE**

### **Call for a referendum and public consultation**

In Ecuador, there is a well-established tradition of activating direct democracy mechanisms, which have been gaining recognition and acceptance among Ecuadorian citizens. Under the country's legal system, the possibility of amending and reforming the Constitution is recognized as a fundamental right, as is holding popular consultations at the initiative of the public authorities or the citizens themselves. When the objective is a constitutional amendment or reform, the mechanism that must be used is a referendum, while popular consultations can be called, among other things, to reform lower ranked laws.<sup>5</sup>

Once the questions to be submitted to the citizenry for a decision have been proposed, they are analyzed by the Constitutional Court, which must issue an opinion authorizing a referendum or popular consultation, as established by the Constitution<sup>6</sup> and the Organic Law on Jurisdictional Guarantees and Constitutional Control.<sup>7</sup> In its opinion, the Court ensures that the introductory recitals do not influence voters' responses and that they are pertinent to the topic under consultation.<sup>8</sup> It also ensures that the questionnaire is clear, that the questions can be answered individually (that there are no rejections or acceptances en bloc) and that no question includes more than one topic, unless the topics addressed by a question are interrelated and interdependent.<sup>9</sup>

As he had said he would during his campaign in 2023, with the objective of addressing public safety and economic concerns, President Daniel Noboa Azín invoked the referendum and public consultation process

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<sup>5</sup> Articles 104, 441, and 442 of the Constitution of the Republic of Ecuador.

<sup>6</sup> Articles 104 and 444 of the Constitution of the Republic of Ecuador.

<sup>7</sup> Article 105 of the Law on Constitutional Control. It is important to point out that the Constitutional Court has a maximum of 20 days to issue its opinion after initiating its prior control process. Failure to do so will be understood as an affirmative opinion on both the introductory recitals and the question(s).

<sup>8</sup> Article 104 of the Law on Constitutional Control.

<sup>9</sup> Article 105 of the Law on Constitutional Control.



on Sunday, April 21, in accordance with his powers under the Constitution.<sup>10</sup> Through various rulings issued between January 24 and February 8, the Constitutional Court established its position in relation to the questions put forward by the proponent, thus defining the final list of those that would be included in the poll.<sup>11</sup>

Once the approval by the Constitutional Court had been obtained, on February 14, 2024, the CNE started the electoral period for the 2024 referendum and public consultation to be held on Ecuadorian soil and abroad, and issued the official call.<sup>12</sup> A total of 11 questions were put to the public for consideration: 5 referendum questions, of which question A concerned a partial amendment to the Constitution and questions B, C, D and E referred to constitutional amendments; and 6 popular consultation questions, covering issues of citizen security, a constitutional justice model, international arbitration, and regulation of labor contracts. It is worth mentioning that 10 of the questions were proposed by President Noboa, while the first question had been proposed by former President Lasso. Since the latter proposed a reform of the Constitution, it was previously debated and approved in the Legislative Assembly, as required by the Constitution.<sup>13</sup>

To support the "YES" or "NO" campaigns on all or some of the questions, 22 political and grassroots organizations applied for registration. Ten were approved within the established deadline,<sup>14</sup> while Partido Sociedad Patriótica was approved following a ruling by the Electoral Disputes Tribunal.<sup>15</sup>

## Political-electoral context

In January 2024 the President of the Republic declared a nationwide state of emergency due to serious internal unrest and the existence of an internal armed conflict,<sup>16</sup> which was extended once and ended on April 6. Given the legal impossibility of a new extension, the President issued a decree declaring that the internal armed conflict persisted and ordering both the armed forces and the National Police to maintain

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<sup>10</sup> Article 104 of the Constitution of the Republic of Ecuador.

<sup>11</sup> Opinion 7-22-Rc/22, Opinion 1-24-Cp/24, Opinion 1-24-Rc/24a, and Order 1-24-Rc/24.

<sup>12</sup> Decision PLE-CNE-2-14-2-2024 and Decision PLE-CNE-2-26-2-2024.

<sup>13</sup> Article 442 of the Constitution of the Republic of Ecuador.

<sup>14</sup> See <https://www.cne.gob.ec/10-organizaciones-calificadas-para-campana-del-referendum-y-consulta-popular-2024/>. Of those 10, 7 were political organizations (Movimiento AMIGO, Movimiento CREO, Movimiento Pueblo Igualdad Democracia, Movimiento de Unidad Plurinacional Pachakutik, Partido Avanza, Partido Socialista Ecuatoriano and Partido Unidad Popular) and 3 were grassroots organizations (Intercultural Confederation of Peoples and Nationalities of Ecuador - AMARU, General Workers' Union of Ecuador, and National Union of Education Workers / National Union of Educators).

<sup>15</sup> [Judgment 056-24-040424](https://x.com/cnegobec/status/1777433983187390803) and Decision PLE-CNE-1-8-4-2024. See <https://x.com/cnegobec/status/1777433983187390803>

<sup>16</sup> Executive Decrees Nos. 110 of January 8, 2024 and 111 of January 9, 2024.



their presence and deployment in operations to combat organized crime, as well as joint control of security in prisons. However, the curfew imposed under the state of emergency was lifted on April 7.

In the weeks prior to the election, a mayoress was murdered in the province of Manabí (San Vicente canton), and in the week before voting day, two mayors (Camilo Ponce Enríquez and Portovelo cantons) and a bodyguard were murdered in the span of three days. As stated in other reports, the OAS/EOM condemns all acts of political violence and calls on the authorities to take the necessary steps to ensure the well-being of political and grassroots actors, especially in the lead up to the 2025 elections.

The Mission learned that, for various reasons beyond the control of the electoral authorities, voting could not take place in Mexico,<sup>17</sup> Nicaragua, Israel,<sup>18</sup> Russia, and Belarus.<sup>19</sup>

Lastly, an energy crisis in the week prior to the elections caused prolonged power outages throughout the country. In view of that situation, on April 19, two days before the poll, the President declared another state of emergency in which the National Police and the armed forces were deployed to protect and secure the country's critical energy infrastructure facilities.<sup>20</sup>

The vast majority of actors with whom the Mission met mentioned energy supply problems as their main concern in the run-up to the ballot. This posed a major challenge for the electoral authority, which, in coordination with other agencies, concentrated its efforts on developing contingency plans. The OAS/EOM was not aware of any major contretemps or interruptions during the poll and the hours that followed as a result of power supply problems.

## VOTING DAY

The OAS/EOM observed the ballot at polling precincts in the Metropolitan District of Quito from the time of their installation and opening to the counting and scanning of the voting returns at the return digitalization centers (CDAs). The Mission noted that events on the day proceeded as normal and that a climate of respectful coexistence prevailed among members of the public.

As the process got under way on Sunday, the OAS/EOM was able to confirm slight delays in the opening of the stations, which were overcome by relying on alternate polling station members. In addition, according to the CNE, 15 polling precincts in the provinces of Manabí, Esmeraldas, El Oro, Los Ríos, Santo Domingo de los Tsáchilas, Chimborazo, Bolívar and Cañar reported delays due to inclement weather.

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<sup>17</sup> See <https://www.cne.gob.ec/se-suspenden-las-elecciones-en-israel-y-mexico-del-referendum-y-consulta-popular-2024/>

<sup>18</sup> *Ibid.*

<sup>19</sup> See [En Rusia y Bielorrusia se suspende la votación del Referéndum y Consulta Popular 2024 – Consejo Nacional Electoral – Construyendo Democracia – Ecuador \(cne.gob.ec\)](#)

<sup>20</sup> Decree No. 229-2024.



However, in most cases these were resolved through contingency plans and in only two polling precincts was it not possible for voting to get under way.<sup>21</sup>

According to reports from the CNE, all polling stations were set up with their respective materials and indispensable electoral documents. Of those, 75.9 percent were made up of lead members, more than 20 percent were made up of alternates from the same station, and 3.5 percent were made up of alternates from other polling stations. The CNE also informed that 1,027 national and international observers and 8,828 delegates of political and grassroots organizations were deployed.<sup>22</sup> Regarding the latter, Mission observers noted the absence of delegates at polling precincts they visited.

The Mission observed that several political leaders made their vote public; some displayed their ballot to the press while others did so via social media. The Mission stresses the importance of voting secrecy and calls for it to be respected in order to encourage voters to make up their own minds.

The polls closed punctually at 5:00 p.m., as scheduled. According to data provided by the CNE, the turnout was 72 percent of eligible voters. Shortly before 7:00 p.m. on Sunday, the first official results were made available both on the CNE website and on the mobile application designed for that purpose. At the same time, after 9:30 p.m., the authority announced the preliminary results based on the quick count.<sup>23</sup> According to these data, the “YES” campaign won on nine of the questions, the “NO” campaign on two (D and E).

By 11:00 p.m. approximately 90 percent of voting returns had been scanned, but only 25 percent of them had been processed and validated. As of 2:00 a.m. on April 22, 50 percent of voting returns had yet to be processed and validated. This situation was a reiteration of numerous voting processes held previously in the country.

The OAS/EOM found that the processing of official results was significantly delayed. According to the Mission's observers, the main bottlenecks were in the processes of signature control and tallying of the results on the voting returns. This work is performed by operators at the Electoral Processing Centers (CPE) installed in each province, which for this process was a very small group, considering the volume of returns to be processed.

## FINDINGS AND RECOMMENDATIONS

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<sup>21</sup> See <https://twitter.com/cnegobec/status/1782067956362494449>

<sup>22</sup> See Transmission from the CNE Command Center - <https://www.youtube.com/watch?v=qCP5csjVYwo>, minute 43:30.

<sup>23</sup> Press conference offered by the CNE after the closing of the polls. See <https://www.youtube.com/watch?v=vVU9c9jxSQ> minute 6:43:00.



With the aim of helping to strengthen electoral processes with a view to future direct democracy exercises, based on careful analysis of the laws in force and information gathered during the observation, the Mission offers the following preliminary findings and recommendations with respect to direct democracy mechanisms, election organization, electoral technology, electoral justice, and political finance.

## **Direct democracy mechanisms**

In Ecuador, there is a well-established tradition of activating direct democracy mechanisms, which not only allowed the current Constitution to be legitimized but has also enabled the citizenry to decide for itself on reforms or proposals on an array of important issues for the country. Thus, the referendum and public consultation that took place on Sunday, April 21 joined this Ecuadorian political tradition by appealing to the will of the citizens to solve complex or circumstantial issues.<sup>24</sup> This coexistence of representative and direct democracy merits constant reflection as to their condition as complementary and non-exclusive systems.

The Mission found that Ecuadorian legislation has made positive progress in terms of the clear identification of the institutional, political, and grassroots actors with the possibility of invoking direct democracy mechanisms;<sup>25</sup> the establishment of controls by the Constitutional Court in accordance with the standards established in the Organic Law on Jurisdictional Guarantees and Constitutional Control;<sup>26</sup> and access to public funding for political and social organizations that register to participate in campaigns,<sup>27</sup> among others.

In this regard, the OAS/EOM emphasizes that Ecuador's political and electoral authorities have been proactive in developing and establishing the necessary conditions for the use of the direct democracy mechanism. As a result, they now have a very solid institutional basis and enjoy public recognition. In view of past experiences with this mechanism in the country, the Mission stresses that it is crucial, once these exercises have been held, that the results expressed at the polls are respected so that citizen participation in such decisions retains its full democratic meaning.

As a result of the voting, the YES option won in nine of the questions, while the majority of voters chose NO for the other two (see table 1).

**Table 1. Referendum and consultation questions and results for either option**

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<sup>24</sup> Preliminary Report on the Referendum in Ecuador by the Electoral Experts Mission of the Organization of American States, February 4, 2018, p.5.

<sup>25</sup> Article 104 of the Constitution of the Republic of Ecuador.

<sup>26</sup> Articles 104 and 105 of the Constitution of the Republic of Ecuador.

<sup>27</sup> Article 18 of the Democracy Code.





QUESTIONS	Results	
	YES	NO
<b>REFERENDUM</b>		
A. Do you agree with partially reforming the Constitution to allow the Armed Forces to provide supplementary support to the National Police in combating organized crime, as envisaged in Annex 1?	72.34%	27.66%
B. Do you agree with amending the Constitution and reforming laws to allow the extradition of Ecuadorians, subject to the conditions, requirements, restrictions, and impediments set forth in the Constitution, international instruments, and the law, as envisaged in Annex 1?	64.41%	35.59%
C. Do you agree with amending the Constitution and reforming the Organic Law on Jurisdictional Guarantees and Constitutional Control to allow the establishment of specialized constitutional courts, at both first and second instance, to take up the corresponding jurisdictional guarantees , as envisaged in Annex 2?	59.95%	40.05%
D. Do you agree that the Ecuadorian State should recognize international arbitration as a means of settlement of investment, contractual, or commercial disputes?	34.75%	65.25%
E. Do you agree with amending the Constitution of the Republic and reforming the Labor Code for the fixed-term and hourly employment contract, when it is entered into for the first time between the same employer and worker, without affecting the vested rights of workers, as envisaged in Annex 4?	30.41%	69.59%
<b>POPULAR CONSULTATION</b>		
F. Do you agree with the Armed Forces permanently controlling for weapons, ammunition, explosives, and accessories on roads and corridors authorized to enter social rehabilitation facilities?	69.77%	30.23%
G. Do you agree with amending the Comprehensive Organic Criminal Code to increase the penalties for the crimes of: (i) terrorism and its financing, (ii) illicit production and trafficking of controlled substances, (iii) organized crime, (iv) murder, (v) contract killing, (vi) trafficking in persons, (vii) kidnapping for ransom, (viii) arms trafficking, (ix) money laundering, and (x) illicit mining activity, as envisaged in the Annex to the question?	67.42%	32.58%
H - Do you agree with amending the Comprehensive Organic Criminal Code so that persons deprived of their liberty should serve their full sentence at a social rehabilitation facility for the crimes detailed in the Annex to the question, as envisaged in the Annex to the question?	66.77%	33.23%
I. Do you agree with amending the Comprehensive Organic Criminal Code to criminalize possession or carrying of weapons, ammunition, or components that are for the exclusive use of the Armed Forces or the National Police, without affecting firearms permitted for civilian use, as envisaged in the Annex to the question?	63.97%	36.03%
J. Do you agree with amending the Comprehensive Organic Criminal Code so that weapons, their parts or pieces, explosives, ammunition, or accessories that were instruments or material objects in a crime, may be destined to the immediate use of the National Police or the Armed Forces, as envisaged in the Annex to the question?	64.13%	35.87%



K. Do you agree with simplifying the procedure of the Organic Law of Extinction of Ownership to allow the State to become the holder (owner) of assets of unlawful or unjustified origin, as envisaged in the Annex to the question?	61.05%	38.95%
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Source: CNE, April 22, 2024, 11:59 p.m.

The final report presented by the Mission will include an evaluation of the different attributes and characteristics of the questions based on the methodology designed by the OAS for the observation of direct democracy mechanisms.<sup>28</sup>

### Controls on direct democracy mechanisms

Previous missions have made recommendations aimed at improving the procedures for defining the questions posed in referendums and popular consultations. Specifically, it has been suggested that there be rigorous technical and constitutional analysis so that voters have clarity about the scope of the decisions on which they are called to opine. In line with those recommendations, the OAS/EOM values as positive that for this process the Constitutional Court reviewed the questions and issued various opinions before finalizing the 11 questions that were submitted to the vote of the citizenry.<sup>29</sup>

The rules governing direct democracy mechanisms in Ecuador grant the President of the Republic discretionary power to call a referendum or popular consultation on "the matters he or she deems advisable," without any control as to the issues, the regulations to be reformed, and the number of questions in each process. This can lead to the overuse of this mechanism and a resulting loss of effectiveness.

In that sense, the mechanisms enabling the Constitutional Court to control the questions posed entail a rigorous legal analysis. However, since there is no limitation on the type of topics that can be the object of direct democracy mechanisms, extremely technical issues can be submitted to the decision of the citizenry. As a result, the questions are accompanied by lengthy legal annexes. This complexity can make it hard for citizens to fully grasp both the substantive content of the questions and the scope of the reforms or measures proposed.

In light of the above, the OAS/EOM offers the following recommendations:

- Incorporate into the law specific criteria for activating democracy mechanisms and/or circumscribe them to matters of special importance, taking the experiences of other countries as a reference.

<sup>28</sup> See <https://www.oas.org/es/sap/deco/Pubs/Manuales/OBSERVANDO-LOS-MECANISMOS-DE-DEMOCRACIA-DIRECTA.pdf>

<sup>29</sup> Opinion 7-22-Rc/22, Opinion 1-24-Cp/24, Opinion 1-24-Rc/24a, and Order 1-24-Rc/24.





- Explore the possibility of introducing a regulation limiting the number of questions that may be asked in a given referendum and/or popular consultation.

## Dissemination of questions and information

The Mission noted the efforts of the CNE to disseminate information to citizens via traditional media and digital platforms to explain operational issues of this poll and the questions put to the public. These dissemination products were produced in Spanish and, to a lesser extent, in indigenous languages and sign language. However, the Mission also observed that the mechanisms used to disseminate the explanations of the questions were limited (information slots on the body's official media<sup>30</sup>) and that other initiatives, such as debates, were not held to inform various audiences about the content of the topics under consultation.

Given the technical complexity of the language used in the questions, the OAS/EOM considers it essential that the dissemination, explanation, and understanding of the questions by the public in order to cast an informed vote should be a priority. According to the electoral authority and various stakeholders with whom the Mission met, the processes of dissemination and explanation of the questions were limited, mainly due to the particularly short time frame that these mechanisms normally have and the budgetary constraints of the CNE in the preparations for the process.

Therefore, as it has done on other occasions, the OAS/EOM offers the following recommendations:

- That the various actors involved, especially the CNE, increase communication products aimed at disseminating substantive information about the content of the consultation.
- That the electoral authority or other bodies promote proactive spaces for debating issues submitted to the citizenry for consideration.
- Increase the frequency of dissemination of this content in native languages and sign language.
- Extend the campaign period for referendums and popular consultations so that society has more time and opportunities to become informed and decide how to vote.

## **Electoral organization and overseas voting**

### Budget for the process

Under Ecuadorian law, the cost of direct democracy exercises invoked by the President of the Republic is covered by the General Budget of the Nation.<sup>31</sup> Following the request for a referendum and public

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<sup>30</sup> See [https://www.youtube.com/watch?v=1KLUUNV7COA&list=PL6GaZ6vS0u3OV\\_HgISEP-6AyFjIpEykia](https://www.youtube.com/watch?v=1KLUUNV7COA&list=PL6GaZ6vS0u3OV_HgISEP-6AyFjIpEykia)

<sup>31</sup> Article 107 of the Constitution of the Republic of Ecuador.

consultation presented by President Noboa on February 9, the CNE approved a budget of US\$60,022,933.86 for the process;<sup>32</sup> an amount that was requested of the Ministry of Economy and Finance. The OAS/EOM learned that the Ministry allocated only US\$40 million, which only covered part of the authority's expenses. According to information shared with the OAS/EOM by CNE officials, the body had to borrow funds from its own budget for fixed expenses and the Electoral Promotion Fund to cover the shortfall of approximately US\$13 million, which it expects to recover after the process.<sup>33</sup>

The Mission stresses the importance of earmarking the necessary funds to enable the electoral authority to fulfill its role.

Therefore, as it has done on other occasions, the OAS/EOM offers the following recommendations:

- Ensure the availability of funds for the expenses required to carry out direct democracy exercises.

### Formation of polling stations

In a context of repeated polls in a short period of time, the Mission highlights the decision of the CNE not to include citizens who had served as polling station members in the last three electoral processes in the lottery to select people to fulfill that role. Exceptions to this decision were made for people in electoral zones where there are not enough people from those teams.<sup>34</sup>

Article 6 of the regulations on the selection, formation, operation and recognition of incentives to polling station members recognizes 14 impediments to being a member of a polling station, which do not include membership of a political organization. Various stakeholders with whom the Mission met expressed that the failure to include that condition as an exclusionary criterion in the call for applications impairs the impartiality of the process.

In view of the above, the Mission reiterates the following recommendation:

- Establish a selection mechanism that does not include citizens registered as members of political organizations in the lottery to select polling station members.

### Supervision of the process

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<sup>32</sup> The budget was approved on February 20, 2024.

<sup>33</sup> Information provided at a meeting with the financial area of the CNE. The items thus covered included the payment of personnel, an agreement with the Armed Forces, and transfers to consulates abroad and polling station members.

<sup>34</sup> [Decision PLE-CNE-3-1-3-3-2024](#)



According to information provided by the CNE, 8,831 delegates from 8 of the 11 registered political and grassroots organizations were registered for this poll. That number of representatives is low considering that 41,313 polling stations were set up.<sup>35</sup> This became clear on the day of the poll, given that the presence of delegates was very limited. At meetings with the OAS/EOM, organizations stated that this was the result of a combination of factors, including a lack of resources for their deployment and less interest in this process than in past elections. In the overseas constituencies only one political party registered delegates.

The OAS/EOM emphasizes that oversight by political actors and grassroots organizations is essential to ensure the transparency and credibility of the process. In that regard, it recommends the following:

- Political and grassroots organizations should make an effort to ensure a greater presence of delegates to participate actively in the supervision of the process.

## Infrastructure

On the day before the poll (Saturday), when voting began in cities outside the country, the Special Overseas Board, a team from the Directorate of Processes Abroad, and a team in charge of digitization and processing the results are installed in a precinct to manage the process abroad. The OAS/EOM found that the venue allocated for the poll was not adequate, since it was not completely covered and became very cold at times.

Taking into account the long hours that these teams work, the Mission offers the following recommendation:

- Ensure adequate infrastructure for the teams that support and supervise the voting process abroad, as well as the processing of the results.

## **Election technology**

For this poll, the Computerized Results Tally System (SIER) was implemented as the basic platform for the processing and transmission of results. The version of the system used on this occasion was adapted in order, on one hand, to process the 11 returns resulting from the individual tally of each question and, on the other hand, to include the instruction that the system not accord preferential treatment to any of those returns. In addition, adjustments were made to the technological infrastructure to support a greater workflow.

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<sup>35</sup> The eventual number of polling stations that were actually installed was different because the process was suspended in six electoral zones abroad and at two polling precincts in the province of Manabí.



In Ecuador, unlike other countries in the region, there is no preliminary results system. Although the processing of final results proceeded without interruptions, the nature of the procedures involved in this process, coupled with the large volume of voting returns, resulted in a significant delay in the disclosure of results, and the electoral authority had to resort to a quick count to inform the public on the night of the poll.

## Planning and drills

Regarding the planning of the technological solutions for this process, the OAS/EOM requested the schedule of activities of the different areas in charge of implementing them. In response, it was informed that there was no formal timetable due to the tight schedule for the preparation of the process.

The Mission noted that the only drill conducted (on April 6 and 7) included a limited number of return digitalization centers (CDA) to test the links, scanning, and transmission of return images. On the other hand, although all the electoral processing centers participated in the drill, the number of operators was lower than was planned for the day of the poll. In addition, 100 percent of the A and B returns were processed but only 50 percent of the C, D, E, F, G, H, I, J, K returns were processed. In that sense, the exercise was more a technical test than a drill, given the limited reproduction of the actual operating conditions.

In light of the above, the OAS/EOM offers the following recommendations:

- Develop a formal timetable of technical activities integrated into the electoral schedule and ensure its availability to all stakeholders involved in the process.
- Carry out at least two drills in the established timetable that duplicate as closely as possible the actual conditions in terms of the scope, resources involved, objectives, and results on the day of the poll.

## Processing of reports and publication of results

More than 41,000 polling stations were set up for this voting process. It was also decided that the tally would cover each question individually, so that each polling station had to prepare 11 returns, which were converted into 22 images when scanned, since the front and back were processed separately. In all, that process yielded more than 900,000 images that entered the main data center for the automated procedure of character recognition and generation of digital data for the values in the returns. Those data

and images were then sent to the CPEs for signature control and verification of the return tallies, as well as for double and, when necessary, triple data entry.<sup>36</sup>

The Mission observed that both the CDAs and the main data center performed well and experienced no unexpected incidents or interruptions in the processes assigned to them. However, in keeping with the analysis made by CNE representatives,<sup>37</sup> the Mission noted the slowness of the signature verification process due to the large number of voting returns received and the limited number of operators hired, which held up the flow towards the ensuing processes of digitization, transmission, and publication of results. Delays occurred particularly in the provinces of Guayas, Manabí, Morona Santiago, and Pastaza.

In the same vein, the Mission had access to the platform implemented by the CNE to consult voting returns and advance results, which was specifically set up for political and grassroots organizations and electoral observers. It was found that the platform presented data unclearly, especially the values corresponding to the second and third digitization.

In light of the above, the EOM offers the following recommendations:

- Increase the number of personnel and infrastructure in the CPEs to speed up the verification processes carried out by operators.
- Explore alternatives by which results can be published more promptly on the night of the poll.
- Improve the presentation of data on the platform set up for political and grassroots organizations and electoral observers.

## **Electoral justice**

### Registration of political and grassroots movements

Within the framework of this referendum and public consultation process, 22 political and grassroots organizations applied for registration to be qualified and to campaign. Of those, 11 were accepted. After initial refusal by the CNE, two political organizations appealed against the decision to the TCE. One of the organizations that appealed was ultimately not allowed to campaign because one of the documents required for registration was a certified copy of a resolution, instead of which it submitted a certificate.<sup>38</sup>

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<sup>36</sup> According to information provided to the Mission by the CNE, each return required at least two signatures, one of which had to be that of the polling station president. If the data entered after the second digitization does not match the data generated by the character recognition mechanism, the return must be submitted for a third digitization.

<sup>37</sup> Information provided by CNE representatives at a meeting with the EOM/OAS.

<sup>38</sup> Decision PLE-CNE-6-7-3-2024 of March 7 and Decision PLE-CNE-2-12-3-2024 of March 12, 2024. In Decision PLE-CNE-2-26-2-2024, the plenary of the CNE determined that political organizations wishing to register with the CNE to campaign in the



This, despite the fact that the certificate presented included the material content of the document. In this context, several stakeholders interviewed by the OAS/EOM said that the CNE's interpretation of compliance with requirements was excessively rigid.

Therefore, the Mission recommends the following:

- As has suggested in other processes,<sup>39</sup> when evaluating compliance with the formal requirements for exercising political rights, the electoral authorities should favor the interpretation most conducive to promoting their effective enjoyment, in line with the pro homine and pro liberty principles set forth in the American Convention on Human Rights and in the precedents of the Inter-American Court of Human Rights.<sup>40</sup>
- As with the registration process for candidacies,<sup>41</sup> establish a time limit for remedying non-compliance with purely formal requirements in order to enable the effective exercise of political rights.

## **Political and campaign finance**

### Equity in the financing system

In Ecuador, electoral and political finance is mixed: public and private. As for public contributions, resources are managed through the Electoral Promotion Fund (FPE), an indirect funding mechanism through which political and grassroots organizations registered to campaign can request the CNE to rent spaces for electoral advertising in the media and on billboards.<sup>42</sup> This fund cannot exceed 15 percent of the authorized electoral expenditure ceiling,<sup>43</sup> which for this campaign was set at US\$5,461,716.40.<sup>44</sup>

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referendum and popular consultation had, among other requirements, to submit a "certified copy of the resolution issued by the political decision-making or management body (...) setting out the question to be promoted and specifying the referendum or popular consultation option it wished to support." In the case of Democracia Sí, that organization presented "a certificate signed by the National Executive Secretary of the Political Organization instead of a certified copy of the resolution issued by the decision-making or political direction body." Despite the fact that the judge at first instance of the TCE considered the certificate sufficient to accredit the will of Democracia Sí (judgment in case 057-2024 of March 22, 2024), ultimately the plenary of the TCE considered that that requirement had not been met (judgment in case 057-2024 of April 1, 2024)

<sup>39</sup> See Organization of American States (2023, August 22). [Preliminary Report of the OAS Electoral Observation Mission in Ecuador](#) and Organization of American States. (October 18, 2023). [Preliminary report of the OAS Electoral Observation Mission in Ecuador for the second round of the early presidential elections and reelection of the legislative elections abroad.](#)

<sup>40</sup> For all, see Inter-American Court of Human Rights (2008). Case of Apitz Barbera et al. ("First Court of Administrative Disputes") v. Venezuela, [Judgment of August 5, 2008](#), paras. 217 to 222.

<sup>41</sup> Democracy Code, Article 105(3).

<sup>42</sup> Democracy Code, Article 5.

<sup>43</sup> Democracy Code, Article 202(6).

<sup>44</sup> Decision PLE-CNE-1-26-2-2024





The Mission learned that, based on the period set for the campaign, the number of questions, and the number of eligible voters,<sup>45</sup> the amount approved for the FPE in this process amounted to 7.5 percent of the expenditure ceiling, equivalent to US\$409,628.75.<sup>46</sup> Under the principle of equality, each option (YES/NO) received US\$204,814.37. That amount was divided by the number of questions (11), which resulted in a value of US\$18,619.49 per question, which was then divided by the number of organizations promoting each question.

In this campaign, for one of the options the vast majority of organizations only registered to promote their position on 1 or 2 of the 11 questions. As a result, and due to the fund distribution mechanism, the amount of funds they had access to was limited (between approximately US\$3,000 and US\$7,000).<sup>47</sup> The only organization that registered to promote its option for all questions received more than US\$174,000. That meant that, taking into account the cost of advertising space in some media, the former had very limited dissemination options. In contrast, in the opposite option, in which most organizations registered for all questions, the average amount received by each group was approximately US\$35,000, resulting in a more balanced distribution.

In light of the above, the OAS/EOM offers the following recommendation:

- Consider the possibility of ensuring that each organization registered to campaign in a direct democracy process, regardless of the number of questions or options to be promoted, obtains a minimum amount of resources to access the main media outlets allowed.

### Transparency in the financing system

For the purposes of accountability, the Electoral Promotion Fund requires registered political and grassroots organizations to use the Electoral Promotion Information System (SIPE). Through that platform, they can make requests to rent advertising spaces commensurate with the budget allocated to them. The Mission found it encouraging to observe that the use of this tool enables transparent management of public funds.

As for private financing, the CNE is responsible for auditing campaign funds raised from private contributions.<sup>48</sup> The person responsible for the financial management of each organization must present a campaign budget and report their income and expenses every two weeks for publication on the electoral

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<sup>45</sup> Decision PLE-CNE-3-22-2-2024

<sup>46</sup> Decision PLE-CNE-1-6-4-4-2024

<sup>47</sup> According to information provided by the CNE to the EOM/OAS, the organization that only registered for one question received US\$3,103.25 and organizations that registered for two questions received US\$6,827.15.

<sup>48</sup> Democracy Code, Articles 210 and 216.



authority's web page.<sup>49</sup> Likewise, they must submit a consolidated report of the campaign accounts to the CNE within 90 days after the election.<sup>50</sup> Failure to comply with financing obligations may result in sanctions by the TCE ranging from a fine to suspension of political rights and suspension of registration in the national roster of political organizations.<sup>51</sup> It should be noted that the regulations are limited exclusively to political organizations.

In that regard, the OAS/EOM found that with 3 days to go before the elections, only 5 of the 11 organizations authorized to campaign had submitted their budgets, and only 6 had presented revenue and expenditure reports.<sup>52</sup> However, those reports recorded either zero (0) or only one expense attributed to bank charges of no more than US\$3.00.

Several stakeholders with whom the Mission met emphasized the limitations of the CNE in carrying out effective oversight, a situation that the Mission observed from the limited human, financial, material, and technological resources available to it to carry out its oversight tasks. This situation hinders the body's capacity for timely identification of violations committed in the course of electoral campaigns.

In light of the above, the OAS/EOM offers the following recommendation:

- Enact explicit regulations establishing sanctions for grassroots organizations accessing public financing for campaigns in such processes that breach finance provisions.
- Strengthen the CNE Audit Directorate by providing it with the necessary resources to carry out timely control of campaign revenue and expenses.

### Regulations relating to electoral processes on digital platforms

Unlike with traditional media, Ecuadorian law does not provide for any control over paid electoral advertising on social networks or over campaign information provided in those online spaces. As a consequence, much of that advertising occurs before the official start of the campaign period or during periods when electioneering is banned. In addition, it is not possible to account for and follow up on actual campaign expenses made by political organizations.

As OAS EOMs have recommended on other occasions, it is important that the CNE take steps to regulate electoral advertising on these platforms. First, to ensure that such advertising does not take place outside the official campaign period. Second, to monitor spending on electoral advertising on social networks,

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<sup>49</sup> Electoral Expenditure Control and Audit Regulations, Article 27.

<sup>50</sup> Democracy Code, Article 230, in accordance with Article 37 of the Electoral Expenditure Control and Audit Regulations.

<sup>51</sup> Democracy Code, Article 281.

<sup>52</sup> <https://www.cne.gob.ec/reportes-quincenales-referendum-y-consulta-2024/>



especially to ensure that such expenditure is within the limits set by Ecuadorian law, as well as to prevent the use of unlawful financing for advertising on online platforms.<sup>53</sup>

In view of the above, the Mission reiterates the following recommendations:

- Both the CNE and the TCE should propose the necessary reforms to the relevant regulations to control paid advertising on social networks and digital platforms, as well as to impose the respective penalties.
- The electoral authorities should propose the necessary reforms to remove paid advertising from social networks and digital platforms that disseminate false content about key information related to the electoral process, such as the date and time of the poll or assigned voting places.
- Both the CNE and the TCE should take appropriate steps to remove posts on digital platforms that violate the freedom of expression protections contained in Article 13 of the American Convention on Human Rights.

## ACKNOWLEDGEMENTS

The Mission thanks the Government of Ecuador, especially the Ministry of Foreign Affairs and Human Mobility, officials from the National Electoral Council and the Electoral Disputes Tribunal, political and grassroots organizations, civil society organizations, and other stakeholders with whom it met for their willingness to share their views and relevant information on different aspects of the poll. Those inputs were critical to the success of the Mission.

The Mission would also like to thank the Governments of Brazil, Canada, the Dominican Republic, the Netherlands, and the United States, whose financial contributions made the deployment of the OAS/EOM in Ecuador possible.

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<sup>53</sup> Organization of American States. (October 18, 2023). [Preliminary report of the OAS Electoral Observation Mission in Ecuador for the second round of the early presidential elections and reelection of the legislative elections abroad.](#)