



## Preliminary Report of the OAS Electoral Observation Mission to Paraguay

May 2, 2023

The Electoral Observation Mission of the Organization of American States (OAS/EOM), headed by United States Ambassador Luis Lauredo, congratulates the people of Paraguay for the national and departmental elections held on Sunday, April 30. The Mission congratulates the elected authorities, highlights the civic commitment of Paraguayans who turned out to vote, and recognizes the work of the polling station officers and electoral authority officials.

The preliminary results announced by the Tribunal show wide differences between first, second, and third places. At 8:30 p.m., four and a half hours after the polls closed, the results portal of the Superior Tribunal of Electoral Justice (TSJE) showed that, with 98.6 percent of the tally sheets processed, the ANR-Colorado Party presidential candidate, Santiago Peña, and his vice presidential candidate, Pedro Alliana, were in first place with 42.75 percent of the votes; the National Concertation ticket of Efraín Alegre and Soledad Núñez was second with 27.48 percent; and Paraguayo Cubas and Stilber Valdes third with 22.93 percent.<sup>1</sup> The preliminary results of the national and departmental elections released by the TSJE coincide with the information gathered by the Mission.

Given the wide gaps between the results obtained by the candidates in the race and the fact that the OAS/EOM did not note any serious incidents, interruptions in the processing of sensitive electoral information, or serious deficiencies in the chain of custody of electoral material, the Mission wishes to state that there is no reason to doubt the results announced by the electoral authority. The OAS/EOM calls for any complaints or disagreements concerning the electoral process to be dealt with peacefully through institutional channels and in accordance with the law.

The OAS/EOM consisted of 60 people from 18 different countries who observed the elections in Paraguay's 17 departments, in the capital district of Asuncion, and in Washington D.C., United States. The Mission examined different aspects of the elections, including electoral organization and voting abroad, electoral organization, electoral technology, campaign finance, electoral justice, political participation of women, political participation of indigenous peoples, and campaigns and freedom of expression. Mission specialists also followed up on the recommendations issued by past OAS Missions.

The Mission was installed in the country on April 20, 2023, and met with political actors, electoral and government authorities, candidates, and representatives of civil society organizations to learn about the preparations and their views on the elections. Based on these meetings, analysis of regulations and other documents, and direct observation, the Mission was able to carry out a comprehensive analysis of the

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<sup>1</sup> See <https://resultados.tsje.gov.py/publicacion/divulgacion.html>



electoral process. Prior to the mission, at the invitation of the TSJE, the OAS also monitored the simultaneous primary elections of political organizations on December 18, 2022.

## **PRE-ELECTORAL STAGE**

After the 2018 general elections, the National Congress passed a series of reforms concerning the makeup of tickets for multicandidate positions, political finance rules, and the use of electronic voting systems that were applied for the first time—and at different times—in the primary, municipal, and general and departmental elections.

In the case of the elections for multicandidate positions, the use of closed, unblocked and proportional representation tickets was introduced.<sup>2</sup> In this way, voters were able to choose the candidate they preferred from a party ticket. Regarding the use of electronic voting systems, the reform ushered in the use of electronic voting machines that allow voters to cast, print, and verify their vote, thus making it possible to automate the vote counting. Both reforms were applied in the 2021 municipal elections and in the current elections, as well as in the primary elections that preceded them.

In terms of political financing, the 2018 and 2020 reforms established an income and expenses registration and disclosure system for primary campaigns;<sup>3</sup> introduced the requirement for candidates and their spouses to present a conflict of interest declaration; added donations or contributions from persons convicted of drug crimes as prohibited sources; enacted rules on the use of a tax identifier for opening single campaign accounts; and created within the electoral justice system a unit in charge of establishing, coordinating, and supervising policies and procedures for the prevention of money laundering and financing of terrorism risks in campaign financing.<sup>4</sup> These reforms were applied in the 2021 municipal elections, in the 2022 primary elections, and in the current elections.<sup>5</sup>

Additionally, Law 6.951/22, passed in August 2022, orders the automatic registration in the Permanent Civic Registry of Paraguayans residing in the country and abroad to enable the full exercise of their right to vote. This law took a step forward in promoting voting abroad by creating the Department of Voters Residing Abroad in the Electoral Registry Directorate of the TSJE and the interfacing of databases with the Ministry of Foreign Affairs.

In the context leading up to the election there was a fire at a warehouse at the main headquarters of the TSJE on September 29, 2022, which destroyed 7,919 voting machines and all the equipment of the Transmission of Preliminary Election Results (TREP) system. This situation meant that a series of measures

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<sup>2</sup> Article 1 of Law No. 6.318 of 2019.

<sup>3</sup> Financial reporting of income and expenses in primary elections was recommended by the OAS/EOM at the last general elections in 2018. The Mission welcomes the adoption of the measure, which increases the transparency of the process.

<sup>4</sup> Laws 6.167 of 2019 and 6.501 of 2020.

<sup>5</sup> The implementation of the specific unit was very positively received by the Mission, given the recommendations of previous missions regarding the need to strengthen the capacities and powers of the TSJE to ensure compliance with the law.



had to be implemented as soon as possible, including the purchase of new equipment (voting machines and transmission equipment), the reorganization of the number of voters per polling station, and the establishment of a smaller number of voting centers for the primary elections. The Mission recognizes the lengths to which the TSJE went to have in place the equipment to hold both the simultaneous primary elections of political organizations and the national and departmental elections.

Prior to the deployment of the Mission, between February 27 and April 29, the TSJE provided training for officials at transmission center, technical support staff, and polling station officers. In addition, between March 7 and 14 and on March 25 and 26, it carried out test runs on the TREP system. On March 17 it carried out an audit on the screens to be displayed on the voting machines, and from April 3 to 14 it generated and performed quality control on optical media and electronic credentials for polling stations. The voting machine and TREP software audit took place on April 1 and 2, and the judicial audit, from April 17 to 22.

In the week prior to the elections, the Head of Mission met with the President of the Republic, Mario Abdo Benítez, and the Minister of Foreign Affairs, Julio César Arriola, to present the work of the Mission. The OAS/EOM also held meetings with the President of the TSJE, Jorge Bogarín González; the Vice President, César Emilio Rossel; and member Jaime Bestard Duschek, to learn about the details and progress of the electoral process. On that occasion, the Mission discussed the results of the voting equipment tests, the control of electoral material, the participation of civil society in the elections and the measures adopted in the area of political and campaign finance.

The Mission also held meetings with candidates for various offices and representatives of political organizations to hear their views and concerns about the race. Various actors whom the OAS/EOM interviewed expressed concerns about security and violence in some parts of the country, particularly in border areas. Some candidates also said that they have been victims of attacks, persecution on social networks, and death threats. The Mission requested official statistics on electoral violence since the elections were called in April 2022, to which the authorities responded that they did not have records of any incidents.

The OAS/EOM reiterates that violence has no place in a democracy and underscores the importance that acts of electoral violence, regardless of their nature, are reported and investigated by the competent authorities and not left unpunished.

## **ELECTION DAY**

The OAS/EOM observed the day of the election from the opening to the closing of the polls, in addition to the counting of votes at 839 polling stations in 201 voting centers in Paraguay's 17 departments as well as in the capital city. It also monitored the vote in Washington D.C., USA.



The Mission observed that on average the polling stations opened at 7:06 a.m. The TSJE informed the Mission that by 9:50 a.m., 12,259 stations (99.8 percent) had been installed. The elections took place in a calm and orderly way, despite some isolated incidents that occurred at the opening of the polling stations and during election day, which were resolved in the course of the day.

During its observation of election day, the OAS/EOM observed long lines at the voting centers, as well as large number of voters throughout the day. The Mission acknowledges the calmness and patience with which people waited to exercise their right to vote and highlights the turnout at the national and departmental elections: 63.24 percent, which was slightly higher than the turnout in the 2018 elections of 61.25 percent. The high build-up of voters was due, among other factors, to the fact that in this election there were fewer voting machines available after a considerable amount were destroyed in the September fire, which also meant an increase in the number of voters per station from 300 to 400 in these elections.

All the voting centers visited by the Mission had voting machines and all the essential electoral materials; officials were also knowledgeable about the procedures and operation of the machines. However, at a voting center in the city of Luque, members of the OAS/EOM observed delays in the opening of the polling stations due to an alleged technical malfunction in the machines that the assigned technicians tried unsuccessfully to resolve. The Mission received information from the TSJE detailing that there was no defect, but that the situation was due to the fact that the voting equipment was in a suspended state (*on standby*). The Mission recommends strengthening the training provided to the technicians in charge of setting up the machines, as well as additional tests, to avoid delays in the opening of polling stations at future elections.

The Mission also witnessed a majority of women serving as polling station officers (63 percent). As in previous missions, the OAS/EOM highlights their positive participation and appreciates their commitment to strengthening Paraguayan democracy. Likewise, the OAS observers noted the presence of delegates from the Colorado Party, Concertación Nacional, Partido Unión Nacional de Ciudadanos Éticos, Movimiento Político la Nueva República and Partido Cruzada Nacional at electoral precincts. The presence of civil society organizations was also noted at 20 percent of the stations observed at the opening of the polls, and 10 percent at the close. The Mission highlights the important role played by civil society organizations in bringing a citizen's perspective to electoral processes, while exercising a valuable aspect of their political rights.

The Mission also observed the Accessible Voting program implemented by the TSJE to bring voting stations to the homes of people with severe physical disabilities or serious health problems, and it highlights this initiative in guaranteeing access to voting for all citizens.



Throughout the day, the OAS Mission observed an excessive use of assisted voting. The Mission welcomes the announcement of the TSJE “strongly discouraging”<sup>6</sup> this type of voting where the specific requirements established by law are not met. According to the Electoral Code, assisted voting is allowed only when the voter is physically unable to mark the ballots and place them in the ballot box, in which case a trusted person may assist them.

During election day, the OAS/EOM also observed and received complaints about violations of the secrecy of the ballot. At some voting centers the “dark room” did not guarantee the secrecy of the ballot,<sup>7</sup> while at others the voting machines were placed in open areas, which allowed other people to walk behind voters as they were voting.

The Mission again registers its concern about the publication of exit polls on election day while the polls were still open. As stated by previous Missions, this is a bad practice repeated during every election in Paraguay, and on which the OAS has made recommendations. However, the OAS/EOM salutes the media organizations that chose not to continue this bad practice and recognizes that there has been progress in this regard. On the eve of the polls, the TSJE issued a timely reminder that under Paraguayan law, the publication of the results of exit polls was prohibited until one hour after the polling stations had closed, a measure which the OAS Mission welcomed. It is time that the Paraguayan system discontinues the use of exit polls. As the OAS has stated on multiple occasions, the only official and binding results are those released by the country’s electoral authority; other types of unofficial statistical tools are not helpful in terms of providing the public with accurate information.

At the polling stations observed by the OAS, the average closing time of the polls was 4:49 p.m., which was due to the fact that at some centers there were still people in line waiting to vote.

For its part, the TSJE began disclosing the first preliminary results of the election on its website at 4:20 p.m. The transmission progressed without any interruptions or setbacks. The Mission highlights the speed with which the preliminary results of the TREP were published, as well as the technical work of the TSJE, which provided certainty to the electoral process.

The Mission learned from information shared by the National Police that there was a total of 143 incidents: 114 incidents, 6 arrests, and 18 verbal or written complaints from before the opening to the close of the polls. On behalf of the TSJE, the Mission learned that 226 voting machines (out of 12,259) had to be replaced throughout the day, corresponding to 1.84 percent of the devices installed in the country, and that at 38 polling stations in the country, station officials were replaced. Likewise, through information disseminated via the social media accounts of the Attorney General’s Office, the Mission learned that during the day the Prosecution Service filed a total of 35 cases for investigation, including for

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<sup>6</sup> ABC, “TSJE desalienta ‘profundamente’ que ciudadanos voten acompañados.” Available at <https://www.abc.com.py/politica/2023/04/30/tsje-desalienta-profundamente-que-ciudadanos-voten-acompanados/>

<sup>7</sup> Voting booth.



impeding the exercise of the vote, voter coercion, inducement to vote, and gatherings in the vicinity of voting centers,<sup>8</sup> among others. In addition, the Attorney General's Office reported a total of 50 incidents detected from media monitoring.

Finally, the OAS/EOM congratulates President-elect Santiago Peña and Vice President-elect Pedro Alliana on their victory and salutes the candidates who accepted the election results in a democratic manner.

## FINDINGS AND RECOMMENDATIONS

In the interests of contributing to the strengthening of democracy in Paraguay, based on a detailed analysis of the laws in force, the data collected by its specialists, and direct observation before and during election day, the Mission presents the following preliminary findings and recommendations.

### I. Electoral organization and voting abroad

#### *Electoral materials*

In the week prior to the elections, the Mission followed up on the organization and electoral logistics for the planned distribution of electoral kits and voting machines in all departments. According to the information received, at 11:30 a.m. on the day before the election, all the electoral material (kits and machines) had been distributed on schedule both in the country and for voting abroad. The National Police were only aware of two incidents in the transfer of electoral materials to the department of Amambay on April 26, which involved transferring voting machines to a rented back-up truck and a military truck. The distribution of the material was escorted by security forces and representatives of political organizations, who observed the events.

On the day before the election, the Mission learned that some electoral kits had their labels peeled off or torn.<sup>9</sup> The Mission was able to verify firsthand that at the polling place at Colegio Nacional Dr. Fernando de la Mora, a school in Central department, party representatives with National Police present recorded this incident in an ad-hoc report and packed the material with regular tape. The Mission monitored those polling stations and corroborated that voting proceeded as normal.

Also on election day, the OAS/EOM observed and received complaints about violations of the secrecy of the ballot. In some instances, this was because at some voting centers the "dark room," as the voting booth is called, did not guarantee the secrecy of the ballot, while at others the voting machines were placed in open areas.

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<sup>8</sup> See <https://twitter.com/MinPublicoPy/status/1652808782823448577/photo/1>.

<sup>9</sup> ABC, "Denuncian que maletines electorales llegaron deslacrados a varios colegios." Available at <https://www.abc.com.py/politica/2023/04/29/denuncian-que-maletines-electorales-llegaron-deslacrados-a-varios-colegios/>



In that regard, the OAS/EOM offers the following recommendations:

- Check the security seals to prevent them from being broken, whether by accident or because of other incidents.
- Improve the design of voting booths so that voters have the necessary privacy at the time of casting their vote.
- Locate and position voting booths in places where the secrecy of the ballot can be assured.

### ***Polling station officers***

The law requires that voting stations comprise three officers appointed by the electoral judge from the lists put forward by the political parties with the largest number of seats in Congress, with no more than one member of the same political party at any given station.<sup>10</sup> As the Mission advised in 2021, this arrangement means that new or smaller political groups, or those with a departmental scope, are unable to be represented at the stations.

The OAS/EOM offers the following recommendations:

- Evaluate the design of mechanisms to ensure that the political groups in contention have some degree of participation at polling stations.

### ***Election statistics***

The Mission recognizes the willingness and industriousness of different areas of the TSJE and other public institutions involved in the elections to provide information on progress and developments on election day. Providing information on training, the opening of polling stations, citizen participation, or incidents on election day is an important step in increasing transparency in elections. However, greater efforts are needed to generate real-time, consolidated statistical data.

The OAS/EOM offers the following recommendations:

- Create a specialized unit in the TSJE to keep statistical records of different indicators that are relevant to the electoral process, including monitoring progress in training and electoral participation.

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<sup>10</sup> Article 177 of Law No. 834/96.



- Equip the Electoral Information and Monitoring Center (CIME) with the necessary human and technological resources to provide consolidated information in real time on election day.
- Strengthen interagency coordination so that on election day the authorities can provide data on incidents and complaints from a single command center or coordination table.

## **Training**

The Mission recognizes the work of the TSJE in training officials, coordinators, polling station officers, citizens, and party delegates in the use of electronic voting machines and the election process.<sup>11</sup> The existence of manuals and explanatory brochures was observed, as was the dissemination of tutorials through social networks. The Mission also received information that the TSJE's Electoral Information, Documentation and Education Center (CIDEE) also implemented a training program for indigenous communities.

However, as the Mission pointed out in 2021, under the current regulations, the appointment of the station members proposed by the political groups does not become final until 15 days before the elections. As a result of this timeframe, the TSJE is forced to begin training without having any certainty as to which persons will actually sit at the stations. Likewise, the OAS/EOM observed that training is provided exclusively at the request of political groups and that, prior to the elections, the TSJE does not have complete information as to what percentage of the people selected as station officers have been trained.

On the day before the elections, the Mission learned of a preliminary training report from the TSJE which indicated that information on the use and handling of the voting machines in the capital and the 17 departments was provided to 557,143 people at district and parish offices, amounting for a little more than 11.5 percent of the electorate, and that training was provided to 28,853 electoral agents, i.e., representatives, supervisors and polling station officers. The OAS/EOM was also informed that to that point, information on training had yet to be collected from 115 districts out of a total of 280.

The OAS/EOM offers the following recommendations:

- Make the appointment date for polling station officers earlier so that the authorities have an accurate list of the people to be trained in the performance of that function.
- Make training mandatory and ensure that it is carried out according to schedules set by the TSJE.

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<sup>11</sup> See *Plan Nacional de Capacitación 2022-2023*, TSJE.



- Create a specialized unit in the TSJE to keep statistical records of different indicators that are relevant to the electoral process, including monitoring progress in training.

### ***Voting by police***

According to the electoral law, “conscript soldiers and classes of the Armed and Police Forces and students at military and police training institutes” are not eligible to vote.<sup>12</sup> The Mission observed a lack of clarity on the interpretation and scope of this rule, as well as different opinions on its correct application on the part of both political actors and electoral officials and authorities.

Lastly, it was confirmed to the OAS/EOM that police officers would be able to vote in the elections, for which they would have to have the authorization of their superiors, not wear their uniform or carry their service weapon, and do so at the voting centers where they were registered. Since police officers do not necessarily serve where they are registered, as they are deployed to different parts of the country to guard electoral material, among other duties, in practice this makes it impossible for them to exercise their right to vote. According to information received, approximately 27,000 police officers were assigned to the electoral process.

For future elections, the OAS/EOM makes the following recommendations:

- That there be clear criteria on voting by the police and the conditions for doing so.
- Evaluate the possibility of authorizing police officers to vote at a special booth in their assigned polling place.

### ***Electoral registry***

The Electoral Code establishes that the Electoral Registry cannot be purged within 90 days before the date of an election or for 30 days afterwards.<sup>13</sup> Despite this express provision, the Mission learned that on April 26, 2023<sup>14</sup>, four days before the elections, the General Directorate of the Electoral Registry of the TSJE authorized 249 Paraguayan nationals who were not on the electoral registry to vote at special booths to be installed at the last station in their polling place. Two days after the resolution was issued, it was revoked by the TSJE.<sup>15</sup>

The Mission recalls that the closing of the electoral registry guarantees the security and legal certainty of the electoral process, as well as giving confidence to candidates, political groups, and the public in

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<sup>12</sup> Cf. Law 834/96, Article 91, line c.

<sup>13</sup> Article 149 of the Electoral Code.

<sup>14</sup> DGRE Resolution No. 21/2023.

<sup>15</sup> TSJE Resolution No. 148/2023.



elections. In that regard, the Mission recalls that it is essential to observe the time limits established in the law and the electoral calendar. It should also be noted that in Paraguay the regulations governing the preparation of the electoral registry are dispersed. In addition, various state authorities are involved in its preparation, at different times, and following their own procedures. The latter may also contribute to contradictory interpretations or errors on matters where there should be clarity, certainty and security.

For future elections, the Mission recommends:

- Seek to ensure strict compliance with electoral law regarding the deadlines for purging the electoral registry.
- Review the regulations and procedures for the preparation of the electoral registry in order to identify any gaps or contradictions that may impair legal certainty and security in its purging.
- Improve interagency coordination among all authorities involved in purging the electoral registry.

### ***Voting abroad***

This election saw an 8.73 percent increase (from 38,170 to 41,505) in the number of Paraguayan citizens registered to vote abroad compared to the last general election in 2018. The countries where voting is possible (Argentina, Brazil, Spain and the United States) are the same as they were in the last election,<sup>16</sup> with the reduction of one polling center and the number of polling stations from 190 to 88, which could be the result of the implementation of electronic voting.

The Mission recognizes the valuable effort in terms of coordination, logistics, and installation of polling places to enable voting abroad. However, according to some estimates from the Paraguayan state, more than 1.3 million of its nationals reside abroad,<sup>17</sup> which is significantly higher than the number of Paraguayans registered to vote.

The Mission welcomes the adoption of Law 6.951/22 in August 2022, which establishes the automatic registration in the Civic Registry of Paraguayans residing abroad, among other measures to facilitate their registration. However, it also notes that further regulatory and organizational efforts are still needed to promote, facilitate, and increase voting abroad.

For future elections, the OAS/EOM makes the following recommendations:

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<sup>16</sup> Cf. <https://www.lanacion.com.py/politica/2023/03/31/voto-paraguayo-en-el-extranjero-tsje-ultima-detalles-de-cara-al-30-de-abril/>

<sup>17</sup> Numbers estimated at a Dialogue with the United Nations on the rights of immigrant workers. Cf.: <https://www.ohchr.org/en/press-releases/2022/04/dialogue-paraguay-experts-committee-rights-migrant-workers-comment-paraguay#:~:text=There%20were%20over%20871%2C000%20Paraguayans,1.3%20million%20migrants%20living%20abroad>



- Provide the electoral authorities with the necessary human and budgetary resources to enable voting abroad to continue and to make it available to more residents abroad.
- Strengthen information campaigns to communicate the times and procedures for those who wish to update their registration or vote abroad.
- Expand overseas voting for Paraguayan citizens to more countries.

## II. Electoral technology

On April 29, the Mission was present at 2:00 p.m. for the testing of all 12,259 voting machines from all polling places and at the TSJE's Electoral Information and Monitoring Center (CIME). This was a public event at the polling places that was attended by technical representatives of political groups and observers. At the polling place set up at Colegio Nacional de la Capital Bernardino Caballero, a school, observers witnessed the testing of 19 voting machines, including the correct start up, operation, and test print. The process also included sending the result to CIME for consolidation of the national test data via a mobile application. The TSJE reported that the test was successful and the results made it possible to provide the necessary backup machines for election day. On April 30, the OAS/EOM also witnessed the closing of the TREP and the testing of transmission center kits at Bernardino Caballero school in the San Roque Zone of Asunción District.

### ***Security of electronic voting***

With respect to the security of the voting machine and its software, the Mission highlights the technical audit of the electronic voting system by technicians hired for this purpose with the endorsement of a reputable institution as a significant stride.

The Mission also highlights the operational testing by TSJE technical personnel of 15,000 voting machines, which consisted of a technical verification and screen audit, for which 50 machines were installed with reference software to check the on-screen display of the names, initials, registration number, and photo of the candidates, so that the representatives of the political groups could validate the data and express their agreement.

The OAS/EOM also observed a strengthening of controls on the generation of the master DVD and the preparation of the copies destined for the different polling places. The procedure included the possibility of verifying the electoral options offered by political parties and groups, who had to sign and endorse the data in the system in that regard. For future elections, the TSJE should have a process for checking the integrity of the DVD on election day.



The TSJE also prepared a series of useful practical documents listing the technological procedures for these elections, thus providing greater visibility. However, after the experience of the fire at the warehouse containing the TREP machines and transmission equipment in September 2022, it would be advisable for the TSJE to have a technological risk management plan that addresses every possible incident and contingency in relation to electronic voting.

It is also suggested that the TSJE have a “software bill of materials,”<sup>18</sup> a key component of software security and supply chain risk management.

Overall, given the questions and complaints from political groups about various aspects of the electronic voting system, the OAS/EOM also noted dissatisfaction with the high degree of dependence of the TSJE for answers on the company providing the electronic voting solution.

The OAS/EOM offers the following recommendations:

- Request the software bill of materials from the supplier company, define the exchange mode and rigorously analyze it, in order to keep an eye on security notices that indicate whether an artifact or product included in the bill of materials has been affected by a known vulnerability or vulnerabilities.
- To deepen testing and empower TSJE technical staff, so that the institution has the resources and capacity to verify the security and efficiency of the system at all times, especially before each electoral event.
- Devise a strategy for electronic voting risk management and develop the respective procedures in accordance with international standards. This was an OAS/EOM recommendation in the 2021 elections.
- Schedule and implement greater knowledge transfer to TSJE technical staff for evaluating system enhancements, providing feedback, and sharing technology.

## ***Ballot control***

The Mission was informed that on April 21, the last day of the judicial audit to review all the material contained in the election kits prior to their distribution,<sup>19</sup> five ballots with non-empty chips were detected in the material for the Cordillera department, despite the law requiring that ballots chips should be

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<sup>18</sup> A nested inventory and list of elements that make up the software components and represent a critical first step in discovering vulnerabilities and weaknesses in the software supply chain to secure the detected attack vectors.

<sup>19</sup> TSJE Resolution No. 107/23. It establishes that auditors from political party randomly select five tables per department to carry out a thorough review of all electoral material.



empty.<sup>20</sup> As a result, on Saturday 22, the review continued and 34 more ballots with non-empty chips were found. After reaching an accommodation with the political groups, the Information and Communication Technologies Directorate of the TSJE decided to review the ballot papers for the entire district of Caacupé (103 stations); however, fewer than 20 stations were actually reviewed, among which another 300 ballots with non-empty chips were detected. A total of 339 ballots with non-empty chips were discovered in the district of Caacupé.

As a consequence of the above, on Sunday 23, the voting simulation exercise was carried out using the ballots found with non-empty chips and it was verified that the voting process in the machine correctly rewrote the ballots' chips and wiped the memory blocks that contained information, leaving them in read-only mode. On April 24, at a meeting of the TSJE, the supplier company, and the political groups, the company provided a series of explanations with which the representatives of political parties (with the exception of the Cruzada Nacional party) stated that they had confirmed that it was a part of the digital signature of the chip itself and expressed their satisfaction with the explanations provided by the provider company. It was agreed to consider the incident dealt with, to suspend the review of all the material of Cordillera department, and begin its distribution, in accordance with the electoral calendar.

The Mission considers that there are elements that prove that the information found in the user blocks of the ballot papers matches the ASCII format<sup>21</sup> of the digital signature chain of the chip manufacturer and that, though the incident does not amount to a violation of the security of electronic voting, it does help to generate confusion and distrust about this way of voting.

Regarding the ballots, the OAS/EOM also feels that it is advisable for the TSJE to know about the encryption used on the chip at the time the vote is cast.

For future elections, the OAS/EOM makes the following recommendations:

- The TSJE Information and Communication Technologies Directorate should carry out quality control on chips before they reach the polling stations.
- The TSJE Information and Communication Technologies Directorate should check the chips to be used on election day and verify the strength of the encryption.

### III. Political and campaign finance

#### *Electoral subsidy and media access*

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<sup>20</sup> Article 10 of TSJE Resolution No. 107/23.

<sup>21</sup> Standardized numeric code used in computing that represents all alphanumeric characters in decimal system numbers in the range 0 to 127. For example, A=065 or Z=090. These numeric codes are then converted to the binary system for digital processing based on ones and zeros.



As previous OAS missions have pointed out, the fact that the electoral subsidy is provided after the elections are held is detrimental to smaller political groups,<sup>22</sup> which have limited access to credit, and leads candidates to become financially dependent on private resources or donations from supporters. This situation, which is not conducive to fairness in the contest, is aggravated by delays in the payment of the electoral subsidy by the State, according to reports from political groups to the Mission, and the fact that the legislation on unblocked lists does not contain provisions on how each party should distribute the subsidies among its candidates.

Regarding free access to the media,<sup>23</sup> the Mission again noted that, despite the recommendations made in previous electoral processes, there is no equal distribution by the TSJE of space among political groups; rather, they must deal directly with the media.

The OAS/EOM offers the following recommendations:

- Evaluate delivering electoral subsidies before the election and establish criteria to ensure the equitable distribution of these resources within parties.
- That the TSJE draw lots directly among the candidates and political groups for free space provided as indirect political financing.

### ***Political and campaign finance control***

As regards control and accountability, reforms governing political finance were introduced.<sup>24</sup> As in the 2021 municipal elections, it is noteworthy that the rules grant the TSJE powers to keep control over funding for the internal campaigns of parties, as recommended by the Mission in 2018, and that progress has been made with irregular campaign finance control not only by prohibiting the misuse of state resources, but also by restricting private financing from persons with criminal convictions for different offenses. In that regard, the Mission highlights the interagency cooperation efforts between the TSJE's Specialized Unit for Political Finance Control, the Secretariat for the Prevention of Money Laundering (SEPRELAD), the Tax Authority, the Comptroller General of the Republic, and the Attorney General's Office.

Although the introduction of the new laws represents progress in terms of financial oversight and transparency, the Mission stresses that there have been no changes regarding the timing of financial reporting by candidates and political groups, which occurs after the election and hinders oversight by the electoral authority and monitoring by the citizens. Likewise, despite the fact that the law sets a ceiling on

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<sup>22</sup> Law 4.743/12.

<sup>23</sup> Law 834/96. 3 percent of its daily space and one page of newspapers per edition for the dissemination of election platforms during the last 10 days of the campaign before it closes.

<sup>24</sup> By Laws 6.167/18 and 6.501/2020.



electoral spending, the TSJE does not have sufficient verification and auditing mechanisms to ensure compliance.

On the other hand, the Mission learned about the difficulties faced by candidates and political organizations when opening single accounts, due to the fact that banks use their status as publicly exposed persons to delay or deny the opening of accounts, or open accounts but do not allow movements, since the law only provides that banks “open” them. Despite the fact that the accounts should be deemed opened if the banks do not respond within 48 hours of the request to open an account, this does not happen in practice.

As for the sanctions regime, although there are penalties for infringing the campaign finance rules, they are not sufficient incentive to encourage abidance with the law, since they are financial in nature. Although there are provisions stipulating criminal proceedings for certain conduct, the Mission has no information about the imposition of penalties.

This last point is of concern to the Mission, since the candidates and various representatives of the political groups stated that large amounts of money are spent on election day. Although the OAS/EOM observed that the Attorney General’s Office collaborated with civil society organizations on the implementation of information campaigns to prevent commission of electoral crimes during elections,<sup>25</sup> as well as the presence of inspectors at polling places on election day, the Attorney General’s Office stated that it was up to citizens or the TSJE to report such behavior. In that regard, the Mission observed no interagency initiatives for adopting intelligence measures to detect and punish electoral violations and crimes.

For future elections, the Mission offers the following recommendations:

- Make it a legal obligation for political groups and candidates to publish campaign income and expenditure accounts in real time in the National Political Financing System (SINAFIP) or on computer tools provided by the TSJE.
- To exempt the TSJE from bank secrecy rules so that it may oversee the financial operations of candidates, administrators, representatives, and political donors.
- Strengthen interagency coordination to implement intelligence initiatives to detect and punish electoral violations and crimes.
- That the TSJE design verification and auditing mechanisms to ensure compliance with the campaign expenditure ceilings for national and departmental elections and with limits on individual donations.

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<sup>25</sup> An initiative between the Attorney General’s Office and the organization *Semillas para la Democracia* came to light.



## IV. Electoral justice

### *Legal certainty*

The Mission observed that rules governing the Paraguayan electoral justice system are scattered among several different laws. Although there is a specific law on the subject, it refers to other laws, which generates complexity in the rules governing electoral processes. In addition, the TSJE has regulatory powers and issues resolutions that are binding for citizens and political actors.

In that regard, the OAS/EOM noted that the TSJE adopted resolutions regulating rights and establishing procedures once the electoral process was underway, which undermines legal certainty.

On February 17, 2023, a little more than two months before the elections, the TSJE issued resolution 21/2023 establishing the procedure and requirements to obtain accreditation for observation by interested domestic organizations. That regulation was subsequently amended on March 24, 2023.<sup>26</sup> The Mission appreciates the observation exercises carried out by citizen groups and considers that it is useful to have a legal framework governing their implementation. In this context, it considers that the untimely approval and modification of the above regulations not only threaten legal certainty, but also hinder domestic electoral observation.

The Mission also noted that the TSJE issued regulations sanctioning voters who failed to fulfill their obligation to vote less than 72 hours before election day. While recognizing the authority's intention to enforce a legal provision, the Mission considers that any electoral regulation should be approved and issued well in advance.

Similarly, the OAS/EOM observed that the regulations on the organization and holding of the provisional count at the electoral tribunals of each constituency were published within hours of the elections.

Lastly, the Mission observed that the authorities involved in dispensing electoral justice did not have a computer system allowing them to access and follow-up on resolutions and judgments of the TSJE, courts, and electoral tribunals in real time, or to access the jurisprudential acquis, potentially contributing to an environment of disinformation.

For future elections, the Mission offers the following recommendations:

- Approve all regulations on the exercise of rights in the electoral process and on key election procedures before, or at the latest at the same time as, the call for elections.

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<sup>26</sup> Resolution 49/2023.



- Guarantee that the information and documentation on electoral matters is updated and readily accessible on the Internet.

## V. Women's political participation

The Mission recognizes the efforts made by the TSJE's Gender Policy Unit to train women politicians but noted the absence of sustained policies with sufficient funding of their own.

Previous OAS missions have reiterated that Paraguay has one of the lowest rates of political representation of women in Latin America. Although the electoral regulations establish a minimum gender quota of 20 percent for candidate tickets, which is low in itself, it is only enforceable in primary elections, not in the final list of candidates registered.

Likewise, several actors and candidates with whom the Mission met stated that the system of closed and unblocked tickets for multicandidate positions introduced by Law 6.318/2019 posed a disadvantage when it came to increasing the number of women elected. The reason for this is that unblocked tickets increase intra-party competition and campaign costs, compounding structural factors such as women's lack of economic autonomy, less representation in party structures, and stereotypes around their political participation. The current law also does not envisage public financing mechanisms specifically targeting women, as the OAS/EOM noted in 2021.

The Mission noted with concern that there were fewer women candidates in these elections than in previous years and that the percentage of women at the top of tickets did not exceed 20 percent. The low numbers are striking when contrasted with the high turnout of women voters at elections (more than 60 percent), who also make up almost half of the electoral roll.

According to the preliminary results in these elections, there was a slight increase in the number of women elected to the Senate, House of Representatives, and governorships, compared to the 2018 general elections.<sup>27</sup> The Mission recognizes this positive change from one election to the next, but considers that Paraguay is still a long way from ensuring women full participation in political life.

For future electoral processes, the Mission offers the following recommendations:

- Initiate a national conversation on how to increase women's political participation, for which the OAS has a High-Level Group and offers its collaboration in presenting topics for the discussion agenda.
- Evaluate the impact of the system of unblocked tickets on women's political participation.

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<sup>27</sup> In 2018, 8 female senators, 12 female deputies, and 0 female governors were elected. According to preliminary results, 11 female senators, 18 female deputies, and 2 female governors were elected in 2023.



- Advance towards parity in the electoral laws with alternation applicable to all elected posts in the final lists of candidates, so as to ensure a balanced representation between men and women.
- Allocate a fixed percentage of contributions received by political groups to strengthening capacity- and leadership-building for women through education and training.
- The electoral body should have user-friendly and accessible information disaggregated by sex on state funding to political groups.
- The electoral authority, within the framework of the principle of equality, should mediate in the allocation of television slots, so that women candidates may broadcast their political proposals and make their candidacies visible.
- Make it legally enforceable for political groups to submit a gender policy to the electoral body that allows them to promote greater participation and leadership by women members.
- The TSJE's Gender Policy Unit should have the necessary human and financial resources to design and implement an institutional policy of gender mainstreaming in the electoral authority as well as sustained policies for the political advancement of women.

### ***Political violence against women***

Women candidates, officials and civil society representatives with whom the Mission met reported having been victims of political violence during the election campaign, in the form of insults, harassment, threats, defamation, among other manifestations, especially in the media and on social networks.

In view of this, it would be beneficial for the TSJE's Gender Policy Unit to have prevention or awareness-raising mechanisms, guidelines, and protocols for the registration of complaints or assistance to complainants.

Based on the foregoing, the Mission offers the following recommendations:

- Pass a specific law that punishes gender-based violence, taking into account the legal and human rights standards established in international treaties and instruments signed by the Paraguayan State, as well as following the Model Inter-American Law of the Inter-American Commission of Women (CIM).
- The Gender Policy Unit of the TSJE should develop a protocol at the national and departmental levels for the registration, identification, attention and reporting of cases of political violence against women, so that detailed, official information is available.



- The Gender Policy Unit of the TSJE, in coordination with political groups, women leaders, and citizens in general, should provide permanent training for prevention of and attention to gender-based political violence.

## **VI. Political participation of indigenous peoples**

According to data from the last census conducted in Paraguay,<sup>28</sup> approximately 2 percent of the population identifies as indigenous. In 2022, a new National Population and Housing Census was conducted, the results of which are not yet known; however, the Mission received information that the official questionnaire does not include a question on self-identification or ethnicity,<sup>29</sup> so there will be no data on the indigenous and Afro-descendent population at the national level.

As previous OAS Missions have noted, indigenous populations and communities face a series of obstacles, starting with access to an identity document. The OAS/EOM noted that progress has been made in this area through the identity card campaigns carried out as part of an international cooperation agreement between the authorities and civil society organizations.<sup>30</sup> This year's campaign saw an increase of 35 percent compared to the ID campaign in 2021. However, in terms of access to voting centers—another major obstacle to the electoral participation of indigenous peoples—for this election no new polling stations have been created near indigenous communities.

The Mission highlights the dissemination of information on the electoral process in indigenous languages and via local radio stations and social networks in areas with indigenous populations, which is also part of the agreement on the issuance of identity cards. Radio announcements targeting the indigenous population were produced in Angaité, Enxet North, Enxet South, Guaraní, Spanish, Yshir, Nivacle, and Mbya Guaraní.

In the case of candidacies, there is no ethnic self-identification in the registration, nor are there any affirmative action measures to include indigenous candidates on tickets put forward by political groups. The OAS/EOM learned that there were approximately 40 indigenous candidacies in these elections, out of a total of 9,902, based on data from interviews with people and institutions familiar with the indigenous regions.

The Mission highlights that for this election 50 young indigenous people were trained as electoral facilitators in the polling places with the largest indigenous populations.

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<sup>28</sup> The census shows that there are 117,150 indigenous people and 3,867 Afro-descendants, with no self-identification question. <https://www.ine.gov.py/Publicaciones/Biblioteca/atlas-demografico/Atlas%20Demografico%20del%20Paraguay,%202012.pdf>

<sup>29</sup> INE. 2022 Census Questionnaire.

<https://censo2022.ine.gov.py/inscripcion/pdfjs/web/viewer.html?file=materiales/5.%20Cuestionario%20Censal%202022.pdf>

<sup>30</sup> Superior Tribunal of Electoral Justice (TSJE), Paraguayan Indigenous Institute (INDI), and Tierra Viva.



Based on the foregoing, the Mission offers the following recommendations:

- Incorporate information on voters' ethnic self-identification in the electoral roll in order to have official data on the political/electoral participation of the indigenous population.
- Strengthen and increase resources for mobile campaigns for delivering documents to remote and hard-to-reach indigenous communities.
- -On the candidate registration form, add an optional box where each candidate can report their self-identified ethnicity, should they wish to do so.
- Ensure an appropriate number of polling places in indigenous communities and villages, based on reliable statistics and as part of a state policy.
- Establish within the TSJE an office or unit within the structure of electoral institutions in charge of designing and evaluating policies and measures to promote the political inclusion of indigenous peoples that will also enable the mainstreaming of a multicultural approach in the institution.
- Implement a gender perspective in order to give particular attention to indigenous women's political participation.

## VII. Campaigns and freedom of expression

### *Freedom of expression in the electoral context*

In the framework of the 2023 general elections, the Mission observed a campaign in which candidates, particularly those doing well in most polls, traded attacks with each other.<sup>31</sup> As part of the climate of acute polarization, the OAS/EOM was informed of allegations from different quarters about the possible existence of electoral fraud that would harm their position.<sup>32</sup> The Mission finds that this type of narrative harms the credibility of electoral results and electoral institutions, as well as undermining democratic debate. For future elections, the Mission offers the following recommendations:

- During elections, encourage a climate conducive to reasonable and pluralistic discussion on all public issues.

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<sup>31</sup> See, for example, El Nacional, Efrain: "Vamos a derrotar al Pablo Escobar paraguayo" (We are going to defeat Paraguay's Pablo Escobar), April 28, 2023. Available at <https://www.elnacional.com.py/politica/2023/04/28/efrain-vamos-a-derrotar-al-pablo-escobar-paraguayo/>

<sup>32</sup> See, for example, El Surtidor, La narrativa del fraude electoral como estrategia en las elecciones de Paraguay 2023, April 20, 2023. Available at <https://elsurti.com/laprecisa/chequeo/2023/04/20/la-narrativa-del-fraude-electoral-como-estrategia-en-las-elecciones-de-paraguay-2023/>



- Adopt measures to prevent the concentration of media ownership and ensure diversity of content.

## ***Disinformation***

The Mission received information about a considerable increase in misinformation, especially on social networks and in digital media. This information is consistent with the increase in political polarization.

It was found that only one media organization performs fact-checking in order to reduce the detrimental effects of misinformation in the context of election campaigns.<sup>33</sup> Likewise, some companies that own social media networks informed the OAS/EOM about cooperation initiatives with foreign journalism agencies to verify information relating to the electoral campaign in Paraguay, as well as other measures for deleting false accounts used to manipulate the public conversation.<sup>34</sup>

For future elections, the OAS/EOM makes the following recommendations:

- Promote education and training campaigns for both political actors and the broader public on the impact of disinformation in the context of election campaigns.
- The electoral authorities should continue to open and strengthen channels of communication and information with fact-checkers and other civil society organizations to combat disinformation about the electoral process.

## ***Electoral propaganda***

Although there are regulations in place governing the use of electoral propaganda in Paraguay, the Mission received information from the electoral authorities that the number of complaints filed in each electoral campaign, including this one, is insignificant. Although there are electoral propaganda offenses that the Attorney General's Office is required to prosecute ex officio, whether or not to press criminal charges is left in the hands of the public. In addition, given that most of the laws governing electoral processes predate the social media era, there are large gaps in the regulation, in particular, with regard to electoral propaganda on social networks and private messaging applications.

Therefore, the EOM offers the following recommendations:

- Review policies for the exercise of criminal action and the prosecution of electoral propaganda offenses.

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<sup>33</sup> El Surtidor.

<sup>34</sup> See <https://about.fb.com/ltam/news/2023/04/24602/>



- Analyze the feasibility of assigning to an administrative body independent from the government the power to supervise media regulations during election periods.
- Regulate the use of political propaganda in digital media and social networks.

### ***Polls and exit polls***

The electoral laws ban the publication of opinion polls in the last 15 days before election day.<sup>35</sup> Time restrictions aside, different actors mentioned to the OAS/EOM the need to establish requirements and controls to ensure the quality of polls and that their results are genuine, so that they are not used as campaign tools. In addition, the Mission was informed that although the Paraguayan Electoral Code requires the publication of a technical file containing the methodology used in each election poll, this obligation is not met because it is not regulated.

In spite of the rules and regulations in force, since 2002 the Supreme Court of the Nation granted actions brought by some media organizations seeking constitutional relief against Articles 305 and 329 of the Electoral Code,<sup>36</sup> which enabled them in these elections, and in the past, to publish polls during the 15-day period prior to the elections or the results of exit polls on election day, depending on their petition. Likewise, in these elections, different media and consulting firms used different identifiers, rather than candidates' names, to publish their polls, which is still illegal. The OAS has repeatedly pointed out, including during the 2018 Mission in Paraguay, that exit polls are a bad practice that can influence voters and give rise to erroneous expectations about the results.

For future elections, the EOM makes the following recommendations:

- Take steps for the strict enforcement of the law prohibiting the publication of the results of polls and exit polls outside the periods authorized by the electoral law.
- Create a registry of companies that conduct polls and exit polls.
- Adopt regulations on the implementation of provisions in the Paraguayan Electoral Code governing the publication of a technical file containing the methodology used in each election poll.
- Establish processes that accelerate and give priority to the resolution of constitutional challenges related to electoral issues, ensuring that they are resolved prior to the elections immediately following the filing of a suit.

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<sup>35</sup> Law 834/96, art. 305.

<sup>36</sup> Law 834/96, art. 306.



## ***Artificial intelligence***

The Mission also received information that there were no debates between the candidates leading in the polls. However, a debate between both candidates generated with artificial intelligence tools and circulated on social networks<sup>37</sup> served notice of the emergence of new technologies with the ability to both inform and very quickly mislead the public in election campaigns.

## **POST-ELECTORAL PHASE**

The night of the day after the election saw violent protests and road closures, as well as denunciations of the electoral process circulating in social media posts. In that regard, the OAS Mission made itself available to the different political groups to receive complaints or denunciations; however, at the time this report was submitted it had not received any. The OAS/EOM emphatically affirms that demonstrations that incite violence are anti-democratic and that if there are complaints and evidence, they should be presented through the appropriate institutional channels, not through social networks or by any other unofficial means.

## **ACKNOWLEDGEMENTS**

The Mission is grateful for the openness and cooperation of the officials and staff of the Superior Tribunal of Electoral Justice (TSJE), which enabled the Mission to carry out its work. It also thanks the Ministry of Foreign Affairs and the various institutions of the Paraguayan state for their support, including the National Police for the protection provided. This is the sixteenth time that the OAS has deployed a Mission to observe electoral processes in Paraguayan territory and, on this occasion, it wishes to thank Brazil, Canada, Spain, the United States, Italy, the Netherlands, Panama and Peru for their financial contributions, without which the Mission's deployment would not have been possible.

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<sup>37</sup> See <https://www.ultimahora.com/con-inteligencia-artificial-se-busca-suplir-falta-debate-presidencial-n3059469.html>