

PERU

FINAL REPORT

**SECOND ROUND OF THE PRESIDENTIAL ELECTION
JUNE 2011**

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

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ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
APRA	American Popular revolutionary Alliance, a.k.a <i>Partido Aprista Peruano</i>
DNI	National Identity Document
EEM	Election Experts Mission
EOM	Election Observation Mission
EU	European Union
ExM	Exploratory Mission
IPYS	Press and Society Institute
JEE	Special Electoral Jury
JNE	National Jury of Elections
OAS	Organization of American States
ODPE	Decentralized Office of Electoral Processes
ONPE	National Office of Electoral Processes
PPC	Partido Popular Cristiano
RENIEC	National Registry of Identity and Civil Status
SIP	Inter-American Press Association
ToR	Terms of Reference
UN	United Nations

I. SUMMARY

- On 5 June 2011, Peru held the second round of the presidential election. The European Union Election Observation Mission (EU EOM) was present in Peru from 4 May 2011 to 16 June 2011,¹ following an invitation from the Ministry of Foreign Affairs and the National Jury of Elections (JNE). The EU EOM was headed by José Ignacio Salafranca Sanchez-Neyra, Member of the European Parliament (MEP). The Mission deployed 73 observers² from 25 European Union Member States as well as Norway to 19 of the 24 regions of the country, and the constitutional province of Callao. The observers assessed the electoral process under international and regional principles and commitments for democratic elections and the laws of Peru. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation commemorated at the United Nations in October 2005.
- The second round of the presidential election was contested between the two most voted candidates in the first round: *Gana Perú's* retired lieutenant-colonel Ollanta Humala Tasso, and *Fuerza 2011's* Keiko Fujimori, a congresswoman and daughter of jailed former president Alberto Fujimori. Humala won the run-off obtaining 51.4 percent of the votes (31.7 percent in the first round), against 48.6 percent (23.6 percent) given to Fujimori, and will be the president of Peru for the next five years.
- The election was held in a peaceful and orderly environment. The EU EOM observers rated the process as “good” or “satisfactory” in most polling stations observed. Although some of the polling stations members arrived late or did not show up, it did not hamper the smooth flow of voters, who were able to freely exercise their franchise. The impartiality and professionalism of the election administration officials and the presence of candidates’ agents (*personeros*) in polling stations contributed to a highly transparent process.
- The campaign climate for the second round was marked by a heated debate and reflected the polarized social and political atmosphere in the country. Social networks such as Facebook and Twitter were intensively used for campaign purposes in urban areas. As both candidates strived towards the political center in order to convince the 44 percent of voters they had not reached with their political speeches in the first electoral round, they added new components to their original campaign messages. Both candidates had similar campaign strategies resorting to adapt speeches when addressing conservative urban and social-oriented rural audiences.
- During the campaign, Humala appeared to use an ambiguous discourse by presenting different government programs in different occasions and for referring to an eventual fraud without providing evidence. In turn, *Fuerza 2011* appeared to run a two-pronged campaign strategy: while Keiko Fujimori when addressing urban and middle class audiences denied any role of her father in her campaign, in other regions of the country the picture of Alberto Fujimori was a common feature in electoral material.

¹ For the general elections held on 10 April 2011, a European Union Election Expert Mission (EU EEM) composed by five experts was deployed in Peru from 2 to 17 April 2011.

² An eight-member Core Team (CT) members, 24 Long Term Observers (LTOs), 24 Short Term Observers (STOs). In addition, the Mission had a 10-member delegation of the European Parliament (MEPs and staff), six Local Short Term Observers (LSTOs) and a representative from the European commission.

- In general, all political organizations reported funding as coming from fund raising activities and direct donations from supporters and businesses. According to the financial statements at the time of writing this report, *Fuerza 2011* had 88.89 percent of its cash funds during the second electoral round stemming from individual contributions, followed by 10.92 percent originating from fund-generating activities such as lotteries. Several businessmen and companies appeared among the political organization's list of sponsors, which, according to the law, was published on the ONPE webpage. *Gana Perú*, on the other hand, had not published, at the time of writing, its financial report for the second electoral round, although the submission of campaign funds and expenses during the period from 11 April to 27 May was due by 30 May, and for the period from 28 May to election day by 13 June.
- The implementation of campaign finance regulations has been questioned by the public, as published figures frequently did not seem to correspond with reality. No sanctions are contemplated for non-compliance with the submission of financial statements. The legal framework, including enforcement powers, should be strengthened.
- The legal framework was generally in line with international and regional principles for democratic elections. The Constitution provides for a multiparty democracy system with periodic elections on the basis of universal, direct, secret and equal suffrage and basic guarantees for the exercise of fundamental political rights and freedoms. The presidential office is limited to one term, although the Constitution allows for a non-consecutive second term in office. However, there are a number of provisions that are inadequate to the general electoral process and need to be addressed in the future. These include *inter alia* more comprehensive provisions regulating political party alliances, a more inclusive interpretation of the validity of a vote, overlap of the competencies of the National Jury of Elections (JNE) and the National Office of Electoral Processes (ONPE).
- The National Jury of Elections, the National Office of Electoral Processes and the National Registry of Identification and Civil Status (RENIEC) form the election administration and shared responsibility for the conduction and implementation of the electoral process. Their impressive and transparent conduction of the electoral process and technical preparedness earned them the trust of the electorate and main political actors alike. Despite their functional autonomy, the individual roles of the JNE and ONPE are not well determined and resulted in frictions and overlapping. The JNE considers ONPE to be overstepping its role while ONPE believes JNE should concentrate on its core jurisdictional and supervision duties. Nevertheless, the three electoral institutions and their decentralized bodies were highly professional and well organized.
- ONPE administered the preparations for the second round of the presidential election in an efficient and transparent manner that largely guaranteed the universal suffrage. EU EOM observers assessed the performance of the election administration at regional and district levels as independent from political parties, efficient and well prepared. The training programs for polling station staff and the two simulation exercises carried out by ONPE not only ensured that election officials and staff were prepared for election day but also that the system in place was adequate to transmit the results of more than 107,000 polling stations. However, the recruitment and selection of polling station staff continued to be a shortcoming to the process as the established procedures for selection did not take into account the level of education of

the staff. Members do not have a financial compensation for their work, leading to a low motivation in participating as polling station staff and in attending to trainings.

- The media enjoyed freedom of opinion and speech, as guaranteed by the Constitution, and provided a broad and intense coverage of the campaign. The role of the media during the coverage of the campaign was, however, a source of controversy. Civil society organizations and journalists expressed to the EU EOM concern about a tendentious approach by the media regarding the coverage of the campaign and their favoritism towards one or other candidate. The results of the EU EOM media monitoring supported such concerns.
- The National Jury of Elections and its Special Electoral Juries (JEEs) were the competent organs to deal with complaints and appeals regarding decisions of the election administration as well as any complaint or challenge related to the electoral process. In conformity with international principles, the JEE decisions may be appealed to the National Jury of Elections. In general, the mechanisms to address complaints and appeals provided the possibility for aggrieved parties to seek a timely and legal remedy as complaints were generally dealt in an expedite manner. The JEEs showed a pro-active attitude in the sense that its monitors were deployed to the field and the institution itself had *ex officio* powers. Therefore, cases and investigations may be initiated without the need of a preceding complaint.
- The *Defensoria del Pueblo* supervised the electoral process mainly in three areas: neutrality and impartiality of the public administration, political participation of vulnerable groups and the performance of the electoral administration bodies. One of the concerns of the *Defensoria* was the detention of 238 voters under arrest warrant during the first round of elections and at least 85 in the second round who were spotted by the police in the polling stations and arrested after voting.
- The political participation of citizens of 18 years of age and older, namely their right to vote, is ensured by a voter registry considered reliable and inclusive. Also the legal requirements to stand for office are reasonable and non-discriminatory. Quotas of participation for specific groups were introduced recently for the regional and municipal elections laws: 30 percent for gender, 20 percent for youth and 15 percent for native communities where they exist.
- Keiko Fujimori was the first woman in Peruvian history to participate in a second round of a presidential election, and Ollanta Humala ran with a woman, Marisol Espinoza, as candidate for vice-president. Women, however, are still under-represented among the higher strata of political activism, more so in rural and indigenous areas despite constituting more than 50 percent of the electorate. Nevertheless, in most regions women were evenly represented as men in the structures of the electoral management bodies, as well as in the polling stations, and could be found as majority in some regions like Puno, where 85 percent of the Special Electoral Juries (JEE) inspectors were women.

II. INTRODUCTION

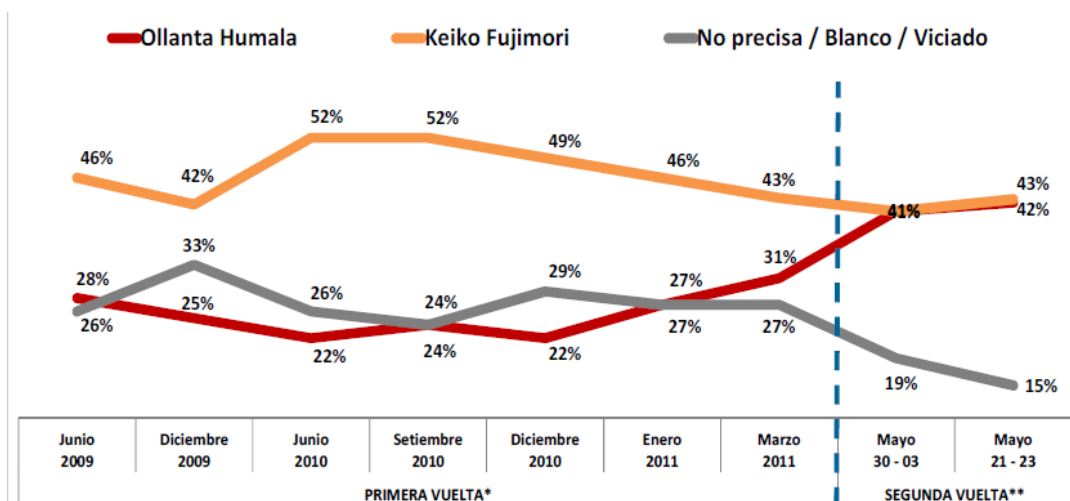
After more than two decades of military rule, Peru returned to democratic leadership in 1980, but experienced economic problems and the growth of a violent insurgency. In 1990, Peru was on the verge of an economic disaster. That year, the election had two main candidates, the now Nobel laureate writer Mario Vargas Llosa as candidate of the Democratic Front and former minister of economy Luis Alva Castro, running for the ruling APRA (American Popular Revolutionary Alliance, a.k.a *Partido Aprista Peruano*). A couple of weeks before election, a politically unknown candidate, Alberto Fujimori, managed to force a second round of elections and defeated Vargas Llosa. Fujimori's election inaugurated a decade that saw an impressive change in the economy and the defeat of the main guerrilla group, the *Sendero Luminoso* (Shining Path). The decade of *Fujimorismo* meant the end of the economic model controlled by the state since the reforms promoted by the military in the 1960's; the economy was opened to international markets and the privatization of state companies reduced the state intervention in the economy. However, the president's increasing reliance on authoritarian measures, an *auto-golpe* (self-coup) in 1992 through the dissolution of the two chambers of Congress, and charges of corruption and an economic slump in the late 1990s generated mounting dissatisfaction with his regime. Fujimori won a third mandate in 2000 but a series of scandals involving the bribing of opposition congress members, publishers and businessmen to support the government precipitated the end of his regime. Fujimori went into exile, and a caretaker government oversaw new elections in the spring of 2001, which led to Alejandro Toledo Manrique as the new head of government - Peru's first democratically elected president of Native American ethnicity. The presidential election of 2006 saw the return of Alan Garcia Perez who, after a disappointing presidential term from 1985 to 1990, has overseen a robust macroeconomic performance³. Three elections took place simultaneously on 10 April 2011: the election of the president of the republic and two vice-presidents, the election of 130 members of the National Congress and the election of 5 deputies and 10 reserve members of the Andean Parliament. Keiko Fujimori, a Congresswoman and daughter of former president Alberto Fujimori running for *Fuerza 2011*, and *Gana Perú's* Ollanta Humala, a retired army lieutenant-colonel, were the most voted among the 10 presidential candidates. On 5 June 2011, Peruvians were called to the polls to decide who would be their new president. Ollanta Humala won the run-off and will govern Peru for the next five years.

III. POLITICAL BACKGROUND

A. Political Context

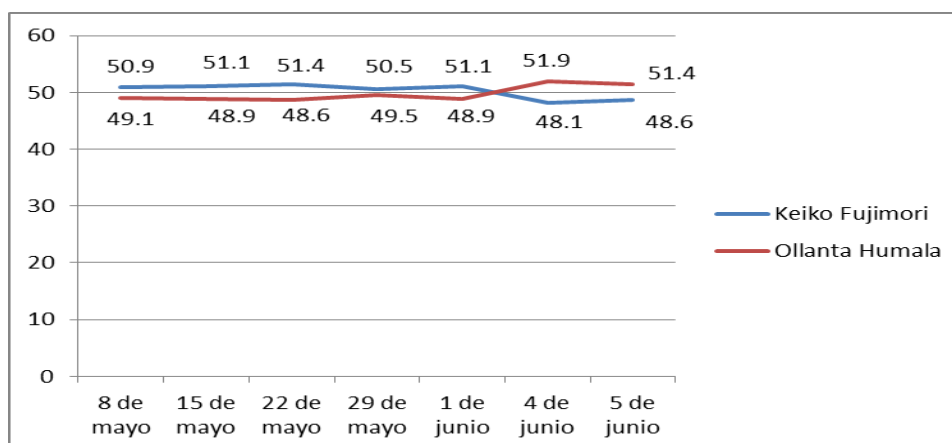
The general elections held on 10 April 2011 saw the leftist-nationalist retired lieutenant colonel Ollanta Humala Tasso (31.7 percent of the vote) and rightist Keiko Fujimori Higuchi (23.6 percent), the daughter of jailed former president Alberto Fujimori, enter the second electoral round, whereas the three centrist candidates - former prime minister Pedro Pablo Kuczynski Godard, former president Alejandro Toledo Manrique and former Lima mayor Luis Castañeda Lóssio - had crossed each other out mutually, obtaining 18.5, 15.6 and 9.8 percent of the vote, respectively. The outcome (55 percent for the two most voted candidates, leaving in principle Peruvians without centrist options for the second electoral round) immediately created discussions among political analysts on whether such result reflected a wide-spread refusal of Peru's political and economic model of the last decade, in which wealth distribution mechanisms, mainly in rural areas, had largely failed.

³ Several sources and meetings with Peruvian political analysts.



Sources: *Instituto de Opinión Pública de la Universidad Católica* (first graphic), *Ipsos Apoyo* (second graphic)

As showed in the graphic above, during most of the period between the two electoral rounds both candidates appeared to be almost even in the opinion polls, within what in statistical terminology would be a technical tie (the percentage difference being equal or smaller than the margin of error), both tried to convince the 44 percent of centrist and center-right voters of the first electoral round by taking more centrist stances and trying to overcome the “authoritarian” (Keiko Fujimori) or “radical” label (Ollanta Humala) they had been branded with in the first electoral round. Fujimori by indicating that she would continue the same economic policies of past governments seemed to attract the support of the business sector and most of the media outlets. She also retreated from the vow to pardon her father she made a few years ago when he was convicted for being involved in assassinations, kidnappings and corruption and sentenced to 25 years in prison. Humala, on the other hand, presented a government plan featuring substantial redistribution within the current economic model (higher royalties on mining revenues, old-age pension for all, fight on corruption) and distanced himself from Venezuelan President Hugo Chávez, who had openly backed him during the first run-off he had faced after winning the first round in Peru’s 2006 presidential election. He was then defeated, 53 percent to 47 percent, by the outgoing President Alan García.



At the same time, a number of personalities from the sphere of former president Toledo's government – among them his former Minister of Justice and even his chief political adviser, Kurt Burneo – joined Humala's team, and a substantial part of the Peruvian intellectual community declared their support for him, thus considerably widening the political spectrum of Humala's backup. Nobel literature laureate Mario Vargas Llosa, who originally had qualified the run-off as "a choice between AIDS and terminal cancer", reflecting the popular perceptions of both candidates' anti-democratic tendencies, also pronounced himself in favor of Humala and denounced the dangers of a return of Fujimorism to power. This step led to a short but powerful public debate with the influent archbishop of Lima, Cardinal Juan Luis Cipriani. On the other hand, world-famous economist Hernando de Soto accepted to be Fujimori's advisor in land titles issues in the Amazon lowlands, a highly sensitive topic in Peru since the "Bagua Incidents" of 2009, when 33 persons, policemen and indigenous people, lost their lives during protests against the natural resources exploration policies of the Peruvian government. As a special effort to appeal to the urban and middle class electorate, Humala swore before intellectuals and representatives of the political elite not to change the 1993 constitution, which forbids immediate reelection. Fujimori, on the other hand, emphasized repeatedly that she would not interfere in legal issues concerning her father and would respect checks and balances.

During the period between both electoral rounds, Humala and Fujimori met with the three other main candidates of the first round in order to identify possible alliances or, at least, common ground. The third strongest candidate of the first round, Kuczynski, presented a "Pact for Peru", which included commitments such as maintaining the current Constitution, guaranteeing the economic model and respecting the freedom of press. Following Fujimori's (but not Humala's) signing of the pact, Kuczynski started first implicit, later explicit, to support Fujimori, calling finally on his followers to vote for her, and participating in Fujimori's campaign closing. Former Lima mayor Luís Castañeda followed Kuczynski's example and, after joining campaign activities with Fujimori, he formalized his support ten days before the election. Former president Alejandro Toledo, the fourth strongest candidate of the first round, had already declared his support for Humala, with whom a number of experts from his previous government - mainly economists – had already been working. Before publicly backing Humala, Toledo advanced that his Congressional faction would be ready to cooperate with Humala in case of being elected as president, which paved the way for a working majority in parliament. Humala's 47 Congress members plus Toledo's 21 would represent 68 of the 130 Congress members, an absolute majority.⁴

B. Main Political Actors

Gana Perú: This political organization was founded by Ollanta Humala, in 2006, under the name *Partido Nacionalista Peruano* to support his candidacy for the presidency.⁵ When in 2010 Humala tried to establish a broader formal alliance with other parties, he changed the organization's to *Gana Perú*. Although such alliance never materialized, *Gana Perú* attracted several small leftist parties, the most important among them being the *Partido Socialista* and the *Partido Comunista Peruano*. Among the

⁴ The Congressional elections, conducted simultaneously with the first round of the presidential elections, resulted in a fragmented political landscape: *Gana Perú* won a relative majority (47 out of 130 seats), followed by *Fuerza 2011* (37 seats), Toledo's *Perú Posible* alliance with *Acción Popular* and *Somos Perú* (15, 4 and 2 seats, respectively – in total 21), Kuczynski's *Alianza por el Gran Cambio* consisting of *Partido Popular Cristiano*, *Alianza por el Progreso*, *Partido Humanista* and *Restauración Nacional* (7, 2, 2 and 1 seats, respectively, for a total of 12) and Castañeda's alliance around *Solidaridad Nacional* including several "invited" non-members of the political organization (9 seats in total). The remaining four Congress seats were obtained by outgoing president Alan García's *Partido Aprista*.

⁵ As deadlines in the electoral process were too short to allow him to run as a candidate for his political party, he formally ran as candidate for the *Unión por el Perú* (UPP).

political organization's main goals were a regulated market economy protected from the influence of interest groups as well as a strong and redistributive state system and a privileged position of the state in the exploitation of natural resources.

Fuerza 2011: This political organization represented what is called *Fujimorismo*, the followers of former president Alberto Fujimori. In past years, *Fujimorismo* was represented by different political organizations: *Cambio 90*, *Nueva Mayoría* (1990 – 95), *Vamos Vecino* (1998), *Perú 2000* (2000), *Sí Cumple* (2001) and *Alianza para el Futuro* (2006). Its ideology defends a model of open economy, a state very close to the needs of the population –frequently establishing clientelistic relations– and a strong emphasis on public order. Alberto Fujimori was the leader of *Fujimorismo* until 2006, when he was arrested in Chile and, subsequently, extradited to Peru. His daughter Keiko, who had acted as First Lady from age 19 on after the separation of her parents in 1994, took over leadership of the political organization after her father's arrest and was elected to parliament as the most-voted Congress member. *Fuerza 2011*, as well as *Gana Perú*, did not enter any formal alliances with other parties, although the political organization received the support of two defeated candidates in the first round.

Although not participating in the second round, other political organizations got involved in events that led to the run-off:

Perú Posible – it is headed by former President Alejandro Toledo, who gave his support to Humala, warning about the dangers of a return to “*Fujimorista* authoritarianism.”

Alianza por el Gran Cambio – the four-organization coalition that named Pedro Pablo Kuczynski its presidential candidate did not achieve a common position regarding support to one of the run-off candidates. The *Partido Popular Cristiano* (PPC) did not show a preference, although its leader, Lourdes Flores, implicitly announced her inclination towards Fujimori. The other two parties of the coalition, *Alianza por el Progreso* and *Partido Humanista*, actively campaigned in favor of Humala, while the evangelical political organization *Restauración Nacional* supported Fujimori.

Solidaridad Nacional - Castañeda's political organization publicly backed Fujimori.

Partido Aprista – President Alan García's party did not participate in the presidential election after the withdrawal of the party's candidate prior to the first electoral round (see *Registration of Candidates*). *Gana Perú* repeatedly denounced García's implicit support for Keiko Fujimori, which was rejected by the president.

IV. LEGAL AND ELECTORAL FRAMEWORK

A. Legal Framework

The legal framework governing the Peruvian presidential election comprises a significant number of laws and regulations in addition to the amended 1993 Political Constitution of Peru, and is generally in line with international and regional principles.⁶ Basic guarantees for the exercise of fundamental political rights and freedoms are provided for in the Constitution, ensuring periodic elections, universal and equal suffrage, the right to contest elections to all political parties, political organizations and alliances that comply with the legal requirements and the right to an effective legal remedy.

⁶ *Inter alia*, the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1969 American Convention on Human Rights and the 1948 Inter-American Convention on the Granting of Political Rights to Women.

Nevertheless, there are a number of provisions that are inadequate to the general electoral process and need to be addressed in the future. Such provisions include dispositions regulating political party alliances, invalid votes, deadlines for registration of political parties and the deadlines for registering candidates, overlap of the competencies of the National Jury of Elections, or *Jurado Nacional Electoral* (JNE), and the National Office of Electoral Processes, or *Oficina Nacional de Procesos Electorales* (ONPE). The National Jury of Elections announced that a commission of specialists is working on the drafting of an electoral code and an electoral procedural code to improve future electoral processes to be submitted to the new Congress.

B. Universal and Regional Principles and Commitments

Peru is a party to all major treaties containing international and regional principles for elections, of which the most relevant are the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1966 International Convention on the Elimination of Racial Discrimination, the 1952 Convention on the Political Rights of Women and the 2006 Convention on the Rights of Persons with Disabilities, the 1969 American Convention on Human Rights, the 1948 Inter-American Convention on the Granting of Political Rights to Women. Furthermore, Peru is politically committed to the 1948 American Declaration of the Rights and Duties of Man, and is a signatory of the 2001 Inter-American Democratic Charter.

C. Electoral Legislation

Presidential elections are governed by several legal documents that comprise laws and regulations issued by the National Jury of Elections. These include, among other documents, the amended 1993 Political Constitution of Peru, the law governing presidential and National Congress elections no. 26859 of 1997, the law of the National Jury of Elections no. 26486 of 1995, the law of the National Office of Electoral Processes no. 26487 of 1995, the law of the National Registry of Identification and Civil Status no. 26497 of 1995, the law on the participation rights and control of citizens no. 26300 of 1994, the Political Parties law no. 28094 of 2003. Among the resolutions issued by the National Jury of Elections the most relevant are the regulations on the electoral campaign no. 136-2010-JNE and no. 140-2010-JNE, regulation on the use of state advertising during elections no. 057-2010-JNE, regulation on the dissemination and control of electoral propaganda during the general elections process no. 007-2006-JNE, procedures for the issuing of resolutions by the Special Electoral Juries on “observed”⁷ result forms, refuting polling station results no. 233-A-2006-SD-ADM/JNE, procedures to be followed by the Special Electoral Juries in case of damaged result forms no. 242-2006-SG-ADM/JNE and regulation for the maintenance of the guaranties, independence and functioning of the Special Electoral Juries during the electoral processes no. 316-2005-JNE.

The legal framework is generally in line with international and regional principles for democratic elections. Nevertheless, there are a number of provisions that are inadequate to the general electoral process and need to be addressed in the future. These includes more comprehensive provisions regulating political party alliances, a more inclusive interpretation of the validity of a vote, new deadlines for registering political parties whose acceptance process at the moment may overlap with the deadlines for registering candidates, a clearer definition of the competencies of the National Jury of Elections (JNE) and the National Office of Electoral Processes (ONPE) and provisions already foreseen in the law but lacking procedures such as complaints’ proceedings regarding partiality of the media during electoral campaign. However, the National Jury of Elections announced that a commission of specialists

⁷ Results forms containing irregularities and inconsistencies such as lack of signature, mathematical errors and other.

is working on the drafting of an electoral code and an electoral procedural code to improve future electoral processes.

As a result of the unclear delimitation of competencies in the law, ONPE submitted a case before the Constitutional Court, on 3 March 2011, to clarify which institution —ONPE or JNE— is responsible for supervising the *franja electoral* (media free airtime) and the political organizations finances. At the moment, ONPE carries out the supervision. However, the JNE claims these two activities are under its competency. A decision on the case is pending.

D. The Electoral System

The Constitution provides for a multiparty democracy system with periodic elections on the basis of universal, direct, secret and equal suffrage. The president and vice-presidents (*Plancha Electoral*) are elected for a five-year term in office on a two-round system: candidates must receive 50 percent plus one of the valid votes to be elected. The presidential office is limited to one term, nevertheless the Constitution allows for a non-consecutive second term in office.

V. ELECTION ADMINISTRATION

A. Structure and Composition

According to the Constitution, the National Jury of Elections (JNE), the National Office of Electoral Processes (ONPE) and the National Registry of Identification and Civil Status (RENIEC) form the election administration and share responsibility for the conduction and implementation of the electoral process. Four presidential elections have been held under this institutional setup on 2000, 2001, 2006 and 2011. The electoral institutions are temporarily decentralized at regional and provincial levels during electoral processes and become the Decentralized Offices of Electoral Processes (ODPEs) and 19 Regional Coordination Offices (ORCs) and the Special Electoral Juries (JEEs) representing the National Jury of Elections. For RENIEC, the lower structures are called Agencies and Registry Offices (*Agencias y Oficinas Registrales*). The JNE is the judicial autonomous body on electoral matters. None of its members is appointed by political parties which is a key factor for their independence. The ONPE is the maximum authority regarding the organization and logistical implementation of electoral processes, whereas RENIEC is in charge of the national registration of citizens and of the production of the voters' registry (*Padrón Electoral*).

Despite their functional autonomy, the individual roles of the JNE and ONPE are not well determined and often result in friction and overlapping. The JNE considers ONPE to be overstepping its role while ONPE believes JNE should concentrate on its core jurisdictional and supervision duties. The legally required cooperation among these institutions was difficult due to their historic rivalry, which in itself is also an incentive to improve their performance. As an example, article 212 of the electoral law establishes that decentralizes bodies of electoral administration (ODPEs and JEEs) should be located in the same physical space, which was not the case during these elections, resulting in waste of time and resources. The fact that the law does not establish a clear hierarchy among them creates sometimes uncertainty in terms of delimitation of competencies mainly between ONPE and JNE, such as the supervision of the political parties' budget, civic education including voter education during the electoral process, and supervision of the media free airtime. Nevertheless, the three electoral institutions and their decentralized bodies —56 Special Electoral Juries (JEEs) and 56 Decentralized Offices of Electoral

Processes (ODPEs)— are highly professional and well organized. Their impressive and transparent conduction of the electoral process and technical preparedness earned them the trust of the electorate and main political actors alike.

B. The Administration of the Second Round

ONPE administered the preparations for the second round of presidential election in an efficient and transparent manner that largely guaranteed the universal suffrage. EU EOM observers assessed the performance of the election administration at regional and district levels as independent from political parties, efficient and well prepared. The relationship between the ONPE and JNE structures and the EU EOM was cordial and highly cooperative. To ensure the confidence in the process and as a response to the events in the region of Puno, where the conduction of elections were at one point uncertain and to some allegations of possibility of irregularities during election day, the three electoral institutions issued a joint statement ensuring the transparency, impartiality and legality of the electoral process and requesting stakeholders to respect the results as they would emanate from the will of the people.

ONPE respected the stipulated calendar throughout the electoral process. The sensitive electoral materials, including the 22 million presidential ballots (with a surplus of around 10 percent), were transported according to the calendar and kept secured under police protection in the ODPEs. More than 110,000 members of the police (70,000) and armed forces (40,000) were deployed on election day. The training programs organized through the ODPEs, in all regions, for voting centers and polling station staff reinforced the ability of those electoral officials, already trained for the first round, and generally helped expedite the voting and counting procedures. Also the two simulation exercises carried out by ONPE not only ensured that election officials and staff were prepared for election day but also that the system in place was adequate to transmit the results of more than 107,000 polling stations in the country. ONPE offered the two political organizations training for their polling station agents (*personeros*) on electoral procedures three days before electoral day. However, *personeros* were trained directly by their organizations. The training from political parties was carried out according to a “cascade” system. The first level of training was training of polling centres *personeros*, followed by training of polling station *personeros*.

Two simulation exercises (*simulacros*) were carried out by ONPE before election day. The first one, on 25 May, focused in aggregation and transmission of results from ODPEs to ONPE. The system appeared well conceived and transparent. On 29 May, a national exercise was carried out in each of the 56 ODPEs with the participation of polling station staff. Polling staff filled in 20 electoral forms which were transported from polling stations to ODPEs and sent to the ONPE national aggregation center in Lima. The test was successful and demonstrated that the system was well prepared for election day.

However, the recruitment and selection of polling station staff continued to be a shortcoming to the process. Polling station staff were chosen by drawing lots among 25 pre-selected voters from the voter list of each polling station and not recruited through a competitive selection process. The established procedures for selection did not take into account the level of education of the staff as RENIEC confirmed not to have updated information regarding the educational level of voters. Moreover, members do not have a financial compensation for their work, leading to a low motivation in participating as polling station staff and in attending to trainings.

C. Electoral Structure and Boundaries

The electoral administrative map of Peru is comprised of 24 regions plus the constitutional province of Callao, 195 provinces and 1,834 districts. Also, out-of-country voting is provided in the five continents in countries with consular services. The 19,949,915 voters, including around 700,000 abroad, were distributed in 107,449 polling stations. There was one national constituency for the presidential election.

D. Domestic and International Observers

Transparencia, a domestic organization financed by several local and international institutions, closely followed the 2011 electoral process including the pre-election period. For election day, it deployed around 5,000 observers at national level, all volunteers (students and professionals) and the majority of them having already observed the first round of the presidential election. As in the first round of the presidential election, *Transparencia* conducted a “quick count” with a sample of 1,086 polling stations with a margin of error of less than one percent. Also, on election day, *Transparencia* made available a dedicated service phone line which citizens could call to inform on potential irregularities during the voting process. As a result, *Transparencia* received 321 reports. Besides the EU EOM, the Organization of American States (OAS) was the only other observation group. The Mission maintained good relationship and contact with the group of almost 70 observers and exchanged information and coordinated activities in the field.

VI. REGISTRATION OF VOTERS, CANDIDATES AND POLITICAL ORGANIZATIONS

A. Voter Registration

The National Registry of Identification and Civil Status (RENIEC) produces and updates the voter register based on the civil register. In addition, it generates the National Identification Document, *Documento Nacional de Identidad (DNI)*, which is the only valid identification for polling. For this election, the validity of the DNI was extended for election purposes only. The voter register was closed on 11 December 2010, 120 days before the 10 April 2011 general elections. After that date no changes to the voter register were allowed. The voter register approved by the JNE included 19,949,915 registered citizens. Some 6,262,848 voters are aged 18 to 29, indicating an increase of 700,000 young voters when compared to the 2006 voter register. There were 358,788 first time voters for the general elections. Voting is mandatory for all citizens aged 18 to 70. According to RENIEC, women represented 50.19 percent of the electorate. The voters register can be considered reliable and inclusive as it is generated from the permanent civil register, meaning that all citizens registered in the civil register are automatically included in the voter register once they reach 18 years of age. No concerns were raised during the process regarding the registration of voters. The confidence on the voters’ register was recognized not only by citizens but also by the political parties.

B. Registration of Political Parties

The provisions for the registration of political parties are reasonable and generally in line with international and regional principles relating to freedom of association and the formation of political

parties.⁸ The registration of political parties is under the authority of the National Jury of Elections and is governed by the Constitution and the Political Parties law no. 28094. The constitution provides for the political rights of citizens including the right to form, join and participate in the activities of a political party as well as to participate in political activities. If the registration of a political party is refused or cancelled, the decision can be appealed to the same National Jury of Elections. Political parties are required to adhere to the principles of an internal democracy. A political party registration is cancelled in case the party does not reach the five percent threshold of valid votes in an election imposed by the electoral law for representation. The draft Electoral Code prepared by the National Jury for Elections includes improvements to the law governing political parties, namely on the internal democracy supervisory mechanisms, the period for registering political parties and the rights and duties of its affiliates. In the current electoral process, political parties as such showed to be almost inexistent as there was only one political party competing alone for the general elections, *Partido Aprista*. The remaining parties joined in alliances supporting a specific candidate due to voter preference for personalities rather than for political parties' platforms. As a result, it is commonly said that candidates choose their political organization rather than organizations choose their candidates. *Partido Aprista* elected only four members of Congress.

C. Registration of Candidates

The nomination of presidential candidates falls under the responsibility of the National Jury of Elections (JNE) and took place between 20 December 2010 and 10 January 2011. There are no discriminatory or unreasonable requirements to run for president of the republic. Presidential and vice-presidential candidates must be Peruvian citizens by birth, at least 35 years of age and registered voters. Although dual nationality is permitted by law, it was debated during the first round of the presidential election whether candidates for presidential office should be allowed to hold another nationality. As a result, one of the candidates, Pedro Pablo Kuczynski, returned his passport to the United States embassy before the first round of the election. Presidential candidates cannot simultaneously be candidates to the National Congress; however, this restriction does not apply to vice-presidential candidates. For the first round of the presidential election, 12 candidates submitted their candidacies; however two withdrew before election day: Mercedes Araoz (former minister of economy) running as candidate for the *Partido Aprista Peruano* (APRA) withdrew her candidacy after the party failed to comply with her condition to remove from Congress and the Andean Parliament's party lists candidates who were under investigation or who had been charged with corruption; and Manuel Rodriguez Cuadros, candidate of the *Partido Descentralista Fuerza Social* allegedly because he was excluded from the presidential debates organized by the civil society organization *Transparencia*.

VII. ELECTION CAMPAIGN AND PRE-ELECTION ENVIRONMENT

A. Overview

The campaign climate for the second round was marked by a heated debate and reflected the polarized social and political atmosphere in the country. Candidates and supporters enjoyed freedom of speech, movement and assembly. Campaigning throughout the country proceeded freely and in a calm and

⁸ In line with article 22 and 25 of the ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 26: "The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25." See also article 16 of the American Convention on Human Rights.

orderly manner, only in a few cases interrupted by minor incidents such as damaging of posters and wall paintings, insults against activists and isolated cases of egg- and stone-throwing during rallies of both candidates, although more frequently in the case of Fujimori's rallies. The most serious incident consisted of funeral flowers arrangements sent to *La Primera*, one of the few newspapers campaigning for Humala, a practice used as a means of intimidation during Alberto Fujimori's times. Campaigning activities kept a low profile and consisted mainly of small-scale meetings at party offices, limited door-to-door canvassing, painting of graffiti, posting of party posters and leaflets, distribution of T-Shirts, cups and other minor articles with the candidate's portraits, use of loudspeaker vans and motorcades and a few major rallies involving the candidates. Social networks such as Facebook and Twitter were intensively used for campaign purposes in urban areas.

In the region of Puno, around 15,000 Aymaras occupied the town in order to protest against the environmental consequences of a mining concession, and in the course of the occupation a some public buildings were burnt. The agenda of the demonstrators, however, was not election-related although they threatened to disrupt election day: the protesters used the proximity of election day as a means of pressure for their cause while demanding actions by the authorities. Since Humala had obtained 62.7 percent of the votes in the first round in Puno Region, *Gana Perú* was highly interested to have the elections taking place without disturbance, and Fujimori did not seek to take political advantage of the situation either. The occupation of Puno was suspended for a few days, which permitted holding the elections without disturbance.

As both candidates strived towards the political center in order to convince the 44 percent of voters they had not reached in the first electoral round, they added new components to their original campaign messages. Humala, in his 197-page "Government Plan" originally presented in 2010, proposed financing for his "Pension 65" program –which postulated a pension for every person above 65 years of age regardless of his/her contribution, or not, to retirement funds– partly through contributions from the private pension system. Another controversial issue was the proposal of a mass media law which would evaluate the contents of TV programs and reregulate the process of distribution of radio licenses. When Humala for the first time led in the polls for the first electoral round at the end of March, it became obvious that these and other positions of the program would not find approval of the courted middle-class voters, and as a consequence he signed a four-page *Compromiso con el Perú* ("Commitment with Peru"), which was a shortened and moderated version of his previous "Government Plan." As a further step of modifying his program, on 13 May, he presented another document, *Lineamientos centrales de política económica y social para un gobierno de concertación nacional* ("Central guidelines for Economic and Social Policy in a Government of National Harmony"), emphasizing topics such as legal stability, respect for private property and cooperation between State and the private sector for improving citizens' life quality.

Fujimori, whose "Government Plan" was less detailed than Humala's, in the course of the campaign equally tried to adopt more moderate positions: she expressed her admiration for former Brazilian President Luiz Inácio "Lula" da Silva –a world personality who had hitherto been seen as Humala's mentor– and promised a government inspired by him and Álvaro Uribe, a former Colombian president. At the same time, she declared her readiness to revisit the issue of taxing multinational mining companies –a topic monopolized by Humala during the first electoral round– and to consider some form of general old-age pension, a proposal very much in line with Humala's request.

During the campaign, Humala appeared to use a ambiguous discourse by presenting different government programs in different occasions and for referring to an eventual fraud without providing

evidence. In turn, *Fuerza 2011* seemed to implement a two-pronged campaign strategy: while Keiko Fujimori, when addressing urban and middle class audiences, denied any role of her father in her campaign, in other regions the picture of Alberto Fujimori was part of her campaign material.

As election day drew near, the issue of respect for human rights and the candidates' past received broad public attention. Humala's actions during the internal armed conflict⁹ were brought out as well as the declarations of Rafael Rey, Keiko Fujimori's candidate for first vice-president, who stated that the controversial sterilizations of 280,000 women¹⁰ under Alberto Fujimori had not happened "against" their will, but just "without" their will. According to political analysts, these statements, in combination with the "*Fujimori Nunca Más*" campaign (see section on Human Rights) and a Catholic Church statement on 26 May¹¹ calling on voters to prevent repetitions of human rights violations, may have led to a shift of a few but decisive numbers of centrists and undecided voters towards Humala.

The National Jury of Elections organized two programmatic debates on TV. The first one was conducted on 22 May between the candidates' teams of advisors: while *Gana Perú* explained its plans for the economy as a consensus formula containing, at the same time, elements of change as well as permitting continuity of the current economic model, *Fuerza 2011*'s team presented a plan which would extend the current model, emphasizing the reduction of poverty indicators and fighting corruption. The second TV debate took place between the two presidential candidates on 29 May. Humala proposed further wealth distribution via broadening the tax base and attacked Keiko Fujimori's role in her father's government. Fujimori stressed the good shape of the country's economy that started with her father's government and the need to improve the efficiency of state services. Both candidates, however, ended up exchanging accusations on corruption and violations of human rights, though finishing the debate with handshakes and hugs.

B. Campaign Finance

Although the law provides for public funding of political organizations represented in Congress, public funding was not available since it was not included in the annual state budget. Private funding came from membership, activities organized by the organisation or donations. However, political organizations cannot receive contributions from state institutions, religious organizations and foreign governments or foreign political parties. The legal framework does not provide for any limit on campaign expenditure.¹²

In general, all political parties reported funding as coming from fund raising activities and direct donations from supporters and businesses, both domestic and foreign. The reporting on campaign financing and spending remains an ongoing process. Upon receipt of reports from political parties, ONPE conducts an analysis to determine the regularity of said reports, and has a period of eight months within which to submit its final report on political party financing and funding.

⁹ Allegations of severe human rights violations in Madre Mía, in 1992. The case against him was shelved.

¹⁰ Mainly poor indigenous country women.

¹¹ The statement "calls upon candidates and voters in order to avoid that antidemocratic conduct, human rights violations, undue nationalizations, corruption (...) be repeated."

¹² Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, and paragraph 19: "Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party."

Funding for campaign activities in some regions was entirely provided by militants and sympathizers, while in other areas financial resources came mainly from headquarters in Lima, which in both cases served as an explanation for the comparatively low level of campaign activities in most of the country. Nevertheless, *Fuerza 2011* seemed to generally feature a higher material level of campaigning, resulting in far more “gifts” distribution, more media ads, professional technical equipment for rallies on trucks and paid staff, apparently due to being financially better endowed¹³ than *Gana Perú*, who relied mainly on unpaid activists.

According to the recent financial statements by *Fuerza 2011*, 88.89 percent of its cash funds during the second presidential round stemmed from individual contributions, followed by 10.92 percent originating from fund-generating activities such as lotteries. Several businessmen and companies appeared among the political organization’s list of sponsors, which, according to the law, was published on the ONPE webpage. *Gana Perú*, on the other hand, had not published, at time of writing, its financial report for the second electoral round, although publication covering campaign funds and expenses during the period from 11 April to 27 May were due by 30 May, and for the period from 28 May to election day by 13 June. The implementation of campaign finance regulations has been questioned by the public, as published figures frequently do not seem to correspond with reality and sometimes they are not even published at all. Moreover, no sanctions are contemplated for non compliance with the submission of financial statements.

VIII. MEDIA

A. Legal Framework

The Peruvian Constitution, article 2.4, guarantees freedom of speech, opinion and information. Besides this article, the Transparency and Access to Public Information Law (27806-2002) and the Radio and Television Law (2004) are the only media legislation in place. The Transparency and Access to Public Information Law was enacted with the goal of “promoting transparency in the acts of the State and regulating the fundamental right to access of information enshrined” in the Constitution. Under the law, citizens can request information from any government institution or private entity that offers public services or performs administrative functions. Under Peru’s 2003 Law of Political Parties, all registered political candidates were guaranteed free airtime on both private and public television. This system is called *franja electoral*. The National Office of Electoral Processes was the body in charge of coordinating the free airtime. The *franja* for the second round of the presidential election was scheduled for 25 May through 3 June 2011. Each political organization had airtime of one minute per day on public and private media broadcasting nationwide between 19:00 hours and 22:00 hours. During the 10 April general elections, TV channels broadcasted the *franja* at different times. For the second round, ONPE decided that candidates would access the free airtime right after the other, *Gana Perú* first and *Fuerza 2011* next. A presidential debate took place on 29 May 2011 and was broadcasted live on several TV and radio stations.

Most media, however, appeared only moderately committed to independent coverage of the political and electoral events. The regional press group *Instituto Prensa y Sociedad* (IPYS) informed the EU EOM about cases of journalists reporting threats and censorship during the last few weeks of the electoral

¹³ The largest single donor of *Fuerza 2011*’s campaign was a metal and mining company, *Empresa Siderúrgica del Perú*, according to financial statements submitted to ONPE.

campaign when tension increasingly grew. The National Association of Journalists (ANP) recorded 82 attacks against journalists during the first four months of 2011, involving harassment and administrative pressures.

B. Media Environment

The media can be divided in two main groups: the *mainstream* national media, centralized in the capital, and the local regional media, which has very limited budget and coverage. All media outlets are privately owned except for two television networks, one radio station and one daily newspaper controlled by the state. State broadcasters are weak in audiences and wide in coverage. Most of them have a national coverage reaching the capitals of the provinces, but not deep into the interior. There are four main groups in the media landscape: *El Comercio* Communication Group (ECO group)¹⁴, *La República* Group¹⁵, *Epena*¹⁶ and *RPP* Group¹⁷. *El Peruano* is the official daily newspaper with a nationwide distribution and claiming to be the oldest newspaper in Latin America. *El Peruano* works side-by-side with *Agencia de Noticias Andina*¹⁸, the main national news agency. *Andina* is one of the main sources of information for the Peruvian media and became a relevant and frequent source about Peruvian events for international media.

Radio is the main means of communication. Community radio stations are widespread and active in the countryside. The Catholic Church has a strong presence with many radio stations scattered all over the territory. *Radio Nacional* is the state-owned radio and covers almost all the country. The main television channels in coverage are the state-owned *TV Perú*, *América Televisión*, *Frecuencia Latina*, *Canal*, *ATV* and *Panamericana Televisión*. There are no government restrictions on access to the Internet. The principal impediment to Internet access is due to a lack of infrastructure.¹⁹

C. Media Monitoring

The issue of the role of the press in the campaign has been a permanent source of controversy during the second round of the presidential election. Media coverage of the electoral campaign was intense, but it focused mostly on candidates' disputes and accusations rather than on political parties programs. The press in general showed clear political tendencies when presenting electoral news, while radio and TV channels carried out a more plural electoral coverage. The verbal confrontation and exchange of accusations between the two candidates, their advisors and supporters, turned sharper and increased in tone and in intensity. According to the civil society organization *Transparencia*²⁰, the tone of the political campaign turned more aggressive compared to the campaign that led to the first round of elections on 10 April 2011. In the heat of the campaign one week before election day, not even family affairs were left out, with harsh incrimination of candidates' relatives in allegedly tax evasion cases and

¹⁴ *El Comercio* Communications Group is the owner of *El Comercio*, *Peru 21*, *Gestión* and *Trome*, all daily newspapers. ECO Group is the publisher of magazines, books and other publications and websites. *El Comercio* is considered the establishment newspaper.

¹⁵ Owner of *La República*, *El Popular* and *Libero* daily newspapers and the magazine *La Actualidad Económica*. *La República* and ECO Group are shareholders of *América Televisión*.

¹⁶ *Epena* is publisher of *Correo*, *Ojo*, *Ajá* and *El Bocón*.

¹⁷ Owner of *RPP Televisión*, *Radio Programas del Perú* (radio news), *Radio Capital*, *Studio 92*, *Oxígeno FM*, *Radio Corazón* and *Radio Felicidad*.

¹⁸ www.andina.com.pe/Espanol/Inicio.aspx

¹⁹ According to the International Telecommunication Union there were 31 Internet users per 100 inhabitants in 2009. See also <http://www.state.gov/g/drl/rls/hrrpt/2010/wha/154516.htm>.

²⁰ www.transparencia.org.pe

denunciations of violations of human rights by family members of both candidates. Civil society organizations and journalists expressed to the EU EOM their concern about a tendentious approach by the media regarding the coverage of the campaign and their favoritism towards one or other candidate. The results of the EU EOM monitoring supported such concerns.

The EU EOM conducted a qualitative and quantitative analysis, as from 10 May 2011, on the coverage of four TV channels (State-owned *TV Perú Canal 7*, *América Televisión (Canal 4)*, *Panamericana Televisión (Canal 5)* and *Frecuencia Latina (Canal 2)*, two radio stations (State-owned *Radio Nacional*, *Radio Programas del Perú RPP*) and five newspapers (State-owned *El Peruano*, *Trome*, *El Comercio*, *La República* and *Perú 21*) with nationwide penetration. The analysis covered two periods: morning (07:00 to 10:00 hours) and prime time (19:00 to 24:00 hours). As a whole, the media offered the electorate a diverse range of political opinions for voters to compare the two options. The results from the exercise revealed a higher distribution of time and space to candidate Ollanta Humala's party *Gana Perú* by the electronic and print media. However, when coverage is compared in terms of positive and negative tone, *Fuerza 2011* had a higher percentage of positive tone. Private channel *América Televisión* allocated 56.9 percent of its electoral-related coverage time to *Gana Perú's* candidate and 43.1 percent to *Fuerza 2011's* contender; *Panamericana Televisión* allotted 53.2 percent to Ollanta Humala and 46.8 percent to Keiko Fujimori, while *Frecuencia Latina's* coverage was more balanced (51 percent to Ollanta Humala and 49 percent to Keiko Fujimori). The state-owned TV channel *TV Perú* gave 46.5 percent of the time monitored to Ollanta Humala, and 53.5 percent to Keiko Fujimori.

Private newspapers were polarized and supported openly either Ollanta Humala or Keiko Fujimori. In turn, the state-owned newspaper *El Peruano* was more neutral in tone and gave 51.2 percent of the space measured by the EU EOM to Ollanta Humala and 48.8 percent to Keiko Fujimori. Out of the five private newspaper monitored by the EU EOM, two (*El Comercio* and *Trome*) allocated more space to Keiko Fujimori. The tone measurement when excluding the newspaper *La República* from the group of five, showed the four newspapers (*El Comercio*, *Trome*, *Perú 21* and *El Peruano*) giving a much higher positive tone to Keiko Fujimori. *La República* alone gave more space to Ollanta Humala and a higher negative tone to Keiko Fujimori.

The state-owned *Radio Nacional* allotted 51.6 percent of its electoral coverage to the *Gana Perú's* candidate and 48.4 percent to *Fuerza 2011's* contender; private *Radio Programas del Perú (RPP)* provided Ollanta Humala 53.2 percent of its electoral coverage time and Keiko Fujimori 46.7 percent.

IX. HUMAN RIGHTS AND WOMEN'S PARTICIPATION

The *Defensoria del Pueblo* (Ombudsman Office) is an autonomous body provided for in the Constitution whose main task is to ensure the respect for the constitutional and fundamental rights of citizens and the duties of the public administration towards its citizens. Citizens may file complaints at their offices and request legal assistance. In case these complaints refer to the electoral process and violations of political rights, the *Defensoria* refers the cases to the appropriate authorities. The *Defensoria del Pueblo* supervised the electoral process mainly in three areas: neutrality and impartiality of the public administration, including misuse of public resources; political participation of vulnerable groups such as elderly people and persons suffering from disabilities and, the performance of the electoral administration bodies. One of the concerns of the *Defensoria* has been the detention of 238 voters during the general elections and at least 85 in the second round of the presidential election that were under arrest warrant for crimes other than election related and who were spotted by the police in the

polling stations and arrested after voting. The electoral law forbids the arrest of citizens during election day except when caught in *flagrante delicto*. Nevertheless, since the Constitution allows for the arrest of any person with an arrest warrant the police have been using the election day and the fact that voting is mandatory to locate these persons.

The *Coordinadora Nacional de Derechos Humanos* (National Coordinator of Human Rights) is an umbrella organization for a number of civil society groups including the *Instituto de Defensa Legal* (Legal Defense Institute). The organization carried out a campaign entitled “*Fujimori Nunca Más*” (Fujimori Never More) that included a clear and open campaign against the candidacy of Keiko Fujimori. They based their position to carry out such campaign and, therefore, getting involved in the electoral process, on the fact that Keiko Fujimori never admitted the human rights violations committed under her father’s rule. Further, they believed that Keiko’s program went against the Constitution in terms of anti-terrorism legislation and death penalty. The organizations were criticized by some media for their involvement in the electoral process. The *Coordinadora* assured that the campaign was not targeted to favor a given candidate, but instead to warn on the dangers of a fallback into the authoritarian system under Alberto Fujimori and human rights violations.

Fundamental freedoms and political rights of citizens are provided for in the Constitution. The political participation of Peruvian citizens of 18 years of age and older, namely their right to vote is ensured by a voter registry considered reliable and inclusive. Also the legal requirements to stand for office are reasonable and non-discriminatory with an inclusivity approach regarding regional and municipal as well as Congressional and Andean parliament lists of candidates. Quotas for participation of specific groups were introduced recently for the regional and municipal elections laws: 30 percent for gender, 20 percent for youth and 15 percent for native communities where they exist. Nevertheless, for Congressional elections, the lack of an ethnic quota may constitute a problem. In spite of the lack of regulations, during the last decade a few Quechua and Aymara leaders entered Congress through parties such as Toledo’s *Peru Posible* and Humala’s *Partido Nacionalista*. Ethnic issues have not played a noticeable role in the electoral process. Voter education material is mostly in Spanish. On the other hand, electoral administration at district level had in a few cases started to use Quechua speakers for the training of indigenous polling staff.

In terms of gender and political participation, the lists of candidates for the Congressional elections had to respect the gender quota of 30 percent. Female presence in the new Congress decreased from 29 percent in 2006, to 22.3 percent in 2011. Keiko Fujimori was the first woman in Peruvian history to participate in a second round of a presidential election, and Ollanta Humala ran with a woman, Marisol Espinoza, as candidate for vice-president. Women, however, were still under-represented among the higher strata of political activism, more so in rural and indigenous areas despite constituting more than 50 percent of the electorate. In urban areas the percentage of female party agents was close to 50 percent. On the other hand, in most regions women were evenly represented as men in the structures of the electoral management bodies, as well as in the polling stations, and could be found as majority in regions like Puno, where 85 percent of the Special Electoral Juries (JEE) inspectors were women.

X. COMPLAINTS AND APPEALS

A. Electoral Offenses

Electoral offenses are established in articles 382 to 392 of the law governing the presidential and National Congress elections no. 26859. Electoral offenses are under the responsibility of the Public

Prosecution office and judicial courts, the court of first instance, or *Juzgados de Primera Instancia*. Electoral offenses foreseen in law include, *inter alia*, the violation of the secrecy of the vote, active participation of the Armed Forces or Police in political events, electoral corruption, disruption of voting process, impediments to the freedom of assembly, misuse of public position, campaigning within the 48 hours moratorium, and destruction of campaign material.

B. Complaints and Appeals

The National Jury of Elections (JNE) and its Special Electoral Juries, *Jurados Electorales Especiales* (JEEs), are the competent organs to deal with complaints and appeals regarding decisions of the election administration as well as any complaint or challenge related to the electoral process. In conformity with international principles,²¹ the JEE decision may be appealed to the National Jury of Elections. Complaints regarding voting and counting may be filed at polling stations and their decision may be appealed before the JEEs whose decisions, in these cases, are final. Also, decisions regarding “observed” results forms (forms with irregularities) at tabulation are taken by the JEE.

The JNE functions as an electoral court and it is a constitutionally autonomous body responsible for dealing with electoral complaints and appeals, for the registration of political parties as well as for the proclamation of official election results in addition to supervising the electoral process. The JNE is a permanent body whose *plenum* is composed of five members with a four-year mandate. The president is elected among High Court judges whereas the remaining four members are elected by the Lawyers Bar, the High Auditors Junta, and two deans from the law schools of public and private universities. The Special Electoral Juries are established at lower levels during electoral processes to deal with complaints as well as to supervise the work of the Decentralized Offices of Electoral Processes (ODPEs). Each JEE is comprised of three members, one of which is a judge in the electoral circumscription. The other two members are designated by public lot from a list of 25 registered voters residing in the area elaborated by a commission of three members of the Public Prosecution Office. Decisions are taken through positive voting of two members. The JNE has recently submitted a bill to Congress proposing that the two remaining members had also a legal background.

In general, the mechanisms to address complaints and appeals provide the possibility for aggrieved parties to seek a timely and legal remedy as complaints are generally dealt in an expedite manner. The JEEs have not only a passive role but also a pro-active attitude in the sense that its monitors are deployed in the field and the institution itself has *ex officio* powers, therefore cases and investigations may be initiated without the need of a preceding complaint. The JEEs received a considerable number of cases throughout the electoral process meaning that such mechanism was accessible to aggrieved parties and was considered the preferred mechanism. The JEEs received 3,985 cases regarding state electoral advertising (776), neutrality of public officials (85) and electoral campaign (3,124). Of these 3,985 cases only 104 were appealed to the National Jury of Elections (JNE). Also there were 141 challenges to the selection of polling station staff filed at the JEEs.

The National Jury of Elections (JNE) and the JEEs received a number of complaints from both campaigns on different grounds. Two of the cases were highly publicized. The first case was referred to the JNE by the Organization of American States Election Observation Mission (OAS EOM) and consisted of a copy

²¹ See article 2 of the ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20: “There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.”

of a complaint from *Gana Perú* addressed to the OAS EOM Chief of Mission and to the Inter-American Commission on Human Rights. *Gana Perú* requested that these two entities express their concerns regarding the electoral process for the Peruvian state to respect the fundamental right of political participation in genuine, free and transparent elections in equal terms without discrimination and impartiality. As neither the OAS nor the Inter-American Commission on Human Rights have jurisdiction over such case, at least until the internal means of conflict resolution are exhausted, *Gana Perú* submitted an official complaint to the JNE on 2 June. It claimed that the Peruvian state had a partial and unequal conduct that affected the fairness of the presidential election to detriment of *Gana Perú*'s interests. The JNE considered that the allegations were unfounded.

The second case involved a high-rated TV program presented by journalist Jaime Bayly in *Canal 4* filed by a consumers association and not *Gana Perú* or its presidential candidate. In the program, Jaime Bayly openly criticized and allegedly defamed Ollanta Humala without giving the candidate the right to respond to the accusations. The JNE referred the case to the Public Prosecution office as it considered the case of a criminal nature involving the conduct of a specific journalist and not the channel itself.

XI. ELECTION DAY

A. Opening and Voting

Election day was peaceful and orderly. The majority of polling stations observed were operational within one hour of the established opening time (08:00 hrs). However, most of them experienced late arrivals or no show of its main members, who were replaced by reserve members and, in some cases, by voters in line. The late start, however, did not hamper the smooth flow of voters –facilitated by the relatively small number of assigned voters per polling station– and voters were able to freely exercise their franchise. Voting procedures were applied evenly across the country as voters presented valid identification, signed the voter register and had their fingers marked with indelible ink after voting. Throughout the process, the secrecy of vote was respected in a well-designed layout of the polling stations and the elderly, pregnant women and challenged voters were given priority. ONPE assistants (coordinators) were of extreme importance in providing assistance and clarifications to polling staff through the voting process. Overall, the EU EOM observers rated the voting process as either “good” or “satisfactory” in the vast majority of polling stations observed. Candidates’ agents (*personeros*) were present in 91 percent of observed polling stations, with *Fuerza 2011* in 80 percent and *Gana Perú* in 87 percent.

ONPE also ran an electronic voting pilot project involving 1,354 voters in a semi-rural zone, Pacarán (Cañete Province, Department of Lima) who were trained before election day and voted exclusively by electronic means in the second round. The voting machines were developed in Peru. Voting was carried out smoothly in the presence of electoral officials and observers. Trainers assisted the voters with the procedures and the voting machines. The results will serve as the basis for a study on the implementation of electronic voting in all polling stations across the country.

Despite the ODPEs efforts to reach isolated populations by installing polling stations in remote areas, there were reports of voters having to travel distances up to 30 kilometers (Piura and Morropón Provinces), or walk up to eight hours (El Faique District, Huancabamba, Piura) or up to two days (Frías and Pacaipampa Districts, Ayabaca, Piura). Other examples of distant polling stations can be found in the provinces of Maynas, Ramon Castilla, Requena, Ucayali, and in the departments of Junín, Pasco and

Huancavelica. According to the ODPEs, this situation is due to infrastructure problems and difficulties to transport election materials and election officials to such areas. In addition, ONPE claimed these areas had no appropriate buildings and lack electricity and communication and adequate security. Considering that vote is mandatory and that there is an applicable sanction for persons who do not cast their vote, the electoral authorities should consider new efforts to provide these populations with adequate conditions to comply with their right and obligation to vote.

Examples of long distance polling stations observed by EU EOM:

District	Province	Department
El Faique	Huancabamba	Piura
Frías	Ayabaca	Piura
Pacaipampa	Ayabaca	Piura
Bolívar	La Libertad	La Libertad
Gran Chimú	La Libertad	La Libertad
La Pataz	Sanchez Carrion	Ancash
Manuel Clavero	Maynas	Loreto
Soplin Vargas	Maynas	Loreto
Torres Causana	Maynas	Loreto
Cabo Pantoja	Maynas	Loreto
Putumayo	Maynas	Loreto
Alto Nanay	Maynas	Loreto
Santa Teresa	Ramon Castilla	Loreto
Yaquerana	Requena	Loreto
Sotlin	Requena	Loreto
Alta Tapiche	Requena	Loreto
Pampa Hermosa	Ucayali	Loreto
Padre Marquez	Ucayali	Loreto
Santo Domingo de Acobamba	Huancayo	Junin
Pariahuanca	Huancayo	Junin
Andamarca	Concepcion	Junin
Comas	Concepcion	Junin
Río Ene	Satipo	Junin
Puzuso	Oxapampa	Pasco
Huando	Huancavelica	Huancavelica
Palca	Huancavelica	Huancavelica

B. Closing and Counting

Closing and counting was carried out in a transparent and organized manner. The EU EOM observers assessed the counting process as “good” or “satisfactory” in most of polling stations observed. Despite the restrictive interpretation of the validity of the vote, there was little discrepancy among polling station staff when classifying votes as valid or invalid. *Personeros* signed copies of the results forms in 85.7 percent of the polling stations visited by the EU EOM. ONPE coordinators of polling centers were of extreme importance in providing assistance and clarifications to polling staff during counting. For the

second round, the process was simpler if compared to the first round for being a single election with only two candidates, facilitating the voting and counting procedure as well as the aggregation of results.

XII. RESULTS AND POST ELECTION ENVIRONMENT

A. Announcement of Results

The head of ONPE, Magdalena Chu Villanueva, announced the first provisional presidential results based on 75 percent of the country's polling stations at 22:00 hours on election day, 5 June. These initial provisional results showed *Gana Peru's* candidate, Ollanta Humala, in first place with a difference of 0.2 percent over *Fuerza 2011's* Keiko Fujimori. In a less positive move, ONPE did not plan for a second announcement the same day and referred to its website for updated results every two hours. Civil society played an important role to strengthen the credibility of the electoral process on election day. The domestic observer group *Transparencia* carried out a "quick count" with a sample of 1,086 polling stations. ONPE's final results were very close to the "quick count" results announced by *Transparencia* giving Ollanta Humala 51,5 percent and Keiko Fujimori 48,5 percent. The final results, with 100 percent of the *actas* (results forms) processed and tabulated, were announced on 15 June 2011, as follow:

General Elections 2011– Second Round of the Presidential Election					
RESULTS BY POLITICAL ORGANIZATION					
% of processed results forms: 100.000%			% of aggregated results forms: 100.000%		
Political Organization			Votes	% Valid Votes	
		GANA PERU	7,937,704	51.449 %	
		FUERZA 2011	7,490,647	48.551 %	

Source: ONPE

B. Consolidation of Results at ONPE and ODPEs

According to the EU EOM observers, the aggregation centers were well organized and the ODPE staff managed the process efficiently. *Personeros* of the two political organizations were present in 81.8 percent of aggregation centers visited. The system for the transmission of results implemented for the second round of the presidential election was the same used previously for the general elections. After counting, result forms were transported to the 57 aggregation centers (56 plus the out-of-country voting aggregation center). Results were entered twice in the system using a "double blind entry" and sent to the consolidation center in the capital, Lima, using a special dedicated line ("*línea dedicada*") with different levels of encryption. The system was regarded to be safe and suitable and no concerns were raised regarding its reliability.

Forms that presented errors or irregularities were classified as 'observed' and verified by the JEEs. Once reviewed and validated the election results form was again entered into the system and sent to the ONPE consolidation center. The percentage of *actas observadas* reached four percent, due mostly to missing signatures and minor errors. However, the JEEs dealt with the observed results forms in an

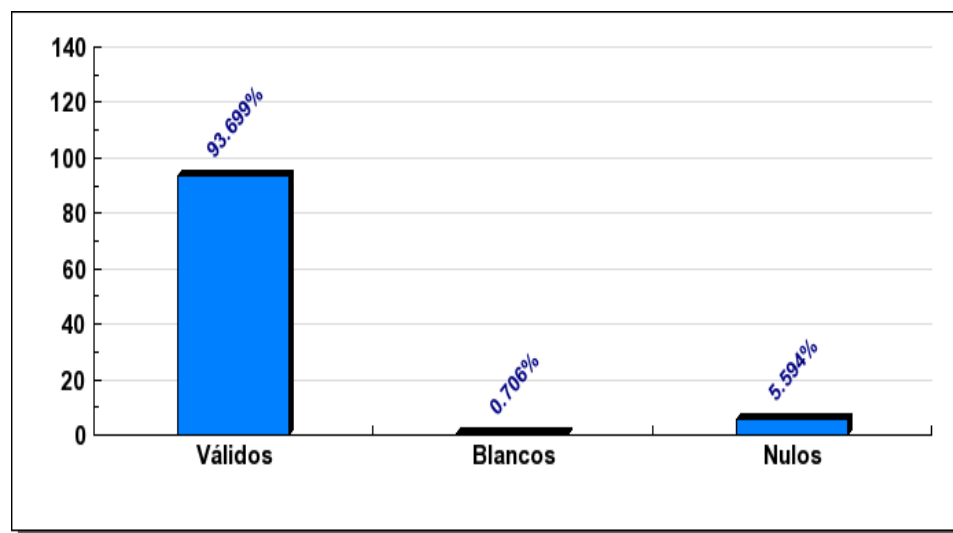
expedite manner thus reducing their number and speeding up the aggregation process. JEEs declared 604 results forms as invalid due to missing signatures and missing data. Further, 13 polling stations could not open abroad mainly due to absence of polling station staff. Blank and invalid votes corresponded to 6.3 percent, a decrease from the first round when they represented 11 percent of the presidential votes.

In terms of voter participation, the turnout was 82.5 percent, meaning that 17.45 percent of registered voters did not participate despite voting being mandatory. Some of the reasons that could explain this absenteeism might be: a) the number of deceased people in the voters' register; b) the absence of penalties for the out-of-country voting; c) the absence of "*mesas de transeuntes*" providing the possibility for people to vote in a place different from where they were registered; d) the cost of transportation from isolated places to the polling station that could be more expensive than the fine for not voting.

General Elections 2011 - Second Round of the Presidential Election

VALID, BLANC AND INVALID VOTES

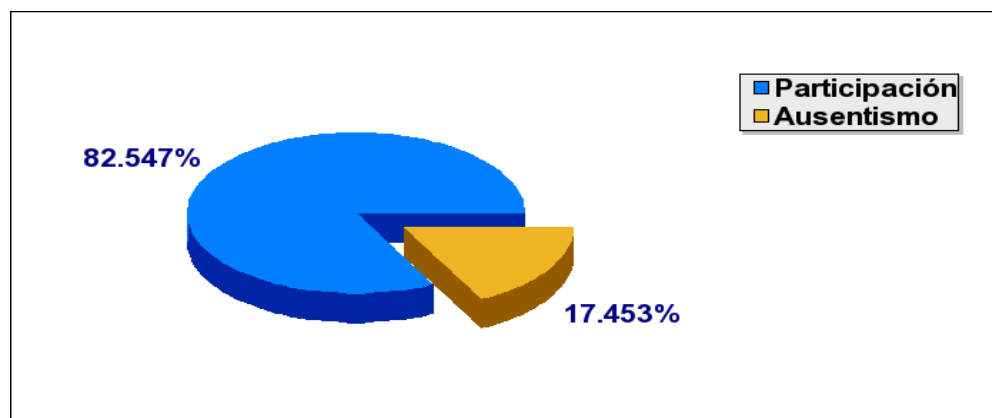
% of processed results forms: 100.000% % of aggregated results forms: 99.987%



Source: ONPE

Votos Válidos		Votos Blancos		Votos Nulos		Total
%	Votos	%	Votos	%	Votos	%
100.000%	15,428,351	0.706%	116,335	5.598%	921,711	
	100.000%		16,466,397			

PARTICIPATION AND ABSEENTISM



PARTICIPATION		ABSEENTISM		TOTAL	
Total	%	Total	%	Total	%
Asistentes	Asistentes	Ausentes	Ausentes	Electores Hábiles	% Total
16,463,741	82.547%	3,480,924	17.453%	19,944,665	100.000%

Source: ONPE

C. Out-of-Country Voting

The 754,154 registered voters abroad represented almost four percent of the total electorate and were distributed in 3,935 polling stations in five continents with consular services. Voting abroad presented weak points during the 10 April general elections, mainly in the consulates of New York and Madrid where 45 polling stations did not open and many polling station staff did not show up on election day. No standard operating procedures existed for consulates to carry out their electoral tasks and results forms were handed over to the aggregation center in Lima personally by the Consuls who travelled to Peru. In face to these antecedents and the tight margin between the two candidates in voters' preferences²², the EU EOM expressed its concern to the authorities about possible delays in the tabulation process for the out of country voting. Then, for the second round, ONPE authorized the scanning of results forms and the electronic transmission from all consulates to expedite the process. The EU EOM observed the entire process of transmission of the scanned election result forms to the Ministry of Foreign Affairs, in Lima.

The aggregation process for the out-of-country voting was managed by the Ministry of Foreign Affairs and the ODPE's Lima aggregation center. Results forms were processed efficiently and in a transparent manner, according to EU EOM observers. The ministry received all scanned results forms by e-mail from the consulates. The copies were sealed with a plastic sticker over the results boxes as a security measure to avoid tampering. The copies were then signed by the minister for consular policy and sent to the aggregation center to be entered in the system. At the aggregation center, hard copies of the results forms brought by the consuls were cross-checked against the soft copies received by e-mail. The ministry processed 3,922 results forms as 13 polling stations could not open: one in Jakarta, other in

²² The polls showed a very narrow difference between candidates which might be eventually decided by the out-of-country vote.

Munich, one in Ankara, Skopje, Chicago and Atlanta, and three in Paterson, two in Miami, Helsinki and Tokyo. The turnout in the first round was 54 percent whereas around 72 percent of voters abroad cast their ballot for the second presidential election. The number of polling stations that did not open during the general elections was higher, 45 polling stations compared to the 13 uninstalled for the second round, which certainly contributed to an increase of the turnout. *Fuerza 2011* obtained 70.1 percent of the valid votes and *Gana Peru* 29.8 percent. Although voting is also mandatory for out-of-country voters, fines do not apply.

D. Post-Election Environment

Keiko Fujimori obtained a majority of votes in six out of the 24 regions of the country and the constitutional province of Callao: Lima, Callao, La Libertad, Lambayeque, Piura, Tumbes, or in most of the central and northern coastal regions of the country. Additionally, she attracted important parts of the vote in the regions of Cajamarca, San Martín, Pasco, Ica and Ucayali. Ollanta Humala, on the other hand, gained wide support in the south of the country, but he was also victorious in areas where his political organization had not been strong in the past. Although the core of *Gana Perú's* votes stemmed from the southern regions (Puno, Cusco, Ayacucho, Tacna and Huancavelica, where he won more than 70 percent of the votes), Humala also won in the Amazon basin regions and obtained important percentages of the vote in the northern coastal regions, former *Partido Aprista* bastions. Additionally, *Gana Perú* improved its vote share in the Lima area, which accounts for roughly one third of the country's votes, by almost 4.5 points when compared to 2006. The fact that he was more successful in urban areas along the country's coast than in his 2006 attempt for the presidency proved to be decisive for his victory.

Polls showed that the greatest concentration of Fujimori voters was among urban, better-educated and high-income segments of the population, especially among young voters and females, while Humala voters were mostly men, elderly, poorly-educated and under-paid citizens and inhabitants of rural areas. The relation between the poverty index of given areas and Humala's electoral success in the first electoral round was obvious since he won in 80 percent of the poorest provinces of the country.²³

XIII. RECOMMENDATIONS

Without prejudice to the good administration of the elections and the high transparency of the electoral process and good conditions for choice and competition, the European Union Election Observation Mission proposes the following recommendations for analysis and consideration by ONPE and the JNE, the National Congress, the government of Peru and national and international stakeholders:

Legal framework

In order to prevent the practical implementation of the legal framework from deviating from the international commitments for democratic elections subscribed by Peru, and to enhance the independence of the electoral administration bodies:

²³ See graphic in Annexes. The respective graphic for the second round is less illustrative, as Humala won in more than 90 percent of the country's total area.

1. The new Congress should take into consideration the draft electoral code being prepared by the JNE which addresses a number of provisions that are currently inadequate. These include a need for more comprehensive provisions regulating political party alliances, a more inclusive interpretation of the validity of a vote, new deadlines for registering political parties whose acceptance process at the moment may overlap with the deadlines for registering candidates, overlap of the competencies of the National Jury of Elections (JNE) and the National Office of Electoral Processes (ONPE) and procedures to be followed corresponding to provisions already foreseen in the law but whose procedures are lacking such as complaints' proceedings regarding partiality of the media during electoral campaign.
2. The legal framework related to campaign finances could be improved with the establishment of clear rules and transparent obligations for candidates and political organizations, enforcement powers and credible sanctions.

a. Electoral Administration

To enhance the electoral process by simplifying and speeding the voting and closing processes and to bring voting closer to the remote areas reality:

3. ONPE could consider eliminating the sealing of the ballot papers in order to avoid unnecessary delays in the counting process.
4. It would be advisable to provide polling station staff with financial incentives to reduce absenteeism and subsequent late opening of polling stations and replacement of absent members by untrained staff.
5. It would be advisable to avoid the public announcement of exit polls on election day to eliminate eventual false expectations and potential unrest.
6. The EU EOM encourages the efforts to reduce the number of result forms to be filled in by the polling station members.
7. The electoral law provides that JEEs and ODPEs should be located in the same building. In practice, these electoral bodies choose to house themselves separately. It would be advisable that at least for the aggregation of results the ODPEs and JEEs are located in the same premises so that "observed" results forms are dealt with in an expedite manner.
8. "Early voting" could be introduced to allow voters who are working on election day and on the election itself, such as police and armed forces, journalists and observers, to cast their ballot.
9. Specific regulations and procedures should be adopted for the out of country voting. The electoral institutions should better control the process by sending election officials to organize and support diplomatic staff in their election related tasks.
10. In remote areas, the electoral institutions could consider either establishing polling stations closer to voters, even if they have a reduced number of voters, or the possibility of mobile

polling stations to avoid that voters walk or travel long distances and to bring voting, being mandatory, closer to the voter.

b. Media

In order to enable the media to provide the public with balanced information:

11. The media should increase its efforts to provide voters with complete and detailed information on political parties' programs. The media should also be committed to their formative role and responsibility to provide enough information to help voters to cast their vote in an informed way.
12. The media must clearly distinguish between opinion and information. Expressing political preferences outside of opinion columns, even in the private media, is against basic rules of journalism and democratic principles.
13. A media code of conduct could be considered for electoral periods, discussed and agreed upon among all stakeholders. Impartiality is a specific mandate enshrined in the Radio and Television law (N.28278) and of exacting professional journalistic standards. Therefore, the media could consider adopting self-regulatory measures to avoid the excessive bias with which it covered, in the majority of cases, the election campaign.
14. Insufficiently detailed media-related provisions of the election law should be clarified in consultation with journalists, editors and social communicators in order to make the regulatory framework more effective and enforceable. The regulatory framework could be further enhanced by establishing a more effective mechanism to ensure compliance with and enforcement of media regulations.
15. Conditions for freedom of speech and equitable access to the media could be improved by the creation of an independent regulatory authority with statutory powers which could deal satisfactorily with complaints during an election period. Such a body should be adequately funded from a variety of sources (NGOs, media organizations, international donors) while safeguarding its independence.
16. New instruments should be introduced to set out the mandate and responsibilities of state owned broadcasters, and their independence. The public media law project announced in the third complementary disposition of the Radio and Television Law and elaborated by the Radio and Television Advisory Council (CONCORTV) should be discussed by Congress. Such a law would improve the existing regulations on public media, currently insufficiently detailed.
