

## **Background**

On August 14, 2013, the Secretary General of the Organization of American States (OAS), José Miguel Insulza, received an invitation from El Salvador's Supreme Electoral Tribunal (TSE) to deploy an Electoral Observation Mission (EOM) for the elections being held on February 2, 2014, to choose the President and Vice President of the Republic, whose term would run from June 1, 2014, to June 1, 2019.

The Secretary General, in turn, asked Dr. Gustavo Fernández Saavedra, former Foreign Minister of Bolivia, to assume the leadership of this Electoral Observation Mission.

Five political organizations competed in these elections: the Alianza Republicana Nacionalista (ARENA), the Frente Farabundo Martí para la Liberación Nacional (FMLN), the Movimiento UNIDAD coalition, the Partido Salvadoreño Progresista (PSP), and the Fraternidad Patriótica Salvadoreña (FPS).

After none of the candidates reached the minimum required by the Constitution of El Salvador—50 percent of valid votes cast—a second round of voting was held, which took place on March 9, 2014. This contest was between the candidates of the FMLN, Salvador Sánchez Cerén and Oscar Ortiz, and those of the ARENA party, Norman Quijano and René Portillo Cuadra, the presidential tickets that had come in first and second, respectively.

The election was preceded by a series of political and electoral reforms which placed emphasis on broadening spheres of participation and looked at ways to expand the political system. For the first time, the possibility was provided for Salvadorians living abroad to exercise their right to vote through a vote-by-mail system. The country's residential voting system was completed and implemented 100 percent, in order to bring the ballot box closer to the voters, so citizens could vote near their place of usual residence. A new electoral code was enacted in 2013 to systematize scattered election laws and, among other things, to regulate the jurisdictional functions of the Supreme Electoral Tribunal, which had previously lacked a procedural framework to exercise its responsibilities in this area. Finally, a new law on political parties entered into effect.

## **First Round**

### ***Pre-Electoral Period***

The Electoral Observation Mission began its work in the country with a preliminary visit led by the Chief of Mission, which took place December 2-5, 2013. The visit aimed to gather information on logistical and organizational aspects of the process, observe the political climate in which the election campaign was unfolding, and exchange impressions with the main players involved in the contest. To this end, the

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<sup>1</sup> Presentation to the Permanent Council of the Organization of American States on April 9, 2014 (original in Spanish)

OAS/EOM held meetings with the Supreme Electoral Tribunal, the Ministry of Foreign Affairs, the five parties participating in the presidential elections, and civil society organizations.

In the first round, the Electoral Observation Mission was made up of 62 people from 21 OAS member and observer countries, of which 42 percent were women and 58 percent men. The Mission's core group included various specialists in areas such as electoral organization, electoral technology, statistics, political analysis, and political financing, among others, and the field deployment enabled observers to be present in all 14 of the country's departments.

The political and electoral context of the election—aside from the positive assessment of certain reforms mentioned above—was marked by a series of circumstances and incidents that were of concern to some political organizations. These included: claims of unconstitutionality brought against some candidates; the resignation of one of the TSE judges from the ranks of the political party that had nominated him; the alleged participation and intervention of gangs in the electoral process; the role of the Constitutional Chamber of the Supreme Court, the General Prosecutor's Office, and the Human Rights Ombudsman in the electoral process; corruption cases involving a former President; and the participation of the President of the Republic in the election campaign.

From a technical-electoral standpoint, there were no major concerns or situations that might prevent the elections from being successfully carried out. However, there was consensus that the electoral rolls had not been properly purged so as to reliably indicate the citizens who were eligible to vote.

### ***Election Day***

The first round of the presidential election, held on Sunday, February 2, 2014, took place in a satisfactory manner, in a peaceful atmosphere, without any serious incidents that would tarnish it or diminish its quality. Despite concerns over allegations that gangs (*maras*) were intervening by pressuring voters, no violence was reported or incidents that would suggest widespread coercion. Only marginally did EOM observers witness episodes of voter intimidation or threats. Citizens went to vote in an orderly fashion, in an atmosphere of respect and calm. In general, they had all the necessary guarantees to vote freely and in secret.

The massive presence of party representatives was noteworthy. ARENA and the FMLN accredited representatives at all the polling places observed, while members of UNIDAD covered 88 percent of the polling places. The presence of the other parties was sporadic.

The polls closed without incident. The vote count, on average, took less than an hour and a half. Members of the polling stations worked in a friendly atmosphere, overcoming their differences and the political polarization.

The transmission of preliminary election results was satisfactory and expeditious. The TSE's website started to post data shortly after the polls closed, and it quickly accumulated a significant number of polling station tallies. At 8 p.m., it had processed more than half the tally sheets (55.3 percent), with data showing an irreversible trend and a sufficiently stable sample. By the early hours of Monday, February 3, 99 percent of the tally sheets had been processed.

Participation in the first presidential round of 2014 was 55.3 percent, below that of the 2009 presidential election.

OAS observers visited 395 voting centers throughout the country. In terms of their overall assessment, 38 percent characterized the day of the election as excellent, 60 percent as good, and only 2 percent as poor. During the first round, the EOM received a total of 19 complaints on various matters.

Given that none of the contenders received an absolute majority of validly cast votes, a second round was scheduled for March 9, 2014. The FMLN and ARENA presidential tickets participated, having obtained 48.93 percent and 38.96 percent of votes, respectively, in the first round.

## **Second Round**

### ***Pre-Electoral Period***

Before the second round, the Mission deployed a mobile group that visited the country's 14 departments to observe the evolution and organization of the electoral process, as well as to collect information on the campaign and the electoral contest in advance of this second round of voting.

There were two factors that both parties consistently reported to the mobile group in the second round: the participation of public officials, belonging to both parties, in the election campaign, in contravention of a prohibition imposed by the Supreme Court's Constitutional Chamber, as well as situations related to the Single Identity Document (Documento Único de Identidad, DUI). The observers reported that, in fact, both parties took steps to support their followers in obtaining, replacing, and renewing those documents.

In the week before the second round, the DUI Centers extended the hours in which they were open to the public. Of special note are the efforts made by National Registry of Individuals and the company in charge of issuing Single Identity Documents to address the high demand by Salvadorian citizens to obtain or replace this document.

In the second round, the OAS/EOM was made up of 75 observers—47 percent women and 53 percent men—from 21 OAS member and observer states.

### ***Election Day***

As with the first round, the second round of the presidential election—held Sunday, March 9, 2014—was carried out in a satisfactory manner, in a peaceful atmosphere, and even showed operational improvements as a result of adjustments made by the TSE.

Just as in the first round, all polling stations were opened, and an atmosphere of respect and calm was maintained throughout the day. Voters had the guarantees they needed to exercise their right to vote freely and in secret, with minor restrictions found in some of the polling stations observed. There were no indications of vote-buying. ARENA and the FMLN had poll watchers at all the polling stations.

The polling stations closed without incident. The vote count lasted, on average, something over an hour, less time than in the first round. The transmission of preliminary electoral results, as with the first round, was satisfactory and expeditious. At 10 p.m., more than 99 percent of the tally sheets had been processed, a clear advance from the first round. The smooth transmission of results helped to calm an

atmosphere that had become tense and strained due to the minuscule difference between the candidates.

Voter turnout increased for the second round, and was 60.8 percent of those registered and of the 73 percent of Salvadorians over 18 years old, when compared with the population census.

On March 9, OAS observers visited a total 549 polling centers, 154 more than in the first round, which meant they went to more than one third of the polling stations in operation. In 52 percent of cases, they characterized the day of the election as very good and in 46 percent as good, while only 2 percent characterized it as poor. The figures marked an improvement over the first round. In this second round, a total of 57 complaints were received and were passed on to the TSE. These referred primarily to advertising or incitement to vote, issues involving the voter rolls, and some problems at the polling stations.

### ***Post-Electoral Period***

Due to the narrow margin of results, which made it impossible to project the winning ticket based on the preliminary vote count, it was necessary to wait for the final vote count to proceed. On Tuesday, March 11, the 23 working groups set up for this process began to carry out the count, tally sheet by tally sheet, as established under Salvadorian law. The working groups were made up of the Departmental Electoral Boards from around the country, delegates from the Office of the General Prosecutor of the Republic, and representatives of the competing political parties. Delegates from the Human Rights Ombudsman's Office and the Electoral Monitoring Board also participated, exercising the right of oversight recognized in the Electoral Code.

The OAS/EOM observed that all the working groups began their activities without major incident. On the afternoon of that same day, the ARENA party withdrew all its representatives from the working groups and halted the final vote count, a decision the party amended when it showed up again the following morning, Wednesday, March 12. It was observed that the ARENA party was able to check and if necessary correct the data that had been processed the day before, when it was not present in the working groups.

The final scrutiny of 100 percent of the tally sheets from all polling stations across the country was completed on Thursday, March 13, at 12:15 a.m., and as a result the final vote count from the second round was certified and the election winner formally declared.

The Frente Farabundo Martí para la Liberación Nacional obtained 1,495,815 votes, which represented 50.11 percent of valid votes cast. For its part, the Alianza Republicana Nacionalista ticket received 1,489,451 votes, which represented 49.89 percent of valid votes cast.

The ARENA party filed various appeals, both for annulment of the election and annulment of the final vote count; these were definitively rejected by the electoral body. The OAS/EOM witnessed these proceedings. In addition, both the ARENA party and other individuals lodged appeals for the consideration of the Constitutional Chamber of the Supreme Court.

Once all legal options had been exhausted, the Supreme Electoral Tribunal proceeded to definitively declare the results of the election on Sunday, March 23, proclaiming Salvador Sánchez Cerén and Oscar

Ortiz to be President and Vice President of the Republic, respectively, for the five-year term beginning June 1, 2014.

### ***Conclusions and Recommendations***

The electoral process for the 2014 presidential election—which was observed by the EOM—was conducted professionally from an organizational and technical standpoint, and no major problems tarnished the successful work carried out by a very experienced electoral body.

The EOM recorded no evidence of electoral fraud. It must, by contrast, note the substantial improvement in the electoral process with the approval of the new Electoral Code and a new Law on Political Parties; the full introduction of residential voting; voting abroad; the eligibility of police officers to vote; the improvement in conditions in the voting centers; efforts to facilitate voting for persons with disabilities; the training of members of the polling stations; and, above all, with the publication of tally sheets and the data transmission system.

In any case, the OAS/EOM believes it is appropriate to suggest to the Salvadorian authorities that they consider some issues that are particularly important for the improvement of the country's electoral system, in the spirit of continuing the fruitful relationship of institutional cooperation. Following are the most important issues.

#### ***Residential Voting***

The complete implementation of residential voting (one of the main recommendations made by the 2009 EOM) is one of the strong points of El Salvador's electoral system in 2014. It is important for the TSE to evaluate the results in detail and give consideration to the complaints that were made—such as the improper assignment of some citizens to polling stations that were far from their homes—so as to iron out distribution in future elections.

#### ***Voting Abroad***

Overall, the result of the first test was positive, though not without difficulties. The main future challenge with regard to voting abroad is how to expand it. This can be done along three lines: by analyzing the advisability of making the requirements for registering abroad more flexible; expanding coverage in the United States, the main destination for Salvadorian emigrants; and making a more consistent effort in other countries so that Salvadorians turn out to register and then vote.

#### ***Extension of Jurisdictional Duties***

The TSE exercised a new role in the Salvadorian elections: It received complaints, processed them in oral public hearings with arguments from the parties, resolved them, and imposed sanctions as needed. In the future, it is recommended that the TSE work closely with the political parties on the features of the mechanism to formulate and process complaints. Some of the cases ended up with sanctions, with the suspension of advertising, and with penalties of an economic nature. In any case, it seems appropriate to revise—upward—the amounts of the financial penalties imposed.

#### ***Jurisdictional Election Responsibilities***

The participation of the Supreme Electoral Tribunal and the Supreme Court in election-related legal matters is a positive sign that points to institutional vigor, the independence of institutions, and the existence of weights and counterweights that contribute to a healthy democracy in El Salvador. However, it would seem to be important to precisely define the scope of each jurisdiction, to prevent the emergence of institutional conflicts that could trigger tensions among the branches of government.

#### Regulation of Election Advertising

It is necessary to better regulate election-related advertising to prevent the tensions that arose both in the period leading up to the elections as well as during the electoral period itself. Along these lines, it is particularly important to prevent the repeated and in some cases excessive participation by high-level government authorities in the ruling party's campaign.

#### Financing

El Salvador maintains a mixed financing system, the most common type in Latin America, with a combination of public and private funds. Compared with 2009, the very lax legislation that had been in place was reformed in the right direction. However, serious shortcomings remain in the application of accountability, oversight of accounts, and, should the case arise, sanctions. These shortcomings must be addressed to strengthen transparency and fairness.

#### Purging of Voter Lists

An institutional effort must be made to address the issue of purging lists, in order to find mechanisms or reforms that make it possible to maintain a proper electoral roll that serves as a reliable source for creating a voter registry that more accurately reflects the list of citizens eligible to vote.

#### Structure and Composition of the Electoral Body

In 2009 the OAS cautioned about the risks implied in maintaining the TSE's partisan structure, defined in the context of the Peace Agreements, to prevent similar problems as those seen in this election, in which one party felt it was at a disadvantage due to the resignation from its ranks of the judge who had originally represented the party. This change can take the form of a structure that leaves the administration of the process in the hands of a multi-party body and confers responsibility for electoral justice on a body that has no party ties. Alternatively, if a single structure is preserved, the partisan composition could be set aside to adopt a more independent or non-partisan structure.

El Salvador's society and political system are ready for a change in this direction. This would, of course, involve a medium-term process, as it would have to be adjusted in line with the mechanisms of constitutional reform, but this time could be used to generate a broad and pluralistic debate on the issue, as well as an educational effort on the implications and scope of this reform.

#### The Single Identity Document (DUI)

The legal impossibility of exercising the right to vote without a valid Single Identity Document meant that a number of people, estimated at more than 500,000, were unable to vote, as their document had expired. While many documents may belong to deceased individuals or emigrants, a significant percentage belong to residents of El Salvador. It is important to address this situation to prevent

exclusion and encourage participation, particularly of the most vulnerable segments of society, who find it harder to come up with the payment required to renew or replace the identity document.

### **Recognition and Appreciation**

In wrapping up its field work, the OAS/EOM recognizes the official results announced by the TSE on March 25 as the final expression of a process that followed Salvadorian law and international practices, on which the EOM bases its observation. It invites citizens and institutions to learn from this process so as to continue and expand the improvements in the electoral process and the democratic system they have built with so much sacrifice over these last two decades.

The Mission would like to place on record the good judgment and seriousness with which Salvadorian society, the candidates, political parties, and institutions managed—with strict adherence to the law—the political and social implications that could have come from a very close election result.

The Electoral Observation Mission would like to thank the Supreme Electoral Tribunal for its collaboration and for making it possible for our observers to properly carry out the work they were called on to do. It also thanks the candidates, party representatives, and various institutions in El Salvador for the cooperation and openness that were conducive to our being able to properly carry out our duties.

Finally, the Mission appreciates the financial cooperation of Bolivia, Chile, Spain, the United States, France, Israel, Italy, and Luxembourg, which made it possible to carry out the Electoral Observation Mission for the 2014 presidential elections in El Salvador.

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