

MEXICO

FINAL REPORT

**PRESIDENTIAL AND
PARLIAMENTARY ELECTIONS**

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**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

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This report was produced by the EU Election Observation Mission and presents the EU EOM's findings on the 2006 Presidential and Parliamentary elections in Mexico. These views have not been adopted or in any way approved by the Commission and should not be relied upon as a statement of the Commission. The European Commission does not guarantee the accuracy of the data included in this report, nor does it accept responsibility for any use made thereof.

I. EXECUTIVE SUMMARY

Following an invitation from the Federal Electoral Institute (IFE), a European Union Election Observation Mission (EU EOM) was deployed to observe the presidential and parliamentary elections held on 2 July 2006. The mandate of the EU-EOM, led Mr. José Ignacio Salafranca Sanchez-Neyra (Spain), Member of the European Parliament (MEP), was to observe and assess the election process in accordance with international standards for democratic elections. The EU EOM adhered to the “Declaration of Principles for International Election Observation”, commemorated at the United Nations in October 2005.

The 2 July 2006 presidential and parliamentary elections generally complied with international principles for genuine democratic elections. They were competitive, transparent and well administered, and were held in an atmosphere of respect for freedoms of expression, assembly and association, demonstrating a firm commitment of Mexican citizens to the strengthening and consolidation of democracy. The legislative framework provides for the conduct of democratic elections and many safeguards have been adopted during the last decade to guarantee transparency of the process.

The National Action Party (PAN) candidate, Felipe Calderón, won the presidential election by a narrow margin (0.56 per cent) over the Coalition *Por el Bien de Todos* candidate, Andrés Manuel López Obrador. In the parliamentary elections, PAN won most seats in both chambers (206 Deputies and 52 Senators), followed by the Coalition (127 Deputies and 33 Senators), PRI (103 Deputies and 29 Senators), PVEM (18 Deputies and 6 Senators), *Convergencia* (17 Deputies and 5 Senators), PT (16 Deputies and 2 Senators), *Nueva Alianza* (9 Deputies and 1 Senator) and *Alternativa* (4 Deputies and no Senators).

After election day, incidents such as the occupation of the main square and arteries of the capital and an attempt, by supporters of the Coalition, to protest at the National Assembly heightened the prevailing political tensions in the country. However, on 5 September 2006, the Electoral Tribunal validated the elections as authentic, free and democratic, while at the same time criticizing interference by the incumbent President and private sector in the campaign and expressing concern at the impact such actions could have had under different circumstances. López Obrador rejected this ruling and the victory of the PAN candidate, leading to public assemblies of his supporters on 16 September and 20 November 2006 when he proclaimed himself “legitimate president” and head of a parallel government to that of Felipe Calderon, the winning candidate, who will assume Mexico’s Presidency on 1 December 2006.

IFE maintained its independence and significant levels of public confidence throughout the electoral campaign, including among all political forces, and, despite some shortcomings, organised the elections in an effective and transparent manner. Its

substantial financial resources contributed to ensure the sophisticated and professional management of the process, including smooth and timely implementation of the electoral calendar. Significant efforts were made to ensure that all sectors of the population were informed about its activities. The General Council, IFE's highest decision-making organ, performed with diligence and neutrality. However, the Council received criticism regarding a number of controversial decisions as well as weaknesses in the enforcement of regulations relating to the electoral campaign and political pacts, appearing at times to be more of a forum for confrontation among the political parties than a council for debate, interpretation and enforcement of electoral legislation.

Considerable efforts were made to update and publicise the voter list, and there was widespread consensus among political parties and civil society organizations that the list was a trustworthy and credible document. However, it still contains some structural problems, which date from its establishment in the 1990s. It is estimated that one per cent of persons in the national register are deceased and that around 20 per cent have changed their place of residence without informing IFE. However, safeguards to avoid multiple voting (safety features in the voter card, including a voter list with photographs, and the use of indelible ink) meant that such deficiencies in the national register were more of a statistical than a technical problem.

The election campaign was generally peaceful, despite some localised incidents of violence in Oaxaca, Guerrero and Mexico State which, although not election related, had an impact on the general political environment. While candidates were able to campaign freely without major restrictions or interference, the atmosphere was highly polarised, with a high degree of negative campaigning, which became stronger as the campaign progressed, and very little attention to political party manifestos and programmes.

The media monitored by the Mission provided citizens with a variety of information about the electoral process, including the campaign, election day and post-election day activities. While in their news coverage, the media monitored preferred to present the exchange of criticism among the principal contestants rather than their platforms, and in a few cases showed clear preferential treatment, it fulfilled the legal requirements regarding free and paid air time. However, IFE and the Electoral Tribunal had to intervene several times to instruct that TV spots which were considered offensive and defamatory were withdrawn.

More than 50 per cent of the total population of Mexico are women, but their presence and influence in public and political spheres of power remains low. Of the five presidential candidates, only one was a woman. Significantly, the election law requires that political parties do not put forward more than 70 per cent of candidates of the same gender for the election to the National Assembly. While political party lists were in line with this requirement, Coalitions did not follow it strictly.

Civil society organisations played a vital role in ensuring transparency of the process, encouraging voter participation and monitoring the performance of the key institutions

responsible for the elections. They also had a beneficial impact on political parties to discourage vote buying and the misuse of social programmes for partisan purposes. While domestic election observers have access to all stages of the election process, they do not have the right to make complaints in polling stations or sign the official polling station forms.

Election day proceeded satisfactorily. Voters turned out in significant numbers and could freely cast their vote, without intimidation and in a calm and orderly manner. Secrecy of the ballot was observed in almost all polling stations visited. Problems noted by observers included long queues and late opening in some areas, lack of some voting materials, insufficient supervision of ballot boxes, absence of security seals. A positive aspect of the process was the presence of representatives of the main political parties in most of the polling stations visited, as well as the presence of domestic observers in approximately 30 per cent of the voting centres visited by EU observers.

A weak point in the process involved the vote of eligible citizens living abroad. Around 30,000 postal votes were received out of 45,000 accepted requests for vote, a very small figure when compared to the millions of eligible citizens living abroad and who were left outside the process due to difficulties in fulfilling the legal procedures.

The tabulation and announcement of results by IFE were carried out according to legal provisions and agreements made among the political institutions. Two projections were conducted by IFE on election day, a "quick-count" and a preliminary tallying of results, known as PREP, before votes were counted at the electoral district level. The three exercises showed compatibility among the results. However, IFE did not appear able to communicate and explain in a clear and effective manner the "quick-count" and PREP process to the general public, which left it vulnerable to criticism when the runner-up candidate started to challenge the results.

Hundreds of non-conformity suits were filed by the Coalition and PAN, including a petition by the Coalition to re-count votes in all 300 electoral districts. The Electoral Tribunal of the Federal Judiciary rejected this petition, but did order a re-count in 11,839 polling stations in 26 States. In areas where the re-count was observed by the Mission, it proceeded in an organised and transparent way, without major incidents. On this basis, the Mission considered that discrepancies found during the re-count process were the result of unintentional human error, did not reveal any pattern that might raise suspicions of fraud, and were probably a consequence of the long hours of work during election day, pressure of time and, in some cases, the low educational level of the polling station members in more remote areas.

On 5 September 2006, the Electoral Tribunal ruled on the validity of the electoral process, announced the final results and proclaimed PAN's Felipe Calderón as president-elect. The Tribunal considered that in relation to the "causes for annulment" presented by the Coalition *Por el Bien de Todos*, several irregularities were not substantiated and others, although substantiated, were corrected before affecting the process or impacting

the freedom of suffrage. It further considered that other irregularities could not be used in argument because their impact on the electorate was unknown and, even if considered in their totality, there was no evidence that they could have seriously affected or determined the outcome of the election. Therefore, the Tribunal validated the elections as authentic, democratic and free.

The Mission noted that, within the constitutional framework, the Federal Code of Electoral Procedures and Institutions (COFIPE), the General Law on the Systems of Electoral Challenges and other legislation regulating the electoral system, the resolutions adopted by the Electoral Tribunal and its declarations of validation of the results and proclamation of the president-elect, which are final and irrevocable, concluded the election process. In light of these resolutions and declarations of the Electoral Tribunal, the Mission did not perceive the need to review its Preliminary Statement on the election process issued on 3 July 2006. The Mission considered the official results announced by the Electoral Tribunal as reflecting the legitimate will of the Mexican citizens.

II. INTRODUCTION

The presidential and legislative elections in Mexico were held on 2 July 2006. Following an invitation from the Federal Electoral Institute (IFE, in its Spanish acronym), the European Union established an Election Observation Mission headed by Mr. José Ignacio Salafrañca Sánchez-Neyra Member of the European Parliament. The EU EOM was deployed on 10 June 2006 and was based in the capital, Mexico City. It consisted of a 10 member Core Team and 66 Long Term Observers (LTOs) deployed to all 31 states and the *Distrito Federal*, which observed the campaign period and pre-election preparations as well as election day and the post-election period.

The EU EOM liaised with other international and domestic observation missions, and maintained regular contacts with electoral and government officials, political parties and candidates, the media, civil society representatives and the international community. The EU EOM Chief Observer had meetings with all political parties as well as high officials of the Mexican government. The EU EOM issued a statement of preliminary findings and conclusions on 3 July 2006.¹ Upon release of the preliminary results by IFE, the ruling by the Electoral Tribunal of the Federal Judiciary rejecting the petitions presented by the runner-up in the presidential election challenging the results and the announcement of the final results and proclamation of the president-elect, the Mission closed on 7 September 2006.

The mandate of the EU EOM was to conduct a comprehensive assessment of the electoral process in accordance with international principles for genuine democratic elections² and to offer recommendations for the future. Additional objectives of the election

1 See <http://www.eueommexico.org>

2 In particular those contained in the International Covenant on Civil and Political Rights (ICCPR)..

observation were to enhance public confidence in the electoral process and serve as a deterrent to fraud and conflict.

The EU EOM wishes to express appreciation for the cooperation and assistance received during the course of its work from IFE; the Electoral Tribunal of the Judiciary Power (TEPJF); the Office of the Public Prosecutor for Electoral Offences (FEPADE); the President and other Government officials; the European Commission Delegation and representatives of European Union Member States; the political parties and candidates; the media; civil society organisations, and other international and domestic observers. The Mission is especially grateful to the people of Mexico for the hospitality and warmth offered to all observers.

III. POLITICAL BACKGROUND

A. POLITICAL CONTEXT

For 71 years Mexico was ruled by one party, the Institutional Revolutionary Party (*Partido Revolucionario Institucional* – PRI). Its control of government ended in 2000, when Vicente Fox, the candidate for National Action Party (*Partido Acción Nacional* – PAN), was elected President, which marked a turning point for Mexican democracy. The 2006 presidential elections were the first in which the PRI was not in control of the federal government.

Five candidates contested the six-year term presidency and the opinion polls consistently showed a technical tie between the Felipe Calderón (PAN), and Andrés Manuel López Obrador, for the Party for Democratic Revolution (*Partido de la Revolución Democrática*, PRD), which along with the *Partido del Trabajo* (Work Party) and *Convergencia* formed the Coalition *Por el Bien de Todos*. Roberto Madrazo (PRI) was shown by the opinion polls to be in third place.³

After more than two months of legal challenges, Calderón was finally proclaimed by the Electoral Tribunal, on 5 September 2006, as winner of the presidential election by a 0.56 per cent margin over López Obrador. A total of 500 seats in the National Assembly were also elected on 2 July, as well as 128 seats for Senators.⁴ PAN won most of the seats in both chambers (206 Deputies and 52 Senators). Regardless of this and the fact that Mexico has a presidential system, Calderón will need further support in Congress.

3 The other two candidates were *Alternativa's* Patricia Mercado and *Nueva Alianza's* Roberto Campa Cifrián. The Coalition *Alianza por México*, in which PRI is the main partner, includes the Green Party - *Partido Verde Ecologista de México* (PVEM).

4 Mexicans elected 500 deputies: 300 by simple majority and 200 by proportional representation. For the 128 members of the Senate, 96 were elected by simple majority, and 32 by proportional representation.

Organisation of the elections was the responsibility of IFE and its 32 local councils and 300 district councils which were observed by domestic and international observers (the latter known as “foreign visitors”) and representatives of registered political parties and Coalitions. The voter list contained 71,730,970 citizens eligible to vote, or 95.4 per cent of the population (estimated at 103.3 million inhabitants) over 18 years of age, of which around 13 million were voting for the first time in the 130,500 polling stations throughout the country. Another 40,854 Mexicans were registered to vote out-of-country.

The electoral campaign started in October 2005 and after a short break in December, known as the “Christmas ceasefire,” continued until the end of June 2006. During its early stages there were several accusations from PRD of government interference and favouritism towards one of the candidates. Later, President Fox committed to observe and abide by the electoral rules which forbid government officials from publicly supporting a candidate or using official events to benefit a candidate. Although such limits imposed on the President, State Governors and government officials might be seen too rigid in other countries, the history of allegations of fraud in elections under previous governments makes them, and other mechanisms introduced in the broad electoral reforms of the 1990s, understandable in the Mexican context.

These mechanisms or “*candados*” (locks) are intended to guarantee the cleanliness, fairness and transparency of the electoral processes. As part of these mechanisms, senior staff at IFE and the Electoral Tribunal are paid high salaries to make them less vulnerable to bribery or financial attempts to influence their judgment. Registered political parties receive huge sums of public financial support in order to develop a level playing field, preserve the authenticity and purity of their programmes and keep them free from foreign interference. To address the distrust of past tallying and announcement of results, different tools were adopted to project and count the votes, such as a “quick-count,” for the presidential election and a PREP which counts the votes at the district level.

However, despite these mechanisms and filters to ensure a balanced and transparent electoral process, López Obrador claimed the electoral process was tainted by government interference, challenged the results announced by IFE and did not accept the verdict of the Electoral Tribunal, sometimes using strong language to question the institutions and to show his disapproval of the way the process was handled, in order to justify his civic resistance movement that led to the blocking of the main arteries of the capital city and the formation of a parallel government with him as self-proclaimed President




The electoral campaign and the political situation in the country were marked by incidents of violence in the states of Oaxaca and Guerrero, and a high level of personal accusations and provocative rhetoric among the candidates, who in many cases seemed to forget their parties’ programmes and instead concentrate their efforts on damaging the image of their opponents.



Concerns about a possible strong reaction to the announcement of results, in case of an election that was too-close-to-call, and complaints about interference of public officials in support of candidates, led the presidents of the political parties (with the exception of *Nueva Alianza*) to sign, an "Agreement for Equality, Legality and Governance" on 13 June 2006. This was a very positive initiative which recognized IFE and the Electoral Tribunal as the only competent authorities to conduct the electoral process and resolve possible disputes. The parties also agreed to accept the election results, maintaining the right to challenge them by legal means, and to request the President of the Republic not to declare a winner (as was the case in 2000) until a formal announcement by IFE. Candidates and high officials of political parties reassured the EU EOM of their commitment to this agreement.

Violence, which some had predicted could take place after the announcement of results did not occur. Mexicans waited patiently for the rulings of the Electoral Tribunal, the announcement of the final results and the proclamation of the president-elect. The historic colonial square in Mexico City, known as the *Zócalo*, and the main arteries of downtown were peacefully occupied by López Obrador supporters.

B. THE POLITICAL PARTIES AND CANDIDATES

There were five registered candidates for the presidential election:

	Party/Coalition	Candidate	Slogan
	National Action Party (<i>Partido Acción Nacional</i>)	Felipe Calderón	<i>Para que vivamos mejor</i> "So we can live better"
	Coalition For the Good of All (<i>Coalición Por el Bien de Todos</i>) (PRD, PT, Convergence)	Andrés Manuel López Obrador	<i>Por el bien de todos, primero los pobres</i> "For the Good of All, the poor are first"
	Alliance for Mexico (<i>Alianza por México</i>) (PRI, PVEM)	Roberto Madrazo	<i>Mover a México para que las cosas se hagan</i> "Moving Mexico to

			get things done"
	Social Democratic and Peasant Alternative Party (<i>Alternativa Social Democrática y Campesina</i>)	Patricia Mercado	<i>Palabra de mujer</i> "A woman's word"
	New Alliance Party (<i>Nueva Alianza</i>)	Roberto Campa	<i>Uno de tres</i> "One out of three"

Felipe de Jesús Calderón Hinojosa, 44, a Harvard educated lawyer, was president of PAN's youth movement in his early twenties and a representative for his state Michoacán in the State Legislative Assembly and in the National Assembly. He ran for Governor of his State in 1995 and served as PAN's national president from 1996 to 1999. Soon after President Fox took office as President in 2000, Calderón was appointed director of *Banobras*, a national development bank, and later joined the cabinet as Secretary of Energy. He left this position in 2004.

Andrés Manuel López Obrador, 52, Originally from the state of Tabasco, Lopez Obrador was Head of Government for the Federal District from 2000 to 2005. A former member of the PRI, Lopez Obrador was PRI party president in the state of Tabasco but left the party to run for Governor in 1988 as the candidate for the National Democratic Front. He later helped found the PRD in 1989 and in the same year became PRD party president in his home state of Tabasco. Lopez Obrador was national PRD party President from 1996 to 1999.

Roberto Madrazo Pintado, 54, is a lawyer born in the State of Tabasco, which he represented both in the National Assembly and the Senate, and of which he was also Governor from 1994 to 2000. He was PRI's president from 2002 to 2005 and is credited with bringing cohesion to a disjointed party after its historical defeat in the 2000 presidential election.

Dora Patricia Mercado Castro, 49, is an economist and feminist politician, and the founder and former president of the Social Democratic and Peasant Alternative Party. Patricia Mercado was also president of the political party México Posible from 2002-2003 and in 2000 unsuccessfully ran for the presidential nomination of the Social Democracy Party.

Roberto Rafael Campa Cifrián, 49, is a lawyer who was elected to public office several times as a member of PRI, including to the National assembly in 1994. He resigned from PRI in 2005, after participating in a campaign which strongly opposed Roberto Madrazo, and in January 2006 was elected as presidential candidate for *Nueva Alianza*.

A non-registered candidate, **Victor González Torres** (nicknamed "Dr. Simi" after the mascot of his national drugstore franchise, *Farmacias Similares*) conducted a massive campaign to enter the election, in spite of not being registered as an official candidate, and ran as a write-in candidate (see *Non-Registered Candidates*). His campaign slogan was "To serve God and the people of Mexico". He frequently stressed that he paid all of his own campaign expenses, thus being the "cheapest" candidate. He was not considered a formal candidate but many media outlets published his paid ads, as well as his statements and complaints against IFE.

IV. LEGAL ISSUES

A. POLITICAL ORGANIZATION OF MEXICO

The United States of Mexico is a representative democratic and federal republic, composed of 31 states and one *Distrito Federal*, the capital city, which is the seat of federal power. The country has a presidential form of government, in which there is a classic separation of powers between the executive, legislative and judicial branches.

Executive authority is exercised by the President, who, in addition to being the only person in charge of the formation and conduct of the government and armed forces, is also the Head of the State. The President is directly elected for a period of six years by direct universal suffrage and the principle of relative majority. The Constitution prohibits the re-election of the President.

Legislative power lies in the General Congress of the Union, which consists of a Chamber of Deputies and a Senate. The Chamber of Deputies has 500 Deputies elected for a period of three years, who cannot be re-elected for a consecutive period. A total of 300 Deputies are elected by the principle of relative majority in single seat constituencies. A total of 200 are elected by the principle of proportional representation, based on regional lists, in 40-seat constituencies.

The Senate is composed of 128 Senators elected for a period of six years, with no possibility for re-election for a consecutive period. A total of 96 are elected by majority in the 32 three-seat constituencies that correspond to the 31 states and the *Distrito Federal*. Political parties can present a list with two formulas (simple majority and proportional representation) for the election of candidates. Two seats are awarded to the candidates from the political party with most votes, and the third is assigned to the party which obtains the second largest number of votes (principle of first minority). The 32 remaining Senators are elected by proportional representation from party lists in a single national constituency.

Federal Judicial Power rests with the Supreme Court of Justice of the Nation, the Electoral Court of the Federal Judiciary (TEPJF), the Unitary Courts of Circuit, the

District Courts and the Council of the Federal Judicature. The Supreme Court of Justice of the Nation is the highest court and solves controversies among the Federation, the states and institutions.

B. CONSTITUTIONAL AND LEGAL FRAMEWORK

The legislative framework for the conduct of elections, which includes the Constitution,⁵ the Federal Electoral Code⁶ (COFIPE), the Law on Electoral Challenges,⁷ the Federal Penal Code,⁸ the Law on Responsibilities of Public Servants,⁹ and the Federal Law on Transparency,¹⁰ as well as regulations and agreements for procedures related to the different phases of the electoral process, provides for the conduct of democratic elections. This set of laws and codes not only regulates all phases of the elections but also regulates the performance of electoral officials, who are public servants, which guarantees accountability of their acts.

The Office of the Public Prosecutor for Electoral Offences (FEPADE)

FEPADE is subordinated to the General Attorney of the Republic (PGR, in its Spanish acronym), regulated by the Organic Law of the PGR, and is the responsible authority for the handling of electoral offences. It was established in 1994 and for the 2006 elections concentrated its efforts on promoting a “culture of denunciation” and offering anonymity to the complainant. Citizens could present complaints by telephone 24 hours a day, as well as by e-mail, in person or in writing. Electoral crimes are described in the Federal Penal Code and can be punished with periods of six months to nine years in prison. Among other matters, electoral crimes cover acts of voting illegally, campaigning or harassing voters in the polling stations, buying votes, destroying or altering ballots or other electoral documents, violating the secrecy of the ballot, and publishing results of surveys or opinion polls within the eight days prior to election day.¹¹

The Electoral Tribunal of the Federal Judiciary (TEPJF)

One characteristic of Mexican democracy during the last decade has been the evolution of political institutions and legislation regulating the electoral processes. The political reforms of 1986 established an electoral court, known as Contentious Electoral Tribunal, defined as an administrative autonomous organ and considered as an advance in the legal electoral system. In 1990, a series of constitutional and legal changes resulted in a new juridical electoral framework. Among the main aspects of this reform was the creation of the Federal Electoral Tribunal to replace the Contentious Electoral Tribunal, defined in the Constitution as an electoral autonomous organ responsible for the legality of electoral

5 Constitución Política de los Estados Unidos Mexicanos (Articles. 9, 35, 36, 39 and 41).

6 Código Federal de Instituciones y Procedimientos Electorales, COFIPE.

7 Ley General del Sistema de Medios de Impugnación en Materia Electoral.

8 Código Penal Federal, art. 403-413.

9 Ley Federal de la Responsabilidad de los Servidores Públicos.

10 Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental.

11 Federal Penal Code, art. 403-412.

acts and resolutions. In 1993, another set of reforms transferred responsibility, in case of controversy, to qualify and validate the election of Deputies and Senators, from the National Assembly to the new Federal Electoral Tribunal.

In 1995 and 1996, further amendments were made to the Constitution, after a long period of consultation, which enlarged the responsibilities of the Electoral Tribunal of the Federal Judiciary (TEPJF) to include certification of the election of the President of the Republic and recognised it to be the specialized organ of maximum jurisdictional authority in electoral matters (except for actions of unconstitutionality of federal and local electoral laws which are the competency of the Supreme Court of Justice of the Nation). Thus, since 1996 the TEPJF is an independent organ of the judiciary. Its seven magistrates are appointed by recommendation of the Supreme Court and approved by the Senate. It is governed by the Constitution, the Law of Electoral Challenges, COFIPE and the Organic Law of the Supreme Court of Justice.

The TEPJF is composed of a permanent Superior Chamber located in the capital, consisting of six electoral magistrates and one president magistrate, all of whom have a mandate of ten years, and five temporary Regional Chambers, operational only during the electoral year, consisting of three magistrates, who are located in the capital town of each of the five electoral constituencies: Guadalajara, Monterrey, Xalapa, Distrito Federal and Toluca.

The resolutions and rulings of the Superior Chamber are final and irrevocable. The Court is the only instance for resolution of challenges relating to the presidential election and the last instance for challenges in relation to the election of Deputies and Senators. The tribunal rules on all types of electoral disputes and hears appeals against decisions and sanctions passed by IFE. The Tribunal is also responsible for tabulation of the final results of the presidential election, certifying the election and proclaiming the president-elect.¹² The Regional Chambers are the first instance for challenges during the tabulation of results and validation of the election of Deputies and Senators. All hearings of the Tribunal as well as its working sessions can be followed live on the internet, and its rulings can be found on its website. According to opinion polls, the court and the magistrates enjoy a high degree of popular trust.

V. ELECTION ADMINISTRATION

A. STRUCTURE OF THE ELECTION ADMINISTRATION

IFE is the institution in charge of organising federal elections. IFE became an autonomous and permanent public organ as result of amendments to the Constitution in 1996,¹³ which established its independence from the executive. These amendments provided for the recruitment of its staff, outlined how it should function, and granted

¹² *Constitución Política de los Estados Unidos Mexicanos*, Article. 99, II p.2.

¹³ The Constitution was signed on 5 February 1917 and last amended on 20 June 2005.

voting rights only to the electoral counselors of the General Council, thereby strengthening its independence. The amendments also provided for increased public financing for all political parties so that public finance is more significant than private contributions, strengthening of auditing requirements for political parties, and the creation of an independent Federal Elections Court (TRIFE or *Tribunal Electoral del Poder Judicial de la Federación*).

IFE is a permanent institution and operates throughout the country through its decentralized organs. It is structured on the basis of three main functions: (1) directive organs consisting of several collegiate councils, (2) technical organs composed of permanent employees recruited according to public service procedures (executive boards), and (3) surveillance and monitoring committees, formed mainly by representatives of the political parties.

At the central level, IFE is composed of a General Council (*Consejo General*), a General Executive Board (*Junta General Ejecutiva*) and a National Surveillance Committee (*Comisión Nacional de Vigilancia*). The General Council is the highest organ responsible for enforcement of constitutional and legal obligations relating to elections. Currently, the General Council is composed of 21 members. These include the Chairman, eight electoral counselors, six representatives of the legislative assembly, five representatives of political parties contesting the 2006 elections and one executive secretary. Only the electoral counselors have the right to vote in the Council. The electoral counselors are appointed by a majority of votes in parliament upon nominations made by the various parliamentary groups. Members of the General Council are appointed for a seven year term. IFE has similar structures at the state and district levels. Members of the Electoral Councils at state and district levels are appointed by the General Council and only function during the election period.

B. PERFORMANCE OF IFE

IFE functioned efficiently during the 2006 election process and enjoys the confidence of political parties and the public. In a poll conducted before the 2006 elections 68 per cent of the people said that they had some or a lot of confidence in IFE, and 28 per cent said they had little or none. IFE is therefore one of the most trusted and respected public institutions in the country. However, following a campaign in the post election period by the Coalition *Por el Bien de Todos* alleging manipulation of the preliminary results of the 2006 presidential election and other irregularities, public confidence in IFE declined slightly. In a poll conducted after the elections, 64 per cent of the people said that they had some or a lot of confidence in IFE, and 36 per cent said they had little or none.¹⁵

The considerable budgetary allocations for the administration of the elections contributed greatly to a very sophisticated, professional and transparent technical operation. From October 2005, and throughout the whole 2005-2006 electoral period, IFE fulfilled all

¹⁴ Newspaper *Reforma*, 3 May 2006.

¹⁵ Newspaper *Reforma* 30 July 2006.

legal requirements and other obligations for the preparation of the elections within the legal stipulated deadlines. IFE also made considerable efforts to review and change the boundaries of election constituencies, to purge and update the voter register, and to make available a public outreach programme to all voters by allocating additional resources to those areas devastated by natural disasters and to other areas where access was difficult. The webpage of IFE provided the public with useful and updated information on the activities of IFE as well as electoral laws and regulations. Transcripts of the sessions of the General Council were also published on the webpage. The national system for electoral consultation (IFETEL) offered information about the electoral process and electoral offences and served as a mechanism for the submission of complaints and clarification on issues relating to voter registration.

C. THE GENERAL COUNCIL

The General Council performed its duties in an impartial and professional manner. However, it did not enjoy the same public confidence as the technical organs of IFE. Several political parties and NGOs claimed that the decisions made by the General Council on some controversial issues, such as the enforcement of campaign regulations and the so-called Neutrality Pact (*Pacto de Neutralidad*) were inconsistent and ineffective. The General Council did not apply strong administrative sanctions to political parties that violated campaign regulations. This was widely considered to be one of the factors for the frequent disrespect of campaign rules by the political parties. In addition, voting divisions among its members undermined the perception of collegiality of the institution. PAN also criticised the General Council for going beyond its regulatory powers on some issues such as monitoring of party expenses.

All sessions of the General Council were public and open to the media. The participation of political parties in its sessions contributed to resolving election related disputes. However, in the sessions prior to election day, meetings increasingly became a forum for political confrontation between political party representatives rather than a forum for interpretation and application of the electoral laws. While inclusion of political parties in the decision making of the General Council is fundamental to achieving consensus, this was sometimes achieved by focusing on the interests of the political parties rather than on those of the voters. For example, the decision, made on the recommendation of the political parties, to limit the number of ballots in the so-called special polling stations (*casillas especiales*) to 750 worked to the detriment of a large number of voters who were denied the right to vote (*see Casillas Especiales*).

Following the close of polling, a lack of general understanding among the public about the Programme for Preliminary Results (PREP)¹⁶ and the “quick-count”, together with past experience of fraud and irregularities, created suspicion about the electoral process.

16 This electronic voting system drew accusations from the Coalition *Por el Bien de Todos*, in which the PRD is the main partner, and also from some parts of the media, which alleged that the software was manipulated due to the fact that during the 24 hour data flow the Coalition candidate never headed the counting.

The preliminary decision of the General Council not to publish the results of the “quick-count” on the night of the election also gave the impression of lack of transparency of IFE. While IFE made considerable efforts to engage with political parties and to explain the electoral laws, the electoral system, the technologies involved in the PREP and the “quick-count,” it did not direct the same efforts towards the general public, which, from press and observer accounts, appeared to be confused about the differences between projections of tendencies and results. Particularly in light of the technological innovations in place, making the system understandable to the general public, and guaranteeing a transparent process, were vital components to ensure public confidence in the integrity of the electoral process.

Some weaknesses in the method of composing the General Council became apparent during the post-election period. The General Council was totally renewed in 2003, at which time the electoral counselors of the General Council were elected by parliamentary majority and political parties were given the opportunity to nominate members. However, the inability of the political parties to reach a consensus on the selection of a member resulted in PRD claiming that it did not have adequate participation among the voting members of the General Council. This may have had an adverse effect on the confidence of this political party in the impartial management of the elections by the General Council, in spite of the fact that its representatives had subscribed to the “Agreement for Equality, Legality and Governance”.

VI. VOTER REGISTRATION

Active voter registration is mandatory for a citizen to be able to exercise the right to vote. After being included in the voter register (*padrón electoral*), IFE issues a security voting card with photograph (*credencial para votar con fotografía*). Only citizens who have received the voter card can have their name included in the voter list (*lista nominal*) used at the polling station on election day. With some minor exceptions established by law—only citizens who present their voter card are allowed to vote.

According to official figures, 71,730,868 voters were included in the *padrón electoral* and 71,350,976 voters in the *lista nominal*, covering 99.47 per cent of the total number of voters in the *padrón electoral*. The *lista nominal* was validated by the National Surveillance and Monitoring Council (*Consejo Nacional de Vigilancia*)¹⁷ and declared final by the General Council on 25 May 2006.

IFE made considerable efforts to update and publicise the *padrón electoral* through two comprehensive campaigns between January 2005 and February 2006. During these campaigns, it established new registration offices and mobile teams throughout the country, including in border areas where there is a vast concentration of immigrants. As a

¹⁷ Formed mainly by representatives of the political parties, the *Consejo Nacional de Vigilancia* serves a number of functions, including receiving complaints filed by the political parties, and supervising the updating of the voter register as well as the delivery of the voting cards.

result of these campaigns, 11 million registrations were updated and 1.1 million people were newly registered between October 2005 and January 2006. The lists were published in the district offices and on the IFE webpage for public scrutiny. The lists were also given to the political parties for their comments. The representatives of the political parties submitted more than seven million complaints to the National Surveillance and Monitoring Council. All these complaints were dealt with by IFE, which found that only 131,856 (1.8 per cent) were substantiated, mostly relating to duplicates in the voter register.

There was widespread consensus among political parties and civil society organisations that the *padrón electoral* was a credible and trustworthy document. Nevertheless, voter registration still had a number of shortcomings. Many of these were structural and were due to the fact that the preparation of the *padrón electoral* was based on procedures established in the 1990s. IFE conducted a comprehensive statistical survey in 2005 (*Verificación Nacional Muestral*) and estimated that the list contained around 1 million deceased people, 14 million people who had changed their address but not reported doing so, and an unknown number of duplicates.¹⁸ These shortcomings were outside the control of IFE for two reasons. First, the Civil Registries and the National Institute for Migration did not report on those who were deceased as well as citizens who had lost their nationality. Second, the failure of many voters to report their change of residence to IFE, as required by the electoral law, contributed to the lack of accuracy in the voter list.

A further shortcoming was that in situations where the Civil Registry and the National Institute of Migration does not report changes with respect to death and nationality, discrepancies in the names on the relevant documentation created difficulties which prevented effective updating of the electoral lists. The voter cards are permanent and a considerable amount of voters (more than 24 million) obtained them more than 14 years ago when the registration procedures were not as strict and effective as they are now.

Many of these shortcomings could be overcome if voter registration cards were not permanent as this would require renewal which would in turn gradually update the voter list. Nevertheless, a number of safeguards were put in place to guard against voter impersonation. These included a high-security card containing a bar code readable by infra-red light, a hologram, and a digital photo, signature and fingerprint of the voter; checking off voters' names against the voter list with the same photograph as the voting card; marking voters' thumbs with indelible ink; punching a hole in the voting cards—minimized to a considerable extent the shortcomings described above.

IFE conducted a comprehensive auditing inquiry following allegations that the brother-in-law of the PAN presidential candidate had a contractual relationship with IFE through his software company. The inquiry established that the company had no contractual relations with IFE since 1996.

¹⁸ There are no precise figures for duplicates. However, when IFE conducted an inquiry into the 7 million complaints made to the National Surveillance and Monitoring Council, an estimate was made that duplicates amounted to some 1.7 per cent.

Though Article 149 of the Election Law provides special arrangements to facilitate the registration of people who are physically disabled and therefore unable to register in the normal manner (written request for registration), there were no corresponding special arrangements for such persons to actually vote (for example, mobile teams). There was therefore a mismatch between the welcome initiative to facilitate the registration of such persons to vote and initiatives to facilitate their actual voting.

VII. REGISTRATION OF NATIONAL POLITICAL PARTIES

As a result of amendments to the Federal Electoral Code (COFIPE) in 2004, the requirements for registration of political parties became more stringent as it was considered necessary to ensure that a party was a genuine political movement before it became entitled to the large amount of public finance and free media spots that were available. As a result of these amendments, political parties were required to have representation in a larger number of administrative districts (a minimum of 3,000 members in at least 20 states or 300 members in at least 200 of the 300 electoral districts). In addition, IFE's General Council imposed a requirement that a party must first operate as a national political organization for a certain period of time prior to registration.¹⁹

Further, for a political organisation to be registered as a national political party, it must have a programme defining its principles and objectives and a programme of activities for achieving these objectives. The statutes of the political party should include the conditions and procedures for acquiring and losing membership, the rights and duties of its members, the procedure for election of the party's leading bodies, the powers and competences of these bodies and procedures for the nomination of candidates. Any modifications and amendments to the programme of a political party must be submitted to the federal registration body within a month of their introduction. The purpose of these requirements was to provide for greater intra-party democracy. Political parties were also required to submit their political programmes to IFE, establish a centre for civic education and publish a monthly newsletter and a policy document every three months. The parties were also required to publish their election manifestos in the mass media.

Eight political parties contested the 2006 federal elections. Of these, six were registered at the previous elections and two were newly registered. The registered national political parties were *Partido Acción Nacional* (PAN); *Partido Revolucionario Institucional* (PRI) and *Partido Verde Ecologista de México* (PVEM) which formed the Coalition *Alianza por México*; *Partido de la Revolución Democrática* (PRD), *Convergencia* and *Partido del Trabajo* (PT) which formed the Coalition *Por el Bien de Todos*; *Partido Nueva Alianza* (NA) and *Alternativa Social Demócrata y Campesina*.

¹⁹ To be registered with IFE, the political organisations were required to have a minimum of 7,000 members, a national executive body and branches in at least 10 states.

To maintain its registration, a party must obtain a minimum of 2 per cent of the votes in either the Presidential, Senate or Deputies elections. New parties are no longer able to compete as part of a coalition in their first elections, on the basis that this could enable them to pass the 2 per cent threshold without necessarily enjoying that much support. The requirement for political parties to have a national character for contesting the federal elections and the 2 per cent threshold required to maintain registration prevented interest groups such as the indigenous peoples from having their own political parties (see *Participation of Indigenous Peoples*).

VIII. CANDIDATE REGISTRATION

Under the election law, candidates could not run as independent candidates or as individuals unaffiliated with political parties. In 2004, former Foreign Minister Jorge Castañeda announced his intention to present himself as an independent candidate and started to seek Court authorisation to run as an independent candidate without the endorsement of any of the registered political parties. In August 2005, the Supreme Court ruled against Castaneda on this issue, and he decided to bring the case before the Inter-American Court of Human Rights (IACH) in order to defend his political rights. The IACH rejected his case on technical grounds.

Under the Mexican electoral law, a voter can vote for a candidate that is not registered, although any votes for such a candidate will not be deemed to be valid. Victor Gonzalez Torres, a well-known businessman challenged the rejection of votes received by non-registered candidates in court on the grounds that the law was wrongly interpreted. His challenge was unsuccessful.

Political parties are required by law to nominate parliamentary candidates in pairs, one to be the candidate who will stand for the election and the other to be a replacement candidate in case of death or resignation etc. In addition, the law establishes a gender quota requirement for candidates lists (see *Women's Participation*). Candidates also have to comply with several requirements stipulated in the election law. These include a minimum age and citizenship by birth. Other requirements mean that candidates cannot hold certain public offices or be a member of the clergy.

IFE did not verify adherence to these requirements relying, instead on the *bona fides* of candidates, who signed documents claiming that they had met them. Candidates were also required to sign a statement declaring that they were selected according to the procedures established in the statutes of their political parties. However, there were more than 50 cases in which more than one person claimed to be the candidate of a political party. In those cases, the Electoral Tribunal had to decide which candidate was the legitimate candidate by reviewing their compliance with the internal election and the statutes of the political party. The two cases which received the most publicity were the cases involving *Nueva Alianza* and *Alternativa Social Democratica y Campesina* and their respective presidential candidates.

IX. VOTING BY MEXICANS LIVING ABROAD

The Election Law (COFIPE) was amended in June 2005 to allow, for the first time, Mexicans living abroad to vote by mail for President of the Republic. Approval of this amendment followed a long period of discussion among political parties, the Parliament, the diaspora and civil society in general. One of the difficult issues to resolve was the method of voting. It was finally decided that postal voting would be the best method to use. Perhaps due to previous experience of electoral fraud, some of the administrative requirements for registration were unduly burdensome, thereby making it difficult for many persons to exercise their franchise.

Eligible Mexican voters living abroad had to have previously been included in the *padrón electoral* in Mexico and hold a voting card containing a photograph, to be included in the list of out-of-country voters. They also had to send a written request (forms were available, among other places, in embassies, consulates, and on the IFE webpage) by certified post to IFE not later than 15 January 2006. One negative aspect of this requirement was that the applicants had to pay for the certified post (in the United States it costs around five dollars) which would have proved expensive to many low income earners. In addition, applicants had to provide copies of voting cards and proof of residence. Once IFE had checked the eligibility of applicants, it sent a package of material back to the successful applicant who thereafter had to submit his or her vote again by certified post to IFE. For this, however, IFE sent out stamped return envelopes.

Of the several million eligible voters living abroad, only 54,780 submitted an application to be included in the Voter Register for Mexicans residing abroad. Among them, 40,854 voters from 80 different countries (mainly in the United States, Spain, and Canada) met the requirements and were included in the list for out-of-country voters. IFE received 33,111 votes from 71 countries within the deadline. A total of 479 ballots were annulled for various reasons, primarily relating to technical errors.

Overall, the new programme to enable eligible voters living abroad to vote by mail yielded disappointing results as only 0.8 per cent of the possible eligible population voted. This was considered to be partly due to the stringent anti-fraud registration requirements which involved burdensome administrative procedures. Another reason was that many eligible voters did not have some of the documentation required for the successful application. Additional factors which might have contributed to the low number of applications included fear of undocumented Mexicans in the United States that the application might be used by authorities to compel them return to Mexico despite the fact that IFE assured everyone that there would be no information sharing with other governments. Lack of interest among eligible voters living abroad was also considered to be another possible reason for the low voting figure. In addition, IFE reported that it had insufficient time to wage an effective campaign to persuade eligible voters living abroad

to apply for the postal vote, and that its proposed budget for such activity was reduced by 75 per cent.

There was consensus among all the political parties consulted that the requirements for obtaining a postal vote by eligible voters living abroad were complex and burdensome. However, these parties were also concerned about maintaining the integrity of the franchise, and most were uncomfortable with the idea of using embassies and/or consulates as voting centers in the future.

Despite the low turnout, this was a positive new initiative to enfranchise more voters. However, given the fact that 400 million pesos (approximately 40 million US dollars) was budgeted between 2005 and 2006 for implementing of this initiative, the experience should be reviewed to draw lessons as to how to encourage a higher level of participation at future elections.

X. PARTICIPATION OF INDIGENOUS PEOPLE

Mexico defines itself, in the second Article of the Constitution, as a “pluricultural” nation, with 62 indigenous peoples, each of which has its own culture, language and customs. It is estimated that around 11 per cent of the population are indigenous people descended from the Olmec, Toltec, Mayans, Aztecs and other groups.²⁰ The indigenous population is found throughout the country but is concentrated in southern states such as Oaxaca (35.33 per cent), Yucatan (33.5 per cent), Chiapas (26.1 per cent), Quintana Roo (19.3 per cent) and Hidalgo (15.5 per cent). The indigenous population has the highest rates of poverty and illiteracy among the population and are the most marginalized part of society.

The Constitution guarantees rights to indigenous peoples and requires the law to recognize these rights. The Constitution also recognizes the right of indigenous peoples to choose their authorities and representatives in accordance with their traditions and practices for the exercise of their own forms of internal self government. The Constitution explicitly provides the right of indigenous peoples to choose representatives for the city councils in the municipalities with indigenous populations. It is significant, however, that there is no reference to the right to participate in parliament or to gain access to public positions in general. The COFIPE neither make reference to minorities nor grants any rights to them.

In September 1990, Mexico ratified the International Labor Organization (ILO) Covenant 169. Through this covenant, it agreed to ensure that the members of these groups could

²⁰ There are, according to the *Consejo Nacional de Población (COPNAPO)*, the *Instituto Nacional de Estadística, Geografía e Informática*, and the *Comisión Nacional para el Desarrollo de Pueblos Indígenas (CDI)* 12 million of Amerindians (or indigenous peoples, the preferred term in Spanish). Other international organisations prefer a percentage of 30 per cent of predominantly Amerindians, the great majority assimilated into the Mexican culture, forgetting their traditions and languages.

benefit from the rights and opportunities granted by the laws on an equal bases and to promote the full realization of the social, economic and cultural rights of these peoples.

There are no figures on the proportion of voters that are indigenous, in part because this information does not appear on voter cards. Even though efforts were made for polling stations to be established locally, voters from some remote rural communities may have had to walk for a few hours to get to a polling station. An even more significant issue for poor and marginalised communities relates to lack of political literacy. These communities, which are particularly vulnerable to manipulation, tend to be remote and disconnected from the federal election processes. The FEPADE and the National Commission for the Development of the Indigenous Peoples started a joint programme aimed at increasing the participation of these groups in the electoral processes and preventing electoral offences in the indigenous populated districts.

The media paid little attention to the participation of indigenous people in the election and almost no candidates from the indigenous population were invited to participate in TV debates. However, in some election constituencies EU observers noted campaign material in indigenous languages.

The major development in these elections towards the promotion of the political representation of the indigenous population was the redrawing of boundaries of some of the 300 electoral districts to ensure that they were approximately equivalent in population numbers, and to group together indigenous populations, so that their vote would carry adequate weight. This resulted in 28 districts having an indigenous population of at least 40 per cent. The new electoral boundaries, approved by the General Council in February 2005 was a very positive achievement, since for the first time indigenous populations were considered as a criteria for the drawing of constituency boundaries.

However, even if constituencies may, therefore, have an important part to play in the representation of concentrated minorities, the effect of this on the 2006 elections were not very noticeable due to factors such as the small number of indigenous candidates proposed by the political parties and the fact that these candidates were placed in the lowest positions on the lists. Moreover, the requirement for political parties to have a national character for contesting the federal elections²¹ and the two per cent threshold required to keep their registration prevents the indigenous populations from the possibility of having their own political parties.

XI. THE 'CASILLAS ESPECIALES'

21 For an organisation to be registered as a national political party, it must have 3,000 members in at least 10 of the 32 federal entities, or 300 in at least 100 of the 300 single-member districts in which the country is divided for electoral purposes, although the law sets forth that the total number of its members may never amount to less than 0.13 per cent of the registered voters in the national electoral roll used in the ordinary federal election that preceded the submission of the register application.

The *casillas especiales* are special polling stations set up for voters who are temporarily (*transitoriamente*) out of the polling division where they are registered to vote on election day. The Election Law (*COFIPE*) rules in Article 197 that the District Councils (*Consejos Distritales*) can establish a maximum of five *casillas especiales* per district and limits the number of ballots that each *casilla especial* can issue to 1,500. For the 2006 elections, the 300 district councils decided to install 822 *casillas especiales* throughout the country and the *General Council* decided to limit the number of ballots to 750 in response to concerns raised by political parties, which feared that these polling stations would be susceptible to attempts at electoral malpractice.

The *casillas especiales* were established near airports, border crossings, bus stations and hospitals, with a maximum of five polling stations in each of the 300 electoral districts. The number of ballots a voter could cast depended on proximity to their section.²² For example, voters could not vote for a constituency election if they were outside their home constituency, but could vote, at a minimum, in the presidential and senatorial proportional elections. No advance notice was required to be able to vote in a special polling station so there was no voter list. The only guarantees against double voting or voter impersonation were the inking of thumbs and the other usual security mechanisms, including the punching of the voter card.

Since it was not possible to have hard copies of all the electoral lists of the country, the verification of eligibility of the voter was done by computer for the first time. The system for verification involved inserting the voter card into a reader which checked whether: (i) the card was stolen, (ii) the card belonged to a person who was deprived of his or her civic rights, (iii) the card belonged to a person whose registration was detected as a duplicate, and (iv) the card belonged to a person who was registered to vote from abroad.

On election day, many voters were unable to vote in the special polling stations. In some cases the polling stations ran out of ballot papers while in other cases there were long queues which discouraged voting. In many cases the process was very slow due to the voter card readers were not working properly and a lack of familiarity of polling station staff members with the computer system involved. A significant reason for some of the delays and shortcomings in the process was ambiguity in the law with respect to who was entitled to vote at these polling stations. The law refers to people who are in transit (*transitoriamente*) on election day, but is vague as to what this means. As a result, there was a mismatch between the understanding of IFEs and the political parties as to who fell within this category (a relatively smaller number), and public expectations.

22 A voter may cast a ballot for the different contests depending on proximity to their section. Voters outside their section, but within their district, may vote for all federal contests: President, Senators by proportional representation and relative majority, and Deputies by proportional representation and relative majority. If outside their district, but within their state, a voter may elect all but Deputies by relative majority. If outside their state, but within their circumscription, a voter may elect all but Deputies by relative majority and Senators by relative majority. A voters outside their circumscription may elect only President and Senators by proportional representation.

XII. CIVIC AND VOTER EDUCATION

Voting is mandatory according to the Constitution, though there are no penalties for those who do not vote. Due to the expected low voter turn out, IFE promoted intensive campaigns in all 32 states to promote the participation of citizens in the electoral process. The main features of the campaign were the production of leaflets and posters highlighting the importance of the secrecy of the vote and the rights of voters, media advertisements and simulations of what would take place on election day. IFE also launched campaigns to encourage participation among the youth, employing innovative approaches such as an agreement with shops and restaurants to offer a 10 per cent discount for those who could show evidence (inked finger or punched voter card) of having voted, a very interesting initiative that could be replicated in other countries.

In the five years prior to the elections, more general civic education programmes were developed to promote basic democratic values through training materials, courses, seminars, and television and radio spots. These programmes were implemented in primary and secondary schools and universities. Several campaigns focused on areas where there were indigenous populations and were conducted in indigenous languages. IFE collaborated with many civil society organisations, universities, and other public institutions in order to ensure that the campaign reached all sections and layers of society. Significant campaigns focused on gender equality and other on youth. The campaign on youth was important given the low turn out of citizens between the ages of 18 and 29 at previous elections. Many civil society organisations and political parties also conducted their own awareness programmes to promote democratic values and provide information about election procedures. As a result, the general level of awareness among citizens was good although the campaigns could have been more intense in rural areas and among indigenous peoples. Unfortunately, the campaigns did not focus adequately on the details of the election process including the *quick-count* and the programme for preliminary results (PREP).

In the weeks prior to the elections, IFE concentrated its efforts on educating voters and domestic observers in the technicalities of the elections. Training in the electoral process is mandatory for domestic election observers, and some domestic observer groups also conducted their own training programmes. A total of 16,125 domestic observers were trained by IFE. In addition, IFE also conducted comprehensive training programmes for more than two million potential polling stations staff, although only around 900,000 persons were actually required to serve as members of the polling station staff on election day.

XIII. ELECTION CAMPAIGN

A. CAMPAIGN ENVIRONMENT AND CONDITIONS

The six-month electoral campaign, which ended on 28 June 2006 was in general peaceful despite some localised incidents of violence in the states of Oaxaca, Guerrero and Mexico State that, although not election related, had an impact on the general political climate. The campaign was dominated by a highly polarized and partisan environment with a high degree of negative campaigning and very little attention to political party manifestos and programmes. The campaign was tainted by mutual accusations and insults among the five presidential candidates, in particular the candidates for the PAN, PRI and the PRD, which was widespread in both the written and electronic media. In this context, several complaints were formally presented by political parties and candidates to IFE and the Electoral Court. A number of complaints were also presented to IFE regarding defamation of candidates through electronic mail and cell phone messages.

Candidates were able to campaign freely without restrictions or interference, although some faced the cancelling of their TV or radio spots for violating election rules and the electoral law (*see Media*). The EU EOM did not receive any reports of threats, intimidation or obstruction during the last weeks of campaigning, although LTOs observed the illegal destruction of campaign material such as posters and banners in some states.

On 13 June 2006, presidents of the political parties (with the exception of *Nueva Alianza*) signed an "Agreement for Equality, Legality and Governance" known as "*Pacto de Civilidad*", in which they committed to accept the results to be announced by the electoral authority and recognized the Federal Electoral Institute and the Electoral Tribunal as the only competent authorities to conduct the process and to resolve possible disputes. They also agreed to accept the election results, while maintaining the right to challenge them by legal means, and to request the President of the Republic not to declare a winner (as was the case in 2000) until a formal announcement had been made by IFE.

However, the negative campaigning became stronger as the campaign progressed and bordered on violation of the elections laws which prohibit defamation or denigration of political opponents. Attempts by the General Council to restrain negative campaigning in the media were rendered ineffective by the political parties, which, when ordered to remove a particular commercial/spot, replaced it with another that was similar in character. Further, political parties responded to the initiatives of the General Council in a rather contradictory manner. They often complained that the General Council was not doing enough to prevent negative campaign advertisements, but when a party was affected itself, it complained that the Council was paying insufficient attention to freedom of speech and expression. Some parties also complained, that the "veracity guidelines" (*cánones de veracidad*) adopted by the Electoral Tribunal were not applied with consistency.

B. USE OF STATE RESOURCES

The main issues of concern during the pre-electoral period related to the possibility of vote buying by offering all sort of gifts, and the intimidation of voters. The most

common fear reported to the EU EOM in its contacts with the political parties, civil society and electoral authorities was that social benefits would be cut off in case a voter would not vote as indicated. The misuse of social programmes has been a problem in the past that affected mainly the most vulnerable social groups such as the indigenous population and the elderly.

In this context, IFE conducted a number of preventive campaigns to promote secret and free voting throughout the country. In addition, in February 2006, it adopted the Neutrality pact (*Pacto de Neutralidad*)²³ which prohibited officials and public servants from promoting social development programmes in the 40 days prior the election day. IFE's Chief Counselor reported that there were only 27 complaints of infringement of the pact, of which only three were proved. Nevertheless, political parties and civil society claim that the problem widely persists. The fact that there were only 27 cases allegations of violations of the Pact in a country so large raises concerns about the efficacy of the system. It could be that officials focused primarily on the actions of high level political figures while giving inadequate attention to the activities of lower level officials.

Nevertheless, a report by the United Nations Development Programme (UNDP) recognised positive achievements in avoiding the partisan use of social programmes during the 2006 election process and urged the government to develop a strategy of transparency to protect the integrity of social programmes. In a session of the General Council, representatives of political parties called for stricter controls over the use of public resources and social programmes for partisan political purposes. However, this request appeared to be motivated by partisan considerations rather than a commitment to principle, since the main political parties when in power, according to the media and reports to the Mission, misused public resources and social programmes for partisan purposes.

The election law establishes campaign expenditure limitations. However many civil society groups and political parties expressed concerns about the high degree of public funding involved in the campaign, as well as its duration, arguing that the long campaign period creates weariness and voter apathy.²⁴ As there is a lack of clarity as to what is meant by the "pre-campaign" period as opposed to the "campaign" period, the country experiences a very long period in which political parties are engaged in competitive election related politics. Sensitive to the need for a break in competitive political activity, the General Council ordered a suspension of campaigning "Christmas ceasefire." between 11 December 2005 and 18 January 2006. The intention being to prevent the

23 The *Pacto the Neutralidad* was adopted by the *General Council* on 19 February 2006. This regulation established a number of rules to avoid conflict of interest by prohibiting officials to be actively involved in the campaign of a candidate, and other provisions intended to prevent the use of their official assignment for electoral purposes.

24 A total of 4,136,751,226 pesos (€295,603,187) were allocated to eight political parties, participating in the elections individually or in Coalitions, divided in equal parts to finance "permanent ordinary activities" and "campaign costs." PAN, PRI and PRD were the main beneficiaries.

political parties, as well as their supporters, from carrying out campaigning and promotional activities that would involve expenditure during this period.

C. FINANCING OF POLITICAL PARTIES

The Constitution provides, in Article 41, for equal rights and treatment of political parties with respect to their activities. The COFIPE provides detailed rules for the public and private financing of the political parties and establishes that “public financing should be the largest source of financing.” The regulations regulating the financial aspects of political parties was introduced in response to concerns raised about past corruption and to ensure a level playing field among parties and candidates.

Public financing is provided to fund permanent activities,²⁵ campaign expenses and specific activities such as political education and training, socioeconomic and political research, and publications. Additionally, political parties enjoy indirect public financing in the form of access to media, tax concessions with respect to property and free postage. The distribution of public funding for permanent activities is designed to protect the development of small political parties by distributing 30 per cent of the public funding on an equal basis among all political parties with parliamentary representation. The remaining 70 per cent is distributed according to the strength of a party on the basis of the share of votes it obtained in the election of deputies during the previous federal elections. Therefore, for the 2006 federal elections, PRI received 613,405,424 Mexican pesos; PAN 555,866,537 Mexican pesos and PRD 360,710,804 Mexican pesos for the funding of permanent activities. They also received the same amount for financing the campaign.

COFIPE also provides for the funding of political parties which obtained more than two per cent of the votes at the previous federal election as well as for those registered after the previous federal election by allocating to each of them two per cent of the total budget for financing its permanent activities. Thus, *Nueva Alianza* and *Alternativa Social Demócrata y Campesina* received 39,776,454 pesos each and the same amount for financing of the campaign. This generous public funding for political parties has greatly contributed to achieving stricter controls and transparency regarding political party finances.

COFIPE regulates the private sources for the funding of political parties and limits them to contributions of the members, contributions of supporters, self-financing and income from investments. According to COFIPE, the contributions of the membership and supporters should be the main source of private financing of the political parties. The legislation also establishes limits for the private contributions to the political parties.²⁶

25 This amount is determined once a year according to a formula established by law, considering among other things the estimated cost of a Presidential, Senatorial and Deputy campaign. For the 2006 elections, the total amount for public financing of permanent activities was \$1,988,822,705 Mexican pesos.

26 The law forbids contributions from the public institutions and administration, other political parties, foreign individual or legal entities, religious associations or Mexican business corporations.

Studies indicate that private funding only amounts to about 10 per cent of the funding of political parties.

In 1996, Parliament passed a constitutional amendment which gave IFE's General Council the authority to enforce regulations adopted by the election administration relating to financing of political parties. The law required that each political party presented an annual report, within the first 60 days of each year, recording the source and amount of expenses incurred during the previous year as well as the expenditure. Political parties also have to submit their campaign accounts, which are reviewed by the General Council, which in the case of infractions, can impose sanctions that include fines, a reduction or total withdrawal of public funds, and even suspension or cancellation of a party's registration.²⁷

The General Council sanctioned all eight national political parties for irregularities found in their annual reports of 2005. The total amount of the fines imposed was 73.6 million pesos. The audited expenditures of all the political parties was 2,200,831,977 pesos of which 91.4 per cent was public funding and 8.6 per cent private funding. The sanctions imposed on the political parties were as follows: PRD, 31,619,191 pesos; *Partido del Trabajo*, 14,587,092 pesos; PAN 13,455, 721 pesos; *Convergencia*, 11,240,418 pesos; *Nueva Alianza*, 1,154,606 pesos; *Alternativa* 773,268 pesos; PRI, 640,055 pesos and *PVEM*, 134, 349 pesos.

D. CAMPAIGN FINANCING

In an election year, political parties receive the same amount as the funds provided for permanent ordinary activities in the year. Campaign spending is limited, both by an overall ceiling per party and per candidate for the different elections. For the 2006 elections, the spending limit for a presidential candidate was fixed at 651,428,441 pesos. For a candidate in the election of deputies to parliament, it was around 950,186 pesos. For the election of Senators, it varied according to the number of electoral districts in the state. For example, for candidates in the capital city, the limit was 1,9 million pesos.

Each political party was required to allocate 50 per cent of its campaign funds for radio and television campaign activities, including the promotion of its candidates, and for presenting its positions on important national issues. However, since many of these media programmes involved negative campaigning, questions were widely raised about the large amount of public money spent on such campaign activity.

By law, political parties have to disclose their financing of the campaign within 60 days of the end of the campaign period. This information is available to the public months after the elections. Significantly, IFE has taken important measures to reinforce the

27 After the 2000 elections, heavy fines were imposed by the Electoral Tribunal (approximately €120 million to PRI and approximately €60 million to PAN for irregularities in their campaign financing and for receiving undeclared money from unauthorised sources). This was a result of long and onerous investigations, involving numerous legal challenges, in particular relating to bank secrecy laws.

existing legal framework and enhance the transparency and fairness of the electoral process by requiring political parties to submit two partial financial statements during the campaign period. All political parties complied with this request. Although some political parties exceeded the limits of expenditure during the campaign, no sanctions for violations of the campaign finance laws were imposed by IFE. This could have been due to the fact that IFE could not engage in the extensive investigations necessary to establish violations in such a short period of time. Nevertheless, IFE's attempts to shame candidates and parties into observing financial controls and to strengthen the public's right to know before election day should be welcomed.

A weakness in the election law is that expenditure during the campaign period for primary elections for the presidency is completely unregulated. IFE responded to this shortcoming by considering expenditure during this period to be part of the permanent activities of political parties. It also requested detailed reports about expenditure in this period. IFE imposed sanctions on almost all political parties for violations during this period. Some political parties expressed concern that as a result of such action IFE was acting beyond its powers. In an attempt to ensure equity with regard to campaign expenditure, IFE prohibited campaigning during the period after the primary elections and before the date on which the official campaign commenced (the so-called "Christmas ceasefire").

During the pre-campaign and campaign period, IFE monitored the major media outlets and reviewed every advertisement transmitted on radio and television. This enabled IFE to scrutinise the accuracy of political party reports on expenditure. In October 2005, IFE and TELEVISIA, the largest television and radio network in the country, signed an agreement under which they granted IFE direct access to all information relating to party expenditure on its media outlets. Since media advertisements account for 60 to 70 per cent of campaign expenditures, many political analysts consider that the real beneficiary of public financing of Mexican elections is the media.

The increase of resources involved in the campaigning of the political parties brought new challenges regarding IFE's ability to oversee the auditing and enforcement of the spending limits. Sanctions by IFE and the Electoral Tribunal are administrative and therefore do not act as an effective deterrent against violations of financing regulations. For example, several high level public officials were fined after the 2000 elections and banned from holding public office, but no one was criminally charged with federal electoral crimes. With regard to political parties and candidates, financial sanctions appear to be ineffective because of the practice that electoral victories cannot be challenged on the grounds of the violation of campaign finance laws. For example, one of the strongest penalties provided by law is the de-registration of a political party. However, even if this is done, the candidates elected on that party's ticket will remain elected regardless the de-registration of the political party.

XIV. PARTICIPATION OF CIVIL SOCIETY AND OBSERVATION

There is a wide variety of civil society groups active in Mexico, many of which are involved in the election and democratization fields. Some were active in the pro-democratic reform movement of the 1990s, and acted as observers during past elections. Civil society organisations played a vital role in ensuring transparency in the electoral process, encouraging voter participation and monitoring the performance of the key institutions responsible for the elections. They also had a beneficial impact on political parties to discourage vote buying and the misuse of social programmes for partisan purposes.

Domestic election observers and their rights and duties were first recognized in the law in 1993. Although domestic observers have access to all stages of the electoral process, and may take photographs and videos where necessary, they do not have the right to make complaints in the polling stations. They also do not have the right to sign the official forms in the polling stations or register any protests. These are prerogatives that are given to the party representatives. Domestic observers, as any other citizen, have to complain to the prosecutors.

A group of 26 NGOs received public funding for the elections (€1.72 million), allocated via UNDP, which provided technical assistance. These resources were directed to a broad range of projects, from traditional observation centres on election day and “quick-counts,” to support to observation activities by indigenous communities. UNDP also established an information centre on election day to release information on the results of their activities.

Some political analysts and press reports expressed concern that some civil society organisations had been weakened by the co-option of their leaders into government and other posts and by a complaisant belief that Mexico’s democratic transition was now safe. Some also argued that civil society organisations should lobby for reform and assist in the formulation of reform proposals rather than simply denouncing actions that they consider inappropriate. Others, however, noted that civil society engagement in the elections was more profound and sophisticated than previously as it encompassed more than just election day observation.

IFE accredited 25,311 domestic observers from various organisations throughout the country. Despite the wide network of organisations involved, however, fewer observers were deployed to observe the polls than at past elections (in 2000 there were 38,500). There could be several reasons for this reduction, including greater public confidence in the electoral process and the lack of resources among civil society organisations to deploy a greater number of observers. IFE also issued a total of 970,000 accreditations to political party representatives. The main political parties had representatives in almost all polling stations.

IFE received several complaints filed by political parties and civil organisations against the accreditation of a domestic observer organization called "*Ciudadanos para un país mejor*" (Citizens for a Better Country), on the grounds that it had strong links with a non-registered candidate to the Presidency, Victor Gonzalez Torres. IFE decided to accredit the organisation as it considered there to be no evidence to support the allegations.

The Constitution prohibits foreigners from meddling in the internal political affairs of the country. In practice, they enjoy the same possibilities to observe and report on the process as domestic observers (although legislation reserves use of the term "observers" to Mexican nationals only). International observers therefore had to be registered with IFE as "foreign visitors." More than 600 foreign observers were accredited by IFE, the largest contingent of which was from the European Union. The Organization of American States had a three-day presence in the country with two representatives. Most other observers were members of electoral tribunals or special guests.

XV. MEDIA

There is an active media environment in Mexico, with more than 2,000 registered television and radio stations, some 300 printed publications, and 10 national newspapers. However, media conditions vary in the country, with the local and regional media being more isolated and vulnerable than the national media. While the national media have developed a higher journalistic standard and independence in recent years, and government influence has declined, the local media are still subject to pressure from organised crime and local authorities, who often do not accept their criticism.

Although Mexico enjoys a wide range of media outlets, including electronic and print, the media sector has a high dominance of two television networks (*Televisa* and *TV Azteca*). Particularly in the rural areas, the country still remains a society with strong oral traditions, as a result of which television and radio serve as the main sources of political information.

While there is a wide range of print media, comprising mostly of private newspapers, with the main newspapers having a national outreach, their circulation remains relatively low (around 1,500,000 copies daily). Given literacy problems and costs, they reach only a limited number of the population, mostly in the main urban areas. On the other hand, the print media serves as a complementary source of information, being traditionally more analytical, but in some cases more partisan in their reporting.

The Government does not restrict Internet access, and its accessibility is growing across the country, especially in major cities. However, some segments of the population, predominantly the poor and the elderly, cannot afford to use the Internet or do not possess sufficient computer skills.

A. FREEDOM OF THE PRESS

While during the past few years, a number of reports on freedom of the media²⁸ in Mexico have showed that the media situation has improved and become more open, the country still experiences certain risks in this regard. The Constitution provides for freedom of speech and this right is generally respected, however, journalists often work in a dangerous environment of threats, defamation suits, and harassment by local authorities and narcotics trafficking organisations. Also, the problem of paid journalism remains, predominantly on a local level.

Attacks against journalists are the most serious problem. Journalists in the capital are generally able to report freely, but those reporting on drug trafficking, official corruption and other illegal activities in the northern states bordering the United States and in the southern states of Chiapas, Guerrero and Oaxaca are targeted by those seeking to prevent the media from exposing their activities. During 2004 and 2005, Mexico became one of the most dangerous countries in the Americas for journalists, with eight being murdered or disappearing. The widespread problems with serious investigation into crimes against journalists often fosters a climate of impunity that provokes self-censorship, and jeopardizes the physical safety of journalists and their families.

In a positive development, in 2002 the Law for Transparency and Access to Information created an autonomous federal body²⁹ in charge of providing public access to information, protecting personal data, and promoting a culture of transparency and accountability of civil servants. Nevertheless, the openness and transparency of some public offices are still somewhat in question, according to press monitoring organisations. In light of the 2006 elections, several legal amendments that significantly influenced the media environment were initiated. In February 2006, a special prosecutor's office was created dedicated to journalists-related crimes and offences. While by setting up the office the federal authorities appeared to have decided to face the prevailing climate of impunity, its effects are yet to be seen and some experts have noted the limited powers of the office.

In April 2006, the national Lower Chamber of Congress passed, by overwhelming majority, two bills to remove the defamation and slander provisions³⁰ from the Federal Criminal Code, and to protect journalists from being forced to reveal their sources to authorities. The move was applauded by the international media organisations. However, the bill was, at the time of the 2006 elections, to be approved by the Senate and signed by President Fox to enter into force.

However, the majority of cases of defamation and slander are handled at the state or district level, and the state laws that criminalize libel, often excessively restrictive, will remain in effect. In February 2004, the Chiapas State legislature raised the penalty for those found guilty of defamation and libel from three to nine years imprisonment, the highest in the country. A positive note was that the Mexico City Assembly followed the

28 *Reporters without Borders*, The Committee for the Protection of Journalists, IFEX, Freedom House, United States State Department, *Internews*.

29 *Instituto Federal de Acceso a la Información Pública* (IFAI).

30 Articles 350 to 363.

federal legislature by decriminalizing “press crimes”, which meant an important step forward as many journalists work in the capital.

Pre-election discourse was to a certain extent marked by a discussion over a controversial television reform of the Law on Radio and Television Broadcasting and the Law on Telecommunications, adopted by both Congress chambers in December 2005 and March 2006 and signed into law by President Fox. The timing and fast-track approval, which disregarded another proposal that had been under exhaustive revision for a longer time, led some political analysts to consider the approval a result of an agreement between the country’s largest media network, and politicians seeking media attention prior the elections.

Media law analysts, academics, civil society organisations and the Federal Competence Commission (COFETEL), an anti-monopoly regulating organ, warned that the new reforms would favour the two powerful television networks over small radio and community stations, and would further increase the already strong presence of the electronic media, rather than promoting healthy competition. As an opposing initiative, in May 2006, a group of 47 Senators filed a legal challenge to the Supreme Court, alleging the laws were unconstitutional.

B. LEGAL FRAMEWORK

While the Constitution and other laws³¹ are relevant for the media environment, the Election Law sets the main legal framework for the elections. The Election Law contains, in Articles 43-48, quite detailed regulation of the conduct of electronic media during the election campaign,³² *inter alia* providing for free and paid broadcast time to all political forces, based on the principle of ‘equal opportunity’.³³

As a result of the electoral reform, since 1987 each political party has been granted the right to have 15 minutes a month of free time in the broadcast media. This time is divided into three five-minute slots. In addition, there is a guarantee to broadcast a monthly 30 minute programme in which the representatives of all political parties may debate, under equal conditions, their opinions on current national events.

Since 1990, the parties have been provided with additional free time that comprises 250 hours of radio transmission and 200 hours of television transmission during the electoral process, as well as up to 10,000 20-minute spots on radio and 400 spots on television distributed by IFE on a monthly basis. From the additional time slots, 30 per cent is distributed equally among all political parties, and the remaining 70 per cent is allocated

31 The Law on Radio and Television Broadcasting (1960), The Law on Telecommunications (1995), The Law for Transparency and Access to Information (2002), The Civil Code (1928), The Criminal Code (1931).

32 A campaign for the Presidential election begins during the last two weeks of January of an election year and for both chambers of the Congress between the first week of April and the first week of May.

33 Constitution, Article 41.

proportionally on the basis of votes obtained during the most recent federal election to the Chamber of Deputies.

Political parties were also entitled to purchase promotional spots in the broadcast media and print space in the newspapers during the campaign period. The Election Law,³⁴ however, prohibits the purchase of spots that would promote or discredit a political subject running in the election or a candidate by a third party. The spot prices may not exceed those applied to commercial advertising.

As a result of an innovation introduced in 1993, the Election Law³⁵ also directs the Broadcasting Council, the body within IFE's structure in charge of overseeing free time allocation, to prepare, in conjunction with the National Chamber of Radio and Television, the general guidelines for media news campaign reporting. However, even though these guidelines concern the citizens' right to receive true, timely, plural and impartial information and requires the media to ensure balance in the campaign-related coverage, their real effect was somewhat doubtful as adhering to these requirements was not legally binding.

In order to monitor the political parties and the media, IFE contracted a private company, IBOPE, to conduct an extensive media monitoring exercise, which included more than 300 media outlets throughout the country. Monitoring of the official campaign focused on two basic aspects: media compliance with balance in their news coverage and the expenditures of the political parties on paid media advertisement spots. While some experts criticised certain aspects of IFE's effort,³⁶ others pointed out the importance of such activity, as it served as a feedback for the media in terms of election coverage. The media monitoring data were freely accessible and, thus, could help citizens to make a well informed choice.

IFE also tried to extensively promote participation³⁷ in the polls through special spots broadcast by the electronic media. In addition, representatives of IFE were regularly present in the media to explain various aspects of the electoral process.

C. MEDIA MONITORING

On 16 June 2006, the EU EOM started monitoring five national TV stations, two radio stations and four daily newspapers.³⁸ The Mission sought to evaluate whether the media

34 Article 48.13.

35 Article 48.10.

36 Criticism concentrated mainly on the methodology, the decision to hire IBOPE, an organisation that also provided rating data for the main television networks, and the non-user-friendly online availability of the data.

37 The two networks, *Televisa* and *Azteca*, also aired their own spots promoting election participation.

38 The Mission used qualitative and quantitative analysis to monitor, from 16 through 28 June, the following media outlets: *Televisa* (Channels 2, 4), *TV Azteca* (Channel 7, 13), *Once TV* (TV channels); *Radio MVS/Monitor*, *Radio Formula* (radio stations); *El Universal*, *La Jornada*, *Milenio*, *Reforma* (newspapers). In the case of television whole primetime periods (18.00 – 00.00) as well as morning

provided impartial and balanced coverage of political contestants and political institutions as well as related campaign issues. It also analysed whether the media adhered to the legal requirements established by the Election Law.

Generally, the monitoring findings showed an extensive visibility of the campaign in the media, with a very large amount of campaign advertisements being broadcast throughout all the day. The media was dominated by the presidential election, with a significant portion dedicated to the exchange of criticism among the principal contestants. However, the media, and predominantly the television in its newscasts, although regularly informed on the candidates campaigning around the country, often offered its viewers just a basic descriptive approach to the events, and focused on the political confrontations rather than on the platforms and programmes of each party, thus limiting, to a certain extent, the programmes' informational value. At the same time, the media offered the candidates a chance to express their points of view in a number of interviews and debates.

Almost all media monitored paid more attention to the three leading candidates in the opinion polls and dedicated only marginal space to the others. The Coalition *Por el Bien de Todos*' candidate, Andres Manuel López Obrador, received the largest news coverage in seven out of eleven monitored media outlets. However, in comparison with his opponents, the tone of the coverage was more negative in its content. On the local level, there was a clear difference in the election coverage according to each state, often revealing preferential treatment to particular candidates.

As noted by EU EOM interlocutors, media coverage went through different phases. While quite extensive coverage of PRI's candidate, Roberto Madrazo, was noticed at the very beginning of the electoral campaign, it was later marked by an intensive campaign by PAN's candidate, Felipe Calderón, against López Obrador, portraying him in a series of spots as "a danger for Mexico." Another phase came after the second debate held on 6 June, when a mutual confrontation between the two leading candidates started, which continued until election day.

The final two weeks of the campaign showed an imbalance in the media coverage, as it focused almost exclusively on the three leading candidates and their political organisations. The other two contestants were shown in a way that mirrored their low poll ratings, clearly reflecting the impact of such surveys on the media conduct. In general, however, the media provided citizens with a chance to gather information about the contestants in a number of different programmes, including two debates on April 25 and 6 June.³⁹

news were monitored. In terms of radio stations, selected news shows were analyzed. As for the newspapers, all issues were analyzed.

39 Andrés Manuel López Obrador did not take a part in the first debate.

While the media generally complied with legal requirements regarding free time allocation, IFE,⁴⁰ reacting to complaints, ordered, in at least twelve cases, the cancellation and withdrawal of TV spots, and in two cases required changes to their content, considering that such materials violated the law, which obligates candidates to refrain from defamatory statements about other candidates, political parties or public institutions. However, given the insufficient enforcement power of IFE, the political parties did not always fully respect its decisions and continued to produce only slightly modified spots.

Apart from the large number of confrontational spots during the last days of campaigning, there was quite noticeable activity in the media by various non-political organisations, including the respected Business Coordination Council⁴¹ (CCE), as well as less well-known non-governmental organisations. While the CCE in their spots indirectly supported the economic platform of PAN's Felipe Calderón, the spots of the NGOs, which continued to be broadcasted during the silence period, targeted mainly the Coalition *Por el Bien de Todos*.

Television

The EU EOM media monitoring showed a difference in the way monitored channels presented the election campaign in their newscasts, with the most popular channels, 2 and 13, giving the highest attention and coverage to the campaign. *Televisa* Channel 2 devoted most of its political news (37.5 per cent) to Andrés Manuel López Obrador, with coverage that was quite balanced and neutral in content. During the same period, Felipe Calderón received 31.4 per cent (around 15 minutes less), with coverage that was more favourable in tone.

Channel 13 of *TV Azteca* provided both candidates with almost the same coverage in terms of time (32.6 per cent for Felipe Calderón and 32.5 per cent for Andrés Manuel López Obrador). However, the tone of the coverage was quite different, offering much more positive reporting about Felipe Calderón. Of the monitored channels, only Channel 7 of *TV Azteca* dedicated to all five candidates a balanced, mostly neutral coverage with the candidate that received most coverage being López Obrador (25.3 per cent) and the less covered being *Nueva Alianza's* Roberto Campa (14.6 per cent). However, the channel showed little interest in the overall electoral campaign, dedicating less than 15 minutes of its newscast.

Radio

The two monitored radio stations showed a much more open approach than television stations when covering the election campaign. *Radio Formula*, in its noon time news, showed inclination towards López Obrador allocating him 41.8 per cent of positive tone coverage, especially on 28 June, the last day of campaigning. Conversely, the morning

40 The Electoral Tribunal, in a resolution adopted on 5 April 2006, reaffirmed IFE's authority to resolve this type of complaints.

41 *Consejo Coordinador Empresarial*.

news of *Radio Monitor* showed a clear bias in favour of Felipe Calderón, both quantitatively (52.2 per cent) and qualitatively in terms of the tone.

Print Media

While *La Jornada* showed clear bias in favour of López Obrador, portraying him in a very positive light in 44.4 per cent of the paper's political stories, *Milenio* also devoted 46.5 per cent of its political news to the Coalition leader, but with a critical tone. *Reforma*, showed a more balanced quantitative approach, although coverage of Felipe Calderón and Roberto Madrazo was generally positive. *El Universal* offered its readers quite balanced coverage of the three leading candidates with López Obrador and Calderón accounting for almost the same coverage (31 and 30 per cent, respectively). This newspaper was the only one among those monitored that ignored Calderón's final rally in the capital.

On election day, the media showed all presidential candidates voting and gave them a chance to comment on the process. In the aftermath, all monitored media offered extensive coverage, with the newspapers offering a more in-depth analysis, of the major electoral issues and subsequent developments, including the press statements issued by the EU EOM on Monday and Friday after election day. On the Monday after election day, the media reported on electoral activities in the country and published the election results based on the preliminary results (PREP) announced by IFE which gave Calderón a slight lead over López Obrador. In the following days, the coverage concentrated on explanations of the PREP system and López Obrador's legal challenge of the results and call for a vote-by-vote re-count.

XVI. WOMEN'S PARTICIPATION

More than 50 per cent of the total population of Mexico is women but their presence and influence in public and political spheres of power remains low. The Constitution and the COFIPE recognise and provide extensive protection for the rights of women. The election law requires that political parties do not put forward more than 70 per cent of candidates of the same gender for election to the National Assembly in the majority list election. An exception to this is made if a party selects its candidates for the majority list by direct popular elections in the primaries. In this case, the quota requirement does not apply. On the proportional representation lists, the other gender must be in every third place on the lists.

While the party lists were in line with this requirement, in cases where there were coalitions the requirement was not strictly observed. This was because the law relating to substitution of candidates in coalition lists prohibits the substitution by persons outside the list, which is accepted in the case of political parties contesting alone. The substitution has to be made by the replacement candidate who may not be of the same gender. Therefore, in a situation where the primary candidate was a woman and the replacement for this candidate a man, the quota requirement was undermined. Thus the

law which seeks to facilitate coalitions appears to be in conflict with provisions to promote women's participation. In addition, there is always the possibility that coalitions will pressure women to withdraw their candidacy.

Mexico is in a high position in the Inter-Parliamentary Union ranking of parliaments⁴² with respect to women's participation. This is partly due to the quota system for candidate lists. However, the quota system did not fulfil its objectives fully because the law did not distinguish between primary and replacement candidates for the fulfilment of the quota requirement. Several political parties nominated the stipulated number of women as replacement candidates thereby observing the letter of the law but placing women in "non-winnable" positions. Of the five presidential candidates that contested the presidential election, only one was a woman. While the party lists for the elections were in line with this requirement, in cases where there were Coalitions the requirement was not strictly observed. This was because the law relating to substitution of candidates in coalition lists prohibits the substitution by persons outside the list, which is accepted in the case of the political parties contesting alone.

In the newly elected parliament, 113 of the 500 Deputies are women (22.6 per cent) and 22 of the 128 Senators are women (17.2 per cent). Therefore, the percentage of women in parliament is smaller than in 2003 when 25.8 per cent of Deputies and 21.3 per cent of Senators were women. A total of 27 per cent of *Alianza por Mexico* legislators (Deputies and Senators) are women, while *Alianza por el Bien de Todos* and *Partido de Acción Nacional* have 15 per cent and 14 per cent respectively.

The level of attention paid to women's participation varied regionally. In the State of Colima all organisations and political parties guaranteed the gender balance in their activities and programmes. However, in Mexico City, the level of women's participation was low. In the State of Zacatecas the gender issue was an important part of the political campaign of the political organisations.

The level of women's participation in higher levels of the election administration is low. There are only two women among the 15 members of IFE's General Council. Participation in polling station committees was satisfactory as members were chosen by lot. Domestic observers had a significant level of female participation as well.

Mexico is under an obligation to ensure adequate participation of women in all areas of decision making, in particular at federal, State and municipal levels of government following its ratification of CEDAW (Convention on Elimination of all Forms of Discrimination against Women), in 1999. Though electoral laws were amended to keep with CEDAW's recommendations of 2002, due to some of the shortcomings highlighted above, more needs to be done to ensure greater female participation in the election process. A recent study by UNDP titled "Women and political participation in Mexico",

42 As of 32 May 2006, Mexico is in 28th position on the ranking out of almost 150 countries.

highlighted the need for greater civic education for women and mechanisms to facilitate the greater involvement of women in politics.⁴³

XVII. ELECTION DAY

Mexicans went to the polls on 2 July 2006 in a generally calm and orderly environment, and freely exercised their franchise without interference or intimidation. Election day proceeded satisfactorily and votes turned out in significant numbers. However, in several regions of the country voters had to face large lines and wait for hours to vote due to the large turnout at the start of voting and the coincidence of times proscribed to set up and open polling stations (both at 08:00). In some areas, for example in the States of Chihuahua and Tamaulipas, some basic and special polling stations had not opened by 9:45 am. The late opening was due not only to the fact that polling staff had to set up the polling station but also because in some places essential material, including voter lists and ballot boxes, was missing. In some cases, however, the delay was due to the fact that some polling station staff members did not turn up, and had to be replaced by substitutes or voters in line.

However, the electoral material was complete in most polling stations visited, and the secrecy of vote was guaranteed in almost all polling stations observed. Implementation of security safeguards (including use of indelible ink and punching of the voter card) were correctly observed to be followed correctly, except checking of the voter's finger for ink, which was often carried after the voter had voted. EU observers reported that the quality of the ink was poor. Some reports were received from EU observers that groups of people were present in polling stations, as well as some examples of polling station staff wearing T-shirts with political party colours. In the State of Chiapas a few cases of family voting were reported. EU observers also commented on the small size of the ballot boxes and the absence of security seals. In many polling stations visited there was not enough supervision of the ballot boxes.

A very positive aspect of the process was the presence, in almost all polling stations visited, of representatives of the main political parties. Domestic and/or international observers were also present in around 30 per cent of polling stations visited. The EU EOM did not receive any formal claims or complaints from voters, political party representatives or observers, although many voters and party agents complained informally about the delay in the opening of polling stations.

Fears that the tense situation in Oaxaca might disrupt the voting process did not materialize and election day in the State passed without incidents. The same was the case in San Salvador Atenco, Estado de México, another of the so-called "red spots", where voting in its 36 polling stations proceeded normally.

⁴³ Currently, only 10 per cent of the higher level positions in the executive branch of government are occupied by women.

Special Polling Stations

Although the voting process ran smooth and developed satisfactorily in the basic polling stations, despite a general half-hour delay in opening, voting in the *casillas especiales* experienced several problems, including an insufficient number of such polling stations to accommodate the high number of voters, large lines and long hours to wait to vote (an average of between three and four hours), small number of ballots in relation to the number of voters per polling station, and difficulties in accessing the electronic voter list.

However, voters generally waited their turn to vote quietly and with patience. Nevertheless, it was observed that many voters could not exercise their right to vote because of a lack of ballot papers. Since voters who were turned away as a result of this, or others who gave up voting after waiting long hours in line, were not registered, it was impossible to estimate the number of voters who could not vote at the special polling stations. In some special polling stations, for example in Tamaulipas, problems when checking names against the voter list uploaded into laptops, slowed the voting cycle. In one special polling station (*casillas especiales*) in the bus terminal of Aguascalientes, EU observers witnessed what could have been the start of the so-called "carousel," voting when young voters carried their ballots outside the polling stations, however, this could not be verified.

XVIII. PROVISIONAL RESULTS

The main tabulation activities involved a *quick-count*, announcement of the preliminary results (PREP), the tabulation of results at district level and the announcement by IFE's General Council of the result of the presidential election. The two first mechanisms used for the projection of tendencies and the official results generated similar figures.

Quick Count

The COFIPE allows the General Council to conduct *quick-counts* and also gives it the authority to authorise the announcement of results. IFE's General Council decided, on 30 November 2005, to conduct a *quick-count* during the 2006 elections. The objective of the *quick-count* was to know the trends for presidential election on the day of the election. The *quick-count* was designed by an Advisory Technical Committee formed by five specialists and used a large sample of 7,636 polling stations. The margin of error was calculated to be 0.3 per cent.

Following analysis of the information received, the Committee had to report to the General Council advising on the publication or not of the results based on four different scenarios which were to assess the clarity and reliability of the trends. The *quick-count* created some controversy regarding the circumstances of its announcement by the President of the General Council.

At a session held on the night of the elections, and based on a previous agreement with the political parties, the President of the General Council announced that there was a technical tie between the two leading candidates and that, therefore, the results of the *quick-count* were not going to be publicised. Some representatives of the political parties and members of the parliament reacted strongly and demanded to know the result of the *quick-count*, even if the trends were not clearly defined. The General Council conceded and released the results the day after the election, showing a very narrow margin between the two leading candidates, PAN's Felipe Calderón, and *Por el Bien de Todos'* Andrés Manuel López Obrador. The percentages of votes—low and high limits according to each statistical method used—for the Coalitions and political parties comparative to the preliminary results (PREP) at 10:30 hours on 3 July 2006 were as follows:

	PAN	APMx	CPBT	NA	ASDC
PREP 3 July 10:36hs	36.40	21.48	35.41	0.99	2.82
ROBUST	(35.25,37.4)	(20.85,22.7)	(34.24,36.38)	(0.75,1.19)	(2.4,3.13)
CLASSIC	(35.68,36.53)	(21.66,22.26)	(34.97,35.7)	(0.93,1.03)	(2.6,2.8)
BAYESIAN	(35.77,36.40)	(21.72,22.24)	(35.07,35.63)	(0.94,1.05)	(2.6,2.8)

Preliminary Results

The preliminary results programme (PREP) was established by IFE in order to provide the public with fast preliminary results once they had been received from the 137,000 polling stations.⁴⁴ The PREP was not intended to undermine the official legal status of the count that was to be conducted a few days later at the electoral district level. However, the results given by the PREP could be considered as official results since they were based on the tallying sheets (*actas*) received from the polling stations and not merely by statistical estimates or samples.

As soon as they became available at the electoral district level, the results for each polling station were electronically transmitted from the Centres of Data Transmission (CEDAT) to the reception Centre of the Preliminary Results Unit (CENAREP) and made available to the public by posting them on IFE's website and by releasing them to the media. The database updated the accumulated data every 10 minutes. It is important to note that the

44 Art. 89 (I) of the COFIPE provides for the establishment of a mechanism for immediate release of the preliminary results.

data was processed in the system following a chronological order of reception and made available to the public only after 20:00 hours on election day.

On 10 February 2006, the Technical Committee of the PREP, together with the Consejo General and the representatives of the contesting political parties, adopted a set of guidelines which included criteria to be used in case of any discrepancies in the tallying sheets (*actas*). The criteria covered several issues, including incomplete forms, illegible data, and arithmetical mistakes. The criteria specified that if any of these discrepancies and mistakes existed, the *actas* would be considered as processed but the data included in them would not be aggregated to the database. The database made available to the public displayed the number of processed *actas* but did not make any distinction between those processed and aggregated to the database and those which were not added to the database. This shortcoming in the design of the database caused considerable confusion among the public, as some people got the impression that the 2,581,226 votes declared inconsistent and included in the 11,184 protocols were missing from the information that was published on the webpage. These votes were not missing but, as explained above, not aggregated to the database.

The electronic vote counting system also drew some allegations from the Coalition *Por el Bien de Todos* and from the media that the software was manipulated, since during the 24 hour flow of the data, López Obrador never headed the count. IFE explained how this was possible due to the fact that the flow of data had a geographical factor depending on where the votes were received from. A large number of votes received initially were from polling stations in the cities where a majority of voters supported Calderón. The votes for Calderón were, therefore, accumulated from the very beginning while the votes for López Obrador, never surpassed the votes received by Calderón. However, reports from IFE also indicated that during the initial period from 18:35 to 20:00, when results were prohibited by law from being made public, López Obrador did in fact lead the count at some points.

IFE responded to the criticism by ordering a report on the implementation of the PREP and by considering an external audit to clarify the matter. The announcement of the preliminary results was done on the day after the election and showed a difference in the presidential election result of 1.04 per cent between the winner, Calderón, and the runner-up, López Obrador. Once the data from the *actas* with the discrepancies was added to the database, the difference between the two candidates reported by the PREP was 0.64 per cent, confirming the trend established by the quick count the day before.

Tabulation at District Level

The 300 Electoral District Councils met in a permanent session three days after the elections to tabulate of the results recorded in the *actas* at the polling stations. There was an average of 434 polling stations in each of the districts. The results for the presidential election were obtained directly from the districts. After the Electoral Districts completed the aggregation of all the results from the polling stations, they were sent to CENAREP

which consolidated them and announced the national results on the 6 July 2006. The difference between IFE's preliminary and its final results was around 0.2 per cent.

PARTY	VOTES	PERCENTAGE	PREP (per cent)
PAN	15,000,284	35.89	35.91
PRD (<i>Por el Bien de Todos</i>)	14,756,350	35.31	35.29
PRI (<i>Alianza por Mexico</i>)	9,301,441	22.26	
<i>Partido Alternativa</i>	1,128,850	2.70	-
<i>Nueva Alianza</i>	401,804	0.96	
Non-Registered Candidates	297,989	0.71	
Nulls	904,604	2.16	
TOTAL	41,791,322		

Following the announcement of the results, the Coalition *Por el Bien de Todos* called for a nationwide alleging irregularities during election day, and demanded a national vote by vote re-count to enhance the transparency of the process, since the margin of votes separating the winner and the candidate placed second was so small. The Coalition hoped, in this way, to establish that a sufficient number of errors had been made that, if corrected, could overcome the difference in votes between the candidates. In spite of such allegations, IFE rejected the request since the law clearly establishes the grounds on which a re-count can be requested. According to the COFIPE, any re-count done at district level on grounds other than those specifically provided for in the law, would lead to the nullification of the votes in that polling station. The grounds established by law for a re-count are the following: (i) when there are evident discrepancies in the different copies of the results in the *actas*, (ii) when there are evident signs of manipulation in any of the *actas*, (iii) when the *actas* are missing, and (iv) when the packet containing the electoral material shows signs of manipulation. In the case that the political parties submitted reasons for a re-count different to those established in the law, the request should be submitted to the Federal Electoral Tribunal.

The re-counting procedure mostly followed the same pattern in all the states. The Coalition *Por el Bien de Todos* representatives consistently requested a re-count vote by vote which was denied by the presidents of the Electoral Districts, in a few cases following a vote by the District Council members. Only a few re-counts were therefore conducted (a total of 2,873 re-counts were reported by IFE). When the re-count was conducted, there were only small changes in the results. The revised results were evenly distributed among the main parties with a few exceptions. For example, in Baja California the re-count of 16 polling stations resulted in an additional 4,500 votes being distributed to the main parties and in Baja California Sur another 13,000 votes.

The political parties did not have a clear understanding about the procedure with respect to votes declared inconsistent in the PREP and assumed, therefore, that all those *actas* should be re-counted. The invalidation of votes did not represent a major issue. In some cases, the Coalition *Por el Bien de Todos* requested a re-count in polling stations where the percentage of null ballots was very high. In, some polling stations in Sinaloa, more than 10 per cent of votes were null. The Mission observed inconsistencies by election

officials in interpreting the different regulations, especially with respect to those related to the invalidation of ballots and with the application of the regulations relating to the re-count. For example, the interpretation of phrases such as “evident manipulation” or “evident discrepancies” created differences of opinion and controversy in several cases.

In general, the tabulation process was conducted in a professional and calm manner. In several cases there were small groups of Coalition supporters demonstrating outside the Electoral District premises. These protests were mostly peaceful, except in Aguascalientes where PAN requested the police to arrest Coalition supporters. However, there were no reports of arrests. The tabulation of results was observed by representatives of the parties contesting for the presidential elections and by the media. However, there was not a strong presence of domestic observers.

XIX. COMPLAINTS AND APPEALS

Following the announcement of the provisional results, the Coalition *Por el Bien de Todos* called for a nationwide re-count, alleging several irregularities during election day. Its candidate, López Obrador, again rejected the results at district level as soon as they were announced by IFE on 6 July 2006. The Coalition insisted that since the margin of votes separating the declared winner, PAN’s Felipe Calderón, and the runner-up was so small that a vote by vote re-count would enhance the transparency of the process. However, IFE’s ability to respond to many of these concerns was limited by the electoral law which spelled out very specific conditions for IFE to be able to order re-counts (see Provisional Results, *Tabulation at District Level*).

Political parties and candidates only can challenge the polls and the election results. The procedures and deadlines for presentation and resolution of challenges are defined in a law on electoral challenges (*Ley General de Sistema de Medios de Impugnación en Materia Electoral*). Political parties and candidates have four days to challenge the results, starting from the day the results are tabulated at district level. In the case of Senator and Deputies the deadline is 13 July 2006.

The only instance to hear challenges against the presidential election is the Electoral Tribunal, which had until 31 August 2006 to rule on the challenges and until 7 September 2006 to declare the official results, the validity of the election and proclaim the president elected. For the legislative elections, challenges must be filed first at the regional level and, in case of appeal, to the Electoral Tribunal.

The possibility of nullifying a whole election is not envisioned in the legal framework. The elections can only be annulled by nullifying the poll at individual polling stations. The law includes further conditions for the annulment of the legislative elections, establishing that it can only occur when serious violations of the law occurred, which together could eventually change the elections results, in an electoral district for Deputies and in a State for senators.

The Coalition *Por el Bien de Todos* then resorted to the higher instance and, on 10 July, requested a full re-count of votes before the Electoral Tribunal of the Federal Judiciary (TEPJF). The Coalition also organised a mass rally on 8 July and several other demonstrations to protest against alleged irregularities in the electoral process. The Coalition accused IFE of manipulating the electronic system during the ten-minute cut-off during the release of the preliminary results and also the results issued at district level. In addition, López Obrador alleged that: (i) tally sheets were changed, voters were paid off and computers were rigged by the electoral institute, which oversaw the balloting, (ii) President Fox had intervened in the electoral process in favour of the presidential candidate of his own party, PAN; (iii) there had been defamatory campaigning to harm the presidential candidate of the Coalition; (iv) there had been religious campaigning in favour of the PAN presidential candidate; (v) there had been intervention by some private businesses in the electoral process in benefit of the candidate of PAN; (vi) there had been spots by the government in support of PAN's candidate; (vii) that social programmes had been used in support of the campaign of PAN's Felipe Calderón; (viii) there had been excessive expenditures for the campaign of PAN and of Felipe Calderón; (ix) there had been campaigning abroad and by foreign citizens in Mexico in favour of Felipe Calderón; (x) there had been pre-campaigning by Felipe Calderón which led to an unfair advantage and which violated the principle of fairness; (xi) there had been a negligent attitude by IFE's General Council; (xii) there had been illegal use of the electoral roster by the PAN candidate; (xiii) there had been fund raising for the campaign of PAN's candidate through call centres; (xiv) there had been irregularities in the software used for the preliminary results (PREP); (xv) there had been irregularities in the tabulation of results at district level; and, (xvi) there had been biases of IFE's General Council.

PAN also presented 133 non-conformity suits. The Coalition *Por el Bien de Todos* (PRD, *Convergencia* and PT), challenged the results at 136 electoral districts, presenting 231 non-conformity suits. The challenges had two features: one based on eleven cases expressed in the Law of Challenges, by which the election at a polling station can be declared invalid, and a second based on the so-called "*causa de nulidad abstracta*" (causes for invalidation of an election), which are not expressly contained in the law. This was the case, however, in the nullification of the election of Governor of the State of Tabasco, in 2000, when more than five different serious violations were practiced in a generalized way during the pre-election period, the polls and the tabulation process throughout the state, which when taken altogether affected the results. This and other cases led to the development of jurisprudence in this area.

Even though the Coalition and its candidate were demanding the re-count of votes in each polling station in the 136 challenged electoral districts, López Obrador stated that he was not asking for the nullification of the presidential election. However, by presenting the challenges based on nullification causes not specifically expressed in the law, the result could be the nullification of elections in those districts, if the electoral court ruled positively. Nevertheless, there is no analogy between the cases named above which

created the jurisprudence since they concerned elections for governorship and the case of the Coalition's challenge which concerned presidential election.

Other Complaints

IFE made a projection that between 700 and 800 complaints would be filed during the 2006 elections, based on a projection of the number of complaints received during the 2003 electoral process (480). Up to 15 June 2006, IFE had received 360 complaints on violations of the electoral law. However, only nine of these were ruled on by the General Council. The majority of complaints can be considered to be minor violations of the law, and concerned, for example, incorrect placing of electoral propaganda or destruction of posters by political party supporters. In addition, a number of complaints were presented to IFE regarding defamation of candidates through electronic mail and cell phones messages. Some complaints related to violations of the Neutrality Agreement, especially concerning the misuse of public funds in the states of Guerrero, Oaxaca, Puebla, Michoacán, Yucatan and Zacatecas. Other complaints involved the use of social programmes and promotion of public works by public servants in these States to encourage votes for a specific candidate. Finally, there were a few complaints regarding electoral campaigning inside places of worship.

During a public session on 27 July, IFE's General Council presented a report on electoral complaints. Of the 756 complaints which IFE had received, only nine had been acted upon.⁴⁵ The report was met with strong criticism by the representatives of PAN, the Coalition *Por el Bien de Todos* and PRI, all of whom questioned the professional capacity of IFE. Taking into consideration the low number of cases ruled on by IFE, it appears that the procedures at IFE were very slow. According to COFIPE⁴⁶ there is only one deadline concerning complaints, which is the period of five days for the accused party to reply to the accusation. Though, an internal document by IFE for procedures on complaints⁴⁷ instructs step by step the procedures and gives specific deadlines from the presentation of a complaint until its resolution. These deadlines have not been followed by IFE itself.

The Electoral Tribunal of the Federal Judiciary (TEPJF) received 1,600 complaints prior to Election Day. Of these, 1,300 were presented by individuals and the majority concerned appeals for the protection of the electoral and political rights of citizens. Generally, these cases were challenges to internal elections of political parties. In general, the TEPJF adopted a broad interpretation of the law concerning the rights of citizens as established in the Constitution, and ruled positively in a large percentage of the cases.

45 "Informe que presenta el secretario del Consejo General en cumplimiento al art. 6 del reglamento para la tramitación de los procedimientos para el conocimiento de las faltas y aplicación de sanciones administrativas establecidas en el título IV del libro IV del COFIPE, 20 de julio 2006."

46 COFIPE, art 270.

47 Regulation on Procedures for Offenses and Administrative Sanctions as established by Chapter VI, Book V of COFIPE (*Reglamento para la tramitación de los procedimientos para el conocimiento de las faltas y aplicación de sanciones administrativas establecidas en el Título VI del Libro V del COFIPE*).

The rest of the cases were challenges to campaign spots, petitions and appeals against charges imposed on political parties by IFE.

Electoral Offences

Electoral offences are contained in the Federal Penal Code.⁴⁸ The Office of the Public Prosecutor for Electoral Offences (FEPADE) received almost 500 claims and complaints during the electoral process, the majority of which concerned the electoral campaign. Electoral offences are not considered as severe crimes, but offenders can be sentenced for to between six months and nine years in prison. On 21 June, FEPADE announced that it had dismissed 282 claims because they were out of its area of competence. Thirty-two per cent of the complaints were presented by individuals, 24 per cent by IFE and 19 per cent by political parties. None of the cases led to a prison sentence. A well-known case a few days before election day, involved IFE taking action against a public servant that it employed for the illegal use of the voter list. During election day, FEPADE received 106 complaints.

The procedures for handling and investigating cases at FEPADE are time demanding, with the result that resolutions take a long time to process and actions are often taken after the end of the electoral process. The procedures are secret and there is no legal deadline for resolutions. Delays have been strongly criticized by the political parties, which claim that FEPADE is inefficient. Moreover, the fact that FEPADE is a dependent unit of the General Attorney's Office, and the General Attorney is named by the President, is seen by political parties as an indication of FEPADE's lack of institutional and political independence.

TV spots during the electoral campaign

Some TV spots during the electoral campaign contained personal accusations and slanders which violated the Constitution, COFIPE and the Federal Penal Code.⁴⁹ The most significant cases, involving the withdrawal of the spots by order of the Electoral Tribunal, were three spots produced by PAN showing the Coalition's presidential candidate, comparing him to the President of Venezuela, and presenting him as "a danger for the nation". The Tribunal's decision was taken on 24 May 2006, approximately one month after the complaint was filed. Further, the Tribunal determined, on 22 June 2006, that two spots of the Coalition *Por el Bien de Todos* portraying PAN's presidential candidate, as likely to have been involved in an economic scandal in 1994 had to be withdrawn.

IFE's General Council ruled against a demand from the Coalition *Por el Bien de Todos*, to remove a spot in which the PRI presidential candidate, Roberto Madrazo, questioned the honesty of his Coalition counterpart. Later, the Electoral Tribunal decided that the

48 Penal Code (*Código Penal Federal*) Articles 403 – 413.

49 Constitution of the United States of Mexico (*Constitución Política de los Estados Unidos Mexicanos*) Articles. 6 and 7; COFIPE Article 38); Penal Code (*Código Penal Federal*) Articles.350-356.

phrase “to lie is a habit of yours” had to be withdrawn. On 24 June 2006, IFE’s General Council sent a letter to the Council of Business Coordination (*Consejo Coordinador Empresarial*) expressing concern about two spots warning the public whether to go on with the same economic system or face dangers for the nation of a system change, which could be interpreted as an inducement to vote. However, because no candidate or political party was mentioned, such spots were not considered contrary to the law. Nevertheless, a few days later the Council withdrew the spots from being aired.

XX. PARTIAL RE-COUNT OF VOTES

On 5 August 2006, the Electoral Tribunal, after rejecting the Coalition’s petition for a re-count of votes in all polling stations of the 300 electoral districts of the country, ordered a re-count of the votes in 11,839 polling stations in 26 States, mostly located in the Northern region. The five-day re-count activities started on 9 August in 172 electoral districts. The Mission, as well as a number of domestic observation groups and civil society organisations, requested authorisation from the Electoral Tribunal to observe the re-count. The request was rejected on the grounds that such activities were part of a legal, and not an electoral process. However, the Tribunal left the decision on whether to allow the presence of observers up to the discretion of the magistrates in each electoral district. The Mission had full access to the facilities visited where re-count procedures took place and all magistrates stressed their intention of having a re-count process as transparent as possible, allowing the presence of observers and the media, in addition to the political party representatives.

The Mission observed the re-count in the states of Jalisco, Guanajuato, Queretaro, Estado de México and the Distrito Federal, and noted the following: (i) the doors of the storage rooms for the boxes containing electoral material were sealed and protected by the armed forces; (ii) the boxes containing electoral material were open, as consequence of previous requests by the electoral authorities to open the boxes but with no formal instructions to be re-sealed; (iii) the majority of the envelopes containing the ballots were sealed; (iv) the re-counting of votes in most of the polling stations visited registered minor arithmetic errors of one, two or three votes in favour or against one candidate; (v) a substantial number of ballots were challenged by political parties representatives, sometimes with no apparent reason,⁵⁰ and sent to the Electoral Tribunal for qualification; and (vi) although in some polling stations observed the re-count of votes showed a match between the total of valid, null and non-used votes vis-à-vis the total of ballots received, this was not the case in all polling stations observed.

The Mission considered that the discrepancies found during the re-count process were the result of unintentional human error, did not reveal any pattern that might raise suspicions

50 In District 05 of the city of Leon, state of Guanajuato, the Coalition representative rejected about 70 per cent of PAN’s votes in several polling stations alleging “similarity in the way votes were marked.” The Electoral Tribunal, halfway through the re-count process, issued a resolution turning down such arguments when rejecting ballots, which were sent for qualification by the Tribunal.

of fraud, and were a consequence of the long hours of work during election day, pressure of time and, in some cases, the low educational level of the polling station members in more remote areas.

In general, the re-count process was held in a well organized, transparent and peaceful way. While Coalition supporters were seen outside the electoral districts facilities with banners, shouting through loudspeakers in favour of the re-counting votes of all polling stations, no incidents of violence that could have jeopardize the re-count activities were observed, or reported to the Mission. The two leading candidates in the presidential election lost around 80,000 votes each one after the re-count of votes in the 11,839 polling stations ordered by the Electoral Tribunal. PAN's candidate, Felipe Calderón, maintained his lead over Andrés Manuel López Obrador, the Coalition candidate, despite Calderón losing 4,183 votes more than Obrador after the re-count.

The top electoral court also ruled on 375 challenges presented by the Coalition, PAN, and two private citizens. The tribunal dismissed the challenges presented by the citizens arguing that only political institutions and candidates could challenge the results, and rejected or dismissed Coalition and PAN challenges on grounds varying from lack of evidence to support the challenge to delays in the submission of the challenges. The tribunal considered that there were no generalized irregularities, although it nullified the voting in a small number of polling stations (no specific number was mentioned).

After the re-count held from 9 to 15 August 2006, according to information issued by the Tribunal, Felipe Calderón lost 81,080 votes of the 15,000,284 votes received before the official announcement by the Tribunal, to leave him with a total of 14,919,204 votes, while López Obrador saw his 14,756,350 votes reduced by 76,897 votes, leaving him with a total of 14,679,453. All other presidential candidates also lost votes after the re-count: *Alianza por Mexico*'s Roberto Madrazo lost 3,114 votes, *Alternativa*'s Patricia Mercado 5,962, and *Nueva Alianza*'s Roberto Campa 2,743.

The Tribunal had until 6 September 2006 to announce and certify the final results of the presidential election and proclaim the president-elected. The Tribunal had also to respond to López Obrador's demand that the election be annulled. López Obrador, anticipating that he might not be successful in his challenge and not ready to accept a victory of Calderón, called on his supporters to attend a "national democratic convention" on 16 September 2006, in which he would be elected "President", and to continue civic resistance.









XXI. FINAL RESULTS AND DECLARATION OF VALIDITY

On 5 September 2006, the Electoral Tribunal ruled on the validity of the electoral process, announced the final results and proclaimed PAN's Felipe Calderón as president-elect. Regarding the "causes for annulment" of the elections presented by the Coalition *Por el Bien de Todos*, the Tribunal considered that the several irregularities were not

substantiated and others, although substantiated, were corrected before affecting the process or impacting on the freedom of suffrage (*see Complaints and Appeals*). Thereby, the Tribunal validated the elections as authentic, democratic and free. However, it criticised interference by President Fox in the early stages of the electoral process as well the campaign promoted by the private sector in favour of PAN's candidate, and expressed concern at the impact such actions could have had under different circumstances.

The tribunal dismissed other evidence submitted by the Coalition and long before its ruling legal experts were giving the annulment request little chance of succeeding because it was based almost entirely on the fraud claims rejected by the Tribunal before. "The judge is not an investigator, is not a prosecutor. He must start from the base of the facts invoked by the challenger," Leonel Castillo, the Tribunal's chief magistrate, said in announcing the results. "They (the Coalition) said that there were multiple irregularities in a great many polling places, but saying many polling places is not enough. They have to identify the facts."

In order to determine the final results of the presidential election, the Tribunal used IFE's final results at district level (see Provisional Results) and considered the challenges presented by the Coalition and PAN, rejecting the results at several electoral districts, where they were nullified or adjusted (see Partial Re-count of Votes), and announced the following official final results:

FINAL RESULTS								
								TOTAL
14,916,927	9,237,000	14,683,096	397,550	1,124,280	298,204	40,657,057	900,373	41,557,430

(Source: Electoral Tribunal of the Federal Judiciary)

The difference between Calderón and López Obrador was reduced from 0.58 to 0.56 per cent, a difference of 233,831 votes.

On the same day as the announcement by the Tribunal, the Mission issued a press statement saying: "The Election Observation Mission of the European Union takes note that, within the constitutional framework, the Federal Code of Electoral Procedures and Institutions (COFIPE), the General Law on the Systems of Electoral Challenges and other legislation regulating the electoral system, the resolutions adopted by and the declarations of validation of the results and proclamation of the president-elect made by the Electoral Tribunal, which are final and irrevocable, conclude the election process. In light of these resolutions and declarations of the Electoral Tribunal, the Election Observation Mission

52 PRI and PVEM formed the Coalition *Alianza por México*.

of the European Union does not perceive the need to review its Preliminary Statement on the election process issued on 3 July 2006. The Mission considers the official results announced by the Electoral Tribunal as reflecting the legitimate will of the Mexican citizens.”

a) Composition of the New Chamber

After consideration by the Electoral Tribunal of almost 400 petitions challenging the results presented by the five political parties and Coalitions that participated in the presidential and legislative elections, the new composition of the Chamber of Deputies and Senators is as follows:

PARTY DEPUTIES		PARTY SENATORS	
PAN	206	PAN	52
PRD	127	PRD	33
PRI 52	103	PRI	29
PVEM (Green Party)	18	PVEM (Green Party)	6
<i>Convergencia</i>	17	<i>Convergencia</i>	5
PT	16	PT	2
<i>Nueva Alianza</i>	9	<i>Nueva Alianza</i>	1
<i>Alternativa</i>	4	<i>Alternativa</i>	0

XXIII. RECOMMENDATIONS

The 2006 elections showed that, despite their professional administration and the adoption of many safeguards to ensure transparency, there is still a lack of confidence among some stakeholders with regard to the election process. In this context, and with the objective of assisting in the improvement and strengthening of the electoral process and related areas, the following suggestions and recommendations are offered for consideration by the state and electoral authorities, political parties, media and civil society organisations:

Legal Framework

1. Consideration should be given to amending legislation to require members of the General Council to be renewed on a rotating basis. This would facilitate continuity and institutional memory. For example, half of the members could be renewed every three years.
2. Electoral legislation should be amended to shorten the electoral campaign as well as the period between the announcement of official results and the swearing-in of the new President.

3. To maintain continuity of good performance and experience of the Superior Chamber of the Electoral Court of the Federal Judiciary, consideration should be given to appointing the seven magistrates on a rotating system, ie three or four magistrates appointed every three years, instead of the entire composition of the court changing at the same time as is currently the case.
4. If the current system for nomination and appointment of the electoral councilors of the General Council is retained, legislation should be amended to ensure that it is done in a more pluralistic and inclusive manner, with adequate representation of all major political forces. Alternatively, legislation could be amended to ensure that electoral councilors are selected on the basis of merit according to strict criteria after nomination by political parties.
5. Election legislation should be amended to incorporate important steps of the election process that are currently established in regulations and agreements issued by IFE, but which have weak enforcement power.
6. Consideration could be given to introducing a second round run-off in the Presidential election and the possible re-election of members of the Chambers.
7. The causes of nullification of the presidential election should be clearly spelled out in the election legislation on the same basis as for parliamentary elections.

Election Administration

8. Any electoral reform should consider IFE to be the institute in charge of all elections and not just federal elections.
9. The General Council should exercise care to ensure that it seeks consensus among political parties, and at the same time focuses more on the interests of the voters.
10. The National Surveillance Council should streamline its operations in order to make political parties better aware of the procedures and grounds upon which complaints can be submitted to it.
11. While it is important that the National Surveillance and Monitoring Council includes adequate representation from political parties, these parties should ensure that their participation facilitates the effective function of the commission.
12. The effectiveness of the National Surveillance and Monitoring Council with respect to the complaints mechanism should be reviewed given the fact that a large number of complaints made by political parties were unsubstantiated in spite of the fact that these parties had representatives on this Council.

Voter registration

13. Voting cards should be subject to periodic renewal. This should serve to solve shortcomings relating to the deceased, people changing residence and duplicates.
14. Greater attention should be paid to improving the relationship between the institutions directly involved in the management of elections and other institutions, such as the civil registries and the National Institute for Migration, whose functions have an impact on effective voter registration.

The “casillas especiales”

15. Before the next elections, a special registration campaign should be launched to ascertain those who will be in transit (“transitoriamente”) on the day of the election.
16. The law should be clarified to clearly define the notion of (“transitoriamente”) so that there is no confusion between the election administration and political parties on this issue.
17. At the next elections, efforts should be made to ensure that all “casillas especiales” are provided with sufficient numbers of ballot papers.

Voting by Mexicans living abroad

18. Voting for eligible voters living abroad should not incur any cost to voters. For example, mechanisms should be developed for voters to be reimbursed for postage costs where necessary.
19. A more effective campaign should be undertaken to familiarise Mexicans living abroad with the possibilities and procedures for voting.
20. Efforts should be made to make procedural requirements for voting from abroad less onerous.
21. IFE could consider new cost-effective mechanisms for registration and voting of eligible voters living abroad, to improve the procedures now in place and to seek to increase the number of eligible voters living abroad effectively voting in elections. For example, the use of official premises, such as Consulates, could be considered for use during registration and voting for voters who are in close proximity to major cities.

Civic and voter education

22. Civic and voter education programmes should be enhanced, in particular for people living in rural area.

23. IFE should direct more attention to informing the general public about the electoral system, in particular the Quick Count and the Preliminary results programmes in order to avoid lack of communication and understanding between the electoral authorities and citizens.

Registration of political parties

24. Consideration should be given to reviewing the threshold requirement for maintaining registration of a political party, by adopting alternative measures.
25. Requirements for the registration of political parties should be clearly outlined in electoral legislation and not developed through administrative decisions of the General Council.

Registration of candidates

26. The legal provision which prevents independent candidates from contesting election should be amended. The present provision is inconsistent with the International Covenant on Civil and Political Rights (ICCPR). The General Comment on Art. 25 states that "The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties".

Financing of the political parties

27. Infringement of rules concerning the funding of political parties and electoral campaigns should be subject to effective, proportionate and dissuasive sanctions. Consideration should be given to strengthening the sanctions to deal with parties which repeatedly violate finance laws.
28. IFE should consider releasing publicly the report on political party compliance with finance laws for the relevant year prior to the election. If this is not possible, then IFE should consider issuing a report detailing political party compliance with finance laws up to the closest period possible to the elections.

Campaign financing

29. There should be a reduction in public funding for political parties.
30. The election law should be amended to ensure that expenditure of political parties in the primary election period is properly regulated.
31. Sanctions for violation of finance regulations should be strengthened and greater steps should be made to initiate criminal proceedings for serious violations. In this context, the public prosecution office dealing only with election issues (FEPADE) should be more proactive.

Abuse of public resources

32. Greater steps should be taken to ensure that the misuse of public resources during an election period is not tolerated. This should include the development and implementation of more effective measures for monitoring and dealing with abuse of public resources, including making violation of regulations in this area grounds for annulling an election. Greater efforts should be made to ensure that individual perpetrators are held accountable.

Election Campaign

33. Consideration should be given to strengthening existing mechanisms and introducing a code of conduct to encourage political parties to engage in a campaign that is less negative and more respectful of the citizens.
34. Measures should be taken to respond to the practice of political parties introducing new TV spots which were substantially similar to spots ordered to be removed by IFE, thereby undermining IFE's attempts to promote free and positive media campaigns.

Media

35. A more pluralistic media environment should be promoted.
36. Consideration could be given to amending the Election Law to require broadcast media during the official election period to provide a neutral, objective and informative editorial line in their news programmes. Reporting should be balanced and factual, including coverage of activities by the authorities during an election period.
37. All media monitoring findings should be placed, and regularly updated, on IFE's website in a user-friendly version in order to guarantee transparency and to verify whether the principle of equality is respected.
39. The process of seeking remedy should be strengthened and amended in order to provide the supervisory body with an effective, predictable and timely enforcement mechanism in case of violations of the media related requirements envisaged in the Election Law.
40. Article 48.13 of the Election Law, which prohibits third persons to campaign through paid advertising in the broadcast media, appears to violate the citizen's right to freedom of expression as set out in Article 19 of the UN Universal Declaration of Human Rights. Such a restriction should therefore be removed from the Law.

Domestic Observers and Civil Society

41. Consideration should be given to developing criteria to determine which civic groups are accredited as domestic non-partisan election observers. This would further enhance transparency.
42. Legislative provisions should be adopted to enable registered domestic non-partisan observer groups to enter comments in protocols at all stages of the voting, counting and tabulation processes.

Participation of Indigenous Peoples

48. Further measures should be taken to strengthen the participation of indigenous peoples in the electoral process. Political parties should make efforts to encourage greater numbers of indigenous peoples to stand as candidates. The media should pay greater attention to the participation of indigenous peoples in the election process.

Women's Participation

49. Shortcomings in the legal provisions which seek to promote women's participation should be addressed with suitable amendments. For example, measures should be introduced to prevent political parties from undermining the overriding objective of the law by nominating women to unwinnable positions.

Election Day

43. Consideration should be given to enhancing training of polling station committee members to manage new equipment. Such measures would have the potential to further accelerate the flow of voters on election day.
44. Measures such as mobile polling stations or postal voting should be introduced to facilitate voting by people who have difficulties to access polling stations.
45. Efforts should be made to ensure that all polling security measures are properly applied.

Quick Count, Preliminary Results, Tabulation of Final Results and Re-count

46. Greater efforts should be made to explain the "quick count" and preliminary result processes to the general public in order to ensure transparency in these areas.
47. In the case of very close results, IFE should conduct a recount at a number of polling stations previously selected (using a random sample). If the result of this recount shows that a full recount could affect the election results a full recount should be conducted ex-officio.