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Observation of the Parliamentary and Presidential elections in Mexico (2 July 2006)

Report

Ad hoc Committee of the Bureau of the Assembly

Rapporteur: Mr Lluís Maria de Puig, Spain, Socialist Group

I. Introduction

1. Following an invitation by the President of the Mexican Federal Elections Institute (IFE), acting as Mexico's Central Electoral Commission, the Bureau of the Assembly decided on 13 April 2006, to set up a five-member cross-party ad hoc Committee to observe the Federal Parliamentary and Presidential Elections in Mexico to be held on 2 July 2006, and appointed me as the Chairperson and rapporteur of this Ad Hoc Committee.

2. Based on proposals by the political groups of the Assembly, the ad hoc Committee was composed as follows:

Socialist Group (SOC)

Mr Lluís María de Puig Spain

Group of the European People's Party (EPP/CD)

Ms Nadezhda Mikhailova Bulgaria

Alliance of Liberals and Democrats for Europe (ALDE)

Mr Johannes Randegger Switzerland

Secretariat

Mr Vladimir DRONOV, Head of Secretariat, Interparliamentary Co-operation and Election Observation, Senior Advisor to the President of the Assembly.

3. Regrettably, the European Democrat Group and the Group of the United European Left could not be represented on the delegation. It would be advisable if, in the future, political groups could invest greater effort in finding candidates for election observation missions to uphold the concept of Assembly's cross-party representation and political balance.

4. The ad hoc Committee met in the Mexico City from 29 June to 3 July 2006 and held, *inter alia*, meetings with presidential candidates and/or their representatives, spokespersons of the main parties participating in these elections, the President and members of the Electoral Council of IFE, the President of the Electoral Tribunal with Federal Jurisdiction, representatives of NGOs and think tanks. The programme of the meetings of the ad hoc Committee appears in Appendix 1.

5. On Election Day, the ad hoc Committee observed elections in and around the city of Cuernavaca. The very limited size of the delegation did not allow it to ensure a greater coverage and a wider scope of observation.

6. The ad hoc committee concluded that the Parliamentary and Presidential Elections in Mexico on 2 July 2006 were about the best organised and conducted elections PACE ever observed. This positive assessment was shared by other international observers in Mexico. The statement issued by the delegation at the end of their stay appears in Appendix 2.

7. The ad hoc Committee wishes to thank the Parliament of Mexico and the Federal Electoral Institute for their co-operation and support provided to the ad hoc Committee, not least in putting together an extremely intensive and comprehensive programme of meetings and briefings.

II. Political and legal background

8. According to the Constitution of the United States of Mexico, the country's political organisation is that of a representative, federal and democratic republic; it is made up of thirty-one states and a Federal District (Mexico City).

9. The principle of the division of powers among the executive, legislative and judicial branches is enshrined in law.

10. The Federal Legislative branch is represented by the Union Congress (Parliament) that consists of the Upper (Senate) and Lower (House of Deputies) chambers. The Lower Chamber is made up of 500 deputies, 300 of whom are elected by relative majority in single-member constituencies, while the other 200 are elected on a proportional basis through the system of party lists in five multi-member districts. The Senate is made up of 128 members. Three senators are elected in every one of the thirty-two federal entities. Two of the seats are allocated

through the relative majority principle, which means they belong to the party that obtained the largest number of votes; the third seat is appointed through the first minority principle and goes to the party that came second in the electoral race. The remaining thirty-two seats are distributed on the basis of proportional representation according to voter rolls in one single national multi-member district.

11. The Judicial branch of the Federation is ensured by the Supreme Court of Justice of the Nation that has thirteen members elected by a two-third majority in the Senate, based on a list proposed by the Federal President.

12. The supreme federal executive branch rests upon one single person- the President of Mexico, who combines the authority of the Head of State and Head of Government; the posts of a prime minister and a vice-president do not exist in Mexico. Historically, the executive is the dominant branch in Mexico.

13. According to the Constitution, election is the only recognised method of constituting and renewing the executive and legislative branches.

14. The President is elected for six-year non-renewable term; senators are elected for six-year terms; deputies are elected for three-year terms.

15. The elections on 2 July 2006 were the first Federal elections in Mexico after the historic elections of 2000, which this Rapporteur also had the honour to observe on behalf of the Assembly, that put an end to a more than eight-decade long monopoly on power in Mexico by the Institutional Revolutionary Party (PRI). While the 2000 elections marked the first time since the 1910-1917 Mexican revolution that the opposition (National Action Party – PAN) defeated the party in Government, they produced a fractured and divided legislature.

16. Although the PRI no longer controls the Presidency, it remains a significant force in Mexican politics. The 2003 mid-term elections to the lower house of the Mexican parliament signalled a defeat for President Vicente Fox and the PAN led by him. President Fox had pledged to bring democracy and lead the way to prosperity. However, a divided Parliament and lack of tradition of forging coalitions and building consensus led to a significant drop in public support for PAN. The 2006 elections were thus largely about the struggle by PAN to retain its control over power.

III. Election Administration and Practices

17. The Federal Electoral Institute (IFE) is a permanent autonomous body that functions and takes decisions independently and is responsible for organising federal elections. It was established in 1990 with a mandate of helping strengthen the party political system, keeping the Federal electoral register, guaranteeing the political and electoral rights of the

citizens, as well as making sure that the citizens fulfil their civic duties, guaranteeing that peaceful elections are held periodically to renew the members of the executive and the legislative, guaranteeing the validity of elections and encouraging citizens to vote and to foster democratic culture. With its approval rating of 79 per cent, IFE comes third in terms of public confidence, only ceding the first to places to the church and the army.

18. IFE is a body that functions with complete independence both from the executive and the legislative branches, is not part of any government structure whatsoever (prior to 1996 its functions fell under the Ministry of the Interior) and has a hefty budget of 1 billion US dollars which allows it to discharge its duties efficiently.

19. The 130 000 regular polling stations around the country – each one organised in a manner to cater to 750 voters – are staffed with people whose candidacy is drawn through raffles from the list of reputable citizens who are not engaged in any political activities. Their work on election day, while highly respected, is not remunerated. It is a citizen's legal obligation to serve on a polling station commission, if selected. In addition to the regular polling stations, special purpose polling stations were opened in difficult access areas. Voting by the military is governed by the generally applicable provisions; the law does not provide for mobile ballot boxes thus, regrettably, disenfranchising a certain strata of the electorate.

20. For the first time ever, the elections on 2 July 2006 allowed diaspora voting. While a positive development *per se*, provisions governing this vote look far too restrictive and complex. A potential voter abroad not only has to be on the electoral roster, he must also be in a possession of a voter's card, the obtention of which requires a separate application. As a result, of the estimated 4.5 million voters abroad only about 1 per cent could vote in these elections. This delegation has no specific proposal on how to remedy the situation and believes the new Parliament will have to adopt laws that could rectify the problem.

21. To ensure maximum transparency, IFE arranged for results, by polling station, to be posted on its web site in real time, immediately after the closing of the voting. Voting period was from 8.00 a.m. to 6.00 p.m. However actual voting lasted longer as, under the law, a polling station has to remain open after 6 p.m., if, by that time, a line of voters is still waiting outside.

22. Together with IFE, the Electoral Tribunal with federal jurisdiction is part of the Judiciary of the Federation as a specialised court with supreme authority over electoral matters, with the exception of issues involving constitutionality, over which the Supreme Court has sole jurisdiction. It is the task of the Electoral Tribunal finally and irrevocably to settle all complaints concerning federal elections of deputies and senators; elections of the President of the United States of Mexico; acts or decisions of the federal electoral authority that are at variance with the

Constitution or the law; final acts or decisions of the authorities of the federal entities responsible for organising and supervising elections or solving disputes that arise during elections when they can affect the election process or its outcome, and providing redress where this is materially and legally possible; acts and decisions that violate the right of citizens to vote or stand for election, or their freedom of peaceful association with a view to participating in the political affairs of the nation; labour disputes or conflicts between the Tribunal and its staff or IFE and its staff; and to determine and impose appropriate sanctions.

IV. Presidential Candidates and Political Parties Running in these Elections

23. Eight political parties ran in the presidential election; five of them had joined forces in two different coalitions. Competition was fierce, with the PAN (its presidential candidate was Felipe Calderón) hoping to hold on to the presidency for a second time. The PRI (presidential candidate Roberto Madrazo Pintado) was equally keen to regain ground it lost in the 2000 elections. By many accounts, the Party of the Democratic Revolution (PRD), led by presidential candidate, former mayor of the Mexico City, Andrés Manuel López Obrador, stood a good chance to win after popular disappointments in the wake of the two previous elections. The latter party acted in coalition (Coalition for the Good of All) with the Convergence and the Labour Party. The main race was between the PAN and the PRD.

24. Mr López Obrador was nearly stopped from running. In 2005 an attempt was made to derail his bid for the presidency over a minor land issue. The ensuing outcry, with hundreds of thousands marching in his support in Mexico City, ended in a triumph for him: the legal action was dropped and President Fox sacked the Attorney-General. As mayor of Mexico City, Mr Obrador commanded great respect for his reputation for honesty, hard work and modest lifestyle. His main campaign promises were higher social spending, higher pensions, fight against corruption, cutting down on bureaucracy. His campaign slogan was 'For the good of all, the poor first'.

25. Mr Felipe Calderón, a Harvard-educated lawyer, ran his campaign on pledges to continue the free market policies pursued by President Fox. A career politician, he served as head of the national development bank under Mr Fox and was energy secretary from 2002 to 2004. He ran a negative campaign against his main rival, Mr Obrador, proclaiming in his TV spots, 'López Obrador is a danger to Mexico'. The IFE finally had to ban that campaign advertisement, against Mr Calderón's protests asserting the move constituted censorship.

26. Mr Roberto Madrazo is a career politician who joined politics while in his teens. A former senator, deputy and governor, Mr Madrazo was standing for the Alliance for Mexico, an unlikely coalition between the PRI, representing all that the Mexican establishment stood for during decades when it was at the helm of Mexico, and the Mexican Green Ecologist Party.

He focused his campaign on the importance of the country's water resources. Taking a cautious centre-left line, he pledged to modernise the energy sector while maintaining the nation's sovereignty over resources.

V. Pre-election period

27. The IFE, in discharging its duties under its mandate, had put in place an elaborate system of intrusive controls over candidates' and parties' funding and use of airtime in campaigning. It monitored about 200 TV channels and hundreds of newspapers to make sure airtime and print were used evenly, with no imbalances favouring a particular candidate or group. In media monitoring, IFE uses a methodology used by International Election Observation Missions: not only are the length of airtime or number of print articles taken into account, but also an analysis is made of the thrust of these materials.

28. IFE's findings were first made public in April 2006 and revealed serious imbalances in media coverage. Media owners got the message and subsequently made sure there were no more noticeable imbalances in their coverage of candidates and their campaigns.

29. Under the Mexican legislation, campaign expenses are covered by both public and private resources, the underlying principle being that private funding cannot exceed public funding, with no specific percentages stipulated in the law. All campaign expenditures come under IFE's tight scrutiny. All violations are severely punished: when IFE discovered that funds were improperly used by PRI, IFE recommended that the Electoral Tribunal impose a fine on the party, which it did. The party had to pay 100 million dollars as fine. While its leaders complained to international observers that the fine was a heavy blow to PRI's campaign effort, it is noteworthy that PRI and its leader never once questioned the legitimacy of the IFE and Tribunal's action.

VII. Election day - Vote count and tabulation

30. On Election Day, the well-organised voting took place in a calm manner with the voting positively assessed by international observers. Observers did not record any irregularities or violations.

31. Polling stations had received the necessary materials in time, including special indelible ink and the inking procedure was applied satisfactorily. The inking procedure was well accepted as a necessary procedure by the voters.

32. In a considerable number of places multiple polling stations were located in the same physical space. However this did not result in overcrowding due to an excellent organisation of voting by polling station commissioners. The delegation was impressed to see lines of voters queuing to vote outside the polling stations, in intense sunlight and heat, which testifies to the high civic responsibility of the electorate.

33 The limited size of the ad hoc committee did not allow us to observe the counting at polling stations, as delegation members went to IFE to follow presentation of the results in real time there.

34 Due to a very tight race between the two main contenders, Mr Obrador and Mr Calderón, IFE refrained from declaring early results to make sure that the results officially announced were absolutely correct and could not be contested by either side.

35 On 3 July 2006, after the ad hoc Committee had finished its work, the preliminary results were announced by IFE which gave a narrow victory to Mr Calderon. These preliminary results were rejected by Mr López Obrador and the PRD who claimed widespread fraud and irregularities during the vote count and tabulation processes. His resolve was strengthened by the fact that revisions in the unofficial figures had shown the gap between the two candidates narrowing before the preliminary results were announced. Mr López Obrador's campaign filed official complaints at around 50.000 polling stations and staged a nation-wide campaign of protests and civil disobedience. Following these complaints, the electoral court ordered a recount in close to 12.000, or approximately 9%, of the polling stations around the country. On 29 August the electoral court announced that the partial recount had only marginally changed the number of votes for each candidate and had not changed the outcome of these elections. Any claims of electoral fraud were firmly rejected by the court.

36. The outcome of the partial recount confirms the findings of the ad hoc Committee, and other international observers, that these elections had been conducted in a fully democratic fashion. Moreover, the positive role played by the electoral court in investigating the electoral complaints and allegations of fraud indicates that the rule of law has been firmly established over the election processes in Mexico. Nevertheless, the ad hoc Committee would have preferred a recount in all polling stations in order to lay any continuing claims of fraud and irregularities to rest.

VIII. Conclusions and recommendations

37. The Federal Elections in Mexico on 2 July 2006 were about the best organised and conducted elections the Assembly has ever observed.

38. The run-up to the elections, albeit conducted in a tense and highly competitive atmosphere and at times marred by negative campaigning, was characterised by an unprecedented degree of transparency and public confidence in the political process.

39. Requirements for a balanced media coverage and financial disclosure were strictly observed due to an intrusive system of checks and balances put together by IFE.

40. Voting was conducted in a peaceful and well-organised manner, not least due to the dedication and professionalism of electoral officials.

41. To further refine the otherwise excellent system, the Mexican authorities concerned may wish to explore the possibility of improving provisions for diaspora voting, as well introducing the mobile box voting for the home-bound.

42. Whoever wins the election in Mexico will face the tough job of forging coalitions and building consensus in a Parliament that is likely to be divided. Since this is not an established tradition in Mexico, the Assembly might wish to consider organising seminars for our Mexican partners on these issues.

43. Council of Europe member States may wish to examine the Mexican experience in organising elections with a view to further perfecting their own systems.
