

PLE-CNE-8-25-9-2012

This Plenary, with the affirmative votes by Dr. Domingo Paredes Castillo, President; and councilmen/women engineer Paul Salazar Vargas, Vice President; licenciada Magdala Villacís Carreño; Dr. Roxana Silva Chicaiza; and Dr. Juan Pozo Bahamonde, unanimously resolved to pass the following resolution:

THE NATIONAL ELECTORAL COUNCIL PLENARY:

WHEREAS in accordance with the provisions of Article 219 1) of the Constitution of the Republic of Ecuador, the National Electoral Council is entrusted with organizing, directing, watching over, and guaranteeing transparent electoral;

WHEREAS in accordance with the provisions of Article 83 17) of the Constitution of the Republic of Ecuador, the National Electoral Council is empowered to rule upon the legislation on matters of its competence;

WHEREAS in accordance with the provisions of article 83 17) of the Constitution of the Republic of Ecuador, Ecuadorian citizens are obliged to participate in the country's public, civic, and community life in an honest and transparent way;

WHEREAS the provisions of article 173 of the Organic Elections and Political Organizations Law of the Republic of Ecuador, Democracy Code, set forth that electoral compliance is based on the right of citizens as acknowledged in the Constitution to exercise supervising and control actions upon the acts of the public powers;

WHEREAS electoral compliance is a temporary voluntary civic right and duty; and

WHEREAS the provisions of article 181 of the Organic Elections and Political Organizations Law of the Republic of Ecuador, Democracy Code, empowers the National Electoral Council of the Republic of Ecuador to rule and regulate the procedures for the accreditation, delivery of safeguards, and other necessary matters to guarantee exercising the rights of the citizens, organizations, and institutions to observe electoral processes;

In exercise of its constitutional, legal, and regulatory powers,

HEREBY RESOLVE TO ISSUE THIS:

REGULATION FOR ELECTORAL OBSERVATION

Art. 1.Purpose. This Regulation rules upon the observer accreditation procedure and delivery of safeguards to establish observation protocols in an orderly manner in order to make effective the right of citizens and the national, international and foreign organizations to observe any phase of the process, whether before, during, or after the election of authorities, referendum, popular consultations, and repeal of mandate.

Art. 2. Quality of observers. National observation may be performed by natural and juridical persons such as universities, polytechnic schools, foundations, or corporations; and international observation may be performed by State representatives, international organizations, foreign electoral entities, foreign political organizations and foreign natural or juridical persons.

Art. 3. Forms of observer participation. National or foreign electoral observers may participate in the electoral process by their own initiative or by invitation.

The persons interested in being observers by personal initiative shall submit the corresponding written application to the corresponding entity with an explanation of the reasons and the kind of observation such person is interested in.

In case of observation in sectional entities, the application may be submitted to the provincial electoral delegations.

The National Electoral Council may invite national or foreign natural or juridical persons to participate in the electoral process in mutually agreed conditions.

The National Electoral Council shall issue the observer's accreditation and corresponding number.

Art. 4. Labor relationship. Observers shall have no labor relation with the National Electoral Council; nevertheless, the latter shall provide all facilities and means for them to fulfill their duties.

Art. 5. Requirements for national or foreign resident natural persons. Natural persons shall comply with the following to be accredited as national independent electoral observers:

1. Ecuadorian nationals over eighteen years old; foreigner residing in the country five years prior to the accreditation;
2. Be entitled to the full exercise of the participation rights;
3. Have no affiliation or permanent adherence to any political organization; and
4. In the last two years, not having participated in any political organization directive or as a candidate in any popular election, if the pertinent process to be observed were the election of authorities.

Art. 6. Support Documents. The following documentation shall be enclosed to the application:

1. Color copy of the citizenship or identification card and voting certificate or payment of the penalty in the last election process; and
2. Commitment letter assuring to act on an impartial and objective basis; stating not to have any interference and to act independently from any candidate or political organizations; and to respect the Constitution of the Republic, the laws, and this regulation according to the format contained in the institutional webpage.



The accreditation application shall be downloaded from the webpage www.cne.gob.ec and shall include first and last names, nationality, age, address, and email.

Art. 7. Foreign natural persons domiciled abroad. For foreign natural persons domiciled abroad to be accredited as independent electoral observers shall be above eighteen years old, and the following documentation shall be attached to the application:

1. Color copy of the passport; and
2. Commitment letter assuring to act on an impartial and objective basis; stating not to have any interference and to act independently from any candidate or political organizations; and to respect the Constitution of the Republic, the laws, and this regulation according to the format contained in the institutional webpage.

The accreditation application shall be downloaded from the webpage www.cne.gob.ec and shall include first and last names, nationality, age, address, and email.

Art. 8. Requirements for national juridical persons. To qualify as an independent national observer, national juridical persons must comply with the following requirements:

1. The corporate purpose shall authorize activities related to promoting citizen participation, research, electoral policy, or academic formation on matters related to electoral processes; and
2. That the natural persons appointed as representatives of the national juridical persons comply with the requirements set forth in this Regulation.

Art. 9. Support documents. The following documentation shall be enclosed to the application:

1. Color copy of the citizenship or identification card and voting certificate or payment of the penalty in the last election process of the national juridical person's delegate; and
2. Legal representative's appointment;
3. Juridical person's Articles of Association containing the corporate purpose;
4. List of the observation mission's members; and
5. Letter signed by the organization's legal representative committing to act on an impartial and objective basis; stating not to have any interference and to act independently from any candidate or political organizations; and to respect the Constitution of the Republic, the laws, and this regulation according to the format contained in the institutional webpage.

The accreditation application be downloaded from the webpage www.cne.gob.ec and shall include the corporate name, address, and email.

Art. 10. Requirements for international or foreign juridical persons. International juridical persons or foreigners may act as international independent observer by applying before the National Electoral Council or to the Ecuadorian embassies or consulates, enclosing the following documentation:



1. Copy of the passport of the legal representative and delegates, as the case may be;
2. Apostilled and, if necessary, translated copy of the organization's legal incorporation or legal capacity;
3. The corporate purpose shall authorize activities related to promoting citizen participation, research, electoral policy, or academic formation on matters related to electoral processes; and
4. List of the observation mission's members.

The accreditation application shall be downloaded from the webpage www.cne.gob.ec and shall include the corporate name or designation, address, and email.

The application format shall be downloaded from the webpage www.cne.gob.ec.

Art. 11. Requirements for invited natural or juridical persons. The national and foreign observers who are invited by the National Electoral Council shall not need to submit the documentation required in the foregoing articles; nevertheless, they shall sign the corresponding letter of acceptance whereby they will commit to act on an impartial and objective basis; stating not to have any interference and to act independently from any candidate or political organizations; and to respect the Constitution of the Republic, the laws, and this regulation according to the format contained in the institutional webpage.

Art. 12. Resolution. Once the requirements for voluntary observers are verified, the National Electoral Council shall issue the corresponding accreditation within five days of receiving the application.

The resolution shall be notified to the email indicated in the application through the electoral institution's webpage, regardless of using other means as decided by the National Electoral Council.

Art. 13. Delivery of credentials. With the notification of the accreditation, the observer shall resort to the National Electoral Council's International and Inter-Institutional Affairs Bureau to receive the corresponding credential. Such credential shall contain first and last names, identity card or passport number, picture and, as the case may be, name of the institution he/she represents.

After the provisions contained in article 7 2) of this Regulation are fulfilled, the International and Inter-Institutional Affairs Bureau shall provide him/her with the corresponding credential.

The credential submitted to the observer shall not be transferable.

Art. 14. Registration. The General Secretariat and the Bureau of International, the Inter-Institutional Bureau of the National Electoral Council, and the secretaries of the provincial electoral delegations, as the case may be, shall keep the records of the observers of their corresponding jurisdiction.

Art. 15. Guarantees. National and international observers shall have the following guarantees:

1. Freedom of circulation and mobilization inside the electoral installations and districts;
2. Freedom of communication with the political subjects and persons and organizations they wish to contact;
3. Access to public documents during and after the electoral process; and
4. The others included in international treaties and conventions effective in Ecuador, as the case may be.

Art. 16. Powers. The accreditation granted by the National Electoral Council to the national and international observer authorizes the following:

1. Freedom to perform interviews to electoral officials, national authorities, leaders of parties and movements, candidates, and citizens in general aimed to obtain orientation and explicative information on the electoral institutions and procedures;
2. To observe the installation of the vote reception board and the electoral development;
3. To review the electoral documents provided by the vote reception board;
4. To discuss with the candidates and delegates about the electoral districts' political subjects without interfering in the development of the process;
5. To attend the scrutiny and calculation at the vote reception boards and the results at the electoral districts;
6. To observe the results transmission system in the electoral bodies;
7. To observe the scrutiny and any objections thereto;
8. To keep informed on matters related to electoral financing and expense control;
9. To appoint observers to the calculation centers of the electoral bodies;
10. To obtain advanced information on the location of electoral districts and vote reception boards; and
11. To obtain information on the complete electoral registration.

Art. 17. Rights. National and international observers shall be entitled to carry out their work prior to the election, on the day of the election, and/or in events thereafter, such as the scrutiny, electoral

resource resolution, proclaimed results, assignment of seats, and elected officials' taking office of their positions.

The electoral authorities shall be immediately informed of any restriction or impediment to exercise the observer's rights and activities for the pertinent corrective measures.

Art. 18. Obligations of the observers. Regarding the electoral process, the observers shall be: objective, impartial, and transparent; they shall carry out their activities on a non-profit basis. They are absolutely banned from interfering in any way with both the electors and the electoral results. They shall also have the following obligations related to their mission:

1. To respect the Constitution of the Republic, its laws, regulations, and other rules; as well as the provisions issued by the electoral organizations; and
2. Refrain from carrying out any type of political proselytism or any expression in favor of associations with political purposes or trends, groups of electors, citizens, or any candidate whatsoever.

Art. 19. Reports. Electoral observers may submit mid-term observation reports, in case of extended periods of time; as well as the final report, which shall not be binding.

The National Electoral Council shall carefully collect observation reports, opinions, suggestions, which shall be deemed reference elements and will be used for corrections aimed to improve future processes.

The actions of local observers may not delay, hinder, or suspend the process and shall be civilly and criminally liable for their actions and facts. At the end of their work, international observers shall be obliged to submit a report to the National Electoral Council.

International observers shall not interfere in internal affairs of the Ecuadorian State; otherwise the accreditation shall be immediately revoked.

Art. 20. Prohibitions. Observers shall not:

1. Supersede electoral authorities;
2. Interfere or hinder the activities of the electoral authorities and/or the normal development of the elections;
3. Offend or defame public institutions, organizations, electoral authorities, political organizations, or candidates;
4. Announce the triumph of political organizations or candidate; and
5. Settle conflicts or answer consultations made by voters, political subjects, or electoral authorities.

International observers shall not interfere in internal affairs of the Ecuadorian State; otherwise the accreditation shall be immediately revoked.

Art. 21. Repeal. The National Electoral Council may, by its own initiative or at the duly justified request of a political subject, repeal the authorization granted to an electoral observer when his/her actions violate the provisions of the Constitution or the laws of the Republic of Ecuador and their regulations.

The resolution to repeal shall be duly grounded and the observer and the organization he/she represents, as the case may be, shall be notified therewith.

The provincial electoral delegations are empowered to suspend the accreditation in any phase of the process when they prove the existence of any impediment to the electoral observation exercise or non-compliance with the Ecuadorian rules; the National Electoral Council shall be reported thereof.

ACCOMPANYING

Art. 22. Definition of Accompanying. Any international mission agreed upon in a specific convention between the National Electoral Council and the international organization in accordance with the principles of the National Electoral Council and the national juridical framework.

Electoral accompanying is a symmetric relation in terms of equality between international electoral organization missions, the institutions providing electoral advising, and the National Electoral Council.

Art. 23. Purpose of the Accompanying Mission. The following are the objectives of Accompanying Missions:

- a) To contribute with the electoral organization during the electoral processes in its different phases, on respectful, solidary, and cooperative bases;
- b) To promote an exchange of experiences and knowledge in electoral matters in favor of the entities that compose the Electoral Function to attain better practices in the efforts set forth by the Constitution and the law; and
- c) At the end of the mission, to issue a report consisting of a description of the activities performed, technical electoral aspects, and the methodology used; the report shall underline the positive experiences that may be useful and shall refrain from including judgments and opinions on the development of the electoral process.

Art. 24. Basic principles of accompanying. The following are the minimum rules of conduct for the accompanying mission:

- a) Impartiality: The Mission shall act professionally and show no bias or preference that may obstruct the electoral processes;
- b) Objectivity: The Mission shall perform its work with a comprehensive vision with the largest amount of information it may collect, and identify both positive and negative aspects;
- c) Independence; The Mission shall perform its activities with freedom and autonomy in relation to the participants in the electoral process;
- d) Legality: The Mission shall act in strict compliance with the country's current legislation;
- e) Principle of non interference: The Mission shall respect the country's sovereignty and the authority of its electoral bodies; and
- f) Transparency: The Mission's activities are public and shall be informed to the electoral body.

Art. 25. The provisions of this Regulation shall apply to the Accompanying Mission in whatever is not opposed to the nature of accompanying.

GENERAL PROVISIONS

FIRST: Armed Forces Coordination. The National Electoral Council shall train the members of the Armed Forces and National Police for them to provide the accredited national and international observers in order to perform their duties. The Training Bureau shall be in charge of this process.

No member of the Armed Forces and National Police may hinder or obstruct duly accredited observers, unless the latter expressly violate the laws, the rules of process organization, or exceed their powers as electoral observers, in which case they shall report the fact to the electoral authority present at that time.

SECOND: Information. The electoral body shall provide the international observers and the invited members of the accompanying mission with the following:

a) **Prior Information:** Before the arrival of the international observers and the invited members of the accompanying mission to the country, a report on the legislation and rules applicable to the process, electoral modalities, electoral registration, number of voters per table, social-political context, journalistic coverage, and other applicable information; and

b) **General Verification.** The National Electoral Council, together with international observers and members of an accompanying mission, shall develop the methodological guidelines for observation in relevant aspects of the electoral process.

THIRD. The projected results and predictions that accredited electoral observers may publish to the public shall comply with the provisions of articles 302 and 302 of the Organic Electoral Law and the political organizations of the Republic of Ecuador, the Democracy Code. They shall also



specify that such projected results and predictions are not binding and do not replace the official results to be exclusively disseminated by the National Electoral Council.

DISPOSICIÓN DEROGATORIA

Regulation PLE-TSE-3-10-8-2006, published in Official Registry No. N° 339 dated August 22, 2006, is hereby revoked.

FINAL PROVISION

This Regulation shall become effective as of this date regardless of its publication in the Official Registry

Given in the city of Quito, Metropolitan District, in the Sessions Room of the National Electoral Council Plenary, on this the twenty-fifth day of September 2012. I certify.

