

# **Analyzing Colombia's 2022 Presidential Elections**

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## **POLITICAL CONTEXT**

Clan del Golfo, continued to expand their territorial control and intensified the use of violence in the first months of 2022.<sup>6</sup>

### **Presidential Candidates and the Electoral System**

Six presidential candidates contested the first round of the presidential election on May 29. The candidates selected through the interparty consultations were Gustavo Petro and Francia Márquez for the Pacto Histórico (Historic Pact) coalition; Federico Gutiérrez and Rodrigo Lara for Equipo por Colombia (Colombia Team); and Sergio Fajardo and Luis Gilberto Murillo for Centro Esperanza [Hope (of the) Center]. These candidates competed alongside others selected through internal party procedures or nominated by significant citizen groups: Rodolfo Hernández and Marelén Castillo for the Liga de Gobernantes Anticorrupción (League of Anti-Corruption Rulers); John Milton Rodríguez and Sandra de las Lajas for Colombia Justa Libres; and Enrique Gómez and Carlos Cuartas for Salvación Nacional (National Salvation).

Previously, Luis Óscar Iván Zuluaga of Centro Democrático decided to withdraw from the presidential race to support Federico Gutiérrez. On May 5, Luis Pérez, of the citizens' group Colombia Piensa en Grande (Colombia Thinks Big), withdrew his candidacy. On May 20, Ingrid Betancourt, who was running with her party Verde Oxígeno (Green Oxygen), withdrew her candidacy and joined Rodolfo Hernández's campaign. The two candidates and their running partners that advanced to the second round were Gustavo Petro/Francia Márquez and Rodolfo Hernández/Marelén Castillo.

During the second round, Rodolfo Hernández, who publicly ruled out alliances, won the support of former presidential candidates Fico Gutiérrez (Equipo por Colombia), Enrique Gómez (Salvación Nacional), John Milton Rodríguez (Colombia Justa Libres)





from elected office by an administrative body is contrary to the American Convention on Human Rights, and ordered Colombia to bring its legal system in line with it. Some experts considered that the legal effects of an interim suspension are similar to those of an impeachment. The suspensions were also considered arbitrary because of the lack of sanctions beyond other political interventions by high-ranking state officials, including President Iván Duque and the commander of the Armed Forces.

**Recommendation:** The Carter Center recognizes the importance of preventing the use of public resources to favor a particular political option. However, the absolute prohibition on elected officials participating in political activities goes against the very essence of their political rights. The Carter Center recommends the approval of a statutory law that governs the conditions for elected officials to participate in politics.



Since 2013, political organizations and candidates have been required to use Clear Accounts, the electronic tool of the National Electoral Council (CNE) and the official mechanism for reporting election campaign revenue and expenditure and for public consultations of the data entered. In November 2021, the CNE issued a resolution with a provision that electoral campaigns should record their financial movements in Clear Accounts within one week of making a transaction.<sup>21</sup> Several investigations by civil society organizations and the media into campaign financing revealed that not all organizations reported revenue and expenditure on time, and there was a widespread perception that financial movements were underreported.

The lack of reliable and complete information on actual campaign revenues and expenses is closely linked to the lack of oversight of campaign financing. The capacity of the CNE to monitor the financial reports of political organizations is highly limited by the lack of technical, operational, and budgetary resources. However, observers also noted that the council did not aim to comply with the accountability requirements set out in its own procedural standards.

*Recommendation:* Widespread concern regarding the financing of political parties calls for reform. The Carter Center recommends giving consideration to increasing direct and/or indirect public

## ELECTION ADMINISTRATION

The Colombian constitution establishes that electoral organization shall be composed of the National Electoral Council and the National Registry of Civil Status. The CNE conducts supervision and oversight of electoral management, and the activities of political groups and their candidates, plus national ballot counting. The RNEC is responsible for the logistics of each stage of the electoral process, including polling station selection and the compilation of the electoral roll and the preliminary results schedule.<sup>22</sup> The RNEC has permanent offices in all 32 departments and in the capital district of Bogotá. The Fifth Section of the Council of State exercises the highest judicial authority in electoral matters. Other state institutions, such as the office of the attorney general (which deploys tens of thousands of officials on election day), the public office, the Ministry of the Interior, the military, and the police, among others, have important roles in the management and oversight of the electoral process. For election day, the RNEC appoints precinct poll workers from citizens lists provided by public institutions, private companies, and political parties.<sup>23</sup>

The National Commission for the Coordination and Follow-up of Electoral Processes,<sup>24</sup> chaired by the minister of the interior and composed of the aforementioned control bodies, the political parties, and the electoral observation mission, among others, monitors the electoral process and coordinates and presents suggestions and recommendations they consider appropriate. At the lower administrative levels, these are headed by departmental and municipal authorities. Some observers pointed out that the electoral organization and oversight bodies form a very sophisticated framework, which is sometimes confusing and has certain competence duplicities.

**The National Electoral Council (CNE) was created in 1991 and is the highest electoral authority in the country. It is composed of 11 members, 5 from the political parties and 6 from the public office. The CNE is responsible for the supervision and oversight of the electoral process, including the compilation of the electoral roll and the preliminary results schedule. The RNEC is responsible for the logistics of each stage of the electoral process, including polling station selection and the compilation of the electoral roll and the preliminary results schedule. The RNEC has permanent offices in all 32 departments and in the capital district of Bogotá. The Fifth Section of the Council of State exercises the highest judicial authority in electoral matters. Other state institutions, such as the office of the attorney general (which deploys tens of thousands of officials on election day), the public office, the Ministry of the Interior, the military, and the police, among others, have important roles in the management and oversight of the electoral process. For election day, the RNEC appoints precinct poll workers from citizens lists provided by public institutions, private companies, and political parties.**



## **Preparations for the Elections**

While the RNEC is responsible for the preparation and logistics of all stages of the electoral process, many of the electoral processes have been managed by the private sector for more than two decades. For presidential elections, UT Disproel was contracted to publish preliminary results, develop applications to select poll workers and poll watchers, and manage voting day logistics, among other tasks. Some observers were of the view that outsourcing so many electoral processes weakens electoral institutions because it prevents them from exercising full oversight over the process and from gaining experience in running elections and technological development.

In general, most analysts reported to The Carter Center that the electoral administration carried out election logistics effectively. It is important to note that the organization of presidential elections posed fewer operational complexities than the legislative elections, with a single ballot and an improved record of results. The success of the first presidential round may have covered up some of the shortcomings of the legislative elections, which were not adequately addressed, and that could reappear in future elections.

The RNEC had implemented various positive measures that aided in the perception of voter registration as reliable and inclusive and improved the voting process, such as the use of more than 20,000 biometric identification devices in a pilot project in areas at high risk of identity fraud. Another positive aspect was the improved online and in-person information services for voters to verify their voting station. Organizing voting from abroad for more than 800,000 Colombian nationals in 69 countries was also a considerable challenge. The RNEC reported that the number of polling stations had increased by about 7% compared to the 2018 elections. However, civil society organizations pointed out that the higher number of polling stations did not necessarily mean that voting had been enabled for residents of remote areas.

Following the legislative elections, the RNEC made considerable efforts to help solve the problems that arose during the elections, including changing the criteria for poll workers to prioritize prior electoral experience. The selection process excluded poll workers from the 5,109 polling stations where irregularities had been reported in the legislative elections. In addition, international and Colombian election observers reported that poll worker training and the publication and reception of preliminary results were strengthened. However, civil society organizations noted difficulties accessing complete data on the application process; validation of information submitted by entities and companies; ballots; publication; notification; the software for the ballot process; and appointment of polling juries, which had been available in prior electoral processes.

Other measures included a redesign of the E-14 results form, double entry of pre-count data, strengthening voter information platforms, and shorter deadlines for registering poll watchers.<sup>29</sup> Some political organizations reported accreditation problems. For instance, the Pacto Histórico (Historic Pact) complained that the RNEC had failed to accredit 8,000 of its witnesses. Likewise, the Partido Colombia Justa indicated it had put forward 5,191 poll watchers but only 3,512 had been accredited. Some political campaigns criticized the RNEC's lack of transparency in the administration of accreditation of both poll workers and political party poll watchers.

The publication of provisional results over the two election days was a success. In addition, full traceability was ensured through the publication of several documents and results reports. Observers valued the registrar's change in approach with the timely delivery of information and documentation on the election results, which made a significant difference in terms of transparency and confidence.

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<sup>29</sup> According to the RNEC, for the first round, 177,311 witnesses were credited from all political groups for the first presidential round and for the second round 83,290 witnesses were credited from the Pacto Histórico (Historic Pact) and 75,535 from the Liga de Gobernantes Anticorrupción (League of Anti-Corruption Rulers).

Nevertheless, as a result of the mistrust in electoral institutions, the political parties and candidates had to engage large-scale machinery from deploying tens of thousands of poll workers and poll watchers to hiring computer and business technicians to conducting a parallel tabulation to protect their vote and obtain records of results for internal tabulation. The high degree of organization and staff recruitment required for this effort meant that it was possible only for the political organizations with the most resources.

While the electoral authorities invested considerable effort in the preparation of the draft electoral code and in various training initiatives related to the protocol to drive the political participation of women or disinformation on social networks, little effort was devoted to responding to recurrent problems, such as vote buying, which remains a challenge in Colombian electoral processes. According to research, vote buying, which goes hand-in-hand with illegal campaign financing, occurs.





of the comptroller also attended some of these events. Political and civil society organizations highlighted the RNEC's ongoing improvisation, which made it impossible for electoral observers to make the necessary technical assessments. For instance, they indicated that concurrent meetings were arranged for the technicians, invitations reached participants at short notice or even once after an event had ended, and there was on some occasions an absence of those responsible for technical matters.

***Recommendation: The Carter Center r0 G Tf1 0 0 1 4d***

## **IMPLEMENTATION OF PEACE ACCORD: POLITICAL REFORM**

The 2016 Peace Accord<sup>32</sup> was not only an agreement to cease the armed activity of the FARC-EP, it sought the transformation of the country, especially in the areas most affected by the conflict. In the five years since the signing of the accord, there have been serious difficulties that have impeded its implementation, such as increasing violence by illegal armed groups, political polarization, and the social and economic impact of the pandemic. At the end of 2021, the Kroc Institute for International Peace Studies published a progress report on the implementation of the peace accord.<sup>33</sup> The institute concluded that 30% of the provisions of the accord had been fully implemented, 18% were in intermediate status, 37% were in minimal implementation status, and 15% were uninitiated.

The 2016 Peace Accord provided for the implementation of comprehensive political reform. According to the Kroc Institute, political participation (point 2 of the accord) is one of the points that has seen lower levels of implementation. Its monitoring on this point indicates that 43% remain in minimal implementation status, and 29% are uninitiated. According to their analysis, this is because

the efforts to end the deadly violence faced by ex-combatants, social leaders, and human rights

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Despite the upsurge in violence in some parts of the country, the peace process in Colombia experienced new progress by holding largely peaceful presidential elections. The implementation of the accord did not play an essential role in the presidential campaign. However, there was a broad political consensus for respecting the 2016 Peace Accord. President-elect Gustavo Petro expressed his commitment not only to implement the accord but also to engage creatively in negotiations with the Gaitanista Self-Defense Forces of Colombia (Autodefensas Gaitanistas de Colombia Clan del Golfo [Gulf Clan]) and the National Liberation Army. All Carter Center interlocutors conveyed the need to give momentum to meeting the commitments acquired by the accord.

### **Electoral Legal Framework**

Colombian electoral legislation is spread among numerous laws,<sup>36</sup> judgments by the Constitutional Court, and the Council of State as well as in administrative regulations and decisions by the National Electoral Council. Consequently, it is not up to date, lacks clarity, and fails to provide legal certainty. The CNE has recently expanded the legal framework, seeking to provide greater certainty to the 2022 electoral process. However, interlocutors pointed out that the last-minute introduction of regulations gave rise to problems of interpretation and added confusion and uncertainty, above all, in technology-related issues.

The current electoral code in effect since 1986 and prior to the Constitution of 1991 was substantially modified by the constitution and subsequent political-electoral reforms approved by Congress (particularly in 2003, 2008, and 2011), which made many of its provisions inapplicable. In addition, the 1986 Electoral Code contains a series of deficiencies and gaps relative to the electoral institutional design, the internal democracy of the parties, private financing of electoral campaigns, insufficient stimuli for guaranteeing gender equality, and inadequate deadlines for registering candidates or for rulings on motions filed, among other things.

Since the peace accord was signed, there have been unsuccessful attempts to carry out electoral reform. Carter Center interlocutors coincided on the need to update and harmonize the electoral legal framework urgently in light of the constitution, the laws enacted in these last years, and new technological solutions (some of which are being applied in practice) as well as in solving the gaps and deficiencies of the current law and providing the electoral system with greater transparency and efficiency.

***Recommendation:* The Carter Center recommends reforming the electoral code, which will serve to clarify the inconsistencies and deficiencies of the current law. The reform should prioritize urgent needs, focusing on politically and technically viable areas. The areas identified as top priorities are the transformation of the electoral architecture to ensure its independence; financing of political parties, with special attention to the origin of private financing; strengthening of transparency; internal democracy of the parties; and gender equality.**

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<sup>35</sup> [U.N. Security Council](#), April 2022.

<sup>36</sup> [The most relevant electoral regulatory framework consists of:](#) The Political Constitution of 1991, the 1986 Electoral Code, Act 1475/2011 on Political Parties and Electoral Processes, Act 996/2005 on the election of the President of the Republic, Act 130/1994 on Political Parties and Political movements, Act 1581/2012 on the Protection of Personal Data, and Legislative Act 01/2004 on the loss of Political Rights.

### **Proposed Electoral Reforms: Special Electoral Mission 2017**

At the beginning of 2017, the Special Electoral Mission, an electoral working group, was formed to carry out a comprehensive electoral reform within the peace accord framework.<sup>37</sup> The group received the mandate of proposing recommendations to provide the electoral administration with greater



## **MEDIA AND ELECTIONS**

### **Legal System**

The legal framework that regulates the functioning of audiovisual means of communication and telecommunications is set forth in a collection of laws and regulations.<sup>40</sup> The Colombian Constitution sets forth freedom of speech; the right of free association; the prohibition of censorship; and the right to receive accurate, impartial information. The Communications Regulation Commission and the Ministry of Information and Communication Technologies (MinTIC) regulate the radio spectrum and are responsible for granting radio and television licenses, and the National Television Authority regulates television.

### **Media Context**

There is a wide array of public and private media at a national, department, municipal, and community level in Colombia. However, its centralization in the principal cities limits diversity and access to <sup>41</sup> prepared by the Foundation for Press Freedom (FLIP, per its acronym in Spanish), at least 578 municipalities

### **The Media and Candidates**

Presidential candidates are entitled to disseminate their government programs in the public space as well as on social media from 60 days up to eight days before voting.<sup>47</sup> During the month prior to election, the CNE distributes free spaces at random in private radio and television media.<sup>48</sup> Private television chains that provide a subscription television service in Colombia are prohibited from telecasting or disseminating electoral propaganda or have it telecasted through foreign television channels.

In compliance with the provisions of the Law of Guarantees on the information balance between the presidential campaigns,<sup>49</sup> the National Electoral Council required weekly communication reports from the media with the list of times and spaces granted to the campaigns of each candidate. According to the council, the majority of the media sent the foregoing report. Four days before the first round, the CNE submitted a report with its conclusions: The candidate that received the highest media coverage was Federico Gutiérrez with 76,482 seconds; followed by Rodolfo Hernández with 51,421 seconds; Gustavo Petro with 47,046 seconds; Sergio Fajardo with 43,540 seconds; Enrique Gómez with 39,805 seconds; and John Milton Rodríguez with 26,887 seconds.

In cases where a fair and equitable treatment had not been given to the contenders, the CNE, together with the Communications Regulation Commission and MinTIC, requested that the respective media grant increased space to candidates that were not favored to reestablish balanced information. It appears that

fraud on Twitter reached higher interaction peaks than other campaign issues such as abortion or pensions. Three days after the first round, the #ElectoralFraud hashtag positioned itself as a trending topic on Twitter. According to Linterna Verde, the hashtag was driven by Gustavo Pedro followers.

Interlocutors pointed out that the unfamiliarity between the preliminary count and the counting of votes contributed to the disinformation on social networks. Some governmental authorities reinforced the doubts on the process on the networks. For example, President Duque insinuated the possibility

American Center for Investigative Journalism (CLOP, per its acronym in Spanish), in addition to disinformation there were also coordinated campaigns for disseminating negative publicity on Facebook.<sup>55</sup>

The nongovernmental organization Colombiacheck<sup>56</sup> performed a fact check during the 2022 electoral process.<sup>57</sup> Colombiacheck published that of the 138 verifications performed as of June 14, 73 were false, 24 were questionable, and only eight were correct. Colombiacheck published other specific investigations on the truth of the statements of four presidential candidates (Petro, Gutiérrez, Hernández, and Fajardo) while they held the office of mayor. The investigation, presented on a video, #verifiuenvagos, transmitted on YouTube, showed various questionable and false statements of the four former mayor candidates, among other things.<sup>58</sup>

The CNE signed an alliance with the Kwai platform to prevent fake news in 2021, and it announced training for influencers on electoral rules and disinformation. There is no public information on the result of this or other possible collaboration.

***Recommendation: The Carter Center recommends that the processes and capacities of the CNE be strengthened to ensure the implementation of electoral campaign regulations, including aspects related to combating hate speech and disinformation on social media. Toward that end, literacy and nonpartisan fact-checking programs should be carried out, and there should be collaboration agreements between the CNE and social network platforms. Traditional media and social networks should be monitored, taking into account the new digital formats.***

### **TikTok and Wappid in the Electoral Campaign**

According to experts consulted, social networks in Colombia were a critical factor for determining elections for the first time, since the efficient campaign strategy on the social networks of Rodolfo Hernández, with fewer followers than Petro, contributed significantly to him going to the second round. Experts singled out the importance of TikTok, especially, for reaching the youngest voters.

Linterna Verde pointed out the strategies of Rodolfo Hernández on TikTok:<sup>59</sup> First, the use of direct, repetitive language that easily goes viral; secondly, the use of nontraditional political language, positioning himself as a political alternative; thirdly, he reversed his public image by transforming it

, reby building an alternative image that appeals to emotions and seeks to reach the empathy of voters.

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<sup>55</sup> [Dirty campaign on Facebook spent \\$309 million](#). Silla Vacía and CLIP. May 2022.

<sup>56</sup> Colombiacheck is one of the signatories of the [Code of Principles of the International Fact-Checking Network](#).

<sup>57</sup> Verifications of statements by candidates and of disinformation on social networks relative to the elections. [2022 Voto Checkeado \[Vote Checked\]](#), Colombiacheck.

<sup>58</sup> [Verifiquen Vagos](#). Colombiacheck.

<sup>59</sup> [The strategies on TikTok](#) Linterna Verde.2022



unknown tool up to that time. Wappid,<sup>60</sup> a political marketing platform that uses messaging apps, mainly WhatsApp, to create support networks under the name Rodolfistas.wappid.com. Apparently, there were more than 400,000 Colombians registered on the Hernández network.<sup>61</sup>

## PARTICIPATION OF WOMEN

The results of the legislative elections represented significant progress in the representation of women in Congress, since 28.8% of the total seats will be held by women. This presumes a 9.1% increase, compared with the 2018–2022 legislature. Even so, Colombia is one of the countries with the worst indicators of the political participation of women in the region.<sup>62</sup> In the presidential elections, there were no female candidates, although three of the six vice presidential candidates were women, all of them Afro-Colombians. According to interlocutors, Francia Márquez, who obtained a historical vote in the internal elections of March and was elected vice president of Colombia, played a central role

magistrates of the CNE is a woman.

Violence against women in politics continues to be the main obstacle. Civil society denounced that political violence against women in Colombia has increased continuously since 2017, and attacks against women candidates increased during the 2022 electoral process. Colombia does not have a special law that addresses violence against women in politics, as in other countries of the region. Some legislative progress has recently been made to protect the political participation of women. In 2021, the National Electoral Council issued the Political Participation of Women Protocol.<sup>63</sup> The council provided training, among other things, to the political parties on the new regulations of gender violence. However, information is not available on the measures adopted to implement the protocol concretely on the criminal complaints received, steps taken by the authorities, and the actions taken to guarantee financing in the political participation of women.

***Recommendation:* The Carter Center recommends that legislative reforms be adopted that require gender equality and alternation on the candidate lists as well as representation quotas in the structures of the political parties and in the senior election administration body. Regulations on political violence against women must be developed. Finally, the data related to implementing the National Electoral Council protocol on political violence against women should be published.**

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<sup>60</sup> Wappid is an SaaS (software-as-a-service) political marketing platform that uses messaging apps. It is a software that resembles a social network that connects followers mainly through WhatsApp, which is used by approximately 92% of Colombians. [The unknown digital weapon that took Rodolfo Hernández to the presidential second round of Colombia.](#)

<sup>61</sup> [The Rodolfo Hernández phenomenon. These are the keys of his success](#)

## VOTING, COUNTING, AND TALLYING

### **First Round of the Presidential Election: May 29**

Election day was characterized by most analysts and international and domestic observers as being performed in an orderly manner, and voting could take place in practically all parts of the country. Regrettably, a poll worker was assassinated in the department of Meta in the afternoon while he transferred the election material. In addition, one soldier was wounded during the attack.

Participation (54.90%) was somewhat higher than in the 2018 elections. The elections were extensively supervised by various institutions of the state. In addition, the strong participation of party poll watchers, along with national and international observers, was a measure of positive transparency. The electoral observation mission, which comprehensively observed election day, deployed 3,539 observers in more than half the municipalities of the country and at 19 voting booths abroad.

Analysts and observers generally agreed that the RNEC adequately organized the logistical and operational aspects of the election. Voting proceeded smoothly since this was a single-ballot presidential election. Observers indicated that the poll workers generally showed good knowledge of the voting procedures and vote counting, which could be due to the changes in their selection as well as reinforced training. The electoral observation mission confirmed the presence of poll watchers at 74% of the polling stations they visited. In reference to the biometric identification that had been installed at 20,000 pilot polling stations, the mission observed problems in identifying people at 41% of the polling stations where there was biometric equipment, which caused some delays in the voting process.

Voters could file their complaints on alleged irregularities or electoral crimes through various means. The attorney general received 96 complaints, the Immediate Reception Unit for Electoral Transparency governmental platform received a total of 584 citizen complaints, and the electoral *pilas con el voto* app (app for reporting voting irregularities) received 418 reports. Irregularities reported include cases of assumed political intervention by public officials and voter intimidation, procurement of votes, identity theft (phishing), failures of biometric identification devices, exhibition of delivery of publicity during election day, problems with the electoral census, and problems with accrediting witnesses on a timely basis.

International and domestic election observers reported that votes were counted in the presence of political party poll watchers and observers. The nature of the elections provided for a simplified counting of votes. Observers also indicated that the forms were filled out correctly. The mission indicated that the E-14 results form was free of erasures and corrections at 88.9% of the polling stations and that the votes were recorded correctly at 98% of the polling stations.

### ***Preliminary and Final Results: May 29***

In the weeks leading up to the election the system for the transmission of RNEC provisional results generated a lot of mistrust, but its functioning was not questioned during election night. The success of the transfer of the provisional results was due fundamentally to the fact that residential elections require a much simpler counting and reporting procedure than do legislative elections. In addition, new methods introduced by the RNEC included double entry in the transfer of data included in the E-14 results forms.

The National Registry of Civil Status was able to disclose the electoral results on a timely basis. Polls closed at 4 p.m.

published its last bulletin with 99.99% of the certificates processed by 9:45 p.m. The difference between provisional results and the official counting of votes was 0.1%. The results were disclosed on a specific RNEC webpage<sup>64</sup> and through a mobile telephone application. The scanned certificates of E-14 results were published online on the election night itself. Political party poll watchers were allowed to take images of the certificates of results, and those images were shown at the offices of the vote counting commissions where the official counting of the votes was carried out.

The official counting of the votes started on the day following election day, and it was extended to June 1. Citizens were able to track the official counting of votes through a specific link to the RNEC webpage.<sup>65</sup> The composition of the vote counting commissions consisted mostly of poll workers from polling stations where the vote counting process ended without any claims.

According to the official results published by the CNE<sup>66</sup> of the first round, no candidate achieved an absolute majority of valid votes. Therefore, those with the highest votes, Gustavo Petro/Francia Márquez Mina (Coalición Pacto Histórico [Historic Pact for Colombia]) with 40.34% of the votes



## **ANNEX A: TERMS AND ABBREVIATIONS**

CNE	National Electoral Council
CTEP	Special Transitory Peace Constituencies
FARC-EP	Revolutionary Armed Forces of Colombia-People's Army
FLIP	Foundation for Press Freedom
MinTIC	Ministry of Information and Communication Technology of Colombia
RNEC	National Registry of Civil Status