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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

ARGENTINA

ELECTIONS DURING A PANDEMIC 2021

by

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Ladies and Gentlemen:

It is a great pleasure for me to be here among you representing my country as an observer to the Venice Commission.

This year Argentina faced the challenge of holding elections in a context that continues to be pandemic.

The Covid-19 crisis generated at the beginning of 2020 forced governments around the world to take emergency health measures. All public authorities and civil society were faced with the difficult task of guaranteeing the rule of law and the preservation of fundamental rights, reconciling the right to health, which was particularly challenged, with the tensions inherent to the declaration of a state of emergency.

The Argentine authorities, seeing the catastrophic consequences for human life that the virus had caused in European countries of close communication, such as Italy and Spain, decided to declare a health emergency, which they did by issuing Decree of Necessity and Urgency 260/20, which extended for a period of one year the public health emergency that had already been established by Law 27.541. Since then, dozens of Decrees of Necessity and Urgency have been issued, linked to the coronavirus pandemic and referring to a variety of issues.

Thus, guaranteeing freedom and fundamental human rights, as well as exercising control over the authorities and respect for the division of powers, in a framework where necessity called for a call to the strength of the executive branch, has perhaps been the most challenging aspect.

It is worth noting that the Argentine Constitution does not provide for a specific institute to deal with a health crisis, as the constitutional texts of other countries do. Nor does it contemplate natural emergencies, but only institutional emergencies (such as a state of siege and federal intervention) or economic emergencies.

However, beyond the limitations inherent to the de facto situation, there is no reason for democracy and its fundamental institutions to be suspended, since there is no constitutional or legal provision ordering the legislative or judicial branches of government to suspend their activities.

Fortunately, in Argentina, the use of technology and remote means has allowed the gradual normalization of the functioning of those powers that were not suspended.

In the context described above, Argentina, like a number of other countries, not only had to deal with the health crisis but also to hold elections to elect authorities, in this case, legislative mandates.

Since the current global pandemic was declared, the health and epidemiological situation has led the electoral authorities to adopt specific measures in order to hold elections and preserve both the health of voters and of the people in charge of the electoral tasks. Let us recall that in 2020 elections were rescheduled in Uruguay, Chile, Bolivia, Paraguay, and the Dominican Republic, but it should be noted that since then around 120 elections have been held around the world, without causing contagion, adopting various preventive measures and "protocols" recommended by the OAS, the Venice Commission, UNIORE, IDEA and the Global Network of Electoral Bodies, among others.

Thus, on 12 September 2021, the open, simultaneous and compulsory primary elections were held in Argentina, and almost a month later (14 November) the general national legislative elections (renewal of half of the Chamber of Deputies and a third of the Senate), as well as provincial and local elections in various districts of the country.

It is worth noting that one of the many measures taken to allow elections to take place - in a context of pandemic - was to extend the dates of the primary and general elections by one month, in order to advance with the vaccination schedule of most of the population, which helped to reduce the number of cases and overcome the second wave of COVID-19 before the general elections. This measure, which was reflected in the enactment of Law 27.631, also favoured the strong demand of the Cámara Nacional Electoral (National Electoral Court), before the Ministries of Interior and Health, for the vaccination of all polling station authorities.

The National Electoral Justice guaranteed the political rights of citizens at all times. To this end, political parties had to adapt to the new context and adjust their behaviour in accordance with the guidelines established in Cámara Nacional Electoral (National Electoral Court) Resolution 51/21. Also crucial was the implementation of the sanitary protocol derived from the Acordada 83/2021 issued by the Cámara Nacional Electoral (National Electoral Court), and elaborated jointly with the National Electoral Directorate of the Ministry of Interior and the National Ministry of Health, which provided for a "sanitary facilitator" in each polling station, in charge of the General Electoral Command, who ensures the distance in the queues, the use of a mouth-cover and alcohol, as well as other sanitation measures.

Also, the Cámara Nacional Electoral (National Electoral Court) renewed the digital ethics commitment that had been signed for the first time for the 2019 elections. National and district political parties, district alliances, parliamentary blocs, digital platforms (Facebook, Instagram, Twitter, Google, WhatsApp, Kwai, Tik Tok), press associations, and the Office of the Public Defender of Audiovisual Communication Services adhered to it.

On the other hand, it should be pointed out that very clear and necessary progress has been made in terms of the political participation of historically neglected groups, particularly women who, in terms of passive suffrage, first with the "women's quota" and then with the application of the current "gender parity" law, have substantially improved the real equality of opportunities to be elected. Currently, the Chamber of Deputies is made up of 42.4 percent women and the Chamber of Senators 41.6 percent.

In short, unlike a large part of the continent, Argentina was able to hold transparent elections without major setbacks, with a high voter turnout, with 67.85% of eligible voters casting their ballots in the primary elections and 71.72% in the general elections.

As a result, there was a "virtual tie" between the main political forces, which has contributed to a greater division of powers, with the ruling party alone unable to obtain majorities capable of carrying out its absolute preferences, and the opposition strong and united, but not to the point of being able to block the proper functioning of institutions. In short, subject to a balanced game of majorities and minorities, conditions prevail for politics to move towards a good context of dialogue, which is so necessary to face the multiple "emergencies".

The implementation of the single paper ballot, proposed by various civil society organizations, which has health, ecological, budgetary, and logistical advantages and is in the interests of the voter, was once again one of the pending issues. It is to be hoped that this important issue will remain on the legislative agenda.

In this sense, we hope to continue to count on the collaboration of this Venice Commission, in the form of exchanges and advice on good practices and electoral rules, in order to face the new challenges that are emerging in the electoral world.

Thank you very much.