



**Mission Canada Preliminary Statement
Ukraine Presidential Election, 1 April 2019**

This preliminary statement provides an initial assessment of Ukraine's presidential electoral process to date. The electoral process itself continues to unfold, including the announcement of results, a possible second round, as well as complaints processing and adjudications. Mission Canada is hereby commenting only on observations collected up to election day and its immediate aftermath. A final report, including a full analysis of Mission Canada's observations and recommendations for electoral reform in Ukraine, will be published after the completion of the entire presidential electoral process.

Mission Canada is led by the Head of Mission, the Honorable Lloyd Axworthy and the Deputy Head of Mission, Ms. Olya Odynska-Grod. Mr. Axworthy was appointed by the Honorable Chrystia Freeland, Canada's Minister of Foreign Affairs. He has devoted his career to promoting and protecting human rights and democracy around the world. As Head of Mission, he received a mandate to observe all aspects of the presidential and parliamentary elections in Ukraine, including monitoring the participation of women, internally displaced persons and minorities in the electoral process. This is a deep and abiding commitment to strengthening democracy in Ukraine enabling an election process that is fair and transparent and builds trust in the integrity of its outcome.

The mission arrived in Kyiv on 22 January 2019 to observe, record, and report on all aspects of Ukraine's presidential electoral process. Mission Canada is composed of 50 long-term observers (LTO), including a core team and analysts, 110 short-term observers (STO), and locally engaged personnel. Mission Canada deployed LTO and STO teams to all oblasts of Ukraine in which voting took place. Prior to Election day, Mission Canada observed candidate registration, campaign activities, election administration, the implementation of election legislation, the media environment, electoral dispute resolution, as well as the role of civil society, and the participation of women, internally displaced persons, Crimean Tatar People and minorities in the electoral process.

On Election Day, Mission Canada visited 841 polling stations to observe the voting, counting and transmission of results. Mission Canada will continue its work should there be a second round, to be held on Sunday, 21 April 2019. The Honorable Lloyd Axworthy, Ms. Olya Odynska-Grod and the analyst team held more than 100 meetings with a range of actors, including IFES, NDI, IRI, ENEMO, OPORA, representatives of the Crimean Tatar people, other election observation missions, women's and minority groups, numerous political campaigns, the Central Electoral Commission and government security and policing institutions.

Mission Canada would like to thank all its interlocutors and recognize the openness and efforts of all those involved in the preparation and conducting of the 2019 Presidential election, and the access granted to its observers throughout the process.



Preliminary Findings

- Election Day was conducted in line with procedures set out in the law and Mission Canada assesses the opening of polls, the voting period and the closing of polls overwhelmingly positively. The Mission will continue to monitor the tabulation of results over the coming days.
- Overall, election administration institutions (CEC, DEC and PECs) fulfilled their mandate appropriately in the preparations for and the conduct of Election Day. Although there is room for improvement, the current legal/regulatory framework meets international standards for conducting democratic elections.
- In general, the ability of candidates to campaign freely, for campaign volunteers and officials to operate without intimidation, the ability of candidates to hold public meetings and rallies with voters, and generally be able to access media, contributed to a campaign environment conducive to the conduct of democratic elections in all parts of Ukraine where the election took place.
- Mission Canada welcomes the high number of female members working tirelessly in all levels of the electoral administration. However, we note that gender issues have largely been absent from the programs of the presidential candidates.
- The overall coordination of election-related security matters between branches of law enforcement was observed positively. Observers also noted increased and largely effective cooperation between law enforcement and civil society organizations on training of police and security officers on election-related duties.
- Ukrainian citizens living in Russian-occupied Crimea, including the indigenous Crimean Tatar community, have been mostly disenfranchised from the electoral process due to the occupation of Crimea, which has resulted in the repression of human rights against all those who support Ukrainian sovereignty over Crimea. Intimidation and fear, along with challenges in crossing to mainland Ukraine from occupied Crimea, negatively impacted the voting rights of Ukrainian citizens living in this occupied territory.
- Despite new regulations making it easier for IDPs to register to temporarily change their voting address, they remain, by and large, disenfranchised by the electoral process. The cause of this disenfranchisement is not the Ukrainian authorities; rather it is caused by armed foreign aggression and the illegal occupation of Ukrainian territory by the Russian Federation.
- The media environment in Ukraine has become more open, vibrant and pluralistic since 2014, offering voters a broad range of sources of information and opinions. However, concerns have been raised about oligarchs control over media.

Background and Context

The 2019 Presidential election in Ukraine was held within the context of an armed conflict in Eastern Ukraine and amidst Russian aggression. Protests began in November 2013 in response to the decision of then-President Viktor Yanukovich to suspend the Association and Free Trade Agreement with the European Union that Ukraine was expected to sign. Months of protests across the country, known as the Revolution of Dignity, were met with increasing violence by the State, and culminated in the killing of over 100 people in Kyiv and the fall of the Yanukovich government. In February 2014, the Russian Federation invaded and illegally occupied the Autonomous Republic of Crimea and has since instituted a policy of



suppression of human rights and targeted the Crimean Tatar people and others who support Ukraine's sovereignty over Crimea. In spring 2014, large scale violence, provoked and directed by Russian intelligence units, broke out in the eastern oblasts of Luhansk and Donetsk. This was followed by an invasion using Russian military resources in August 2014; violence remains prevalent.

At present, the conflict has resulted in approximately 13,000 fatalities, 30,000 wounded or injured, and over 1.3 million internally displaced persons.¹ This has resulted in a severe impact on the people of Ukraine. The frontlines are essentially static, with daily shelling and firing taking place along the lines, despite a ceasefire agreement.² In November 2018, Russian naval ships attacked Ukrainian ships in the Azov Sea near the Kerch strait.³ On 26 November 2018, Ukraine's parliament approved a presidential decree declaring martial law in 10 oblasts that border the Black Sea, the Azov Sea, occupied Crimea and Russia for a period of 30 days, which ended 26 December 2018.

Civil society is vibrant and non-governmental organizations have become more engaged in the public life of the country, on both the national and the local levels. Since 2014, Ukrainian authorities have pledged a series of wide-ranging economic, administrative, de-centralization, judicial, security and policing and governance reforms that can be seen as progress with further necessary changes still required. Ukraine last held presidential elections earlier than anticipated, in May 2014, in which Petro Poroshenko was elected President. The elections were assessed by international election observers as largely in line with international standards.

Legal Framework

The current statutory framework is in keeping with global democratic standards and is primarily composed of the 1996 Constitution, 1999 Law on the Elections of the President of Ukraine, 2004 Law on the Central Election Commission (CEC) and 2001 Law on the State Register of Voters (all as amended). The President of Ukraine is elected for a five-year term by popular vote. It is a legal requirement that the elections for the President of Ukraine must take place on the last Sunday of March of the fifth year of the term of the incumbent President. If a majority of votes is not obtained by any candidate in the first round, then a second round of elections will be held three weeks later (21 April 2019) between the two candidates who obtained the most votes during the first round.

Voting is based on universal suffrage. Citizens of Ukraine, who have reached 18 years of age on the day of the election, shall have the legal right to vote. The total number of voters on voters' lists when voting started was 29,622,549. Internally displaced persons (IDPs) are eligible to vote in the 2019 Presidential elections. However, they are required to register at their State Voters Register office and need to repeat

¹ Office of the United Nations High Commissioner for Human Rights. *Report on the human rights situation in Ukraine 16 November 2018 to 15 February 2019*.

<https://www.ohchr.org/Documents/Countries/UA/ReportUkraine16Nov2018-15Feb2019.pdf>

² On 11 February 2015, Ukraine, the Russian Federation, Germany and France signed the "Minsk II" agreements. The main parts of the agreement include a ceasefire, the withdrawal of troops and military equipment, the holding of local elections and increased local authority to the elected bodies.

³ 24 Ukrainian sailors were taken hostage and are currently in Moscow facing charges. Canada, the United States, and the European Union have called on Russia to immediately release the sailors.



the process in the event of a second round election. Draft Law No. 6240, “On Amendments to Certain Laws of Ukraine (Regarding Voting Rights of Internally Displaced Persons and Other Mobile Citizens within the Country)”, would address these issues. Unfortunately, this draft law still awaits a first reading, despite having been registered in Parliament since 27 March 2017. This extra burden has the potential of reducing turnout from a group of citizens already facing hardships.

While further attempts to reform the electoral system, particularly in the form of introducing an Electoral Code, remain in a legislative limbo, judicial reform has created what appears as an improved system of dealing with electoral related legal cases. Specifically, the introduction of the "Law of Ukraine on the Judiciary and Status of Judges" in 2016 eliminated the High Administrative Court, and replaced it with the Administrative Cassation Court. This court adjudicates cases on election process and referendum and protection of political rights of citizens. Judges sitting on this court receive specific training on electoral matters, including those emanating from the CEC.

The Draft Law “On Introducing Amendments to Certain Legislative Acts of Ukraine Aimed to Strengthen the Liability for Violation of Electoral Legislation” (Draft Law No. 8270) proposes amendments to various legislative acts of Ukraine regarding strengthening responsibility for violations of electoral legislation. Specifically, it attempts to address the currently flawed system for electoral violations where no enforcement mechanisms are available. This includes, among others, a penalty of imprisonment for up to two years for illegal ballot stuffing, for violating the secrecy of voting, for receiving an unlawful gain by a voter for actions or inaction related to the exercise of his/her electoral right. Unfortunately, this Draft Law, like the referenced Draft Law No. 6240, awaits its first reading.

Complaints Mechanisms⁴

Early Campaigning

The current Presidential Election campaign “officially” began on December 31, 2018, with a 3 month period of activity.⁵ The electoral legislation prohibits election campaign before a candidate’s registration and provides for a respective fine.⁶ However, the problem lies in the fact that not every advertisement satisfies the criteria established for the election campaign (i.e. “loopholes” are found and exploited). Currently, Mission Canada has identified 17 cases as “administrative offences” where the courts dismissed the allegations on the ground that the campaigning fell outside the ambit of an improperly applied article.⁷

⁴ All figures referenced in this section are as of March 29, 2019.

⁵ Some well reputed domestic observation groups (e.g. CHESNO and the Committee of Voters of Ukraine “CVU”) have pointed out that a significant number of political parties/candidates (15 – 17) actually began campaigning as early as May – June 2018. CVU has noted that “such actions of politicians violated one of the basic principles of the election, namely the principle of equality”.

⁶ Part 4 of Article 57 of the Law on Presidential Election.

⁷ Article 212-10, instead of 212-12, of the Code on Administrative Offenses of Ukraine should have been applied by the Police in their respective charges.



Billboard & Campaign Violations

As of now, up to 188 applications on administrative offenses were filed with the courts⁸ with allegations of deficient information/identification and improper placement of the billboards and other printed campaign materials. Approximately one third of them were found guilty (with ensuing fines), another third were dismissed and the remaining third were returned for lacking proper information. Additionally, in six cases, the applicants alleged that two Presidential candidates (Petro Poroshenko and Volodymyr Zelensky) used TV and internet resources as campaigning without accounting for such.⁹ However, the court didn't find such violations.

Vote buying, direct and administrative

Currently, there are 83 criminal proceedings on specific vote buying incidents¹⁰ including one dealing with a large vote buying pyramid. All of them are currently under investigation. There have been numerous allegations of the use of "administrative resources" on either the national or oblast/city levels in an attempt to influence voter preference. Currently, no legal actions have been commenced.

Reimbursement of campaigners' expenses and CEC decisions making process

Following the CEC Regulation No. 376 of 22.02.2019, there have been several attempts to challenge legalization of reimbursement of campaigner's expenses, such as for lodging, food, telephone and transport. However, these challenges remain unsuccessful, except for the exclusion of the tax issues.¹¹ Also, in several cases, the issue of decision making/voting process by the CEC was raised. In half of them, the courts recognized that the CEC should have considered the case by all its members and not solely by one of them, as it did on several separate instances.

Given that there are 39 candidates, none of which is polling above 35% of decided voters and undecided electorate polling at approximately 20% to 30%, there is a strong likelihood that no one candidate will obtain the 50% +1 required to win at the 1st round. If so, a second round election will occur and the electoral process will likely take on a litigious emphasis with the top three or four candidates, arguing many of the results on a precinct by precinct basis. Such court cases will be monitored carefully by Mission Canada, as they may collectively determine the final two candidates of the second round.

Although there is room for improvement, the current legal regulatory framework appears to be adequate for conducting elections in line with international democratic standards. Judicial reforms since the last election cycle raised the standards of adjudication of legal cases related to the election.

⁸ The definition and forms of the election campaign are provided in Part 1 of Article 58 of the Law on Presidential Election. However, early campaigning is often implied; despite the specific lack of direction to vote for or against a certain candidate, the aim of such advertisement is obvious.

⁹ However, the exception is case No. 404/753/19 where the court on the contrary fined a person for 1700 UAH exactly for the "early" campaign.

¹⁰ Based on the information available on the Unified State Register of Court Decisions

¹¹ Petro Poroshenko delivered a Presidential Address, while Volodymyr Zelensky participated in the TV show, "League of Laughter", originally well before the election campaign period.



Election Administration

Ukraine is administratively divided into 24 oblasts (provinces), the Autonomous Republic of Crimea, the City of Sevastopol and the City of Kyiv. The Autonomous Republic of Crimea, the City of Sevastopol, and parts of Donetsk and Luhansk oblasts are currently under foreign occupation and the elections could not be held there. The election is administered by the Central Election Commission (CEC). There are 199 Electoral Districts, administered by District Election Commissions (DECs) and a Foreign Election District. These DECs are responsible for 30,001 Electoral Precincts, administered by Precinct Election Commissions (PECs). Out of country voting was available at Ukrainian diplomatic missions in 72 countries. Notably, polling was not available in the Russian Federation following a CEC decision that the security of the vote could not be guaranteed.

The CEC is a permanent state body that has the “powers to organize the preparations of and conduct of the presidential, parliamentary elections, the elections of the councilors of the *Verkhovna Rada* of the Autonomous Republic of Crimea, local councils, village, settlement and city mayors, national and local referendums in accordance with procedures and within the limits established by this Law and other laws of Ukraine”.¹² The CEC is composed of 16 out of a possible 17 members, nine women and seven men. Two commissioners began their seven-year term in April 2014, while the other 14 (including the chair) have only been in office since 5 October 2018. One seat remains vacant for political reasons.¹³ Mission Canada positively observed the newly appointed CEC, despite the inexperience of many of its commissioners. There is a good balance in age and gender. The style of management of the recently appointed chairperson seems to bring a renewed sense of transparency to the process. Mission Canada assesses that in the period leading to the election, the CEC has overall been fulfilling its mandate.

The CEC registered 44 presidential candidates, among them four women. In total, 93 individuals applied and 47 were rejected by the CEC. Most of these rejections were due to failure of the candidate to provide the required deposit, to incomplete applications or to political programs which contained provisions violating constitutional norms, calls to violence or violations of human rights. Five candidates withdrew by the deadline of 7 March, which left 39 candidates competing.¹⁴ In order to be elected, a candidate requires an absolute majority of votes (50% + 1). Citizens of Ukraine are eligible to run for President if they are at least 35 years old, speak the Ukrainian language and have lived in Ukraine for at least 10 years prior to the election.

Campaign representatives generally assessed the work of the CEC positively. The Chair of the CEC is clearly in commend of her responsibilities. One of the main tasks of the CEC is to proceed, no later than 40 days before Election Day with the establishment of DECs. In this case, the deadline was 18 February 2019. DECs must then hold their first meeting within two days after their establishment. Mission Canada observed DECs in all 24 oblasts. Each candidate in the election may appoint his or her representative to the DEC and so, each DEC can have up to 39 members. However, some presidential candidates are suspected of being

¹² Law of Ukraine on Central Electoral Commission, 2004, Article 1

¹³ The Opposition Bloc party has failed to agree on a nomination.

¹⁴ Candidates Andriy Sadovyi, Dmytro Gnyp and Dmytro Dobrodomov withdrew and announced their support for candidate Anatolii Hrytsenko; candidate Yevhen Murayev withdrew in support of candidate Oleksandr Vilkul and candidate Serhiy Kryvonos withdrew in support of candidate Petro Poroshenko.



only "technical candidates" or "ghost candidates" in order to allow the main candidates to have more members who are aligned with their candidature within the DEC. Given the high number of potential members in each DEC, Mission Canada observed difficulty and at times, the inability for DECs to reach quorum (half of members) for meetings. In addition, many replacements of members have occurred, including the head for various reasons. Approximately one-third of the 7,000 DEC members have been replaced since establishment.

The CEC provided training in Kyiv on 26 February to DEC chairmen, deputy chairmen and secretaries as well as the one provided in collaboration with national and international NGOs for all DEC members were well organized and the content appropriate. Unfortunately, due to substitutions noted above, Mission Canada estimates that at least a third of DEC members did not receive training. Finally, some DECs have complained about lack of financial, material or inadequate premises. While DECs have been operating properly overall, these issues have had an effect on the commission's efficiency.

According to the law, Precinct Election Commissions (PECs) must be created by DECs no later than 12 March and must hold their first meeting within two days of their creation. Based on Mission Canada's observations, this was well organized. However, there are similar concerns over the number of commission members, the frequent substitutions and the ability to achieve quorum at meetings were raised at the PEC level.

Voter Registration

As of the 25 March deadline, the total number of people who have changed their voting address for the first round of the presidential election is 315,725, which is about 1% of the total number of registered voters (71,125 are PEC and DEC members). It is still possible to change voting addresses after the deadline through a court process, with applications submitted no later than midnight on 28 March.

Voting Lists are created from the SVR, a centralized database maintained by the CEC. Voters have the opportunity to verify their information on the CEC website or at SVR maintenance bodies, where they may also make amendments to the list. The electoral register does not seem to raise any significant controversy and its credibility is, according to observations, not questioned by political parties. Voters were able to consult the preliminary list of voters at each DEC and request a change to the list of voters up to three days before the election.

Campaign Environment

Ukraine's Presidential election campaign period officially began on 31 December 2018. The campaign environment is vibrant, highly competitive, and pluralist. Campaign rhetoric is heated and often personalized. The main issues around which the campaign has centred are the conflict in the east and national security; the return of occupied territories to Ukrainian government control; the struggle to overcome corruption; economic issues and the alleviation of poverty; the effectiveness or ineffectiveness of sectoral and governance reforms; the cost of energy tariffs; the future foreign policy orientation of the country, and questions of national and civic identity. Mission Canada met with 186 campaign representatives in all regions of Ukraine in which campaigning and voting took place.



Campaign activities are focused on traditional methods of campaigning – political rallies, informational tents, the distribution of campaign materials and literature, “door-to-door” campaigning and television, radio and newspaper advertising. Candidate campaigns generally reported the ability to access media, purchase advertising and place billboards. Although, several campaigns noted the prohibitively high cost of campaign advertising in traditional media (newspapers, TV). In some cases, regional campaign representatives also noted the difficulty of purchasing space for campaign billboards, due to alleged pressure on advertising agencies, although these allegations were anecdotal. There were limited incidences of damage to campaign billboards. Some campaigns have also used social media in combination with other campaigning methods.

Reports from various interlocutors about the alleged political involvement of the Ministry of Internal Affairs in support of one candidate, Yulia Tymoshenko, and the alleged political involvement of the Security Service of Ukraine (SBU) in support of another candidate, Petro Poroshenko, became more frequent in the two weeks prior to Election Day. However, the general ability of candidates to campaign freely, for campaign volunteers and officials to operate in the main without intimidation, the ability of candidates to hold public meetings and rallies with voters, and generally be able to access media, contributed to a campaign environment conducive to the conduct of democratic elections.

Election Security

Mission Canada observed 45 political rallies and public campaign events. In all cases, law enforcement behaved appropriately and no cases of violence were reported. Minor incidents of attempts to disrupt rallies were reported in a limited number of cases, to which law enforcement agencies responded promptly and adequately. However, reports of incidents of limited violence and clashes between counter-protestors and police at political rallies increased as election day drew nearer. In several of the incidents, law enforcement officers were injured.¹⁵

In a welcome effort to increase transparency the Ministry of Internal Affairs established the informational-analytical system “Vybory 2019”, an online resource where information about electoral violations under investigation are published and can be viewed and tracked by interested parties. Another positive development since the last national election cycle in 2014 is the advent of the “Police with Dialogue (Поліція Діалогу)” – deployed at mass events. The model of law enforcement is based on the premise that speaking with non-threatening police about a potential incident is a more effective way to de-escalate than having the presence of a large number of armed law enforcement.

The overall coordination of election-related security matters between branches of law enforcement was positively observed. There was a concern expressed by Ukrainian officials about the possibility of protest by certain groups in the follow-up to election day.

¹⁵ For example, on 9 March, in Kyiv, the political party “National Corps” held a rally during which participants attempted to breach police lines; as a result, the Ministry of Internal Affairs reported that two law enforcement officers were injured. In Cherkasy on the same day, attempts by participants “National Corps” counter protest to disrupt a political rally of one of the candidates resulted in the injury of 22 law enforcement officers.



Cybersecurity

Recent global events demonstrate that cybersecurity is a matter of growing concerns to all democracies. The continuously evolving nature of cyber threats and risks they pose to national critical systems and infrastructure, including electoral systems, are of increasing concern to nations worldwide. A successful cyberattack or significant cyber incident could undermine citizens' trust in the integrity of political processes and interfere with their constitutional rights. Mission Canada's preliminary assessment concludes that the government of Ukraine fully appreciates these threats and challenges, and takes concerted measures to confront them in line with best international practices. Overall, the inter-agency coordination group set up for ensuring cyber readiness in advance of the Presidential election and responsible CEC staff pursued various avenues at their disposal to prepare technical systems and electoral commission personnel at various levels for Election Day. Mission Canada's observations noted many improvements undertaken following the lessons learned from the 2014 elections. At the same time, some concerns remain, and Mission Canada will provide relevant recommendations in its final report with a view to strengthen the cyber security preparedness of electoral systems in advance of the parliamentary elections in October 2019.

As preparations for the Presidential election began in November 2018, with a period of holidays in between, the time span allotted for setting up the electoral network, procuring the equipment, recruiting and training personnel, exercising and testing the system and processes, appeared to be very limited. The critical levels of threats emanating from cyberspace in Ukraine, and strategic importance of ensuring transparency and integrity of the electoral process, demand that relevant processes be conducted with sufficient lead time.

Campaign Financing

According to the law, Presidential campaigns must open a campaign fund account, from which campaign spending is executed, on a cashless basis. Campaigns must notify both the CEC and the National Agency for the Prevention of Corruption (NAPC) on the opening of their account and provide banking details. Five days before the election, the CEC, the NAPC must publicly publish the interim financial reports of the respective campaigns. In the case of individuals, donations to campaigns are limited to approximately 1.7 million UAH; in the case of legal entities, donations are limited to approximately 3.4 million UAH. Foreign citizens, foreign legal entities, as well as legal entities who have entered into a public procurement contract in accordance with the Law on Public Procurement are prohibited from making campaign donations.

The CEC has elucidated on the question of political campaign spending, outlining that agreements signed between campaigners and campaigns cannot have a monetary reward. However, the reimbursement of expenses of campaigners (for example – gasoline, transport, phone bills, etc.) are considered a legitimate campaign expense. Interlocutors with whom Mission Canada met mentioned the general sense that campaign financing remains opaque. Interlocutors also pointed to the assertion that significant amounts of campaign spending occur outside the parameters of the campaign fund account. Mission Canada will more fully assess the issue of campaign finances in its final report, including an analysis of whether campaign finance rules affected the election.



As required by Law, the CEC and the National Agency for the Prevention of Corruption published the interim financial statements of presidential campaigns. The NAPC reported that the financial statements of 17 of the candidates had violations – the most common of which was the acceptance of donations from individuals or legal entities that have outstanding tax debts, and the absence of required details of the purpose of payment/donation. In total, the amount of funds in the campaign funds for all candidates equals approximately 1.3 billion UAH, of which approximately 464 million UAH were from individual donations; 53 million UAH from legal entities; 361 million UAH from political parties; and 465 million UAH from the personal funds of the candidates.

Candidate	Campaign Fund Total (UAH)	Donations - Individuals %	Donations - Legal Entities %	Funds from Political Parties %	Personal funds from Candidate %	Total Expenditures as of 18 March (UAH)
Petro Poroshenko	415,600,00 0	0	0	0	100	407,786,721
Yulia Tymoshenko	164,008,00 0	0	0	100	0	163,747,341
Oleksandr Vilkul	116,864,87 6	95.2	4.7	0	0	111,369,336
Anatoliy Hrytsenko	112,943,01 2	67.9	0.3	31.9	0	101,422,935
Volodymyr Zelensky	102,845,05 1	66.5	6.9	15.3	11.3	86,420,434

However, the transparency of campaign finance, including the disclosure statements mandated by the Law on the Presidential election, has been improved over recent election cycles in Ukraine. Regulatory and legal reforms that continue to increase the transparency of campaign finance and provide effective remedy for campaign finance violations are an important step in the continuing consolidation of Ukraine's democratic institutions.

Vote Buying

Allegations of large-scale vote-buying were commonly raised by Mission Canada interlocutors, both from campaigns and civil society representatives. The majority of these allegations continued centre around accusations from two of the campaigns (Yulia Tymoshenko and Petro Poroshenko) against each other. Law enforcement organs (Ministry of Internal Affairs, State Security Service, General Prosecutors' Office) publicly raised vote buying as an issue of particular concern.



Administrative Resources

Broadly defined, the use of administrative resources in the context of a political campaign refers to use of public or state resources for the purposes of campaigning, to the advantage of one candidate.¹⁶ Campaign interlocutors in several oblasts raised the issue of the misuse of state/administrative resources in the campaign.¹⁷ They include such issues as access to campaign venues being limited by local officials, and state officials allegedly campaigning during working hours, and employees of the state or university students being compelled to attend campaign events. Several interlocutors mentioned a new development in this area (ostensibly due to decentralization reforms), which is that candidates or parties have power bases in distinct parts of the country, and thus are able to use state resources in different regions of the country. Previously in Ukraine, only the incumbent (or his chosen successor and/or their party) could access administrative resources. However, the vast majority of accusations of misuse of state resources were still made against the incumbent. These included campaigning during working hours by state officials and pressure on state employees to support the incumbent. It should be noted that although campaigns tend to raise this as an issue of concern, they rarely file formal complaints.

Widespread use of administrative resources in election campaigns can undermine the level playing field for candidates necessary for an election to be deemed to have met internationally recognized standards for democratic elections. At this time, it does not appear that the use of administrative resources materially undermined the general fairness of Ukraine's election campaign.

Domestic observers

According to the Law on Presidential Elections, any duly registered civil society organization, whose statutory documents state that they act in the field of election processes and election observation can register to be a domestic observer for the presidential election.¹⁸ The CEC registered 139 organizations as domestic observers. This represents a significant increase over the 2014 Presidential elections, wherein 10 organizations were registered, and the 2014 Parliamentary elections, wherein 37 organizations were registered. The large number of domestic observer groups registered by the CEC was raised as a potential issue by many interlocutors, both in central meetings and in the field.

While the CEC registers domestic observer organizations, District Election Commissions register individual observers from those organizations.¹⁹ As of the 25 March deadline for registering, 56 of the 139

¹⁶ More precisely, the Venice Commission defines administrative resources as the following: *Administrative resources are human, financial, material, in natural and other immaterial resources enjoyed by both incumbents and civil servants in elections, deriving from their control over public sector staff, finances and allocations, access to public facilities as well as resources enjoyed in the form of prestige or public presence that stem from their position as elected or public officers and which may turn into political endorsements or other forms of support.*

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)033-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)033-e)

¹⁷ For example, in Ternopil, Ivano-Frankivsk, Luhansk, Zhytomyr, Chernivtsi, Khmelnytsk, Odesa. The most frequent and numerous allegations before the first round of the election came from Kharkiv.

¹⁸ Article 69.2

¹⁹ Article 69.5



organizations did not register a single observer.²⁰ An analysis conducted by OPORA stated that 85 of the 139 organizations have no experience in observing elections, and more than 30 of the organizations have direct ties to presidential candidates.²¹ The application for observer status by these organizations thus appears to be a tactic for some presidential candidates to gain more observers at Polling Stations and District Election Commissions, in addition to the candidate observers that campaigns are guaranteed by law.

Concerns were raised about the registration as observers of the NGO “Natsionalni Druzhyntsi,” closely affiliated with the political party “National Corps.” In an interview with Radio Svoboda on 5 March, the spokesperson for the organization implied the possible use of violence by their observers.²² On 6 March, the CEC adopted Resolution No. 494, wherein the CEC appealed to the State Security Service of Ukraine and the National Police of Ukraine to investigate these statements, and in the case of necessity, to apply all necessary measures to ensure law and order during the Presidential Election.

Participation of Women in the Election and Gender Issues

Gender issues have been largely absent from the radar of political parties and candidates. None of the candidates have made issues of concern to women as part of their campaign, including the four female candidates. Although one of them, Olha Boholomets, spoke to the traditional role of women as “wives and mothers”, the majority of candidates campaigned on “family values” with candidates Yulia Tymoshenko, Olha Boholomets, and Oleksandr Vilkul offering child bonuses as part of their campaign platforms.²³ Some candidate representatives pointed out that now is not the time to speak of gender issues as the war is the most pressing issue that needs to be addressed and all other concerns should be sublimated to efforts to end the conflict. Other candidate representatives declared that gender equality had already been achieved in the country, pointing to the rights that women have under Ukrainian law and thus, there was no need to include ‘gender’ as part of their campaigns. Petro Poroshenko was the only candidate to include gender equality in his political platform, however he did not raise the issue of women’s rights or gender equality on the campaign trail or in other public statements.

Mission Canada observers have reported a predominance of men in campaign offices and if women are present at the meetings, they do not speak. The exception to the lack of female inclusion in the electoral process is the heavy representation of women at the DECs and PECs – Mission Canada observers reported anywhere from 30-70% at the DECS, including in the troika positions of Chair, Deputy Chair and Secretary, although more men than women are still filling these roles at the DEC level. The weighting of female

²⁰ <http://www.cvk.gov.ua/pls/vp2019/WP001>

²¹ 21 February 2019. *За крок до фейку: громадське спостереження за виборами Президента України.* https://oporaua.org/article/vybory/vybory-prezidenta/vybory-prezidenta-2019/fake_observers

²² The spokesperson stated in the interview that “If law enforcement closes their eyes to obvious violations and do not want to report them, we will do what our commander has stated we will do.” Earlier a “commander” of “Natsionalni Druzhyntsi” Ihor Mykhailenko stated on Telegram “I am asked, will we use force at electoral precincts? I will state simply: If for the sake of justice, it will be necessary to punch someone in the face – we will do this, we will not hesitate.”

<https://www.radiosvoboda.org/a/news-sposterigachi-natsdruzhyntsi-vybory-zastosuvannya-syly/29805059.html>

²³ Yulia Tymoshenko offered 50,000 UAH for the birth of the first child, 100,000 for the birth of a second child, and 150,000 UAH for the birth of a third child and all subsequent children.



representation was heavier at the PEC level, up to 100%, including the troika positions. Some electoral officials have pointed to the over-representation of women as an indication that the electoral process is rooted in 'gender equality'. However, women's rights advocates say the fact there are so many female members of DECs and PECs is likely due to the reality that the jobs are low paying, with long hours.

During the campaign period, none of the candidates spoke out in favor of Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) rights or included policies or programs supporting the LGBTQ community in their platforms. A few candidate representatives, as well as other politicians, privately acknowledged that publicly supporting LGBTQ rights would be damaging to their political careers. However, several candidates are well known for their anti-LGBT stand.²⁴ While LGBT advocates have not reported any problems in participating as individuals in the presidential elections; they highlighted issues regarding their ability to publicly advocate for their rights without fear of threats or attack.

Participation of Internally Displaced Persons (IDPs) and internal migrant workers

There are 1.4 million registered IDPs in Ukraine, of which approximately 1,200,000 are entitled to vote. However, despite recent regulations which made it easier for IDPs to temporarily change their address in order to participate in the Presidential election (compared to others needing to register a different electoral address, including internal labor migrants and students)²⁵, by the 25 March deadline to register a temporary change of address, only approximately 6.5% percent of IDPs had done so. Interlocutors pointed to the fact that there was low awareness of voting rights amongst the IDP population, in particular, older IDPs, who may not have access to, or use the internet and social media, where information on voting rights is readily accessible. Overall, there was a lack of awareness raising campaigns and voter outreach programs that specifically targeted IDPs. As such, efforts to promote procedures and provide voter education to IDPs were inadequate. However, Mission Canada observers reported that some municipalities and local administrators made a concerted effort to inform IDPs of the procedures through posters displayed in public buildings and with television and radio advertisements in the local media. Both Mission Canada observers and those working with IDPs estimated that at least 50% of IDPs were not aware either that they had a right to vote or what the procedure was to temporarily change their address in order to vote.

²⁴ On March 22, 2019, in a televised debate between Olha Bohomolets and Ruslan Koshulinsky, the Presidential candidate for *Svoboda* Party on state Suspilna TV, Ms. Boholomets stated the following sidestepping a question about the Istanbul Convention: "I do not support (gay marriage). I support Christian values. I support there should be more Ukrainians in families where there is a mother, father and five children." In 2018, Oleksandr Vilkul submitted a draft bill to the Verkhovna Rada proposing to establish criminal responsibility "for the promotion of same-sex relationships". The explanatory note to the draft law stated that it will "strengthen the protection of public morals, protection of the family and traditional family values, strengthening of social protection of the family and children."

²⁵ As per CEC regulation #129 of 5 September 2018, IDPs need only show their internal passport and if their address corresponds to a place located in non-government controlled areas (NGCA), as determined by Presidential decree of February 2019 which determines all the population settlements in the occupied territories, they are able to register in any part of the country without further documentation. In contrast, non-IDP voters seeking to change their place of residence in order to vote must provide additional proof of the reason for their temporary location, such as for study or employment, and must register at the state voter registry closest to their current residence or work.



As the current law stands with regard to temporarily changing one's electoral address²⁶, those wishing to vote must register their change of address for each election, including any second rounds for the Presidential election. This puts an additional burden on those IDPs still living in the occupied territories, who must cross the contact line twice, once to register and once to vote, for each round. They must navigate the dangers of crossing the contact line, which includes the presence of land mines and armed personnel, as well as long line-ups and the possibility of border closures, potentially disenfranchising IDPs in the occupied territories from exercising their electoral rights. Out of a total of 315,725 voters who changed their address by 25 March²⁷, 44,338 are from Donetsk oblast, 23,871 from Luhansk oblast, 4,419 from the Autonomous Republic of Crimea and 1,109 from the City of Sevastopol for a total of 75,737 IDPs who registered to change their voting address.²⁸

Participation of Minorities

Mission Canada's interlocutors in all oblasts, including candidate representatives, political parties, election officials, city and regional administrative personnel, did not note discrimination against minorities in the country during the electoral period. At the same time, minority groups report that candidates have made no effort to reach out to their communities. This is likely in part because their numbers are statistically irrelevant to candidate electoral prospects; but also because candidates, political parties, and administration officials are expressing views that minorities are simply a part of the broader Ukrainian civic polity, and should not be treated any differently. This is also articulated in relation to the ongoing war and the need for Ukrainians to come together as one united country.

All the minority groups met by Mission Canada to date - Crimean Tatar, Polish, Hungarian, Roma, Romanian, Russian-speaking and Jewish – spoke to concerns of losing their national, religious or linguistic identity. While none of the minority communities expressed any issues with regard to their participation in the Presidential election, they reported other challenges of increased “hate speech” and occasional attacks by ultra-nationalist groups. On 10 March 2019, the *Mejlis* (Council) of Crimean Tartar People announced they were publicly supporting Petro Poroshenko and encouraging their community to do so as well. The *Mejlis* also encouraged Crimean Tartars remaining in Crimea to participate in the elections.

Mission Canada observed that many polling stations are not accessible to people with mobility challenges, for example by being located in a room on upper floors without elevators, with limited space to operate a wheelchair, etc. PECs have mitigated this challenge by organizing mobile voting units (see more information on the assessment of voting day procedures below).

²⁶ As noted in the legal section above, there is a draft law (“On Introducing Amendments to Certain Laws of Ukraine Regarding Voting Rights of Internally Displaced Persons and Other Citizens Mobile within the Country”), that if passed, will address many of the current deficiencies with regard to strengthening the enfranchisement of IDPs and internal migrants. However, the draft law is seen as controversial and although it is ready to be introduced, many of those who have been involved with the draft law feel it will not come before the Verkhovna Rada during this session. As one interlocutor put it: “IDPs do not have a voice in Parliament.”

²⁷ In the previous presidential elections in 2014, 170,000 applied to temporarily change their address in order to vote.

²⁸ These figures were provided to Mission Canada by the central State Voter Registry on March 29, 2019.



Media and Information Environment

Voters have access to many traditional and new sources of information, including TV, print, social media and the blogosphere. Television remains the most preferred source of information and news. Internet penetration and use of social media continues to rise over the past 5 years, with Facebook being the primary social media platform for all age groups. The use of print media has continued to decline over the past years. At the same time, the quality of information available through many of these outlets allowing voters to make informed political decisions is often lacking, in terms of balanced news coverage or provision of informative programs that conform to established journalistic standards. Given that Presidential authority in Ukraine primarily extends to areas such as international affairs and national security, coverage of the Presidential election has mostly been conducted in national media, rather than more local levels.

Among the media interlocutors interviewed by Mission Canada observers across the country, many expressed positive attitudes regarding decreased censorship and increasing opportunities for free reporting relative to the previous Presidential electoral process.²⁹ One example of a significant reshaping of the national media space is the privatization of state-owned media outlets at regional and local levels.³⁰ Over half of 754 outlets have been privatized (mostly television stations, followed by print media) and in many cases, existing staff have taken ownership. While this is a positive development for increased media independence and plurality of views in the short to medium term, financial dependency continues to exist between new owners and local administrations, posing some concerns regarding the vitality of this media cluster over the next 5 to 10 years.

One of the key concerns for freedom of media and voters' ability to form independent views is the concentrated ownership over the majority of TV channels and print publications, at both national and oblast levels, in the hands of a few media groups that are identified with a number of leading candidates in this election. In some cities, high levels of media concentration across TV channels, print and online media are in the hands of one or two politically affiliated groups may create 'information bubbles', which contributes to the sustained segmentation of local populations especially among senior groups. A number of successive laws dealing directly or indirectly with language issues, including declaring Ukrainian as the only official language, limiting the broadcasting or use of Russian-language TV channels and social media platforms, and increasing the quotas for Ukrainian language content in media, limits the reach of media to Russian-speaking minorities.

Throughout the electoral campaign, Mission Canada's monitoring of traditional and online media identified numerous cases of biased political coverage ('jeansa'), unmarked "political agitation" content, unsubstantiated claims (misinformation) and uneven political advertising in favor of a particular candidate or as methods of negative pressure against others. This often occurred through a combination of leading headlines, placement of misleading visual content, use of suggestive language, appeal to emotions and other forms of content manipulation to lead a consumer of content toward the desired conclusion. At the same time, this is typically done in ways that do not cross legal lines by openly accusing competitors or

²⁹ Mission Canada observers have conducted 92 interviews with media interlocutors to date.

³⁰ This process began in 2015 and has been extended beyond its original deadline in December 2018.



engaging in “black PR”. In addition, a considerable number of cases where regional and local outlets were approached by representatives of some candidate ‘support group’ or marketing agency to place “black PR” content have been reported. In such instances, media interlocutors declined to provide information regarding the identity of such representatives. A regulatory framework on media issues, including the Presidential election, exists in Ukraine. However, a number of critical issues, such as what exactly constitutes “political advertising” or “political agitation” in the laws, remain poorly defined. The result is a largely powerless national regulator and CEC, unable to pursue investigations or apply administrative or legal measures against potential violators.

Mission Canada observers received a number of indications that some journalists and media outlets in recent months were threatened due to their negative reporting against government officials or local business interests.³¹ A few of these cases were reported to law enforcement, but no formal investigations were launched. Given this, the role of the only independent public broadcaster in Ukraine, UA:PBS (Suspilna) appears to be extremely important. Unfortunately, it has continuously experienced significant political pressure and sustained budgetary cuts, which has led to a reduction in staff and programming. Mission Canada observers interviewed UA:PBS staff in many branches across the country and reported that most journalists believe this was done as a retribution for critical coverage of the Poroshenko government’s policies.

Overall, the media environment in Ukraine is very open and pluralistic. It is understood that this environment continues to evolve, however, many of the well-known impediments to the media freedom and access to information in Ukraine continue to exist.

Social Media Monitoring

Similar to other countries, the online space in Ukraine is largely an unregulated environment. As such, it is open for expressions of opinions and can be used for legitimate political mobilization and engagement, and at the same time used for negative advertising or abuse, or for organized influence activities by foreign and internal actors. The relatively rapid development of ICT technologies and rising consumption of online content by Ukrainians, coupled with the ongoing conflict with Russia, low trust in traditional media and other factors, present both opportunities and challenges for legitimate political interactions.

Mission Canada has monitored the use of Facebook by the five main presidential candidates. Each of these candidates use Facebook as a platform for political engagement and communication by employing varying tactics to generate engagement and spread content. The preliminary analysis pointed out that judging by volumes and patterns of engagement, some candidates appear to have involved paid “supporters” (also known as “human bot farms”), which are organized groups of individuals who are typically engaged by intermediaries to create content and/or an appearance of genuine public support. Due to their size (thousands of active accounts by real people), they can be used to artificially promote some content online through their own networks or ‘drown’ the opposition with negative messaging. As a result, the legitimate political dialogue becomes impossible. In addition, Mission Canada identified unmarked groups on

³¹ Ukrainian and international media watchdog organizations reported many cases of intimidation against journalists in Ukraine over the past year and several journalists were killed or sought asylum abroad due to their investigative reporting.



Facebook that appear to systemically cultivate increasing follower-base while posting content in support of a candidate. Over time, such groups facilitate the appearance of ‘echo chambers’ entrapping unsuspected users in them and manipulating them to spread political content to their own networks. These patterns have been identified in different jurisdictions in the past, on various occasions, including the 2016 US election and provincial elections in Canada.

In addition, the monitoring has identified many suspicious websites that present themselves as ‘news and information outlets’, while in fact publishing or promoting mis/disinformation content which may have different purposes, including sowing public discord, promoting hate speech or encouraging violence. Further analysis of these networks will be conducted over the next few weeks.

Election Day, Polling and Counting

Pre-Election Period

During the three days preceding Election Day, Mission Canada observers visited 1193 PECs in all 24 oblasts to observe preparations. Out of these, 499 were in rural areas and 694 in urban settings. The PECs visited were chosen to provide a sample of locations in each oblast and offer an overview of the situation across the country.

The overall assessment was that preparations for Election Day were good or very good in 93.7%. In 98.3% of cases, Mission Canada’s observers were granted full access and cooperation by members of the PECs to assess their preparedness.

Election Day

Opening of Polling Stations

On Election Day, Mission Canada observers attended the opening of 79 polling stations, in all oblasts where voting took place. Out of those observed, 11.4% were rural and 88.6% urban polling stations. From the polling stations visited, 65 opened on time at 8:00 am, while 13 opened slightly late. 78 of the polling stations visited started Election Day with an opening session and with all the necessary election material present. Mission Canada’s observers were granted full cooperation in 100% of polling stations and Mission Canada assessed the opening procedures of polling stations as good or very good in 93.7% of cases.

Voting

Mission Canada observed a total of 811 polling stations in all oblasts where voting took place, which represents 2.7% of the total of polling stations in the country. 29.8% of the PECs were in rural areas and 70.2% in urban settings. In 431 (53.1%) number of cases, polling stations had issues with full accessibility to voters with mobility challenges.

During 786 (97%) visits to polling stations, Mission Canada observers were granted full access and were not restricted in any way in their observation. Observers noted long lines of voters in 25 (3.1)% of polling stations as well as overcrowding in 34 (4.2%) polling stations.



Mission Canada's observers assessed the voting process to be good or very good in 786 (97%) number of polling stations and that voting procedures were followed well or very well in 780 (96.3%) number of polling stations.

Closing and Counting

Mission Canada observed the closing and counting of a total of 61 polling stations in all oblasts where voting took place, 21.3% of which were in rural areas and 78.7% in urban settings. In 57 (93.4%) cases, polling stations closed on time at 20:00 and 4 (6.6%) closed late. Based on information received by 7:00 am on 1 April 2019, in 57 (93.5%) cases, the overall conduct of the counting process was assessed by observers to be good or very good and counting procedures were followed well or very well in 53 (86.9%) cases.

*Transfer of Polling Station Results to DEC*s

Based on information received by 7:00 am on 1 April, Mission Canada observers reported on 29 transfers of results from polling station to DEC's. In 72.4% of cases, observers assessed the handover procedures to the DEC as good or very good and appropriate procedures were followed well or very well in 75.9% of cases. 20 (69%) noted overcrowding and/confusion in DEC's; in one (3.4%) case, results were rejected by the DEC and the PEC was requested to recount.

In 8 (27.6%) cases, Mission Canada observed tension and unrest in the vicinity of DEC's.

Mission Canada will provide detailed observations of Election Day proceedings in its final report, along with a full statistical analysis of PEC's and DEC's visited.

The Preliminary Statement of Findings is available at the following link in English, Ukrainian and French:

<https://www.canademmissions.ca/media-news>

CANADEM, the Electoral Observation Mission implementing agency, is an international, not-for-profit non-governmental organization (NGO) dedicated to advancing international peace and security through the rostering, rapid mobilization and mission management of experts committed to international service with the United Nations, other international government organizations, NGOs and governments.

CANADEM ensures that the electoral observation missions are gender balanced and well trained on gender equality issues, including political empowerment of women at federal and local levels.