



ENEMO International Election Observation Mission

Presidential Election - Ukraine 2019

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS FOR THE SECOND ROUND

April 22nd 2019

ENEMO highlights that the second round of the election was mostly conducted in line with international election standards, despite shortcomings in the legislation misused by candidates to campaign through questionable means and smear campaigns. Peaceful transfer of power is expected following preliminary results and the losing candidate's immediate acceptance of defeat. ENEMO praises the conduct of the vote which was generally well organized, with minor violations not affecting the outcome of the election results. Previous concerns regarding challenges in nominations of election commission members for the second round were mitigated through the commendable efforts of the election administration.

In January 2019, the European Network of Election Monitoring Organizations (ENEMO) deployed an International Election Observation Mission to Ukraine to observe the March 31st presidential election.

In addition to the ten core team members based in Kyiv, ENEMO has accredited and deployed 48 long term observers (LTOs) and 150 short term observers (STOs) for the second round, in teams of two to all regions (*oblasts*) of Ukraine. The mission is headed by Dr. Zlatko Vujovic.

This statement is based on ENEMO mission observations and findings during the period between the first round conducted on March 31st and the second round conducted on April 21st. This statement should be read in conjunction with previous statements and reports available at <http://www.enemo.eu/en/missions/ukraine-presidential-2019/>. ENEMO stresses that this statement is preliminary in nature, as the official results are yet to be announced and submitted complaints are still to be addressed. This mission recognizes that it will be the people of Ukraine who will ultimately determine the credibility and legitimacy of this election. ENEMO will continue to follow the election process and will issue a final report two months following the conduct of the second round.

ENEMO is a network of 21 leading election monitoring organizations from 18 countries of Europe and Central Asia, including two European Union member states. For more information on ENEMO, please visit <http://www.enemo.eu/>.

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Preliminary conclusions

According to preliminary results posted by the CEC, the turnout in the second round of the presidential election was approximately 61,4% of voters. Preliminary results indicate Volodymyr Zelensky won 73,17% of the votes and Petro Poroshenko 24,50%. In accordance with the law, the final results of the second round should be announced up to 10 days after receipt of protocols.

The key challenge of the election administration was the legally mandated formation of new lower level electoral commissions (DECs and PECs) based on candidate nominations. In general, the election administration were efficient in organizing and conducting voting given the considerable amount of work and within constraining deadlines.

ENEMO notes however that the presidential race in the second round did not focus on candidates' campaign platforms but rather on discussions around participation in the debates, the opponent's character and smear campaigns.

Negative campaigning and harsh rhetoric used by both candidates marked the media environment in the lead up to the second round. Lack of regulations concerning campaigning on social media allowed candidates to carry out direct or indirect campaigning beyond the legally prescribed timelines and during the "day of silence". Both candidates dominantly used social media platforms to outreach and mobilize voters.

ENEMO raises concerns with regard to the use of illegal and controversial campaign materials, printed and digital, which use false information aiming at discrediting the credibility and dignity of candidates. Also, campaign platforms and political positions of candidates were not clearly voiced to voters, with candidates focusing instead on discreditation of one another.

ENEMO notes women were well represented in electoral commissions at all levels. DECs were composed of 60.01% women and 39.98% men. On election day, 75,7% of PEC members in observed polling stations were women. Nine out of the 16 CEC members are women as well.

ENEMO observed the preparatory meeting and the opening procedures in 99 polling stations. The set up of almost all PECs was assessed as adequate (97%) and in three of the observed polling stations observers assessed the set up as inadequate. All observers assessed the opening procedures positively (very good or good).

ENEMO observers monitored the process of voting and environment around polling stations in 1,287 polling stations throughout the country. The overall assessment of the voting was positive (very good or good) in almost all polling stations observed. Only 13 of the 1,287 observed polling stations during voting were assessed as bad by the observers, but in all cases this was deemed to be due to negligence rather than fraud.

Despite previously raised concerns on professionalism and experience of PEC members, 96.8% of observed polling stations were functioning and managed properly by PEC members. Only 1,2% of observed polling stations were somewhat crowded, however, in all cases PEC members were able to



properly manage the process. In almost all observed polling stations, observers indicated that no formal complaints had been filed.

In 88,5% of observed polling stations, observers did not notice nor report cases of voters not included in the voters list, while at 13,3% of polling stations there were cases of voters not finding their names in the list. Voters for whom the information in the voters list was inaccurate was observed at 2,4% of polling stations, and at 9.6% of polling stations voters not finding their names in the voters list.

The overall assessment of the counting procedures by ENEMO observers was positive (very good or good) in 96% of the observed polling stations. ENEMO observers assessed that counting procedures were followed properly in 92% of polling stations and in 8% there were some deviations from the counting procedures. However, observers assessed that the observed deviations did not seem to impact the legitimacy of results.

ENEMO observers monitored the transfer of election materials and respective intake for 91 polling stations and overall procedures at 100 DEC. The transfer of materials was done in an orderly manner and following the procedures in all cases. In 92% of the DEC, most protocols were processed under 30 minutes. The evaluation of the work of the DEC by ENEMO observers was positive (very good or good) in 94% of the observed DEC. In 6% cases it was evaluated negatively as bad or very bad, due to negligence.

ENEMO notes that a large number of complaints submitted to the CEC were returned to the complainants without consideration by the commission, and the fact that the majority of complaints submitted to the police remain unaddressed may limit the right to an effective legal remedy.

Background

On April 7th, one week after the Election Day, the CEC officially announced the results of the first round of the election. The two candidates with the highest number of votes were Volodymyr Zelenskiy, who gathered 30,24 % of the votes (5,714,034 votes) and Petro Poroshenko, who gathered 15,95% (3,014,609 votes)¹. Since no candidate obtained more than 50 % of the votes cast, the CEC adopted a resolution to hold a run-off on April 21st.

According to statistics on voter turnout, approximately 800,000 more people voted in the first round of this election than in 2014, with a total of 18,893,864 voters (62,8%) participating in the polls.

Most election stakeholders and ENEMO interlocutors positively assessed the conduct of the first round, despite minor violations on Election Day, controversial campaigns and shortcomings in the electoral legislation. Candidates from the first round did not contest the results, and many urged

¹ *Ibid.*



their supporters to vote for a particular candidate in the second round.

ENEMO notes that the presidential race in the second round did not focus on candidates' campaign platforms but rather on discussions around participation in the debates, the opponent's character, and smear campaigns.

According to preliminary results posted by the CEC having processed 98,56% of protocols on April 22nd, Volodymyr Zelensky won 73,17% of the votes and Petro Poroshenko 24,50%², with a preliminary turnout of approximately 61,4% of voters³. In accordance with the law, the final results of the second round should be announced up to 10 days after receipt of protocols (and no later than on the third day after receipt of all protocols from DEC).

Election Administration

Within its mandate, the CEC adopted important resolutions related to the second round of presidential elections, approved the final form of the ballot paper, accepted budgetary expenses for DEC, accredited official observers, and conducted other necessary preparations.

The key challenge of the election administration was the legally mandated new formation of all lower level electoral commissions (DECs and PECs) based on candidate nominations.

On April 10th, the CEC formed 199 DECs upon nominations from candidates for the second round. As prescribed by the law, DECs consist of fourteen persons – seven nominees from each candidate. The total number of DEC members in all 199 DECs was 2,786, including 60.01% women and 39.98% men.

For DECs' composition, candidate Poroshenko nominated 1,393 candidates in all 199 DECs, while candidate Zelensky nominated 1,379 members in 197 DECs. Candidate Zelensky did not nominate any commission members in DECs 57 and 58, therefore, the CEC fulfilled the rest of the composition of these DECs.

The CEC ensured equal distribution of leadership positions of chairpersons and secretaries among the nominees of the two candidates, with Poroshenko receiving 100 chairperson and 99 secretary positions and Zelensky receiving 99 chairperson and 98 secretary positions. The majority of DECs started preparations for the second round without significant impediments. The CEC did not organize new series of trainings for the DECs, stating that a majority of the DEC members underwent the training before the first round.

Based on the information provided by the CEC as of April 21st, 29,982 PECs were established for the second round. The total number of PEC members as of April 17th was 408,864, among which Zelensky nominated 197,566 commissioners, and Poroshenko delegated 148,564 members. For the

² <https://www.cvk.gov.ua/pls/vp2019/wp300pt001f01=720.html>

³ <https://www.cvk.gov.ua/pls/vp2019/wp063pt001f01=720.html>



first time in Ukrainian history, around 60,000 PEC members were appointed by the District Election Commissions.⁴ In many *oblasts*,⁵ candidate Poroshenko proposed only two or three candidates per PEC, instead of the legally required six, seven or eight members depending on the size of a PEC. In five oblasts⁶, candidate Zelensky also nominated relatively fewer PEC members than required, though in general Zelensky designated a significantly higher number of election officials. In order to ensure that sufficient number of members are appointed to the PECs, the CEC made an announcement via official Facebook and web-page and called the citizens to participate and engage as commission candidates. The CEC also extended the PEC formation deadline at DEC 59, as the DEC was unable to form all the PECs due to an insufficient number of nominations submitted by the candidates. The DEC 59 is located in the Joint Forces Operation area.

Short time-frame and lack of previous experience in the matter placed a significant burden on DEC, resulting in varying practices of identifying and selecting PEC members. In some districts, the local administrations helped to find the people for PECs; some DEC contacted members who served in the first round or local citizens through inquiring with schools, factories, friends, family, and colleagues (e.g. in Zakarpattia); some DEC (e.g. Cherkasy and Kirovograd) used the database of PEC members from previous elections; others solicited assistance from candidate proxies from the first round, asked already appointed PEC executive staff to propose other members, or waited for further instructions from the CEC till the midday of April 15th, the deadline.

Various ENEMO interlocutors attributed the low number of nominated PEC members to several reasons: high number of nominations expected from the candidates; short timeframes; low remuneration for highly stressful and demanding tasks; and delays in payment of the PEC members from the first round of elections⁷. It is also important to note that the legally required number of PEC members for the first round is minimum 9, while for the second round it is 12, 14 or 16, depending on the size of the polling station.

On April 19th, the CEC adopted a resolution on “amending the CEC resolution 290 from 2014 on the procedure of replacements in commissions”, according to which if a commission member withdraws and the respective candidate does not nominate a replacement, the CEC or DEC respectively nominates a commission members to vacant positions to ensure the minimal composition – 12 members for DEC; 9 members for the PECs and 4 members for special PECs where the number of voters do not exceed 50 persons.

Despite these difficulties, almost all PECs were formed by April 15th and on the following day and in general, the proportional distribution of managerial positions (chairperson and secretary) among

⁴ Official statement of the CEC: https://www.cvk.gov.ua/news/news_16042019_1.htm

⁵ Cherkasy, Kirovograd, Zakarpattia; Kharkiv; Dnipro (5); Odessa; Kherson; Kyiv City, Kyiv Oblast; Chernihiv, Chernivetsk; Poltava; Zaporozhyia

⁶ Kyiv Oblast, Poltava, Sumy, Zhitomir, Donetsk, Ivano-Frankivsk

⁷ The concerns related to the payment to the PEC members in several districts for the work in the first round of elections have been raised by the members of DEC at the sessions. The DEC members declared that the majority of the people refuse to participate in the work of the commission, since they did not receive remuneration for the first round of elections yet.



candidate nominees was insured.⁸ However, replacement of PEC members as well as duplicates in PEC membership was also observed in isolated cases. Moreover, the tight schedule led to the overlap of deadlines for PEC formation and for temporary changes to places of voting. As a result, commission members that were appointed on April 15th were deprived of the possibility to change their place of voting through the regular procedure at the State Voter Registry.

The trainings for PECs were left at the discretion of DEC members and, thus, were only organized in a few districts⁹. However, in most cases the DEC members did not have time to schedule trainings for PEC members. According to some commission members, guidelines and manuals provided by the CEC and the instructions by upper level commission were sufficient to ensure proper administration of the elections.

Registration of Voters

Voters wishing to change their place of voting without changing the electoral address had to register for the second round, regardless of whether they did so for the first round. State Voter Registration (SVR) offices opened for requests to temporary changes of place of voting on April 8th, the day following the CEC announcement of the second round and closed on April 15th.

In most oblasts, SVR bodies performed their duties properly and efficiently, correcting mistakes and misspellings from the first round. Despite the short time frame and general increase in the number of requests, most voters wishing to register at a temporary place of voting were able to do so in time.

However, some ENEMO interlocutors from SVR administration shared the concern of possible errors remaining in the names of voters in the electoral registers, due to conflicting databases in the state bodies and confusions between data contained in older and newer passports of voters (e.g. Mykolaiv Kherson, Chernivtsi and Ternopil oblasts). ENEMO notes that though SVR offices did send requests for clarification to voters, the time frame for voters to check or correct their data was occasionally insufficient. In particular, voter registration offices in Kiev were overcrowded as the deadline for voter registration drew nearer.

As of April 15th, 325,604 voters had registered for temporary change to their place of voting. The highest amount of requests was noticed in Kyiv city (55,308 voters), Kyiv *oblast* (29,544 voters), and Kharkiv *oblast* (25,950 voters). A high number of these requests were initiated by IDPs and

⁸ Article 85.11 defines that when distributing the executive positions in PECs, the DEC is to provide an equal number of positions of the chair and the secretary of a polling station commission for each candidate (with a possible deviation not exceeding one position of the commission chair or the commission secretary, respectively). The chair and the secretary of the PEC may not represent the same candidate.

⁹ For instance, ENEMO observers reported trainings held in some districts in Ternopil, Zhytomyr, Kirovograd, Dnipropetrovsk, Zakarpattia, Khmelnytskii oblasts and Kyiv city.



voters originating from occupied territories¹⁰.

The final number of registered voters on the lists for the second round was 30,359,753 in total (29,659,402 on the main voter list, and 700,351 in the extract for homebound voting)¹¹.

Electoral Campaign and Campaign Finance

A. Electoral Campaign

According to the law, the presidential election campaign for the second round should begin on the day following the official CEC announcement of the first round results, and end twenty-four hours before the day of voting. However, candidates failed to comply with these requirements, continuing their direct and indirect campaigns throughout the observed period.

ENEMO notes that competition between the two candidates often took the form of “black PR”, provocative and negative campaigning among candidates - mostly via social networks and messaging applications - including violent images (for example, a candidate being run over by a bus) and discrediting of candidates (such as suggestive imagery that a candidate uses narcotics)¹². The disagreement between candidates on the conditions for holding debates was also a predominant theme.

Campaigning in between the two rounds focused on the national level rather than the regional level, with few campaign events in the regions, although dissemination of campaign materials and door-to-door activities continued in some areas (for example in Sumy and Kharkiv *oblasts*). In addition to social networks and messaging applications, a high number of cases of billboards, posters and publicly distributed leaflets containing “black PR” to discredit candidates were also reported by ENEMO observers. These contained defamation techniques including humiliating picture-collages, fake news, and aggressive name-calling. Cases were observed in most of the *oblasts*.

ENEMO raises concerns with regard to the use of illegal and controversial campaign materials, printed and digital, which use false information aiming at discrediting the credibility and dignity of candidates. Also, campaign platforms and political positions of candidates were not clearly voiced to voters, with candidates focusing instead on discreditation of one another.

¹⁰ SVR website:

https://www.drv.gov.ua/ords/portal/lcm_core_em_index?option=ext_num_voters&pd=6&pdy=706&pmn_id=127

¹¹ According to data from the CECt: <https://www.cvk.gov.ua/pls/vp2019/wp095pt001f01=720pt049f01=0.html>

¹² Article 64 paragraph 5 contains provisions restricting campaigning in forms of deliberate dissemination of false information on candidates, in addition to the provisions of Article 59 paragraph 3 which explicit the informational requirements which should appear on printed materials.



New billboards did not always bear the proper identification information specified in the legislation¹³ (for instance in Ivano-Frankivsk, Dnipro and Vinnytsia *oblasts*). The continued practice of replacements of old billboards with newer ones bearing alternative slogans 24 hours before the second round Election Day (noticed in Lviv and Ivano-Frankivsk *oblasts* for example) though not a violation of the law, raises the issue of campaigning on the “day of silence”.

ENEMO notes that during the voting process, candidate Zelensky purposefully revealed his marked ballot, apparently violating the secrecy of the vote and conducting illegal campaigning. The candidate risks a fine following a court decision in the amount of 30 to 50 non-taxable minimum incomes, in accordance with Article 212-10 of the Code on Administrative Offenses (containing provisions on violation restrictions regarding election campaigning).

Reports of misuse of administrative resources considerably decreased in comparison to the first round, but some concerns remained. In Kharkiv region for instance, the practice of distribution of Regional Development Council paraphernalia similar to the first round was ongoing. Observers reported envelopes including brochures containing development perspectives of the Kharkiv region, and questionnaires proposing to evaluate the regional development plans for the coming years, the work of the mayor, and personal data.

ENEMO notes that in spite of the high demand of Ukrainian citizens for debates¹⁴ and plans for more than one debate to be held in between the two rounds, only one debate between the two candidates was held at the Olympic Stadium on the Friday before the Election Day.

B. Campaign Finance

ENEMO notes that all candidates from the first round submitted their final financial reports on their campaign expenses in compliance with the law before April 15th, though expenses were not always properly reported and in accordance with the required format.

In line with the law, second round candidates submitted interim financial reports on April 16th followed by publication on the CEC website. The National Agency for the Prevention of Corruption (NAPC) and CEC respected the legal deadline and published interim financial reports of presidential candidates, containing information on income and expenses of the two candidates from April 7th to April 13th¹⁵. According to these reports, during the first five days of the second round campaign, candidate Petro Poroshenko invested an additional 99,9 million UAH in his election campaign, and candidate Volodymyr Zelensky an additional 44,59 million UAH.

Taking into account the expenses for the first round, candidate Poroshenko spent over 500 million

¹³ Printing institution, circulation figures, information on printing houses responsible for the release and customer of the relevant materials.

¹⁴ According to polls conducted by the Kiev International Institute of Sociology from April 9th to April 14th, 68,7% of Ukrainians wanted debates to take place:

https://www.kiis.com.ua/?lang=ukr&cat=reports&id=851&page=1&fbclid=IwAR04hoJ3aa9PFIn8Dc-0x7m93UFN00TKx8is0R-HL_9fMKGI8ZOcmUuiw2g

¹⁵ <https://www.cvk.gov.ua/pls/vp2019/wp082pt001f01=720pkindrep=1.html>



UAH. Candidate Zelensky's campaign in the second round was entirely funded by the "Servant of the People" party. From April 7th to April 13th, the party transferred 45,7 million UAH to candidate Zelensky's election fund, for a total of approximately 147 million UAH for both rounds. During the first five days of campaigning, Zelensky spent most of these funds raised (except 8,448 UAH), while candidate Poroshenko left nearly 2,9 million UAH unspent as of April 13th.

It should be noted that funding for negative campaigning materials evoked in the previous section was not transparent. With regard to leaflets and new billboards containing provocative messages, the lack of transparency on the origin of their funding raises the issue of potential violation of Article 58 Part 4 of the Law "On the Election of the President of Ukraine", which states that all campaigning materials should be printed only at the expense of candidates' electoral fund.

Final reports on the expenses of candidates for the second round should be published no later than fifteen days after the day of the election. The total amount of campaign expenses declared by candidates will be known only after this established deadline.

ENEMO considers the time frame for verifying the accuracy of information provided in interim financial reports of candidates published 4 days before Election Day does not provide enough time for proper institutional oversight (CEC, NAPC, courts, etc.). It also limits the possibilities for CSOs to monitor campaign financing, and for official bodies to sanction cases of "shadow funding" should they be discovered (for example, expenditures on social media, such as Facebook ads, and improperly marked campaign materials). It is also too short to communicate to voters comprehensive information and analysis on campaign expenditures of candidates to inform their decision.

Complaints and Appeals

Starting from the election period up until the E-day of the second round, the CEC has received 192 complaints. Among them only 19 complaints were considered by the CEC collectively and adopted a resolution; 14 complaints were withdrawn by the complainants and 159 were returned to the complainants without consideration as they did not fulfill prescribed prerequisites. A high number of complaints dismissed without consideration of their merit, may limit the right to effective legal remedy.

ENEMO notes that election administration does not have a registry of complaints and DEC's don't publish respective resolutions concerning the complaints. The CEC only publishes resolutions concerning the complaints which is subject of collective consideration of commission, thus information about rejected complaints or complaints returned to the complainants are not publicly available and lack transparency of this process.



ENEMO further notes that the majority of election related complaints were again reported to the police. Despite the fact that the police recorded all complaints as for the first round, the majority of them are unclassified or still pending. On election day of the second round the police registered 1444 complaints out of which police opened 36 criminal investigation and draw up 25 administrative protocols.

As of April 2nd, the police submitted 269 administrative protocols out of all some 5000 submitted complaints to the courts for the consideration concerning election – related administrative offences. Out of them, 82 cases were returned to the police, 122 cases were considered by courts and 63 remained unconsidered. 122 persons were identified as ones involved in administrative offences. Administrative sanctions¹⁶ were applied on 62 persons: a total of 14 345 UAH was imposed as fine, whereas 6596 UAH were paid voluntarily. As of April 2nd, no criminal proceeding related to elections was submitted to the court for consideration.

Within the period of December 31st 2018 - April 2nd 2019, 3463 election-related administrative claims were pending in courts countrywide and, as a result, 2786 administrative proceedings were opened. During the reporting period, courts passed a decision in 2607 proceedings. Out of this number, 2255 claims were sustained. Among them, 2520 administrative proceedings were opened concerned the clarification of voters' lists submitted by voters. Approximately 89% of the claims related to voters list were sustained by courts and 11 percent were rejected mostly because of missing deadlines.

A lawsuit was filed¹⁷ against both candidates and third parties¹⁸, requesting to recognize unlawful actions in carrying out campaigning and sanctions against candidates¹⁹. The Court ruled that candidates' distribution of various videos through social networks outside the campaign period should not be considered campaigning, since the videos did not contain any statements aimed at motivating voters to vote or vote for a particular candidate. The plaintiff appealed this decision to the Supreme Court and the appeal was rejected.

The same plaintiff filed a lawsuit²⁰ against Volodymyr Zelensky for free distribution of tickets to the stadium-debate claiming it constituted vote buying and asked for cancellation of the registration of the candidate²¹. The court adjudicated the hearing at 9 pm before the E-day and announced the

¹⁶ Violation of restrictions on conducting election campaigning, campaigning on the day of elections – article 212-10 of the Code of Ukraine on Administrative Offenses; Making or distributing printed materials of pre-election campaign, that do not contain information about the entity that published them, their quantity, information about the persons responsible for the issue – article 212-13 the Code of Ukraine on Administrative Offenses; Violation of the order of placing campaign materials or political advertising or placing them in places prohibited by law – article 212-14 the Code of Ukraine on Administrative Offenses;

¹⁷ Sixth Administrative Court of Appeal, Case No. 640/5921/19

¹⁸ CEC, NSC "Olympic" and the Ministry of Health of Ukraine.

¹⁹ Official observer for the election of the President of Ukraine in the territorial election district 221 from the NGO "Ukrainian Association of Shareholders"

²⁰ Case No. 855/124/19

²¹ CEC decision No. 153 of January 30, 2019.



judgment after midnight on April 21st, which created uncertainty with regard to the election process. The court rejected the lawsuit.

Media

Media continued to play a crucial role between two rounds of elections, with both candidates focusing their campaign efforts to paid TV advertisements²² and outreach through social media. Voters had a possibility to obtain all necessary information about election contestant's campaigns, bearing in mind the diversity of media outlets and the level of usage of social media platforms by candidates. However, continuous biased reporting and high polarization²³ of media outlets did not essentially provide fair, objective and balanced information to voters.

Negative campaigning and sharp rhetoric used by both candidates has marked the media environment in the lead up to the second round. Lack of regulations concerning campaigning on social media allowed candidates to carry out direct or indirect campaigning beyond the legally prescribed timelines and during the silence period. Both candidates used social media platforms, primarily Telegram and Facebook, to facilitate the dissemination of political content, which were further spread by traditional media.

Before the second round was officially announced by the CEC, two frontrunners started a series of promotional videos and discussions on the place and conditions for televised debates. Such activities may be perceived and interpreted as election campaigning. The CEC issued a public statement reminding candidates of their legal obligations and requesting them to respect the law, but did not issue any official warning, nor impose other possible sanctions prescribed in Article 56 of the law. A lawsuit requesting the court to oblige the candidates to refrain from such actions was rejected²⁴, as well as its appeal to the Supreme Court.

Presidential debates, recognized and regulated by Article 62 of the law, were a topic that shaped both the media reporting and the campaigns between the two rounds. Following prolonged negotiations, a debate was held on April 19th at 19h00, at the NSC "Olympic" stadium. It was organized and paid for by the candidates, who debated before some 22,000 spectators. The debate was also broadcast live by a majority of domestic and international TV channels.

In order for this debate to take place, and following a written request by Mr. Poroshenko representative²⁵, the CEC adopted a decision to postpone the beginning of the official debate²⁶ for

²² Interim financial reports of presidential candidates published by NAPC.

²³ Due to corporate and political interests of media owners, allegedly with close ties to certain candidates, according to the numerous interlocutors.

²⁴ The Court rejected the lawsuit in full, stating that video conversations distributed by candidates through social networks are not political campaigning, since candidates did not publish any statement, nor carry any other actions in order to motivate voters to vote or not vote for a particular candidate.

²⁵ On April 17th ([during a CEC session](#)), it was announced that a written request was submitted by an authorized representative of candidate Poroshenko to the CEC requesting postponement of the official debate.



one hour. However, only the incumbent participated in the debate organised by the UA:PBC, while the other candidate refused to attend. Following the legal provisions, his time was allocated to the participating candidate.

During the reporting period, the National Council reported that Mr. Zelensky was present 203 hours and 35 minutes²⁷, representing 14%²⁸ of the total content of the program of 1+1 TV channel, during the period from January 31st to March 31st 2019, in different entertainment formats²⁹. At the same time, the NC stated that Mr. Poroshenko was also highly present at the same TV channel, and commented by different guests or experts, but mostly in a negative tone. The NC announced that they would ask for an explanation and inform the CEC about a possible violation of the Law³⁰ by 1 + 1. The same calculation was not announced for the other candidate and his presence on other TV channels.

At the regional and local level, ENEMO observers reported a high number of cases of black PR, both in traditional and social media. In addition, many interlocutors pointed out that media were lacking in voter education content. Media did not focus on informing voters on how to exercise their rights, which should be an important role of media during the election period.

Election Day

On Election Day, ENEMO deployed 100 observation teams, including 48 Long Term observers and 150 Short Term observers to follow the opening procedures at 99 polling stations; voting in 1,287 polling stations; closing, counting and results announcement at 100 polling stations, as well as the transfer and intake of election materials of 91 polling stations and the overall performance in 100 DECs. Election Day was, overall, calm and peaceful. In the same pattern as the first round, the management of the polling process and conduct of PECs on the second round was assessed positively in almost all polling stations observed by ENEMO, despite concerns about newly appointed PEC members and challenges in training them.

A. Opening

²⁶ According to the law and the CEC Decree, televised debates at the expense of budget funds should be held on the last Friday before the day of the second round, between 19 and 22 hours, live, with a duration of not less than 60 minutes, in the studio of the UA: PBC and be broadcast free of charge by other broadcasting companies.

²⁷ Just entertainment programs, without taking into account paid political advertising.

²⁸ https://www.nrada.gov.ua/za-try-peredvyborchyyh-misyatsi-prysutnist-kandydata-na-post-prezydenta-volodymyra-zelenskogo-v-efiri-1-1-dosyag-la-14-vidsotkiv/?fbclid=IwAR1zi8VsT_7qon0zY5qT4oxfmRlMiHfxdUsfP1ep2zZcq5kdS2S5-x6QcQk

²⁹ Entertainment formats of one candidate were not officially seen as a campaigning by Courts, CEC, NC or any other institution. Formal standpoint of the Court was that he appeared as an actor, not as a presidential candidate. The same ground was set for the incumbent president, as his meetings or presidential activities were not considered to be campaigning

³⁰ Violation of the Articles 3, 561, 57 and 58 of the presidential election law.



ENEMO observed the preparatory meeting and the opening procedures in 99 polling stations.³¹

The preparatory meeting started on time (7:15AM) in 94.9% of the observed polling stations, while in 3 polling stations the meeting started up to 15 minutes earlier and in two polling stations it started with delays of up to 30 minutes.

All observed polling stations opened on time (08:00AM) or with very slight delays. Despite concerns over insufficient members, all observed polling stations opened in the presence of, at least, the minimum number of members required by the law.

All observed polling stations were equipped with all essential materials needed for the voting.³² However, 25.2% of the observed polling stations had received fewer ballot papers than voters on the voter list for that precinct. In few cases, the difference was significant.³³ Although, these numbers are lower than the first round, ENEMO notes that this was a continuation of the trend that was already observed in the first round³⁴.

The procedure for sealing stationary ballot boxes was followed properly in all observed polling stations, while the procedure for sealing mobile ballot boxes was followed properly in 96% of the polling stations, with slight procedural violations in four polling stations.³⁵

The set up of almost all PECs was assessed as adequate (97%) and in three of the observed polling stations observers assessed the set up as inadequate.

In all observed polling stations, observers were able to properly monitor the opening procedures. No complaints related to the opening were observed in any of the polling stations.

In 91% of polling stations observed, only authorized persons were present while opening procedures were being carried out. In 5% of them observers noticed that police officers were present inside the polling stations, and in 9% other unauthorized persons.³⁶

All observers assessed the opening procedures positively (very good or good).

B. Voting

ENEMO observers monitored the process of voting and environment around polling stations in 1,287 polling stations, throughout the country.

³¹ At one polling station in Zaporozhye, ENEMO observers were not allowed to observe the opening procedure because when the observers arrived, the preparatory meeting already started and the Chairperson did not allow them to get in.

³² Ballot papers, voting booths, ballot boxes, PEC stamp, protocol, voter lists and seals.

³³ In nine polling stations the difference was higher than 50 ballot papers.

³⁴ In the first round ENEMO observers reported this in 34% of observed polling stations

³⁵ In three polling stations observed, the mobile ballot box was not sealed because according to PEC members they were not planned on being used, while in the remaining one polling station there was a shortage of seals.

³⁶ Ministry of Emergency, people without proper accreditations (badges).



The environment around polling stations was assessed as orderly in 99,8% of observed polling stations. Observers reported one isolated case of alleged organized transportation of voters, though it was unclear who organized it.³⁷ Campaign materials were observed at 7 polling stations.³⁸

98% of polling stations observed had acceptable set up for voting, while at 2% it was assessed as not acceptable, mostly due to inadequate premises.³⁹

Polling stations' access to persons with mobility disability was assessed as suitable in 48,5% of cases⁴⁰. 51,5% of polling stations were considered as unsuitable or requiring additional assistance for persons with mobility disabilities.

Essential materials for the conduct of voting were present in all observed polling stations. However, 17,1% of observed polling stations received fewer ballots than voters in the voters list, 15,5% had fewer stationery ballot boxes, 30,1% had fewer voting booths⁴¹ than required by the law⁴².

No serious violations were observed except one case of proxy voting. Observers didn't notice any breach of the secrecy of the vote in 96,2% of observed polling stations. However, several cases of more than one individual in voting booths⁴³, voters revealing their vote⁴⁴, voters not being able to vote in secrecy due to improper set up of the booths or transparent curtains⁴⁵, and two cases of a voter taking a photo of a marked ballot paper were also reported.

In 88,5% of observed polling stations, observers did not notice nor report cases of voters not included in the voters' list, while at 13,3% of polling stations there were cases of voters not finding their names in the voters list. Voters for whom the information in the voters list was inaccurate was observed at 2,4% of polling stations, and at 9.6% of polling stations voters not finding their names in the voters list.

In 99,6% of observed polling stations voter identification procedures were followed properly. Very few cases of voters being allowed to vote without proper identification were noted.⁴⁶

Despite previously raised concerns on professionalism and experience of PEC members, 96.8% of observed polling stations were functioning and managed properly by PEC members. Only 1,2% of observed polling stations were somewhat crowded, however, in all cases PEC members were able to

³⁷ Observers reported around 10 people that arrived at the polling station with organized bus transportation.

³⁸ Pictures of incumbent President were reported in the hallway of 3 polling station and in 4 inside the polling station.

³⁹ Too small polling station and/or polling station located in different rooms.

⁴⁰ Were equipped with ramps and/or other facilities.

⁴¹ Of which 72,9% were large polling stations.

⁴² Article 74, paragraph 3 of the "Law of Ukraine on the Election of the President of Ukraine": "Voting premises must be equipped with a sufficient number of booths (rooms) for secret voting. For small election precincts, the number of such booths (rooms) shall be no less than two, for medium precincts – no less than four, and for large precincts – no less than six."

⁴³ 9 polling stations

⁴⁴ 6 polling stations

⁴⁵ 26 polling stations

⁴⁶ Case of voters voting with copy of passport, pensioner cards or documents not issued by Ukrainian state



properly manage the process. In almost all observed polling stations, observers indicated that no formal complaints had been filed.

Observers were able to observe properly in 98,8% of the observed polling stations⁴⁷, while in 1,1% observation was challenged due to improper set up, small premises or crowded polling stations. With regard to the conduct of other observers, very few cases of them possibly jeopardizing the secrecy of the vote were reported.⁴⁸

Presence of unauthorized and/or unidentified persons in polling stations was noticed in 4,5% of observed polling stations including police (2,4%).

Women were well represented in the precinct election commissions, with 75,7% of PEC members in the observed polling stations being women.

The overall assessment of the voting was positive (very good⁴⁹ or good⁵⁰) in almost all polling stations observed. Only 13 of the 1,287 observed polling stations during voting were assessed as bad by the observers, but in all cases this was due to negligence rather than fraud.

C. Counting

ENEMO followed the closing and vote counting procedures in 100 polling stations. Polling stations closed in time in 99 of the observed polling stations, with only one polling station closing few minutes later due to voters in queue.

ENEMO observers assessed that counting procedures were followed properly in 92% of polling stations and in 8% there were some deviations. However, observers assessed that these deviations did not impact the legitimacy of results. No formal complaints on the counting process were recorded in the observed polling stations.

All ENEMO observers were allowed to observe the counting procedures. In 93% of polling stations observed only authorized people were present during counting. However, in 7% police was present.

97% of polling stations completed the protocol in accordance with the law, whereas in 3 polling stations, the procedures were not followed as prescribed by law. Observers assessed that these deviations did not damage the legitimacy of the process or affected the results.

⁴⁷ It should be noted that several cases of police officers taking pictures of accreditations of ENEMO observers were reported

⁴⁸ Observers were situated very close to the ballot boxes and booths.

⁴⁹ 51,6 %

⁵⁰ 47,4 %



In 92% of the cases protocols were promptly posted in the polling station premises and provided to all persons entitled to receive them, apart from 8 cases where protocols were not provided to all entitled persons and/or not posted.

The overall assessment of the counting procedures by ENEMO observers was positive (very good or good) in 96% of the observed polling stations.⁵¹ In 4 polling stations the overall counting process was assessed negatively by the observers. However, all cases of negative evaluation were attributed to negligence.

D. Transfer of materials to DEC

ENEMO observers monitored the transfer of election materials and respective intake for 91 polling stations, and overall procedures at 100 DEC. The transfer of materials was done in an orderly manner and following the procedures in all cases.

The observers assessed that 97% of observed DEC were acting in a transparent and straightforward manner, whereas the work of DEC was assessed as disorganized and confusing in three DEC. Most of the DEC observed had no complaints submitted. In 92% of the DEC, most protocols were processed under 30 minutes. Only in two DEC, the observers have noted substantial formal complaints.

DEC premises were assessed as spacious and adequate for delivery of the materials in 92% of observed DEC. 43% of the observed DEC were not overcrowded, while 50% were somewhat overcrowded, and 7% were assessed as very overcrowded. In all DEC authorized observers were able to observe properly.

The evaluation of the work of the DEC by ENEMO observers was positive (very good or good) in 94% of the observed DEC. In 6 DEC, the overall evaluation was negative, (bad or very bad). Observers attributed all negative evaluations to negligence.

Observers

For the second round there were 82,230 accredited domestic election observers nominated by 86 accredited NGOs. In total the CEC has accredited 139 domestic NGOs, of which 53 did not nominate any observers and 2700 international observers from 41 international organizations.

ENEMO observers noted that for the second round, the number of official observers both from candidates and domestic organizations present at the polling stations was low. In 63,3% of observed

⁵¹ ENEMO observers noted that although the counting procedures and filling of protocols was done timely, many of the precinct commission members waited until midnight to deliver the materials to the DEC.



polling stations, none of the candidates had official observers.⁵² Regarding domestic observers the two most present organizations were Komanda Ze (9,3%) and OPORA (5,8%).

About ENEMO

The European Network of Election Monitoring Organizations (ENEMO) is an international non-governmental organization that represents a network of national non-governmental civic organizations, founded on September 29, 2001 in Opatija, Croatia. It consists of 21 leading domestic monitoring organizations from 18 countries of Central and Eastern Europe and Central Asia, including two European Union countries.

ENEMO seeks to support the international community's interest in promoting democracy in the region by assessing electoral processes and the political environment and offering accurate and impartial observation reports. ENEMO's international observation missions use international benchmarks and standards for democratic elections to evaluate the electoral process and the host country's legal framework. ENEMO and all of its member organizations have endorsed the 2005 Declaration of Principles for International Election Observation and the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations. Each ENEMO observer signed the Code of Conduct for International Election Observers. ENEMO member organizations have monitored more than 250 national elections and trained more than 240,000 observers.

To date, ENEMO has organized 27 international election observation missions to eight countries: Armenia (2018), Albania (2005 parliamentary elections), Georgia (2008 early presidential elections), Kazakhstan (2005 presidential elections), Moldova (2009 parliamentary elections, 2016 presidential elections and 2019 parliamentary elections), Kosovo (2009 municipal elections; 2010 parliamentary elections, 2013 municipal elections), Kyrgyzstan (2005 presidential elections; 2005 parliamentary elections; 2007 early parliamentary elections; 2009 presidential elections and 2010 parliamentary elections), and Ukraine (2004 presidential elections; 2006 parliamentary elections; 2006 mayoral elections in Chernihiv, Kirovograd and Poltava; 2007 parliamentary elections; 2010 presidential elections, 2012 parliamentary elections, 2013 parliamentary repeat elections in 5 districts, 2014 early presidential elections and 2014 early parliamentary elections).

ENEMO member organizations are: Centers for Civic Initiatives - Bosnia and Herzegovina, Center for Democratic Transition – Montenegro, Center for Free Elections and Democracy – Serbia, Center for Monitoring and Research CeMI – Montenegro, Coalition for Democracy and Civil Society – Kyrgyzstan, Committee of Ukrainian Voters - Ukraine; Election Monitoring Center – Azerbaijan, GONG – Croatia, ISFED – Georgia, It's your choice – Armenia, Citizens Association MOST – Macedonia, Republican Network of Independent Monitors – Kazakhstan, Golos – Russia, ObcianskeOko – Slovakia, Belarusian

⁵² Volodymyr Zelensky observers were present at 28,9% of polling stations and incumbent President Poroshenko were present at 16,6%



Helsinki Committee - Belarus, Society for Democratic Culture – Albania, Promo LEX – Moldova, KRIIK – Albania Association, Foundation for the Support of Civic Initiatives – Kazakhstan; Kosovo Democratic Institute – Kosovo, Transparency International Center TIAC - Armenia.

The English version of this report is the only official document. An unofficial translation is available in Ukrainian.

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