



Interim Report of the Independent Canadian Observer Mission for the 2010 Ukrainian Presidential Election

Delivered by the Honourable Raynell Andreychuk,
Senator, Chief of Mission

Kyiv, Ukraine -- February 8, 2010

On behalf of the independent Canadian Observer Mission for the 2010 Ukrainian Presidential Election, I am pleased to present the mission's Interim Report.

This report is interim in nature, as the final vote count has not yet been officially announced by the Ukrainian Central Electoral Commission, and our mission continues to synthesize information gathered by observers deployed throughout Ukraine. Moreover, it is premature to foresee the outcome of any formal recounts or court appeals which may or may not result from the election. Notwithstanding these dynamics, I considered it imperative to report expediently on our mission's initial observations.

This report includes an overview of the mandate, structure, pre-deployment activities, observations and preliminary conclusions of *Mission Canada*.

Mandate

Our mission's objective was to observe and report on whether the election result genuinely reflected the democratic expression of the voters of Ukraine.

We were constituted as a short-term observer mission to observe the second round of voting on February 7, 2010.

Our election observers sought to *observe*, *record*, and *report* according to international election observation standards and established best practices, while in no way interfering or intervening in any electoral processes. Our mission does not seek to pronounce on Ukrainian electoral law.

Development of Mission

On January 15, the Honourable Bev Oda, Minister of International Cooperation announced that the Government of Canada would sponsor an independent Canadian election observer mission for the second round of voting, should the first round – on January 17th – prove inconclusive with neither of the 18 candidates exceeding 50 per cent of the vote. It was also announced that the Canadian NGO CANADEM had been selected to organize the mission as a 200-strong observer delegation independent of government.

As the likelihood of a second vote appeared virtually inevitable, CANADEM immediately started to prepare for the independent mission to ensure that all infrastructure be in place by the date of deployment. After the vote results of January 17th and upon confirmation that a second round of voting would indeed be necessary; preparations accelerated. On February 1, I was honoured that

Minister Oda appointed me Chief of Mission of the independent Canadian observer mission, dubbed *Mission Canada – Ukraine Elections 2010*.

More than 2,300 candidates applied to CANADEM, which administered the selection process. Through several stages of vetting – based on election oversight experience and linguistic ability – CANADEM selected a final roster of 200 observers plus 20 alternates to account for unforeseen attrition or unavailability of candidates. All Canadian observers were duly registered with the Ukrainian Central Electoral Commission.

Prior to deployment, all Mission Canada observers met in Ottawa for two full days of formal training. The mission secretariat organized the training session and engaged relevant experts, including academics, former public servants, and political and legal analysts.

Ottawa training included overviews of Ukrainian electoral law, Ukrainian history, Ukrainian political and electoral contexts, international election observation best practices, and logistics.

On February 1, our mission successfully deployed 200 election observers to Ukraine.

The mission held an additional day of training in Kyiv, upon arrival in Ukraine.

Mission Structure

Mission Canada was organized into four regional divisions of 50 observers, respectively responsible for the north, south, east, and west. Each division was comprised of five teams, each responsible for specific oblasts (administrative regions).

Observer teams went into the field on February 3 to advance their routes, establish contact with local officials, and to collect information relevant to the selection of polls to be observed on Election Day.

Specific observation locations were determined in such a way as to ensure maximum geographical coverage while factoring in road quality and conditions, polling station concentrations, the need to adequately observe rural areas, and reports of irregularities from the first round of voting. Mission Canada also coordinated informally with other international observer missions in an effort to preclude undue overlap, while still preserving the independence of the respective missions.

The mission's secretariat remained with me in Kyiv, where we established our headquarters for the duration of our mission's deployment.

In the days leading up to election day, our mission met with a broad range of officials, including Ambassador Daniel Caron of Canada, foreign diplomatic representatives, the chiefs of other multilateral and bilateral observation missions, and with local organizations. Throughout our time in Kyiv, we maintained contact with the Canada-Ukraine Foundation mission, as well as the Canadian parliamentarians attached to the Organization for Security and Cooperation in Europe – Parliamentary Assembly (OSCE-PA).

In the days leading up to the election, our Kyiv team received information from our in-field teams about local cooperation, receptiveness of local electoral commissions, and logistical matters. Conversely, our Kyiv secretariat conveyed information to our field teams based on intelligence learnt from our Kyiv network.

Other Observer Missions

In all, seventeen international observer missions were registered with the Central Electoral Commission (CEC). In addition to Mission Canada (registered with the CEC as CANADEM), the CEC registered missions from the Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights (OSCE-ODIHR), European Network of Election

Monitoring Organizations (ENEMO), International Non-governmental Organization Promoting Electoral Technologies For Fair Elections, Commonwealth of Independent States Election Monitoring Organization (CIS-EMO), International Union of Non-governmental Organizations, International Association of Youth Organizations - All-Union Leninist Communist Youth League (MSKO - VLKSM), Parliamentary Assembly of the Organization for Security and Cooperation in Europe (OSCE-PA), Ukrainian Congress Committee of America, Canadian-Ukrainian Foundation, Interparliamentary Assembly of the Commonwealth of Independent States, Parliamentary Assembly of the Council of Europe (PACE), International Republican Institute, NATO Parliamentary Assembly (NATO-PA), Ukrainian World Congress, European Parliament, National Democratic Institute for International Relations, Organization for Democracy and Economic Development.

According to the CEC, an additional 330 international observers were registered as individuals, for a grand total of 3779 registered international election observers.

Over and above this figure, approximately 2000 Ukrainian electoral observers were unofficially in the field as journalists (domestic observers are not permitted by presidential electoral law; however, accredited journalists have access to polling stations). As this group could not officially register with the CEC, numbers are imprecise.

Climate Leading up to Election Day

The first round of voting concluded with a consensus among international election observers that the voting was free and fair, and constituted a genuine expression of the democratic will of Ukrainian voters.

Although some irregularities were observed (chronicled in the various external official reports emanating from the first round), these were insufficient to call into question the legitimacy of the results. This international conclusion inspired a widespread hope that the second round of voting would equally be a genuine expression of the democratic will of the people.

In the week leading up to Election Day, the dominant theme preoccupying election watchers was a series of last-minute amendments to the *Law of Ukraine for the Presidential Elections*.

It should be noted that Precinct Electoral Commissions (PECs) – the committees operating local polling stations – are not operated by public servants or neutral officials engaged by the public service. PECs are comprised of equal numbers of officials representing the political parties on the ballot, functioning on a principle of mutual scrutiny. The changes to the law could be generally summarized as follows: PECs would no longer be required to achieve a quorum to open a poll, close a poll, or count ballots; all unfilled PEC positions as of the date of the amendments' passage would be lost to the parties formerly entitled to them, and the vacant posts could be filled upon recommendation of local government; finally, any other vacancies that had arisen for any reason could also now be filled upon recommendation of local government. It is relevant to note also that many local governments and individual government members are aligned with one party or another.

One party insisted these changes were critical to closing vote-suppression loopholes that the opposing camp allegedly planned to exploit. Conversely, the other party charged that its opponents were changing the law through a tyranny of the majority, and paving the way for PEC takeovers, and manipulation of polling times and ballot-counting.

The law was signed by the president on February 4.

Several observer missions formally commented on the changes to the law. Despite demands, Mission Canada did not weigh in at the time, as commentary could have been misconstrued as supporting one side of the debate over the other.

Many political analysts, however, concluded at the time that the amendments paved the way for either side to dispute the election results, and that the confusion caused by late changes to the governing statute would likely contribute to some degree of chaos on voting day. The general perspective on the eve of the vote was that the vote would be very close, and that the losing side would likely resort to street protests or court battles to challenge the results.

Field Observations before Election Day

Our field teams deployed to 22 regions, and spent several days meeting with the political parties, District Electoral Commissions, and Regional Electoral Commissions. To some degree, winter weather curtailed travel.

Reception was generally good at the electoral commissions. Our teams reported no significant problems in dealing with the commissions in advance of the vote.

Observer accreditation was generally respected by local officials. In one isolated instance, our observers were prevented from a meeting with the allegation that their credentials were no longer valid (all international observer accreditation identity cards bear the date of the first round of voting – not the date of the second vote). In several related instances, observers were initially rejected but were eventually recognized upon presentation of the relevant legal and CEC references.

Many PEC officials said they continued to prepare for the elections while awaiting further instructions and clarity concerning application of the new electoral law.

Voting Day Observations

Our observers were present at the opening of polling stations, observed the voting process throughout the day, and witnessed the closing of polls and vote tabulation, as well as attending the delivery of ballots and minutes to the territorial election commissions.

While irregularities were noted in every oblast in which we deployed observers, the vast majority of observed polls functioned in accordance with the electoral law, and without significant incident.

Preparations for Election Day were on track and proceeded efficiently. District and precinct election commissions were generally well organized. For the most part, they operated with full commissions (8 members per party). In general, information regarding the amended election law had been conveyed to the district and regional commissions, and both parties' representatives were equally concerned about tied votes of PEC decisions being decided by chairs against the opposing party's interests.

Some problems and shortcomings included the following:

- Some general confusion over the recent changes to the rules pertaining to additions to the voters list on election day;
- Hospitals (special polling stations) adding people to the voters list on election day in contravention to the law;
- Inconsistent application of the election law across the oblasts, including high numbers of voters being added to the voters list without the proper process being followed;

- Confusion over what to do in the event of a tied vote of the electoral commission; and
- Inconsistent recognition of observer credentials.

Isolated irregularities will be discussed in the final report.

Again I stress that the more serious irregularities were uncommon, often isolated, and in no way reflective of the overall election process.

Moreover, observers noted a general sense of professional pride among members of the election commissions. Activities at district and precinct commissions in all oblasts were generally focused on properly delivering, receiving and counting ballots, and properly administering the electoral process – often in challenging circumstances.

Preliminary Conclusions

Our mission's objective was to assess whether the results of the election constitute a genuine reflection of the democratic expression of Ukrainian voters.

No election is immune to irregularities and challenges, and we are continuing to gather detailed information from our in-field observers. Based on reports already received, our observations suggest that any significant voting irregularities were not systemic, and appear to have been insufficient in scope and effect to call into question the integrity of the voting process.

Our mission observed a generally well organized balloting process, and a genuine desire among the public and the electoral commissions to hold a free and open vote.

With the exception of minor disturbances, voters had unhindered access to polling stations, and voted generally without intimidation. The balloting, counting and reporting were generally secure and in accordance with the governing statutes. The desire of the Ukrainian people to exercise a fair vote appears to have been realized.

In summary, based on the information received to date – acknowledging that the Central Electoral Commission has yet to officially pronounce on the election – our preliminary assessment is that the results will reflect the genuine will of Ukrainian voters, and that the electoral process was fair and transparent.

I wish to thank our observers, and to commend the thousands of election personnel who welcomed us and allowed us to observe the election process.

It has been a pleasure to lead the independent Canadian Observer Mission, and on behalf of *Mission Canada*, I thank the Government of Canada for its trust in an independent advisory mission, and I acknowledge the financial support of the Canadian International Development Agency in realizing this independent mission. It is a reflection of our country's special friendship with Ukraine, and the continuation of our nations' traditional and historical ties.

It has been a pleasure for me to serve in this important exercise.

Sincerely,

Hon. Raynell Andreychuk, Senator