



International Observation Mission to Ukraine Presidential Elections 2010	Міжнародна місія спостереження Вибори Президента України 2010 року
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February 8, 2010

**Ukrainian Presidential Elections
ENEMO ELECTION DAY FINDINGS
*Preliminary Report***

The European Network of Election Monitoring Organizations (ENEMO) has fielded 450 short-term observers to monitor all stages of the voting process, including the opening, the vote, the vote count and the tabulation of results in polling stations and district electoral commissions for the runoff of the 2010 Presidential Elections. In total, ENEMO observers monitored the opening of 204 polling stations, voting procedures in 2157 polling stations and the vote count in 200 polling stations. In addition, ENEMO deployed 8 short term observers to monitor Election Day in Ukrainian embassies and consulates in Russia (Moscow, Saint Petersburg, Rostov-on-Don, and Vladivostok), Republic of Moldova (Beltsy, Chisinau) and Belarus (Minsk, Brest).

During the February runoff the improvement over the 2004 poll that ENEMO observed in the first round continued. The election environment surrounding the second round of the Presidential elections remained generally free of pressure, intimidation or harassment against any contender. In additions there were no reports of centralized misuse of administrative resources and ENEMO observers reported only isolated cases of pressure on voters and observers. While the runoff proceeded without any reports of systematic fraud and was generally viewed as superior to the first round, the procedural and organizational problems ENEMO noted during the first round continued hampering the work of many commissions, leading to unequal enforcement of the law across oblasts. In particular, ENEMO reported significant differences in updating the voter lists during Election Day across the country and the uneven enforcement of the legal provisions regarding mobile voting. Furthermore, ENEMO observed attempts at vote buying and vote falsification. ENEMO calls for authorities to fully investigate such instances. While the number of ENEMO observers prevented from observing significantly decreased compared to the first round, observers were still denied this right in several cases particularly during counting of ballots and the tabulation of results at the level of DEC's.

During the runoff, the Central Election Commission (CEC) continued to work in a generally fair-minded manner, although it continued to adopt decisions in closed meetings to which observers were not allowed.

Opening

ENEMO observers noted that 98% of the monitored polling stations opened on time with only 1,47% of the Precinct Election Commissions (PECs) opening up to 15 minutes late. This represents a major improvement compared to the first round of elections and to other previous Ukrainian polls.

Overall Evaluation of Opening

Similarly, compared to previous elections and to the previous round, ENEMO observers noted a significant improvement of the opening procedures and of the overall work of the election commissions. ENEMO observers reported in a positive manner about 95% of the PECs they visited.

Number and work of PEC Members

A few days before Election Day the Verkhovna Rada amended the electoral legislation in order to prevent commissioners representing one candidate from disrupting the election procedures. However, ENEMO Election Day reports show that most of the appointed commissioners conducted their work in keeping with the legal provisions and in a collegial atmosphere. In addition, the work of the commissions was rated positively by most of the observers compared to the first round. However, tensions between the commissioners representing different candidates halted the work of DEC 10 in Crimea and DEC 109 in Lugansk during the receiving of protocols from the lower election commissions.

Secrecy of the Ballot

As in the first round, fully adhering to the secrecy of the ballot remains a challenge. ENEMO observers noted numerous instances in which the set up of the voting booths could not ensure full discretion for voters when casting their votes. Such cases were registered in Lviv (DEC 128 PEC 229), Khmelnytsky (DEC 195 PEC 124), Odessa (DEC 141 PEC 6), Zhytomir (DEC 65, PEC 28; DEC 67, PEC 107) and Kherson (DEC 184 PEC 11). Furthermore, in Cherkasy (DEC 200 PEC 156) commissioners instructed voters to cast their ballots in separate boxes according to the candidate they voted for. In Kiev (DEC 96 PEC 34) and Donetsk (DEC 42, PEC 2, 7, 13) unauthorized persons took photos of voters casting their ballots.

Insufficient number of ballots

According to the election legislation, the amount of ballots PECs are to receive from the higher-standing commissions equals the amount of voters in the list plus a reserve. Observers noted several cases where the number of ballots received was less than the number of voters on the lists following the updates made during Election Day. Such cases were recorded in Zakarpatya (DEC 70 PEC 36, 37, 100), Odessa (DEC 142 PEC 102), Kiev (DEC 222 PEC 28, 53) and Crimea (DEC 8, PEC 45, 96).

Breaking of election procedures

In Donetsk (DEC 55, PEC 81) ENEMO observers reported incidents concerning ballot stuffing. ENEMO observers noted attempts at taking ballots outside the polling station and voters recording their ballots which might indicate organized vote buying and carousel voting strategies. While hard to properly document such violations, ENEMO reports suggest such practice were widespread across the country. In Lugansk (DEC 114 PEC 4) a commissioner was accused by her colleagues of attempting to destroy ballots.

ENEMO observers also recorded cases when commissioners slightly deviated from the procedural requirements regarding voting in Zhytomir (DEC 65, PEC 28), Mykoliev (DEC 130, PEC 33) and Odessa (DEC 137 PEC 20). In Khmelnytsky (DEC 192 PEC 193) and

Zhytomir (DEC 64, PEC 83; DEC 67 PEC 219), among other places, commissioners issued ballots to voters without properly checking their identification.

Unauthorized Persons in Polling Stations

Observers noted again several cases where individuals believed to be in a position of authority influenced or directly coordinated the activities of PECs, voters or observers. Such cases were recorded in Zakarpatya (DEC 72 PEC 77, 111), Khmelnytsky (DEC 195 PEC 30), Mykolayev (DEC 129, PEC 12) and Donetsk (DEC 48, PEC 66, DEC 42, PEC 26, DEC 41, PEC 7). ENEMO strongly recommends that such activities should be properly regulated since they undermine the work of the commissioners and jeopardize the fairness and transparency of the electoral process.

Limitation of Observers' Rights

In general, the electoral process was transparent and ENEMO observers were allowed to monitor all stages of the electoral process on Election Day. ENEMO notes a significant improvement compared to the first round. However, observers were initially prevented from entering the polling station or monitoring all stages of the voting process in Chernivtsy (DEC 206 PEC 13), Cherkasy (DEC 198 PEC 52), Kiev (DEC 91 PEC 28), Odessa (DEC 137 PEC 93), Crimea (DEC 1 PEC 18), Donetsk (DEC 41, PEC 7), Zhytomir (DEC 67, PEC 219, DEC 65, PEC 71), Lugansk (DEC 112, PEC 9), Kirovograd (DEC 101, PEC 6) and Kharkiv (DEC 179, PEC 145). In addition, ENEMO remains concerned that observers were prevented from properly monitoring the activities of the DEC in Crimea DEC 10 and Ternopil DEC 169, among others places.

Mobile Voting

In its pre-election reports ENEMO repeatedly noted that unclear provisions for mobile voting lead to arbitrary decisions of the lower commissions. During the runoff, ENEMO observers reported that commissioners across the oblasts varied in their application of procedures, based on their own understanding regarding mobile voting procedures. While in Lugansk, Mykolayiv and Khmelnytsky commissioners refused to grant mobile voting to people without medical certificates, in Kiev and Chernihiv for example commissioners added voters on the list for mobile voting in the absence of any written request. In Odessa and Poltava PEC members considered as valid the mobile voting requests submitted for the first round, in disagreement with the legal provisions that stated that voters have to submit new applications before the second round. In addition mobile voting requests written by the same person also remained a source of concern in places like Lughansk, Donestsk and Zakarpatia.

Because only a limited number of requests for mobile voting were registered, it is unlikely that problems with mobile voting procedures will influence the election results. However, ENEMO emphasizes that unclear provisions will continue to generate uneven application of the law and will offer grounds for further complaints.

Voter Lists

The implementation of a fully centralized voter registry in Ukraine led to significantly better voting lists. However, the lack of clear procedures for updating the voter lists during Election Day at the level of PECs produced uneven implementation of legal provisions depending on the understanding of the commissioners. While it remains impossible to determine the number of voters affected by these contradictory decisions, reports suggest that they were widespread across the country. For example, in Kiev, Chernivtsy, Khmelnytsky, Odessa, Kharkiv, Donesk and Sumy voters were added to the lists following an ad-hoc decision of the commissioners during Election Day. In Odessa, Crimea, Cherkasy and Vinnitsa voters were added to the list following a phone conversation between the head of the commission and

officials from the State Voter Registry, in the absence of any written documents. In Zakarpatya (DEC 70, PEC 36) the head of the commission created a new voter lists without the approval of the State Voter Registry, the institution legally in charge of the voter lists. However, the small number of additions made to the lists during the runoff suggests once more an enhanced system of voter registration.

Overall Evaluation of the Voting Process

ENEMO further acknowledges the improvements made in the conduct of PECs during the runoff. In this round, 95% of the ENEMO observers assessed positively the activities of the election commissioners during the voting procedures.

Counting and Tabulation of Results

Reports from ENEMO short-term observers suggest that no major incidents were witnessed during the count of ballots, as of early morning on the day following the election. However, during the runoff, counting procedures appear to have deteriorated compared to the first round, with 9% of the PECs visited evaluated negatively in regard to counting procedures.

Transfer and DEC activity

The transfer of election materials to the DEC's has been another area of improvement during the runoff elections. ENEMO reports positively assessed this stage of the electoral process in 95% of the visited DEC's. However, in Crimea the activity of DEC 10 came to halt following disagreements between commissioners representing the two candidates. At the time of the writing, only half of the commissioners resumed work. In Zakarpatya, DEC 70 decided to alter the protocol from PEC 36 after the transfer was made and in the absence of the lower-level commissioners.

CONCLUSIONS AND RECOMMENDATIONS

ENEMO recognizes the efforts of the Ukrainian authorities to comply with international standards for democratic elections. ENEMO will offer a full assessment and recommendations at the end of all the stages of the 2010 Presidential Elections. However in order to prevent the problems listed above from influencing the electoral process in the future ENEMO recommends the following:

- The Central Election Commission should offer clarifications and unified procedures regarding mobile voting requests.
- The Central Election Commission should offer clarifications and unified procedures regarding updates to the voter lists during Election Day.
- Election authorities should harmonize election procedures and provide for a stable and predictable legal framework in a timely manner.
- Election authorities should clearly define the role and attributions of the domestic observers.
- ENEMO also recommends that the activities of unauthorized persons during the electoral process be investigated with vigor.
- ENEMO also recommends that activities attempting at vote buying and multiple voting should be carefully investigated.

This report was written in English and remains the only official version

European Network of Election Monitoring Organizations (ENEMO) is a group of 22 civic organizations from 17 countries of the former Soviet Union and Central and Eastern Europe. These nonpartisan organizations are the leading domestic election monitoring groups in their countries. In total, ENEMO member organizations have observed 200 national elections in their countries, monitored more than 110 elections abroad, and trained over 100,000 election monitors. All previous statements and other information are available at www.enemo.eu.