



PARLEMENT EUROPÉEN

**ELECTION OBSERVATION DELEGATION TO
THE PRESIDENTIAL ELECTIONS
IN UKRAINE
(17 January and 7 February 2010)**

**Report by
Paweł Robert KOWAL
Chairman of the Delegation**

Introduction

The Conference of Presidents of the European Parliament authorised on 26 November 2009 the sending of an Election Observation Delegation to the two rounds of the presidential elections in Ukraine scheduled for 17 January and 7 February, the first presidential election after the "Orange Revolution".

The European Parliament Election Observation Delegation was composed of ten Members for the first round: Andrzej GRZYB (EPP, PO), Elzbieta Katarzyna LUKACIJEWSKA (EPP, PO), Algirdas SAUDARGAS (EPP, LI), Inese VAIDERE, (EPP, LV), Marek SIWIEC (S&D, PO), Kristian VIGENIN (S&D, BG), Barbara WEILER (S&D, DE), Adina-Ioana VALEAN (ALDE, RO), Rebecca HARMS (Greens/EFA, DE) and Pawel Robert KOWAL (ECR, PO), appointed Chair of the delegation at its constitutive meeting.

For the second round, the delegation was composed of Alojz PETERLE (EPP, SI), Inese VAIDERE, (EPP, LV), Kristian VIGENIN (S&D, BG), Barbara WEILER (S&D, DE), Adina-Ioana VALEAN (ALDE, RO), Rebecca HARMS (Greens/EFA, DE) and again led by Pawel Robert KOWAL.

As usual, the EP Election Observation Delegation was integrated in the International Election Observation Mission (IEOM) and followed OSCE/ODIHR's methodology in the evaluation procedure and assessed the election for its compliance with OSCE and Council of Europe commitments for democratic elections, as well as with Ukrainian legislation. The European Parliament delegation conducted its election observation mission in accordance with the Declaration of Principles of International Election Observation and Code of Conduct adopted at the United Nations in 2005 and endorsed by the European Parliament in 2007.

Members of the EP delegation signed the Code of Conduct for Members of the European Parliament Election Observation Delegations, in accordance with the decision of the Conference of Presidents on 10 December 2009.

Throughout the mission, the delegation had the opportunity to meet with the candidates or their representatives, members of the Central Election Commission of Ukraine (CEC), mass media and NGOs and also with Mr. Pinto Texeira, European Commission' Ambassador in Kyiv, Ambassadors from the Member States, Ambassador Tagliavini and Ambassador Lenarcic, OSCE/ODIHR's Director. The European Parliament delegation worked in a constructive manner with the Heads of the parliamentary assemblies composing the IEOM. The detailed working programs of the EP delegation are annexed.

The International Election Observation Mission (IEOM)

In both rounds and as is usual in the OSCE area, the European Parliament delegation was fully integrated in the joint International Election Observation Mission (IEOM) with Ambassador Tagliavini in charge of the OSCE/ODIHR long term Election Observation Mission. The other participants in the IEOM were the delegations of the parliamentary assemblies of the OSCE led by Mr João Soares, the Council of Europe (PACE) led by Mr Mátyás Eörsi and of NATO led by Mr Assen Agov.

The OSCE/ODIHR long term Election Observation Mission opened in Kyiv on 24 November 2009 with 16 experts in the capital and 60 long-term observers deployed throughout Ukraine. They observe all facets of the electoral process, including the legal framework, the work of the election administration, the registration of candidates and voters, the role of the media, the conduct of the campaign and the resolution of election-related complaints.

On election days, over 800 short-term observers (600 for the second-round) were deployed in the framework of the International Election Observation Mission (IEOM), including 413 OSCE/ODIHR short-term observers, a 117-member delegation from the OSCE PA (69 for the 2nd round), a 45-member delegation from the PACE (37 for the 2nd round) a 30-member delegation from the NATO PA (16 for the 2nd round) and a 10-member delegation from the EP (7 members for the 2nd round).

On the eve of the first election day, the Heads of delegation from the parliamentary assemblies present in the IEOM and OSCE/ODIHR were informed by President Soares, Head of the OSCE PA, of an offer from the delegation from the Inter Parliamentary Assembly of Member Nations of the Commonwealth of Independent States (IPA CIS) to subscribe to the IEOM's Preliminary Statement. The three Heads of delegation declined the IPA CIS offer. As a matter of fact, the EP Election Observation Delegation had no mandate to modify an IEOM's composition. Members of the EP Election Observation Delegation stressed that the decision to include IPA CIS in the IEOM would be a turning point in the history of election observation in the OSCE area and that such a change could not take place during a mission.

In between the two rounds, a letter was received from Ambassador Lenarcic, OSCE/ODIHR's Director, transmitting a letter from Mr Spencer Oliver, S.G. of the OSCE PA, requesting the delegation from IPA CIS be included in the IEOM. Mr. Kowal answered negatively with the same arguments given to President Soares. The answers from the other three parliamentary assemblies integrated in the IEOM were in the same line and President Soares agreed not to introduce changes to the composition of the IEOM during an observation.

First round of the election

OSCE/ODIHR long term Election Observation Mission reported, during the debriefing meetings organised for the parliamentary assemblies represented in the IEOM, the findings of the long term Election Observation Mission:

- Candidate registration for the first round was very inclusive and gave voters a broad scope of choice (it is to be noted that each candidate had to make a deposit of 2.5 million UAH (approximately 208,000 EUR) which will only be refunded to the two candidates who qualify for the second round of voting. However, some candidates seemed to be "technical candidates" probably participating in the election with the sole purpose of controlling electoral commissions).
- Candidates were able to campaign freely across the country without impediment. Freedom of expression significantly improved since 2004.
- Ukraine has completed the first stage of the establishment of a permanent State Voter Register (SVR); however, inaccuracies remain and further efforts are necessary.
- Regrettably, a unified election code has not yet been adopted in Ukraine. The election law, adopted in 2004, and amended in August 2009 represented a step

backward, according to the Council of Europe and OSCE/ODIHR review of the law. These institutions also noted that some amendments raised serious concern and did not comply with OSCE and Council of Europe commitments for democratic elections: homebound and out of country voting, complaint procedures, making changes to the voter lists on Election Day and the conduct of mass media.

- Unsubstantiated allegations of large-scale electoral fraud negatively affected the pre-election atmosphere and voters' confidence (in fact, candidates and their representatives concentrated on these fears during the briefings for the IEOM. All political parties' presentations focused on candidates and not on substantive issues).
- In contradiction with the law, administrative resources were misused by candidates in official positions. The link between political and economic interests had a negative influence and undermined public confidence in the political process. (The lack of separation between politics and big business seems to pertain to virtually all the political forces).
- District Election Commissions (DECs) were operational in the preparation of the election, but their activity was negatively affected by a lack of funds, limited experience of some commissioners, their large size and an absence of rules of procedure.

Election Day

On 17 January, first round Election Day, the delegation split into five groups deployed in Kyiv (three teams), Lviv and Donetsk. Teams deployed to observe the election reached the conclusion that the voting process was in general very well organised. The joint Preliminary Statement agreed in the framework of the IEOM reflects this positive evaluation - and the other findings from the long term mission mentioned earlier- and was subscribed to by the EP delegation.

Press Conference

The IEOM held a joint Press Conference on 18 January 2010 and presented the overall positive Preliminary Statement which describes the first round of the election as "of high quality and showed significant progress over previous elections. This election met most OSCE and Council of Europe commitments. Civil and political rights were respected, including freedom of assembly, association and expression. Election day was conducted in an efficient and orderly manner".

All the speakers of the joint Press Conference manifested their hope that the second round would be conducted along the same lines.

Results of the first round of the Presidential election

	VOTES	%
Viktor Yanukovich — Party of Regions	8,686,642	35.32
Yulia Tymoshenko — All-Ukrainian Union "Fatherland"	6,159,810	25.05
Serhiy Tihipko — Self-nominated	3,211,198	13.05
Arseniy Yatsenyuk — Self-nominated	1,711,737	6.96
Viktor Yushchenko — Self-nominated	1,341,534	5.45
Petro Symonenko — Communist Party of Ukraine	872,877	3.54
Volodymyr Lytvyn — People's Party	578,883	2.35
Oleh Tyahnybok — All-Ukrainian Union "Freedom"	352,282	1.43
Anatoliy Hrytsenko — Self-nominated	296,412	1.20

The rest of candidates got less than 1% of the votes.

These results were in line with the opinions polls and with the exit polls. They showed that 33% of voters did not vote in this first round and 40% of the ones who voted did for a candidate other than the two contenders for the second round: this means that candidates for the second round still needed to convince 20 million voters.

As no candidate reached the majority of 50% the second round was fixed for Sunday 7 February.

Second round of the election

The last-minute (3rd February) amendments introduced to the electoral law were at the centre of attention of the IEOM's work back in Kyiv: according to the parties that introduced the amendments, they were a reaction to allegations that one of the candidates would withdraw members from commissions, thus depriving polling stations of a quorum and disrupting the election. It is against good practices to introduce changes to the electoral code in between two rounds of an election and the Preliminary Statement issued after the first round recommended not following this practice. However, the general view was that Ukrainian law, in spite of its shortcomings, was still able to provide a workable framework for elections if both candidates made a good use of the procedure.

- These last minute changes highlight the need, mentioned in the Preliminary Statement, for a unified election code that should be adopted before holding the next elections.
- Then again, the blurring of official positions and role as candidate continued, as did the concerns about the Media's activities, including unbalanced state owned media, lack of autonomy of journalists and candidates paying to appear on TV programmes.
- The campaign atmosphere was again negatively affected by mutual accusations of fraud and attempts to remove the heads of key institutions for partisan purposes. Disturbingly, in the last days of the campaign, pressure was exerted on the judiciary, when the prosecutor started to question the judges who decided election related cases.

Election Day

On 7 February, second round Election Day, the EP delegation split into four groups deployed in Kyiv and its surroundings and observed the opening, voting and closing in almost 50 polling stations.

Observations made by the Members of the EP delegation were in line with the OSCE/ODIHR's conclusions that the E-Day was excellent. The influence of last-minute changes to the law was minimal since representatives of both candidates were present in polling stations and in other electoral bodies. Members subscribed to the IEOM preliminary conclusions, stressing the importance of the electoral framework and in particular, the transparency of the financing of political parties and candidates. The delegation was impressed by the engagement of women, well represented i.e. in polling stations. The joint Preliminary Statement agreed upon in the framework of the IEOM reflects this positive evaluation and also the concerns mentioned earlier regarding i.e. the electoral law.

Press Conference

The IEOM held a joint Press Conference on 8 February 2010 and presented its Preliminary Statement which highlights that the “Run-off confirms that Ukraine’s presidential election meets most international commitments”.

Results of the second round of the Presidential election

The official results of the election were known on 14th February: According to the CEC, V. Yanukovich received 12 481 266 votes, or 48.95 % of votes. Y. Timoshenko was supported by 11 593 357 (45.47 %) of the voters. 4.36 % of voters have voted against all candidates. 25 493 529 Ukrainians (69.07 %) took part in the elections.

Conclusion

The OSCE/ODIHR long term mission will remain in the country until the end of the election process and will issue a comprehensive final report, including recommendations for improvements, some eight weeks after the completion of the election process.

The European Parliament Election Observation Delegation recommends that the Election Coordination Group, the Foreign Affairs Committee and the Delegation to the EU-Ukraine Parliamentary Cooperation Committee follow-up closely the conclusions and recommendations of this final report.