

**Ukrainian World Congress
International Observation Mission to Ukraine's 2019 Elections
Interim Report – 18 July 2019**

A. ABOUT THE UWC MISSION

The Ukrainian World Congress (UWC) is the international coordinating body for Ukrainian communities in the diaspora representing the interests of over 20 million Ukrainians. The UWC has a network of member organizations and ties with Ukrainians in over 60 countries. Founded in 1967, the UWC was recognized in 2003 by the United Nations Economic and Social Council as a non-governmental organization with special consultative status and obtained in 2018 participatory status as an international non-governmental organization with the Council of Europe.

On 11 July 2019, the Prosecutor General of the Russian Federation declared the UWC to be an undesirable organization that constitutes a threat to the constitutional framework and security of the Russian Federation.

Since 1999, the UWC has deployed election observation missions to monitor all Presidential and Parliamentary Elections in Ukraine.

On 24 January 2019, the UWC launched its International Observation Mission to Ukraine's 2019 Elections (UWC Mission).

The UWC Mission monitored and issued five (5) reports on the Presidential Election, which took place on 31 March 2019 and 21 April 2019 in Ukraine. These reports are posted on the UWC website.

The UWC Mission will also monitor the Early Parliamentary Election scheduled for 21 July 2019, and will focus on the following:

- Commenting on the legal framework of the electoral process, particularly on Ukraine's domestic legislation and legal norms as well as Ukraine's commitments to the Organization for Security and Co-operation in Europe and the Council of Europe, as well as other international standards for democratic elections;
- Intelligence gathering on Ukraine's preparedness to ensure democratic elections and to counter possible foreign interference, including cyberattacks, manipulations and violations of the electoral process;
- Multi-lingual media-monitoring around the world in order to detect any attempts to undermine Ukraine during this election year, including the integrity of Ukraine's electoral processes and the legitimacy of its democracy; and
- Observing the electoral process in the days leading up to and on election day, as well as the counting and transfer of ballot boxes to the Central Election Commission from polling stations in Ukraine and Ukrainian diplomatic missions around the world where voting will take place.

The UWC Mission has mobilized 125 long-term observers (LTOs) from 28 countries, namely: Australia, Argentina, Azerbaijan, Belgium, Brazil, Canada, Croatia, Czech Republic, France, Germany, Greece, Estonia, Italy, Kazakhstan, Latvia, Lebanon, Mozambique, Moldova, Poland, Portugal, Serbia, Slovakia, Spain, Switzerland, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America.

The UWC LTOs will do media-monitoring in 20 languages for any evidence of disinformation, namely: Arabic, Azeri, Bosnian, Czech, Dutch, English, Estonian, French, German, Greek, Italian, Kazakh, Latvian, Polish, Portuguese, Russian, Serbian, Slovak, Spanish, and Ukrainian.

The UWC Mission also registered with Ukraine's Central Election Commission 143 short-term observers (STOs) from 30 countries, namely: Argentina, Australia, Belarus, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Estonia, France, Georgia, Germany, Greece, Israel, Italy, Kazakhstan, Latvia, Lithuania, Moldova, the Netherlands, Poland, Portugal, Romania, Serbia, Slovenia, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

The UWC Mission is working closely with the observation mission of its member organization, Ukrainian Congress Committee of America (UCCA), which registered 32 STOs. Combined the two missions registered 175 STOs.

By its composition and scope, the UWC Mission is unique since it includes:

- LTOs who will carry out media-monitoring outside of Ukraine; and
- STOs who will monitor the electoral process not only in Ukraine but also at Ukrainian diplomatic missions abroad.

The UWC long-term observation team began its activities on 2 March 2019 with a training session conducted by experts from StopFake and Kyiv Mohyla Academy. The long-term media monitoring ahead of the Early Parliamentary Election started on 14 June 2019.

UWC STOs will go through online and in person training on 20 July 2019 in Kyiv.

The UWC Mission will be issuing four (4) reports on the Early Parliamentary Election:

- a) Interim Report on 18 July 2019;
- b) Preliminary Observations the day after the election on 22 July 2019;
- c) Media-monitoring Interim Report on 24 July 2019; and
- d) Final Report eight (8) weeks after the election.

The UWC Mission's core team includes:

Eugene Czolij – Head of Mission;
Andrew Futey – Deputy Head;
Zenon Potichny – Chief Observer;
Volodymyr Kistianyk – Coordinator of Mission;
Dmytro Panchuk – Data Monitoring Analyst;
Oleksandr Riabtsev – Deployment Officer; and
Irene Mycak – Media Officer.

The UWC Mission is completely independent and does not receive any government funding.

B. DOMESTIC AND INTERNATIONAL OBSERVERS

The Central Election Commission of Ukraine has accredited 163 domestic observer organizations, which includes 17,187 observers. Furthermore, the Central Election Commission of Ukraine has accredited 21 international organizations with 1,602 observers.

By size, the UWC Mission ranks fourth among the international observation missions.

On 7 February 2019, the Verkhovna Rada of Ukraine adopted a law that bans Russian citizens from participating as observers in the Presidential and Parliamentary elections. This has affected the UWC Mission in that it has excluded citizens of the Russian Federation that are members of UWC member organizations from joining the UWC Mission.

C. BACKGROUND

The 2019 Parliamentary Election in Ukraine is taking place at a time when Ukraine, for the fifth consecutive year, has been struggling with the hybrid aggression of the Russian Federation, which invaded the sovereign territory of Ukraine immediately after the Revolution of Dignity in 2014.

During the Revolution of Dignity, the people of Ukraine stood up against the authoritarian regime of Viktor Yanukovich. Those events ended in sniper fire and the deaths of over 100 peaceful Ukrainian protesters on 18-20 February 2014 in Kyiv.

Following the Revolution of Dignity, Russian troops invaded and illegally occupied Ukraine's Crimean Peninsula under the pretext of protecting the Russian-speaking population of Ukraine. The next step of the Russian Federation was its military aggression in the Donetsk and Luhansk regions.

The military aggression of the Russian Federation has affected almost 2 million residents of Crimea, as well as 4.4 million people in Eastern Ukraine. The Russian aggression in Eastern Ukraine has caused more than 13 000 deaths and 30 000 injuries. In addition, more than 1.5 million people have been forced to leave their homes.

Since the beginning of Russian aggression in the Donbas, there are more than 2,500 victims of exploding landmines, including over 240 children, and 1.9 million people continue being under the permanent threat of death or serious injuries from landmines.

About 3.4 million people are in need of humanitarian assistance, 2.2 million require medical aid and 1.2 million experience food shortages.

More than 120 political prisoners and 100 hostages continue to be illegally detained in the Russian Federation and in the occupied territories of the Donbas and Crimea.

The conflict saw a new escalation on 25 November 2018, when the naval forces of the Russian Federation assaulted and seized three Ukrainian naval ships in the Kerch Strait region. 24 Ukrainian crew members continue being illegally kept in Russian prison despite numerous appeals by the international community demanding their immediate and unconditional release.

The human rights situation in the occupied Crimean Peninsula continues to deteriorate, and the Russian Federation blocks access to international humanitarian and human rights organizations.

On the eve of the second round of the Presidential Election, the OSCE Special Monitoring Mission to Ukraine recorded 20 ceasefire violations in the Donetsk oblast and 50 ceasefire violations in the Luhansk oblast.

The Russian Federation also continues its disinformation campaign by portraying Ukraine as a failed state.

The international community condemned the hybrid aggression of the Russian Federation against Ukraine and provides it with financial, humanitarian and military assistance.

Since the last Parliamentary Election in Ukraine in 2014, the following landmark events have occurred:

- Coming into force of the *EU-Ukraine Association Agreement*, as well as the Deep and Comprehensive Free Trade Area;
- Adoption of a visa-free regime for Ukrainian citizens travelling to the Schengen zone, as well as to Chile, Albania, Costa Rica, United Arab Emirates and Uruguay;
- Signing and coming into force of the *Canada-Ukraine Free Trade Agreement*;
- Signing of the *Israel-Ukraine Free Trade Agreement*;
- Granting of a Tomos of autocephaly to the Orthodox Church of Ukraine; and
- Adoption of constitutional amendments reflecting Ukraine's strategic goal of becoming a member of NATO and the European Union.

D. LEGAL FRAMEWORK

Legislation of Ukraine

The legal framework governing elections in Ukraine is based upon the following laws: a) *Constitution of Ukraine*; b) *Law on Elections of the People's Deputies of Ukraine*; c) *Law on the State Register of Voters of Ukraine*; d) *Law of Ukraine on the Central Election Commission*; e) *Law of Ukraine "On political parties in Ukraine"* e) *Code of Administrative Proceedings*; and f) *Code of Administrative Offences*. Below are excerpts from salient provisions of these laws:

a) Constitution of Ukraine:

Article 38. Citizens have the right to participate in the administration of state affairs, in All-Ukrainian and local referendums, to freely elect and to be elected to bodies of state power and bodies of local self-government.

Article 69. The expression of the will of the people is exercised through elections, referendum and other forms of direct democracy.

Article 70. Citizens of Ukraine who have attained the age of eighteen on the day of elections and referendums have the right to vote in the elections and referendums. Citizens deemed by a court to be incompetent do not have the right to vote.

Article 71. Elections to bodies of state power and bodies of local self-government are free and are held on the basis of universal, equal and direct suffrage, by secret ballot. Voters are guaranteed the free expression of their will.

Article 76. The constitutional composition of the Verkhovna Rada of Ukraine consists of 450 People's Deputies of Ukraine who are elected for a five-year term on the basis of universal, equal and direct suffrage, by secret ballot.

A citizen of Ukraine who has attained the age of twenty-one on the day of elections, has the right to vote, and has resided on the territory of Ukraine for the past five years, may be a People's Deputy of Ukraine.

A citizen who has a criminal record for committing an intentional crime shall not be elected to the Verkhovna Rada of Ukraine if the conviction is not spent and released by the procedure established by law.

The authority of People's Deputies of Ukraine is determined by the Constitution and the laws of Ukraine.

The term of authority of the Verkhovna Rada of Ukraine is five years.

Article 77. Regular elections to the Verkhovna Rada of Ukraine take place on the last Sunday of October of the fifth year of the term of authority of the Verkhovna Rada of Ukraine.

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Head Office: 145 Evans Avenue, Suite 207, Toronto, Ontario M8Z 5X8 Canada

Tel: 416.323.3020 Fax: 416.323.3250

E-mail: uwc@ukrainianworldcongress.org Website: www.ukrainianworldcongress.org

Special elections to the Verkhovna Rada of Ukraine are designated by the President of Ukraine and are held within sixty days from the day of the publication of the decision on the pre-term termination of authority of the Verkhovna Rada of Ukraine.

The procedure for conducting elections of People's Deputies of Ukraine is established by law.

b) Law on Elections of the People's Deputies of Ukraine

Article 1. Basic Principles of Elections of Members of Parliament of Ukraine

1. The People's Deputies of Ukraine (hereinafter referred to as "MPs") shall be elected by citizens of Ukraine on the basis of universal, equal and direct suffrage by secret voting.
2. The quantitative composition of the Verkhovna Rada of Ukraine is 450 MPs.
3. The election of MPs shall be conducted on the basis of a mixed (proportional majority) electoral system:
 - 1) 225 MPs shall be elected on the basis of a proportional system in a nationwide multi-member election district (hereinafter, nationwide election district) under electoral lists of MP candidates (hereinafter, electoral lists) from political parties (hereinafter, parties);
 - 2) 225 MPs shall be elected on the basis of a simple majority system in single-mandate election districts (hereinafter, single-mandate election districts).

Article 2. Universal Suffrage

1. Elections in Ukraine shall be based on universal suffrage. The right to vote in an election of MPs may be exercised by Ukrainian citizens who are eighteen years old on the day of voting. Ukrainian citizens who have the right to vote shall be the voters.
2. A voter may exercise his or her right to vote in the election, provided that he or she is included in the voter list for the respective election precinct.

[...]

7. Citizens of Ukraine who have the right to vote may participate in the work of election commissions as members, in election campaigning, in observing the conduct of the election of MPs, and in other activities in accordance with the procedures set forth by this Law and other Laws of Ukraine.

8. Any direct or indirect privileges or restrictions on the electoral rights of Ukrainian citizens based on race, color of skin, political, religious and other beliefs, sex, ethnic and social origin, material status, place of residence, language or other grounds shall be prohibited. Restrictions on the participation of Ukrainian citizens in the election process, except those provided for by the Constitution of Ukraine and this Law, shall not be allowed.

9. A citizen who has been declared incompetent by a court shall not have the right to vote.

Article 3. Equal Suffrage

1. Elections in Ukraine shall be based on equal suffrage: Ukrainian citizens shall participate in the election of the MPs on an equal basis.
2. Each voter shall have one vote in a single-mandate election district and one vote in the nationwide election district. A voter may exercise his or her right to vote only at one election precinct where he or she is included in the voter list. A voter shall exercise his or her right to vote in an election according to the procedures set forth by this Law.
3. All candidates for People's Deputy of Ukraine (hereinafter, MP candidates) shall have equal rights and opportunities to participate in the election process.
4. All parties that are electoral subjects shall have equal rights and opportunities to participate in the election process in accordance with the procedures and within the limits prescribed by this Law.
5. In terms of participation in the election process, the equality of rights and opportunities of both candidates and parties that are electoral subjects shall be ensured through:
 - 1) prohibition of candidates' privileges or restrictions based on race, color of skin, political, religious and other beliefs, sex, ethnic and social origin, material status, place of residence, language or other grounds;
 - 2) prohibition of interference of state executive bodies, state bodies of the Autonomous Republic of Crimea and self-government bodies with the election process, except for cases specified by this Law;
 - 3) equal and unbiased treatment of the candidates and parties that are electoral subjects by the state bodies, bodies of the Autonomous Republic of Crimea and self-government bodies, as well as their officials;

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4) prohibition on the use by candidates and parties that are electoral subjects of resources other than those of their electoral funds for election campaign funding;

5) equal and unbiased treatment of the candidates and parties that are electoral subjects by mass media.

Article 4. Direct Suffrage

1. Elections of MPs in Ukraine shall be direct. Ukrainian citizens shall elect MPs by voting for MP candidates included in the voter list of a party, as well as for candidates in single-mandate election districts.

Article 5. Voluntary Participation in Elections

1. Participation of Ukrainian citizens in the election of MPs shall be voluntary. No one may be compelled to participate or not to participate in the election.

Article 6. Free Elections

1. The election of the MPs shall be free. Ukrainian citizens shall be provided with conditions for free formation of their will and its free expression when voting.

2. Violence, threats, fraud, bribery or any other actions interfering with the free formation and expression of a voter's will shall be prohibited.

3. In order to ensure conditions for free expression of their will, on the day of voting members of the military shall be granted leave of absence for no less than four hours to participate in the voting.

Article 7. Secret Voting

1. Voting in the election of MPs shall be secret: control over a voter's expression of will shall be prohibited.

2. Members of election commissions and other persons shall be forbidden from taking any actions or making public any information enabling anyone to find out the result of a particular voter's expression of will.

Article 8. Personal Voting

1. Each voter shall vote in person. Voting on behalf of other persons or transfer of the right to vote by a voter to any other person shall be prohibited.

Article 9. The Right to Be Elected

1. A citizen of Ukraine who has reached the age of 21, shall have the right to vote, and has been residing in Ukraine for the previous five years may be elected an MP.

2. Residing in Ukraine under this Law shall mean:

1) residing in the territory within the state borders of Ukraine;

2) staying on a ship sailing under the National Flag of Ukraine;

3) staying of citizens of Ukraine, pursuant to the procedure established by the law, in foreign diplomatic institutions of Ukraine, international organizations and in their bodies, as a result of their out-of-country assignment;

4) staying at Ukraine's polar station;

5) staying within the command of the Armed Forces of Ukraine stationed abroad.

3. Persons residing with persons specified in clause 3 of Part two of this Article as their family members shall also be deemed to be residing in Ukraine.

4. A person who has been convicted of committing a deliberate crime can neither be nominated nor elected as an MP, unless this criminal record has been cleared or canceled pursuant to the procedure established by law.

Article 10. The Right to Nominate MP Candidates

1. Ukrainian citizens who have the right to vote may nominate MP candidates. This right shall be exercised through the parties or by means of self-nomination pursuant to this Law.

c) Law of Ukraine on Judiciary and Status of Judges

Article 37 (5) 3. In the Administrative Cassation Court separate court chambers must be established. These chambers shall adjudicate cases on election process and referendum and protection of political rights of citizens.

d) Code of Administrative Procedure of Ukraine

Article 9 (1) 6. The jurisdiction of administrative courts extends to cases in public-law disputes, in particular disputes concerning legal relations related to the electoral process or the referendum process;

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Article 20 (1) 2. The local general courts as administrative courts shall have jurisdiction in administrative cases related to the election process or the referendum process concerning: appeals against decisions, actions or inactivity of polling station election commissions, polling station commissions from the referendum, members of these commissions; clarification of the list of voters; appeals against acts or inactivity of mass media, news agencies, enterprises, institutions, organizations, their officials and officers, creative media workers and news agencies that violate election and referendum legislation.

Article 22 (2). The appellate administrative court in the district of appeal, which includes the city of Kyiv, as a court of first instance, has jurisdiction concerning appeals against decisions, actions and inactivity of the Central Election Commission (other than those specified in part four of this article), actions of candidates for the President of Ukraine, their trustees.

Article 22 (4). The Supreme Court as a court of first instance has jurisdiction for the establishment of the election results or an all-Ukrainian referendum by the Central Election Commission, a case regarding the pre-term termination of the powers of a people's deputy of Ukraine, as well as cases concerning the appeal of acts or omissions of the Verkhovna Rada of Ukraine, the President of Ukraine, the High Council of Justice, the High Qualifications Commission of Judges of Ukraine, the Qualification-Disciplinary Commission of Prosecutors.

Article 273 (6) Appeal statements regarding decisions, actions or inactivity of the election commission, referendum commission, members of these commissions may be filed with the administrative court within five days from the date of the decision, action or admission of inactivity.

Article 273 (9). The court shall decide on administrative cases, specified by this article, within two days after receipt of the statement of claim. Administrative cases on claims filed before the day of voting shall be settled by the court within two days, but not later than two hours before the beginning of the voting. Administrative cases on claims filed on election day are decided by the court before the end of voting. Administrative cases on claims filed on the day of voting, but after the end of voting, are resolved by the court within two days after receipt of the statement of claim.

Article 278. Features of court decisions on the consequences of the consideration of cases related to the election process or referendum and their appeal.

Article 278 (2). Appeal complaints against court decisions following the consequences of considering cases as defined in Articles 273-277 of this Code may be filed within two days from the date of their proclamation, and for court decisions made prior to the day of voting, no later than four hours before the poll starts.

Article 278 (4). The Court of Appeal considers the case within a two-day period after the expiration of the time limit for appeals against the notification of the participants of the case. An appeal against a court decision that was adopted before the day of voting shall be considered not later than two hours before the beginning of the vote.

Case law

Case law of the Constitutional Court of Ukraine also plays an important role with respect to the electoral legislation of Ukraine.

On 20 June 2019, the Constitutional Court of Ukraine rendered a decision declaring that the Decree of the President of Ukraine "On early termination of powers of the Verkhovna Rada of Ukraine and the appointment of early elections" dated 21 May 2019 is in conformity with the Constitution of Ukraine.

International Law

Ukraine has also made commitments to the UN, OSCE and Council of Europe and is bound by other international standards of the democratic expression of will, specifically:

a) Universal Declaration of Human Rights adopted by the UN General Assembly

Article 21. The will of the people shall be the basis of the authority of government; this will be expressed in periodic and genuine elections which shall be conducted by universal and equal suffrage and shall be held by secret vote or by other equivalent free voting procedures that guarantee freedom of the vote.

b) Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe

5. They [participating states] solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

5.1. free elections that will be held at reasonable intervals by secret ballot or by equivalent free voting procedure, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives.

c) Law of Ukraine on Implementing decisions and applying practices of the European Court of Human Rights

Article 17. Courts [of Ukraine] in hearing cases apply the Convention [Convention for the Protection of Human Rights and Fundamental Freedoms] and the practice of the Court [European Court of Human Rights] as the sources of law.

d) Law of Ukraine on The Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, First Protocol and protocols No. 2, 4, 7 and 11 of the Convention

Article 1. Ukraine fully recognizes on its territory article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 on the recognition of the competency of the European Commission for Human Rights to accept from any individual, non-governmental organization or group statements addressed to the Secretary General of the Council of Europe on violations by Ukraine of rights, as designated by the Convention, and article 46 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 on recognizing as mandatory and without the need for a special agreement the jurisdiction of the European Court of Human Rights in all questions related to interpreting and applying the Convention.

UKRAINIAN WORLD CONGRESS INTERNATIONAL
OBSERVATION MISSION TO UKRAINE'S 2019 ELECTIONS



Eugene Czolij
Head of Mission

Contact information in Ukraine:

Volodymyr Kistianyk
Coordinator of UWC Mission
Ukrainian World Congress International
Observation Mission to Ukraine's 2019 Elections
3 Provulok Lypskyi, Suite 6
Kyiv, Ukraine 01021
Tel: +38 097 752 51 77
E-mail: elections@ukrainianworldcongress.org