



STATEMENT OF THE NDI ELECTION OBSERVATION MISSION TO UKRAINE'S JULY 21, 2019 SNAP PARLIAMENTARY ELECTIONS

Kyiv, Ukraine, July 22, 2019

This preliminary statement is offered by the National Democratic Institute (NDI) election observer delegation to Ukraine's July 21, 2019 snap parliamentary elections. The delegation, which included observers from 10 countries, was led by John Bruton, former prime minister of Ireland and European Union Ambassador to the United States; Dame Audrey Glover, former director of the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR); Christine Todd Whitman, former governor of New Jersey and administrator of the U.S. Environmental Protection Agency; and Laura Jewett, NDI regional director for Eurasia. This statement builds on the findings of seven long-term analysts and the ongoing work of NDI's office in Ukraine, as well as a joint NDI and European Parliament pre-election assessment delegation statement¹ issued in November 2018, and NDI's statements on the first² and second³ rounds of the presidential election in March and April 2019. NDI has collaborated closely in these efforts with the International Republican Institute (IRI), the Ukrainian civic association OPORA, and the European Network of Election Monitoring Organizations (ENEMO).

NDI's election observation mission aims to accurately and impartially assess various aspects of the election process, and offer recommendations to support peaceful, credible elections and public confidence in the process. The Institute has undertaken its mission in accordance with the Declaration of Principles for International Election Observation⁴, its accompanying Code of Conduct for International Election Observers, and Ukrainian law. The delegation would like to stress that this statement is preliminary in nature. The official results are not yet finalized, and any electoral complaints that may be lodged are yet to be adjudicated. NDI will continue to monitor electoral processes and may issue further statements. The delegation recognizes that it is the people of Ukraine who will ultimately determine the credibility and legitimacy of their elections.

SUMMARY

For the third time in four months, Ukraine held democratic elections. Despite a war and a punishing timeline, government officials, election administrators, political parties, candidates, election observers, and citizens collectively delivered an election that complied with Ukraine's laws, meets international standards, and reflects the will of voters. This is a remarkable achievement.

With five well conducted nation-wide elections to its credit since the Revolution of Dignity in 2014, Ukraine has demonstrated the technical capacity and political will to effectively manage the front-line issues of electoral frameworks and administration, campaigns, and election day procedures. While there is

¹“Statement of the National Democratic Institute and European Parliament Pre-Election Delegation to Ukraine,” NDI, November 17, 2018.

<https://www.ndi.org/publications/statement-national-democratic-institute-and-european-parliament-pre-election-delegation>

² “Statement of the NDI Observation Mission to Ukraine's March 31, 2019, Presidential Election,” NDI, April 1, 2019 <https://www.ndi.org/publications/statement-ndi-election-observation-mission-ukraine-s-march-31-2019-presidential>

³ “Statement of the NDI Observation Mission to Ukraine's April 21, 2019, Second Round Presidential Election,” NDI, April 22, 2019. <https://www.ndi.org/publications/statement-ndi-election-observation-mission-ukraines-april-21-2019-second-round>

⁴ “Declaration of Principles for International Election Observation and Code of Conduct for International Observers,” October 27, 2005. <https://www.osce.org/odihr/16935?download=true>

room for improvement in these areas, the more pressing challenges ahead relate to underlying social and economic factors that many more established democracies are also struggling to address. These include the role of the media, campaign finance reform, gender equity and inclusion of marginalized groups, and full enfranchisement of voters.

The delegation offered a number of recommendations for improvements. These included:

- Building and improving upon an election code passed shortly before the elections;
- Affirming the gender quota and the enforcement mechanism included in that code;
- Facilitating voting by internally displaced persons (IDPs), other internal migrants, and citizens registered in non-government-controlled areas;
- Revising laws governing campaign financing;
- Fully funding the public broadcaster; and
- Advocating for social media platforms to take greater responsibility for mitigating the effects of disinformation.

Ukrainians have consistently demonstrated their commitment to a democratic and European future. They are optimistic and have high expectations of the new parliament. These attitudes represent valuable assets as well as significant responsibilities for the new parliament. The democratic nature of these elections provides a strong foundation for the consensus-building that will be necessary to form a government and begin the process of enacting the difficult reforms ahead. The new majority party or coalition will need to ensure representativeness and inclusiveness through cross party engagement and by seeking counsel from political newcomers and veterans alike.

POLITICAL CONTEXT

Ukraine's 2019 parliamentary elections have taken place as part of the second national election cycle since Ukraine's historic "Revolution of Dignity" in 2014. The country has progressed significantly since that time. Most impressive has been the transformation among Ukrainians themselves, who consistently demonstrate their desire to be engaged in public life, hold their leaders accountable, and who are committed to a democratic and European future.

The presidential election, held over two rounds in March and April 2019, was historic. Ukrainians reaffirmed their democratic direction alongside a strong desire for change. The campaign was genuinely competitive, voters turned out in large numbers, and election administrators performed professionally. The winner, political newcomer Volodymyr Zelenskyy, received more than 73 percent of the vote. In spite of Russian interference and war in the East, the process met key international standards, and the outcome reflected the will of voters. In a region where peaceful change of government through elections remains rare, these accomplishments reflect the political maturity and determination of the Ukrainian people. They also set a high bar for the conduct of all subsequent elections. During his inaugural address, President Zelenskyy called for parliamentary elections to be held in July instead of October, in effect creating an early and high-stakes test of his administration's democratic credentials. In Ukraine's semi-presidential system, the parliament appoints the government and prime minister, which will be integral to setting the policy course for the country.

In NDI's May public opinion research, levels of optimism about the country's direction were higher than at any time since 2015. Further, aspirations and attitudes reflected more unity across all of Ukraine's regions. These sentiments represent valuable assets for the country. At the same time, Ukrainians have ambitious expectations of their new president and the incoming parliament. Half of Ukrainians think the next parliament will represent their interests better than the current one, and most expect major reform in the next 12 months, including negotiating peace, improving the economy, and eliminating corruption. Underlying these hopes is dissatisfaction with progress toward establishing democratic checks and

balances, including judicial independence. Responding to Ukrainians' demands will set a challenging but critical agenda for the new presidential administration, parliament, and government.

Kremlin aggression remains a central feature of Ukrainian politics. Russian occupation of Crimea, control of territory in eastern Ukraine, and other forms of hybrid warfare aimed at thwarting Ukraine's democratic and European aspirations are ongoing. Disinformation campaigns and other actions designed to foment social division and destabilization are key among them. Responding to this aggression strains and complicates Ukraine's fragile political, social, and economic systems.

The success of Ukraine's efforts to establish a prosperous, independent and democratic future is of vital importance to global security and well-being. The international community of democracies -- with leadership from the U.S. and Europe -- owes Ukraine both moral and material support on its journey forward. Foremost among these expressions of solidarity is the assurance that the doors to EU and NATO membership remain open.

FINDINGS AND OBSERVATIONS

ELECTION DAY

Overall, NDI found that opening, voting, counting and tabulation were conducted in accordance with Ukrainian legislation, contributing to the democratic nature of the overall process. The process was calm and orderly with the CEC reporting turnout across the country at 49.8 percent. Almost all violations were technical in nature. The most common problems reported by OPORA were PEC members failing to check voter identification and fewer instances of violation of the secrecy of the ballot. NDI observers noted that only a minority of polling stations were accessible to voters with disabilities.

The National Police issued 66 administrative protocols and opened 71 criminal proceedings, an increase from the March and April polls attributable to the nature of parliamentary elections. This included 32 connected to the misuse of the election ballot, nine for vote buying, eight for knowingly making a false report on a security threat, and seven for obstruction of the right to vote. The National Police also reported receipt of bomb threats affecting 83 polling stations - all of which were proven to be false.

ELECTORAL FRAMEWORK AND ADMINISTRATION

Electoral Framework: There is broad agreement among domestic and international experts that the legal framework for the parliamentary elections is adequate for a democratic process. However, key improvements recommended by OPORA, the Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights (OSCE/ODIHR), NDI, the International Republican Institute (IRI), and other observers have been enacted only partially and too late for the July election.

On July 11, the Verkhovna Rada of Ukraine passed a new election code that affects the laws governing presidential, parliamentary, and local elections and includes a fully proportional parliamentary system with open party lists and a gender quota. These changes reflect long standing consensus recommendations from a broad range of stakeholders. However, the code did not apply to the July 2019 parliamentary elections, which were held under a largely unchanged legal framework, and it does not address a number of other reforms that Ukrainian CSOs and political leaders, as well as international observers, have recommended. These include additional measures to ensure the transparency and impartiality of electoral dispute resolution, fully enfranchise IDPs and other internal migrants (such as labor migrants, students and Roma), and advance timely, effective, and proportionate sanctions for violations. The new parliament will have an opportunity to resume debate on these issues and make further improvements to the framework.

The existing parliamentary election law provides for an expedited procedural timeline in case of snap

elections. However, the timeline did not easily accommodate the multiple legal challenges that were brought, contributing to delays and confusion. While the Central Election Commission (CEC) met deadlines relating to candidate registration and ballot design, on multiple occasions it had to amend decisions after the relevant deadlines due to court rulings.

One hundred ninety-nine seats in the 450-seat Verkhovna Rada (parliament) will be distributed to candidates in a “first past the post” system in single mandate constituencies, which excludes the 26 constituencies in occupied Crimea and the non-government-controlled parts of Luhansk and Donetsk oblasts. The remaining 225 seats will be distributed among closed political party lists that pass a five percent threshold in a single nationwide constituency using a proportional system.

Administration: The CEC, newly appointed in September 2018, operated professionally and efficiently. NDI polling demonstrates that public confidence in the CEC increased significantly between December 2018 and May 2019, which can be attributed to its performance during the presidential election. In preparation for the snap parliamentary elections, the Commission went to great lengths to meet deadlines and legal obligations, including procurement requirements, despite considerable time constraints and gaps in the legal framework. The CEC conducted regular outreach to the public through press conferences and releases and online postings. However, concerns about insufficient transparency of decision-making processes that were raised by civil society and international observer groups during the presidential election were only partially resolved. Many deliberations continued to take place in closed-door preliminary sessions, and access to documents was often restricted. There is no public record of submitted complaints. In every recent election, concerns have been raised about the selection and training of precinct and district election commissioners, yet they have fulfilled their responsibilities, for the most part, professionally.

Candidate Registration: The process for candidate registration was generally inclusive but at times inconsistent, due to gaps and flaws in the legal framework. These included the lack of time for appeals and confusion over application requirements and the terms of a five-year residency requirement. As a result, some candidate registrations and disputes occurred beyond deadlines envisioned in the law, some as late as the day before the election, creating uncertainty and challenges related to subsequent steps, such as the printing and distribution of ballots. The CEC appeared to make concerted efforts to meet deadlines while balancing candidate registration obligations.

ENFRANCHISEMENT

Millions of Ukrainians faced hurdles to voting due to the conflict in the East and occupation of Crimea, as well as internal migration. Residents of the occupied and non-government controlled territories had to cross the “line of contact” multiple times to vote in a government-controlled location, creating both a financial and physical burden, particularly for women, people with disabilities, and the elderly. Many IDPs and other internal migrants were not eligible to vote in their current locations without taking burdensome steps to change their place of voting. While the CEC made it easier for all voters to change their place of voting by abolishing the requirement to provide justificatory documentation, only 280,922 citizens, just a small fraction of Ukraine’s internal migrants and IDPs, took advantage of this option.

In addition, voters who change their polling station to one located beyond the boundaries of their assigned DEC are prohibited from voting in a single mandate election and may only vote on the national list ballot, causing partial disenfranchisement. The parliament has considered but not yet passed draft law #6240, which would simplify the process for changing places of voting and allow IDPs and other internal migrants to vote for majoritarian members of parliament and local representatives.

Some Roma voters do not possess valid identification cards or are not included in the state voter registry (SVR), which precludes their participation in elections. Lack of official data regarding the number of Roma citizens living in Ukraine or in the SVR database makes it difficult to assess the extent of their disenfranchisement.

Although the CEC notes improvements since the 2015 local elections, domestic and international observers have consistently reported insufficient accessibility of polling stations and electoral materials for persons with disabilities (PWDs). The parliament considered but did not pass draft law #5559, which addresses accessibility issues.

GENDER AND INCLUSION

Although NDI's polling⁵ shows that 62 percent of Ukrainians believe men and women should be more equally represented in government, Ukraine ranks 157 out of 191 countries in the percentage of women in parliament, at 12 percent.⁶

The NDI delegation noted some improvements in these elections. There was a slight increase in the number of women who ran, from almost 20 percent of candidates in 2014 to 23 percent in 2019. However, there is broad consensus among gender advocacy and human rights groups, and among many political leaders, that measures undertaken to date have been insufficient and that a gender quota is advisable. The current parliamentary election law does not include such a measure but the election code passed by parliament on July 11 contains a 40 percent quota. If implemented, it would help to address the public demand for more equal representation.

Some parties took heed of recommendations to be more inclusive. Women comprised 30 percent of the total names on all party lists, up from 25 percent in 2014, and 16 percent of single mandate candidates, up from 13 percent in 2014. Of the 22 parties which ran for parliament, 13 had at least 30 percent women on their lists. However, in many cases the women were not placed in winnable positions. Ten parties had at least 30 percent women in their top ten slots. Of 53 parties that registered candidates for single mandate races, only eight placed women in at least 30 percent of those districts. There were no women candidates in 24 of the 199 single mandate districts.

Women continue to be well represented in the electoral administration. Of the 16 members of the CEC, nine, including the chair, are women. Women comprise 59 percent of DEC members and 51 percent of DEC chairs. Disaggregated voter data by gender is not available, which hampers assessment of trends in women's participation and the ability of political parties and candidates to conduct targeted campaigning.

Only five of 22 parties which ran for proportional seats included support for equality between men and women in their programs. Equality was not a major topic of discussion in the media. Some women candidates reported being subject to sexism and harassment in public discourse, including in traditional and social media and NDI observed several blatant examples of this. According to a Council of Europe analysis of politicians in the media, men received 90 percent or more of the coverage on national television in prime time and online.⁷

According to NDI polling, a majority of Ukrainians want to live in a society where human rights are

⁵ "NDI Poll: Opportunities and Challenges Facing Ukraine's Democratic Transition," NDI, June 26, 2019. <https://www.ndi.org/publications/ndi-poll-opportunities-and-challenges-facing-ukraine-s-democratic-transition>

⁶ "New Parline: the IPU's Open Data Platform (beta)," Inter-Parliamentary Union. <https://data.ipu.org/women-ranking?month=4&year=2019>

⁷ "Interim Report on the Results of Independent Monitoring of Media Coverage of the Parliamentary Election Campaign in Ukraine," Council of Europe, 2019 <http://www.cje.org.ua/sites/default/files/Final%20Interim%20Report%20Parliamentary.pdf>

respected and there is equal justice for all. However, inclusion of LGBTI rights was found in the parliamentary program of only one party. Homophobic slurs were used as a tool of negative campaigning. Russian disinformation efforts have sought to link support for LGBTI rights to an alleged European-generated rejection of “traditional Ukrainian values” and numerous parties and candidates reported to NDI a reluctance to counter that message head-on. The largest annual Kyiv Pride march was held on June 23, during the campaign period, but no major political parties or candidates participated.

CAMPAIGN ENVIRONMENT

The parliamentary election campaign was competitive. Voters had a wide and diverse range of choices and NDI research showed that, compared to recent elections, more people were able to identify with a political party. Some parties opened their candidate selection process to the public through online platforms in an effort to promote greater transparency. Public scrutiny alongside civil society initiatives and media investigations led to parties removing some nominees with questionable political or business interests. Selection of candidates was also influenced by a public demand for new political faces and some leading parties put forward candidates with little or no political experience.

The brief electoral timeline presented challenges. Parties reported not having enough time to conduct a thorough candidate nomination process, prepare campaign materials and messages, and communicate to the public. Civil society organizations such as OPORA, the Committee of Voters of Ukraine (CVU), Center UA, and civil movement CHESNO led efforts to educate voters on party platforms and candidates. Overall, however, the Ukrainian electorate had limited time to familiarize itself with the candidates and parties competing. This was especially disadvantageous for first-time candidates and new political parties.

Though brief and relatively low-key, the tenor of the parliamentary campaign diverged noticeably from the presidential election. Campaigning in March and April was more negative, including vilification of opponents, malicious language and imagery, divisive themes, intimidation, and attacks on the electoral process itself. In June and July, however, messages were more forward-looking and less polarizing. At the same time, an evolution in campaigning approaches was evident among some parties, inspired in part by President Zelenskyy’s successful strategy for the presidential election. These parties sought to project an image of accessibility, relatability, and informality. They relied heavily on social media communications, sleek branding, recruitment of “new faces,” and creative campaign events such as flashmobs and co-working spaces. Traditional media was also widely used. According to CHESNO’s analysis of party interim campaign finance reports, 81 percent of expenditures were on media purchases.⁸ Substantive policy discussions were not a central feature of the campaign. In particular, civil society groups criticized many single mandate candidates for re-using old campaign platforms.⁹

Freedoms of assembly and expression were largely respected and the election environment was peaceful overall, but multiple political parties reported isolated incidents of violence and intimidation and an OPORA observer sustained a physical attack in Chernivtsi oblast. Since the beginning of the election process, the police received more than 7,000 complaints and initiated more than 360 criminal proceedings related to the election process, including 120 on vote buying. Only 18 criminal proceedings were closed as of July 19.

Voter Deception: A longstanding practice of “clone” candidacies intensified in these elections. “Clones” are candidates who are added to the ballot in order to confuse and misdirect voters away from legitimate candidates with similar names.¹⁰ As of July 12, NDI counted at least 32 candidates with identical names and surnames in 14 districts, some with identical patronymics as well. After candidate registration had

⁸ “The First Financial Reports. It Is Unknown Who Financed the Party Campaign,” CHESNO, July 13, 2019, www.chesno.org/post/3411/

⁹ “All Programs Are the Same? Majoritarian Plagiarism,” CHESNO, July 17, 2019, <https://www.chesno.org/en/post/3436/>

¹⁰ “Candidate ‘Clones’ at the Early Parliamentary Elections,” OPORA, July 11, 2019, https://oporaua.org/vybory/parlamentskyi-vybory-2019/sdiyynyky_2019

begun the CEC added a provision requiring candidates to supply information about any name changes, including dates, on their applications. However, this information was not available to voters and so did not help inform their choices.

In a newer practice, candidates attempted to benefit from the popularity of parties to which they had no connection by appropriating aspects of their branding. For example, as of July 12, NDI counted at least 84 single mandate candidates in 51 districts listing variations on the names of political parties as their place of employment or organizational affiliation. NDI's analysis concluded that variations on Servant of the People were most frequently appropriated, with instances of Golos, Batkivshchyna, and Opposition Bloc also noted.

Vote-Buying: Providing material incentives to voters has been a longstanding element of Ukrainian elections. Parties and candidates, as well as OPORA and other civic groups, described a continuation of this practice in the parliamentary campaign.¹¹ Interlocutors reported to NDI that this practice is most prevalent among self-nominated single mandate candidates.

Abuse of Administrative Resources: A blurring of the lines between the perquisites of office and campaigning has been another long standing feature of Ukrainian politics. Many parties reported a perception that abuses of administrative resources had declined relative to previous elections. OPORA noted that to the extent violations were observed, in contrast to previous elections, the practice appeared not to be centrally organized, but rather reflective of diverse local power dynamics in some single mandate districts.¹²

Dispute Resolution and Adjudication: Parties and domestic observers expressed concern that violations of campaign regulations did not consistently result in effective prosecution or sanction. The police were seen as responding impartially, with some isolated local-level exceptions. At the same time, parties and domestic observers reported to NDI that some violations were not pursued due to the burdensome and time-consuming nature of adjudication procedures, the absence of reasonable sanctions, or low expectations of satisfactory resolutions, and other cases that were taken to courts got mired in lengthy proceedings. This reflects a broader trend in Ukraine of low public confidence in the courts and judicial processes.

Campaign Finance: Oligarchic financing remains a key driver of the political and electoral environment in Ukraine, eroding the influence of individual voters and skewing the accountability of politicians who get elected. Steps to address this concern have so far been insufficient. Reforms in 2015 increased the transparency of political and campaign financing, which was a positive step. However, the political finance regulatory framework still fails to capture a range of campaign contributions, such as third-party and in-kind donations, early campaigning, and events such as public performances by candidates and parties that function as campaign activities but are not labeled or reported as such.

The law imposes limits on donations from private sources, but not on those from candidates themselves or the parties that nominated them. In addition, the original sources of donation that are collected by parties and then given to campaigns in the parties' names are disclosed only through parties' quarterly financial reports. CHESNO's analysis of interim campaign finance reports for the parliamentary elections indicates that 96 percent of parties' election funds came from the parties themselves.¹³ As a result, the actual donors will not be known until August 2019, well after election day and too late to inform voters' decisions.

¹¹ "OPORA Monitoring Report on Early Elections of People's Deputies of Ukraine July 21, 2019: Trends in July and Preliminary Conclusions of the Campaign," OPORA, July 19, 2019. <https://www.oporaua.org/report/vybory/parlamentski-vybory/parlamentski-vybory-2019/19028-zvit-za-rezultatami-sposterezhennia-opori-na-pozachergovikh-viborakh-narodnikh-deputativ-ukrayini-21-lipnia-2019-roku-tendentsiyi-lipnia-ta-poperedni-visnovki-kampaniyi>

¹² Ibid.

¹³ "The First Financial Reports. It Is Unknown Who Financed the Party Campaign," CHESNO, July 13, 2019, www.chesno.org/post/3411/

The ceilings on campaign expenditures are high relative to neighboring countries, including some with more robust economies. For party-list campaigns the limit is 90,000 times the minimum salary (approximately \$14 million) and for single mandate candidates the cap is 4,000 times the minimum salary (approximately \$628,000). These rates incentivize heavy spending, reliance on costly types of campaigning such as television advertising and, in turn, dependence on wealthy donors.

Online campaign activities and expenditures are also poorly tracked and regulated. OPORA¹⁴ and CHESNO¹⁵ monitored campaign ads on Facebook. They reported that spending on party ads, as recorded in the Facebook advertising library, was significantly higher than the amounts the same parties declared in their interim campaign finance reports.

The National Agency for the Prevention of Corruption (NAPC) and the CEC have overlapping responsibility for monitoring compliance with campaign finance regulations. They ensure minimum reporting compliance but lack adequate financial and human resources or sanctioning authority. The NAPC also suffers from low confidence among stakeholders. The sanctions for violating campaign finance regulations are neither proportionate nor dissuasive.

Citizen participation through small donations to political parties would serve as a counterweight to oligarchic financing. NDI's public opinion research shows that many Ukrainians are willing to contribute money to parties they believe will genuinely represent their interests, yet the process for making small donations remains overly burdensome, not allowing for online donations.

INFORMATION AND MEDIA ENVIRONMENT

Voters had access to abundant information about the parliamentary elections, and campaigns received substantial television coverage. In addition, online news outlets and social media gave voters access to information about the parties and candidates. Despite the proliferation of media outlets, several problems - including concentrated media ownership, weak regulation, and a concerted campaign of Russian disinformation -- hindered voters' ability to access impartial and authentic information.

Ukrainians get most of their news from television. A small group of oligarchs controls 73 percent of Ukrainian television,¹⁶ and pre-election CSO coalition monitoring showed that television news programs were biased in terms of both airtime and content towards candidates allied with or supported by station owners. Moreover, this coalition noted an increase in so-called "jeansa," paid advertising designed to look like impartial news.¹⁷ Candidates who are professional entertainers are essentially unregulated in their ability to put their creative materials on television, which some parties and CSOs have argued give them an electoral advantage. The public broadcaster has not received its full budget in several years, hindering its ability to become an alternative to oligarch-owned television. The National Council on Television and Radio Broadcasting (NCTRB) monitors violations of election law but lacks a mandate to impose sanctions.

The NDI delegation heard concerns from political party and civil society representatives about the purchase of the ZIK television channel during the campaign period by a leader of the Opposition Platform - For Life

¹⁴ "Political Agitation on the Social Network Facebook," OPORA, July 19, 2019. https://www.oporaua.org/en/article/vybory/parlamentski-vybory/parlamentski-vybory-2019/FB_ad

¹⁵ "What parties did (not) show in their financial reports for the election," CHESNO, July 19, 2019. <https://www.chesno.org/post/3454/>

¹⁶ "Monitoring Results Big Data UA. May 2019," Big Data UA, June 7, 2019. <http://bigdataua.com/ua/blog/134-rezultati-monitoringu-big-data-ua-traven-2019;>

"Media Grab: Oligarchs, Pro-Russian Forces Use TV to Push Political Agenda", Kyiv Post, June 21, 2019, <http://www.kyivpost.com/ukraine-politics/oligarchs-pro-russian-forces-use-tv-to-push-political-agenda.html>

¹⁷ "Interim Report on the Results of Independent Monitoring of Media Coverage of the Parliamentary Election Campaign in Ukraine," Council of Europe, 2019 <http://www.cje.org.ua/sites/default/files/Final%20Interim%20Report%20Parliamentary.pdf>

party. These apprehensions were heightened by analysis pointing to an editorial line appearing to parallel Russian-election-related disinformation narratives in Ukraine.¹⁸

NDI research shows that social media use is growing and the internet is an increasingly important source of news, with 64 percent of respondents going online for news at least once a week. However, the quality of information online varies greatly. While official accounts of candidates and parties tend to stick to positive messaging, negative ads and attacks are still abundant in the posts of private individuals or third parties. Facebook and Instagram, the most popular social networks in Ukraine, require advertisers to identify political ads as such, but the policy is followed inconsistently, and civil society groups report challenges in notifying platforms about ads that are not properly flagged.

Finally, violence against journalists remains a serious concern. There were three physical attacks on reporters from the start of the campaign period through the end of June.¹⁹ According to the Center for Human Rights Information, 41 percent of journalists cited fear of physical violence as a major threat to freedom of speech and, 43 percent reported receiving threats connected with their work.²⁰

Ukraine is the target of Russian disinformation that seeks to divide the country along cultural, linguistic, religious, political, and geostrategic lines.²¹ According to StopFake and the Ministry of Information Policy, a common disinformation narrative, amplified by pro-Russian media outlets in Ukraine, portrayed the Ukrainian government and military as the aggressors in the war in Donbas. This has taken on heightened significance since parties' proposals to resolve the war have featured prominently in the parliamentary electoral campaign. Research by Detektor Media suggests that these narratives may have been effective in confusing people.²² In the East 48 percent of respondents could not say whether Russia or Ukraine is responsible for the Russian seizure of Ukrainian sailors in the Kerch Strait, and 33 percent blamed Ukraine. During the elections, Russian media outlets also continued to push disinformation narratives that discredited the EU and NATO, characterized the Ukrainian elections as a "circus," and criticized some political figures and parties. President Volodymyr Zelenskyy and Petro Poroshenko, for example, were portrayed in a far more negative light than others, such as Opposition Platform--For Life candidates.

During the campaign NDI monitored 26 regional and national Telegram channels and found a pattern of disproportionately negative posts regarding the electoral process, former President Poroshenko, and President Zelenskyy. Poroshenko, about whom a higher proportion of posts are negative than any other candidate, was frequently depicted as a failure. Zelenskyy, on the other hand, was portrayed as breaking his electoral promises and pandering to the West.

Government attempts to combat disinformation by blocking Russian television, internet sites, and social media are easily evaded with either satellite television or virtual private networks. Five percent of Ukrainians still get their news primarily from Russian media, and that number is higher in the East. Moreover, Russian media outlets are actively trying to increase their viewership in Ukraine to influence public opinion.

While Facebook has taken steps to increase transparency around who is controlling influential pages and buying ads, civil society partners report that these tools are ineffective or difficult to work with, particularly a political ad library, which was only made fully searchable 10 days before the elections. Other platforms, such as YouTube, are even less transparent. None of these platforms has a presence in Ukraine that can engage with the issue of electoral disinformation at the local level.

¹⁸ "Trends in the Ukrainian Television Space During the 2019 Parliamentary Election Campaign," Detektor Media, July 17, 2019. <https://detector.media/monitoring/article/169042/2019-07-17-trends-in-the-ukrainian-television-space-during-the-2019-parliamentary-election-campaign/>

¹⁹ "Freedom of Speech Barometer," Institute of Mass Information. <https://imi.org.ua/monitoring-types/barometr-svobody-slova/>

²⁰ "Journalists Called the Greatest Threats to Freedom of Speech," Ukrainska Pravda, June 20, 2019. <https://www.pravda.com.ua/news/2019/06/20/7218686/>

²¹ "White Paper: For Special Information Operations against Ukraine 2014-2018," Ministry of Information Policy, 2018. https://mip.gov.ua/files/pdf/white_book_2018_mip.pdf

²² "Sources of Information, Media Literacy, and Russian Propaganda: the results of the all Ukrainian public opinion poll," Detektor Media, March 2019. https://detector.media/doc/images/news/archive/2016/164308/DM-KMIS_Report_05_2019_ENGL_WEB.pdf

StopFake, Texty, Detektor Media, Internews, IREX, and NDI, among other Ukrainian and international nongovernmental groups, are studying and combating disinformation with public opinion research, fact-checking, tracking of false narratives, and other interventions. However, these efforts are not enough. Intensive collaboration among government ministries, parliament, CSOs, political parties, and international partners will be required to identify and implement countermeasures that will build resilience and mitigate the impact of disinformation.

ELECTION OBSERVATION

Nonpartisan citizen election monitoring is by now a well-established practice in Ukraine. Civic watchdog groups have observed every major election since 1994. The CEC accredited 163 citizen observer groups, four times the number in 2014. According to OPORA, many of the newly-accredited observer groups had undisclosed links to political parties, or had no previous experience observing elections. Twenty-one international observer groups, including NDI, IRI, and ENEMO were registered to observe the elections.

RECOMMENDATIONS

Legal Framework and Election Administration

- The parliament should build on the election code passed on July 11, through consultative and inclusive processes, to ensure that the following outstanding issues are addressed:
 - Comprehensive harmonization of the presidential, parliamentary, and local election legal frameworks
 - Simplification of procedures for changing one's place of voting, including establishing online mechanisms for changes
 - Improvements to procedures for dispute resolution and adjudication
 - Provisions for snap elections that take into account timelines for appeals processes
 - Provisions, such as those included in draft law #8270, which would strengthen sanctions related to vote buying and abuses related to technical candidates.
- The CEC should increase transparency by publicizing all key election data in a timely manner in machine-readable formats; ensure that all deliberations are open to all accredited domestic and international observers; standardize the complaints submission process and provide a registry of all submitted complaints; and create a comprehensive packet of forms for candidate registration.
- Any further snap elections should be considered through a consultative process that takes into account the full impact on all stakeholders.

Enfranchisement

- The parliament should adopt draft law #6240 to facilitate voting by IDPs, other internal migrants, and citizens registered in non-government-controlled areas.
- The government, parliament, CSOs and political parties should identify barriers to registration of Roma and take steps to address their underrepresentation in the SVR.
- The parliament should consider draft law #5559 to address the barriers to electoral participation for persons with disabilities.
- The CEC and civil society groups should expand voter education efforts to ensure traditionally disenfranchised groups understand and exercise their rights.

Gender and Inclusion:

- The parliament should affirm the gender quota and the enforcement mechanism included in the July 11 electoral code, if it becomes law, or ensure inclusion of similar provisions in any alternative election law legislation.

- Parties should commit to compliance with any gender quotas prescribed in election legislation and set their own voluntary goals. In the case of an open proportional list system, parties should take measures to ensure women candidates are viable.
- Parties should include policies to promote gender equity in their platforms and refrain from reinforcing gender stereotypes in their campaigning.
- The CEC should disaggregate candidate registration, voter registration and voter turnout data by gender as part of open data efforts.
- The media should cover men and women candidates equitably and should develop standards for gender sensitivity in their coverage.
- Parties should conduct outreach to LGBTI communities as part of a broader effort to promote policies of tolerance and equal justice for all.

Campaign:

- Parliament should address the abuse of administrative resources with appropriate changes to the law, including prohibitions on activities by public officials that provide undue partisan advantage.
- Law enforcement agencies should vigorously and expeditiously investigate and prosecute incidents of violence, intimidation, and vote buying.
- Law enforcement agencies and the courts should pursue timely, impartial, effective, and proportionate punishment for violations of election laws.
- Candidates and political parties should consider a code of conduct to promote compliance with laws and high ethical standards, peaceful conduct, and issue based campaigning.

Campaign Finance

- Candidates, parties, and campaign teams should comply fully with all laws and regulations relating to party and campaign finance.
- The parliament should revise laws governing campaign finance to:
 - Better regulate third-party and in-kind donations and early campaigning
 - Impose limits on candidate and party donations to their own election accounts
 - Require more timely and harmonized reporting on those contributions
 - Lower ceilings on campaign expenditures
- The parliament should ensure the NAPC and CEC have adequate human and financial resources and sufficient mandates and independence to coordinate their activities, monitor financial compliance and ensure timely and dissuasive sanctioning of violations.
- The NAPC, in particular, should solicit and consider feedback from parties, candidates and civil society and address their concerns about the agency's impartiality.
- Parliament should amend the relevant laws to simplify procedures for citizens to make small donations to political parties and candidates.

Information and Media Environment

- All media outlets covering elections should develop, publicize, and adhere to journalistic ethics standards, including establishing and publicizing clear distinctions among news, editorial positions, and paid promotional materials.
- The parliament should fully fund the public broadcaster so it can serve as a viable alternative to oligarch-owned media.
- The parliament should provide the NCTRB with a stronger mandate, including sanctioning authority, as well as the space and resources needed to ensure effectiveness and independence.
- International pressure should be applied to social media companies to more effectively mitigate disinformation.
- Social media platforms should disclose who controls "local" sites transmitting news about elections as well as provide real time transparency about political advertising.

- Social media companies should open local offices with Ukrainian language capacity so they can be more effective in countering disinformation and violations of election laws.
- The parliament should ensure that sanctions for violations of laws about media coverage of elections are dissuasive.
- Parliament should consider measures that would minimize the role of paid campaign advertising on traditional and online media, though limitations or prohibitions during the election period, as well as steps to provide equitable free air time to contestants on commercial as well as public outlets.

Election Observation

- All international and citizen observers should operate in accordance with the Declaration of Principles for International Election Observation and the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations.²³

THE DELEGATION AND ITS WORK

The delegation arrived in Kyiv on July 17 and held meetings with political party leaders, candidate teams, election officials, senior government officials, representatives of civil society organizations, the media and the diplomatic community. On July 19 and 20, observers deployed in teams to 13 regions across Ukraine, including Kyiv, where they met with local campaign teams, election administrators, observation groups, media and civic leaders. On election day, the NDI teams observed voting and counting processes in polling stations across the country. The delegation included:

Alienor Benoist, France	Jean Freedberg, USA	Robert Liberatore, USA
Christopher Blair, USA	Laurie Fulton, USA	John Lovdal, Norway
Wim Borremans, Belgium	Calvin Garner, USA	Michelle McGrorty, USA
John Bruton, Ireland	Audrey Glover, United Kingdom	Tamta Otiashvili, Georgia
Matthew Butler, USA	David Hamilton, USA	Michael Perez, USA
Orest Deychakiwsky, USA	Rebecca Harms, Germany	Natasha Rothchild, USA
Dana Diaconu, Romania	Arshad Hasan, USA	Megan Tingley, USA
Aaron Erlich, USA	Sam Heins, USA	Dominik Tolksdorf, Germany
Dilek Ertukel, USA	Laura Jewett, USA	Caroline Van Dullemen, Netherlands
Rachel Weston Eschenbacher, USA	Natia Jikia, Georgia	Christine Todd Whitman, USA
Katie Fox, USA	Mirjam Krijnen, Netherlands	Ian T. Woodward, USA
	Marije Laffeber, Netherlands	

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NDI CONTACT INFORMATION

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²³ <https://gndem.org/declaration-of-global-principles/>