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Preliminary Statement of the IRI International Observation Mission to Ukraine April 21, 2019 Presidential Election Run-Off

APRIL 22, 2019

Overview of the Mission

This preliminary statement is offered by the international observation mission of the International Republican Institute for the second round of Ukraine's presidential election, which took place on April 21. It builds upon IRI's observations of and findings from the first round of voting, which took place on March 31. As a result, the following should be treated as an addendum to the previous statement.

Through this statement, IRI seeks to reflect the international community's interest in and support for democratic electoral processes in Ukraine, provide an accurate and impartial report on the electoral process to date, and offer recommendations to consolidate democratic gains and improve future elections. The statement builds upon observations made on Election Day by IRI's delegation, the findings of IRI's long-term observers who deployed across Ukraine in early March, additional reports prepared by the National Democratic Institute (NDI) and other monitoring missions, and supplemental IRI monitoring efforts by its in-country staff.

The 40-person mission for the second round was co-led by U.S. Representative John M. Shimkus and IRI Board Member and former Assistant Secretary of State David J. Kramer. The mission included 28 short-term and 12 long-term observers. The areas of responsibility for IRI's long-term observers were the regions (*oblasts*) of Volyn and Lviv; Zakarpattia; Odesa; Kherson and Mykolaiv; Zaporizhzhia; and Donetsk and Luhansk. IRI's short-term observers were deployed to the cities of Mariupol, Odesa, Kharkiv, Dnipro, Zhytomyr, Khmelnytskyi,

Cherkasy, Vinnytsia, Lutsk, and areas throughout Kyiv region. These areas were selected in consultation with the U.S. Agency for International Development for their particular relevance to the current political context in Ukraine.

The mission conducted its activities in accordance with Ukrainian law and the Declaration of Principles for International Election Observation. The mission collaborated closely with the election commission, representatives of political parties and candidates, Ukrainian civil society, media, and local authorities. Additionally, IRI collaborated with NDI and other international monitoring missions supporting the electoral process in Ukraine.

The mission is grateful for the hospitality and cooperation it received from the Ukrainian authorities and the various levels of election administration bodies with whom it met, and all other stakeholders supporting the successful implementation of the electoral process.

The mission stresses that this statement is preliminary in nature; the tabulation and announcement of official results have not concluded, and IRI will continue to observe the remaining phases of the electoral process. Additionally, the mission recognizes that, ultimately, it is the people of Ukraine who will determine the credibility of these elections.

Executive Summary of Findings

1. Ukraine's voters were generally able to express their will and exercise their right to vote on Election Day in a calm and peaceful environment. Aside from minor non-systemic violations, which did not affect the overall outcome of the election, election-day procedures were implemented in accordance with the law.

2. Overall, the run-off campaign period was generally calm and peaceful. However, negative campaigning detracted from the overall quality of the second-round campaign. This phenomenon, while not unique to Ukraine, distracted voters from hearing candidates' positions on key issues and making an informed choice.

3. Shortly after polls closed, candidate and incumbent President Petro Poroshenko publicly conceded to his opponent and offered to aid him in his transition to office. This commitment, along with what appears to be a peaceful post-election environment, is a strong indicator of Ukraine's democratic maturity.

4. When considering other countries in the region, the April 19 debate between Petro Poroshenko and Volodymyr Zelenskiy marked a step forward and a new precedent in Ukraine's democracy. Although the debate was replete with negative attacks, it provided

Ukrainian voters with their first (and only) side-by-side view of the two final candidates prior to Election Day.

5. The process through which 16 percent of the Ukrainian electorate under direct assault by the Russian Federation (i.e., 12 percent who reside in the occupied regions of the Donbas and Crimea and 4 percent who are internally displaced) are able to vote through a temporary address is cumbersome. While responsibility for this situation lies in Moscow, Ukrainian authorities could have been streamlined to allow for greater participation of these vulnerable populations.

Political Background

On March 31, 2019, Ukrainians went to the polls to elect their next president. Choosing among a record number of candidates in the second presidential election since Ukraine's 2013-2014 Revolution of Dignity, voters were found to be able to generally express their will in a calm and peaceful environment. Political newcomer and popular comedian, Volodymyr Zelenskiy, received 30.24 percent of the vote, followed by incumbent, President Petro Poroshenko, with 15.95 percent. Official results were announced by Ukraine's Central Election Commission (CEC) on April 7, which indicated that 62.86 percent of eligible voters participated. As no candidate received the requisite '50 percent plus 1 vote' to secure a victory, the CEC adopted a resolution calling for a second round of voting on April 21, thereby initiating the run-off campaign period.

Pre-Election Environment

Second-Round Campaign Environment

The two-week second-round campaign period began in accordance with the law on April 8, a day after the Central Election Commission (CEC) announced the results of the first round. Apart from traditional and social media, which have been actively used by both campaign teams, IRI's long-term observers (LTOs) and other observation missions found the campaign environment outside of Kyiv to be quiet and outdoor campaign activity to be minimal. Some billboards and posters were visible, though IRI's LTOs reported very limited sighting of campaign tents or events. Campaigning observed was primarily new billboards, such as Poroshenko's billboard featuring himself facing off against Putin, and Poroshenko volunteers distributing agitation materials. Conversely, the Zelenskiy campaign, both nationally and at the regional level, continued its campaign strategy from the first round in which it focused its efforts online, through traditional media, and on billboards.

Despite recommendations of IRI's first-round observation team, IRI observed negative campaigning and "black PR" to be prominent features of the second-round campaign environment. Both the Zelenskiy and Poroshenko campaign teams, while not unique to Ukraine, accused the other side of negative attacks intended to mislead or scare voters. At times, it was unclear whether the negative campaigning was officially sanctioned by campaign teams or originated with third party organizations not affiliated with either campaign. Negative campaigning and "black PR" against Zelenskiy included accusations of ties to Russia, drug addiction, and being a "virtual candidate." For example, one video clip shared by a pro-Poroshenko Twitter account on April 8 appeared to show Natalia Poklonskaya, a Russian lawmaker and former prosecutor of Russia-occupied Crimea, endorsing Zelenskiy. Zelenskiy's campaign logo was added to the clip, suggesting the video was from his campaign. Attacks against Poroshenko, on the other hand, tended to center around corruption scandals and even accused him of killing his own brother, according to one story that aired on the television channel 1+1, which is owned by Ihor Kolomoisky. Though accusations were levied against both sides, to raise awareness of the issue among voters, the Zelenskiy campaign team launched a publicly crowdsourced library of "black PR," which they claimed originated from the Poroshenko team.

Candidate Debate

The two second-round candidates spent much of the run-off campaign period in a public dispute over the format and timing of a prospective televised debate to be held prior to Election Day. Although not a state-funded debate per the Ukrainian Election Law, the two candidates appeared together at 19:00hr on April 19, the last day of campaigning, at Kyiv's Olympic Stadium for a debate before a live audience of approximately 22,000 people and paid for by the campaign funds of each candidate. A debate in this format represents, by all counts, a first for Ukraine, and is noteworthy insofar as future presidential campaigns now have this precedent. It is also remarkable when taking into account other countries in the region, like Russia, where such debates in which an incumbent is so challenged rarely occur. The debate was the first appearance of the two candidates in-person and allowed voters to observe their two demeanors side-by-side. However, the discussion was largely negative and candidate remarks tended to be disparaging of their opponent, rather than focusing on their respective accomplishments, relevant experience, or plans for office. Moreover, as this was the first in-person appearance of both candidates, IRI posits that the Ukrainian electorate would have benefited from earlier debates or discussion in the campaign period, as voters and

pundits had little time to thoroughly analyze each candidate's performance due to the day of silence, which began that evening at 24:00hr. For more, see IRI's "Recommendations" section below.

According to Ukraine's election law, televised debates at the expense of the state budget of Ukraine are to be held between the candidates competing in the second round on the last Friday before Election Day between 19:00hr and 22:00hrs and lasting no less than 60 minutes. Moreover, according to CEC decision No. 472 of May 5, 2014, these debates should be held at the National Broadcasting Company of Ukraine (*Natsionalna Suspilna Teleradiokompaniya Ukrayiny*). The CEC decided to hold the state-funded debate immediately after the Olympic Stadium event. However, only incumbent Poroshenko appeared on public television following the televised debate in Olympic Stadium. The second candidate, Zelenskiy, did not appear; therefore, Poroshenko provided opening and closing remarks and answered pre-recorded questions from voters.

Election Administration

In accordance with the electoral timeline of April 10, the CEC formed new District Election Commissions (DECs) for the second round comprised of 14 members, with seven members nominated by each candidate competing in the second round. The DEC Chair and Secretary positions were evenly distributed between the candidates. In addition, according to the law, the Chair and Secretary may not represent the same candidate in the same DEC. Incumbent Poroshenko nominated his full allocated quota to all 199 DECs; Zelenskiy, on the other hand, nominated a full quota except for DECs 57 and 58, both of which are in Donetsk *oblast*, to which he nominated none. The remaining seats were filled by nominees of the CEC. IRI and other observers found that most incoming DEC members had either served as DEC members for the first round or had previous experience administering elections. According to OPORA Civic Network, nearly 70 percent of current members served on DECs for the March 31 election. No additional systematic trainings for DEC members took place for the newly formed DECs.

Individual polling stations, or Precinct Election Commissions (PECs), were also formed for the April 21 election and comprised of 12, 14, or 16 members, with each candidate nominating half of the commission members. As with the DECs, the position of Chair and Secretary were required to be equally distributed between the two candidates, and the Chair and Secretary may not represent the same candidate in one PEC. Both Poroshenko and Zelenskiy did not provide nominations to fill all PEC positions. As a result, the DECs were responsible for filling the remaining positions, and the CEC released a public call for volunteers to assist in filling

PEC positions in 33 DECs. IRI LTOs observed that more DECs than those named in the CEC's call faced difficulties filling PEC positions. IRI LTOs also observed that DECs took additional steps to recruit PEC members to fill the remaining positions such as calls through social media, radio and TV announcements, and word-of-mouth campaigns. According to OPORA Civic Network, 6 DECs formed their PECs after the legal deadline of April 15 with 48 percent of members nominated by Zelenskiy, 37 percent by Poroshenko, and 15 percent by DECs. IRI LTOs observed that while PECs had been formed, many had unfilled positions and replacements of newly appointed PEC members were ongoing. No systematic training was held for PEC members prior to the run-off, and IRI LTOs observed a range of experience levels among PEC members. On April 19, the CEC adopted a resolution that established the minimum number of DEC members for the second round to 12 and the minimum number of PEC members was defined as 9, except in the case of small PECs of less than 50 voters where the minimum number of PEC members was four.

Ukraine's national registry of voters includes more than 34.5 million eligible voters. However, as noted in IRI's preliminary statement from the March 31, 2019 election, the Russian annexation of Crimea and the occupation of seven percent of the territory in the eastern Donbas region have jeopardized the right of approximately six million voters (12 percent of the electorate) to cast their ballots. Moreover, these violations of Ukraine's territorial integrity have displaced an additional 1.4 million, or 4 percent. A process through which voters may register a temporary voting address exists to thwart the disenfranchisement of this 16-percent of the Ukrainian electorate as well as other voters who are out of their permanent place of registration on election day; nevertheless, it needs improvement. Voters from non-government-controlled areas (NGCA) and internally displaced persons, as well as the thousands of migrant workers and university students who now reside in different Ukrainian communities, were required to register their temporary place of voting prior to the run-off—despite having already done so in order to participate in the first round of voting. Long queues were reported at several voter Register Maintenance Bodies (RMBs), including by IRI's LTOs and other observer groups, during the registration period. For this run-off election, interested voters had only one week to change their place of voting (April 8-15), as opposed to the March 31 election, in which voters had three months. Over this eight-day period, 325,604 voters temporarily changed their place of voting, of whom 94,777 (29 percent) are permanently registered in occupied territories (i.e., 6,025 in Crimea, and 58,968 and 29,784 respectively in Donetsk and Luhansk *oblasts*). This number of voter registrations was higher than the first round (i.e., 265,476), and the RMBs deserve credit for managing the demand reasonably well. Indeed, ensuring adequate staffing was one of IRI's recommendations

following the first round of voting. However, the process of registering in-person is cumbersome, varied, and was observed to be time-consuming in some areas. Moreover, for the 12-percent of Ukrainians residing in NGCA, the process requires significant time and resources—and it could present personal risks—for those who cross into government-controlled areas (GCA) to register, return, then re-enter GCA to vote.

As noted in IRI's previous statement, while embassies and consulates of Ukraine allow Ukrainians abroad to vote on location, turnout for Ukrainian voters living abroad in the first round was low. According to the State Voter Registry of Ukraine 530,123 voters were included on the voter list in foreign precincts. However, the turnout was 54,931 or approximately 12.6 percent. According to the State Voter Registry of Ukraine, the number of voters registered to vote at foreign precincts increased to 552,357 for the second round. As will be discussed further in the "Recommendations" section of this statement, Ukrainian election stakeholders should explore further get-out-the-vote measures.

Kremlin Malign Interference in Ukraine's Election
Kremlin interference in Ukraine's 2019 presidential election was a source of great concern for Ukrainian and Western partners alike. Having interfered in every election since Ukraine's independence by supporting pro-Kremlin candidates, propagating fake and misleading news, and more recently through cyberattacks that threatened the integrity of the election process's critical infrastructure, experts anticipated a high degree of meddling in these elections. Significant media monitoring efforts and cybersecurity enhancements were employed by Ukraine and its partners in advance of the election, to protect the integrity of the process and allow voters to express their will in a calm and peaceful environment. In addition, as was discussed in IRI's preliminary statement on the first round, Ukraine sought to reduce Russian involvement in its elections; for example, by banning election observers who hold the citizenship of the 'aggressor state' and by closing all five polling stations located in the Russian Federation, relocating them to the Ukrainian embassies in Georgia, Finland, and Kazakhstan. These same efforts and provisions remained for the second round of the election.

As IRI observers noted in the first round of the presidential elections, Ukraine's voters were generally able to express their will and exercise their right to vote in a calm and peaceful environment, despite the Kremlin's attempts to portray these elections as illegitimate and not reflective of the will of the people, as well as efforts to undermine the election process through reported disinformation campaigns and cyberattacks. Aside from minor non-

systemic violations on the part of Ukrainian election authorities, which did not affect the overall outcome of the election, second-round election day procedures were implemented in accordance with the law.

Significant challenges remain, however, as Kremlin aggression has threatened to disenfranchise approximately 16 percent of the Ukrainian electorate. Twelve percent of the Ukrainian electorate resides in occupied regions as a result of the Kremlin's annexation of Crimea and the ongoing war in and occupation of the Donbas region. An additional 1.4 million Ukrainians, or 4 percent of the electorate, have been forced to flee their homes and are now registered as internally displaced persons in Ukraine. The Kremlin bears direct responsibility for this situation. However, efforts to protect the enfranchisement of this 16-percent of the electorate are critical and, as discussed under the "Election Administration" and "Recommendations" sections of this statement, could be expanded upon and further strengthened.

Election Day Observations

Participation
Overall, voter participation in the polling stations observed by the IRI mission was high. The Election Day environment was observed to be calm despite some crowding late-morning and early afternoon.

Set-Up and Opening Procedures
Opening procedures were observed to have proceeded in accordance with the law in the majority of polling stations observed. In addition, a majority of polling stations observed by IRI opened at 8:00am, and a few opened earlier. All PECs reported having received all necessary materials from the election commission.

During opening procedures, IRI observed the presence of police or other security forces inside approximately one third of polling stations. Unauthorized persons were also observed in a few of other PECs. Domestic observers and candidate agents were observed in only half of polling stations during opening procedures. Of the candidate agents observed during opening procedures, those from the Poroshenko campaign were seen more frequently than those from the Zelenskiy campaign. IRI observed that a majority of polling stations were clearly marked, the environment was calm, and no campaigning took place either inside or outside of the PECs.

Voting

IRI observers were granted access to observe in all PECs visited. Overall, IRI observed voting procedures to be followed in accordance with the law except in a few cases. Violations observed were not systematic, however, and did not affect the overall conduct or results of the elections. The majority of polling stations were calm and not crowded, though some were observed to be crowded but peaceful. No campaign activities were observed outside of polling station and in a majority of polling stations. A majority of PECs received all necessary materials from the election commission though a few did not receive adequate stationary. One PEC observed appeared to have ballot boxes in poor working condition.

Between one and six PEC members were observed to be absent from approximately a quarter of PECs observed, but a sufficient number of commission members were present to meet quorum requirements. In addition, women made up the majority of leadership positions with more serving as Secretary than as Chair. Domestic observers were observed in less than half of polling stations. Zelenskiy agents were observed more frequently than Poroshenko agents. Police or security forces were observed inside 15 percent of polling stations of the polling stations observed during the day by IRI. Voters were turned away at 10 percent of polling stations due to not having the required identification, not being on the voter list, or being on the voter list in a different PEC.

While most polling stations had sufficient lighting throughout the day, less than half had voting booths that were accessible to wheelchairs and even fewer had ramps or lifts to make the polling station accessible to persons with disabilities.

Closing Procedures

All polling stations observed during closing and counting procedures were calm and peaceful with crowding in some. Closing and counting procedures were observed to be followed in accordance with the law in almost all PECs.

Electoral Violations

While IRI observed some procedural violations during the day, they were isolated incidents and did not affect the overall conduct of the vote. During opening procedures, violations observed included: a control sheet was not properly completed and inserted in the ballot box before the first voter; mobile ballot boxes were not turned over after sealing and set-up; and a safe containing ballots was not opened until 15 minutes before the beginning of voting, resulting in a rushed completion of set-up procedures.

Non-systemic violations observed by IRI during voting procedures included the following: PEC members signed counterfoils ahead of time; control sheets were taped to the outside of ballot boxes; candidate information was not posted in a visible location; the number of ballot boxes were less than required; unauthorized persons were present in PECs; a voter's ID was not checked against the voter list before a ballot was issued: and instances of group voting.

Violations were minor during closing procedures and included: failure to inspect seals before opening ballot boxes; failure to announce all figures recorded in the final protocol; failure to sort all ballots before counting; and failure to show each ballot to all commissioners present. In addition, in one instance, protocols were prepared in a separate room.

Recommendations

To support the furtherance of Ukraine's democratic development, on the basis of these pre-election and election-day observations, the IRI mission respectfully urges Ukrainians to address immediate and longer-term challenges to inclusive and credible elections.

Short- to Medium-term Recommendations

In preparation for Ukraine's parliamentary elections this fall, which are currently scheduled for October 27, IRI offers the following short- and medium-term recommendations to further strengthen the credibility of the process. These should be considered in addition to what IRI proposed following the first round of voting on March 31:

- Recommendation 1: The process through which citizens may register temporary addresses of voting should be streamlined and simplified, perhaps through the use of an online registration process or by allowing citizens to file a single registration that covers any potential run-off.

- Recommendation 2: To increase turnout among voters residing overseas and in NGCA, Ukrainian election stakeholders, including authorities and civil society, should increase voter outreach by providing information on registration and voting procedures. Additional get-out-the-vote efforts should also be considered.

Long-term Recommendations

The IRI mission also offers the following recommendations to strengthen the electoral process in the long-term. These should be considered in addition to what IRI proposed following the first round of voting on March 31:

- Recommendation 1: To promote issue-based campaigns and support an informed electorate, candidates should continue to participate in-person in issues-based televised debates against opponents during campaign periods.

- Recommendation 2: Campaigns and parties should focus their campaign messaging more on issues rather than negative campaigning and attack ads targeting opponents, as such campaigning undermines the credibility and confidence of the electoral process in the eyes of the Ukrainian public.

About the Mission

IRI announced the arrival of the international election observation delegation to observe the second round of voting for Ukraine's presidential election on April 19. U.S. Representative John M. Shimkus and IRI Board Member and former Assistant Secretary of State David J. Kramer co-led the second-round delegation. The delegation consisted of 40 observers and included former ambassadors, thought leaders, and senior IRI leadership.

About IRI

IRI has worked in Ukraine since 1994 and has observed 12 elections in-country, including the 1994, 1998, 2002, 2006, 2007, 2012 and 2014 parliamentary elections and the 1999, 2004, 2010, 2012, 2014 and 2019 presidential elections. IRI has helped to develop effective, citizen-responsive government, trained tens of thousands of political party members and civil society activists, and supported the participation of underrepresented groups such as women and youth in the political process. IRI has been recognized for its international survey research through its regular public opinion surveys, which includes dozens of national, municipal and *oblast*-level surveys of the political and public policy landscape in Ukraine.

Tagged: Eurasia,Ukraine,Multi-Party Political Systems