

# UKRAINE'S PRESIDENTIAL ELECTIONS

October 31 and November 14, 1999



**A Report Prepared by the Staff of the  
Commission on Security and Cooperation in Europe**

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WASHINGTON, DC: 1999

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## **ABOUT THE ORGANIZATION (OSCE)**

The Conference on Security and Cooperation in Europe, also known as the Helsinki process, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. Since then, its membership has expanded to 55, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia. (The Federal Republic of Yugoslavia, Serbia and Montenegro, has been suspended since 1992, leaving the number of countries fully participating at 54.) As of January 1, 1995, the formal name of the Helsinki process was changed to the Organization for Security and Cooperation in Europe (OSCE).

The OSCE is engaged in standard setting in fields including military security, economic and environmental cooperation, and human rights and humanitarian concerns. In addition, it undertakes a variety of preventive diplomacy initiatives designed to prevent, manage and resolve conflict within and among the participating States.

The OSCE has its main office in Vienna, Austria, where weekly meetings of permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations and periodic consultations among Senior Officials, Ministers and Heads of State or Government are held.

## **ABOUT THE COMMISSION (CSCE)**

The Commission on Security and Cooperation in Europe (CSCE), also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance with the agreements of the OSCE.

The Commission consists of nine members from the U.S. House of Representatives, nine members from the U.S. Senate, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair are shared by the House and Senate and rotate every two years, when a new Congress convenes. A professional staff of approximately 15 persons assists the Commissioners in their work.

To fulfill its mandate, the Commission gathers and disseminates information on Helsinki-related topics both to the U.S. Congress and the public by convening hearings, issuing reports reflecting the views of the Commission and/or its staff, and providing information about the activities of the Helsinki process and events in OSCE participating States.

At the same time, the Commission contributes its views to the general formulation of U.S. policy on the OSCE and takes part in its execution, including through Member and staff participation on U.S. Delegations to OSCE meetings as well as on certain OSCE bodies. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from OSCE participating States.

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## SUMMARY

On November 14, President Leonid Kuchma was re-elected for another 5-year term as President of Ukraine, beating Communist Party candidate Petro Symonenko, with 56.3 percent of the votes to Symonenko's 37.8 percent. More than 27 million people, nearly 75 percent of the electorate, turned out to vote. Nearly one million people, or 3.5 % of the voters, selected the option of voting for neither candidate.

Two weeks earlier, on October 31, President Kuchma was the favorite in the first round of voting, with 36 percent of the vote in a field of 13 candidates. Symonenko was second with 22 percent.

Despite the economic decline and widespread corruption that were hallmarks of his first term, voters chose to re-elect Kuchma, principally out of fear of a return of communism, and certainly not due to any enthusiastic embrace of his economic policies.

While there were violations of Ukraine's elections law and OSCE commitments on democratic elections, especially during the second round, these did not have a decisive affect on the outcome, given Kuchma's substantial margin of victory (over five million votes). The elections were observed by some 500 international observers, with the largest contingent by far coming from the OSCE, and some 16,000 domestic observers.

The pre-election campaign was marred by a heavy pro-Kuchma bias, especially in the state-owned electronic media, and to a lesser extent among independent television stations. Some electronic and print opposition media—and even media outlets that were perceived to be insufficiently pro-presidential—suffered a campaign of pressure or harassment from authorities, including relentless inspections by tax, fire and safety authorities. Independent television station STB, for instance, had its bank accounts frozen, and several local television stations were closed.

Campaigning by state administration and public officials was also prevalent, and appeared to be systematic and coordinated. Between the two rounds, there was demonstrative pressure, including by militia, to get out the vote for Kuchma.

The October 31 vote proceeded largely in accordance with OSCE norms. The November 14 runoff was more problematic, with more flagrant violations of voting procedures, including a greater presence of unauthorized persons in polling stations. According to the OSCE Election Observation Mission Statement, there was “a sustained campaign to coerce state employees in medical and educational facilities to vote in favor of the incumbent” for the second round.

While the West welcomed the Ukrainian people's rejection of communism and any plans to reinvent the Soviet Union or a Russian empire, the lack of economic reforms, as well as inappropriate governmental involvement in the election campaign, dampened Western exuberance over Kuchma's election victory. Following his victory, President Kuchma claimed a mandate and promised to work resolutely for economic reform. This, however, needs to be weighed against his dismal economic record and the questionable resumés of some of his major campaign supporters. Western governments, including the United States, almost immediately reiterated their commitment to assisting Ukraine's transition to democracy and a market economy. At the same time, these governments are waiting to see if the reality will match the rhetoric of reform.

## **BACKGROUND**

Since his 1994 victory over Ukraine's first president, Leonid Kravchuk, Leonid Kuchma has attempted to steer Ukraine during its difficult post-communist transition. Whereas important milestones – such as the 1996 constitution – have been reached during his tenure, the legacy of the Soviet era still weighs heavily. Substantial progress in the area of political and civil rights has been marred by some governmental actions, such as inappropriate and at times heavy-handed efforts to influence the media – particularly during election campaigns – and the still-inadequate development of the rule of law. In contrast to a number of other former communist countries, Ukraine has enjoyed peaceful transitions of power and an impressive degree of social peace and stability, tolerance and pluralism. Kuchma's foreign policy has been successful, and Ukraine has enjoyed strong and growing ties with the West, especially its "strategic partnership" with the United States. Ukraine has also forged friendly and constructive relations with all of her neighbors, including Russia.

At the same time, despite some progress, economic reform has lagged, and the country is in poor economic shape. Ukraine remains one of the most closed, corrupt and over-regulated economies in the region, hampering badly-needed foreign investment. Ukraine's bureaucracy is in serious need of streamlining, and governmental corruption has undermined citizens' faith in their government. Ukraine's parliament has often been a roadblock to economic progress and to executive branch reform initiatives, but the executive branch has all-too-often taken a half-hearted, piecemeal approach towards reforms.

## **ELECTION ADMINISTRATION AND PRE-ELECTION CAMPAIGN**

A new law on presidential elections, signed by President Kuchma in March 1999, was an improvement over the 1994 law in seeking to prevent election abuses by the government. The new law provides better supervision by the legislature and election commissions at all levels, and especially greater regulatory powers by the Central Election Commission (CEC). More effective safeguards were instituted to help minimize the possibility of falsification during the voting and tabulation. The law required prospective candidates to collect at least one million voter signatures – including at least 30,000 from each oblast —on a nomination petition. The CEC registered nine candidates by the August 3 deadline and denied registration to six others after invalidating many signatures on their petitions. The Supreme Court of Ukraine, however, ordered the CEC to register them, after the CEC was unable to provide convincing statistics and other information about the invalidated signatures.

Two hundred twenty-five territorial electoral election districts were created to administer the election. Each candidate had the right to representation on commissions at all three levels – the CEC, as well as the territorial and local commissions, and the new law attempted to diminish the risk of fraud by permitting representatives of presidential candidates to be present at CEC sessions and during the vote count. However, the OSCE Election Observation Mission found that "...in a number of areas, commission members were nominated by a State institution and not by the candidates or the parties. In these cases, the commission members were assigned their party affiliation after their nomination, irrespective of their own political preferences."

The law envisions a transparent financing procedure by requiring all campaign funds to go through special election accounts and sets limitations on personal election funds. These limitations were widely ignored during the campaign as most candidates spent more than they declared. Critics focused their concerns on a number of Kuchma associates with alleged criminal ties who played a substantial role in financing his campaign. There were also allegations that state property was being given away to Kuchma

supporters. According to the November 12, 1999, *Financial Times*: “State-owned shareholdings in dozens of the most profitable Ukrainian enterprises have fallen into the hands of private businessmen in advance of Ukraine’s presidential poll.”

To win, a candidate had to poll more than 50 percent of the vote, hence the need in this election for two rounds, as no candidate obtained a majority in the first round. According to the OSCE Election Observation Mission, while “the Presidential Election Law and the Law on the Central Election Commission have increased transparency, the legal framework continues to fall short on a number of critical issues...[including] the regulation of campaign activities and their media coverage.” As opposed to the previous law, the new law does not allow domestic non-partisan observers, although the Committee of Voters of Ukraine fielded some 16,000 individuals who observed the election process as “journalists.”

The campaign was marred by an October 2 grenade attack on Progressive Socialist party candidate Natalia Vitrenko, in which 33 people were injured. Two Russian citizens were arrested, one with purported links to the campaign of Socialist Party candidate Oleksandr Moroz. Moroz countered that Ukraine’s Security Services were really behind the attack. A Kuchma-campaign link was suspected by many observers. At an October 21 Russian Duma committee hearing, allegations were made that Vitrenko’s own people may have been involved in an attempt to discredit Moroz.

The most pervasive problems in the election campaign concerned the role of the media and the role of public officials and their employees. While there was a plurality of views in the print media, the OSCE Election Observation Mission found that both the state-funded, electronic and print media and private broadcasters “comprehensively failed” to live up to their obligations under both the election law and Central Election Resolution No. 96 to provide balanced and unbiased reporting. Biased reporting in favor of President Kuchma was especially prevalent on the national state television, UT 1. For example, while each candidate was allowed free air time on television which is the primary source of information in Ukraine, UT 1 aired critical comments of the candidates immediately prior or following their broadcasts. Groups which monitored pre-election coverage in the media uniformly found that the overwhelming majority of television showed a pro-Kuchma bias and showered much of their attention on him. Other candidates received considerably less coverage, and the coverage they did receive was less positive. To varying degrees, other national television stations such as 1+1 and Inter also reflected a pro-Kuchma tilt, although to a lesser extent than UT 1.

At the same time, there were sustained efforts to suppress media criticism of Kuchma. There were frequent reports of pressure on media outlets with the aim of influencing its coverage in favor of the incumbent. Independent television station STB, with a reputation for balance and objectivity, was forced to undergo a series of tax inspections and in September its bank account was frozen. The account was unfrozen following a management reshuffle. Other media outlets were harassed through unwarranted inspections by tax, fire and safety authorities. Four television and radio stations including Black Sea TV were closed down in Crimea, ostensibly for lack of proper licenses. The Paris-based media monitoring group Reporters Sans Frontiers claimed that “more than 25 media outlets across Ukraine have been under various forms of pressure from the government” and that several reporters were threatened with death if they continued to write articles critical of the government. Nevertheless, many newspapers, often those with ties to other presidential candidates, were quite open and vigorous in their criticism of the government and opposition to Kuchma.

Another serious issue was the pervasive utilization of public officials and state employees in the campaign, in violation of the election law which forbids public officials and their employees from participating in campaign activities. The OSCE Election Observation Mission received verified reports of numerous examples of these kinds of infractions. These included, but were not limited to: State administration heads in 8 regions urging voters to vote for President Kuchma; militia handing out banners and posters for President Kuchma; the eviction of a candidate's campaigners from local headquarters; the dissemination of Kuchma campaign materials by postal employees; the canvassing of support by housing authorities (ZhEK); and the obstruction of access to public facilities by certain candidates to hold campaign meetings.

Questionable campaign tactics, especially on behalf of the incumbent, included thousands of copies of fake opposition newspapers, including three issues of *Silski Visti* with highly unflattering portrayals of Kuchma rivals, as well as phony leaflets, especially against Marchuk and Moroz.

During the campaign, Kuchma was effective in portraying himself as the guarantor of stability and peace in Ukraine. Candidates were presented as threats – not only because of what policies they might undertake, but also because of alleged mental instability. Another technique was the dissemination of falsified candidate popularity polls. Some of these techniques reportedly were provided by Moscow-based Russian image-makers. Another tried-and-true method to gain support for the incumbent was the payoff of some pension and wage arrears in the months leading up to the elections.

In the two weeks between the first and second rounds, the Kuchma campaign proved particularly adept at using the media to show the worst excesses of the Soviet Union, such as Stalin's man-made famine in which more than 6 million Ukrainians perished, thus reinforcing fears of a return to communism. Kuchma also highlighted Symonenko's desire to see Ukraine as part of a union with Russia and Belarus, which Symonenko proceeded to moderate as he sought to appeal to a broader constituency.

## **ELECTIONS AND RESULTS**

President Kuchma won 36.5 percent of the vote in the first round of the elections, with Communist Petro Symonenko coming in second with 22.2 percent. Left-oriented candidates, Socialist Party chair Oleksander Moroz and radical left populist Natalia Vitrenko captured 11.2 and 11.0 percent, respectively. Former Prime Minister Yevhen Marchuk came in fifth with 8.1 percent, and did especially well in western Ukraine. (Shortly after his first round victory, Kuchma shored up his support by appointing Marchuk as Secretary of the powerful National Security and Defense Council, a move reminiscent of Russian President Boris Yeltsin's appointment of Alexander Lebed to such a post during Russia's 1996 presidential elections.) Former Minister of the Environment Yuri Kostenko and former Foreign Minister Hennadiy Udovenko, who head up rival factions of the Rukh party, came in sixth and seventh, with the remaining 6 candidates each receiving below one percent of the vote.

The first round of the elections witnessed an east-west divide, with Kuchma capturing most of western and central Ukraine, and Symonenko taking the vote in most of eastern Ukraine. Rukh, with its national-democratic orientation, had been the chief driving force for Ukraine's independence. However, Rukh candidates received only a small percentage of the vote even in western Ukraine, where Ukrainian identity is strongest. In addition to disillusionment over a major split in Rukh that occurred earlier this year, voters' fear of a leftist victory persuaded them not to "waste their vote."



An attempt by four presidential candidates – Yevhen Marchuk, Oleksandr Moroz, Verkhovna Rada speaker Oleksandr Tkachenko, and head of a mayoral association Volodymyr Oliynyk – to forge an anti-Kuchma alliance ended in failure as the so-called Kaniv Four were unable to agree on a single candidate. A single candidate of the Kaniv Four would likely have presented a formidable challenge to President Kuchma.

The first round of the Ukrainian presidential election was judged quite positively by international observers, including the OSCE, which had by far the largest contingent of international observers. According to the November 1, 1999, OSCE-Council of Europe Joint Preliminary Statement: “Observers reported that election day procedures were carried out in a peaceful and orderly manner, despite minor irregularities in very few polling stations.”

Commission staff observed the vote in Ivano-Frankivsk oblast in western Ukraine and found voting day relatively problem-free and more efficiently run than in earlier elections. The presence of various candidates’ representatives (usually four or five per polling station) and domestic non-partisan observers helped to ensure the integrity of the voting and of the count. The results of each polling station were tallied by manual count, recorded on protocols, and delivered to the territorial commissions. In a departure from previous elections, these protocols, following approval by the commission, were sent via computer to the CEC, with hard copies also delivered by special couriers.

On November 13, Ukraine’s Supreme Court dismissed complaints by two presidential candidates of first-round violations. The law on presidential elections does not provide for the courts to invalidate a presidential election.

## **RUN-OFF**

Despite the economic decline and widespread corruption that were hallmarks of his first term, voters chose to re-elect Kuchma, principally out of fear of a return of communism or any union with Russia, rather than because of any enthusiastic embrace of his stagnant economic policies. This sentiment was particularly pronounced in the more Europe-oriented and nationally conscious western Ukraine, where Kuchma received over 90 percent of the vote in Lviv, Ivano-Frankivsk and Ternopil oblasts. Even during the first round, Kuchma did well in this region – in sharp contrast to the 1994 presidential elections – as voters chose not to cast their vote for more reform-oriented candidates that they knew had virtually no chance of winning. In the run-off, Symonenko won a majority in a number of eastern and central regions. His strongest showings were not in the heavily industrialized and Russian-speaking eastern oblasts, as some had predicted, but in several agricultural oblasts in the central part of the country. Symonenko obtained some of his greatest margins of victory in the very same oblasts which had governors who “voluntarily” handed in their resignations, resigning immediately after poor pro-Kuchma performances in the first round.

The second round results belied the kind of neat west-east (Ukrainophone vs. Russophone) divide witnessed during the 1994 elections and often talked about by Western analysts. While western Ukraine was strongly pro-Kuchma, the largest eastern and southern Russophone oblasts also went for Kuchma, albeit by much more narrow margins. Instead, Symonenko’s greatest victories took place in several rural oblasts in central Ukraine where a substantial majority of the population are ethnic Ukrainians.

Although nearly 45 percent of voters cast their ballots for leftist candidates in the first round, considerably fewer voted for the Communist candidate in the runoff. Indeed, even many of those voting for Symonenko did so primarily in protest of their own dismal economic situation.

The run-off was considerably more problematic than the relatively smooth first round, with the OSCE, Council of Europe and International Republican Institute all observing flagrant violations of Ukraine's election law and numerous breaches of normal democratic voting procedures. The OSCE Election Observation Mission charged comprehensive interference by state administration and public officials in the campaign process. The reported violations included: a "calculated and organized" campaign to ensure that employees and patients at hospitals and sanatoria, and university staff and students vote for Kuchma; the dissemination of campaign information by militia; the presence of unauthorized persons in polling stations, ballot-box stuffing, multiple voting, and rigging of vote tally sheets.

Following the elections, Symonenko complained that a massive anti-communist campaign in the media had biased voters and blamed his defeat on widespread fraud. On November 26, Ukraine's Supreme Court rejected Symonenko's appeal to annul the results of the election, citing lack of jurisdiction.

## **POST-ELECTION TRENDS**

While the West welcomed the Ukrainian people's rejection of communism, the lack of meaningful economic reforms, as well as inappropriate governmental involvement in the election campaign, dampened any Western exuberance over Kuchma's election victory. Furthermore, while campaign violations did not have a decisive effect on the final outcome, the elections violated OSCE commitments. Hence, Ukraine's relatively positive democratic credentials have been somewhat tarnished. Indeed, heavy governmental involvement in the campaign may hurt Ukraine's efforts at integration into European institutions. Moreover, there are increasing calls to link international assistance with progress on reforms. This could have serious implications as Ukraine has \$3.1 billion in debt payments coming due in the year 2000.

Apparent score-settling following the elections raises questions as to the direction in which Kuchma will steer Ukraine. In addition to firing the governors of Vinnytsya, Kirovohrad and Poltava oblasts, where Kuchma fared poorly, immediately following the first round of elections, the newly re-elected president ousted several oblast and raion administration leaders. These included the governors of Zaporozhzhya and Mykolaiv oblast, which Kuchma lost to Symonenko, as well as several raion heads in Luhansk and Chernihiv oblasts, where he also lost.

A more serious question is: who will Kuchma appoint to key positions in the government, and to what extent is Kuchma beholden to questionable individuals who were instrumental in his campaign? According to a Belgian investigation cited in the October 29, 1999, *Financial Times*, one of Kuchma's top advisors, Olexander Volkov, has "...commercial ties to figures who western law-enforcement agencies say are associated with a Russian organized crime syndicate, the Solntsevskaya mafia, whose influence in Ukraine has grown dramatically since 1994." Volkov is not the only shady figure with close ties to the President. Will these links be an obstacle towards movement in the direction of greater openness and transparency which is so essential in providing a normal business climate, not to speak of respect for the rule of law? Or will Kuchma keep Ukraine ensconced in the mire of post-Soviet crony capitalism?

Another issue is President Kuchma's relationship with the Verkhovna Rada (parliament), which he has often blamed, with some justification, as an obstacle to progress on reforms. There is growing discussion of creating a pro-presidential coalition in parliament which would be more amenable to Kuchma initiatives. There has also been talk about a referendum that would establish a bicameral parliament, as opposed to the current unicameral Rada, in which the upper chamber would be composed of regional governors who presumably would be more compliant to the President.

Following his victory, President Kuchma claimed a mandate and promised to work resolutely for economic reform. This, however, needs to be weighed against his dismal economic reform record and the dubious resumé of some of his major campaign supporters. Western governments, including the United States, almost immediately reiterated their commitment to assisting Ukraine's transition to democracy and a market economy. At the same time, these governments are waiting to see if the reality will match the rhetoric of reform. President Kuchma has a golden opportunity to move forward with reforms and combat the corruption which has become so corrosive and has undermined the rule of law so essential to the development of genuine democracy and a functioning market economy. Continuing stagnation will not merely hurt Ukraine's relations with the West, countries which have a critical interest in Ukraine's success. More importantly, failure to reform will have negative long-term consequences for the Ukrainian people.