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A PROJECT OF THE GERMAN MARSHALL FUND

ENEMO's 2012 parliamentary election observation mission in Ukraine is being conducted with the support of the United States government, the German Foreign Office, the British Government, the Kingdom of the Netherlands, the Kingdom of Norway and Black Sea Trust.

**EUROPEAN
NETWORK
OF ELECTION
MONITORING
ORGANIZATIONS**

European Network of Election
Monitoring Organizations
**International Observation Mission
Ukraine Parliamentary Elections 2012**

**Європейська мережа організацій, що
спостерігають за виборами**
Міжнародна місія спостереження
Парламентські вибори в Україні – 2012

Statement of Preliminary Findings and Conclusions Ukraine Parliamentary Elections, October 28, 2012

The ENEMO mission for the 2012 parliamentary elections in Ukraine began its work on 23 July 2012 with the arrival of four Core Team members. ENEMO is the first international election observation mission registered. Thirty-five long-term observers arrived to Kyiv on 5 August 2012 and after training they were deployed throughout Ukraine. Long-term observer teams cover one or two oblasts of Ukraine. So far, ENEMO issued first interim report for the period August 5 – September 9 and second interim report for the period September 10 – October 8. Focus of ENEMO long term observers was on the conduct of election campaign, formation and work of election commissions, media situation and official election complaints. On October 25, 2012 ENEMO short term observers arrived to Ukraine. They were specially briefed and trained on political environment, specifics of the election process and election legislation. Short term observers were paired with long term observers. On the Election Day ENEMO had 86 observers paired in 43 short term observation teams that have observed opening of polling stations, conduct of voting inside polling stations, environment around polling stations and counting of votes in selected precincts throughout Ukraine, which is in the strong alliance with the international standards for international elections observation. ENEMO short term observation teams have operated as mobile teams and ENEMO received information from over 550 PS equally dispersed throughout all regions of Ukraine. Moreover ENEMO observers have followed transfer of PEC protocols to the district election commissions and tabulation process at the DEC. On the Election Day focus of ENEMO observation was to assess the work of election commissions (PECs and DEC), conduct of voting, conduct of tabulation and identification of potential irregularities and violations throughout the Election Day.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

- ENEMO international observation mission to Ukraine has noted that parliamentary elections held on October 28, 2012 were competitive offering voters choice between various political parties and candidates, however, election campaign and polling day were negatively affected by serious flaws and violations. Compared to previous 2006 and 2007 parliamentary elections ENEMO mission observed in the pre-election period significantly higher number of campaign violations, abuse of administrative resources, voter bribery, harassment and intimidation of candidates and campaign workers and intimidation of journalists. The political landscape of 2012 election was also influenced by the fact that two of the prominent opposition figures, Yulia Tymoshenko and Yuriy Lutsenko serving prison sentences. Their trials raised significant concerns over the fairness of the process and implications for the upcoming elections and were largely condemned by the international community.
- The elections of 450 deputies to Verkhovna rada (Parliament) of Ukraine were held on 28 October 2012 according to the re-introduced mixed electoral system in which 225 mandates are elected proportionally from closed party lists and 225 mandates in single mandate districts with a simple majority vote. The threshold for political parties to get mandates has been increased from three per cent to at least five per cent of votes in a single nationwide constituency. The fundamental change of electoral system and adoption of new election law 11 months before election day has raised concerns about ability of political parties and electoral authorities to cope with new significant challenges in organizing parliamentary elections in Ukraine. On a welcome note, the new election law has extended the rights of domestic nonpartisan observers.
- The Central Election Commission meetings are open to observers, media and political parties, however, access to real decision-making is limited. During the pre-election period the CEC has made efforts to improve access of party authorized representative to materials related to CEC resolutions. Nevertheless, absence of access to draft resolutions has restricted political party representatives their right to fully participate in decision-making with their advisory capacity. ***ENEMO recommends the CEC to provide the draft resolutions ahead of CEC meetings and create necessary conditions for healthy informed debates on the issues in consideration.***
- ENEMO mission has welcomed decision of the Central Election Commission to restrict possible massive voter migration from one majoritarian district to another.
- The new election legislation also opened space for “technical parties” to win excessive membership in district election commissions and to organize system of massive replacements. As a result, the work of district election commission was negatively affected by high number of replacements by technical parties and by partisan confrontation. Cases of pressure, closed door sessions, limited access for observers to decisions and documents raised serious concerns about transparency and integrity of DEC work. ***ENEMO noted necessity for systematic training of election commission members at all levels.***
- The sudden change of the CEC on the procedure of drawing lotteries for the precinct election commissions adopted just five days prior to the lotteries has not achieved unified and transparent implementation by the district election commissions. The CEC instructions were not followed in the same way and as result even repeat lotteries were

required and the process of formation PECs has been quite disorganized and delayed in a number of cases.

- The level of election campaigning has increased in the last month of the campaign. There has been increased number of self-nominated and opposition candidates' complaints about being intimidated, pressured or harassed by tax inspections or authorities.
- Misuse of administrative resources has been widespread. Publicly financed projects are presented as personal candidate achievements or party initiatives in order to promote their election campaign. Domestic observer groups (OPORA, CVU) reported on a high number of cases of voter bribery by candidates. ***ENEMO expressed serious concerns about a lack of effective sanctions in cases of voter bribery. The CEC issued only warnings to candidates, however, there were no administrative or criminal consequences for those candidates.***
- The process of registration of candidates on party lists at the Central Election Commission has been rather smooth. However the high number of candidates applying for majoritarian seats in combination with extremely tight deadlines and inconsistent way of processing submitted documents by the CEC created organizational problems and resulted in a number of refusals to register self-nominated candidates.
- On election day, 86 ENEMO observers made 546 visits to polling stations, followed the counting in 42, and observed transfer of protocols to 40 DEC. ENEMO noted such irregularities as presence of unauthorized persons in more than 10% of polling stations observed. Observers reported presence of voters that were not found on the voters list in 73 of visited polling stations. Organized transport of voters by the ruling party was observed in five precincts located in five different regions. ENEMO observers were intimidated by organizers of this activity in Odessa oblast and AR Crimea. ENEMO observers assessed counting process negatively in 7 out of 42 observed cases and especially disorganized and non-transparent in Zakarpattya and Odesa oblast. Transfer of protocols was assessed as orderly in most of the observed cases, but the DEC procedures were chaotic and disorganized in six of observed cases.
- The administrative courts in Kyiv were adjudicating complaints and appeals related to candidate registration and in few cases overturned original CEC decision. However, even in two similar cases the courts did pass conflicting decisions. Although the legal framework allows the CEC to make decisions and the courts to resolve electoral disputes in a timely manner, refused candidates didn't have effective remedies at their disposal.
- Media situation remains a concern particularly continued pressure on television channel TVi and also newspaper Grivna in Mykolaiv and television channels in Kherson and Odessa. ENEMO has welcomed the decision of the Ukrainian Parliament to stop the adoption of draft law to introduce criminalization of defamation.

LEGISLATIVE FRAMEWORK AND ELECTORAL SYSTEM

On 28 October 2012 Ukrainian voters shall elect its 450 deputies to Verkhovna rada (Parliament) of Ukraine according to the re-introduced mixed electoral system in which 225 mandates are elected proportionally from closed party lists and 225 mandates in single mandate districts with a simple majority vote (first past the post). The threshold for political parties to get mandates has been increased from three per cent to at least five per cent of votes in a single nationwide constituency. The change of electoral system was initiated by the ruling party as part of reform process to adopt unified election code and electoral system changes were pushed through without public discussion and without attempts to build consensus with other political parties. The drafting process of working group was characterized by a lack of transparency and accountability which resulted of suspension of participation of some international organizations (IRI and NDI). The outcome of working group was new parliamentary election draft law instead of originally intended unified election code. Nevertheless, the parliamentary opposition parties and ruling coalition voted for the new parliamentary law in November 2011. New parliamentary election law prohibited participation of electoral blocs and allowed individual candidate self-nominations in a single mandate district.

The fundamental change of electoral system and adoption of new election law 11 months before Election Day has raised concerns about ability of political parties and electoral authorities to cope with new significant challenges in organizing parliamentary elections in Ukraine. On a positive side, the new election law has extended the rights of domestic nonpartisan observers to have right the lodge complaints and to be registered as observers.

On July 2, 2012 Ukrainian parliament adopted new legislation introduced by MP from Party of Regions on special aspects of Guaranteeing Open, Transparent and Democratic Elections of MP Candidates during 2012 Parliamentary Elections. This law provided for usage of web-cameras inside polling stations and Internet transmission of voting process.

As noted in the first interim report, the new election law with tight deadlines created organizational difficulties with candidate registration at the Central Election Commission. The new election law also lacks transparent rules for campaign finances such as income and expenditures oversight, illogical provisions and tight deadlines for election commission lotteries and lacks effective sanctions for campaign violations.

ELECTION DAY, OCTOBER 28, 2012

On Election Day, 86 ENEMO observers were deployed to follow opening, voting and counting procedures. Observers in total made 546 visits to polling stations and followed the counting in 42 polling stations and transfer of results to 40 DEC's.

Based on the sometimes negative experience of the process in previous elections, and given a competitive environment for this election, most parties visited in the run up to the elections emphasized that they would have large amounts of well-trained observers. In combination with the emergence of a number of new political subjects the CEC registered 146 394 candidate observers and 177 330 political party observers. Additionally, NGOs accredited 38693 observers. In total, 362 417 domestic and 3 797 international observers were registered by CEC.¹ Unlike the ENEMO mission, domestic observers were stationary and followed the process in particular polling stations throughout the day.

¹ Media delegated 180 journalists and 908 supporting staff.

The opening process was calm in most observed Polling Stations (PS). However, ENEMO observers reported some irregularities: poster with information on voting procedures were missing at the opening in 29% of visited PSs and opening protocols were not filled out in at least six cases. In 7 precincts out of 42 visited the opening procedure was evaluated as “bad” or “very bad” by ENEMO observers.

ENEMO observers followed the voting process in 462 polling stations. The secrecy of voting was not respected in 37 cases, mostly because of the attendance of few persons in booths, but also caused by a bad set-up of the PS, especially in Kharkiv and Volyn oblast. In total, 4% of visited PSs the precinct set-up was evaluated as unacceptable. Unauthorized persons, mostly police officers, but also some local authorities were present at the polling stations in more than 10% of observed cases, what might have an impact on the voting behaviour as well. ENEMO observers were asked for names and legitimation by unauthorized persons at three polling stations in Kyiv, Zaporozhie and Volyn oblast.

In 16% of observed polling station, ENEMO registered some voters who were not on the voter list. A significant violations connected with voters' lists happened in election districts #221 and #223 in Kyiv city. In particular, around 50 people at polling stations #801001, #800982, #801026 and #801028 complained they could not vote as they were not on the voters' lists and some of them even received invitations for the respective precinct. They filed statements of claim to Shevchenkivskyi District Court which were all dismissed.

At the polling station #681168 Khmelnytskyi oblast, Svoboda was stamped as having withdrawn on party list ballots instead of political party Sobor by mistake of the PEC. Therefore, the PEC had to declare all party list ballots as invalid during the counting procedure. Candidate information posters in all polling stations in district #174 Kharkiv oblast contained completely wrong data about the single-mandate district candidate from UDAR party, including his political programme.

ENEMO observers noticed one case of rotating ballot, so-called “carrousel” at PS #230941 Zaporozhie oblast. Furthermore, indications for vote buying were observed in precincts (#350877 Kirivograd oblast, #210724 Zakarpatya oblast and in district 109 Luhansk oblast). In district #133 Odessa, representatives of oppositional parties claimed that pens with ink disappearing are used for fulfil ballots at 4 polling stations visited by ENEMO observers. PEC members exchanged the pens and informed DEC and police, but until then, hundreds of voters have already voted. However, in polling station #511092 where ENEMO observes followed the counting process, the ink did not disappear.

Organized transport of voters to polling stations by vehicles with Party of Regions symbols or coordinated by members of Party of Regions were noticed in five precincts (#631383 Kharkiv oblast, #230941 Zaporozhie oblast, #480332 Mykolaiv oblast, #510200 Odessa oblast and #011111 AR Crimea). In both latter cases, ENEMO observers were intimidated during their observation activities by the drivers respectively coordinators of the organized transport. In total, most violations during the voting process were reported by ENEMO observers in AR Crimea, Odessa and Zaporozhie oblast.

The counting process was assessed negatively in 7 out of 42 observed cases (#210285 and #210697 Zakarpatya oblast, #711046 Cherkasy oblast, #510247 Odessa oblast, #321331 Kyiv City, #111112 AR Crimea, #121093 Dnipropetrovsk oblast). Especially in Zakarpatya and Odessa oblast, the counting procedure was very disorganised and non-transparent.

Transfer of protocols and voting materials was made in an orderly proper manner in all 38 observed cases, although PEC #681168 tried to delay the transport in order to get rid of ENEMO observers.

DEC activities were evaluated negatively in seven cases, where DEC activities were very disorganised, confusing and chaotic (DECs #140 Odessa oblast, #19 Volyn oblast, #192 Khmelnytskyi oblast, #99 Kirovograd oblast, #122 Lviv oblast, #133 Odessa and #109 Luhansk oblast). ENEMO observers had restricted access to monitor DEC procedures properly especially in DECs #19 Volyn oblast, #133 Odessa oblast and #99 Kirovograd oblast. Another team even could not enter DECs due to huge crowds in front of them (#221 Kyiv oblast). In DEC #99 Kirovograd oblast, ENEMO observers noticed a very inefficient work of DEC, the Head nominated by Party of Regions left the session for unknown reason after sending an unusual high number of PECs to correct PEC protocols. Batkivshchyna party complains about similar procedures in seven other DECs, mostly in Kyiv City and Vinnitsia oblast.

ENEMO urges all stakeholders who question the validity of the process to use the legal means provided in the laws and file complaints to the Central Election Commission and responsible courts.

ELECTION ADMINISTRATION

The three-level election administration for the preparation and conduct of the 2012 parliamentary elections in Ukraine consist of the Central Election Commission, 225 District Election Commissions and 33 769 Precinct Election Commissions.

Central Election Commission

The Central Election Commission is the highest-level commission consisting of 15 members appointed for a seven-year term. They are nominated by the president and appointed by the parliament of Ukraine.

According to the law all meetings of the CEC are public and they should be announced in a timely manner. The CEC is using its website for this purpose as well as for publishing decisions. The CEC staff distributes documents including agenda to all members of the commission and records minutes of all meetings. Media as well as local and international observers have full access to the meeting room. Party authorized representatives in advisory capacity and candidate representatives attending the CEC meetings are allowed to make comments and contribute to discussions.

CEC meetings that are hold on a daily basis are the only form for political parties' authorized representatives to take part in CEC decision-making and contribute to discussions. ENEMO welcomes the practice of CEC to provide party authorized representatives with supplementary materials in relation to the resolution considered by the CEC as well as agenda of every CEC meeting. However, these materials and agendas are disseminated few minutes before the start of the meeting. This practice does not place party representatives in the conditions for healthy debate and discussion. It is recommended that the materials be available in advance, at least one hour before the meeting. Also, the projects of the resolutions are not available either for the observers and journalists or for the party authorized representatives until they appear on the CEC website after the adoption of resolution (usually the following day).

The decision-making of CEC has been rather effective and most of the CEC decisions are taken unanimously (90-95%). Although majority of such decisions are of technical character (registration of candidates and proxies, cancelation of registration, etc), the process of real discussions is in majority of cases absent when it comes to other decisions. The CEC meetings is the final stage of adoption of a decision and passing a resolution, drafting process itself does not happen on the CEC meeting and can not be, therefore, observed and assessed. The input of other stakeholders in adoption of decisions is also not visible (unless they present their view during CEC meetings).

The “working” pre-session meetings of the CEC (“naradas”) are held regularly before each official public session. According to the CEC, technical issues regarding the agenda are being handled during these meetings. However the actual content can not be assessed as the “naradas” are closed for observers and other entitled representatives. Few interlocutors expressed their concerns to ENEMO mission about the closed character of these pre-session meetings as well as the issues considered during these meetings.

Overall the transparency of CEC work since the beginning of campaign improved greatly however some other improvements are still necessary. In particular, ENEMO urges CEC to provide the draft resolutions ahead of CEC meetings and create necessary conditions for healthy informed debates on the issues in consideration.

Formation and Changes into DEC's (from the CEC perspective)

On August 24, 2012 the Central Election Commission draw a lot to determine the composition of 225 district election commissions. Five political parties with status of parliamentary factions in Verkhovna Rada have the right to place one representative in each DEC. The distribution of remaining positions should have been done by drawing lots. Since the law does not specify whether the lot should be drawn for each DEC separately, CEC decided to draw just one lot for all 225 DEC's. 81 political parties that nominated at least one candidate participated in lottery drawing. In addition to 5 parliamentary parties, 19 parties were drawn to nominate members at DEC's. Only five of these parties have registered a nationwide party list, and many of them registered only few candidates in single mandate districts. Nevertheless these so called technical parties obtained possibility for DEC positions in all districts throughout the country. On the other hand some established political parties with high number of candidates such as UDAR and Svoboda will not be represented in even one DEC. Statistically, that would be very improbable in case of separate lottery drawings for each of 225 DEC's, however, the CEC explained its decision by time pressure.

The CEC endorsed the managerial positions of the district election commissions two days later, on August 26, 2012. All 24 assigned parties for nominations to DEC's have obtained its proportional share of each category of managerial positions. The distribution was done by computer program to ensure proper percentage for each political party. Then some alternations were done by the CEC to reflect the experience of nominated DEC members. Observers did not have access to this part of the process.

Training of Election Administration

CEC organized training for the DEC managers – heads, deputy heads, secretaries of DEC's – as well as for system administrators and accountants. The training commenced a month and a half before elections and was held in groups of about 300 people. ENEMO expresses concerns

as to sufficiency of the trainings as well as for the communication system between CEC and DEC in relation to the trainings for other DEC members and PEC members. DECs, in its turn, were responsible for organization of the training for PEC members however no consistent approach was used in holding these trainings.

The substantial changes in the DECs composition raises concerns of competencies of newly established DEC members. Although all the necessary materials are being dispersed among new DEC members, they are not going through a special centralized training.

In addition to the trainings CEC organized the website with study materials for DEC officials; the website became available 10 days before elections. Although website is a useful resource for training election officials, it should have been available earlier.

CEC also produced handbooks for DECs as well as a compilation of relevant laws which were distributed to every DEC member.

ENEMO welcomes variety of methods used for training of election officials, however urges the CEC to undertake a more consistent and systematic approach to training election officials of DEC and proper communication system as to DEC trainings for PEC members.

CEC Resolution on Voter Registration

On 22 September 2012, the Central Election Commission (CEC) has changed the September 13 resolution # 893 by the resolution #1046, The maintenance body of the State Voter Register can only change the voting place of electors within the borders of the same single-mandate district. Exception has been made only for the members of district and precinct election commissions that will perform their duties on election day. All other voters can request change of address for voting in another polling station just for the same district and thus no migration of voters shall be allowed from one district to another.

According to the CEC, the State Voter Register received unusual high number of applications for changing voting places to specific single-mandate districts in the period from September 13 to September 22. Various interlocutors have raised concerns to ENEMO Mission about previous legal opportunity for candidates to transfer large number of voters from other districts to affect the outcome of election in their single mandate district.

ENEMO welcomes recent decision of the Central Election Commission to restrict possible massive voter migration from one majoritarian district to another.

Consideration of Complaints

ENEMO has analyzed 94 complaints that were adjudicated by the CEC from August 1 to October 27, 2012. According to the official statistics of the Central Election Commission, from July 31 to October 27 the CEC received 503 complaints and 98 of them were adjudicated. Out of all 98 complaints only 4 were fully satisfied and 12 partially satisfied. 39 complaints were not considered on merits and 43 of them were dismissed. 45 cases were sent to the Ministry of Internal Affairs of Ukraine.

ENEMO has as well analyzed 414 complaints adjudicated by district administrative courts, courts of appeal, DEC's and local police departments in all 25 oblasts of Ukraine and in the Crimea from August 19 to October 21, 2012. ENEMO has information on decisions passed on 252 complaints. These complaints can be categorized according to the following violations: abuse of administrative resource - 17, campaign violation - 57, indirect vote bribery - 12, candidate registration - 34, DEC activity - 65, PEC activity - 4, lottery at PECs - 17, other (recognition of illegal actions) - 46. Out of 252 complaints 51 were fully satisfied, 24 partially satisfied, 166 rejected and 11 dismissed.

Out of 51 satisfied complaints 19 were issued because of campaign violation, 19 - DEC activity, 3 - PEC activity, 10 - other (negative propaganda by newspapers and average citizens). Among satisfied complaints on campaign violations 7 were against the Party of Regions, 2 against Batkivshchyna, 2 against self-nominated candidates, 1 against UDAR. Among 19 complaints on DEC's activity 5 were filed by representatives of the Party of Regions, 9 by Batkivshchyna representatives, 5 by representatives of other parties (Liberalna Ukraina, Svoboda, and European Party of Ukraine).

CEC Warnings

According to the article 61.1 of the law on elections of People's Deputies of Ukraine "*the Central Election Commission may adopt a decision to issue a warning to a party whose MP candidates are included in the party's electoral list or to an individual MP candidate.*" The CEC in practice has issued warnings only based on a court decision.

The CEC issued warnings in 23 cases from September 6 to October 26, 2012, in all of which it referred to the court decisions. Warnings were issued to MP candidates from the following parties: Batkivshchyna - 6, UDAR - 2, Svoboda - 1, Ruskiy Blok - 1, Velyka Ukraina - 1, Ridna Vitchyzna - 1, United left and peasants - 1. The following parties were issued warnings as well: Batkivshchyna - 1, UDAR - 1, Oleh Liashko's radical party - 1. Six self-nominated candidates also received warnings. The abovementioned warnings can be categorized according to the following violations: campaign violation - 20, indirect vote bribery - 3.

MP candidate Anatoliy Dyriv nominated by Batkivshchyna was issued 4 warnings for campaign violation (spreading of campaign materials with no printing data). However, Mr. Dyriv did not have an opportunity to defend himself at court during corresponding court hearings as he never received any notifications from the court. Mr. Dyriv was only informed about warnings issued to him as the CEC sent copies of Resolutions to him.

According to the article 61.5 "*If an election commission discovers a violation provided for by Part two of this Article or any other violation for which a criminal or administrative liability has been established by the law, the election commission shall notify law enforcement bodies of the violation for the purpose of investigation and reaction in accordance with the law.*" When the CEC forwards complaints to the law enforcement bodies, it exercises that legal obligation. However, the CEC just notifies them and isn't responsible for follow up.

There is no information available about investigation and prosecution of such violations. The CEC can only cancel the registration of an MP candidate if there is a judgment of a court finding the MP candidate guilty of committing a deliberate crime and it has come into force. The courts already ruled on 3 cases of indirect voter bribery.

On September 12, 2012 Kyiv Administrative Court of Appeal passed a decision which stated that MP candidate nominated by the Svoboda party in ED#223 Levchenko Y.V. transferred 10.000 hrn on the account of the National Library of Ukraine using money not from his electoral fund. He violated Part 13, Article 74 and Part 6, Article 67 of the Law.

On September 16, 2012 Kyiv Administrative Court of Appeal passed two decisions to stop self-nominated MP candidates in any actions connected with indirect bribery of voters and the CEC issued corresponding warnings. The first decision was passed on David Zhvaniya running for elections in Odessa region. The second was on MP candidate in ED#212, Kyiv region Balenko Ihor Mykolayovych. He as a head of supervisory board of PrJSC Furshet initiated a special discount program for pensioners to get a 7% discount card for buying products in Furshet supermarket and in such a way stimulated voters to support him during the elections. Mr. Balenko violated Part 13, Article 74 of the Law.

ENEMO expressed serious concerns about a lack of effective sanctions in cases of voter bribery. The CEC issued only warnings to candidates, but there are no administrative or criminal consequences for those candidates.

CEC decision on access to web-cameras recordings

Web-cameras were installed in all polling stations in Ukraine and were recording and transmitting the process of voting from 7.15 until 20.00. The counting process was also recorded however it was not available for public and was not transmitted via Internet.

On October 27, 2012 just one day prior to election day the CEC adopted the decision that regulates the procedure of access to the web-camera recordings. It establishes the term for receiving the recordings by the entitled persons as 2 days (from the regular polling stations in which the transmission was available) and 4 days (from the regular polling stations where the transmission was not available) by filling out written application form to CEC. In the event of an applicant wishing to receive the video from multiple polling stations the term of consideration of such a request can be prolonged but cannot take more than 20 days. As of October 29, 2012 this important CEC decision was not available on the CEC website which makes its implementation for entitled persons extremely challenging.

District Election Commissions

Work of district election committees was often characterized by open confrontations between two camps, mostly a pro-governmental and an oppositional fighting for influence (e.g. DEC #2 AR Crimea, # 175 in Kharkiv oblast, #139 Odessa oblast, #153 Rivne oblast, #200 Cherkasy or #11 in Vinnitsia oblast). A number of DECs resumed the CEC practice of holding closed working meetings without public access. At least 15 DECs were reported to work in a highly non-transparent way, especially DECs #135 Odessa oblast, #122 Lviv oblast, #97 Kyiv oblast, #2 and # 7 AR Crimea, but also DECs #104, #112 and #113 Luhansk oblast, #22 and #19 Volyn oblast, #10 AR Crimea, #43 Donetsk oblast, #116 and #117 Lviv oblast and #130 Mykolaiv oblast. Beside holding so-called “naradas”, in cases of presence of domestic and international observers these DECs postponed their official sessions to night hours or adopt agendas with the purpose to “bore” observers and make them leave the sessions. Additionally, in DECs #68 and #69 Zakarpatya oblast, #67 Zhytomyr oblast, #97 Kyiv oblast commission decisions were not made public or observers had a limited access to them. In DECs #135 and #141 Odessa oblast, #6 and #10 AR Crimea, #122 Lviv oblast, #67 Zhytomyr oblast, #101 Kirovograd oblast #113, #117 Lviv oblast and #106 Luhansk oblast,

even some DEC members nominated by oppositional parties did not have access to all commission documents such as protocols, lists of PEC members, lists of distribution of managerial positions.²

The composition and frequent replacements of the DEC members raised concerns about the lack of balance of relevant political parties. According to CEC data, political parties replaced 2366 out of 4050 existing DEC members having changed staff composition by 58% until October 23. The amount of replacements in managerial DEC positions is even higher: 471 out of 675 Heads, Deputy Heads and Secretaries were replaced which means 70%. Analysis of CIFRA monitoring-analytical group from Lviv showed that smallest amount of replacements was performed by political parties represented by factions in the Verhovna rada, while the largest share of replacements was made by six technical parties: “*RusYedyna*” (The Only Rus), “*Bratstvo*” (Brotherhood), “*Ruskyy Blok*” (Russian Bloc), “Union of Anarchists of Ukraine”, “*Yedyna Rodyna*” (The Only Family) and *Ruska Yednist*. The total percentage of replacements coming from these technical parties is higher than 100%, it means that even persons who were substituted already are substituted again.

This analysis revealed that 391 members of DEC members as of September 5, 2012 are the same members that in the second round of Presidential Elections 2010 represented the candidate Viktor Yanukovich. Only 79 members of them were officially submitted from the Party of Regions faction, while other 312 members were brought in from other political parties. ENEMO observers found extreme cases of replacements like in DEC #119 (Lviv oblast) and #194 (Cherkasy oblast). Members who were representing Batkivshchyna (#119) respectively Party of Regions (#194) at end of August, later became Heads of Commissions nominated by Christian-Democratic Party of Ukraine respectively Union of Anarchists of Ukraine. Their primary parties nominated new members to those DEC members instead of them. Similar rotation happened in DEC #2 AR Crimea where the commission Head nominated by Party of Regions changed to a simple member nominated by Ukraine Forward whereas Party of Regions delegated a new Head. Furthermore UDAR signed a cooperation agreement with Christian-Democratic Party of Ukraine and political party Youth To Power³ which replaced some of their DEC representatives with UDAR members (e.g. in DEC #9 AR Crimea, #42 Donetsk oblast, #76 Zaporozhie oblast and #62 Zhytomyr oblast).

Those facts raised concerns that technical parties are replacing their members with people who are actually not their members or sympathizers, but are following interests of other political parties. Significantly, at least five members of technical political parties could not remember which party are they officially representing after ENEMO observers asked them (DEC #141 Kharkiv oblast, #187 in Khmelnytsky oblast, #76 Zaporozhie oblast, #7 AR Crimea and #52 Donetsk oblast).

Procedure for Establishing the Precinct Election Commissions (PEC lotteries)

On September 13 just five days prior to the deadline of nomination for PEC members, the CEC changed the rules of conducting the lottery for PEC formation. The resolution #895 was passed by the majority votes (8 for, 2 abstained, 2 against) and stated that each of 225 DEC members will hold only one lottery for all PECs within the respective district. The CEC created a complicated lottery procedure which was supposed to ensure a larger balance of political subjects in PECs. Nevertheless, opposition parties, domestic and international observers

² In DEC #135 Odessa oblast, PEC secretaries were provided contact data of PEC members before the DEC member and PEC heads nominated by Batkivshchyna

³ <http://klichko.org/ua/news/news/udar-pidpisav-ugodu-pro-spilniy-zahist-rezultativ-viboriv-z-partiyami-molod-do-vladi-ta-hdpu>

including ENEMO raised concerns about the late change of rules and claimed possible lack of balance of relevant political subjects at the precinct level.

Preparation activities for lot drawings and nomination procedures for PECs proceeded very inconsistently and were full of irregularities. Lists with PEC nominees from oppositional parties were refused due to missing stamp, information data or signature of party chairman in at least four DEC⁴, while according to Svoboda the same application forms for their party were accepted in other DECs. Batkivshchyna nomination lists was refused initially, but then accepted after DEC consultation with CEC in DECs #135 (Odessa oblast) and #43, #57 and #58 (Donetsk oblast) or after successful court complaints in DECs # 57 and #58 (Donetsk oblast). On the other hand, lists of some parties generally considered to be technical were accepted after the deadline for submissions expired on September 20 at midnight.⁵ At least in three DECs, multiple nomination lists were submitted by the same person who did not have the power of attorney for all of them.⁶

The lottery drawing itself was mostly open, the access of observers and media was guaranteed. Nevertheless, in DECs #19 (Volyn oblast), #146 Poltava oblast, #149 Poltava and #24 Dnipopetrovsk oblast Batkivshchyna, Svoboda respectively UDAR representatives claimed about lot manipulation in terms of different sizes of envelopes, taped or visible lot numbers.

The CEC provided DECs with instruction that “the lottery deals with the numbers of the nominees, and not with candidates who presented the nominees” and that “the number of lots should correspond to the biggest number of nominees for a PEC”. According to it, the lottery should be implemented referring to the timeline of submitting applications for each PEC. Since not all parties applied for every PEC and some multiple nominees were excluded, the nomination orders were different for each PEC. In this way, the implementation of lottery should have ensured more balanced composition of PECs than the single lottery drawn for DECs.

Despite this information how to handle the concrete procedure of lot drawing, at least 38 DECs violated intended procedure, mostly by drawing lots and implementing its results referring to political subjects which had some similarities with the DEC lottery. 17 DECs⁷ provided ENEMO observers with lists of results connecting drawn numbers with political subjects what was misleading, since they should not refer to them, but to the concrete nominee number on each PEC – and those were different from PEC to PEC. DECs which drew lotteries referring to political subjects had to repeat the lottery after intervention of CEC or to make a new data input to the CEC software⁸ what caused new PEC compositions. In DECs #191 Khmelnytsky oblast and #160 Sumi oblast, lots were drawn for each PEC separately and had to be redrawn according to CEC instructions as well.⁹ Altogether, ENEMO

⁴ For examples in DECs #135 (Odessa oblast; Svoboda, Rukh and Ukrainian People’s Party), #107 (Luhansk oblast; Radikalna Partiya, Rukh and Novaya Politika), and #5 (AR Crimea, Svoboda).

⁵ For example 12 political subjects in DEC #21 Volyn oblast, at least 11 political parties in #187 Khmelnytsky oblast, 5 parties DEC #152 Rivne oblast, furthermore at least one party in DECs #218 City of Kyiv, #165 and #166 Ternopil oblast

⁶ In DEC #22 (Volyn oblast) one person submitted 20 nomination lists, in #27 (Dnipropetrovsk region) one person had seven lists, in #153 (Rivne oblast) four persons brought 44 party list, in DEC #189 (Khmelnytsky oblast) five persons submitted 42 application lists

⁷ #221 and #214 Kyiv oblast, #115 Lviv oblast, #19, #21 and #22 in Volyn oblast, #152, #153 and #156 Rivne oblast, #62 and #63 Zhytomyr oblast, #127, #128, #129 and #130 Mykolaiv oblast, #158 and #160 Sumi oblast

⁸ E.g. DECs #75 Zaporozhie; #127, #130, #132 Mykolaiv, #183 Kherson, #157 Sumi or #60 Donetsk

⁹ In DEC #160 CEC interrupted the lottery and instructed the commission to draw just once for all DECs.

observers reported 18 DEC's which had to repeat the lottery procedure,¹⁰ whereas the number of requests for a new data input was much higher. The reasons for repeated lotteries were wrong number of drawn lots¹¹ or not excluding double nominated PEC members. High number of CEC interventions with request for corrections shows again that the DEC's were not trained and informed enough to arrange a unified lottery drawing and its implementation.¹²

Formation and Work of Precinct Election Commissions

Every LTO team reported at least one DEC where same persons were nominated by two or even three different political parties. The highest number of multiple nominated PEC representatives were reported from DEC's #225 Sevastopol City (3360), #87 Ivano-Frankivsk (3187), #20 Volyn oblast (1630), #205 Chernigiv oblast (853), #123 Lviv oblast (800), #125 Lviv oblast (over 700), #97 Kyiv oblast (over 600), #175 Kharkiv oblast (432), #179 Kharkiv oblast (over 400) and #38 Dnipopetrovsk oblast (over 300).

There are indications that lists of technical parties were made from one center with the purpose to get as many PEC memberships as possible and to replace them later. In DEC #12 Vinnitsia oblast, ENEMO observers found out that 21 political parties including the faction of Party of Regions have the same phone number as their headquarters contact data.¹³ PEC nominations were the reason for an incident in district #22 (Volyn oblast) on September 17 where students of Lutsk pedagogical college confirmed to our LTO team that they were forced to stay at school until 11 p.m. and to fulfil PEC applications for several political parties. In DEC #5 AR Crimea exactly the same ID copies accompanied by different signatures were used for applications of two different political parties; in DEC #145 Poltava oblast all applications of political party Youth to Power had the same signature. Those examples substantiated suspicions that a number of multiple nominations was done without the knowledge of the nominees.¹⁴

Additionally there was a tendency to submit a large number of nomination lists shortly before the deadline expired and to flood the commission with paperwork, so the applications could not be checked properly.¹⁵ In DEC #192 Khmelnytsky oblast, applications with same birth date, phone number and address, but with slight differences within the name spelling (one letter was added or missing) were submitted by different political subjects. Nominations with same names, but different addresses were reported from DEC #126 Lviv oblast. In this way,

¹⁰ DEC's # 194 and 195 Cherkassy oblast; #47 and #51 Donetsk oblast, #11 Vinnitsia oblast, #87 Iv.-Frankivsk oblast, #167 Ternopil oblast, #35 Dnipopetrovsk oblast, #116 and 118 Lviv oblast, #109 Luhansk oblast; #141 Odessa oblast, #191 Khmelnytsky oblast, #22 and #23 Volyn oblast, #132 Mykolaiv oblast, #225 Sevastopol City and #160 Sumi oblast. Additionally, in DEC #27 Dnipropetrovsk oblast the commission had to continue the lottery on the next day because just 19 numbers were drawn primarily.

¹¹ For example in DEC #203 Chernivtsi oblast, the number of lots corresponded to the total number of registered political subjects; in DEC 122 Lviv oblast just 21 lots were drawn.

¹² The CEC member told ENEMO team that only half of DEC's were trained on the proper PEC lottery procedure.

¹³ Among others "The Only Family" (Edyna Rodyna), "Brotherhood" (Braterstvo), "State" (Derzhava), "Union of Anarchists of Ukraine", "Green Planet", "Russian Bloc" (Russkiy blok), "Solidarity of Women of Ukraine", "The Only Rus" (Rus' yedyna), "Russian Unity", "Slavonic Party", "Liberal Party", "People's and Labour Union of Ukraine", etc.

¹⁴ The third possible reason is that multiple nominations represented a strategy of certain political parties to disqualify rival PEC nominees. Batkivshchyna representatives in DEC # 136 complained that their application data were stolen from the commission and provided to other political subjects after what they were nominated again.

¹⁵ For example, in DEC #122 Lviv oblast 41 political subjects submitted their list at the very last day, in DEC #189 Khmelnytsky oblast almost 40 applications lists were submitted within the last two and half hours.

CEC software “Vybori 2012” could not detect them as multiple nominations. On the other hand, time pressure hindered the commissions to review in detail all applications.

Most DEC’s excluded multiple nominees which were detected by CEC software “Vybori 2012” and did not fulfil an application where they confirm their intention to represent only one certain political subject in only one PEC. At least five DEC’s did not exclude multiple nominated PEC candidates and thus violated the electoral law.¹⁶ Multiple sources confirmed to ENEMO observers that the respective computer programme did check multiple nominations only within a district and not among different constituencies. As consequence, at least 200 persons were chosen for PEC members both in districts #153 and #154 in Rivne oblast.

Due to the fact that many PEC nominees were not aware of political subjects nominating them, a large wave of replacements started already in the first DEC sessions after the establishment of PECs. The highest number of replacements was reported from district#165 Ternopil oblast (over 4000), #110 Luhansk oblast (2820 replacements), #184 and #185 Kherson oblast (1800 respectively 1280), #21 and #19 Volyn oblast (1800 respectively 1500), #78 Zaporozhie oblast and #52 Donetsk oblast (both over 1500), #225 Sevastopol City (1413), #153 Rivne oblast (1300), whereas over 1000 PEC members were exchanged in district #129 Mykolaiv and #6 AR Crimea.¹⁷ Replacements are done both by small technical parties like Youth to Power, Zelena Planeta, Union of Anarchists and well-known parties like UDAR, Party of Regions and Batkivshchyna.

The very majority of DEC’s used the CEC computer programme “Vybori 2012” on distribution of managerial positions, but some software bugs which provided disparities were detected.¹⁸ At least 17 DEC’s used other procedures for the distribution of managerial positions. Eight of them were done manually by the Head, Deputy Head or Secretary of DEC and mostly in a non-transparent way.¹⁹ Distribution of PEC managerial positions was often the reason for large disputes within the DEC’s and caused breaking deadlines for the PEC establishment, especially in Kyiv oblast and Autonomous Republic of Crimea. ENEMO observers attended an incident at DEC #2 (AR Crimea) where police and state security service SBU interrupted the commission session about managerial position distribution just after the midnight of September 26 when the deadline for PEC establishment expired. Observers and party representatives were forced to leave the session; their cell phones were reportedly made unable to function and just security authorities wanted to stay in the room with DEC members.

¹⁶ Two of them had to repeat the lottery (#141 Odessa oblast and #87 Ivano-Frankivsk oblast), but three DEC’s (#22 Volyn oblast, #83 and #84 Ivano-Frankivsk oblast) solved the problem with multiple applications in an unlawful way – retrospectively and without of a new lot drawing.

¹⁷ All DEC’s visited by ENEMO observers after the PEC lottery are reporting changes in PEC membership. Other extreme cases with over 900 were found in districts #115 Lviv oblast, #202 Kyiv City and #189 Khmelnytsky oblast. Over 500 replacements happened in districts #203 and #204 Chernivtsi oblast, #12 Vinnitsia oblast, #116, #117 and #118 Lviv oblast and about 500 in #127 Mykolaiv oblast.

¹⁸ For example, in district #68 Zakarpatya oblast European platform has got 49 PEC members and 6 managerial positions, European Party of Ukraine 43 PEC members and 7 managerial positions. Solidarity of Women of Ukraine with 19 PEC members allocated 2 managerial positions, but Zelena Planeta with 15 PEC members became 3 senior staff members.

¹⁹ DEC’s #116 and #122 Lviv oblast; #130, 131 Mykolaiv oblast; #135 Odessa oblast, #97 Kyiv oblast, #200 Cherkasy oblast and #42 Donetsk oblast. Six DEC’s allowed political subjects to submit proposals and voted than for a compromise solution: DEC’s #137 Odessa oblast, #167 Ternopil oblast; #188 Khmelnytsky oblast, #131 Mykolaiv oblast and #2 AR Crimea. whereas DEC’s #165 and #166 (both Ternopil oblast) drew a lot even for PEC senior staff.

Delayed start of PEC functioning was caused also due to wrong contact data of PEC members and submitted applications without of their knowledge. Especially in Lviv oblast, Volyn oblast and Kyiv City, many PECs did not have a quorum for the opening session and they had to wait for replacements. ENEMO observers visited over 100 PEC addresses without finding anyone present, although the deadline for their first meeting expired. The late starts have shortened the time for election preparations and essential PEC member training.

Although representatives of established political parties had mostly worked at same positions in previous elections, the PECs work was characterized by a lack of experience, especially of representatives of smaller political subjects. There was no consistent plan for PEC trainings, the situation was different from DEC to DEC. While ENEMO observers reported satisfactory trainings in Kharkiv and Luhansk oblast, in the most of other regions trainings were disorganized and insufficient. On-going replacements caused that some of PEC members did not attend an official training at all.

PEC members were additionally trained by political parties. In AR Crimea, an audio record of training for Party of Regions PEC members held by Boris Frotman was published in media. Frotman instructed commissioners how to ensure majority in PECs by cooperating with members of technical parties, pressuring oppositional commission members and expelling their chairmen. Separately he explained the reporting system with Party of Region curators who will coordinate the massive transportation of voters to the polling stations. Another training in AR Crimea was held in public administration rooms by Vladimir Sidorov advising Party of Regions agitators how to illegally register voters which are not in Voting Register and how to destroy rival agitation materials. OPORA reported that similar training was provided by Party of Regions in Volyn oblast where PEC members were instructed how to falsify election results by incorrect data input at counting procedure. In PECs #070297 Volyn oblast and #618553 Khmelnytsky oblast members nominated by other parties stated that she was trained by Party of Regions.

17 PEC members could not answer to ENEMO observers which party they are actually representing.²⁰ Seven members said that they are representing Party of Regions at first and had to correct themselves or even stated openly that they are representing although they knew that they have been nominated officially by another political subject.²¹ In districts #18 Vinnitsia oblast and #141 Odessa oblast, local branches of People's Party respectively Ukrainian National Party and Our Ukraine did not know their PEC representatives nominated by their headquarter in Kyiv. That facts support the mentioned indications that certain political parties are delegating commissioners who actually follow interests of other political subjects.

CAMPAIGN VIOLATIONS

The official campaign started on July 31 and was intense as reflected in big rallies and meetings all over the country, billboard, poster and tent installations, distribution of leaflets and door-to-door activities both in urban and rural areas. Most visible and active parties in campaigning are Party of Regions, United Opposition – Batkivshchyna, Communist Party of Ukraine, Ukraine Forward, UDAR and Svoboda. Additionally, in most constituencies self-

²⁰ #121294 Dnipropetrovsk oblast, #011186 and #011177 AR Crimea; #480860, #480818, #480773, #480859, #480772, #480821, #480822, #480841 Mykolaiv oblast, #681507 Khmelnytsky oblast, #531144 Poltava oblast, #070499 and 070522 Volyn oblast, #461900 Lviv oblast, #440740 and #440741 Luhansk oblast

²¹ #681486 and #681421 Khmelnytsky oblast, #611108 Ternopil oblast, #070297, #071043 and #070019 Volyn oblast; #560669 Rivne oblast

nominated candidates with a business background are running their local election campaigns for majoritarian MP seat.

Obstructions of campaign rallies of Batkivshchyna and UDAR were reported by ENEMO observers from Odessa, Kharkiv, Donetsk, Kirivograd, Cherkasy and Simferopol. In all of these cases, rallies were disturbed by not labelled groups of persons or by unannounced meetings of activists of Party of Regions. In Luhansk oblast, Communist Party and Party of Regions are disturbing rallies of each other; a communist rally was accompanied by a counter-rally of Radical Party including inflammatory language and harassment. Local authorities in Zaporozhie oblast are very active in limiting campaign possibilities, especially for political party UDAR. On October 5 an UDAR rally with its party leader Vitaly Klitchko was announced in district #82, the city council was informed about the meeting one day before it. On the same day, the local authorities adopted a resolution to reconstruct the respective square and started the works on the morning of the rally.

Many political parties complained about illegal campaigning against their candidates. ENEMO teams reported 71 such cases, among that 19 against Party of Regions candidates, 17 against candidates of United Opposition, 12 against self-nominated candidates and 9 against - UDAR candidates. Mostly disinformation in form of flyers or fake newspapers was spread out in the name of a certain candidate, but there are also billboards and graffiti discrediting political parties. Internet was used for negative campaigning as well, especially in AR Crimea. In majority of cases it is impossible to trace the initiators; parties are usually accusing their rivals. Although the President of Ukraine Victor Janukovitch is not running as a candidate in parliamentary elections, negative campaign was used against him as well, especially in Lviv, Volyn oblast and Simferopol.

UDAR party claims damage on their billboards (Sevastopol City, AR Crimea, Cherkassy, Kirovograd, Lviv, Zakarpatya and Zaporozhie oblasts). Batkivshchyna, Svoboda and UDAR complained about difficult access to media and billboard places. In Zaporozhie (UDAR), Odessa (Batkivshchyna and UDAR), Kharkiv (Batkivshchyna and Svoboda) and Poltava (Svoboda) oblast ENEMO observers confirmed that those parties have just few billboards or have got less visible advertisement places in some districts. An owner of a billboard company in Zaporozhie oblast admitted to ENEMO observers that Party of Regions was telling him how many billboard places he can allocate to other parties (reportedly 20-30 spots for Batkivshchyna and Communist Party, no billboards for UDAR) and he was pressured to deny access to oppositional parties although there are free billboard locations. Furthermore, in Mykolaiv, Odessa, and Zaporozhie billboard companies and newspapers cancelled already signed contracts about election advertisement of UO Batkivshchyna and UDAR.

Harassment and intimidation of candidates increased significantly within the last month of the election campaign. In district #18 (Vinnitsia oblast) the self-nominated candidate Ruslan Demchuk has been arrested after an investigation of tax administration. In district #9 the charge against a candidate of Batkivshchyna has been increased from hooliganism to attempted murder. In both cases, the arrested candidates were challenging candidates of Party of Regions. In #72 Zakarpatya oblast, a self-nominated candidate was arrested and charged for several crimes from the period of 2008-2010. ENEMO observers reported four cases of candidates hiding from security authorities after investigations on them has been opened: in districts #82 Zaporozhie oblast (candidate Kryvohatka from UDAR, first 2008 incident at his factory then tax investigation), #107 Luhansk oblast (self-nominated candidate Shahov, charged for hooliganism case from 2011); #30 in Dnipropetrovsk oblast (self-nominated candidate Kupryi) and #132 Mykolaiv oblast (candidate Kornackiy from Batkivshchyna).

UDAR candidate Sabashuk has already paid a bail in district #74 (Zaporozhie oblast), whereas candidate Struk was facing several charges after he announced that he will not run for Party of Regions, but as a self-nominated candidate in district #104 (Luhansk oblast).

In district #4 AR Crimea, the prosecutor opened a 16 years old case against the self-nominated candidate Kotlearevski. Police attendance in candidate headquarters was reported from districts #122 Lviv oblast (Batkivshchyna candidate). In Luhansk oblast, especially self-nominated candidates cooperating in so-called “Kommanda Serhia Shahova” are pressured by police. Beside Shahov himself, security authorities are visiting the headquarters and apartments of candidates Juchenko (district #110) and Makarov (#109) regularly. In latter case, police could not present a stamped search warrant to ENEMO observers.

ENEMO observers reported United Opposition candidates being seriously physically attacked in districts #120 Lviv oblast (a female candidate and investigative journalist) and #169 Kharkiv oblast as well as their head of campaign office in district #222 (Kyiv city). In district # 167 Ternopil oblast, #92 Kyiv oblast and #159 Sumi oblast, candidates of Our Ukraine, UDAR respectively Svoboda have been beaten, whereas in district #47 Donetsk oblast the car with candidate of Green Party Cypin was shot at. Additionally, in Donetsk a candidate from People’s Party was shot at as well, her husband was even hit. In district #132 Mykolaiv oblast a Batkivshchyna candidate had to bring his family abroad after harassment.

There are four cases of candidates who already resigned after arrests or pressure: mentioned candidates Demchuk and Cypin withdrew after being arrested respectively shot at; furthermore multiple sources confirmed withdrawal of governor of Volyn oblast and candidate in district #22 being pressured by influential self-nominated candidates in their constituencies; in district #80 Zaporozhie oblast UDAR candidate resigned after pressure by tax administration and threats.

It is remarkable that no pressure has been reported on candidates of Party of Regions, Communist Party and Ukraine Forward.

Domestic observer groups (OPORA, CVU) report on a high number of cases of voter bribery by candidates. ENEMO observers attended some of cases of indirect voter bribery, for example in district #135 Odessa oblast where the Charity Foundation of the Party of Regions candidate Sergey Kivalov launched a social program “Odessa by other eyes” that offered glasses for free for elderly people. In district 138 Odessa oblast, the organizers of the Teacher Day distributed cognac and chocolate to elderly teachers in bags with the sign of the Fursin Foundation, founded by local Party of Regions single mandate candidate. In district #201 Chernivtsi oblast ENEMO observers were denied to enter a concert sponsored by the Party of Regions candidate Mihailishin where visitors were given gifts with campaign materials. Charity funds and social initiatives of candidates Azarov (#47 Donetsk oblast), Kulinich (#147 Poltava oblast) and Zaluzhny (#144 Poltava oblast) were also active in distributing gifts for students and poor people during the election period. The court appeals relating most of these cases were rejected by district and appeal administrative courts.

ABUSE OF ADMINISTRATIVE RESOURCES

Abuse of administrative resources was reported from oblasts where projects of local authorities financed by public budgets are directly presented as personal achievements of candidates e.g. road and building constructions. Such cases were recorded to promote Party of Regions candidates Irina Bereznaeva (Kharkiv), Oleksandr Presman (Odessa) and Konstanti Gudzenko (Dnipropetrovsk), self-nominated candidates Irina Gorin (Kharkiv), Aleksandar

Momot (Dnipropetrovsk) and Galina Gereda (Kyiv). In Odessa, a large-scale “People’s Medical Checkup Initiative” was launched recently financed from the so called “People’s Budget”. People’s Budget was widely publicized in municipal media with reference to the Party of Regions, claiming projects financed by the official public budget to be a part of the partisan initiative. For example, street construction workers in Odessa were recorded by wearing vests of Party of Regions during the work.

Administrative and public buildings such as theatres, public transport vehicles and stations were often used for endorsing candidates or political party propaganda (flags and posters). Such violations promoting Party of Regions and their candidates were reported from eight regions: AR Crimea, Simferopol City, Cherkasy, Zaporozhie, Odessa, Mykolaiv, Zaporozhie and Donetsk oblasts. In Odessa, Vinnitsia, Cherkasy and Dnipopetrovsk oblast, firefighters vehicles were openly used for installation of Party of Region billboards. In contrast to that, public transport vehicles and bus stops were used for campaigning not just by Party of Regions, but also by Svoboda, Communist Party, Batkivshchyna, political party Soyuz Crimea and at least 15 self-nominated candidates. Mayors and Governors were reported in at least 24 districts to support candidates of Party of Regions openly and even on billboards. However, these cases were not recognized by courts to be a violation of electoral law since it is not clear if they were doing that within of their working hours.

Abuse of administration resources during the Independence Day was reported by a large number of ENEMO teams across of Ukraine. Public manifestations organized by the local administration were used for campaigning by local ruling parties. Party flags were part of official celebrations in Kharkiv, Odessa, Mykolaiv, Sumy, Zaporozhie, Kirovograd and Donetsk (Party of Regions) as well as in Lviv (Batkivshchyna and Svoboda). Inflammatory language during the celebration was reported from Lviv oblast where United Opposition and Svoboda exploited the opportunity to raise historical conflicts from Second World War and to compare them with the current situation. In addition, political party Svoboda representatives in Zhovkva (Lviv oblast) were distributing school diaries with their party symbols and xenophobic messages related to the Ukrainian history among pupils openly. Svoboda used a very inflammatory language in their leaflets in Volyn oblast demanding death-penalties for the leader of Ukraine Forward Natalia Korolevska and “Russians and Jews who do not let Ukrainians to live freely”.

The opening of the school year was used for election campaigning in a similar way as the Independence Day. Local officials, mostly running as self-nominated or Party of Regions candidates misused celebrations attended by parents of pupils to promote their own political program. In Odessa, Donetsk, Kharkiv, Simoferopol, Lutsk, Dnipropetrovsk, Hudlyovo (Zakarpattia oblast) and Luhansk candidates were recorded donating busses, uniforms, computers or books to schools respectively other children gifts supported by high media coverage. ENEMO observers registered over 47 cases of election agitation in universities, schools, and even kindergartens, especially in Volyn oblast. Day of Teachers and other comparable events were largely accompanied by campaign activities of local ruling structures – for example Party of Regions in Donetsk, Odessa oblasts and AR Crimea.

MEDIA

The ENEMO Mission has not carried out a full scale media monitoring. All comments in this section are therefore based on ordinary observations, media reports, interviews with media actors and evidence they were able to provide us with.

ENEMO has welcomed the decision of the Ukrainian Parliament to stop the adoption of draft law to introduce criminalization of defamation.

However, ENEMO notes that public access to pluralistic sources of information had increasingly worsened during the electoral process. Diversity of political opinions expressed on television stations has decreased significantly comparing to previous elections when private television channels offered a rich variety of political views. Reduced space for pluralism in media is result of self-censorship, secretly sponsored news items and overall concentration of media outlets by small group of business persons.

In particular, the decisions by cable network operators to stop or limit broadcasting of television channel TVi in certain areas raised serious concerns about restrictions of plurality of political views before elections. In the period July – September 2012, TVi lost almost three millions of viewers from cable networks, thus retaining only about two thirds of its viewership during almost entire election campaign period. Regardless of authorities calling on operators to restore broadcasting of TVi, the situation remains unresolved.

Other TV stations and newspapers also reported facing pressure from the authorities, the tax service, and the law enforcement bodies (Mykolaiv, Kherson, Odesa).

Intimidation and harassment of independent journalists were reported throughout the electoral period. In particular, cases of physical attacks on journalists were registered in Mykoaliv and Lviv. During the long-term observation period ENEMO Mission had raised concerns about the difficulties of candidates in rural areas that complained about denied access to media.

Negative campaigning or black PR has been noticed in all regions and practiced by most parties in many forms such as negative messaging on billboards, ads in newspapers and paid agitators at election meetings and rallies.

On the Election Day, major opposition websites Tymoshenko.ua, Frontzmin.ua, Svoboda.org.ua, Klichko.org and Byut.com.ua reported experiencing distributed denial-of-service (DDoS) attacks. Party of Regions also reported hackers' attack on their website. In the afternoon, websites of domestic election monitoring groups (OPORA, Committee of Voters of Ukraine, Maidan, ElectUa) also became inaccessible due to repeat DDoS attacks.

This report was written in English and remains the only official version.

The European Network of Election Monitoring Organizations (ENEMO) is an international network of nongovernmental organizations founded in 2001. It consists of 22 leading domestic monitoring organizations from 17 countries of Central and Eastern Europe and Central Asia, including two European Union countries.

ENEMO endorsed the 2005 Declaration of Principles for International Elections Observation. All ENEMO member organizations endorsed the 2012 Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations. All ENEMO observers have signed the Code of Conduct for International Election Observers. The ENEMO mission in Ukraine for the October 2012 parliamentary election began its work on July 23, with the arrival of four Core Team members. Thirty-five long-term observers arrived to Kyiv on August 5, have been briefed and trained on August 6 and 7, and deployed to the region on August 8. The long-term observers are paired into LTO teams, which cover one or two oblasts on average. ENEMO is the first international mission registered October 28 elections.

ENEMO's 2012 parliamentary election observation mission in Ukraine is being conducted with the support of the United States government, the British government, the German Foreign Office, the Kingdom of the Netherlands, the Kingdom of Norway and the Black Sea Trust. ENEMO is working in partnership with the National Democratic Institute for International Affairs.