

INTERNATIONAL ELECTION OBSERVATION MISSION Ukraine — Early Parliamentary Elections, 26 October 2014

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Kyiv, 27 October 2014 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament (EP) and the NATO Parliamentary Assembly (NATO PA).

Kent Härstedt (Sweden) was appointed by the OSCE Chairperson-in-Office as Special Coordinator and leader of the short-term OSCE observer mission. Doris Barnett (Germany) headed the OSCE PA delegation, Christopher Chope (United Kingdom) led the PACE delegation, Andrej Plenković (Croatia) headed the EP delegation, and Rasa Juknevičienė (Lithuania) led the NATO PA delegation. Tana de Zulueta (Italy) is the Head of the OSCE/ODIHR Election Observation Mission, deployed from 19 September 2014.

The assessment was made to determine whether the election complied with OSCE commitments and Council of Europe standards, as well as international obligations and domestic legislation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the election process. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the election process, including the tabulation of results and the handling of possible post-election day complaints and appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report at its Bureau Meeting in Basel on 3 December. The PACE will adopt its report on 18 November. The EP will present its report in its Committee on Foreign Affairs on 3 November. The NATO PA will present its report to the Standing Committee at its Annual Session in the Hague on 23 November.

PRELIMINARY CONCLUSIONS

The 26 October early parliamentary elections marked an important step in Ukraine's aspirations to consolidate democratic elections in line with its international commitments. There were many positive points to the process, such as an impartial and efficient Central Election Commission, an amply contested election that offered voters real choice, and a general respect for fundamental freedoms. The newly elected parliament should take the political responsibility to ensure that key reforms are passed to prevent certain bad practices noted in this statement from becoming entrenched. As well, grievances should be resolved with respect for the rule of law and through democratic institutions. In most of the country, election day proceeded calmly, with few disturbances. Voting and counting were transparent and assessed positively overall. The early stages of the tabulation process were viewed more negatively by observers, with tensions in some cases.

The elections took place in an increasingly challenging political and security environment, notwithstanding the September Minsk agreements. The context was characterized by the illegal annexation of the Crimean peninsula by the Russian Federation, the ongoing hostilities in the east of the country, and the continued *de facto* control of parts of the territory by illegal armed groups. Electoral authorities made resolute efforts to organize elections throughout the country, but they could not be held in parts of the regions (*oblasts*) of Donetsk and Luhansk or on the Crimean peninsula.

Candidates were generally free to campaign, and the election campaign was competitive and visible. Misuse of administrative resources was not named as an issue of major concern, unlike in previous elections. Some contestants reported that cases of intimidation and obstruction influenced their campaign strategies. In the last ten days of the campaign, observers noted a marked increase of violence targeting some election stakeholders, intimidation of and threats against candidates and campaign workers, and cases of targeted destruction of campaign materials and offices. There were a number of credible allegations of vote buying, many of which are being investigated by the authorities.

The legal framework, which was amended in 2013 and 2014, is generally adequate for the conduct of democratic elections. The recent amendments addressed some recommendations made previously by the OSCE/ODIHR and the Council of Europe's European Commission for Democracy through Law (Venice Commission), but did not address a number of concerns, including certain candidacy requirements which are at odds with OSCE and Council of Europe commitments and international obligations. Despite attempts and notwithstanding public demand, the outgoing parliament did not pass comprehensive electoral reform.

The Central Election Commission (CEC) operated independently and collegially overall and met all legal deadlines. While CEC sessions were generally open for parties, candidates, observers and the media, the practice of the CEC holding preparatory meetings before sessions and the resulting lack of substantive discussion in the sessions themselves decreased the transparency of the CEC's work. District Election Commissions (DECs) and Precinct Election Commissions (PECs) were formed within the legal deadlines, with slight delays in isolated cases. The work of DECs was assessed as good or adequate overall. However, as in previous elections, parties and candidates replaced on average half or more of commission members nominated by them, which affected the stability and efficiency of the election administration.

Interlocutors expressed confidence in the accuracy of the voter register. Authorities made significant efforts to facilitate the participation of voters from Donetsk and Luhansk *oblasts* by simplifying the procedure for the temporary transfer of the voting address. Nevertheless, a limited number availed themselves of this opportunity.

Candidate registration was generally inclusive, with the CEC registering over 6,600 candidates on party lists and in single-mandate districts, providing voters a choice among a wide range of parties and candidates. However, the process was affected by the rejection of over 640 nominees on technical grounds and by the non-uniform approach of individual CEC members who reviewed parties' and candidates' applications.

The 2013 amendments to the election law introduced limited measures to increase the transparency of campaign finances; however, several previous recommendations of the OSCE/ODIHR and the Venice Commission remain unaddressed, and enforcement mechanisms and sanctions remain weak. Public perceptions of corruption are pervasive and undermine confidence in the political process. The issue of corruption in society was an important topic of the election campaign, and was invoked by many stakeholders as a key challenge across different aspects of the process.

While the media environment is dynamic and diverse and the legislation generally provides a sound framework for freedom of the media, the lack of autonomy from political or corporate interests restricts independent reporting. Steps taken prior to the elections to stop certain channels from broadcasting alleged propaganda, while not directly impacting the elections, restricted freedom of information. The ongoing hostilities in the east prevented Ukrainian broadcasters from transmitting and continued to jeopardize the safety of journalists in the area. OSCE/ODIHR EOM media monitoring showed that reporting was dominated by the crisis in the east. State-owned media

provided contestants with free airtime, as required by law. In a positive initiative, state-owned national TV hosted debates among political parties. Monitoring results indicated that voters were provided with extensive information. Private broadcasters provided varied coverage to different political contestants, but sometimes misrepresented their political affiliation. President Petro Poroshenko and Prime Minister Arseniy Yatsenyuk took unfair advantage of their positions with televised appeals to voters to elect a pro-reform parliament on the eve of the election during the campaign silence period.

Minorities' participation in these elections was affected by the crisis in the east and the illegal annexation of Crimea, which made it difficult to organize elections in those parts of the country where nearly half of the 14 million citizens who identify themselves as native Russian speakers, as well as the Crimean Tatars, live. The electoral legal framework is not conducive to national-minority representation. The boundaries of electoral districts did not take minority interests into consideration, although provided by law. No intolerant speech towards minorities was observed during the campaign, but many candidates used nationalistic campaign rhetoric.

The CEC received a high number of complaints before election day. Most complaints filed with the CEC were considered in private by individual CEC members, rather than by the commission as a whole, which undermined the transparency and collegiality of the process. Furthermore, the CEC took an overly formalistic approach, dismissing many complaints due to minor deficiencies. Higher courts adjudicated election-related cases in a non-uniform manner.

The registration and accreditation of observers by the CEC was inclusive. It granted permission to 37 Ukrainian non-governmental organizations to observe the election process and registered a high number of international observers. *OPORA* and *CVU* mounted the most comprehensive exercises.

The legislation guarantees equality between women and men in public and political life. While around a quarter of the candidates on party lists were women, an increase of 6 per cent compared to the 2012 elections, women accounted for only 13 per cent of majoritarian candidates. Women are well-represented at the CEC and DEC, including in leadership roles.

In most of the country, election day proceeded calmly, with few disturbances and only isolated security incidents reported during voting hours. The CEC started posting detailed preliminary election results disaggregated by polling stations on its website at around 23:00 and reported voter turnout at 52.4 per cent. Due to the efforts of the election administration to ensure voting in as much of the east as possible under extraordinary circumstances, voting took place in 12 of the 21 election districts in Donetsk *oblast* and in 5 of the 11 districts in Luhansk *oblast*. The voting process was well-organized and orderly, and assessed positively in 99 per cent of polling stations observed, although some procedural problems were noted. The vote count was assessed somewhat more negatively as established procedures were not always followed. The early stages of the tabulation process were assessed negatively in 17 cases, mainly due to inadequate premises and overcrowding, as well as tension in some DEC.

PRELIMINARY FINDINGS

Background

These early parliamentary elections were held under increasingly challenging political and security circumstances. Hostilities which started in the spring are ongoing in the east of the country, and, *de facto*, illegal armed groups continue to control of parts of Donetsk and Luhansk regions (*oblasts*). A ceasefire agreement and an implementation memorandum were signed in Minsk on 5 and 19 September, respectively. However, violence continued throughout the pre-election period, albeit

reduced.¹ No voting took place on the Crimean peninsula, which was illegally annexed by the Russian Federation in March.²

Events over the past year and challenges to Ukraine's territorial integrity reshaped the country's political landscape. On 25 May, Petro Poroshenko was elected the country's new president. The Party of Regions (PoR), which won the last parliamentary elections in 2012, did not register a party list for these elections.³ Candidates of the United Democratic Alliance for Reform (UDAR), one of the five political parties to pass the five per cent threshold in 2012, competed as part of the Petro Poroshenko Bloc (PPB) party. The Communist Party of Ukraine (CPU) contested the elections while proceedings to prohibit the party were ongoing.⁴ Besides the Radical Party of Oleh Lyashko (RP), All-Ukrainian Union – *Batkivshchyna*, Civil Position (CP) and *Svoboda*, other prominent contestants included the recently formed People's Front (PF), Self-Reliance (*Samopomich*), OB and the re-established SU. Some two-thirds of the incumbent members of parliament stood for re-election.

Legal Framework and Election System

Parliamentary elections are regulated by the Constitution, the Law on the Election of People's Deputies (hereinafter, election law), the Law on the Central Election Commission (CEC), the Law on the State Voter Register, other laws, and regulations of the CEC. The legal framework for parliamentary elections was amended in 2013 and 2014, addressing some recommendations made previously by the OSCE/ODIHR and the Venice Commission. The amendments, among others, provided the criteria for the establishment and delimitation of single-mandate districts and required considering the interests of national minorities in this process, allowed for correction of mistakes and inaccuracies in candidate registration documents, reduced the number of voters allocated to polling stations, and lowered the amounts of electoral deposits.⁵

At the same time, these changes did not address a number of concerns noted previously by the OSCE/ODIHR and the Venice Commission. Certain candidacy rights remain restricted due to the limitations for those with prior criminal records, regardless of the gravity of crime committed, and due to the five-year residency requirement. Both requirements are at odds with OSCE and Council of Europe commitments and other international obligations.⁶ Other concerns include the lack of provisions for the formation of party blocs, and the existing formula for the composition of District Election Commissions (DECs) and Precinct Election Commissions (PECs) that puts parties with parliamentary factions at an advantage. The legal framework also continues to be fragmented and in many instances is unclear. The ambiguity of the law was aggravated by non-uniform application of certain provisions by the CEC and courts, resulting in uneven conditions for contestants.

¹ A law awarding 'special status' to territories in the Donetsk and Luhansk *oblasts* was adopted by parliament on 16 September and signed by the president on 16 October.

² A so-called 'referendum' on the Crimean peninsula on 16 March, in breach of Ukraine's Constitution, was followed by decisions of the two chambers of the Russian parliament to include Crimea and the city of Sevastopol as federal subjects of the Russian Federation. See the Council of Europe's European Commission for Democracy through Law (Venice Commission) Opinion No. 762/2014, adopted on 21 March 2014. The opinion is available at: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)002-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)002-e).

³ Some PoR candidates ran in majoritarian contests. Many more people formerly affiliated with PoR stood as self-nominated candidates or were nominated by other parties, mainly the Opposition Bloc (OB) and Strong Ukraine (SU).

⁴ Proceedings to ban the CPU were initiated by the Ministry of Justice on 8 July.

⁵ Further amendments to the legal framework were made on 14 October 2014, when parliament adopted changes in the Criminal Code increasing liability for election-related offenses.

⁶ See paragraph 7.5 of the 1990 OSCE Copenhagen Document, paragraph 15 of the 1996 UNHRC General Comment No. 25, Section I.1.1.c of the Code of Good Practice in Electoral Matters of the Council of Europe's European Commission for Democracy through Law (Venice Commission), and case law of the European Court of Human Rights (*Hirst v. UK*).

Under the election law, the parliament is elected for a five-year term and is composed of 450 members, one half of whom are elected on the basis of proportional representation with closed party lists in one single nationwide constituency. The other half are elected in single-mandate districts under a plurality system (first-past-the-post). Political parties must receive at least five per cent of all votes cast in order to participate in the distribution of mandates in the proportional system. Following the reinstatement of the 2004 constitutional amendments, members of parliament (MPs) will lose their mandate if they fail to join or if they leave the parliamentary faction of the political party for which they were elected.⁷ The mixed electoral system is viewed by many stakeholders as deficient and prone to electoral irregularities.⁸ Despite this and notwithstanding public demand, the outgoing parliament did not reform the electoral system.

Election Administration

The elections were administered by the CEC, 213 DEC, and 29,977 PECs. No election bodies could be formed in Crimea. The CEC is a permanent institution tasked with, among other things, ensuring the protection of citizens' electoral rights and providing for the uniform implementation of the election law. The CEC operated independently and collegially, overall, meeting all legal deadlines. Since 27 August, the CEC passed 1,266 resolutions. Most CEC resolutions were adopted unanimously and all were published on the CEC website, providing transparency.

In general, CEC sessions were open to parties, candidates, observers and media representatives and were announced in advance on the CEC website.⁹ The transparency of the work of the CEC was decreased by the practice of holding preparatory meetings behind closed doors, unlike during the early presidential election, when observers were allowed to attend such meetings. The sessions lacked substantive discussion, which was apparently taking place during the preparatory meetings, and observers were usually not provided with draft decisions or other materials, apart from the session agenda.¹⁰

On 5 September, the CEC formed the DEC based on nominations from political parties participating in the proportional component of the elections. The initial appointment of DEC members was followed by a high number of replacements, including of chairpersons, deputy chairpersons and secretaries (so-called executive positions), which increased the CEC's workload and delayed the work of DEC. Since 9 September, 2,207 of the 3,769 DEC members (58.8 per cent) were replaced, including 459 executives.¹¹ Replacements occurred in all DEC¹² with 588 replacements in Donetsk and Luhansk *oblasts*, including in DEC which according to the CEC were not functioning.¹³

⁷ This is at odds with paragraph 7.9 of the 1990 OSCE Copenhagen Document. The Venice Commission repeatedly criticized the relevant provision of the 2004 Constitution; see: Report on the Imperative Mandate and Similar Practices, available at: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2009\)027-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2009)027-e).

⁸ The electoral system has long been a subject of controversy in Ukraine and the majoritarian component of the mixed system has been viewed by many interlocutors to be particularly vulnerable to fraud. See the OSCE/ODIHR and Venice Commission Joint Opinions on this issue, mainly CDL-AD(2011)037, para.22, and CDL-AD(2013)016, para.15.

⁹ Several CEC sessions were not announced at all or took place earlier than had been announced.

¹⁰ The Law on the CEC stipulates that the commission must act in an open and public manner and allows observers and proxies to participate in discussion on all issues. Furthermore, the CEC Rules of Procedures allows invited persons to attend CEC 'preparatory' meetings. The OSCE/ODIHR EOM was allowed to observe five preparatory meetings before election day.

¹¹ Of the 2,207 replaced members, approximately 6 per cent were reappointed as nominees of different electoral subjects than the ones that nominated them initially.

¹² In 35 DEC, more than two thirds of members were replaced.

¹³ DEC 41–44, 51, 54–56, 61 in Donetsk *oblast* and DEC 104, 105 108–111 in Luhansk *oblast*. These DEC are responsible for 1,732 PEC with some 2.3 million registered voters.

OSCE/ODIHR EOM observers visited around 180 DEC, some more than once. In about 80 per cent of cases, observers assessed the organization and preparations for elections as good or adequate. While electoral authorities made resolute efforts to organize elections throughout the country, the hostile security environment in parts of Donetsk and Luhansk *oblasts* negatively affected electoral preparations in a relatively high number of electoral districts there. In an effort to facilitate their work, the offices of several DEC were moved to government-controlled areas within these *oblasts*. According to the CEC, of the total of 32 DEC established in these two *oblasts*, 17 were fully or partly operational on election day and night.¹⁴ These operational DEC included territories within their boundaries, which are currently not under government control.¹⁵

OSCE/ODIHR EOM observers reported that overall, DEC formed PEC by the legal deadline of 10 October. In general, the PEC formation process was assessed as orderly and mostly in line with procedures. Regrettably, OSCE/ODIHR EOM observers were consistently denied access to IT rooms to observe the processing of nominee lists.¹⁶ In addition, a number of factors negatively affected PEC formation. In particular, data processing problems with the CEC's information system *Vybory*, mistrust among DEC members towards each other or the process, as well as prolonged discussions involving party/candidate proxies and observers during allocation of executive positions overburdened DEC during the PEC formation. It is noteworthy that the first wave of replacements of PEC members started shortly after their formation and continued up until election day thereby affecting both the work of DEC and PEC. In some cases half or more than half of commissioners were replaced.

Women are well-represented at the DEC level, where they account for 54 per cent of all members. As of 24 October, 99 DEC are chaired by women, while there are 107 female deputy chairpersons and 144 secretaries. In the CEC, 5 of the 15 members, including one of the two deputy chairpersons and the secretary, are women.

Upon a request from the CEC, the International Foundation for Electoral Systems (IFES) conducted training for DEC and PEC members. OSCE/ODIHR EOM observers in general assessed the trainings they attended positively. The OSCE Project Co-ordinator in Ukraine (PCU), upon the request of the CEC, launched an online training tool for election commissioners and other participants of the electoral process. Unfortunately, on the eve of the election this training platform was hacked and rendered temporarily inaccessible by www.cyber-berkut.org. The CEC website was also subject to denial of service attacks, but continued to function on election day.

Voter Registration

Voters are registered automatically in the centralized State Voter Register (SVR). The CEC supervises the central SVR office, 27 Registration Administration Bodies and 756 Register Maintenance Bodies (RMBs), which continuously update and maintain the SVR. According to the CEC, as of 20 October deadline, 35,828,401 voters were registered. This included some 681,600 homebound voters who were registered to vote at their place of stay, and 460,000 voters who were registered to vote at 112 polling stations abroad.

¹⁴ DEC 45 – 50, 52, 53, 57 - 60 and DEC 106, 107, 112, 113 and 114 in Donetsk and Luhansk *oblasts*, respectively. These DEC are responsible for 2,167 PEC with some 2.7 million registered voters. According to the election law, a DEC must establish election results regardless of the number of precincts declared invalid.

¹⁵ On 14 October, the CEC passed resolution addressing parliament to urgently consider draft law regulating certain aspects of electoral law, *intel alia*, related to conduct of elections in Donetsk and Luhansk *oblasts*. The parliament did not consider the mentioned draft law.

¹⁶ On 6 October, the CEC adopted Resolution No. 1493 to ensure the safety and protection of those components of the “*Vybory*” system that are located in DEC premises.

Interlocutors expressed confidence regarding the accuracy of the voter register. Preliminary voter lists were extracted from the SVR and compiled separately for each polling station. OSCE/ODIHR EOM observers reported that almost all PECs for which handover was observed received the preliminary voter lists within or shortly after the deadline.

As of 25 October, 54 of the 96 RMBs in Donetsk and Luhansk *oblasts*, which are responsible for 3.2 million registered voters, were temporarily closed. Consequently, around 1,500 PECs received the preliminary voter lists (out of 3,899 in these *oblasts*). Final voter lists were to be printed and distributed to PECs on 23 October.

The election law allows all eligible voters to change, on a temporary basis, their voting address.¹⁷ On 7 October, the CEC adopted a simplified procedure in an effort to facilitate the participation of internally displaced persons (IDPs) and other voters from Donetsk and Luhansk *oblasts* in these elections.¹⁸ Voters from the Crimean peninsula had a similar simplified procedure. As of 20 October deadline, some 190,200 voters requested to temporarily change their voting address, including some 25,000 military personnel, 3,600 voters from the Crimean peninsula,¹⁹ and some 32,800 voters from Donetsk and Luhansk *oblasts*.

Candidate Registration

The election law requires a financial deposit and a variety of documentation for the registration of candidates or party lists. Candidates in single-mandate districts could be nominated by political parties or through self-nomination. Parties are entitled to put forward electoral lists of no more than 225 candidates for the nationwide election district and one candidate per single-mandate district.

Candidate nomination lasted from 28 August to 25 September. The CEC had to decide on more than 7,000 registration requests within five days of receiving a nomination.²⁰ A total of 6,684 candidates were registered; 3,128 candidates on 29 party lists and 3,556 in single-mandate districts, of whom 1,405 nominated by parties and 2,151 self-nominated.²¹

The registration process was generally inclusive and provided voters a wide choice among different parties and candidates. However, it was affected by the rejection of over 640 candidates on technical grounds or due to minor omissions, which appears to be contrary to the election law.²² Although most resolutions on candidate registration were adopted unanimously, the approach of individual CEC

¹⁷ Such voters have to justify their requests. Requests must be made no later than five days before election day. Voters who would like to temporarily transfer their voting address outside their respective single-mandate constituency are only entitled to the proportional ballot.

¹⁸ According to CEC Resolution No. 1529 of 7 October, voters from Donetsk and Luhansk *oblasts* do not need any justification when requesting temporary changes of their voting address. On 6 October, the CEC adopted Resolution No. 1495 that allows any RMB to enter changes to the voter registration records of residents of Donetsk and Luhansk *oblasts*.

¹⁹ The total number of voters registered on the Crimean peninsula as of 21 October was 1,799,918.

²⁰ According to the CEC chairperson, the period during which prospective candidates could submit their documentation was overly long in light of the generally shortened deadlines for the early elections.

²¹ A total of 235 candidates in single-mandate districts withdrew after being registered.

²² Article 60.3 of the election law states that errors and inaccuracies detected in documents submitted by candidates for registration shall be subject to correction and shall not be a reason for refusing to register a candidate. Also, Paragraph 24 of the 1990 OSCE Copenhagen Document states that “[any] restrictions on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.” See also the Venice Commission’s Code of Good Practice in Electoral Matters, CDL-AD(2002)023, para. I.1.1.1.d.

members in this regard lacked uniformity.²³ Some CEC decisions were appealed to the Kyiv Administrative Court of Appeal or the High Administrative Court; ultimately, 49 candidates were additionally registered based on court decisions.

While around 25 per cent of the candidates on party lists were women, an increase of 6 per cent compared to the 2012 elections, women accounted for only 13 per cent of majoritarian candidates. Equal rights between men and women, including in public and political life, are guaranteed by the Constitution and further protected by the election law and the Law on Ensuring Equal Rights and Opportunities of Women and Men. Yet, the level of women's representation remains minimal.

The Campaign Environment and Campaign Finance

The campaign was competitive and visible, although some contestants told the OSCE/ODIHR EOM that due to the exceptional circumstances, they chose to run less lavish campaigns than in previous elections. However, it was subdued in parts of the country, especially in rural areas. Billboards, banners and posters were numerous and prominently displayed in cities and towns and along major roads. The most visible campaigns were those of *Batkivshchyna*, PPB, PF, CP, RP and SU. Only a few large rallies were held, however, with most contestants opting for smaller meetings with voters. Many parties and some candidates used social media to attract voters. Some interlocutors claimed that the relatively low visibility of their campaign was a function of both cost saving in order to fund volunteer battalions in the east and concerns about the appropriateness of high campaign spending during exceptional circumstances.

The OSCE/ODIHR EOM observed 87 rallies and meetings with voters. Although candidates were able to campaign freely in most parts of the country, the campaign was marred by violent incidents that targeted some candidates, their campaign workers and campaign events.²⁴ Observers noted a marked increase of such incidents in the last ten days of the campaign. Some contestants reported that cases of intimidation and obstruction influenced their campaign strategies. A number of candidates and other election stakeholders were also subjected to so-called 'street lustration' directed at individuals associated with the former authorities, including MPs who voted in support of the 16 January laws curtailing democratic freedoms.²⁵ Aggressive rhetoric and instances of negative PR aimed at discrediting competitors persisted. Many OSCE/ODIHR EOM observers reported sighting or receiving reports of destroyed campaign offices or tents, and targeted defacing of campaign posters in some cases.²⁶ A high number of credible allegations of vote buying and provision of commodities or

²³ According to CEC Resolution No. 177, all CEC members are assigned specific parties or *oblasts* (and single-mandate districts within those *oblasts*) and reviewed candidates' documents from the respective party or *oblast*. Some CEC members opted to inform and allow candidates to correct errors or omissions, while others did not. While 7 CEC members proposed rejection of candidates for less than 5 per cent of nominations they reviewed, 1 CEC member proposed to reject half of the applications she reviewed; 5 CEC members proposed to reject over 20 per cent of the applications reviewed by them. All their proposals were adopted by the CEC.

²⁴ The Ministry of Internal Affairs informed the OSCE/ODIHR EOM on 16 October that it had registered 572 election-related complaints and incidents, including 23 that involved infliction of bodily harm. Criminal charges were pressed in 31 cases, and in 6, administrative sanctions were applied. Some 274 incidents could not be confirmed. Violence and threats against candidates and campaign workers were reported by OSCE/ODIHR observers from all across the country.

²⁵ Cases of 'street lustration' of individuals associated with the former government, including candidates and other election stakeholders, were reported by OSCE/ODIHR EOM observers from Kyiv city, as well as from Chernihiv, Dnipropetrovsk, Kirovohrad and Odesa *oblasts*. In many instances of 'street lustration', targets were thrown into trash bins, with several enduring other forms of humiliation meant to supplant an official lustration process. Several candidates expressed support for the 'street lustration' process. OSCE/ODIHR EOM observers reported that an investigation in one such case was opened in Odesa.

²⁶ OSCE/ODIHR EOM observers saw or received reports on destroyed campaign offices or tents from Dnipropetrovsk (CPU, OB, RP, PPB, one self-nominated), Ivano-Frankivsk (RP), Kharkiv (CPU, OB), Odesa (*Batkivshchyna*) and Zaporizhya (RP) *oblasts*.

services to individuals or groups paid for by candidates were made to OSCE/ODIHR EOM observers, with many cases being investigated by the authorities.²⁷ On 25 October, during the campaign-silence period, billboards and posters bearing a striking visual resemblance to the campaign materials of several candidates went on display, in violation of the election law.

Voters had choice among a wide range of parties and candidates. Many incumbent MPs shed their previous political affiliation, or associated with other political parties, while several independent candidates enjoyed more or less overt support of certain parties.²⁸ Moreover, majoritarian elections included a high number of so-called ‘clones’ with names similar to those of other candidates, as well as ‘technical’ candidates who interlocutors believed were spoilers, who did not campaign and allegedly only registered to obtain representation in election commissions.²⁹ Some parties withdrew their majoritarian candidates in favor of other contestants at a late stage of the process, in a few instances reportedly due to intimidation.

Campaign rhetoric was heavily influenced by continued violence in Donetsk and Luhansk *oblasts*. Themes of national unity, territorial integrity and defense, decentralization and ‘special status’ for the territories in the east dominated the campaign rhetoric. Public perceptions of corruption are pervasive and undermine confidence in the political process.³⁰ The issue of corruption in society was an important topic of the election campaign, and was invoked by many stakeholders as a key challenge across different aspects of the process; this included the election administration, the campaign and candidates’ ability to reach a wide media audience.³¹ Other pressing issues, such as lustration and economic reform were also raised. Most parties also focused on the country’s foreign policy. Some interlocutors remarked that the campaign was overly focused on personalities, to the detriment of a substantive debate on issues deemed critical to Ukraine’s future.

Issues of equal participation of men and women in elections and the country’s political life more broadly were generally not part of the campaign and did not feature prominently in most candidate or party programmes. The difficulty women candidates faced in securing funding for their campaigns was cited by some OSCE/ODIHR EOM interlocutors as a key reason for the low level of participation of women candidates, especially in single-mandate constituency elections.

Unlike in past elections, the misuse of administrative resources was not an issue of major concern. Although some candidates holding executive or high administrative positions took official leave to campaign, several others remained in office. The high visibility of some state, regional and local officials at public events was deemed by some interlocutors as providing an undue advantage to affiliated contestants. President Petro Poroshenko and Prime Minister Arseniy Yatsenyuk took unfair advantage of their positions with appeals to voters to elect a pro-reform parliament on the eve of the election during the campaign silence period.³²

The 2013 amendments to the election law introduced limited measures to increase the transparency of campaign finances. The size of electoral funds, from which all campaign expenses must be paid directly by bank transfer, is now established in the law. There are no limits on individual donations,

²⁷ On 18 October, the Minister of Internal Affairs stated that 141 cases of voter bribery were under investigation.

²⁸ In some instances contestants used symbols of parties that did not officially endorse their candidacies.

²⁹ PEC members nominated by so-called ‘technical’ candidates are widely seen as representing, in reality, the interests of other contestants, who allegedly use these members to unduly gain more influence in these PECs.

³⁰ On 14 October, the parliament adopted a package of anti-corruption laws that, among others, created a new oversight body. These laws were signed by the president on 23 October.

³¹ Ukraine was ranked 144th out of 177 countries in Transparency International’s Corruption Perception Index 2013, with a score of 25 out of 100 (see: <http://www.transparency.org/cpi2013/results>).

³² President Poroshenko is the honorary chairperson of the PPB, while Prime Minister Yatsenyuk is the chairperson of PF. Paragraph 5.4 of the 1990 OSCE Copenhagen Document provides for “a clear separation between the State and political parties; in particular, political parties will not be merged with the State.”

and in-kind contributions are unregulated.³³ A number of previous OSCE/ODIHR and Venice Commission recommendations have not been addressed,³⁴ and campaign finance enforcement mechanisms remain weak. Requirements that parties and candidates publish reports on donations and spending during the pre-election period are insufficiently specified.³⁵ These issues were named by some interlocutors as factors, which permit the country's wealthy business elite to wield disproportionate influence over the campaign process.

The Media

The media environment is lively and diverse, with a wide range of media outlets. Yet, the lack of autonomy of the media from political or corporate interests restricts independent reporting, both at the national and regional level. Furthermore, the limited advertising market and low professional standard of journalism contribute to the practice of paid-for news items, known as 'jeansa'. Television remains the main source of information, but Internet sources are increasing their audience and role. There are a high number of print media outlets, but their readership is limited. State-owned television and radio, which includes national and regional channels, is currently undergoing a transitional period, pending its transformation into a public-service broadcaster.

The legislation generally provides a sound framework for freedom of the media. Nonetheless, ongoing hostilities in the east prevented Ukrainian broadcasters from transmitting and continued to jeopardize journalists' safety in the area, as they are hindered in their work, receive constant threats, and have been abducted and killed.³⁶ Steps taken prior to the elections to stop certain channels from broadcasting alleged propaganda, while not directly impacting the election, restricted freedom of information.³⁷

The conduct of the media during the election campaign is regulated by the election law, which stipulates that both state and private media should offer balanced coverage and provide contestants with equal conditions. In line with the law, contestants were granted free airtime in state national and regional media. The National Television and Radio Broadcasting Council (NTRBC) supervised the media's compliance with existing laws during the election campaign.³⁸ NTRBC's authority was limited to issuing warnings. However, the decisions on detected violations were not made public during the pre-election period, which lessened the body's effectiveness. Civil society organizations made a positive contribution by monitoring national and regional media.

³³ The sources of funds are limited to a party's or candidate's own resources and private donations. The size of an electoral fund for a party with a candidate list may not exceed 90,000 minimum salaries (some UAH 112.5 million or less than EUR 7 million), while for a majoritarian candidate it may not exceed 4,000 minimum salaries (some UAH 5 million or just over EUR 300,000).

³⁴ See CDL-AD92013)016 and CDL-AD(2013)026.

³⁵ Interim financial reports on the receipt and use of funds must be filed not later than 20 days before election day with the CEC by parties, and with DEC's by majoritarian candidates. Final financial reports must be filed with the CEC not later than 15 days after election day by parties, and with DEC's not later than 10 days by majoritarian candidates.

³⁶ See Statement by Ukrainian and Russian media organizations adopted following a meeting at the Office of the OSCE Representative on Freedom of the Media, available at <http://www.osce.org/fom/124537?download=true>.

³⁷ Six television channels were banned from being rebroadcast by decisions of Kyiv Administrative Court at the request of the Television and Radio Broadcasting Council. Decisions with regard to five channels were appealed to Kyiv Appellate Administrative Court. Appeal concerning one of the channels was rejected and decisions regarding four other channels are pending.

³⁸ The presence among the members of the NTRBC of two people running on the proportional list of PPB raises concerns over a possible conflict of interest and may undermine the independence of the regulatory body.

OSCE/ODIHR EOM media monitoring showed that during the campaign period, the political debate in the media was dominated by the crisis in the east.³⁹ National broadcast media covered the campaign in a variety of formats. In several instances, broadcast media while covering and hosting candidates did not present them as such, in other cases candidates were labeled with a different political affiliations than the ones under which they were registered for these elections; this may have confused voters and have limited their ability to make an informed choice on election day.

The news coverage of the campaign by the state-owned *First National Channel* was limited, and 55 per cent of relevant news was devoted to the work of state institutions.⁴⁰ In a positive initiative, the channel organized and broadcast “National Debates” among political parties.⁴¹ In the remaining editorial programmes, PF, *Batkivshchyna* and PPB received the highest amount of the airtime (13, 12 and 11 per cent, respectively). National private TV channels provided varied coverage to different political contestants. In particular, *5 Channel* devoted a total of 38 per cent of its coverage to President Poroshenko and PPB.⁴² *TRK Ukraina* offered considerable amount of coverage to OB (21 per cent). *I+I* devoted 16 per cent of mainly negative editorial coverage to RP, in particular its leader. Three political parties purchased 54 per cent of all paid advertising on the monitored national channels, namely PPB and *Batkivshchyna* (17 per cent each) and PF (20 per cent). Voter education spots were almost absent on national broadcast media.

Participation of National Minorities

Electoral rights of national minorities in these elections were negatively affected by circumstantial and systemic factors. Voting could not be organized in parts of Donetsk and Luhansk *oblasts* and on the Crimean peninsula, where over half of the 14 million citizens who identify themselves as native Russian speakers, as well as the Crimean Tatars, live. Measures adopted to simplify voting procedures for residents and IDPs from these regions still required two trips for out-of-region registration and voting, entailing time, risk and expense.⁴³ Crimean Tatar representatives also informed the OSCE/ODIHR EOM that their community is too intimidated by increased repression against them in Crimea to travel outside the territory on election day.⁴⁴

Some aspects of the electoral legislation are not conducive to minority participation or representation. Requirements for political parties to draw their base from two-thirds of the country’s *oblasts*, the five per cent threshold for party lists, a lack of legal provisions for electoral blocs and the lack of special measures promoting minority participation limit the possibilities for minority parties or their representatives to enter parliament.⁴⁵ While the election law was amended in 2013 to incorporate

³⁹ On 26 September, the OSCE/ODIHR EOM commenced a quantitative and qualitative media monitoring of the state-owned *First National Channel*; private TV channels *Inter*, *5 Channel*, *ICTV*, *I+I* and *TRK Ukraina*, as well as two private regional TV channels, *ZIK TV* (Lviv) and *A/TVK* (Kharkiv).

⁴⁰ Namely the president, prime minister, government and National Security and Defense Council.

⁴¹ Seven debates, each with representatives of four political parties, took place from 13 to 23 October. All parties except the CPU agreed to participate.

⁴² *5 Channel* is owned by President Poroshenko.

⁴³ According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) Situation Report No. 17, as of 24 October 2014, there were 430,059 IDPs in Ukraine, while approximately 454,339 people had fled to neighboring countries. See <http://reliefweb.int/sites/reliefweb.int/files/resources/Sitrep%2017%20-%20Ukraine.pdf>. NGOs estimate that the true number of IDPs may be twice as high, due to their reluctance to register.

⁴⁴ Since the annexation of Crimea in March, nine Crimean Tatars have disappeared and three have been found dead, two during the election period. The community also complains of interrogations and searches of their homes.

⁴⁵ See, among others, the Council of Europe Parliamentary Assembly Report, The functioning of democratic institutions in Ukraine, Doc 12814, 9 January 2012, 15.3, available at: <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta12/ERES1862.htm>.

recommendations that ethnic composition be taken into account when drawing electoral boundaries,⁴⁶ constituency boundaries were not redrawn before these elections. This prompted a complaint from the Hungarian minority that the delimitation of electoral districts in Zakarpattya *oblast* from 2012 would again prevent them from securing a majoritarian MP.

Intolerant speech directed at minorities was not observed, despite the fact that the campaign rhetoric by many candidates was nationalistic and aggressive in nature.⁴⁷ Debate about language policy was subdued or absent, in contrast to previous election campaigns, and minority issues did not figure in most party platforms. Less than a dozen known national minority representatives appeared on major party lists. National minority candidates appeared to be represented slightly more in single-mandate constituencies with concentrated minority settlements.

Complaints and Appeals

Complaints and appeals can be submitted by all participants in the electoral process, either to superior election commissions or to administrative courts. If the same complaint is filed with both the election administration and the judiciary, the election commission is required to suspend consideration of the complaint pending resolution in the court. It has been a long-standing recommendation of the OSCE/ODIHR and the Venice Commission to clarify the concurrent jurisdiction of election commissions and courts over electoral disputes.⁴⁸

As of 24 October, the CEC received 278 complaints. Only 24 of these were considered in full session. All other complaints were considered in private and responded by individual CEC members, thereby undermining the transparency and collegiality of the process. In addition, a large number of complaints (about 85 per cent of complaints lodged) were dismissed due to technical omissions in formulating them, leaving complainants without effective redress, contrary to OSCE commitments.⁴⁹

Some 294 election-related complaints were filed with the Kyiv Administrative Court of Appeal, of which 227 were subsequently appealed to the High Administrative Court. Most of these cases concerned candidate registration. Despite the large number of appeals, these courts adjudicated complaints within the compressed timeframes envisaged by law for electoral disputes. However, there were several cases of non-uniform interpretation of the law by different panels of judges of the same court, in both instances.⁵⁰ This effectively undermined legal certainty, as well as the principle of equality before the law. Despite its explicit disagreement with the courts' rulings concerning candidate registration, the CEC complied with all judgments and took necessary actions to restore the complainants' rights.

⁴⁶ OSCE/ODIHR and Venice Commission Joint Opinion on the Draft Amendments to the Laws on Election of People's Deputies and on the Central Election Commission and on the Draft Law on Repeat Elections of Ukraine, June 2013, III (B) 25–27, available at: <http://www.osce.org/odihr/elections/102816?download=true>.

⁴⁷ One incident of hate speech and depictions of violence against the Russian community in campaign posters was observed in connection with the campaign of the *Svoboda* candidate in DEC 223 in Kyiv. The candidate disavowed these posters, stating that they were black PR against him.

⁴⁸ See, among others, CDL-AD(2013)016, para.98. See also the Code of Good Practice in Electoral Matters, p.II.3.3.C.c. The Venice Commission conducted training for administrative court judges on electoral dispute resolution in October 2013.

⁴⁹ Paragraph 5.10 of the 1990 OSCE Copenhagen Document requires that “everybody will have effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”.

⁵⁰ This was acknowledged by both courts' judges, who informed the OSCE/ODIHR EOM that each panel had discretion in applying the law according to their judgment while not being bound by any prior decisions of either superior courts or the same court.

PECs and DECAs, as well as district courts received a moderate number of complaints, mostly concerning allegations of vote-buying, violation of campaign regulations, voter lists and composition of election commissions.

Citizen and International Observers

The election law provides for observation of the election process by international and citizen observers. Observers enjoy broad and comprehensive rights during the entire election process, including the right to attend DEC and PEC sessions and to receive copies of result protocols.⁵¹ The accreditation process for election observers was inclusive. In total, 37 Ukrainian non-governmental organizations (NGOs) were granted permission to have official observers; 23 of them, including *OPORA* and the Committee of Voters of Ukraine (CVU), registered observers. The CEC registered 2,321 international observers from 20 international organizations and 21 foreign states.

Election Day

In most of the country, election day proceeded calmly, with few disturbances. Only isolated security incidents were reported by IEOM observers during voting hours, but tensions in some districts rose during tabulation. The CEC reported voter turnout at 52.4 per cent. It started posting detailed preliminary election results disaggregated by polling stations on its website at around 23:00.

All but 5 of the 253 openings of polling stations observed were assessed positively, and observers reported very few minor procedural problems, mainly related to the sealing of ballot boxes. One in five polling stations observed opened for voting with slight delays. IEOM observers assessed voting positively in 99 per cent of polling stations observed as were the circumstances in and around polling stations, although campaigning was noted outside 3 per cent and inside 2 per cent of polling stations. There were relatively few cases of overcrowding (5 per cent, often due to inadequate layout) or of large groups waiting outside to vote (3 per cent). Only isolated instances of tension, obstruction or intimidation were observed. Over one half of polling stations visited were not readily accessible to people with disabilities, and the layout of over one quarter was not adequate for disabled voters.

IEOM observers reported that voting procedures were adhered to in the overwhelming majority of polling stations visited and assessed the process positively in 99 per cent of cases. Voter identification procedures were followed with few exceptions. In 15 per cent of polling stations observed, however, small numbers of voters were turned away, mainly because they could not present a valid identification document or could not be found on the voter list of that particular polling station. In 4 per cent, not all voters marked their ballots in secrecy or folded them properly before depositing them in the ballot box. Apart from group voting (3 per cent), only a few isolated cases of more serious procedural violations were observed. In 3 per cent of polling stations observed, the ballot boxes were not properly sealed. Official complaints were filed in 5 per cent of polling stations observed.

Party and candidate proxies or observers were present in an impressive 98 per cent of polling stations observed, and citizen observers in 25 per cent during voting. Unauthorized people were present in 6 per cent of polling stations observed, and were seen interfering in 1 per cent. Women chaired 68 per cent of observed PECs and accounted for 72 per cent of EC members in these polling stations.

IEOM observers assessed 10 per cent of the 340 vote counts they observed negatively. A few instances of unauthorized people present, or of interference, were reported. In 16 counts, people other than the PEC members were reported as having participated in the count. Some of the procedural

⁵¹ OSCE/ODIHR EOM observers reported that on 14 October an *OPORA* observer was questioned by the police in Uman (Cherkasy *oblast*) for filming a meeting of DEC 200, which called the police. According to Article 78.9 of the election law, observers are allowed to make audio or video recordings.

problems reported during the count included frequent cases where established reconciliation procedures were not followed and figures were not entered in the results protocols before the opening of the ballot boxes. Some 20 per cent of PECs had problems completing the protocols, and 15 per cent revised figures established earlier. IEOM observers reported 33 cases of pre-signed results protocols. Party and candidate observers or proxies were present at all counts observed, and citizen observers at 29 per cent.

The early stages of the tabulation process were assessed negatively in 47 of 310 observations submitted by IEOM observers from 155 DECs. There were reports of serious tensions at some DECs, most notably DEC 217 in Kyiv, where large numbers of armed members of a volunteer battalion whose commander was a candidate in the district were present around and inside the DEC. Premises and conditions in many DECs were inadequate, at times negatively affecting observation and resulting in overcrowding (37 reports) and tension inside DECs (39 reports). IEOM observers reported from over one half of DECs that not all PEC protocols had been fully completed and that the figures did not reconcile correctly in protocols submitted to two thirds of DECs observed. IEOM observers also reported 40 cases where PEC election material packs may have been tampered with during the transfer to the DEC. Party and candidate observers or proxies were present at all DECs observed, and citizen observers at 80 per cent.

*The English version of this statement is the only official document.
Unofficial translations are provided in Ukrainian and Russian.*

MISSION INFORMATION & ACKNOWLEDGEMENTS

The OSCE/ODIHR Election Observation Mission opened in Kyiv on 19 September, with 21 experts in the capital, and with 80 long-term observers deployed throughout Ukraine.

On election day, some 930 observers from 43 countries were deployed, including 756 long-term and short-term observers deployed by the OSCE/ODIHR, as well as a 91-member delegation from the OSCE PA, a 41-member delegation from the PACE, a 17-member delegation from the EP, and a 27-member delegation from the NATO PA. Voting was observed in over 3,000 polling stations out of a total of 29,977. Counting was observed in 340 polling stations across 173 election districts. The tabulation process was observed in 155 out of 213 DECs.

The observers wish to thank the authorities of Ukraine for the invitations to observe the election, the Central Election Commission for its co-operation and for providing accreditation documents, and the Ministry of Foreign Affairs and other authorities for their assistance and co-operation. The observers also wish to express appreciation to the OSCE Project Co-ordinator in Ukraine, the OSCE Special Monitoring Mission to Ukraine and embassies and international organizations accredited in Ukraine for their co-operation and support.

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