

<p>European Network of Election Monitoring Organizations International Observation Mission to Ukraine Local Elections 2015</p>	<p>Європейська мережа організацій зі спостереження за виборами Міжнародна місія зі спостереження в Україні Місцеві вибори 2015</p>
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Statement of Preliminary Findings and Conclusions

Kyiv, 27 October 2015

The first round of Ukrainian local elections was mainly held in a peaceful environment and in line with most international standards and national legislation. However, the politicized composition and conduct of a number of territorial election commissions, supplemented with the complexity of the new law leave space for concern.

The European Network of Election Monitoring Organizations (ENEMO) is a network of 22 leading election monitoring organizations from 18 countries of Europe and Central Asia, including three European Union countries. This is the tenth Election Observation Mission by ENEMO to Ukraine, which began with the arrival of 8 core team members to Kyiv, on 1 October in order to observe the Local Elections 2015. ENEMO additionally deployed 50 long-term observers (LTOs) countrywide to observe and assess the electoral process in their respective regions for the elections on 25 October 2015, as well as the eventual second round of elections.

180 short-term observers (STOs) have been deployed to observe the first round of elections to Ukraine. Together with mobile LTOs, ENEMO had 93 teams in the field, which have monitored the opening of 93 PECs, voting in 1211 PECs and the closing of 93 PECs.

This preliminary report is based on the ENEMO observers' findings from the field, where they focused on the work of election administration bodies, the conduct of election participants, the overall conduct of elections during Election day in terms of opening, voting, counting and the transferring of election materials, election-related complaints and appeals and other election related activities.



Preliminary conclusions

The elections on 25 October were mainly held in a peaceful atmosphere and in line with most international standards, with occasional breaches of the established procedure by a number of PEC members, mainly due to lack of information about certain procedures.

The politicized composition of TECs, combined with an inadequate understanding of the new law and occasional technical difficulties have led to a number of questionable decisions by numerous TECs, including the registration of candidates, printing of ballot papers, counting of results, etc. To that end, similar issues have led to the cancelation of elections in the cities of Mariupol and Krasnoarmiysk.

The complexity of the Law, high number of voters per PEC, inadequate knowledge of all PEC members regarding newly established procedures, a high number of election processes and votes to be counted and tabulated have caused a slight delay in the counting of votes in most parts of the country.

ENEMO praises the involvement and professionalism of the CEC with regards to providing explanations of the new Law to actors of the electoral process.

The composition and capacities of PEC members have been questioned by a number of interlocutors, due to a high number of PEC members not being appointed by local parties/candidates, constant changes of appointed PEC members by respective subjects that have nominated them and lack of training for newly appointed PEC members.

The constant changes of TEC and PEC compositions by local political parties that have nominated them have undermined the entire process of training commissioners organized by the CEC and TECs.

Most political campaigning materials were removed by Friday midnight, however occasional campaigning activities were noticed in most parts of Ukraine by a number of candidates and parties that have violated the electoral silence.

Ukrainian media suffers from high partisanship and lack of autonomy from both political and business interests, which affects the editorial policy of the media outlets. Long Term Observers of ENEMO have reported biased media coverage, favoring one or another candidate or party, electoral advertising during news editions, or electoral advertising materials not clearly identified as such. The practice of paid-for news articles also continues to be widespread.

The overall campaign can be largely described as mildly intense and characterized by a moderate interest of voters in political events, platforms and candidates. Nevertheless, relatively isolated cases of violence against certain party activists and candidates have been noticed and reported.

Most violations during the electoral campaigns were related to early campaigning, indirect vote-buying, placing of posters at forbidden locations, distribution of campaigning materials without proper marking, negative (black) PR and similar violations. Numerous cases of the abuse of state/local resources have also been reported.

The fact that the new law does not provide for any public funds for local elections to any of the contestants, different access to campaign funding and lack of transparency regarding some sources of funding of a number of candidates/parties has been identified by numerous interlocutors of ENEMO as a strong point of concern.

Most electoral candidates have been approved and registered to run in elections on time by a majority of TECs. Number of TECs refused to register certain candidates and not always on legal grounds at times even declining to respect court orders and CEC decisions. The CEC has terminated powers of all or several TEC members earlier in number of TECs. On several occasions CEC had to register candidates itself. However, due to a long registration process, a number of candidates had a shorter period of time for official election campaigning.

ENEMO would like to commend the CEC for its professionalism and impartiality in taking actions towards certain TECs, related to the process of registration of candidates running for elections, so that the legal provisions were somewhat respected and relevant election subjects were given the possibility to run for elections.

The 2015 local elections received a high attention from the international community, the CEC has approved the request of 14 international organizations, 14 foreign countries, as well as 83 domestic organization as accredited observers. In total 1,554 international observers were accredited, this number is around three times higher than the number of observers for the elections of 2010.

PRELIMINARY FINDINGS

Background

The first round of Regular¹ Local elections in Ukraine was held on 25 October 2015 and under the new Law on Local Elections². Based on the resolution of the National Parliament³ and by decisions of the Central Election Commission (CEC), local elections were not held in the Autonomous Republic of Crimea and city of Sevastopol, as well as parts of the Donetsk and Luhansk regions, due to the fact that they either belong to currently occupied territories (as declared by the Verkhovna Rada), or territories where requirements for holding of elections in line with international standards are not likely to be met mostly due to security reasons. Elections at Mariupol and Krasnoarmiysk were later cancelled due to several reasons, mostly related to lack of professionalism of TEC members and ballot printing.

Only several months before elections, in a rather non-transparent manner, the Parliament of Ukraine (Verkhovna Rada) has adopted the new Law on Local Elections (LLE), which imposes considerable changes compared to previous election laws in Ukraine⁴. The new law has introduced significant novelties and changes and there was very little time for all election process participants to familiarize themselves with the new election system, as well as its possible outcomes, especially territorial and precinct election commissions and voters.

The new law failed to introduce adequate mechanisms to cope with the most shortcomings reported by ENEMO and other international and domestic stakeholders during previous elections, especially those related to the level of politicization of the electoral process⁵, inadequate regulations regarding financing of political parties, abuse of state resources and election campaigning; registration of candidates; the parallel systems of election dispute resolutions, media conduct; high number of voters per PEC, lack of professionalization of election commissions and other. Other relevant electoral laws are being drafted at the moment that might provide for a legal framework that could regulate such issues in a more adequate manner, especially the Law on Financing of Political Parties⁶.

Positive effects of the newly adopted legal changes are mainly reflected by a higher legitimacy of chosen Mayors in cities with 90, 000 or more voters; higher level of decentralization of the entire process, including the territorial decentralization, election administration and political parties; higher inter-party competition among deputy candidates; as well as wider rights of international observers. Also, the first time legally prescribed

¹Also the First local elections in a number of newly established territorial communities.

²Виборів депутатів Верховної Ради Автономної Республіки Крим, обласних, районних, міських, районних у містах, сільських, селищних рад, сільських, селищних, міських голів та старост сіл, селищ. Elections of deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, regional, district, city, settlement, village councils and village, town and city mayors and chiefs of villages.

³The resolution from 17 March, 2015 on recognition of certain regions, cities, towns, villages and settlements of Donetsk and Luhansk as temporarily occupied territories.

⁴ LLE was adopted on 14 July 2015, came into force in August and the election process started on 5 September.

⁵ systems of nominating electoral candidates and electoral administration bodies

⁶ This law was adopted recently but has not yet come into force.

gender quota (even though it turned out to be facultative) may be perceived as the first step in the right direction for future reforms of electoral legislation in Ukraine, with regard to adequate gender representation.

Legal Framework and Electoral System

Regular local elections in Ukraine are held every four years⁷. Legal framework for local elections consists of the Constitution of Ukraine, Law on Local Elections, Law on Central Election Commission, other relevant laws and resolutions of the CEC.

For mayoral elections two electoral systems are being used - a system of a relative ("FPTP" - first past the post) and a system of an absolute majority ("TRS" - two rounds system), mainly depending on the number of voters and size of the relevant territory. FPTP is used for election of village, settlement heads and Mayors of cities with fewer than 90,000 voters. The TRS is used for electing Mayors in cities with 90,000 voters, or more. Based on CEC, TRS can be used in 44 cities of Ukraine, whereas elections were not held at 9 out of these cities during these elections⁸, as well as Mariupol. Eventual second round of Mayoral elections should be held within three weeks from the Election Day in the first round of elections.

Two systems are also used for elections of councils - the List Proportional Representation (List PR) system and a FPTP system. To be able to participate in the process of allocation of seats, a party needs to pass five percent legal threshold. Allocation of seats to parties is made by using election quota (modified Hare quota)⁹. Ukrainian List PR system for these local elections uses closed non-blocked list, but modified without preferential voting. Seats within the candidate list are allocated to candidates who gain better result, in percentage, in their nomination unit. Multi-member constituencies are divided into nomination districts, whose number coincides to the number of seats of the respective council¹⁰. The new law introduces the non-obligatory 30 per cent gender quota.

The new law does not state the maximum deviation on the number of voters per electoral district, while creating boundaries of such districts by relevant TECs, thus leaving space for potential gerrymandering. The case of a Zatoka¹¹ proves that gerrymandering is possible and may happen in Ukraine as in this case.

⁷ Next local elections will possibly be held in two years due to expected legal and Constitutional amendments related to further decentralization of Ukraine.

⁸ Based on the resolution of the National Parliament and CEC Decisions.

⁹ Election quota is to be calculated by dividing the total number of valid votes cast for local organizations of political parties, which have passed the legal threshold, with the number of council mandates in the relevant multi-member constituency.

¹⁰ Party seats are allocated to their candidates in nomination districts based on the percentage of votes cast for the respective local organization of political party in territorial election districts. If several candidates received an equal per cent, they are placed in the list in descending order, based on the number of votes cast in the territorial election district for local organization of political party and the respective candidate.

¹¹ In the single-member constituency #13 of Zatoka, an urban-type village, five candidates were registered. On 19 October 2015 the CEC was informed by certain candidates for deputies of Zatoka Council (Odessa Oblast) on possible illegal registration of a big number of voters at one address. The CEC obliged the local police to investigate this case. Police has found out that 254 students from Odessa have changed their place of residence from that in Odessa to Zatoka. These

Election Administration

The system of election administration that is responsible for the preparation and conduct of local elections is divided into three main categories of commissions: the Central Election Commission (CEC); Territorial Election Commission (TEC) and Precinct Election Commission (PEC). The authority of the Central Election Commission is exercised in the entire territory of Ukraine and its decisions are mandatory for compliance for all participants of the election process, including territorial and precinct election commissions.

The new LLE has allowed for further decentralization of election management bodies, giving the most responsibilities to TECs. Territorial Election Commission (TEC) is an election body responsible for organization and conduct of local elections in its respective terms of reference. The number of TEC members may range between 9 and 18 persons, who are chosen by the relevant Commission, based on nominations from local branches of political parties declared at the first session of the Verkhovna Rada of Ukraine of the current convocation (up to two nominations per TEC) and local branches of a political parties registered in a respective administrative territorial unit (one candidate). Candidates nominated by local branches of political parties represented in the Ukrainian Parliament must be appointed members of a territorial election commission, whereas other members of a TEC are being determined by drawing lots, from candidates nominated by other local branches of political parties.

In order to prepare and conduct the local elections, 10,777¹² different TECs have been formed out of which: 22 oblast TECs, 462 Region/Rayon TECs, 146 City (with oblast significance) TECs, 233 City (with regional significance) TECs, 83 District TECs, 9219 Village TECs and 612 Settlement TECs. Some city, city district, village, settlement TECs are subordinate and formed by major TECs (oblast, region, city with district TECs).

Unlike TEC, Precinct Election Commission (PEC) is not a legal entity but ensures organization and conduct of local elections within the boundaries of a respective election precinct. The right to nominate candidates for PEC members is reserved for: local branches of political parties that were declared at the first session of the Verkhovna Rada of Ukraine of the current convocation, local branches of political parties that nominated candidates for deputies who were registered in multi member constituencies, candidates for deputies in single member constituencies and candidates for village, settlement, city mayor, or an elder. Each subject may nominate only one candidate for PEC, whereas candidates nominated by local branches of political parties represented in the Ukrainian Parliament are automatically appointed. Other members of a PEC are decided by drawing lots. Number of PEC members depends on the type/size of a relevant PEC (small 10–14 persons; medium 12–16 persons; and large 14–18 persons).

registrations were cancelled and the total number of voters in that election district is now 0. The CEC has reacted efficiently and properly and deleted voters from that constituency. However, this constituency still exists, with no registered voters, but with five registered candidates without any votes for the parties.

¹² 10618 for the regular local elections and 159 for the first elections in newly formed communities/voluntary associations.

Both the TEC and PEC should appoint the chair, deputy chair, secretary and other commission members, namely candidates from different local political parties. However, a large number of PEC members were appointed by TECs, due to lack of interest and possibilities of local political parties to nominate a sufficient number of members and other issues (residence condition, low fees, lack of knowledge about the procedure, lack of interest of citizens, etc.). Besides, a large number of PEC members nominated by local party branches were replaced during the preparation of elections process, ranging from 15 percent to even 50 percent depending on the territory and region.

TEC compositions are highly politicized, being comprised of political party nominees. Compositions of TECs were reported to ENEMO observers as a significant point of concern by many local parties and candidates, especially as TEC comprises mostly from candidates represented by parties from Verkhovna Rada. According to a number of interlocutors, other local political parties and/or candidates' representatives had very little influence in decision making processes of TECs and PECs and were rarely appointed as Chairman, Deputy, or a secretary positions of respective commissions.

Given the high number of Authorities of TECs in these elections, including the establishing of electoral districts, registration of candidates, printing of ballots, dealing with appeals and complaints, tabulating election results, creating PECs, etc, ENEMO believes that adequate professionalization of the composition of at least higher level TECs is highly necessary for future elections.

According to many interlocutors of ENEMO, the politicized composition of TECs, combined with inadequate legal mechanism to secure a more adequate representation of different political subjects at the local level, besides often technical mistakes has lead towards mostly politicized decisions of a number of TECs, especially related to registration of candidates of the certain political fractions. As a result, CEC was urged to dissolve a number of TECs and even register some election candidates on its own.

Based on the fact that the new law was recently adopted, the majority of TEC and PEC members had to be adequately trained in order to meet all legal demands and fulfill necessary tasks accordingly. CEC has conducted numerous trainings for election commissioners but has faced a significant issue of constant requests from political parties to replace their previously nominated commission members. To that end, the CEC did not have enough time, neither resources to properly train all newly replaced commission members. According to latest information, more than 1,500 TEC members have been replaced by relevant branches of political parties, or by CEC¹³, yet most TECs have managed to conduct their main duties in preparing for elections.

The Law does not contain adequate provisions with regards to the printing procedure of ballot papers (the use of special paper with certain safeguard mechanisms, minimum requirements for the printing company that can be chosen to print ballots, transparency during the printing,

¹³Dnipropetrovsk, Kharkiv, Kherson, Cherkasy and other.

etc.). A number of complaints have been made by representatives of local branches of political parties to ENEMO observers regarding the conduct of certain TECs with regards to printing of ballot papers. Such complaints were mainly addressed towards the choice of the printing company, the total number of ballot papers printed, the improper storage of ballots after they have been printed and the overall transparency of the entire printing process.¹⁴ Similar situation happened in Mariupol, Krasnoarmiysk and other cities whereas in some places the number of printed ballots was significantly higher than the legal limit¹⁵.

Some TECs had to re-print ballot papers due to additionally registered candidates and/or due to mistakes with names of respective candidates. ENEMO observers have noticed a number of printing mistakes in firstly printed ballot papers in different regions of Ukraine, whereas number of interlocutors stated that questionable printing companies were chosen for this very important task.

A number of PECs were formed with the minimum number of commissioners and without proper training, what may have caused a slower and inefficient conduct of voting, counting and tabulation of results on the Election Day. At the same time, due to a low interest of local parties to nominate candidates for PECs, TECs had to fill in PEC member positions with other persons in order to establish the legal minimum, in a large number of cases. The procedure for nominating persons other than political parties' nominees is questionable.

Significant number of PEC member replacements was also reported, made by parties and candidates that nominated these members, or due to resignations of members themselves. In Odessa and Kiev oblasts between 30 percent and 50 percent of PECs membership was changed in the week prior to the Election Day. In Chernihiv this percentage was between 25 percent and 35 percent.

ENEMO observers reported that many TECs, but especially PECs were encountering logistical problems, triggered mainly by a lack of funding and shortage of office supplies and computers. Also, not all PECs had adequate space, neither the equipment for an efficient conduct of their duties, yet all PECs had the minimum necessary resources to fulfill their legal tasks properly, according to ENEMO observers. Numerous PECs closed during working hours were also noted by ENEMO observers.

Registration of candidates

Any citizen with the right to vote can stand for elections, except those who committed grave crimes against voters' suffrage rights and corruption. Candidates could be nominated by the local branches of political parties on all levels. The law only allows for independent candidates on village and settlement level councils and for Mayors and Heads.¹⁶

¹⁴ For example, In Ivano-Frankivsk the printing of ballots took place in regular printing stores and ballots were stored there until they were transferred to the PECs without any official oversight.

¹⁵ In Ternopil, the police confiscated ballots that were printed in excess by the printing company.

¹⁶ This restriction is not in line with paragraph 7 of the OSCE Copenhagen document, which recommends that independent candidates should be entitled to run in all elections.

Candidates were to be nominated at the conference of their local political branches, where decision of the conference is signed by the head of the local party organization, or a higher level of party organization. The nomination for mayoral and electoral list candidates is then followed by the election deposit pledged by the local political branches or candidates in the amount of four minimum salaries. The deposit is returned only to the city mayor that has won the elections and parties that have passed the threshold, besides the situations where a candidate has failed to register or elections were recognized invalid. In other cases, the election deposit is not returned and is transferred by the territorial election commission to the State Budget of Ukraine. On the final step of a candidates' registration, parties transfer the names of their candidates to the TEC which then decide upon the registration or rejection of nominated candidates. The candidate also had to submit comprehensive set of documents for registration. The law allows the correction of mistakes and inaccuracies in the registration document, those inaccuracies however cannot be grounds for rejecting the registration of candidates. The LLE lacks clarity as to how many times corrections can be made to the registration documents.

Most TECs have completed the registration of most candidates within the legally prescribed time. ENEMO observed on a number of occasions TECs misusing the law related to candidate registration. The CEC had to intervene several times to register candidates, especially for city council elections in Kherson¹⁷ candidates at Cherkassy¹⁸ and the party candidates in Kharkov.¹⁹ Due to a long registration process however, number of candidate had a shorter period of time for official election campaigning.

ENEMO would like to commend the CEC for its professionalism and impartiality in the process of overseeing and taking actions towards certain TECs and complete the process of registration of candidates running for elections itself, so that the legal provisions were somewhat respected and relevant election subjects are given the possibility to run for elections.

In total, around 10,721 councils were formed during this election process²⁰ with approximately 162,009 councilors in total. Simultaneously 10,210 Mayor and Head positions are to be elected.

¹⁷ A candidate for city council elections Volodymyr Saldo had repeatedly failed to register. (CEC resolution No 438).

¹⁸ Cherkassy TEC did not register candidates from Free Democrats Party for the city council elections and a mayoral candidate despite the CEC resolution 482.

¹⁹Kharkiv Oblast TEC in its Resolution No 77 refused the registration of the candidates of the Opposition Block for the Kharkiv Oblast Council. On 7 October the CEC with its Resolution no 395 had canceled the TEC resolution. On 8 October the Kharkiv Oblast TEC issued a Resolution No 91 refusing the registration of the candidates. The CEC in its Resolution no 411 had terminated the powers of the TEC and ordered the local party branch to nominate members of their candidates. The CEC Resolution No 439 had then cancelled two TEC resolutions no 103 (on refusing the registration) and 105 (on printing the ballots). In its Resolution No 450 it had appealed to the Prosecutor's office to open the investigation and follow up on the circumstances as to why these candidates were not registered.

²⁰There are more than 21000 parallel election processes taking place in these elections.

Women Participation

Introduction of a minimum of 30 per cent quota for each gender in the party list has generally improved women participation in the electoral process, at least within parties' election lists. The law, however, lacks clarity on the compliance of a gender quota as a requirement for registration. The CEC clarification that non - fulfillment of the gender quota cannot lead to refusing the registration of a local party was later upheld by the High Administrative Court of Ukraine. With regards to gender representation, the total number of female council candidates was around 35 percent, whereas the percentage of women running for Mayors and Heads was less than 13 percent. A relatively higher number of women at councils might not necessarily lead to a similar gender representation after the tabulation of votes.

ENEMO observed that there was a high number of women represented at the level of PECs and less so at the level of TECs.

Registration of Voters

Ukrainian citizens that are 18 or older are legally allowed to vote in Local Elections, in the territory where they have an officially registered place of residence. According to the Law on State Register of Voters, Register Maintenance Bodies (RMB) are in charge of upholding and maintaining the state Voter register regularly.

Any voter has a right to examine the preliminary voter list in the premises of the PEC and check whether his/her data entered in the voter list is correct. Based on such verifications, every voter has the right to request a correction of the preliminary voter list, by submitting a request to the relevant PEC, RMB, or the administrative Court.

Corrected voter lists for each regular election precinct are made in one copy and transferred to the respective PEC no later than two days before the Election Day. Changes and updates to the corrected voter list are made by the chair, or the deputy chair and the secretary of the PEC, on the ground of the court decision, notices of the RMB concerning elimination of multiple inclusion of a voter in the electoral list at this election precinct. Such changes may be made before 18:00 of the last Saturday before the Election Day. No changes to the corrected voter list may be made on the day of voting, except for correction of inaccuracies and clerical mistakes, by the deputy chair and the secretary of the PEC.

The Code of Administrative Proceedings of Ukraine allows a person to file an administrative complaint on correction of the voter list. A complaint may be filed no later than two days before the Election Day where court decides on administrative complaints concerning correction of voters list within two days after receiving the complaint but no later than two days before the Election Day.²¹

²¹ If the complaint has come two days before the election day, it shall be considered immediately. Article 173 of the Code of Administrative Proceedings of Ukraine.

ENEMO has not received any complaints or concerns regarding the accuracy of voters' list. According to latest data around 30 million voters were able to vote in the upcoming local elections. Voters' lists were received on time in most cases, however, in some areas a high number of voters registered at the same address had raised some concerns. Around 1.5 million of internally displaced persons (IDPs) will not be able to vote on 25 October in their current place of refuge.

According to the Law, citizens that were not in their registered place of residence on the day of voting will not be able to vote elsewhere. Several interlocutors of ENEMO stated that they expected lower voter turnout, as many citizens were currently working, studying, living outside of their registered residence.

Electoral campaign

According to the law, electoral candidates may commence their electoral campaign on the day following the day when the respective TEC adopts a decision on the registration of the respective candidate/local branch of a political party. The election campaign ends at 24:00 of the last Friday before the Election Day. Campaigning before the start and after the end of the timeframe specified above is prohibited. Most mass campaign events are prohibited "on the eve of" and on the Election Day.

The Law on Local Elections does not contain any provisions that provide for any public funds for local elections to any of the contestants, which means that candidates/parties need to fund the entire campaign from their own funds.

The campaign has been largely described as mildly intense and characterized by a moderate interest of voters in political events, platforms and candidates. Front-runners used a mix of campaign strategies including canvassing, large billboards, leaflets, tents, TV ads and rallies. In general, the campaign period has been free of pressure and intimidation and most candidates were able to express their views and meet their voters.

Nevertheless, a number of cases of violence against certain party activists and candidates have been noticed and reported. Overall, such incidents appear to be relatively isolated cases despite their gravity, whereas most of them are being investigated. A deputy of Svoboda party was attacked with acid in her home in Rivne, a candidate for the city council was kidnapped, beaten and then thrown out of a moving car at Ivano-Frankivsk. In Volyn, a candidate was beaten by three unknown persons, whereas in Mykolaiv, two activists were severely injured following an attack with acid while campaigning. In Zaporizhzhia, one mayoral candidate reported that there were seven attacks on his agitators by unidentified persons. In Chernihiv an UKROP activist was beaten while canvassing. Also, political materials and assets of certain candidates were damaged in Sumy, Kharkiv, Odessa and other cities.

Most violations during the electoral campaigns were related to an early campaigning (before official registration decision of relevant TEC), indirect vote-buying (bribery)²², placing of posters at prohibited places (public transportation, state institutions, cultural sites), distribution of campaigning materials without proper marking²³, negative (black) PR and similar violations. Numerous cases of the abuse of state resources have been reported to ENEMO observers by relevant interlocutors.

Cases of direct or indirect vote buying were reported in almost all oblasts, but especially in Vinnitsa, Zaporizhzhia, Poltava, Rivne, Volyn, Ternopil, Kyiv, Kherson and Ivano-Frankivsk. The practice was usually organized in a manner of offering various products and discounts to voters, whereas several cases of paying money directly to potential voters were reported by interlocutors to ENEMO observers.

Unequal access to campaign funding and the lack of transparency regarding the source of funding of a number of candidates/parties has been pinpointed by numerous interlocutors of ENEMO as a point of concern. Contenders with lack of funds were outcompeted by other candidates in the level of campaigning and campaign materials.

ENEMO observers documented a number of state officials' involvement in campaigning. Abuse and misuse of state funding and official positions by candidates already in power was reported in all oblasts, but especially in Vinnitsa, Chernihiv, Ternopil, Kharkiv, Ivano-Frankivsk, Cherkasy and Kyiv.

Most campaigns of local branches of political parties and candidates dealt with issues related to national interests of Ukraine, despite these being local elections. However, in several oblasts, campaigns refer to local issues, such as water pollution, infected lakes, plastic recycling and renovation of roads in Ternopil. At Ivano-Frankivsk, the lack of basic safety in the oblast and the increased number of crimes were one of the main topics of the campaign.

Occasional breaches of electoral silence have been reported in most regions of Ukraine, especially during the Election Day, when a number of candidates used different types of campaigning to reach potential voters.

Complaints and Appeals

Complaints and appeals related to the election related disputes are regulated by the Law on Local Elections and the Code of Administrative Proceedings.

²²Article 60 of the LLE states that it is prohibited to conduct the election campaign by giving money to voters, or securities, loans, lotteries, goods (except for goods which contain visual images of the name, symbols, flag of the local party organization that is a participant of the election process, a political party the local organization of which is a participant of the election process or any other campaign materials, under condition that the value of such goods does not exceed five per cent of the minimal wage) and other tangible assets, works or services without charge or on a preferential basis.

²³According to the Article 56 of the LLE, printed campaigning materials should contain the data about the entity that ordered and the institution that printed them, the number of copies and information about individuals responsible for the issue thereof. Distribution of printed campaigning materials without the aforementioned data is prohibited.

The LLE grants redress to all participants of the electoral process before the election commissions²⁴. Any electoral process participant has the right to appeal decisions, actions or inactions of relevant election commission to a higher level TEC and the Administrative Court.

The Administrative Courts have mostly observed legally prescribed terms where they have considered complaints received before the Election Day within two days but no later than two hours before the beginning of voting²⁵. For example, only the Kyiv Appellate Administrative Court had considered around 71 cases related to electoral process, 46 cases where on the registration of party list candidates and 10 related to voters' list. The Kyiv Appellate Administrative Court has rejected 54 cases and upheld 18 appeals.²⁶

Courts have been overloaded with complaints related to candidate registration and have not always been consistent in their approach, but in most cases, the Courts have sided with candidates and political parties.²⁷

Media

ENEMO Election Observation Mission did not carry a systematic media monitoring for the Local Elections of 25 October 2015. The data presented in this section are based on interviews with media and other domestic and international stakeholders, and non-systematic observations of the LTOs.

The media legislation generally provides a good framework for freedom of expression, while the conduct of the media during the electoral campaign is regulated by the Law on Local Elections. Unlike the Law on Parliamentary Elections, this does not provide for free airtime for the political parties or candidates, but does sanction the obligation of the media to provide equal and open access for them. Equal access is thus meant in terms of access to all candidates who can afford the payments of the media outlets for political advertising, or participation in electoral debates upon previously advertised format, payment, and other elements so that all interested parties have full information.

Ukraine's score for freedom of the press (Freedom House Index) for the year 2014 has increased from "Not Free" to "Partly Free", inverting the trend.

²⁴Candidates, his/her proxy, local organization of political party, candidates from which are registered at the respective local elections, its representative in the territorial election commission or authorized person, official observers, election commission as well as voter whose election rights or interests are protected by the law.

²⁵ Article 171 of the Code of Administrative Proceedings of Ukraine.

²⁶ Unofficial data covers the period of 24 September to 25 October 2015.

²⁷Candidate from Opposition block was not registered due to failure to submit full information related to his biography, largely omitting the fact that he at the same time was the Head of Regional party Kharkiv Oblast. The decision of the High Administrative Court of Ukraine, case no 752/17250/15 dated 24 October 2015. In another case, Zhytomyr Regional court registered members of the Opposition Block in Olevsk region TEC. Case no.806/4950/15, dated 6 of October. Zhytomyr Court registered candidates refused by Olevk Regional TEC. Case no 806/4919/15 and members of Nova Derjava. Case no. 806/4918/15 dated 4 October 2015.

Nevertheless, Ukrainian media suffers from high partisanship and lack of autonomy from both political and business interests, which affects the editorial policy of the media outlets. Television is the primary medium of choice, although internet is gaining ground and has been used for campaigning purposes on these elections. The Law on Local Elections does not have provisions for the regulation of the online media during coverage of the electoral process.

The responsible body for media monitoring during electoral campaigns is the National Television and Radio Broadcasting Council of Ukraine (NTRBC), which has conducted monitoring on the media conduct during the electoral campaign, and has pointed out violations of the electoral law regulating media conduct. But the law does not provide for specific sanctions that can be imposed upon media violating the electoral law, leaving thus the NTRBC without effective means for dealing with such cases.

Long Term Observers of ENEMO in all oblasts have reported about biased media coverage, favoring one or another candidate or party; electoral advertising during news editions or electoral advertising materials not clearly identified as such²⁸. The practice of paid-for news articles also continues to be widespread.

According to information received by the LTOs, in general the media has respected the electoral silence on Saturday and Sunday, in line with the law, although cases of breaches²⁹ were noticed in billboards, leaflets and text messages sent on mobile phones inviting electors to vote for selected candidates.

Election Day

During the Election day on 25 October, ENEMO deployed 50 Long Term observers and 180 Short Term observers that monitored the opening of 93 PECs, voting in over 1211 PECs and closing of 93 PECs.

ENEMO observes noted that 88,2 percent of the monitored polling stations opened on time while 9,7 percent opened within 15 minutes delay. Only 2,2 percent of polling stations opened after more than 15 minutes of delay. The overall evaluation of PECs was rated as very good in 44,1 percent of cases, while 49,5 percent of commissions' work was considered good. However, the activity of 2,2 percent of PECs was marked as very bad by ENEMO observers. A number of PECs did not have all the necessary election materials, but the minimum to complete their tasks (ballot boxes, polling booths).

²⁸ All LTO teams of the EOM deployed in the various oblasts have reported on biased coverage by the local media, in favor of specific candidates. Some of the most politicized media were reported by the interlocutors in Zaporizhzhia (Panorama and TV channel "TV-5"); Chernihiv (TV channel and newspaper "Detynets" and newspaper "Chernihivski Vidomosti"); Vinnitsa (TV stations "Vita" and "Vintera", Radio "Buh" and newspapers "Vinnytsia Gazeta").

²⁹ A case of breach of the electoral silence by the media, made public by the Committee of Voters of Ukraine (CVU), was registered in Lviv, where incumbent mayor and mayoral candidate, Andriy Sadovyi has participated in a radio interview for the Lviv Regional State Broadcasting Company, during which he has spoken about achievements during his time in office.

In addition, ENEMO monitors observed that PECs generally conducted opening in order and according to the procedures in 89,2 percent of cases and in 5,4 percent of cases PECs have failed to follow all legal procedures. Despite the general positive assessment of the opening process, ENEMO observers also reported several cases of breaching the opening procedures mainly by improper sealing of the ballot boxes, failure to insert control sheets, or the failure to properly fill in the opening protocol.

The positive activity of the PECs was reflected by the fact that 96,8 percent of commissions did not receive a single complaint regarding their work. Observers also noted several cases where the number of ballots received by PECs was less than the number of voters on the lists.

The voting process was rated as good and very good in 95,9 percent of the PECs observed. ENEMO observers also positively appreciated the conduct of the PEC commissioners, describing the work of PECs as appropriate in 99,3 percent of cases. In addition, 95,8 percent of reports considered that the secrecy of the voting was met during the electoral process, but recommended that the law should prescribe folding of ballots as obligatory for all voters.

Despite the positives, a number of shortcomings and irregularities were also reported during the election day, such as improper sealing of ballot boxes, improper filling of protocols, casting of ballots in wrong boxes, crowded and disorganized precincts, improper issuing of ballots to voters, family voting, violations of the secrecy of voting and campaigning around the precincts.

In PEC 321260, Kyiv Oblast party representatives of Baktivshchyna recorded the entire voting process. In addition, ENEMO observers reported on a number of cases in which voters took a photo of their ballot paper before casting the ballot.

In PEC 702, Kyiv Oblast the number of ballots for city council elections did not match the number of the control sheets. In Kherson oblast, ballots from two polling stations (№650624 and №620625 respectively), located in different electoral districts and having different candidate lists were mixed up. PEC commissioners remained unaware of this problem for a while and as a result, over 150 voters casted their votes for a different district. The process was stopped and the case was referred to the higher level commissions. In PEC 181389 that belongs to Zhytomyr Oblast all ballot papers were printed wrongly.

Also in relation to voters list, commissioners in Bilhorod-Dnistrovskyi Rayon, Odessa oblast, denied voting to voters whom they considered were illegally registered prior to the Election Day.

The closing and counting procedures were rated as good and very good by 89,2 percent of ENEMO observers. However, 10,8 percent of reports marked the closing and counting process as bad. While the transparency of the process was unanimously appreciated by ENEMO observers, 16,9 percent of reports noted that commissioners significantly deviated from prescribed counting procedures. In PEC 1104, Zaporizhzhia Oblast, 50 ballots were

found missing during counting. The appropriate TEC and the police were immediately notified.

Election observation Missions

The election legislation of Ukraine provides for observation by authorized observers of the political parties and for non-partisan observation of both international and domestic organizations, as well as foreign countries. The Law on Local Elections, approved in July 2015 by the Verkhovna Rada provides for more rights for international observers, as compared to the Law on Parliamentary Elections³⁰.

The CEC has approved the request of 14 international organizations, 14 foreign countries³¹, and 83 domestic organizations to accredit observers for the Local Elections of October 2015. These elections received a much higher attention from the international community, as compared to the Local Elections of 2010. The CEC has accredited in total 1554 international observers, number which is around three times higher than the number of observers for the elections of 2010.

The international election observation missions with the highest number of accredited observers are OSCE/ODIHR and ENEMO. Other international organizations observing the elections include the European Parliament, the National Democratic Institute, Council of Europe, the Ukrainian Congress Committee of America, European Platform for Democratic Elections, and International Commission on Human Rights.

As for domestic organizations, two of the most active organizations in the field of election observation are Committee of Voters of Ukraine and Opora, which have engaged the most number of domestic observers. Apart from monitoring the election process, these organizations have also undertaken various other activities aimed at increasing the transparency of the process.

ENEMO observers have not reported any case of obstruction of their monitoring activity, neither during the pre-electoral period nor during Election Day or the counting and tabulation of results process at the polling centers or the activity of the TECs.

Mission information and acknowledgements

The European Network of Election Monitoring Organizations (ENEMO) is an international network consisting of 22 leading election monitoring organizations from 18 countries of Central and Eastern Europe and Central Asia, including three European Union countries.

³⁰ International observers have now the right to receive copies of protocols on delivery of ballot papers, counting of votes and establishing the results of voting as well as other documents, rights which are only reserved to partisan and non-domestic observers by the Law on Parliamentary Elections.

³¹ Austria, Canada, Czech Republic, Denmark, Estonia, France, Germany, Hungary, Japan, Lithuania, Poland, Slovak Republic, United Kingdom, and the United States.

To date, ENEMO has organized 21 international election observation missions to seven countries, the present being the 10th election observation mission to Ukraine. ENEMO member organizations have monitored more than 200 domestic elections and trained more than 200,000 observers.

ENEMO seeks to support the international community's interest in promoting democracy in the region by assessing electoral processes and the political environment and offering accurate and impartial observation reports. ENEMO's international observation missions use international benchmarks and standards for democratic elections to evaluate the electoral process and the host country's legal framework.

The ENEMO Election Monitoring Mission for the Local Elections of 25 October 2015 in Ukraine has started its monitoring activity with the deployment of the Core Team, composed of 8 experts in Kyiv. 50 long term observers were additionally deployed to assess the pre-electoral period. Election Day, counting and tabulation of results were followed by 180 short term observers deployed in teams of two throughout the country. The EOM will continue its activity by observing the second round of elections in all locations where the second round will be held, both by long and short term observers, until the final announcement of the results. Possible complaints and appeals in relating to the election process will also be observed and assessed.

This preliminary report is based on observations of the long-term and short-term observers and their findings in reference to compliance with international standards for democratic elections, national legislative framework and OSCE commitments. The report does not render a final assessment of the entire election process; ENEMO will defer its final assessment until the end of the election process which includes vote counting, tabulation and announcement of the results, the potential complaints to be addressed for the first round, as well as the election process for the second round.

ENEMO Mission wishes to express its appreciation to the Central Election Commission for their cooperation and assistance in the course of the observation. ENEMO also takes this opportunity to express the highest acknowledgements to the European Union for the support of the election monitoring mission.