



International Observation Mission to
Ukraine Presidential Elections 2010

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Ukraine Presidential Election

Report on Pre-Election Period

December 15, 2009 – January 13, 2010

SUMMARY OF FINDINGS AND OBSERVATIONS

- The Central Election Commission failed to set clear procedures on mobile voting, voting abroad and voter list additions on election day. This has raised fears of possible manipulation.
- ENEMO remains concerned about the voter registration process and updates being made to the voter lists during the January 17 election day. In particular, ENEMO fears that outdated information in the voter lists might lead to cases of multiple voting. The CEC lack of direction on this process also means uneven standards and rules will be applied throughout the country.
- ENEMO fears that delays in setting clear procedures for mobile voting might cast doubt over the entire electoral process since this was a main vehicle for fraud in 2004.
- ENEMO also notes that lack of instructions for voting stations abroad means an unequal standard and ENEMO observers will be present in 8 consulates on election day to observe the voting.

- The Central Election Commission (CEC) has worked in a relatively even-handed manner, but most of its decisions were taken during closed doors meetings without observers present.
- The campaign period has been generally free of intimidation, pressure, and harassment. This is an improvement from the previous Ukrainian elections that ENEMO has monitored.
- Compared to previous Ukrainian elections, ENEMO observers reported only a limited number of cases of state administrative resource abuse and involvement of state officials in the campaign.
- Delays in the allocation of funding for the Presidential elections led to obstacles in the work of election commissions and raised serious concerns about the ability of all PECs around the country to be fully operational during election day.
- Mass media has enabled the electorate to familiarize itself with the programs of candidates through extensive coverage of the election campaign in news programs, television debates and paid advertisements.

ELECTION ADMINISTRATION

Ukraine's election administration is a three-pronged system comprised of the Central Election Commission (CEC), 225 District Election Commissions (DECs) and over 32,000 Precinct Election Commissions (PECs). The election law and its amendments stipulate the manner in which these structures should function and interact, and outlines the deadlines for all the stages of commission activities in the electoral process.

Central Election Commission (CEC)

ENEMO observers note that the CEC has worked in a relatively even-handed manner during the pre-election period. However, most of its decisions were made public only after commissioners met behind closed doors. ENEMO observers also noted a widespread tendency of CEC commissioners to make decisions on technical grounds instead of considering substantive arguments. At times, a high degree of bureaucratization hampered the effectiveness of CEC activity.

One controversial decision of CEC that might significantly hinder the work of lower commissions concerns the provisions for mobile voting. On January 4, 2010 CEC voted to relax the procedures for homebound voting by exempting voters to submit medical proofs

in addition to their written requests. Candidate Yulia Tymoshenko addressed the Kiev Administrative Court of Appeals (KACA) which on January 12 upheld the CEC decision.

The impact of the CEC and court decision is that the DEC and PEC members follow their own understanding of mobile voting procedures for election day. In Volyn oblast (DEC 20) there are already 1 000 requests for mobile voting because commissioners seem to mix disabled people with the elderly while in Ivano-Frankivsk oblast members of DEC 84 instructed all PECs to accept all requests for mobile voting.

Since abuses of home voting represented one of the major sources of fraud in the 2004 Presidential election, ENEMO fears that unclear procedures for this type of voting might undermine the entire election process by creating the possibility for large-scale fraud.

Formation and Staffing of Commissions

ENEMO observed that candidates had difficulty properly staffing a large number of PECs and DECs in all regions of the country and this led to delays in commission activities. Thus, the quota principle for staffing election commissions stipulated by the electoral law could not be met.

Many lower election commissions had to cope with understaffing and resignations during the pre-election period. As a result, some PECs did not function due to prolonged absences, while other commissions functioned only with a minimum number of members. Among the main reasons stated for resignation is low and delayed payment, long working hours, and the lack of experience with elections.

Significant number of changes and resignations were reported in Odessa (DEC 137), Poltava (DEC 146, 147, 148), Khmelnytsky (DEC 195), Zakarpattya (DEC 69), Ivano Frankivsk (DEC 85), Kharkov (DEC 178, 180), Vinnitsa (DEC 12) and Lviv (DEC 126) oblasts. In Zhitomir, Lugansk, Sumy and Kirovograd around 90% of commissioners with leadership positions were replaced, while over half of the PECs in Kiev, Cherkasy, Odessa and Donetsk changed their membership several times.

A number of DEC positions were settled following court decisions, raising concerns about the involvement of the judiciary system in the elections. Such instances were recorded in Lviv (DEC 127), Kiev (DEC 223), Zhitomir (DEC 66) and Zaporizhzhya (DEC 77) oblasts.

Due to financial shortages and delays in the transfer of materials, a series of PECs in Kherson, Chernigov, Zhitomir were formed late, while in Zakarpattya, Lviv, Poltava, and Rivne PECs remained closed even after the legal holidays. Major delays in the works of commissions were reported in Crimea (DEC 9), Ivano-Frankivsk (DEC 85) and Khmelnytsky (DEC 190).

A series of PECs sent out invitations to voters to check the accuracy of the voter lists later than the law specifies. In Khmelnytsky oblast, PEC 48 (DEC 190) completed this process nine days after the legal deadline. In addition, ENEMO observers reported that election

commissioners in all oblasts engaged in campaign activities while offering invitations to voters.

ENEMO observers learned that many DEC and PECs were encountering logistical problems, triggered mainly by a lack of funding. Such problems included a lack of office supplies, a shortage of computers, poor telephone connections, insufficient transportation, slow internet connections, poor heating and poor working conditions. While these shortcomings might be overcome before election day, they nonetheless have strained the preparation process.

VOTER REGISTRATION

Implementing a fully centralized voter registry for the first time represents a big step forward for Ukraine. However, the accuracy of voter lists remains an issue of concern for these elections. While authorities tried to address the issue through the State Voter Registry, reports suggest that inaccuracies persist. The most common problems include double entries, inaccurate transliterations of voters' names, the inclusion of deceased voters, and the omission of voters, including the absence of entire buildings or streets in certain precincts. Furthermore, authorities are reported late to include in the voter lists people who have turned 18 prior to election day, which might lead to their disenfranchisement.

Due to delays in the activity of PECs, the process of updating the lists has been slow. Only a small number of voters were able to check their names on the lists during the legal framework. PEC commissioners tried to speed up the process by directing voters to the State Voter Registry albeit by-passing the legal electoral sequence. This created confusions, like in Kherson oblast, where the State Voter Registry suspended its work on January 8.

During these elections, lists can be altered during election day, however CEC has failed to issue clear instructions on this matter. ENEMO is concerned that this might open up the possibility of multiple voting and the irregular application of the law throughout the country.

The deficiencies in voter lists reflect a poor performance of the responsible bodies to handle the matter in a comprehensive way, despite international observers' recommendations formulated on previous occasions. While reports from Kiev suggest that around 1 million changes have already been made in preparation to these elections around the country, many mistakes are still pegging the voter lists in all oblasts. Reports suggest that State Voter Registry have worked on lists as old as 2004, thus rescinding the updates made before the 2006 and 2007 elections. An illustrative example is in Zakarpattia where many voters living abroad are on the lists, while entire Roma voters remain disenfranchised since their villages are not included in the voter registry.

CAMPAIGN VIOLATIONS

The campaign has been described as low and characterized by a large disinterest of voters in political events. In general, the campaign period has been free of pressure and intimidation and all candidates were able to express their views and meet the voters. Top-flight candidates have used a mix of campaign strategies including door-to-door canvassing, large billboards, leaflets, tents, TV ads and rallies.

ENEMO observers have documented a limited number of state officials' involvement in campaigning. Yulia Tymoshenko issuing land certificates to voters together with political materials and electoral promises represented an infringement of the electoral law. Similar accusations of abuse of administrative resources were leveled against Minister of Interior Yuriy Lutsenko for campaigning in front of law-enforcement officials during a visit in Cherkasy oblast on January 4, and against candidate Viktor Yanukovich's staff for pressuring state employees in Kharkiv and Donetsk.

ENEMO observers recorded few incidents in which campaigners were physically abused and campaign materials destroyed. These appear to be isolated cases and most of them are under investigation. Such incidents were recorded in Simferopol (against Arseniy Yatsenyuk's campaigners) in Odessa (against Yulia Tymoshenko's agitators), in Crimea, Zaporizhzhya, Poltava, Chernigov (against Viktor Yanukovich headquarters) and in Khmelnytsky and Donetsk (against Petro Symonenko campaign tents).

During the campaign period, many political actors alleged that other candidates are engaged in vote buying. While most of these claims remained simple rumors, some instances suggest that attempts at vote buying constitute a threat to the fairness of the electoral process. In Ternopil oblast, representatives of Yanukovich and Tymoshenko face court investigations following accusations of vote bribery. In Dnipropetrovsk, Donetsk and Zaporizhzhya, agitators of Yanukovich distributed food-packages together with campaign materials during winter holidays.

MEDIA SITUATION

All candidates were able to freely campaign in the state-owned media according to electoral law provisions and to place paid political advertisements in commercial media. However, some candidates complained that the main contenders received more media attention through participations in popular TV shows, while refusing organized debates among all the candidates

Campaign information presented as news and unmarked as advertising remain a common practice for Ukrainian media at all levels. This has raised concerns regarding candidates' interference with the editorial content through paid agreements with the owners of media outlets. Furthermore, unclear principles for covering candidates in institutional roles have generated fears of misuse of administrative resources and offered an advantage to those holding such positions.

The publishing of opinion polls in local media across oblasts has raised suspicions of manipulation, since most of these polls failed to clarify their methodology and samples.

DOMESTIC OBSERVERS

Domestic NGOs OPORA and CVU have been highly active in training election officials and monitoring all stages of the campaign period. They have issued reports describing the findings of their LTOs deployed around the country. ENEMO LTOs have been in contact with OPORA and CVU representatives and attended their trainings and election briefings. Since according to the election law, domestic observers are allowed to monitor the process only as accredited journalists, ENEMO is concerned about possible cases of their rights' infringement.

ACTIVITIES OF ENEMO CORE TEAM

On December 1, 2009 the European Network of Election Monitoring Organizations (ENEMO) established an Election Observation Mission headed by Taskyn Rakhimbek to monitor the Presidential elections in Ukraine scheduled for January 17, 2010. This is ENEMO's sixth mission to Ukraine elections. ENEMO deployed 50 long-term observers (LTOs) covering all oblasts of Ukraine to monitor the pre-election period and to prepare for the 400 short-term observers that arrive this week to monitor all stages of the electoral process on election day, including the opening, vote, and counting procedures.

ENEMO long-term observers focused on the conduct of the election campaign, voter registration, the work of election commissions and court decisions. In addition to the monitoring efforts in Ukraine, ENEMO EOM will deploy 11 short term observers to monitor the election day in Ukrainian embassies and consulates from Russia (Moscow, Saint Petersburg, Rostok-on-Don, Vladivostok), Republic of Moldova (Chisinau), Belarus (Minsk) and Romania (Bucharest).

Throughout the period ENEMO EOM met with the Deputy Chairmen of the Central Election Commission, Andrii Mahera, with the Director of International Department of the Central Election Commission, Vladimir Andriyenko, with the Head of the Department of Public Security at the Ministry of Internal Affairs of Ukraine, Vladimir Ivanovich Mayevskiy and with the Head of OSCE/ODIHR mission in Ukraine, Heidi Tagliavini.

The Head of the ENEMO EOM also met with the representatives of all front runners with the exception of Yulia Tymoshenko's.

ENEMO EOM interacted with representatives of Embassies of the USA, Canada, Germany, United Kingdom, and the Netherlands and attended events and briefings organized by International Foundation of Electoral Systems, National Democratic Institute and International Republican Institute.

Head of EOM offered more than 15 interviews in local media outlets such as Kommersant, Korrespondent, Tyzhden, and RBK Ukraina. During Election day, the Head of mission will

present ENEMO findings on First National Channel, Channel 5, Inter Channel and Tons channel. On January 18, ENEMO will issue its observation report of election day in a press conference at UNIAN press club in Kiev. All statements from this missions and other information will be available at www.enemo.eu.

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

European Network of Election Monitoring Organizations (ENEMO) is a group of 22 civic organizations from 17 countries of the former Soviet Union and Central and Eastern Europe. These nonpartisan organizations are the leading domestic election monitoring groups in their countries. In total, ENEMO member organizations have observed 200 national elections in their countries, monitored more than 110 elections abroad, and trained over 100,000 election monitors.