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A PROJECT OF THE GERMAN MARSHALL FUND

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

**EUROPEAN
NETWORK
OF ELECTION
MONITORING
ORGANIZATIONS**

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

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

Second Interim Report 10 September – 8 October 2012

The ENEMO mission for the 2012 parliamentary elections in Ukraine began its work on 23 July 2012 with the arrival of four Core Team members. ENEMO is the first international election observation mission registered for the Parliamentary Elections 2012 by the Central Election Commission (CEC). Thirty-five long-term observers arrived to Kyiv on 5 August 2012 and after training they were deployed throughout Ukraine. Long-term observer teams cover one or two oblasts of Ukraine. So far, ENEMO issued first interim report for the period August 5 – September 9. For this second interim report the focus of ENEMO long term observers was on the conduct of election campaign, formation and work of election commissions, media situation and official election complaints. Findings of this report are based on 272 reports received from long term observers. From the beginning of the mission, ENEMO observers have held 1728 meetings, out of which 823 were meetings with candidates and representatives of political parties, 258 with election commissions and administrative officials, 238 with representatives of NGOs, 128 with media representatives and many other domestic and international interlocutors. They attended 81 rallies as well as 132 DEC sessions, 47 CEC sessions and 19 PEC sessions.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

- The parliamentary elections will be held in Ukraine on 28 October 2012 according to new election law and reintroduced mixed electoral system. The new election legislation opened space for “technical parties” to win excessive membership in district election commissions and to organize system of massive replacements.
- The Central Election Commission meetings are open to observers, media and political parties, however, access to real decision-making is limited. System of closed door meetings and lack of access of draft documents restrict political party representatives their right to fully participate in decision-making with their advisory voting.
- ENEMO mission has welcomed recent decision of the Central Election Commission to restrict possible massive voter migration from one majoritarian district to another.
- The work of district election commission is negatively affected by high number of replacements by technical parties and by partisan confrontation. Cases of pressure, closed door sessions, limited access for observers to decisions and documents raises serious concerns about transparency and integrity of DEC work. ***High number of replacements of DEC members highlights urgent need for systematic training of election commission members at all levels.***
- The sudden change of the CEC on the procedure of drawing lotteries for the precinct election commissions adopted just five days prior to the lotteries has not achieved unified and transparent implementation by the district election commissions. The CEC instructions were not followed in the same way and as result even repeat lotteries were required and the process of formation PECs has been quite disorganized and delayed in a number of cases.
- The level of election campaigning has increased in the reporting period. There has been increased number of self-nominated and opposition candidates complaints about being intimidated, pressured or harassed by tax inspections or authorities.
- Misuse of administrative resources continues to be widespread. Publicly financed projects are presented as personal candidate achievements or party initiatives in order to promote their election campaign. Domestic observer groups (OPORA, CVU) report on a high number of cases of voter bribery by candidates. ***ENEMO expressed serious concerns about a lack of effective sanctions in cases of voter bribery. The CEC issued only warnings to candidates. However there were no administrative or criminal consequences for those candidates.***
- Media situation remains a concern particularly continued pressure on television channel TVi and some local media like newspaper Grivna in Mykolaiv and television channel Kherson plus. ENEMO has welcomed the decision of the Ukrainian Parliament to stop the adoption of draft law to introduce criminalization of defamation.

LEGISLATIVE FRAMEWORK

On 28 October 2012 Ukrainian voters shall elect its 450 deputies to Verkhovnarada (Parliament) of Ukraine according to the re-introduced mixed electoral system in which 225 mandates are elected proportionally from closed party lists and 225 mandates in single mandate districts with a simple majority vote. The threshold for political parties to get mandates has been increased from three per cent to at least five per cent of votes in a single nationwide constituency. The fundamental change of electoral system and adoption of new election law 11 months before election day has raised concerns about ability of political parties and electoral authorities to cope with new significant challenges in organizing parliamentary elections in Ukraine. On a positive side, the new election law has extended the rights of domestic nonpartisan observers. As noted in the first interim report, the new election law with tight deadlines created organizational difficulties with candidate registration at the Central Election Commission.

ELECTION ADMINISTRATION

Central Election Commission

The sessions of the Central Election Commissions are held on a daily basis and are open for observers. Vast majority of the CEC decisions are approved unanimously without debates. Usually the CEC holds closed meetings prior to the regular public meetings, where the actual decision-making process takes place. These meeting (“naradas”) are held usually two hours before the official sessions. Although CEC voting process is public, real decision making is not. Therefore ENEMO cannot assess the overall work of the CEC as transparent.

According to the election law, party representatives have a right to be present at the meetings of the CEC and also participate and contribute to discussions. Although theoretically they can exercise their right of advisory vote, general environment at the CEC meetings and the process of decision-making on the whole makes their attendance nominal. Party representatives are not provided with the documents necessary for full participation in decision-making despite provisions of the law. Although agenda is available for everyone present, it is mostly provided just before the meeting and neither draft nor the final agenda are posted on the CEC website. Party representatives do not have access to draft resolutions and all the supplementary documents draft resolutions are based on. On average the members of CEC spend 2-3 minutes on voting for a resolution at the official sessions without discussion. No matter whether party representatives, observers and journalists get the clear picture, they are not able to see actual decisions until they are posted on the CEC website next day.

CEC Resolution on Voter Registration

On 22 September 2012, the Central Election Commission (CEC) has changed the September 13 resolution # 893 by the resolution #1046, The maintenance body of the State Voter Register can only change the voting place of electors within the borders of the same single-mandate district. Exception has been made only for the members of district and precinct

election commissions that will perform their duties on election day. All other voters can request change of address for voting in another polling station just for the same district and thus no migration of voters shall be allowed from one district to another.

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

ENEMO welcomes recent decision of the Central Election Commission to restrict possible massive voter migration from one majoritarian district to another for the upcoming 28 October 2012 parliamentary elections. *ENEMO urges election administration to take additional efforts to increase the integrity and transparency of electoral process such as provide the draft resolutions ahead of CEC meetings, allow proper hearings and handling of election-related complaints.*

District Election Commission

Work of district election committees is often characterized by open confrontations between two camps, mostly a pro-governmental and an oppositional fighting for influence (e.g. DEC #2 AR Crimea, # 175 in Kharkiv oblast, #139 Odessa oblast, #153 Rivne oblast, #200 Cherkasy or #11 in Vinnitsia oblast). A number of DEC's resumed the CEC practice of holding closed sessions without public access. At least 15 DEC's were reported to work in a highly non-transparent way, especially DEC's #135 Odessa oblast, #122 Lviv oblast, #97 Kyiv oblast, #2 and # 7 AR Crimea, but also DEC's #104, #112 and #113 Luhansk oblast, #22 and #19 Volyn oblast, #10 AR Crimea, #43 Donetsk oblast, #116 and #117 Lviv oblast and #130 Mykolaiv oblast. Beside holding so-called "naradas", in cases of presence of domestic and international observers these DEC's do postpone their official sessions to night hours or adopt agendas with the purpose to "bore" observers and make them leave the sessions. Additionally, in DEC's #68 and #69 Zakarpatya oblast, #67 Zhytomyr oblast, #97 Kyiv oblast commission decisions are not made public or observers had a limited access to them. In DEC's #135 Odessa oblast, #6 and #10 AR Crimea, #122 Lviv oblast, #67 Zhytomyr oblast, #101 Kirovograd oblast #113 and #106 Luhansk oblast, even DEC members nominated by oppositional parties do not have access to all commission documents such as protocols, lists of PEC members, lists of distribution of managerial positions.¹

Cases of pressure on DEC members are reported from DEC #102 (Kirovograd oblast) and #122 Lviv oblast where DEC secretaries nominated by Batkivshchyna were openly pressured by the majority of commission members. In both cases, the majority voted for another commissioner to be paid on permanent basis instead of them and against their will.² Similar pressure has been carried on the head of DEC #7 AR Crimea and four commission members

¹In DEC #135 Odessa oblast, PEC secretaries were provided contact data of PEC members before the DEC member and PEC heads nominated by Batkivshchyna

²ENEMO observes reported a similar case in DEC #9 AR Crimea when instead of the DEC Deputy Head from Christian Democratic Party, who was at a training in Kyiv, commissioners decided that another member will work on a paid basis.

in DEC #10 AR Crimea. In DEC #141 (Odessa oblast), a member nominated by Our Ukraine resigned claiming harassment on her family.

As stated in the first ENEMO interim report, the composition and frequent replacements of the DEC members continue to raise concerns about the lack of balance of relevant political parties. CIFRA monitoring-analytical group from Lviv provided a detailed analysis of rotations in the composition of the DEC members. From August 26 to September 5, political parties replaced 1972 out of 4050 existing DEC members having changed staff composition by 49 %. The smallest amount of replacements was performed by political parties represented by factions in the Verhovnarada, while the largest share of replacements was made by six technical parties: “*RusYedyna*” (The Only Rus), “*Bratstvo*” (Brotherhood), “*Ruskyy Blok*” (Russian Bloc), “Union of Anarchists of Ukraine”, “*YedynaRodyna*” (The Only Family) and *Ruska Yednist*. These 6 parties which had 32,7% of all DEC members and meanwhile changed all their nominees (75% share of from all replacements).

The amount of replacements in managerial DEC positions has risen as follows: 64% - heads of DEC members were changed, 45% - deputy heads of DEC members, 58% - secretaries of DEC members. The total percentage of replacements coming from these technical parties is higher than 100%, it means that even persons who were substituted already are substituted again. ENEMO observers report replacements of DEC members are still on-going, although in a smaller intensity than in the first two weeks after the DEC lottery. The percentage of replaced DEC members increased to 52 % meanwhile.

CIFRA analysis revealed that 391 members of DEC members as of September 5, 2012 are the same members that in the second round of Presidential Elections 2010 represented the candidate Viktor Yanukovich. Only 79 members of them were officially submitted from the Party of regions faction, while other 312 members were brought in from other political parties. Furthermore, ENEMO observers found two extreme cases of replacements in DEC members #119 (Lviv oblast) and #194 (Cherkasy oblast). Members who were representing *Batkivshchyna* (#119) respectively Party of Regions (#194) at end of August, later became Heads of Commissions nominated by Christian-Democratic Party of Ukraine respectively Union of Anarchists of Ukraine. Their primary parties nominated new members to those DEC members instead of them. UDAR signed a cooperation agreement with Christian-Democratic Party of Ukraine and political party Youth To Power³ which replaced some of their DEC representatives with UDAR members (e.g. in DEC members #9 AR Crimea, #42 Donetsk oblast and #62 Zhytomyr oblast). Those facts are raising concerns that technical parties are replacing their members with people who are actually not their members or sympathizers, but are following interests of other political parties. Significantly, at least four members of technical political parties could not remember which party are they officially representing after ENEMO observers asked them (DEC #141 Kharkiv oblast, #187 in Khmelnytsky oblast, #76 Zaporozhie oblast and #52 Donetsk oblast).

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

Procedure for Establishing the Precinct Election Commissions (PEC lotteries)

On September 13 just five days prior to the deadline of nomination for PEC members, the CEC changed the rules of conducting the lottery for PEC formation. The resolution #895 was passed by the majority votes (8 for, 2 abstained, 2 against) and stated that each of 225 DEC's will hold only one lottery for all PECs within the respective district. The CEC created a complicated lottery procedure which was supposed to ensure a larger balance of political subjects in PECs. Nevertheless, opposition parties, domestic and international observers including ENEMO raised concerns about the late change of rules and claimed possible lack of balance of relevant political subjects at the precinct level. Svoboda, Batkivshchyna and UDAR applied to the Kyiv Administrative Court of Appeals which decided to uphold the CEC resolution.

Preparation activities for lot drawings and nomination procedures for PECs proceeded very inconsistently and were full of irregularities. Lists with PEC nominees from opposition parties were refused due to missing stamp, information data or signature of party chairman in at least four DEC's⁴, while according to Svoboda the same application forms for their party were accepted in other DEC's. Batkivshchyna nomination lists was refused initially, but then accepted after DEC consultation with CEC in DEC's #135 (Odessa oblast) and #43, #57 and #58 (Donetsk oblast) or after successful court complaints in DEC's # 57 and #58 (Donetsk oblast). On the other hand, lists of some parties generally considered to be technical were accepted after the deadline for submissions expired on September 20 at midnight.⁵ At least in three DEC's, multiple nomination lists were submitted by the same person who did not have the power of attorney for all of them.⁶

Due to huge technical problems with the connection with CEC server, a number of DEC's had to postpone the PEC lot drawings for hours, some of them ended in late night hours, especially in AR Crimea, Khmel'nitsky, Odessa, Luhansk, Kharkiv, Cherkasy and Kyiv oblasts. The lottery drawing itself was mostly open, the access of observers and media was guaranteed. Nevertheless, in DEC's #19 (Volyn oblast), #146 Poltava oblast, #149 Poltava and #24 Dnipopetrovsk oblast Batkivshchyna, Svoboda respectively UDAR representatives claimed about lot manipulation in terms of different sizes of envelopes, taped or visible lot numbers. Their lawsuits were rejected by reason of lacking evidence. According to various interlocutors, the DEC #159 in Sumi oblast decided to declare the first lottery as a test and preparation for the real one and drew once again. In the second attempt, Svoboda claims that it was not allowed to participate in drawing. Protocol of the session reportedly does not have any remarks about the first lottery.

The CEC provided DEC's with instruction that "the lottery deals with the numbers of the nominees, and not with candidates who presented the nominees" and that "the number of lots

⁴For examples in DEC's #135 (Odessa oblast; Svoboda, Rukh and Ukrainian People's Party), #107 (Luhansk oblast; RadikalnaPartiya, Rukh and Novaya Politika), and #5 (AR Crimea, Svoboda).

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

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

should correspond to the biggest number of nominees for a PEC”. According to it, the lottery should be implemented referring to the timeline of submitting applications for each PEC. Since not all parties applied for every PEC and some multiple nominees were excluded, the nomination orders were different for each PEC. In this way, the implementation of lottery should have ensured more balanced composition of PECs than the single lottery drawn for DEC members. Despite this information how to handle the concrete procedure of lot drawing, some DEC members were not well informed and overloaded, like in DEC #174 Kharkiv oblast, #88 Ivano-Frankivsk oblast, #187 Khmelnytskyi oblast or #58 Donetsk oblast.

However, at least 38 DECs violated intended procedure, mostly by drawing lots and implementing its results referring to political subjects which had some similarities with the DEC lottery. 17 DECs⁷ provided ENEMO observers with lists of results connecting drawn numbers with political subjects what was misleading, since they should not refer to them, but to the concrete nominee number on each PEC – and those were different from PEC to PEC. DECs which drew lotteries referring to political subjects had to repeat the lottery after intervention of CEC or to make a new data input to the CEC software⁸ what caused new PEC compositions. In DECs #191 Khmelnytskyi oblast and #160 Sumi oblast, lots were drawn for each PEC separately and had to be redrawn according to CEC instructions as well.⁹ Altogether, ENEMO observers reported 18 DECs which had to repeat the lottery procedure,¹⁰ whereas the number of requests for a new data input was much higher. The reasons for repeated lotteries were wrong number of drawn lots¹¹ or not excluding double nominated PEC members. High number of CEC interventions with request for corrections shows again that the DECs were not trained and informed enough to arrange a unified lottery drawing and its implementation.¹²

The exact procedure of lottery and its implementation was not explained everywhere to the political subject representatives, observers and media who attended the drawing what caused discussions and disputes between observers and DEC members. (e.g. in DECs #4, #6 and #10 AR Crimea, #152 Rivne oblast, #168 Kharkiv oblast). Different understandings of drawing lotteries were featured by totally different ways of its implementations. Whereas in DEC #168 Kharkiv oblast the results were presented within of few minutes; in DEC 174 Kharkiv oblast it took few hours and DECs #203 Chernivtsi the commission members made a data input in the CEC software and announced the publishing of concrete results for the next days.

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

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

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

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

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

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

Formation and Work of Precinct Election Commissions

Every LTO team reported at least one DEC where same persons were nominated by two or even three different political parties. The number of duplicate or triple nominations differs from DEC to DEC, for example, in Cherkasy oblast DECs #199 and #200 had over 200 clones whereas #196 and #197 detected none or just three of them. The highest number of multiple nominated PEC representatives was reported from DECs #225 Sevastopol City (3360), #87 Ivano-Frankivsk (3187), #20 Volyn oblast (1630), #205 Chernigiv oblast (853), #123 Lviv oblast (800), #125 Lviv oblast (over 700), #97 Kyiv oblast (over 600), #175 Kharkiv oblast (432), #179 Kharkiv oblast (over 400) and #38 Dnipopetrovsk oblast (over 300).

There are indications that lists of technical parties are made from one center with the purpose to get as many PEC memberships as possible and to replace them later. In DEC #12 Vinitia oblast, ENEMO observers found out that 21 political parties including the faction of Party of Regions have the same phone number as their headquarters contact data.¹³ PEC nominations were the reason for an incident in district #22 (Volyn oblast) on September 17 where students of Lutsk pedagogical college confirmed to our LTO team that they were forced to stay at school until 11 p.m. and to fulfil PEC applications for several political parties. Other examples like in DEC #5 AR Crimea where exactly the same ID copies accompanied by different signatures were used for applications of two different political parties or in DEC #145 where all applications of political party Youth to Power had the same signature substantiate the suspicions that a number of multiple nominations was done without the knowledge of the nominees.¹⁴ Additionally there was a tendency to submit a large number of nomination lists shortly before the deadline expired and to flood the commission with paperwork, so the applications could not be checked properly.¹⁵ In DEC #192 Khmelnytskyi oblast, applications with same birth date, phone number and address, but with slight differences within the name spelling (one letter was added or missing) were submitted by different political subjects. Nominations with same names, but different addresses were reported from DEC #126 Lviv oblast. In this way, CEC software "Vybori 2012" could not detect them as multiple nominations. On the other hand, time pressure hindered the commissions to review in detail all applications.

According to election law, DECs should reject candidates for PEC membership if two or more political subjects nominated them simultaneously. After requests from DECs how to handle the high number of multiple nominations, CEC provided them a letter with a recommendation not to reject nominees who supplementary submitted a written application where they confirm their intention to represent only one certain political subject in only one PEC (order no. 21-33-3749 from September 19, 2012). Although the letter can be regarded as a positive step to

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

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

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

avoid manipulative double nominations, its implementation caused problems since the access to it was limited. Whereas DEC #77, #80 and #81 in Zaporozhie oblast, #176 Kharkiv oblast or #109 in Luhansk oblast rejected all multiple nominated persons for PECs, most of DEC allowed nominees who fulfilled the mentioned applications to take part in the lot drawing. Representatives or even DEC members of Our Ukraine and Batkivshchyna (e.g. in DEC #4 and #6 both AR Crimea and #175 Kharkiv oblast) stated that they were not informed about the possibility for their nominees to sign such application in contrast to other parties.

At least five DEC did not exclude multiple nominated PEC candidates and thus violated the electoral law. Two of them had to repeat the lottery (#141 Odessa oblast and #87 Ivano-Frankivsk oblast), but three DEC (#22 Volyn oblast, #83 and #84 Ivano-Frankivsk oblast) solved the problem with multiple applications in an unlawful way – retrospectively and without of a new lot drawing.¹⁶ Most DEC excluded multiple nominees which were detected by CEC software “Vybori 2012” and did not fulfil the application according to letter no. 21-33-3749. Multiple sources confirmed to ENEMO observers that the respective computer programme did check multiple nominations only within a district and not among different constituencies. As consequence, at least 200 persons are both PEC members in districts #153 and #154 in Rivne oblast. Considered the proved tendency that many PEC nominees were not aware of political subjects nominating them, a large wave of replacements can be expected. Just few days after the formation of PECs, this trend started on a large scale: only in district #201 (Chernivtsi oblast) 244 PEC members from 42 political subjects were exchanged in the first session after the establishment of PECs. The highest number of replacements until now was reported from district #78 Zaporozhie oblast and #52 Donetsk oblast (both over 1500), #225 Sevastopol City (1413), whereas over 1000 PEC members were exchanged in district #129 Mykolaiv, over 900 districts #115 Lviv oblast, #202 Kyiv City, #189 Khmelnytskyi oblast.¹⁷ Replacements are done both by small technical parties like Youth to Power, ZelenaPlaneta, Union of Anarchists and well-known parties like UDAR, Party of Regions and Batkivshchyna.

The very majority of DEC used the CEC computer programme “Vybori 2012” on distribution of managerial positions, but some software bugs which provided disparities were detected.¹⁸ At least 17 DEC used other procedures for the distribution of managerial positions. Eight of them were done manually by the Head, Deputy Head or Secretary of DEC and mostly in a non-transparent way.¹⁹ Six DEC allowed political subjects to submit proposals and voted than for a compromise solution,²⁰ whereas DEC #165 and #166 (both Ternopil oblast) drew a lot even for PEC senior staff. Distribution of PEC managerial positions was often the reason for large disputes within the DEC and caused breaking

¹⁶In DEC #22 the Head of DEC called nine double nominated PEC candidates and asked them per phone for a decision.

¹⁷All DEC visited by ENEMO observers after the PEC lottery are reporting changes in PEC membership. Other extreme cases with over 500 replacements are districts #203 and #204 Chernivtsi oblast, #12 Vinnitsia oblast, #116, #117 and #118 Lviv oblast and about 500 in #127 Mykolaiv oblast.

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

¹⁹DEC #116 and #122 Lviv oblast; #130, 131 Mykolaiv oblast; #135 Odessa oblast, #97 Kyiv oblast, #200 Cherkassy oblast and #42 Donetsk oblast.

²⁰DEC #137 Odessa oblast, #167 Ternopil oblast; #188 Khmelnytskyi oblast, #131 Mykolaiv oblast and #2 AR Crimea.

deadlines for the PEC establishment, especially in Kyiv oblast and Autonomous Republic of Crimea. ENEMO observers attended an incident at DEC #2 (AR Crimea) where police and state security service SBU interrupted the commission session about managerial position distribution just after the midnight of September 26 when the deadline for PEC establishment expired. Observers and party representatives were forced to leave the session; their cell phones were reportedly made unable to function and just security authorities wanted to stay in the room with DEC members.

Delayed start of PEC functioning was caused also due to wrong contact data of PEC members and submitted applications without of their knowledge. Especially in Lviv oblast and Kyiv City, the majority of PECs did not have a quorum for the opening session and they had to wait for replacements. Until October 7, 2012 ENEMO observers visited at least 86 PEC addresses without finding anyone present, although the deadline for their first meeting expired. The PECs which started to work are characterized by a lack of experience and the trainings of PEC managerial staff mostly have not taken place yet.

CAMPAIGN VIOLATIONS

In all oblasts except Poltava increase of campaign activities in the last four weeks is reported. In Kyiv, Odessa, Zaporozhie, Luhansk and Lviv oblast the election campaign is getting more competitive. UDAR party claims damage on their billboards (Sevastopol City, AR Crimea, Cherkassy, Kirovograd, Lviv, Zakarparya and Zaporozhie oblasts). Batkivshchyna, Svoboda and UDAR continue complaining about difficult access to media and billboard places. In Zaporozhie (UDAR), Odessa (Batkivshchyna and UDAR), Kharkiv (Batkivshchyna and Svoboda) and Poltava (Svoboda) oblast ENEMO observers confirmed that those parties have just few billboards or have got less visible advertisement places in some districts. An owner of a billboard company in Zaporozhie oblast admitted to ENEMO observers that Party of Regions is telling him how many billboard places he can allocate to other parties (reportedly 20-30 spots for Batkivshchyna and Communist Party, no billboards for UDAR) and he is pressured to deny access to oppositional parties although there are free billboard locations. ENEMO observers were given a letter of another billboard company from Zaporozhie oblast, canceling an already signed agreement with a self-nominated candidate in district #74.

Generally, local authorities in Zaporozhie oblast are very active in limiting campaign possibilities, especially for political party UDAR. On October 5 an UDAR rally with its party leader Vitaly Klitchko was announced in district #82, the city council was informed about the meeting one day before it. On the same day, the local authorities adopted a resolution to reconstruct the respective square and started the works on the morning of the rally. Obstructions of rival rallies by political parties increased as well. In Luhansk oblast, Communist Party and Party of Regions are disturbing rallies of each other; a communist rally was accompanied by a counter-rally of Radical Party including inflammatory language and harassment. Party of Regions activists obstructed Batkivshchyna rallies in district #178 Kharkiv oblast and in several districts in Odessa oblast by loud noise and smoking bombs, also UDAR rallies in district #103 Kirovograd oblast and in Simferopol.

Harassment and intimidation of candidates has increased significantly within the last two weeks. There are two cases of candidate arrests from end of August: in district #18 (Vinnitsia oblast) the self-nominated candidate Ruslan Demchuk has been arrested after an investigation of tax administration. In district #9 the charge against a candidate of Batkivshchyna has been increased from hooliganism to attempted murder. In both cases, the arrested candidates are challenging candidates of Party of Regions. In #72 Zakarpatya oblast, a self-nominated candidate was arrested and charged for several crimes from the period of 2008-2010. Within of two last weeks, ENEMO observers reported four cases of candidates hiding from security authorities after investigations on them has been opened: in districts #82 Zaporozhie oblast (candidate Kryvohatka from UDAR, first 2008 incident at his factory then tax investigation), #107 Luhansk oblast (self-nominated candidate Shahov, charged for hooliganism case from 2011); #30 in Dnipropetrovsk oblast (self-nominated candidate Kupryi) and #132 Mykolaiv oblast (candidate Kornackiy from Batkivshchyna). UDAR candidate Sabashuk has already paid a bail in district #74 (Zaporozhie oblast), whereas candidate Struk is facing several charges after he announced that he will not run for Party of Regions, but as a self-nominated candidate in district #104 (Luhansk oblast).

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

There are four cases of candidates who already resigned after arrests or pressure: mentioned candidates Demchuk and Cypin withdrew after being arrested respectively shot at; furthermore multiple sources confirmed withdrawal of governor of Volyn oblast and candidate in district #22 being pressured by influential self-nominated candidates in their constituencies; in district #80 Zaporozhie oblast UDAR candidate resigned after pressure by tax administration and threats. There is growing number of withdrawals in other districts (especially in Dnipropetrovsk, Odessa and Lviv oblast) where the reasons are still unknown or were caused by political agreements.²¹

In the last four weeks ENEMO observers registered over 20 cases of election agitation in universities, schools, and even kindergartens, especially in Volyn oblast. Day of Teachers and other comparable events are largely accompanied by campaign activities of local ruling structures – for example Party of Regions in Donetsk, Odessa oblasts and AR Crimea. Placarding of campaign materials on administrative buildings in favour of Party of Regions continues in AR Crimea, Odessa, Cherkasy, Mykolaiv and Zhytomyr oblasts. In Odessa, Vinnitsia, Cherkasy and Dnipropetrovsk oblast, firefighters vehicles are openly used for installation of Party of Region billboards. In contrast to that, public transport vehicles and bus

²¹E.g. in district #135 Odessa oblast, there were eight withdrawals of single mandate district candidates within two days. In Dnipropetrovsk oblast, already 57 self-nominated candidates resigned their candidacy, ten in district #31, each seven in districts #24, #27 and #29.

stops are used for campaigning not just by Party of Regions, but also by Svoboda and self-nominated candidates. Party of Regions continue using the so-called People's Budget for campaigning in Odessa oblast. Mayors and Governors are reported in at least 21 districts to support candidates of Party of Regions openly and even on billboards.²² However, these cases are not recognized by courts to be a violation of electoral law since it is not clear if they are doing that within of their working hours.

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

Many political parties complain about illegal campaigning against their candidates. ENEMO teams reported recently 52 such cases, among that 14 against Party of Regions candidates, 12 against candidates of United Opposition and 11 against self-nominated candidates. A new method used are fake newspapers which are spreading false information about candidates and political parties, for example in districts #87 Ivano-Frankivsk oblast, #17 Vinnitsia oblast, #109 Lugansk oblast or #28 Dnipropetrovsk oblast. Different sources claim intimidation of employees in the public sector, particularly in poor rural areas and that camera presence at polling stations is often used as additional pressure instrument for uneducated voters. Those claims are difficult to be verified, however, the high number is of particular concern.

ELECTORAL DISPUTES

ENEMO has analyzed 62 complaints that were adjudicated by the CEC from August 1 to October 1, 2012. According to the official statistics of the Central Election Commission, from July 31 to September 24 the CEC received 262 complaints and 66 of them were adjudicated. Out of all 66 complaints only 4 were fully satisfied and 7 partially satisfied. 23 complaints were not considered on merits and 32 of them were dismissed.

The CEC also issued warnings in eight cases, one case was sent to the General Prosecutor's Office and 30 cases were sent to the Ministry of Internal Affairs of Ukraine. According to the article 61.1 of the law on elections of People's Deputies of Ukraine "*the Central Election Commission may adopt a decision to issue a warning to a party whose MP*

²²This practice is wide spreaded especially in Dnipropetrovsk oblast (#24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37 and 38) and Donetsk oblast (districts #46, 47, 52, 59 and 60), but there are also cases in AR Crimea (#3) or Zaporozhie oblast (#75).

candidates are included in the party's electoral list or to an individual MP candidate." The law does not allow the CEC to issue a warning without a court decision. In all eight cases, the CEC referred to court decisions.

According to the article 61.5 *"If an election commission discovers a violation provided for by Part two of this Article or any other violation for which a criminal or administrative liability has been established by the law, the election commission shall notify law enforcement bodies of the violation for the purpose of investigation and reaction in accordance with the law."* When the CEC forwards complaints to the law enforcement bodies, it exercises that legal obligation. However, the CEC just notifies them and isn't responsible for follow up. There is no information available about investigation and prosecution of such violations.

The CEC can only cancel the registration of an MP candidate if there is a judgment of a court finding the MP candidate guilty of committing a deliberate crime and it has come into force. The courts already ruled on cases of indirect voter bribery. The Kyiv Administrative Court of Appeal passed a decision on September 16 to stop candidate in any actions connected with indirect bribery of voters and the CEC issued a warning. According to the decision of the Odessa Administrative Court of Appeals dated August 30, 2012 candidate David Zhvaniya violated Part 13 Article 74 by giving school uniform units to the students of Troitska secondary school in Biliaevskiy district.

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

MEDIA

In the last week ENEMO mission has been concerned over legislative initiative to criminalize defamation in Ukraine. After Verhovna Rada pushed libel draft amendment to the second reading, local media outlets and civic organizations united in protest to protect freedom of speech. The amendment announced just few weeks before the October Parliamentary elections has been of large concern for local and international media environment. Large number of newspapers appeared with a blank cover page. The author of amendment MP Zhuravsky from Party of Regions subsequently scraped his initiative.

The pressure on TVi mounted recently. In the period July – September 2012, TVi lost almost three million of viewers from cable networks. The number of cable network providers which excluded TVi from their offers or moved them to a more expensive package exceeded 90. According to TVi chief executive officer most cable operators act under pressure of state and local authorities. The state tax service opened an investigation and the District Administrative Court of Kyiv ruled TVi channel to pay about 4.000.000 UAH subsequent payment of taxes within one week. After a call for donations the channel managed to pay the full amount in time.

In addition, some TV stations and newspapers are facing pressure from the authorities, the tax service, and the law enforcement bodies. For example ENEMO observers reported

newspaper Grivna from district #131 in Mykolaiv oblast being closed after they refused to report in favor of the ruling party. After the TV channel Kherson plus has allowed a Communist Party candidate to criticize Party of Regions openly, the Regional Administration of Kherson oblast ordered them to remove their antennas from their building, because they “do not match to surrounding infrastructure”. Two cases of physical attacks on journalists were reported within the last two weeks (Mykoalev, Lviv).

Some candidates complain about denied access to media and refusal of publishing their advertisings in local newspapers.²³ On a positive note, ENEMO observers reported that in district # 9 AR Crimea courts obliged newspaper Vpered to sign the contract with Batkivshchyna and offer it paid space for election advertisement. Similar decision was made at the court trial between self-nominated single mandate candidate in district #3 AR Crimea Shklear Vladimir and newspaper OgniMayaka that was obliged by the first instance to give space to the candidate. ***ENEMO appeals to media licensing and supervisory bodies to refrain limitations and restrictions on any media to freely operate and express opinion.***

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

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

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

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

²³For example, denial of access to the planned radio show to Batkivschyna candidate GennadiyZubko (district #62 Zhytomyr oblast).