



## **ENEMO International Election Observation Mission Early Parliamentary Elections, July 21st - Ukraine 2019**

### **INTERIM REPORT (June 07th-July 8th)**

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*ENEMO considers that the existing legal framework provides main preconditions for conducting competitive and democratic early parliamentary elections. However, strenuous deadlines, considerable uncertainties related to candidate registration and short timeframes for campaigning have created a challenging environment. Although the elections are competitive overall, lack of comprehensive campaign rules may allow candidates to circumvent the principles of fair campaigning and transparency.*

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On June 7th the European Network of Election Monitoring Organizations (ENEMO) deployed an International Election Observation Mission to Ukraine to observe the upcoming early parliamentary elections 2019.

In addition to the eleven Core Team members based in Kyiv, ENEMO has accredited 40 Long term observers (LTOs) and deployed them, in teams of two to all regions (oblasts) of Ukraine, on June 24th. The Mission is headed by Dr. Zlatko Vujovic.

ENEMO is a network of 21 leading election monitoring organizations from 18 countries of Europe and Central Asia, including 2 European Union countries. More info on ENEMO's web page: [www.enemo.eu](http://www.enemo.eu)

This interim report is based on ENEMO observers' findings in Kyiv and all regions of Ukraine between the official launch of the mission on June 7th and July 8th, where they focused on the work of election administration bodies, registered political parties and candidates, conduct of the election campaign, election-related complaints and appeals and other election related activities. The mission will issue its preliminary statement of findings and conclusions immediately after the election day and a final report after the final results are certified.

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**DISCLAIMER:** ENEMO's international observation mission for Ukrainian Early Parliamentary Elections 2019 is financially supported by the United States Agency for International Development through the National Democratic Institute, the Federal Foreign Office of the Federal Republic of Germany and the Kingdom of the Netherlands. The content of the document is the sole responsibility of ENEMO and does not necessarily represent the position of the donors.



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## Executive summary

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On May 21st, the President of Ukraine Volodymyr Zelensky signed a decree dissolving the *Verkhovna Rada* (Parliament) and setting the date of early parliamentary elections for July 21st. The Central Election Commission (CEC) initiated electoral preparations on May 24<sup>th</sup>, following a strenuous calendar and tight deadlines.

The *Verkhovna Rada* counts 450 seats, with MPs elected for a 5-year term. Under the current electoral legislation, 225 members of the Parliament are elected through a single nation-wide closed party-list proportional system, with a 5% electoral threshold, while 225 MPs are elected in single-mandate electoral districts. However, due to Russian Federation's annexation of the Crimea in March 2014, and the ongoing occupation of parts of the territories in Donetsk and Luhansk *oblasts*, only 424 seats will be elected: 225 through party lists and 199 in single-mandate constituencies.

Due to the lack of a comprehensive legal framework and legal gaps in the parliamentary elections law, the CEC adopted a number of resolutions to address issues insufficiently explained in the existing laws. This has, however, led to several lawsuits challenging the integrity of the electoral process.

In total, the CEC registered 22 political parties in the nation-wide proportional constituency. According to the CEC as of July 8th, 5,980 candidates were registered for elections, of which 3,220 candidates in majoritarian single mandate constituencies (1,430 nominated by 52 political parties, 1,716 self-nominated, 74 candidacies cancelled in single-mandate constituencies), and 2,760 candidates are included in the party lists for the nation-wide constituency.

ENEMO observed that procedures for properly filing registration documents, as well as grounds for rejection of applications were at times unclear. Back and forth of court cases and legal proceedings linked to registration of candidates and parties raised considerable uncertainty and confusion in the organization of elections.

ENEMO notes the considerable amount of registered "clone" candidates and organizations (i.e. candidates and organizations bearing the same name as others). ENEMO assesses this phenomenon as a risk that may potentially confuse voters and affect their will.

All DEC members were established with full membership, composed of 3,582 members in total (18 members per DEC). The CEC posted online the list of DEC members and their compositions in a timely manner. ENEMO notes that women are well represented in DEC members (59 % of members are women).

Due to a high level of turnover in DEC members' compositions by electoral subjects, some members did not attend the trainings. There are no provisions in the law limiting the number of times the electoral subjects may successively replace DEC members (up until election day), and no conditions with regard to the level of experience of nominated DEC member. As of July 8th, more than one third (over 35%) of DEC members have already been replaced at least once.

Although insufficient number of candidate and party submissions to electoral commissions was foreseen as a challenge, PECs were all formed in time and without major obstacles. In total, 29,900 PECs out of which 28,637 ordinary PECs, 1,161 special PECs, and 102 PECs abroad were formed by respective DEC by the July 5<sup>th</sup> deadline.

Only slightly over half of the parties in the nation-wide district respected the obligation to include 30% of women candidates (13 out of 22 parties) in their lists. In total, approximately 22,5 % of candidates in the election are women.

According to preliminary data from the CEC, as of June 30<sup>th</sup>, there are 32,797,373 eligible voters (excluding the Autonomous Republic of Crimea and Sevastopol). Close to 55 % of voters are women. As of July 4<sup>th</sup>, 46,886 voters have used the opportunity to temporarily change their place of voting.

The overall campaigning environment is competitive, with a variety of choices available to voters, including an array of recently formed parties. However, cases of campaign materials containing hate speech were observed, as well as violence against candidates and campaigners, and damaging of campaign materials. A considerable number of illegal campaign materials (improperly branded, often lacking information on source of funding and/or entity responsible for publication, etc.) were observed in most *oblasts*.

Allegations of bribing of voters in exchange for remuneration (direct vote buying) or goods and services (indirect vote buying) were reported by observers from most regions. Lack of financial transparency and violations to financial rules of campaigning may continue to have an effect on voters' perception, particularly with regard to levels of trust in elections.

The media landscape is diverse and a high number and accessibility of media outlets could provide voters with diverse information. However, high concentration of media ownership and economic and political interests of their owners are influencing journalists' reporting and may limit the diversity of viewpoints in the media and voters' ability to make a truly informed choice.

ENEMO notes that given the overall media environment, strongly influenced and shaped by the interests of media owners, the role and importance of the public service broadcasters is vital for the citizens' access to comprehensive, objective and impartial information about the elections and contestants and their independence should be strongly supported.

Contestants are granted free airtime and print space in public national and regional media, whereas the CEC, as the body responsible for this allocation, adopted a Resolution within the defined deadline.

## Background

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Early parliamentary elections (snap elections) in Ukraine will be held on July 21<sup>st</sup>, 2019. These elections were initially scheduled for October 27<sup>th</sup>, 2019. However, due to Volodymyr Zelensky's landslide victory against Petro Poroshenko on April 21<sup>st</sup> 2019, immediately following his inauguration on May 20<sup>th</sup>, President Zelensky called for the dissolution of the *Verkhovna Rada* in his speech, declaring his eagerness to renew the political representation in the Parliament. The Presidential Decree on early termination of powers of the *Verkhovna Rada* and the appointment of early elections was signed on May 21<sup>st</sup><sup>1</sup>.

On May 22<sup>nd</sup>, the Parliament failed to adopt a new election code containing amendments to the current legislation on parliamentary elections. Therefore the elections will be held under the current semi-proportional system and the same legal framework as in 2014. In accordance with the 2001 "Law on the Election of People's Deputies of Ukraine" (hereinafter parliamentary elections Law), the Central Election Commission (CEC) started organizing the electoral process under a strenuous calendar and short timeframes.

Due to the annexation of Crimea in March 2014 by the Russian Federation, as well as the ongoing occupation of parts of the territories in Donetsk and Luhansk *oblasts*, only 423 mandates in the Verkhovna Rada were elected in 2014 parliamentary elections. Likewise in the 2019 elections, out of 424 seats 225 will be elected through party lists in the nation-wide district, and 199 will be elected in single-mandate districts.

Following the incumbent President Petro Poroshenko's defeat, expectations of Ukrainian citizens in these elections are high regarding the renewal of the composition of the Parliament<sup>2</sup>. Presidential elections 2019 have shown that many citizens await new reforms and new faces replacing the former political elite, a demand which has partly been met with the appearance of newly formed political parties and leaders in the early parliamentary elections.

On the other hand, these elections are held in a tense environment, with short deadlines for electoral preparations, ongoing conflict in the Eastern territories of the country, and shortcomings in the legal framework, which have not been addressed and have resulted in high levels of uncertainty, and proven to be a considerable challenge for the election administration.

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<sup>1</sup> DECREE OF THE PRESIDENT OF UKRAINE No. 303/2019 "On early termination of powers of the *Verkhovna Rada* of Ukraine and the appointment of early elections".

<sup>2</sup> 59 % of citizens declared being "definitely in favor" of the dissolution of the Parliament in May 2019 (source: "Rating" polling group, "Monitoring Ukraine's electoral mood" (May 16<sup>th</sup>-21<sup>st</sup>))

# Legal Framework and Electoral System

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## Legal Background

The legal framework for the parliamentary elections in Ukraine is complex. Elections are primarily governed by the Constitution and the parliamentary elections law,<sup>3</sup> which covers the work of the election administration, pre-election campaign, financial activity with electoral purposes, and election dispute resolution. At the same time, certain segments of elections are regulated by the Law on the Central Election Commission;<sup>4</sup> Law on State Voter Register;<sup>5</sup> Law on Political Parties;<sup>6</sup> Code of Administrative proceedings;<sup>7</sup> Code of Administrative Offenses;<sup>8</sup> and the Criminal Code of Ukraine.<sup>9</sup>

The existing legal framework, specifically parliamentary elections law was adopted prior to the 2012 parliamentary elections and was substantially amended ahead of the 2014 early parliamentary elections (more recent and less substantial amendments were made in 2016 and February 2019). However, the vast majority of provisions needs to be updated according to other existing legislation. For instance, existing legal terms and procedures for public procurement exceed the terms of the election process since the Law on Public Procurement does not contain any exceptions for the election procedures. Consequently, according to the head of the CEC, the commission is not able to properly hold tender procedures for the production and distribution of ballot papers, protocols, acts, and other documents under the current legislation.<sup>10</sup>

ENEMO further notes that many of the concerns regarding the legal framework that were raised in 2014 have not yet been addressed, including limitations regarding the five-year residency requirement, exclusion of candidates which have a criminal record, rules for formation and composition of DEC and PECs, which favor the established electoral subjects to the detriment of pluralism, enfranchising of IDPs and enforcing rules on early campaigning.

Notwithstanding the fact that substantial recommendations issued by international and domestic EOMs remain unaddressed, the existing legal framework provides sufficient grounds for the conduct of parliamentary elections in line with international commitments and standards.

The legal grounds for holding early parliamentary elections were established by the presidential decree No.303/2019 points 1 and 2, which respectively terminated the authority of the *Verkhovna Rada* ahead of schedule, and appointed early parliamentary elections on July 21<sup>st</sup>, 2019.

The presidential decree considered that clauses from Articles 77, 83, 90 and 106 of the Constitution

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<sup>3</sup> No. 4061-VI, dated November 17, 2011 (amended in 2019)

<sup>4</sup> No. 1932-IV, dated June 30, 2004; amended in 2018

<sup>5</sup> No. 698-V, dated February 22, 2007; amended in 2016

<sup>6</sup> No. 2365-III, dated April 28, 2001; amended in 2017

<sup>7</sup> No. 2747-IV, dated July 6, 2005; amended in 2018

<sup>8</sup> No. 8073-X, dated December 7, 1984; amended in 2019

<sup>9</sup> No. 2341-III, dated April 5, 2001; amended in 2019

<sup>10</sup> Statement made by the head of the CEC: [https://www.cvk.gov.ua/news/news\\_27052019\\_1.htm](https://www.cvk.gov.ua/news/news_27052019_1.htm)

supported the decision to terminate the powers of the Parliament and called for early parliamentary elections in the absence of a majority coalition in the *Verkhovna Rada*.

On June 11<sup>th</sup>, the Constitutional Court held a hearing to consider a motion signed by 62 MPs regarding the constitutionality of the Presidential Decree on the dissolution of the Parliament. On June 20<sup>th</sup>, the Constitutional Court recognized the Presidential Decree on Parliament's dissolution to be in line with the Constitution.

## Electoral System

The *Verkhovna Rada* is elected for a five-year term on the basis of universal, equal, and direct suffrage by secret ballot. Since 2011, elections are held under a mixed system of proportional representation and single-member constituencies. Candidates can be elected either through party lists in a nation-wide constituency, or in single-mandate constituencies, either by being nominated by a political party or through self-nomination.

The *Verkhovna Rada* counts 450 seats, with 225 members of the Parliament elected through a single nation-wide closed party-list proportional system with a 5% electoral threshold. The other 225 seats are elected through a single round first-past-the-post majoritarian system (the candidate with the highest total number of votes wins) in single-mandate constituencies.

However, due to the annexation of Crimea in March 2014 by the Russian Federation, as well as the ongoing occupation of parts of the territories in Donetsk and Luhansk *oblasts*, only 424 seats will be contested, 225 through party lists in the nation-wide constituency and 199 in single-mandate districts.

Two separate ballot papers with different colors and formatting are used to distinguish voting in the nation-wide constituency and the single-mandate constituencies, and are separately counted. The method used for calculating the distribution of the 225 proportional mandates in the nation-wide constituency is the Hamilton method, which uses the Hare quota (largest remainder method) according to the following formula: total votes/number of seats. Seats obtained in the 199 single-mandate constituencies are directly attributed to candidates that obtained the highest number of votes in their respective constituency.

## Election Administration

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Parliamentary elections are administered through three levels of electoral commissions: the CEC which is a permanent body composed of 17 members nominated for a seven year renewable term<sup>11</sup>,

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<sup>11</sup> Currently only 16 members are nominated due to disagreement between the former President and the Parliament on nomination of one member in September 2018.

199 District Election Commissions (DECs) counting 18 members each, and nearly 30,000 Precinct Election Commissions (PECs) counting from 10 to 18 members, depending on the number of registered voters.

The CEC has the authority to plan and organize the electoral process in the whole territory of Ukraine. DECs are responsible for conducting elections in their respective districts and administering the work of all PECs within their territorial delimitation. According to the Law, DECs are formed no later than 50 days before the day of the elections (i.e. no later than May 31<sup>st</sup>) and PECs are created by a respective DEC no later than 15 days before the day of the elections, i.e. no later than July 5<sup>th</sup>, 2019.

Parliamentary elections are held in one nationwide constituency (proportional) that encompasses the entire territory of Ukraine, 199 single-mandate constituencies, and foreign polling station commissions. 102 polling stations for voting abroad were established by the CEC (voters at abroad polling stations may vote only in the nation-wide proportional constituency). Special polling stations for military may be additionally formed (in exceptional cases, no later than ten days before elections). Since Crimea is annexed by Russia and certain areas of the Donetsk and Luhansk *oblasts* are out of effective control of Ukraine, the CEC only formed 199 DECs in 24 regions. 12 DECs in Autonomous Republic of Crimea and in Sevastopol, 9 out of 21 DECs in Donetsk and 5 DECs out of 11 in Luhansk were not formed.

### **Central Election Commission (CEC)**

Following the announcement of early parliamentary elections and the official start of the electoral process (May 24<sup>th</sup>), the CEC raised the issue of procurement and deadlines for timely organization of elections by appealing to the Parliament and Ministry of Economy to resolve issues related to public procurement. The CEC considered that the timelines imposed by the law with regard to procurement could not realistically be respected in order to hold elections on time.

In May, the Parliament refused the adoption of a draft law facilitating tenders and procurement (including publication and delivery of election materials, such as ballot papers, election related goods and services, activities of DECs, etc.)<sup>12</sup>. An effective remedy was found through an order of the Ministry of Economy simplifying procurement procedures<sup>13</sup>, as the Law on Public Procurement does not contain adequate provisions on procurement measures essential to holding of early elections. ENEMO notes the challenge caused by a lack of legislative amendments, which would allow the CEC to have procedures that match expected timeframes for the implementation of early elections.

As of July 8<sup>th</sup>, the CEC adopted a total of 634 regulatory acts since the start of the electoral process. Most of the resolutions were related to registration or refusal of registration for candidates and party lists, formation of electoral commissions, procurement, approval of DEC decisions, registration of

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<sup>12</sup> Draft law #10217 was refused by Parliament on May 22<sup>nd</sup>.

<sup>13</sup> Ministry of Economic Development and Trade Order #898.

representatives of political parties, approval of form, text and color of the ballot papers, and approval of forms for financial reports on the receipt and use of election funds for political parties and candidates.

ENEMO assesses that the CEC performed its work in an overall effective and transparent manner, and observers were able to attend CEC sessions. Effectiveness and transparency of the CEC was not jeopardized by the constraining deadlines for organizing the electoral process, despite the challenges of the election calendar.

ENEMO notes however that due to the lack of a comprehensive legal framework and legal gaps in the parliamentary elections law, the CEC was forced to compensate shortcomings by relying on by-laws and regulations, further exposing itself to legal lawsuits (see below section on Registration of Candidates), resulting in considerable risks to the integrity of the electoral process.

### **District Election Commissions (DECs)**

The main competence of DECs include providing technical and legal support to the electoral process at the territorial level, determining electoral boundaries and approving voting premises, creating regular and temporary special PECs, registering official observers, overseeing the compilation of voter lists, distributing ballots and election materials to PECs, considering complaints on actions or inactions of PECs, and tabulation of election results at the level of their respective district.

ENEMO notes that despite constraining timeframes, the CEC formed all 199 DECs by May 31<sup>st</sup> deadline. Each DEC counts 18 members nominated by six political parties having mandates in the current Parliament (*Batkyvschyna*, *Narodny Front*, *Samopovytch*, “European Solidarity”, “Radical Party of Oleg Lyashko”, “Opposition Block”) and by any of the 29 political parties that had lists competing in the nation-wide proportional district in previous parliamentary elections<sup>14</sup>. Each entity had the right to submit one candidate per DEC.

In total, 5,756 candidates were proposed for DEC membership. 4,577 were nominated by 25 out of the 29 political parties from previous elections and attributed through the drawing of lots<sup>15</sup> (one per DEC), and 1,179 members were included from the 6 parliamentary factions (which all used their right to nominate members). ENEMO notes that overall the principle of proportionality was respected in accordance with the law, although it should be noted that political parties which are newcomers in these elections were not entitled to nominate candidates for DEC membership, whereas some parties have two DEC members following the lot-drawing process<sup>16</sup>.

All DECs were established with full-membership, composed of 3,582 members in total. The CEC

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<sup>14</sup> In this case, the parliamentary elections 2014.

<sup>15</sup> Drawing was made using the “*Vybory*” system for randomization of nominations.

<sup>16</sup> Since both a parliamentary faction and a party with lists in the nation-wide constituency can be considered as separate entities, one DEC member can be attributed on behalf of the parliamentary faction, and one on behalf of the party registered in the election.



posted online the list of DEC members and their compositions in a timely manner<sup>17</sup>. The highest representation rate was obtained by the parliamentary factions “*Batkyvschyna*” (5,6%), “*Narodny Front*” (5,6%), “*Radical Party of Oleg Lyashko*” (5,6%), “*Samopovytch*” (5,2%), “*European Solidarity*” (5,6%) and “*Opposition Bloc*” (5,6%)<sup>18</sup>. The proportions are the same for number of heads, deputies, and secretaries. ENEMO notes that women are well represented in DEC members (59% of members are women).

Over their first two weeks of deployment, ENEMO long-term observers visited 141 DEC members in total (70.85%).

DEC trainings were conducted from June 20<sup>th</sup> to June 27<sup>th</sup>. ENEMO observers gave an overall positive assessment of the quality of trainings attended. ENEMO notes, however, that due to a high level of turnover, some members will not have attended the trainings while the electoral process is ongoing. ENEMO also notes that there are no provisions in the law limiting the number of times electoral subjects may successively replace DEC members, and no conditions with regard to level of experience of nominated DEC members. As of July 8<sup>th</sup>, approximately more than one third (over 35%) of DEC members have already been replaced at least once. Replacements are expected to continue until the election day.

ENEMO notes that DEC members overcame a considerable challenge in their work with regard to the formation of PECs, since not all parties filled in all the nominations. DEC members successfully solved this issue by appointing staff through the use of databases from previous elections, or in a number of regions by appointing personal acquaintances (e.g. in Rivne and Volyn, Odessa, Chernivtsi and Ternopil, Zaporozhye, and Mikholaiv and Kherson *oblasts*)<sup>19</sup>. ENEMO notes that parties are not obliged to nominate full memberships to DEC members, which highlights the risk of the principle of political nominations to electoral commissions (as opposed to the principle of professionalization of commission members).

## **Precinct Election Commissions (PECs)**

The main functions of PECs are to conduct polling, vote count and compilation of results protocols at polling stations, to receive the voter lists and display them for familiarization by voters at their premises, to distribute invitations to voters, to consider complaints regarding voters’ list, voting, and vote count, and to display information posters on candidates and their programs.

PECs are composed of 10 to 14 members for small precincts (up to 500 registered voters), 12 to 16 members for medium precincts (between 500 and 1,000 registered voters), and 14 to 18 members for large precincts (between 1,500 and 2,500 registered voters). For precincts in which the number

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<sup>17</sup> <https://www.cvk.gov.ua/pls/vnd2019/wp055pt001f01=919.html>

<sup>18</sup> These correspond to the six parliamentary factions registered in the current Parliament.

<sup>19</sup> ENEMO observers also highlighted the effective and professional cooperation between local administration bodies and DEC members in organizing the election process.

of voters does not exceed fifty, a PEC may consist of the head, the secretary and two to four other members. Otherwise, each PEC consists of a chair, a deputy chair, a secretary, and other commission members.

The principle of formation of PECs varies from DEC to DEC, where PEC members are nominated by electoral subjects with nomination granted to any political party whose parliamentary faction is registered in the current Parliament, to political parties which have candidates registered in the nation-wide constituency, and candidates in a respective single-mandate district.

If more candidates are nominated than required, the DEC is responsible for drawing lots. In case of less nominations than needed, DEC's appoint PEC members based on the nominations by the DEC chairperson. The head, deputy head, and secretary of a precinct election commission should represent different nominating entities. Each entity nominating candidates to PECs has the right to a proportional share of each category of managerial positions in PECs.

Although insufficient number of candidate submissions was foreseen as a challenge, PECs were all formed in time and without major obstacles. PECs were formed by respective DEC's by the legal deadline (July 5<sup>th</sup>). Out of 29,900 PECs formed, 28,637 are ordinary PECs, 1,161 special PECs, and 102 PECs abroad<sup>20</sup>. Voting will not be conducted in the territories of the Autonomous Republic of Crimea, the city of Sevastopol, and temporarily occupied territories in Donetsk and Luhansk *oblasts*<sup>21</sup>.

Trainings for PECs are expected to be held from July 10<sup>th</sup> until July 17<sup>th</sup>. Although PECs were formed on time in line with the Law, ENEMO observers noticed that several precincts were closed upon their arrival at the premises.

## Registration of Candidates

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The rules on the eligibility of candidates for the parliamentary elections stipulate that a candidate must have Ukrainian citizenship; be at least 21 years of age; has the right to vote; and has been residing in Ukraine for the previous 5 years before elections<sup>22</sup>.

Candidates may be nominated by parties through lists in the nation-wide proportional constituency, and nominated by parties or self-nominated in single-mandate majoritarian constituencies.

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<sup>20</sup> <https://www.cvk.gov.ua/pls/vnd2019/wp001#>

<sup>21</sup> CEC Resolution #1430 "On Certain Issues of Organizing and Conducting a Voting of Citizens of Ukraine at the extraordinary elections of people's deputies of Ukraine on July 21, 2019 in separate regions of Ukraine".

<sup>22</sup> In addition, the following limit to being a candidate is inscribed within the law: a person who has been convicted of committing a deliberate crime can neither be nominated nor elected as an MP, unless this criminal record has been cleared or canceled pursuant to the procedure established by the law. In terms of nominates, Ukrainian citizens who have the right to vote also have the right to nominate MP candidates. According to the law, this right is exercised through the political parties or by means of self-nomination in accordance with the law (Article 10).

Candidate registration began on May 24<sup>th</sup>. The deadline for submission of documents was June 20<sup>th</sup>. Documents for registration of political party lists in the nation-wide constituency were submitted from June 12<sup>th</sup> to June 20<sup>th</sup>. The deadline for registration of candidates by the CEC was June 25<sup>th</sup>. The deadline for withdrawal of candidacies was July 8<sup>th</sup>.

After the deadline for registration of candidates and appeals, the CEC registered 22 political parties in the nation-wide proportional constituency. According to the CEC as of July 8<sup>th</sup>, 5,980 candidates were registered for elections, of which 3,220 candidates in the majoritarian single mandate constituencies (1,430 nominated by 52 political parties, 1,716 self-nominated, 74 candidacies cancelled in single-mandate constituencies), and 2,760 candidates are included in the party lists for the nation-wide constituency<sup>23</sup>. The largest number of candidates are on the lists of “Servant of the People”, “Fatherland” (*Batkyvschyna*), “Opposition Bloc”, and “Svoboda” (over 200 candidates).

307 current MPs are running for reelection in the nation-wide and single-mandate districts (almost two thirds of the current Parliament). Approximately one third are on the party-lists (nation-wide district), and 192 MPs are candidates in single-mandate districts (mostly self-nominated).

ENEMO notes that only slightly over half of the parties with lists in the nation-wide district included 30% of women candidates (13 out of 22 parties), despite the legal obligation enshrined in the Law on Political Parties<sup>24</sup>. For party lists, approximately 31% of candidates included are women. In total, approximately 22,5 % of candidates in the election are women. The highest number of women candidates are in nation-wide constituency lists of parties “Social Justice” (44%), “Power of People” (43%) and the “Radical Party of Oleg Lyashko” (41%).

Nearly half of candidates in single-mandate majoritarian districts were registered by the CEC in the last two days before the deadline envisaged in the Law, with over 6,000 requests for registration in total. In addition to the challenges caused by a high number of candidates who submitted documents for registration in the last days, ENEMO observed that procedures for properly filing registration documents, as well as grounds for rejection of applications were at times unclear.

The high number of documents required, financial deposit and the 5 year residency condition have proved to be a controversial issue. The CEC adopted 128 resolutions on refusal of candidates, mostly due to failure to comply with the 5 year residency requirement, lack of mandatory documents, and non-payment of the financial deposit<sup>25</sup>.

ENEMO also notes that several issues arose with regard to registration of candidates, first of which is the problem of “clone” candidates and organizations (i.e candidates or organizations bearing the same name as other, more prominent ones and hoping to benefit from their popularity). Following

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<sup>23</sup> <https://www.cvk.gov.ua/pls/vnd2019/wp001#>

<sup>24</sup> Only positive sanctions consisting of additional funding are provided in the Law (increase in 10% of annual funding to political parties who respected this obligation). The proportion of women MPs in the current Parliament is approximately 12%.

<sup>25</sup> Equal to 1,000 times the minimum salary for parties with lists in the nation-wide constituency, and 10 times the minimum salary for candidates in single-mandate constituencies.

the CEC's resolution on the form, color and text of the ballot paper<sup>26</sup>, a lawsuit<sup>27</sup> was filed against the CEC claiming that ballot papers should contain information on "clone" candidates and mentioning that they are not party members. According to "Servant of the People" for instance, nine candidates allegedly falsely stated that they were members of the party. Several cases were also observed of candidates bearing the surname "Zelensky", but with different first names. As a result, the CEC provided clarification on June 11th that name changes of candidates should be mentioned in their registration documents.

ENEMO observers also reported a high number of candidates representing themselves as members of "Servant of the People", for instance in Poltava, Chernihiv, Mykolaiv, Kherson, Cherkasy, Kirovohrad and Dnipropetrovsk *oblasts*. In their candidate biographies, they stated being members of various organizations which have similar names to the party (for instance "*Sluha Naroda*", "*Sluha-Narodu*", "*SluhaNaroda!*", "*Sluha Narodu – Ze*", etc.), with the possible intention to confuse voters. According to the law, it is not illegal to register an organization or a business entity with similarly written or sounding appellation as an existing political party. Likewise, change of individuals' names in the civil registry is not illegal, and no mention will be made of recent change of names by candidates on the ballot papers. Nevertheless, ENEMO raises concerns with regard to the use of this lack of regulation in bad faith.

ENEMO also notes that the process of successive registration and de-registration of candidates and parties has caused considerable confusion in the organizing of the electoral process. For instance, in several cases the refusal to register candidates by the CEC on the grounds that they did not meet the 5 year residency requirement was followed by a Court order to the CEC to reconsider candidate applications. Difficulties in obtaining residency data and public protests led to successive registration and deregistration of candidates during the following days, which created uncertainties in the process.

A related issue arose with the case of political party "Movement of New Forces" (*Rukh Novykh Syl*), which was refused registration by the CEC due to a submission of incorrect information<sup>28</sup>. The party filed a lawsuit, and the court ordered the CEC to include them in the list of registered parties. The CEC filed a counter lawsuit to the Cassation Court of the Supreme Court, which was rejected on June 29<sup>th</sup>, considering resolution of the CEC #1205 illegal, cancelling this resolution, and compelling the CEC to reconsider. In the meantime the CEC, due to legal deadlines, had already performed the drawing of lots to determine the ballot order for the 21 registered parties.

Since this inclusion of the party was ordered after the lottery had already been concluded, the CEC called representatives of political parties to a consultative session. The solution proposed was to include the "Movement of New Forces" as Number 22 (the last) on the ballot and not to perform redrawing of lots, which would have caused confusion to voters and stalled the process of ballot

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<sup>26</sup> CEC Resolution #1345, June 26<sup>th</sup> 2019.

<sup>27</sup> Lawsuit filed by party "Servant of the People".

<sup>28</sup> Due to an alleged mistake in documents submitted for registration by the party stating their announced decision to participate in the election before elections were called (May 8<sup>th</sup>, even though early elections were only announced on May 21<sup>st</sup>).

printing. However, on July 2<sup>nd</sup>, a lawsuit was filed<sup>29</sup> to the 6<sup>th</sup> Administrative Court of Appeals, stating a violation of Article 80 of the parliamentary election Law, and considering that the list of parties on the ballots should be re-drawn in accordance with the legislation<sup>30</sup>. The Court considered that the CEC had violated the rules of procedure, and ordered that a new draw should be conducted.

The CEC raised concerns that no less than 5.2 million ballots for the nation-wide constituency had already been printed, and the redrawing process followed by printing of new ballots would cause delays in transferring the ballots to DEC's and certainly compromise deadlines for holding of elections on July 21<sup>st</sup>. The CEC also invoked lack of funds from the State budget should a redraw be pronounced. A counter lawsuit was filed<sup>31</sup> to the Court of Cassation on July 5<sup>th</sup> in order to avoid reprinting of ballots by the CEC, and obtained gain of cause on July 7<sup>th</sup> allowing the CEC to start transferring ballots to DEC's in time.

ENEMO notes that though the Cassation Court ruled in favor of the CEC in the end, avoiding hindering the electoral process, back and forth of court cases and legal proceedings linked to registration of candidates and parties have raised considerable uncertainty and confusion in the organizing of elections, and could have caused significant compromising of the integrity of the electoral process.

ENEMO considers that shortcomings in the electoral legislation - which does not provide any procedure to follow in several cases inevitably leads to the election administration having to find practical solutions, which can be subject to legal proceedings for not being in line with legal provisions. The CEC's liability in such cases constitutes a risk, both for the institution and for the process as a whole.

## Registration of Voters

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Registration of citizens on the voter lists in Ukraine is continuous and passive. The law grants the right to vote to all Ukrainian citizens that have reached 18 years of age by Election Day and have not been disenfranchised or incapacitated through a court decision.

The State Registry of Voters (SRV) is the legal body responsible for the management of voter lists, under the authority and oversight of the CEC. The SRV counts on 27 regional administration bodies, 756 registration maintenance bodies, and several thousand institutions providing information and residency updates to the voter lists on monthly basis.

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<sup>29</sup> The lawsuit was filed by the "Agrarian Party of Ukraine" (*Agrarna Partii Ukraini*)

<sup>30</sup> The lawsuit invoked "the principle of equality of the participants in the election process [...] enshrined and guaranteed by the Constitution of Ukraine, since candidates from one party has been granted "privileges" in the form of a "predetermined" place in the ballot paper". The parliamentary elections' law Article 80 also states that drawing lots is held by the CEC with the participation of representatives of parties in the CEC, candidates, authorized persons from the parties and candidates before approving the form and the text of the ballot paper.

<sup>31</sup> The lawsuit was filed by "Servant of the People" party.

Due to the annexation of Crimea and the ongoing conflict in the Eastern *oblasts* of Donetsk and Luhansk, a considerable number of Internally Displaced Persons (IDPs) cannot participate in elections for single mandate districts, as they are still electorally registered to those territories and are disenfranchised (approximately 4% of Ukrainian voters). Though registration at a temporary place of voting without changing electoral address allows voters to vote in the nation-wide district, IDPs have not yet been fully enfranchised and are excluded by residency requirements to participate in electing candidates for the single-mandate districts.

According to preliminary data from the CEC, as of June 30<sup>th</sup>, there are a total of 32,797,373 eligible voters<sup>32</sup> (this figure excludes voters on the lists in the Autonomous Republic of Crimea and Sevastopol). Close to 55 % of voters are women.

On July 1<sup>st</sup>, the CEC posted on its official website a note to the attention of voters on the possibility offered to temporarily change place of voting without changing electoral address<sup>33</sup>. The procedures for doing so were explained in the document, and notified voters that the CEC has simplified the procedure for temporary changes, which should consist of a written application request and presentation of mandatory documents (passport or certificate of Ukrainian citizenship). ENEMO notes progress with regard to simplification of requirements for voters to temporarily change their place of voting, despite IDPs being disenfranchised to their former area of residence and thus unable to vote both in the nation-wide constituency and single-mandate districts<sup>34</sup>.

According to preliminary data from the CEC, as of July 4<sup>th</sup>, 46,886 voters have used this opportunity to temporarily change their place of voting. The highest number of changes requested were in Kyiv city (7,404), Donetsk *oblast* (4,813), and Kyiv *oblast* (4,241).

Voters may register at a temporary place of voting no later than 5 days before the day of voting (July 15<sup>th</sup>, inclusive) in accordance with the Law. The CEC also called upon voters not to delay doing so, in order to avoid long queues in voter registration bodies. Voters are also provided with the opportunity to verify their information online. However, voters are only entitled to check their data in the online platform provided, but can modify their information only upon visiting voter registry offices.

According to ENEMO observers, the work of voter registration bodies is assessed as positive in nearly every region and are provided with the necessary equipment. The simplified regulation of the CEC for registration of IDPs (passport and filling of form) was assessed as being consistently implemented. However, several offices declared lacking human resources. Premises are also not

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<sup>32</sup> With an estimated 29,761,496 voters in single mandate constituencies as of July 8th:

<https://www.cvk.gov.ua/pls/vnd2019/wp030pt001f01=919.html>

<sup>33</sup> [https://www.cvk.gov.ua/info/inf\\_01072019.htm](https://www.cvk.gov.ua/info/inf_01072019.htm)

<sup>34</sup> Which contradicts the International Covenant on Civil and Political Rights (ICCPR), which states Article 25: “Every citizen shall have the right and the opportunity, without any distinctions [...] and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.”

always accessible to persons with disabilities.

ENEMO interlocutors from all *oblasts* stated a high level of confidence in the accuracy and reliability of the voter lists overall, with minor mistakes being corrected in a timely manner. These mistakes include young voters recently having turned 18 years of age and not included in the lists, cases of last names improperly updated following changes in marital status, presence of deceased voters, etc.

The number of requests for changes to the voter lists is expected to substantially increase as the election draws nearer, according to representatives of the voter registration bodies. Preliminary voter lists should be transferred to PECs by the SRV no later than July 10th.

## Electoral Campaign and Campaign Finance

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### Electoral Campaign

Candidates are legally allowed to begin their pre-election campaign the day after they are registered by the CEC. The electoral process officially started on May 24<sup>th</sup>, with candidates beginning to submit their documents for registration immediately after. All campaigning should end twenty-four hours before Election Day.

ENEMO observers in nearly all *oblasts* reported that billboards and campaign materials were publically visible before the official start of the campaign period, and in some cases reportedly even before the start of the electoral process itself. As a consequence, these materials are not being paid from established campaign funds of candidates and parties, and were thus issued and published in violation of the law. ENEMO notes that the issue of early campaigning has not been resolved and remains unsanctioned within the legal framework.

ENEMO observers noted that as of the end of June, the campaign was off to a slow start in most *oblasts* due to ongoing registration of party lists and candidates on one hand, and because of the uncertainties on the constitutionality of the presidential decree calling for elections (this issue was solved by the Supreme Court's decision on June 20<sup>th</sup>). Large-scale campaign events were seldom visible in Kyiv city. ENEMO raises concerns that due to the early nature of these elections and the short campaign period for registered candidates, voters may not have sufficient time to familiarize themselves with candidates' and parties' platforms.

Despite the above, the visibility of the campaign increased during the first week of July, with ENEMO observer reports indicating overall a higher level of active campaigning in single-mandate constituencies so far, in particular from candidates running for reelection, and in particular in Lviv and Kyiv *oblasts*. In the Kyiv *oblast*, there have been frequent cases of holding various festivals and concerts directly, or indirectly supported by political forces. On the other hand, campaigning in smaller settlements, or in Ukrainian controlled parts of Donetsk and Luhansk *oblasts* for instance,

was less visible.

The main channels of digital campaigning are social networks (Facebook, Instagram), messaging applications Telegram and Viber, and official web-pages of candidates. All 22 political parties with lists in the nation-wide district have published party programs on their official webpages. Parties “Servant of the People” (*Sluha Narodu*) and “Voice” (*Holos*) are the two most visible parties in online outlets.

Campaigning also included the use of more traditional methods, such as tents installed for the distribution of campaign materials (leaflets, brochures, newspapers, etc.), billboards and posters, city-lights, political rallies, door-to-door activities, and the holding of concerts giving the opportunity to candidates to address voters. Use of self-image of candidates is prominent on billboards, as is the use of transfer of image amongst candidates (candidates shown with most prominent party figure).

The key messages conveyed and themes of the campaign so far have been the weaknesses of the Constitution and its inability to protect citizens from previously discredited politicians; lack of reforms and the need to initiate new reforms on economic and social issues; establishment of new rules for the political life of the country; the fight against corruption; and opening the Parliament to citizens. Several newly emerged parties in addition to the already existing political landscape should allow voters to have more choices to express their political preferences.

ENEMO observers indicate that the most visible parties throughout the country are “Servant of the People” (*Sluha Narodu*), “Opposition Platform-For Life” (*Oppositsiina Platforma – Za Zhittia*) and “Opposition Bloc” (*Oppositsiinii Blok*), “Voice” (*Holos*), “Fatherland” (*Batkyvschyna*), and “European Solidarity” (*Europeiska Solidarnist*). According to most recent ratings, several of these parties have a considerable chance of meeting the 5% threshold requirement for obtaining mandates in the nation-wide constituency. Depending on the region and with variances, parties “Ukrainian Strategy of Groysman”, “*Svoboda*”, “*Samopomich*”, and to a lesser extent “Civic Position” were also conducting visible campaigns in some of the *oblasts*.

Cases of campaign materials (billboards) containing hate speech were also noticed (all across Odessa *oblast* for example), as well as violence against candidates and campaigners (Sumy, Kharkiv and Khmelnytskyi *oblasts*). ENEMO raises concern with regard to the considerable number of illegal campaign materials (improperly branded, often lacking information on source of funding, entity responsible for publication, etc.), which were observed in most *oblasts*. The damaging of campaign materials was also observed in Chernivtsi, Kirovohrad, Vinnytsia, Kharkiv and Poltava *oblasts*, for example.

Cases of campaigning materials placed in premises of local public authorities, or placed in public transportation, as well as the involvement of mayors actively supporting candidates in single-mandate constituencies through campaign videos (Zhytomyr and Kyiv *oblast* for instance) were also reported.



ENEMO interlocutors stated that elections are overall competitive and candidates are free to campaign without major obstacles. However, concerns should be raised with regard to the considerable amount of “clone” candidates (i.e. candidates bearing the same name as others), especially in single-mandate constituencies, with numerous cases being reported from Chernihiv, Cherkasy, Kirovohrad, and Dnipro *oblasts*. ENEMO assesses this phenomenon as a considerable risk potentially confusing voters and affecting their will, and a circumvention by candidates of the principles of fair campaigning.

## Campaign Finance

Parties and candidates are legally required to open dedicated bank accounts (i.e. an electoral fund) no later than 10 days following their registration by the CEC. Financing from other sources, with or without approval of parties or candidates is prohibited. The size of an electoral fund of a party whose candidates were registered in the nationwide election district cannot exceed 90,000 times the minimum salary (approximately 14 million USD). The size of the electoral fund of a candidate in a single mandate district cannot exceed 4,000 times the minimum salary (approximately 600,000 USD).

A party is allowed to open only one account in each single mandate election constituency, although the account of a party’s electoral fund can be used for several single mandate election constituencies. The electoral fund of a candidate in a single mandate district should be formed from his/her own resources, as well as voluntary donations from persons entitled to make donations to support parties, or candidates. The electoral fund of a political party should be formed from the party’s own resources, as well as voluntary donations from persons entitled in the law<sup>35</sup>.

Political parties must submit interim financial reports 5 days before Election Day (July 15<sup>th</sup>) on the receipt and use of funds for the period from the day of opening of the account until 10 days before Election Day<sup>36</sup>, and a final financial report 15 days after elections. Single mandate constituency candidates should submit their financial interim reports 8 days before Election Day<sup>37</sup>. All final financial reports should be made public upon their receipt on the official website of the party that nominated the candidates or self-nominated candidate, and on the official website of the CEC and NAPC no later than 15 days after elections<sup>38</sup>.

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<sup>35</sup> The overall value of donations made in support of a political party by a Ukrainian citizen over one year cannot exceed four hundred minimum monthly salaries (as established as of January 1st of the year when the donation was made), i.e. approximately 1 669 200 Hryvnias (± 60,000 dollars). The overall value of donations made in support of a political party by a legal person over one year cannot exceed eight hundred minimum monthly salaries (again, as established as of January 1st of the year when the donation was made), i.e. approximately 3 338 400 Hryvnias (± 120,000 dollars).

<sup>36</sup> Interim reports should be published on the official websites of the party, the CEC and the NAPC no later than on the day following the day of its receipt.

<sup>37</sup> Reports from SMC candidates should be submitted to DEC, followed by their transfer to the CEC and NAPC no later than one day after receipt by the DEC.

<sup>38</sup> Financial reports should provide information on: all receipts for electoral funds of a political party or an MP candidate in a single-mandate district; amounts spent and funds remaining in the respective accounts, with date of receipt of each donation to the electoral fund, its size, the person making the donation, purpose, and date; amount of each payment made from the electoral fund, and the recipient of the payment. Templates for financial reports are established by the CEC in coordination with the NAPC.

ENEMO notes that although reports will be published on the CEC's website, the time frame is too short both for analysis of reports by the CEC and NAPC, and for voters to familiarize themselves with reporting and expenditures of candidates and parties.

In addition, ENEMO considers that there is a considerable risk of "shadow funds" and unknown sources of funding of electoral campaigns, an issue which remains unaddressed in the current framework. In particular, early campaigning is not sanctioned, and although candidates remain criminally liable and subject to administrative fines<sup>39</sup>, the CEC is only entitled to issue warnings and cannot deregister candidates following successive violations.

For example, some candidates (particularly in single mandate districts) have been reported to engage in various forms of "charitable" activities, ranging from free picnics to provision of goods and services, community repairs, and free concerts or festivals. Charity organizations often bear recognizable names, either of candidates, or identifying to a particular party. ENEMO raises concerns that a significant amount of these campaign activities violate the law as they are not expenditures from electoral funds. This concern is increased by the fact that a considerable number of these activities were ongoing even before the registration of candidates and lack any form of regulation.

Improperly marked campaign materials can be found in most *oblasts*, more specifically without mention of financial origin. In several cases, ENEMO interlocutors stated that there were allegations that these materials were printed at the cost of local budgets, although the mission was not able to independently verify these claims.

Cases of vote buying and misuse of administrative resources were mentioned particularly in rural areas. These took the form of school buses used for transportation of children and school teachers to campaign events (observed in Zaporozhye *oblast*), or use of forced "volunteers" from universities (observed in Odessa *oblast*), high schools and elementary schools for distributing campaign materials (in exchange for remuneration, in violation of the law), and self-nominated candidates buying votes directly or indirectly through delivery of goods and services to employees from hospitals or public institutions (public entertainment in the form of free festivals and concerts, or free trips to resorts such as in Poltava and Ivano-Frankivsk *oblasts*). Allegations of bribing of voters in exchange for remuneration (direct vote buying) or goods and services (indirect vote buying) were mentioned by ENEMO observer interlocutors from most regions, including Kyiv *oblast*.

Lack of financial transparency and violations to financial rules of campaigning may have an effect on voters' perception, particularly with regard to the level of trust in elections.

## Complaints and Appeals

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<sup>39</sup> The administrative fine ranges from 5,100 to 6,800 UAH (approximately 192 to 255 USD). Parties or candidates cannot lose their election registration for violations.

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The Constitution guarantees the right to challenge the decisions, actions, or inactivity of state or local authorities and their officials in courts. The majority of election-related complaints can be brought to the election administration or the courts, or to both.

Decisions, actions or inactions of the CEC can be challenged to the Sixth Administrative Court of Appeals as the first instance court for the administrative cases and appeals to the Supreme Court. The Supreme Court considers cases against CEC decisions, actions or inactions related to the establishment of the election results. The decisions made by lower instance courts can be challenged with the respective administrative courts of appeals.

The right to seek legal remedy is granted to parties and candidates and their proxies, official observers, election commissions and voters when their personal rights are violated.

### **Election related disputes (Administrative cases)**

From the beginning of the election campaign up to July 2<sup>nd</sup>, the CEC received 6,285 applications/information requests and 53 complaints related to the electoral process.<sup>40</sup> Among 53 complaints, 32 complaints were returned to the complainants without consideration because, according to the CEC, complainant did not fulfill formal requirements for complaints and the complainants were provided with respective clarifications. 21 complaints were considered by the CEC as a collegial body during open sessions as it is prescribed by the parliamentary elections law. The commission satisfied one complaint, 3 were rejected and 17 were partially satisfied.

In addition, since the beginning of the election campaign the VI<sup>th</sup> Administrative Court Appeals has received 100 claims among which 80 cases were related to candidate registrations. Out of these 80 claims, eight cases were rejected without consideration, mostly because of unmet deadlines; 72 cases were considered by first instance courts, among which 26 claims were satisfied and 46 cases were rejected. Out of 80 claims, 61 first instance court decisions were appealed to the Supreme Court, whereas 45 cases were considered. As a result, 19 cases left unchanged or in 24 cases the Supreme Court canceled first instance court decisions.

ENEMO notes that in many cases the Supreme Court canceled CEC or first instance court decisions to reject candidates on formal grounds, such as technical mistakes in submitted documents.<sup>41</sup> It should be also noted that the Supreme Court lacked a uniform approach towards obligation of the CEC to register candidates. On June 18<sup>th</sup>, in the case No855/150/19, the Supreme Court canceled the first instance court decision which obliged the CEC to register a candidate stating that the court does not have the authority to oblige the CEC to register a candidate, but can only instruct the CEC to reconsider the issue of registration of a candidate. This legal reasoning was changed ten days later

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<sup>40</sup> Statistical information about complaints is provided by the CEC for the period May 24<sup>th</sup>, 2019 up July 2<sup>th</sup>.

<sup>41</sup> For example see: case No 9901/347/19: the CEC rejected a candidate due to a failure to indicate correct data in submitted autobiography. The first instance court rejected the claim, however the Supreme Court canceled the CEC resolution based on the reasoning that the inaccuracy in autobiography cannot be considered as a ground for rejection of a candidate.

by the same court on the case No. 855/157/19, where the Supreme Court directly obliged the CEC to register a candidate.<sup>42</sup>

It should be also noted that in some cases the courts only obliged the CEC to reconsider the documents of registration of candidates and the commission again took the same decisions about rejection of candidates.

### **Criminal and administrative offences**

Since the beginning of the election campaign, the police has received 2,384 reports about violation of electoral legislation. Among them the police drew up 491 administrative protocols. The majority of complaints reported to the police were related to illegal campaigning - 1,675 facts, bribery of voters - 198, interference to the exercise of electoral law - 60, hooliganism - 56, and property damage - 43.<sup>43</sup>

Police also initiated 95 criminal investigations among which 48 cases are related to preclusion of the right to vote by means of violence, deception, threats, bribery or in any other way, while 26 cases were related to vote buying. Other cases are related to hooliganism and interference in the work of a journalist. All the criminal cases initiated by the police are under pretrial investigation.

## Media

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### **General media environment**

The media landscape is diverse and includes public and private broadcasters, as well as a variety of online and print media. The high number and accessibility of media outlets could provide voters with diverse information. However, high concentration of media ownership and economic and political interests of the owners are widely perceived to be influencing journalists' reporting and may limit the diversity of viewpoints in the media and voters' ability to make a truly informed choice.

The Constitution guarantees freedom of expression, right to information, prohibits censorship and a defamation is a civil offence. The media legal framework provides general preconditions for media freedoms. Television is the primary source of information for the citizens<sup>44</sup>, being at the same time the most concentrated and polarized. Online sources of political information are growing in importance<sup>45</sup>, offer more diversity and give contestants broader access to voters. However, online media are not recognized by the law, nor obliged to register, while at the same time are exposing

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<sup>42</sup> See also case No. 855/158/19 the Supreme Court dated June 28, obliged the CEC to reconsider documents on the registration of a candidate and obliged the commission to register the candidate.

<sup>43</sup> See information provided by the Ministry of Interior of Ukraine: <https://vybory2019.mvs.gov.ua/statistics>

<sup>44</sup> InMind for USAID's Ukraine Media (U-Media) program annual survey showed that 74% of citizens are using TV as their weekly source of information, 57% online media, 25% radio and print media only 16%.

<sup>45</sup> NDI nationwide survey „Opportunities and Challenges Facing Ukraine's Democratic Transition”, May 2019 showed that 64 % of citizens are accessing the internet for news, in comparison to the 56% in July 2018 or 46% in april 2017.

users to a large volume of unsourced disinformation.

Paid advertisement is allowed on both state and private media and is limited by the legal limitation of contestants' electoral fund<sup>46</sup>.

Media outlets are obliged to determine and publish pricelists of a unit of air time and a unit of print space, which they have done in legally defined deadline<sup>47</sup>. Election campaign materials should be separated from other broadcasts and identified as such, and it is prohibited to interrupt programs covering parties' election programs with commercials advertising commodities, works, services, or with other reports.

Contestants are granted free airtime and print space in public national and regional media and the CEC adopted its decision on the allocation of free media airtime/space within the legal deadline<sup>48</sup>. Contestants will receive up to 60 minutes in the national public media, divided in two blocks of 30 minutes each. Allocation of free airtime in the regional public media will be decided locally by UA: PBC local branches. The order of appearance was established by lottery.

The National Public Broadcasting Company of Ukraine (UA: PBC), which operates the UA:Pershyi UA:Krym (Crimea), UA:Culture, UA:Ukrainske radio (Ukrainian radio) and 27 regional channels, was established in 2017 as impartial and autonomous from the Government. UA: PBC started broadcasting pre-election political shows on June 17th, with the participation of heads of two parties on each show, with a planned final broadcast on July 19th, as well as separate talk show for single-mandate candidates in the regions, which will be broadcasted by the network's regional affiliates. In addition, the editorial board issued recommendations for media coverage of the parliamentary elections in order to ensure objective coverage of the elections<sup>49</sup>. However, UA: PBC has been chronically underfunded and thus prevented from serving as an alternative to privately financed channels. Furthermore, the head of the management board Mr. Zurab Alasania was dismissed from his position during the 2019 presidential elections, prompting public criticism that his dismissal was politically motivated. Alasania filed a lawsuit contesting his dismissal. On June 19th, the court overruled the UA: PBC supervisory board's decision, after which they decided to withdraw their original decision and cancelled the dismissal.

ENEMO notes that given the overall media environment, strongly influenced and shaped by the interests of the owners, the role and importance of the public service broadcasters is vital for the citizens' access to comprehensive, objective and impartial information about the elections and contestants and its independence should be strongly supported.

## **Media Oversight and Regulation**

The conduct of media during the campaign is regulated by the parliamentary elections law, which obliges state and private broadcast media to cover the campaign by providing equal and unbiased conditions to contestants. The National Council for Television and Radio Broadcasting (NCTRB) is

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<sup>46</sup> The parliamentary election Law, article 48.

<sup>47</sup> NCTRB reported that, out of 27 national TV channels and 15 nationwide radio stations, only three did not fulfil this obligation but they do not distribute political advertising.

<sup>48</sup> The Central Election Commission (CEC) adopted a Resolution No. 1417 dated 02.07.2019

<sup>49</sup> "10 commandments of the Public Broadcaster for the Elections" available at <http://www.nrcu.gov.ua/en/>

the body mandated to oversee media compliance with legal requirements, including ensuring that the language quota is respected in the media and adjudicate media related complaints. However, the existing legal framework does not sufficiently enable NTRBC to adequately respond to and prevent media violations in the pre-election period, due to deficient sanctioning mechanism<sup>50</sup>, as well as lack of clear definitions of violations. On June 27th the NCTRB announced a methodology which they will use for media monitoring, as well as information that all campaign materials placed in the media should be produced in Ukrainian language<sup>51</sup>.

However, ENEMO notes as a matter of concern that NCTRB is not fully operational due to an inability to meet a six-member quorum<sup>52</sup> for decision-making and council meeting was not held for more than nine weeks. In addition, the Working Group for oversight of media during the pre-election period was formed on July 4th, just 18 days before the election day.

### **Traditional and social media**

ENEMO observers across the country have consistently reported, as well as a numerous interlocutors, that reporting of the traditional media is highly polarized and strongly influenced by the owner's interest and alleged connections with certain candidates, both on national and regional level. Most candidates maintain an internet presence and engage directly with voters through social networks (Facebook, Instagram), messaging applications Telegram and Viber, and official web-pages of candidates. These platforms continue to transform the traditional conduct of political campaign in Ukraine. Facebook's efforts to ensure transparency regarding the sources of paid advertisements by publishing reports<sup>53</sup> on the number of ads and total amount spent by contestants have so far been insufficient to prevent disinformation.

Centralization of media ownership<sup>54</sup> is increased by forming of the new media holding company "News", comprised of 112, NewsOne and ZIK TV channel and owned by "Opposition Bloc" politician Mr. Taras Kozak. After he bought ZIK TV and the ZIK news agency on June 14, more than 90 journalists and executives left within days of this acquisition, allegedly due to a radical change in the editorial policies. Furthermore, the Prosecutor General's Office of Ukraine started criminal proceedings on an attempt to commit the state treason against Ukrainian News One TV channel on July 8th, because of its intention to host a teleconference with Russia 24 channel. The show was later cancelled. Media for a Conscious Choice movement<sup>55</sup> urged the leadership of Ukraine and law enforcement agencies to prevent the use of Ukrainian TV channels to promote a pro-Kremlin propaganda and the occupation of Ukraine's media space by pro-Russian channels.

At the regional and local level, ENEMO observers, in nearly all oblasts, reported biased news

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<sup>50</sup> The NTRBC is limited to issuing warnings, which it does by notifying broadcasting companies and the CEC about detected violations.

<sup>51</sup> <https://www.nrada.gov.ua/category/vybory/>

<sup>52</sup> The inability to form the quorum is due to the absence of some of the members and to political disagreements concerning the appointment of the Head of the NTRBC.

<sup>53</sup> <https://www.facebook.com/ads/library/report>

<sup>54</sup> Owners of the media groups Star Light Media, 1+1 Media, Inter Media, Media Group Ukraine control channels that cover more than 75 % of the television audience.

<sup>55</sup> Members are leading Ukrainian media - TV channels, radio stations, print and online outlets, as well as media NGOs.

reporting by media whose owners have close ties to candidates, or political parties, high level of self-censorship, as well as a high volume of visible hidden advertisement and “jeansa”. Also, many interlocutors pointed out that following the privatization of the local public media, the concentration of media ownership and political bias in the media increased, as the independence of local media is often influenced by local authorities, especially through opaque allocation of budget funds for advertisement.

According to the Institute of Mass Information (IMI)<sup>56</sup>, the level of “jeansa” appearing in national online media grew by 22%, compared to the 2019 presidential election and the highest proportion of “jeansa” can be found in regional print media outlets.

ENEMO further notes the absence of a Code of Conduct, which would provide essential principles to guide actions of media and journalists during the election period, as well as lack of effective self-regulating mechanisms.

## Observers

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In accordance with the Ukrainian legislation<sup>57</sup> both domestic and international organizations can observe the election process. All observer organizations are accredited by the CEC, provided that they fulfill the accreditation requirements by officially being registered, and having election-related activities and election observation in their statutory documents. Deadline for accreditation of domestic organizations expired on May 31<sup>st</sup>, whereas the deadline for international organizations is July 13<sup>th</sup>.

### Domestic Observers

The CEC has accredited 163 domestic observer organizations<sup>58</sup> for the upcoming elections. Accreditation of individual observers is conducted by DEC's.

ENEMO notes that there is a continuation of the trend noted in the 2019 Presidential election. The number of accredited citizen organizations has increased in comparison to the previous presidential election<sup>59</sup> and even more so in comparison to the last parliamentary elections in 2014.<sup>60</sup> Based on ENEMO's analysis, out of the 163 organizations accredited, 105 do not have an existing web site or social media page and a considerable number of these NGOs were only recently created.

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<sup>56</sup> <https://imi.org.ua/en/monitorings/jeansa-grew-up-22-ahead-of-parliamentary-election-monitoring-24-28-june/>

<sup>57</sup> Article 77 and 78 of the Law on parliamentary elections

<sup>58</sup> [List of accredited domestic organizations](#)

<sup>59</sup> For the 2019 presidential election 139 domestic organizations were accredited

<sup>60</sup> Only 37 domestic organizations were accredited in 2014

Among the registered NGOs, only two accredited domestic observers' organizations – OPORA and CVU are the members of Global Network of Domestic Election Monitors, but also the signatories of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations. ENEMO observers have noted that these two organizations continue to be the leading election observer groups that have a presence in all oblasts. At the same time, some concerns have been raised on the existence of clone NGOs<sup>61</sup>, as well as for previously accredited NGOs now running as a political party.<sup>62</sup>

ENEMO again urges all domestic observer organizations to use credible methodology and maintain impartiality and accuracy at all stages of the electoral process, in respect to the Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations and Code of Conduct for Non-Partisan Election Monitor Observers and Monitors.

### **International Observers**

As of July 8<sup>th</sup>, the CEC has accredited 10 international organizations with 458 observers, as well as 23 observers from 4 foreign countries.<sup>63</sup>

Following a decision of reinstatement of Russia's parliamentary delegation at the Parliamentary Assembly of the Council of Europe (PACE), on July 2<sup>nd</sup> the Ukrainian Speaker of Parliament has signed a letter of dis-invitation of PACE election observation mission for the upcoming early parliamentary elections.<sup>64</sup>

Citizens of the Russian Federation are still prohibited to observe elections in Ukraine based on the amendment to the election laws adopted in February 2019. ENEMO once again notes that the decision negatively affects the work of ENEMO as one of its member organizations GOLOS is not allowed to send its members for the ENEMO EOM in Ukraine. Members of GOLOS are human rights defenders and political dissidents from the Russian Federation.

## About ENEMO

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The European Network of Election Monitoring Organizations (ENEMO) is an international nongovernmental organization that represents a network of national nongovernmental civic organizations founded on September 29, 2001 in Opatija, Croatia. It consists of 21 leading domestic monitoring organizations from 18 countries of Central and Eastern Europe and Central Asia,

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<sup>61</sup> In Dnipro, some organizations register themselves using the organization "Sluha" (e.g. in DEC 37 there are 5 such organizations).

<sup>62</sup> For example, "Power of Law" that was registered for the presidential election as an NGO observing the elections is now registered as a political party with the same name and the head of NGO's regional office Michail Grek is in the party list (Sumy).

<sup>63</sup> [List of official observers from foreign states and international organizations](#)

<sup>64</sup> <https://www.unian.info/politics/10604157-ukraine-disinvites-pace-election-observation-mission.html>



including two European Union countries.

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. ENEMO and all of its member organizations have endorsed the 2005 Declaration of Principles for International Election Observation and the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations. Each ENEMO observer signed the Code of Conduct for International Election Observers.

ENEMO member organizations have monitored more than 250 national elections and trained more than 240,000 observers.

To date, ENEMO has organized 27 international election observation missions to eight countries: Armenia (2018), Albania (2005 parliamentary elections), Georgia (2008 early presidential elections), Kazakhstan (2005 presidential elections), Moldova (2009 parliamentary elections, 2016 presidential elections and 2019 parliamentary elections), Kosovo (2009 municipal elections; 2010 parliamentary elections, 2013 municipal elections), Kyrgyzstan (2005 presidential elections; 2005 parliamentary elections; 2007 early parliamentary elections; 2009 presidential elections and 2010 parliamentary elections), and Ukraine (2004 presidential elections; 2006 parliamentary elections; 2006 mayoral elections in Chernihiv, Kirovograd and Poltava; 2007 parliamentary elections; 2010 presidential elections, 2012 parliamentary elections, 2013 parliamentary repeat elections in 5 districts, 2014 early presidential elections, 2014 early parliamentary elections, and 2019 presidential elections).

*ENEMO member organizations are: Centers for Civic Initiatives - Bosnia and Herzegovina, Center for Democratic Transition - Montenegro, Center for Free Elections and Democracy - Serbia, Center for Monitoring and Research CeMI - Montenegro, Coalition for Democracy and Civil Society - Kyrgyzstan, Committee of Ukrainian Voters - Ukraine; Election Monitoring Center - Azerbaijan, GONG - Croatia, ISFED - Georgia, It's your choice - Armenia, Citizens Association MOST - Macedonia, Republican Network of Independent Monitors - Kazakhstan, Golos - Russia, ObcianskeOko - Slovakia, Belarusian Helsinki Committee - Belarus, Society for Democratic Culture - Albania, Promo LEX - Moldova, KRIIK - Albania Association, Foundation for Support of Civic Initiatives - Kazakhstan; Kosovo Democratic Institute - Kosovo, Transparency International Center TIAC - Armenia.*

**The English version of this report is the only official document. An unofficial translation is available in Ukrainian.**

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