



**ENEMO International Election Observation Mission Presidential Election - Ukraine
2019
SECOND INTERIM REPORT
March 9th – March 21st 2019**

The election campaign remains highly competitive. However, numerous allegations of direct and indirect vote buying, misuse of administrative resources and smear campaigns continue to be a reason for concern.

ENEMO positively assesses the overall performance of the election administration, though issues remain with regard to disparities in the level of preparation of electoral commissions at district and precinct levels, and occasional lack of transparency in the CEC's decision-making process.

In January 2019, the European Network of Election Monitoring Organizations (ENEMO) deployed an International Election Observation Mission to Ukraine to observe the March 31 Presidential election.

In addition to the ten Core Team members based in Kyiv, ENEMO has accredited 48 Long term observers (LTOs) and deployed them, in teams of two to all regions (*oblasts*) of Ukraine, on February 21. The Mission is headed by Dr. Zlatko Vujovic.

This second interim report covers the period from March 9 to March 21, and is based on ENEMO mission findings, both at the national and the local level, focusing on the work of election administration, the conduct of election campaigns and media, election-related complaints and appeals and other election related activities. The first interim report¹ covered the February 8 - March 8 period. This second report is complementary to the first report published by ENEMO mission. In addition to the long-term presence, the mission will deploy 160 STOs to follow the election-day procedures and results' processing and issue its preliminary findings, following the polls.

ENEMO is a network of 21 leading election monitoring organizations from 18 countries of Europe and Central Asia, including two European Union member states. For more information on ENEMO, please visit <http://www.enemo.eu/>.

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¹http://enemo.eu/uploads/file-manager/FirstInterimReportFeb8-Mar8_ENEMOEOMPRESIDENTIALELECTIONUKRAINE2019.pdf

Executive Summary

The CEC operates according to its mandate in a professional and collegial manner. Its official sessions are open for all authorized persons. However, the official sessions are used for formal voting, while actual debates and decision-making take place during the preparatory sessions. Since observers continue to require permission that is not always guaranteed, ENEMO does not consider preparatory sessions to be fully transparent.

DECs are open to accredited observers and closely follow the election calendar. The major activity of DECs in this reporting period was the formation of the PECs' composition that was professionally conducted by majority of DECs. However, in a few cases, the principle of proportionality was not respected at PECs, while distributing leadership positions of candidates' nominees.

Most DECs have completed financial requirements to perform their duties. However, observations have shown difficulties, due to the insufficient funding provided, inadequate premises and/or equipment for some DECs.

The main obstacle in the work of DECs and PECs are ongoing, systematic replacements of commission members that negatively affect the overall performance of DECs and PECs. The majority of election-related violations are administrative offences and are directed to the police. In comparison, the number of complaints related to the performance of election administration is relatively low.

The number of information requests on how to change the place of voting has increased. By March 21, a total of 181,602 voters temporarily changed their place of voting, without changing their electoral address. The State Voter Registry is efficient, proactive and transparent in processing requests to changes in the electoral address, though some voter registration offices are understaffed. Also, voters are not always properly informed as to where and how they can check themselves on the voter lists (including online), or request changes to their place of voting.

One week before Election Day, the campaign has intensified in several regions. However, the intensity of the campaign continues to vary considerably depending on the region.

The presence of far-right parties and affiliated militia disrupting campaigning activities and provoking occasional violent outbursts has increased. The number of security forces (police, special forces, national guard or private security) present at rallies has also risen

in certain areas.

Calls to violence, the use of inflammatory language and “black PR” towards other candidates continue to negatively impact the campaign environment. The use of illegal materials, some with the intent of discrediting other candidates, as well as numerous cases of damaging of billboards were also observed.

Allegations of vote-buying and abuse of administrative resources were reported in various parts of the country, such as organized structures and vote buying schemes, with promises of money in exchange for voting for a particular candidate. Observers were also informed of controversial practice of door-to-door operations gathering potential voters’ personal information for dubious reasons. ENEMO interlocutors also evoked concerns regarding the use of regional and local administration premises for campaigning purposes.

Principles of fairness, balance, and impartiality in media coverage of election campaigns are insufficiently respected, including the lack of equal and unbiased treatment of all candidates. Black PR campaigns, both in traditional and social media, as well as “jeansa” payments, improperly marked advertisement and new forms of concealed propaganda remain reasons for concern, especially when combined with lack of clear jurisdiction and sanctioning mechanisms of institutions in charge of media oversight.

The CEC’s explanation of terms “political campaign” and “political advertisement” is welcome, but should have been made before the start of the pre-election campaign period, in order to allow for proper implementation of legal provisions. The fact that there is no ceiling for paid political advertisement in media for each candidate creates unequal campaign conditions, especially for those with lesser means and resources.

Social media are used extensively in the ongoing electoral campaign, whereas data shows that some candidates primarily use paid ads to create smear campaigns against their opponents.

ENEMO positively assesses Facebook’s newly introduced rules for ads’ and requirements for political advertising, which are contributing to enhancing campaign finance transparency.

Background

On March 31, Ukrainian citizens are expected to go to the polls and vote for the next president, in line with provisions of the Constitution and the electoral law. As the day of the election draws nearer, electoral preparations and candidates' campaigns have intensified.

Observations and data obtained from the field during this reporting period have confirmed the challenging political and security environment in which these elections are taking place. In the opinion of different ENEMO interlocutors, citizens' perceptions of the security situation are a considerable factor, which could influence both the participation and the political preferences of voters.

According to various opinion polls, three main candidates are competing to get into the second round, expected to take place on April 21. Low levels of trust in public institutions and disapproval of the political class could, however, be an incentive for Ukrainian citizens to vote, as trends have shown an increase in declared voter intention to engage in the election.

Legal Framework

During the reporting period, the legal framework related to the upcoming presidential election has not changed.

Although on March 11, the Parliamentary Working Group finalized its review of amendments proposed to the draft Election Code, it remains unclear when the Code will be ready for the second reading and put to vote at the plenary session.²

Election Administration

During the reporting period, the formation of PECs has been completed and all three levels of election management administration operated according to their mandate. Election administration closely followed the election calendar and mostly met all legal deadlines.

Generally, election administration performed its tasks adequately, with some drawbacks caused by lack of professionalism and systematic replacements of DEC and PEC members. As of March 7, five presidential candidates withdrew their candidacy, therefore memberships of their appointed members to the DEC were terminated.

² Draft election code available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=56671

A. Central Election Commission (CEC)

During the reporting period, the CEC continued to act in line with its mandate, as the primary institution in the election management system. Overall, the work of the CEC has been professional.

The CEC held regular daily sessions, open to accredited observers and media. The agenda for each session is provided to observers prior to sessions. All resolutions adopted by the CEC are available on the CEC web-page.

Until now, the CEC adopted a total of 116 Resolutions. Majority of them are of a technical nature and are related to replacement of DEC members, replacement of the proxies of candidates, accreditation of international observers, etc. Among 116 Resolutions, the CEC has decided on two complaints³ and one request⁴. Furthermore, within the scope of its authority, the CEC adopted several important decisions related to the electoral process.

To that end, the CEC approved the final form and text of the ballot paper for the March 31 Presidential election and formed a control commission, which will oversee the printing process. It should be noted that one of the candidates appealed the decision about the form and text of the ballot paper, demanding that serial numbers should be included alongside the names of the candidates. The Supreme Court rejected the claim.

Generally, all 16 members of the commission attended the CEC official sessions, as well as preparatory meetings. The vast majority of the CEC decisions continue to be made unanimously, without discussions during the official sessions. It should be noted that the actual decision-making, discussions, and debates take place during preparatory meetings⁵. Most preparatory meetings are open for observers upon their request, but parts of preparatory sessions are occasionally closed, while the commission supposedly discusses technical issues not related to elections.

B. District Election Commissions (DECs)

By March 21, ENEMO observers visited all DECs and observed the work of commissions. Majority of DECs are open to accredited observers, provide necessary information related to the electoral process and operate according to the election calendar. However, in a few isolated cases, DECs are not willing to cooperate with observers and are less transparent.

³ 1. Alleged violation of the principle of proportionality in regard to the distribution of PEC management positions in the town of Korosten, which is covered by the DEC 64. The CEC resolution #577 <http://www.cvk.gov.ua/pls/acts/ShowCard?id=45239&what=0>

2. Alleged violation of the principle of proportionality, while distributing management positions in PECs. The CEC resolution #578 <http://www.cvk.gov.ua/pls/acts/ShowCard?id=45240&what=0>

⁴ OPORA submitted an information request to the CEC to provide information about transactions from bank accounts of one of the candidate's campaign funds to the bank accounts of three NGOs if such transactions have been carried out. The CEC rejected the request. The CEC resolution #572 <http://www.cvk.gov.ua/pls/acts/ShowCard?id=45233&what=0>

⁵ Paragraph 16 of article 10 of Rule of Procedures of Central Election Commission resolution #72 adopted on 26 April 2005 and amended on April 14, 2014 stipulates that, "Other persons can be present at preparatory meetings exceptionally upon invitation or with permission of the CEC, as well as in cases envisaged by laws of Ukraine".

According to information provided by the CEC, the total number of DEC members as of March 21 is 6817, including 56% of women and 44% of men.

Majority of DECs have opened bank accounts and have a budget approved by the CEC, which allows them to perform their duties. However, ENEMO interlocutors from some DECs expressed concerns that the allocated funds are not sufficient to fulfil their obligations properly. Also, DECs and PECs in some regions are located in premises that are not suitable to adequately perform their duties. In addition, some DECs are not provided with sufficient technical equipment, which significantly impedes the work of these commissions.

Several interlocutors from DECs confirmed that the Security Service of Ukraine (SBU) has assigned persons who will oversee the data entry and take care of security during the election night.⁶

The main challenge at this stage are constant replacements of the DEC members by candidates who nominated them⁷. Replacements of DEC members were carried out in most districts and is still ongoing. Moreover, since five presidential candidates withdrew their candidacy, their appointees in DECs were terminated, therefore, changes were made also in the leadership positions of several DECs.

As ENEMO noted in the first interim report, some newly appointed members are inexperienced and lack relevant training, which negatively affects the performance of DECs and may lead to confusion, or disrupt of the electoral process. Moreover, many ENEMO interlocutors from DECs pointed out that some DECs had problems to perform their duties in a professional manner, because of lack of motivation and interest of some members of the commission.

During the reporting period, DECs were mainly responsible for forming of precinct election commissions (PECs). In total, DECs have established 29,900 PECs as of March 21.

Majority of DECs formed PECs by March 12 deadline, in compliance with the prescribed rules and procedures. However, in several cases, the principle of proportionality⁸ during distributing quotas among leadership positions⁹ was not respected. Moreover, in some cases, the same persons were nominated by different candidates, which caused a problem

⁶ On February 18, the CEC adopted a resolution according to which the DECs are obliged to set up a working group to ensure the security and integrity of the Vybory System with the help of the SBU and the State Special Communications and Information Protection Service.

⁷ The Law on Elections of the President of Ukraine allows presidential candidates to replace appointed member to the DECs and PECs at any time prior to election day, without any need to justify such changes

⁸ Every subject having the right to nominate PEC members is entitled to a proportional number of leadership positions of PECs. The share of such leadership positions for every subject within every district is determined with regard to the number of persons appointed the PEC members upon nomination of the respective subject in relation to the overall number of persons appointed the PEC members. A person appointed a member of a PEC upon nomination of a chair of a DEC may be appointed to an executive position in such commission only provided there are no other candidates for such position nominated by the presidential candidates. Article 24 paragraph 11 of the Law on the Elections of the President of Ukraine.

⁹ Division of the executive position between the nominating subjects within the shares shall be determined by the district election commission. Besides, approximate equality of territorial division of positions between the representatives of each subject of nomination shall be ensured. Article 24 paragraph 11 of the Law on the Elections of the President of Ukraine.

during the formation of PECs.

Several DEC in Dnipro and Lviv encountered technical problems which practically paralyzed their work and entailed difficulties with creating PECs. In particular, on March 11 several commissions in Dnipro reported that they could not connect to the Vybory system¹⁰ in order to submit PEC lists. However, the problem was later solved. Moreover, DEC #24 in Dnipro received an electronic quota for one candidate, which did not coincide with the PEC list submitted by the candidate. As a result, the commission could not finish composing its PECs before the deadline. In total, the session of the commission on forming PEC lists took more than 30 hours. Moreover, some DECs detected the same persons in PEC lists provided from different candidates, or from one candidate for several PECs. Due to the lack of direct legislative regulation, DECs did not have a similar approach to solve this problem.

In some DECs, violation of the principle of proportionality while distributing managerial positions of PECs was observed. For instance, among other violations that occurred during the formation of PECs, DEC #163 in Ternopil did not ensure a proportional distribution of quotas on leading positions of PECs, since proxies of presidential candidates attended the session and were directly nominating candidates for PEC executive positions. At DEC #179 in Kharkiv, members of PECs nominated by different candidates refused to work in leading positions and a principle of proportionality was not respected, while redistributing quotas¹¹.

A similar pattern was observed in different districts where some PEC members, even on leading positions refused to perform their duties for various reasons including inexperience, low salary and other personal issues.

At DEC #198 in Cherkasy, the names of some of PEC member candidates were submitted without their consent. There is an allegation that their personal data was misused by candidates/parties without their knowledge and that they appealed to the court. Moreover, some DECs in this region were not able to find the persons suggested for the PEC membership.

C. Precinct Election Commissions (PECs)

On the March 12 deadline, DECs managed to form the majority of PECs. Besides DECs, the CEC formed 101 PECs as foreign polling stations, as well as 80 special PECs established for exceptional cases.

Upon the request from the Ministry of Defense, the CEC established such 80 special PECs in military units, as follows: 65 in Donetsk region, 14 in Luhansk region and one in Lviv

¹⁰ Unified Information-Analytical System a complex of interconnected legal and regulatory, organizational measures and software, hardware and telecommunication means that ensure collecting, processing, storing, analyzing, storing and sharing information on elections and referendums.

¹¹ See paragraph 2.2. resolution of the CEC #578.

region. In terms of their size, there are 46 small PECs, 30 medium, and 4 large PECs. The total number of voters in these PECs is yet to be announced. It is important to point out that candidates cannot nominate PEC members for these commissions and all PEC members will be military personnel nominated by the Ministry of Defense¹².

According to its mandate, the CEC composed 101 PECs abroad, where 410505 voters are registered to vote. Only four, out of 39 candidates nominated 67 PEC members for foreign PECs and all of them obtained executive positions in respective PECs. Other members of foreign PECs were nominated by the Ministry of Foreign Affairs¹³.

ENEMO notes that the majority of observed PECs have held their first session on time, without significant impediments. However, some PECs did not manage to convene the first session within two days after their forming by DEC, due to the lack of quorum.

Often replacements of nominated members have a widespread and systematic nature also at the PEC level. One of the main reasons put forward for such replacements was lack of experience of members appointed by presidential candidates, especially those who have been placed in leadership positions.

ENEMO interlocutors also noted that many PEC members (including the leadership) have no experience in election commissions. While PECs are trained on electoral procedures and their roles, these trainings were provided only after the constitutive session.

From March 16, the CEC provides trainings for PEC members. Moreover, the CEC provides the law and other supporting materials for each PEC, while additional information and videos are also available on the CEC website. It should be noted that participation is optional and not all PECs members attend, in some districts. In some visited PECs, commission members were not aware of the training that was supposed to be organized.

Registration of Voters

The number of requests from voters for information on how to change their place of voting has increased, according to the official data from the State Voter Registry. On the other hand, preliminary voter lists are being drafted by State Voter Registry services, and prepared to be sent to precinct election commissions. A higher rate of visits from voters checking their data in the list, as well as requests for corrections and changes to the voter list (such as place of voting) can be expected as Election Day draws nearer.

As of March 21, the number of voters having temporarily changed their place of voting

¹² The CEC see resolution #<http://www.cvk.gov.ua/pls/acts/ShowCard?id=45206&what=0>

¹³ Every presidential candidate has a right to nominate one candidate for each foreign PEC. The Ministry of Foreign Affairs nominates candidates for members of each PEC in the amount necessary to ensure membership of each commission whose number should be no fewer than nine. Article 24.1. and 24.4 of the Law on Elections of the President of Ukraine.

without changing their electoral address was 181,602¹⁴. The *oblasts* with the highest number of changes were Kiev (city and region), Donetsk, Kharkiv, and Dnipropetrovsk¹⁵. This rate has been steadily increasing since March 11.

ENEMO observers across the country have consistently reported on the work of local civil society organizations in providing voter education. The State Voter Registry is also assessed as generally efficient, proactive and transparent in processing requests for changes in the electoral address, though some voter registration offices are understaffed. Also, voters are not always properly informed as to where and how they can check the voter lists (including online), or request changes to their place of voting. In addition, the intensity of voter education efforts by state and election administration bodies seems to vary considerably, depending on the region.

Individuals with disabilities may face difficulties in accessing the polling stations, as observations have shown many polling stations are not on the ground floor and do not provide appropriate access to persons with disabilities. Although the electoral legislation does contain provisions for voting at the place of residence, such voters face potential discrimination, as they cannot access the voting premises appropriately.

Electoral Campaign and Campaign Finance

A. Electoral Campaign

One week before Election Day, the campaign seems to have intensified in several regions. However, the intensity of the campaign continues to vary considerably depending on the *oblast*. Observations have shown that many candidates campaign almost exclusively using social networks, in part due to difficulties in obtaining access to national television channels, while other candidates conduct more grass-roots campaigning methods, including rallies, tents for distribution of campaign materials, meetings with voters, and local newspapers. Television is also widely used as a means of campaigning, and the number of political rallies has increased (including musical concerts, sports events, etc.).

The presence of far-right parties and affiliated militia disrupting campaigning activities and provoking occasional violent outbursts has increased. As a consequence, the number of security forces present at rallies (police, special forces, national guard or private security) has augmented in certain areas. This may indicate that a climate of increased tension has developed as the electoral campaign unfolds, which could intimidate some voters and dissuade them from participating in the election.

¹⁴ As indicated on the official website of the State Voter Registry:

https://www.drv.gov.ua/ords/portal!/cm_core.cm_index?option=ext_num_voters&pdt=6&pmn_id=127

¹⁵ https://www.drv.gov.ua/ords/portal!/cm_core.cm_index?option=ext_num_voters&pdt=6&pmn_id=127

Calls to violence, the use of inflammatory language and “black PR” towards other candidates continue to negatively impact the campaign environment. Such cases were observed in regions of Zhytomyr, Rivne, Sumy, Poltava, Zaporozhye, and Khmelnytskyi. The use of illegal materials, some with the intent of discrediting other candidates, as well as several cases of damaging of billboards were also noticed. Although campaigning is being held in a peaceful manner overall, these isolated cases could decrease the possibility for voters to make an educated choice in a peaceful environment.

Observations have also shown occasional direct, or indirect involvement of clergy members encouraging citizens to vote for a particular candidate and confusion between religious and campaign slogans, though these facts remain isolated incidents. Cases of university students being pressured to attend campaign rallies were also mentioned in observation reports.

Allegations of pressure on staff remunerated from the state budget (teachers, doctors, etc.), pressure on voters and cases of hidden campaigning are also a reason for concern. These individuals are allegedly pressured into not becoming PEC members or candidate observers, or at times encouraged to vote for a particular candidate and photograph their ballot, or otherwise risk being dismissed from their job or function.

While candidates are generally free to organize their campaigns without major obstructions, attention should be drawn to the violations listed above which are a cause for concern.

B. Campaign Finance

As mentioned in ENEMO’s previous report, a series of changes were made to the framework for campaign finance for the upcoming Presidential election. In accordance with this framework, campaign donations and expenditures are to be processed through dedicated bank accounts, and candidates are obliged to submit interim and final financial reports.

According to the law, interim financial reports of Presidential candidates should be submitted no later than five days before Election Day. These reports are expected to be published on the official web-sites of the respective political parties, and on the CEC’s and National Agency for the Prevention of Corruption’s websites, no later than the day following their reception.

With regard to field observations, the most concerning points that were detected continue to be alleged cases of vote buying and use of administrative resources as illegal means of campaigning. Such allegations were raised in Chernivtsi, Ternopil, Odessa, Zhytomyr, Chernihiv, Sumy, Dnipro, Donetsk and Luhansk regions. In particular, organized structures and vote buying schemes were reported, through which voters are promised money in exchange for voting for a particular candidate. Attempts at alleged vote-

buying pyramid operations were reported in Chernivtsi for instance, consisting of a scheme involving a reward in the amount of 1000 UAH to persons who secure 10 votes for a candidate. In addition, observers were also presented with copies of drafted contracts that appear to contain provisions on remuneration, in exchange for voting for a particular candidate.

There are strong allegations of illegal remuneration of campaigners and use of door-to-door surveys in favor of a particular candidate, in Druzhkivka (Donetsk oblast) for example. Campaigners performing door-to-door operations also gather personal information of voters. The gathering of personal data or information on voters for dubious reasons was also observed for instance in Poltava, Dnipro, Donetsk, and Odessa regions. In Kharkiv, voters received promotional materials from a political party by post, with an envelope including a questionnaire requesting personal information of citizens to be sent back on a voluntary basis. Concerns may be raised as to the intended use of this information, and whether or not it is being used to reconcile political preferences of voters with their place of voting (with further potential for pressure, or endangering the secrecy of votes' of these citizens).

In April 2015, the incumbent President created the Regional Development Council as an advisory agency under the president, including top government officials, regional governors and city mayors to coordinate the process of decentralization and regional development. Visits of the incumbent President in the role of head of the executive at the occasion of these councils have raised controversy. Cases were observed in Poltava, Chernigov, Zaporozhye, Cherkasy, and Vinnytsia, where ambiguity arose as to whether the incumbent President was present for a visit as part of his official function, or as a Presidential candidate, since the local and regional administration openly declared their support during such visits, often with party colors and insignia.

In addition, individuals claiming to be “volunteers” were observed distributing signed letters on behalf of the Regional Development Council and the incumbent President (with name highlighted in bold). These letters included maps of prospective development plans, as well as photographs and messages of the incumbent President and local mayor, or a governor. These letters also contained separate questionnaires for the purposes of rating the work of local authorities, with a note mentioning that no expenses were made from the state budget, but also not mentioning the sources of funding. These questionnaires requested personal data of individuals, similar to the questionnaires mentioned above.

In addition to cases observed, allegations of the use of public resources and misuse of public administration remain a subject frequently evoked by ENEMO interlocutors, such as the use of regional administration premises for campaigning purposes. The above constitutes a violation of international electoral standards, which advise mechanisms to avoid unfair advantages of state positions and official public events for electoral

campaigning¹⁶.

Complaints and Appeals

ENEMO notes that the majority of election related violations as administrative offenses are presented to the police. Moreover, the number of complaints related to the performance of election administration is relatively low.

Based on the findings of ENEMO observers, in districts, the law enforcement officers are monitoring the election campaign environment. Reports of possible violations of the electoral law are recorded and checked by the police.

A. Election related disputes (Administrative cases)

During the period covered by this report, the number of complaints and appeals has not increased dramatically.

Between March 9 and 21, the CEC has considered two complaints and one request. Both complaints were related to the composition of PECs in the DEC #179 and #64¹⁷, -while three complaints were observed at DEC related to violation of certain procedural rules.

Official information about court decisions related to elections is published on the State Registry of Court Decisions website. In this reporting period, ENEMO analyzed all 51 cases available in the Unified State Register, including 28 procedural judgements.

Three cases are related to media issues and two cases to the alleged campaign-finance violations. When it comes to the voter's registry, there are 16 claims to include and one claim to exclude a person in/from the voters' registry. Four cases are related to candidate registration, or cancelation of a registration.

ENEMO notes that there are 22 lawsuits concerning actions and decisions of the CEC and DECs. Out of them, 10 cases are related to the appointment of PEC members, where the plaintiff alleges violations of a candidate's right to have a proportional share of PEC management positions. In one of these 22 lawsuits, a Presidential candidate challenged the CEC Resolution #334 stating that there is no foreseen control mechanism for the working groups on Vybory system security, established by the CEC.

¹⁶ European Commission for Democracy through Law (Venice Commission), OSCE Office For Democratic Institutions And Human Rights (OSCE/ODIHR), "Joint Guidelines For Preventing And Responding To The Misuse Of Administrative Resources During Electoral Processes", March 2016.

¹⁷ See sub-paragraph "Central Election Commission (CEC)"

B. Criminal and administrative offences

Between the beginning of the election campaign and March 20th, the police registered 3550 cases associated with electoral activities, among which 1940 are about illegal campaigning. According to the Ministry of Internal Affairs, within the scope of investigation, the police compiled 594 administrative protocols. As a consequence, 79 persons were imposed financial sanctions amounting to a total of 12 648 Hryvnias¹⁸.

Majority of cases are related to printed materials that do not contain information about the institution that printed them, as well as the circulation figures and information about the persons responsible for their issuance.

Moreover, the police opened 189 criminal cases, among which 83 cases are related to violation of electoral law, or 106 connected with election campaign. Within the scope of investigation, 25 suspects were identified. Most criminal cases are related to alleged vote buying, hooliganism and property damage¹⁹.

Media

A. Traditional media

Reporting of the traditional media continues to be highly polarized, due to corporate and political interests of their owners, with close ties to certain candidates. Principles of fairness, balance and impartiality in the media coverage of election campaigns²⁰ are not sufficiently respected; neither is the equal and unbiased treatment of all candidates²¹. Many EOM interlocutors raised concerns about the nonfunctional media independence, politically influenced editorial policies and high level of self-censorship of journalists.

Television being the main source of information is at the same time the most concentrated and polarized. Expenditures for TV political advertisement has significantly increased during the reporting period, dominantly by the five leading candidates, according to the polls. Interlocutors noted that absence of limitation on buying political advertisement creates advantages to some candidates, disadvantaging those with fewer resources. As

¹⁸ Administrative protocols are drawn up in the following regions: Kyiv (63); Dnipropetrovsk (50); Kirovograd (41); Mykolaiv (36); Poltava (34) Ternopol (32); Ivano-Frankivsk (31); Kherson (31); Odessa (31); Volny (29); Zaporozhye (24) Chernivce (5); Rivne (23) Kiev city (29); Zakarpatya (17) Zhytomyr (17) Cherkasy (16) Vinnitsa (11); Luhansk (10); Donetsk (13); Khmelnytsky (11); Lviv (8); Chernihiv (22); Sumy (5); Kharkiv (4)

¹⁹ Official statement of the Ministry of Internal Affairs:

https://mvs.gov.ua/ua/news/19289_Z_pochatku_peredviborchoi_kampanii_do_policii_nadiyshlo_blyzko_500_povidomlen_p_ro_ymovirniy_pidkup_viborciv.htm

²⁰ Recommendation No. R (99) 15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns (Adopted by the Committee of Ministers on 9 September 1999, at the 678th meeting of the Ministers' Deputies).

²¹ Law of Ukraine "On Elections of the President of Ukraine", article 64

election day approaches, negative campaigning between most prominent candidates is also increasing. It has been observed and reported by interlocutors, that usual tactics of smear campaigning involve false or partial information about candidates and collusions to deny opponents access to certain mainstream media.

UA:PBC²² started broadcasting presidential debates and 18 candidates with highest ratings were invited to participate, out of whom 13 candidates have officially confirmed their participation. The format of debates allows candidates equal opportunities to communicate their platforms, but low audience ratings²³ could be an obstacle for candidates to reach a wider public through the public broadcaster.

Non-traditional forms of political campaigning, such as different types of entertainment content, were introduced by several candidates. This practice can have a substantial influence on the attitude of voters, as these forms contain all characteristics of subliminal and hidden political advertisement. A high number of complaints were submitted to competent institutions by candidates, or their official representatives, mainly related to different forms of hidden political advertising and/or alleged dissemination of false information about candidates, without allowing them to refute it at the expense of respective media outlets.

As of March 15, the Department of Control and Analysis of the National Council received a total of 106 complaints²⁴, out of which 102 were filed by one candidate. The National Council adopted and published only one decision²⁵, after receiving the opinion of the Independent Expert Council²⁶. Also, the National Council continued to address media directly, but without concrete results.

Also, on the request of the National Council, the CEC provided an explanation of the terms “political campaign” and “political advertisement”²⁷. The CEC referred to the decision of the European Court of Human Rights in defining terms²⁸. During the second reporting period, there were four new court cases²⁹ filed by candidates that are all still being processed.

²² National Public Broadcasting Company of Ukraine

²³ According to the press service of the channel, the program had a rating of 0.48%, a share of 1.25% for the audience "18+, whole Ukraine" (people over 18, residents of all Ukraine). In cities with a population of more than 50 thousand people in the 18+ audience, the share was 1.23%.

²⁴ Yuliya Tymoshenko submitted 93 complaints, her official representative Sergiy Vlasenko 9, candidate Yuliya Lytvynenko 1, NGO European Coordination Council 1, and OPORA 1.

²⁵ Decision 368,

<https://www.nrada.gov.ua/decisions/pro-rozglyad-lysta-zastupnyka-golovy-politychnoyi-partiyi-vseukrayinske-ob-yednannya-batkivshhyna-upovnovazhenogo-predstavnyka-kandydata-na-post-prezydenta-ukrayiny-tymoshenko-yu-v-vlasenka-s-v-vh/>

²⁶ Members of the Independent expert council are representatives of the civil society organizations, media lawyers, political scientists, representatives of the Academia.

²⁷ CEC Decision, number 2019 #17/164

²⁸ VGT Verein Gegen Tierfabriken v. Switzerland

²⁹ Candidate Boiko v. National Public TV and Broadcasting Company of Ukraine; Candidate Hrytsenko v. candidate Poroshenko, No. 855/63/19, 855/64/19 and 855/65/19

At the regional and local level, ENEMO observers reported that the independence of local media is often influenced by local authorities, especially through soft censorship³⁰ and/or an opaque allocation of budget funds for political advertisement. They have also reported a high number of cases of black PR, “jeansa” payments and improperly marked advertisement in local media, in the majority of observed regions. In addition, observers reported low interest of candidates towards advertising in local and regional media, mainly focusing on the national level. Cases of physical attacks or violence against journalists were not reported so far, but several cases of alleged intimidation and threats by law enforcement, local and central authorities, and representatives of presidential candidates were reported by ENEMO observers and domestic NGOs³¹.

B. Social media

Social media continues to be an important communication and information platform and is used extensively for campaigning by the majority of candidates. Many EOM interlocutors have raised concerns that such forms of political campaigning can have significant influence on voters, thus creating advantages for certain candidates who use black PR campaign tactics, “troll farms”, coupled with the use of artificial intelligence and large datasets of potential voters, as well as politically-motivated comments, made by paid campaigners.

In a welcomed development, Facebook, being one of the most popular platforms for political advertisement, introduced new ad rules and transparency requirements for political advertising. Advertisers need to be authorized to purchase political ads, and the company created a publicly searchable library of advertisements that will include information on the range of each advertisement's budget, its reach and demographics. Only in the first week, this database revealed that some candidates primarily use paid ads to create smear campaigns against other candidates. They have also temporarily imposed a prohibition for paying for electoral advertising from abroad. Considering the extensive use of social media for campaigning purposes, and a very high number of voters who use social media for information purposes³², measures taken seem necessary and significant for this electoral process.

Announced counter-disinformation activities of the State need to balance safeguarding of national security on one hand, while preserving the principle of freedom of expression and freedoms related to privacy and access to information on the other. ENEMO observers reported on several allegations of candidates, their representatives and activists that their

³⁰ Soft censorship is the practice of influencing media coverage by imposing financial pressure on media companies that are critically oriented towards the authorities or its policies and supporting the ones who are positively reporting.

³¹ IMI Monthly Barometer of Freedom of Speech for February:
<https://imi.org.ua/monitorings/barometr-svobody-slova-za-liutyy-2019-roku/>

³² More than 74% of citizens use social media to obtain information (out of respondents who use social media) and 60% [17] stated that they saw political advertisement on Facebook according to: Sources of information, media literacy and russian propaganda, NGO „Detector media“ and KIIS, February 2019.

social media accounts were blocked, or taken down without reasonable explanation, nor the possibility to get information on reasons for restrictions. A number of interlocutors raised concerns about the lack of oversight of the implementation of new regulations, which can be used as an advantage for certain candidates. Unlimited discretion of the authorities, without adequate mechanisms to oversee the activities of authorized bodies, contradicts international standards³³.

Observers

As of March 21st, there are 2241 accredited domestic election observers nominated by 30 accredited NGOs³⁴. In total the CEC has accredited 139 domestic NGOs, of which 109 have not nominated any observers yet. The deadline for submission of nominated observers at respective DEC is March 25³⁵.

To date, the CEC has registered 27 international organizations with 1820 observers³⁶. Deadline for the registration of official observers from foreign states, international organizations is March 23³⁷.

About ENEMO

The European Network of Election Monitoring Organizations (ENEMO) is an international non-governmental organization that represents a network of national non-governmental 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, including three 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

³³ Council of Europe, Committee of Ministers, Recommendation no. r (96) 4, principle 7: The protection of national security within the meaning of the ECHR, while constituting such a legitimate aim, cannot be understood or used as a blanket ground for restricting fundamental rights and freedoms.

³⁴ See: Section Офіційні спостерігачі [Від громадських організацій](http://www.cvk.gov.ua/pls/vp2019/WP001) available at: <http://www.cvk.gov.ua/pls/vp2019/WP001>

³⁵ Article 69.7 of The Law on the Elections of the President of Ukraine

³⁶ See: Section Офіційні спостерігачі available at: <http://www.cvk.gov.ua/pls/vp2019/WP001>

³⁷ Article 70.1 of The Law on the Elections of the President of Ukraine

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, Local elections 2015).

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 the 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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