

# ENEMO

European Network of Election Monitoring Organizations International Observation Mission Ukrainian Presidential Elections 2004	Європейська мережа організацій, що спостерігають за виборами Міжнародна місія спостереження Президентські вибори в Україні - 2004
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## **EUROPEAN NETWORK OF ELECTION MONITORING ORGANIZATIONS (ENEMO) STATEMENT ON 2004 PRESIDENTIAL ELECTIONS IN UKRAINE OCTOBER 31, 2004**

ENEMO is an association of civic organizations from 16 countries of the former Soviet Union and Eastern Europe. These civic organizations are the leading domestic election monitoring groups in their countries, which have in total observed more than 110 national elections and trained more than one hundred thousand election monitors. ENEMO seeks to support the international community's interest in and support for democracy in Ukraine, to assess electoral conditions and the political environment and to offer an accurate and impartial report. The mission is evaluating the electoral process against international standards for democratic elections and benchmarks in Ukrainian legislation and the constitution. ENEMO recognizes that ultimately it is the people of Ukraine who will judge the credibility of the electoral process.

Fifty experienced ENEMO monitors have been observing the pre-election environment in all Ukrainian oblasts since October 19, 2004. On October 31, ENEMO monitors observed the elections in approximately 300 polling stations. Throughout the process, ENEMO observers received extensive assistance and cooperation from all levels of election commissions. The mission appreciates this support and looks forward to future cooperation.

This report is based on the observations of the long-term monitors both in the lead up to the election and on election day.

### **SUMMARY OF FINDINGS AND OBSERVATIONS**

The pre-election period did not provide a basis for fair political competition and full respect for voters' rights. Arrests, threats and harassment of NGO activists, pressure on students and government employees, misuse of state resources, violence and massively imbalanced media coverage have been well documented by the ENEMO observers, as well as the OSCE and other international and domestic observer groups. Based on the extensive findings of its own long-term observers, the ENEMO mission believes problems in the pre-election period were potentially serious enough to affect the outcome of the election.

On October 31, election-day, severe problems with voters' lists in nearly all oblasts led to disenfranchisement of significant numbers of voters. Busing of organized groups of voters into Kyiv

and other major cities contributed to a climate of intimidation that pervaded the pre-election period and undermined confidence in the fairness of the election.

Although final results have not been officially released, a second round seems highly probable. ENEMO believes that if immediate, substantial improvements are made to the campaign environment, as well as to election administration procedures, sufficient public confidence in the process could be established for the runoff election. At this juncture, however, the credibility of the election process is at risk.

On November 21, should a second round be organized, ENEMO is prepared to dramatically increase its presence by deploying more than 1,000 observers to all regions of Ukraine.

## **RECOMMENDATIONS**

- Reinforcing the law, Ukrainian government leaders should issue clear, public directives to subordinates that state officials must act in an impartial manner and that state resources may not be used for partisan political activity. The directives should emphasize that any violations of these principles will result in administrative discipline and referral to criminal prosecution under the law.
- Students, just like all the other voters, are entitled to cast their votes free of intimidation. University administrators, particularly those active in Yanukovich's campaign, should be directed by the minister of education to refrain from attempting to influence the votes of students. The directive should emphasize that any university employees who violate the directive will face administrative sanction and referral to criminal prosecution under the law.
- The prosecutor's office should ensure that legal provisions against pressuring students and state employees are enforced. It should also enforce prohibitions concerning misuse of state resources aimed at influencing the outcome of elections.
- ENEMO welcomes the Central Election Commission's interest in correcting problems with voters' lists. To restore confidence in the lists, the Central Election Commission should take immediate and transparent steps to update them. Corrected lists should be publicly posted in a convenient manner to enable voters to check their names. The CEC, political parties and candidates, and NGOs, should encourage voters to check their names on the voters lists prior to election day. On election day, Territorial Election Commissions (TECs) and courts should be provided with sufficient staff and other resources to timely process all complaints and enable all those wishing to do so to vote.
- In accordance with the spirit of the electoral law, incumbency should not be used to provide unfair media coverage.
- For the second round, both candidates, as well as the Ukrainian government should commit to a peaceful, transparent, and fair electoral process.

## **PRE-ELECTION PERIOD**

### **I. MISUSE OF ADMINISTRATIVE RESOURCES**

The pre-election period was characterized by misuse of government authority and administrative resources. Observers noted that numerous government officials gave direct orders to state institutions, such as secondary schools and universities, to organize and participate in the Yanukovich campaign. They then denied candidates equal conditions for campaigning by using government events and public holidays to promote Yanukovich's campaign, and by interfering with posting and distribution of other candidates' materials. The ENEMO mission received reports from many regions of state-initiated activities designed to pressure or persuade voters to support Yanukovich. Administrative pressure may have been felt most acutely, however, by farmers threatened with loss of access to gas, agricultural credits and the lease of land plots and tractors if they did not vote for Yanukovich.

**(A) Pressure on students:**

Many ENEMO observers reported that university rectors were leaders in local Yanukovich campaign offices. ENEMO observers in most oblasts spoke personally to students who had been pressured to attend rallies or distribute campaign material for Yanukovich or sanctioned for campaigning for Yushchenko, sometimes under threat of loss of scholarships or dormitory places. Universities involved included Kamianets'-Podil'skyi State University, medical and pedagogical Universities in Lugansk, Cherkasy National University, Tavrian University, Medical Institute, Politechnical Institute and Engineering-Pedagogical Institute in Odesa, and Ternopil Medical Institute.

ENEMO noted the following incidents of particular concern regarding students:

At the Kharkiv Aviation Institute students from other cities were denied certificates for absentee ballots, forcing them to vote in Kharkiv at polling stations more easily monitored by the faculty. Similar instances were registered in Ternopil and Luhansk.

Students of the Mykolayiv State University were required to attend an October 18 Yanukovich rally. Those who wouldn't attend were threatened with bad marks on exams and cancellation of their scholarships. The wall of this University as at many universities around Ukraine is posted with a huge banner 'Youth Supports Yanukovich'. Students were also required to attend rallies or campaign for Yanukovich at the Zhytomyr State University, Mykolayiv State University and schools in Kherson, Sumy and others.

- Families of about 250 students of Zaporizhzhia State University, Zaporozhzhia National Technical University, and Medical University who attended an October 16 Yushchenko youth rally in Kyiv received threatening phone calls from local police. After students returned to universities they were made to write letters to their rectors explaining why they attended the rally. The same students' families received phone calls the next week urging them to keep students at home and not to allow them attend a Yushchenko Kyiv rally on October 23. Similar attempts to prevent students from attending Yushchenko events were recorded at Cherkassy State Technological University, Agrarian University in Bila Tserkva, Poltava Technical University, Kirovohrad State Technical University, Kirovohrad State Pedagogical University and others.

**(B) Pressure on State Employees:**

State employees or recipients of state benefits, such as pensioners, were pushed to attend Yanukovich rallies and discouraged from supporting other candidates. For example:

- In Donetsk, ENEMO observers were told that 72 disabled persons from the organization “Sahter invalidi” stopped working for Oleksandr Moroz’s headquarters because government representatives told them that if they continue working they won’t receive any pensions.
- On October 18, employees of the Kaminets’-Podilski Sewing Factory and a local cement factory were transported in buses to attend a Yanukovich rally. On October 23, Kaminets-Podilski and Khmelnytskyi state employees – including hospital workers and, university faculty – were also bused to Yanukovich rallies. Similar events were recorded in Kherson and other cities.
- In Khmelnytskyi, oblast representatives of the Yushchenko, Symonenko and Moroz campaigns told ENEMO observers that workers in hospitals, schools, universities and government offices were asked to sign declarations that they would support Yanukovich.

### **(C) Workers Transported to Other Oblasts**

The ENEMO mission received credible reports of a trend confirmed by other observer groups, concerning the organized transport of large groups of workers to other oblasts on Election Day. For example:

- On October 27 at Luganskaya mine in Krasnodon, 500 miners were told they would be issued absentee ballots and sent to Kiev to vote.
- ENEMO received several reports from coal miners in the Luhansk region about an organized effort to bring over 10,000 miners to Kyiv for Election Day. According to the information provided to observers, trade union organizers were tasked with recruiting 70 individuals from each of 150 mines, for a total of 10,500 miners. These miners were told they would be given absentee ballots so they could vote in Kyiv on behalf of Yanukovich.

### **(D) Denial of Equal Conditions for Campaigning**

ENEMO noted numerous attempts to prevent voters from attending Yushchenko events or distributing Yushchenko campaigning materials, cases of interference with Yushchenko’s attempts to hold campaign events and of campaigning for Yanukovich by government officials. Some representative examples:

- A group of Yushchenko supporters from Berdyansk in Zaporozhzhia were prevented from attending an October 16 rally in Kyiv because police removed the license plates from all buses traveling on that day from Zaporozhzhia. Buses going to Kyiv for this rally were also stopped in Sumy, Ternopil and Chernihiv.
- Space was provided on the central Liberty Square of Kharkiv for a rally led by Yanukovich, after which requests from other candidates were denied. The authorities used the square to open an attractions Luna Park and fair.
- In Cherkasy oblast, access to billboards for other candidates than Yanukovich was denied, apparently because all billboards were rented beforehand for as little as 10 US \$ each. It was further reported that in some places Yanukovich’s posters were placed free of charge as ‘public good’ information.
- ENEMO long term observers traveling from Kyiv to the regions almost universally reported distribution of Yanukovich campaign materials by employees on trains of the Ukrainian National Railroad.

### **(E) Attempts to Bribe Voters**

The ENEMO mission received disturbing information on attempts to bribe voters at the instigation of government authorities in Sumy, Ternopil, Donetsk, Vinnytsia, Zhytomyr and Odesa. For example:

- On October 25 Nikolaj Droshchenko, representative of the Sumy regional authorities, and Aleksiej Kosach, representative of the regional council, reportedly met with the chairmen of the Okhtirka region PECs and told them that for each vote for Yanukovich a voter should receive three to four US dollars. Chairpersons had reportedly been promised 2000 grivnas from Yanukovich's staff and 500 grivnas from the local authorities.
- An elderly woman who didn't disclose her name informed longterm observers (LTOs) that in the village of Sukhakilgirka (Ternopil) some people received money to vote for Yanukovich which most of them rejected. Alla Buchkovska, the head of "Soyuz Ukrainok", a women's NGO, told LTOs that she has information on bribing of voters. She also expressed the figure of 20 grivna.

## **II. UNETHICAL CAMPAIGNING ("BLACK PR")**

The pre-election period was also marred by a significant level of campaigning designed to confuse and/or misinform voters. This type of campaign included individuals masquerading as members of other campaigns in order to mislead voters, the distribution of misleading campaign material in the name of other candidates and destruction of campaign materials from opposing candidates.

ENEMO noted the following incidents of particular concern:

- Throughout the country, observers noted a high number of nationalist flyers designed to discredit Viktor Yushchenko. These flyers particularly were distributed in the eastern more ethnically-Russian part of the country where an anti-Russian flyer called for 'true Ukrainians' to unite around Yushchenko. This document was said to be distributed by Yushchenko, but was avowed by him and had no legal mark.
- The Yanukovich campaign complained of widespread cases of damaging its billboards by youth around the country.
- Observers noted many instances around the country when activists wearing Yushchenko's campaign colors approached voters with a questionnaire reportedly on behalf of the candidate. This questionnaire, however, actually misled the voter about Yushchenko's program. Additionally, individuals purporting to work for Yushchenko posed in the streets holding an American flag – understanding that any misperception of foreign support for Yushchenko's is a difficult issue for him.

## **III. ELECTION COMMISSIONS**

Although major opposition candidates' representatives were appointed to positions of chairs, vice-chairs and secretaries of territorial election commissions (TECs) and precinct election commissions (PECs), they complained that the geographical distribution of these positions was discriminatory. Commissions in larger cities were headed by representatives of Viktor Yanukovich and technical candidates, while opposition representatives were appointed chairs only to PECs in small villages.

ENEMO observers found various shortcomings and irregularities in the work of election commissions prior to Election Day. The major problems reported in the pre-election period were related to inaccurate voter lists containing names of deceased people, misspelled names, and missing names.

ENEMO observers were also concerned that a significant number of PEC members did not attend commission sessions, making it impossible for the commissions to work without a quorum.

**(A) Examples of Inaccuracies in Voter List**

- ENEMO observers in Kharkiv found a significant number of mistakes in voter lists. For example, in polling station No.21, TEC No. 174, 40 out of 100 checked voters included mistakes in names or surnames.
- In the polling stations of Bila Tserkva No.62 of the district No.91, the PEC included some 300 voters on an additional voter list. Additionally, the chairman of the respective TEC admitted to ENEMO observers there were about 500-600 dead souls on the voter lists. .
- Some PECs denied voter access to voter lists in order to check their accuracy. For example, PEC No. 61 in Kirovohrad, PEC No.67 of district No.135 in Crimea would not allow voters to check for their names on the lists.

**(B) Professionalism of polling station commissions**

The management of the polling stations did not always fulfill its responsibilities, and was not always available to voters. In addition, many commission members were forced to leave commissions or left of their own accord. In some cases they were forced off commissions for failing to attend meetings, although they had not been informed of the time and place of these meetings. For example in TEC 14 in Zhmerynka 1000 of 6000 members of commissions were changed.

**(C) Unequal representation of candidates in election commissions**

In Zakarpattya heads of TECs in Uzhgorod, Mukacheve, Chust, Tjachev, Berehovo and Svaljava confirmed that there have been many problems with PEC members. Significant numbers of them were nominated by candidates without asking for their permission and, consequently, many later resigned.

**(D) Openness in election commission work**

In Nemirov, Vinnytsa, in the PEC 3 of TEC 16 decisions were kept in the safe or in other places where they could not be seen by the public.

**IV. VIOLENCE AND ARRESTS**

ENEMO observers have been deeply disturbed by the level of violence recorded during the pre-election period. The authorities' campaign of intimidation against youth organizations which were working on voter mobilization programs has been widely publicized. In addition, ENEMO observers witnessed the following:

- On October 20, a Sumy State University student was wearing a pro-Yushchenko scarf. He was assaulted by three large men on the street in front of the university building, resulting in the scarf being torn to pieces.
- On October 23<sup>rd</sup> Yushchenko's campaign tent in Luhansk was burned down, and several activists hospitalized.
- During a public meeting in favor of Yushchenko, one of the event organizers was subjected to a pepper spray attack by a group of aggressive youths.

- On October 20, a Kharkiv District Council member and Yushchenko proxy was carrying campaign materials in his private car, when he was stopped by Government Traffic Inspection. He was removed from his vehicle after he was accused of driving while intoxicated. Within an hour, the city's Police Head, V.N. Dyatlov, three of his deputies, representatives of the Ministry of Emergency Situations, the Fire Brigades, and special police forces "Berkut," arrived at the scene. The Yushchenko proxy was detained and moved to a local police station, after which pre-World War II mines containing 4.5 grams of explosives were found in his car. Eighty apartments in the houses surrounding the car were evacuated, and the mines were destroyed. By 7 PM, when party observer S. Minazyan and Rada deputy Matvienko visited the proxy at the police precinct, no evidence of his guilt was produced, despite the opening of a criminal case. Only after the intervention was he released.

## ELECTION DAY

ENEMO primarily concentrated its monitoring on campaign observation, with an eye toward examining whether the pre-election environment appeared to be open and fair. However, the organization also observed in 300 polling stations in every *oblast* of Ukraine on election-day. ENEMO observers were disturbed to note serious violations throughout the day. Of particular concern were (1) the exclusion of a significant number of voters from voter lists, (2) apparent attempts to control voting by bussing voters to the polls in large groups, (3) and various forms of intimidation in and around polling stations by police and individuals purporting to represent the local administration.

### **(A) The disenfranchisement of voters as a result of voter list discrepancies**

ENEMO is deeply concerned at the large numbers of individuals turned away at polling stations throughout the country and considers this one of the biggest hurdles that must be overcome by Ukraine if it is to build a stronger, healthier electoral system. Observers documented serious problems with voter lists in Kyiv, Lutsk, Sumy, Cherkasy, Chernihiv and Kharkiv. In many cases, these problems resulted in hundreds of voters being disenfranchised by a process in which they wanted to play a part.

The current law allows voters turned away from a polling station to request a court hearing or a hearing with the Territorial Election Commission. However, the TECs did not deal with complaints effectively, and in areas where ENEMO was present, the process seemed inadequate for the large numbers of applications. This was a surprise, since turnout in 2004 did not increase over 1999.

When they did not receive satisfaction in the court, many voters protested outside Territorial Election Commissions. One of the largest protests was in Golosyivsky Square in Kyiv, where up to 1,000 people gathered. Voters also massed throughout the day in Lutsk, Sumy, Kyiv and Cherkasy.

ENEMO recognizes, however, that an unprecedented number of voters traveled to the TEC to look for their names on the voter lists. This is a positive development.

ENEMO noted the following incidents of particular concern:

- Observers reported that 13% of individuals who attempted to vote in Kharkiv polling station #24 (TEC #173) were turned away.
- In Cherkasy, hundreds of voters filed petitions asking to be allowed to vote, after they were turned away from the poll.

- In Poltava polling station #39 (TEC 147), observers received information that 120 individuals had filed petitions to be allowed to vote, but were told they could not.



## **(B) Controlled voting by bussing groups to polling stations**

ENEMO observers noted numerous instances of buses either leaving rural Ukrainian regions with the intention of dropping off individuals to vote in other cities, or arriving at polling stations to allow individuals to vote as a group.

Even more disturbing, several of these instances included the use of absentee ballots (voter certificates) – as voters were transported to another city or region (reportedly Kyiv and Western Ukraine) and told to vote for a particular candidate using these ballots. Moreover, observers noted that certain groups of voters brought in from other regions could provoke tensions. Therefore, control over these ballots is a major worry.

ENEMO noted the following incidents of particular concern:

- An observer witnessed four trains leaving the Luhansk region filled with miners. The miners had reportedly been told that they would be given absentee ballots to vote for Viktor Yanukovich.
- Observers witnessed buses with Ministry of Transportation markings dropping off between 75-100 voters in Kyiv at TEC 222, PEC 103. The buses waited and picked up voters when they exited the building.
- An ENEMO observer witnessed approximately 100 individuals boarding a bus in Donetsk, and was told they were heading to Lviv in support of Yanukovich.
- ENEMO confirmed that 850 students from the organization “Hospice” were bused into Kyiv from Chernihiv. According to at least one student, they were recruited to support Yanukovich on Election Day in Kyiv, and were promised to be paid 25 hryvnias and given tickets to a rock concert if they would vote in the city for Yanukovich.

## **(C) Various forms of intimidation**

Throughout the day, ENEMO observers noted the presence of police and military representatives inside of polling stations and the presence of groups of people outside the polls presenting a threatening appearance to voters.

ENEMO noted the following incidents of particular concern:

- In Kyiv and Donetsk, observers noted aggressive, intoxicated groups of young men standing outside numerous polling stations wearing blue arm bands. When asked whom they represent, they provided conflicting answers, including “the public order.”
- ENEMO received disturbing reports of harassment of voters in Sumy by groups of intoxicated men aggressively urging voters to cast their ballots for Yanukovich. At the same time, a regional independent radio station, *Vsesvid*, was fire bombed.
- In Khmelnytskyi (TEC 193, PEC 176) ENEMO observers were stopped at the entrance of the precinct by two individuals who introduced themselves as *druzhniki* (closest translation would be “neighborhood watch representatives”). LTOs observed that these individuals were instructing voters that they should vote for one candidate.
- In Kirovohrad at PEC #91 and 18 (TEC #100) a group of armed men attacked the polling station, tore up ballots and took documents away.