



<p>European Network of Election Monitoring Organizations <b>International Observation Mission to Ukraine Early Presidential Elections 2014</b></p>	<p><b>Європейська мережа організацій, що Спостерігають за виборами</b> Міжнародна Місія Спостереження Позачергові Вибори Президента України 2014</p>
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**UKRAINE**

**EARLY PRESIDENTIAL ELECTIONS**

**25 May 2014**

**FINAL REPORT**

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## I. EXECUTIVE SUMMARY

On 1 May, 2014 the European Network of Election Monitoring Organizations (ENEMO) has deployed Election Observation Mission (EOM) to monitor 2014 Early Presidential Elections in Ukraine. All stages of the voting process, including the opening, polling, counting of the votes and tabulation of results in Precinct Election Commissions (PECs) and District Election Commissions (DECs) were monitored. ENEMO EOM deployed a total of 48 long-term observers (LTOs) throughout the country and 300 short-term observers (STOs) on Election Day that followed the opening procedures in 152 polling stations, the voting procedures in 1622 polling stations and the counting of the votes by PECs in 152 precincts.

Based on the reports from observers deployed throughout the country ENEMO assessed 25 May presidential elections to be transparent genuine mostly in compliance with international standards for democratic elections. Cases of isolated irregularities had no significant influence on the outcome of elections. Despite the fact that some cases of organizational difficulties were witnessed, the election authorities especially the Central Election Commission (CEC) made extraordinary efforts in order to conduct elections and to allow the voters to cast their votes in complex political and security volatile environment. Early presidential elections were held amid violent armed conflict in two regions in the eastern part of the country. Hence the legal framework as well as the electoral campaign and the technical and logistical preparation of the elections were affected. Due to armed separatists' attacks and threats to election officials in Donetsk and Luhansk regions (Donbas region), organization of elections became extremely difficult and a large portion of Donbas voters were not able to exercise their right to elect president. Nonetheless, elections were held in some parts of these two affected regions and ENEMO mobile LTO team observed voting in cities of Krasnoarmiisk and Dobropillia of Donetsk region, as well as the work of operating DECs and PECs.

The legal framework for presidential elections provides an overall sound basis for the conduct of democratic elections. ENEMO acknowledges the improvement of legal framework adopted in March 2014 as package of electoral reform that incorporated a number of recommendations addressed by previous ENEMO Election Observation Missions in Ukraine. Additionally, ad hoc changes in the Election Law and procedures were prompted to address extraordinary circumstances which Ukraine faced from the beginning of 2014.

Overall, the administration of the elections had been performed satisfactorily with some drawbacks created by massive replacements in DECs and PECs membership. A number of dropouts of members in DECs caused delays in formation of election commissions. The main challenge of membership changes continued at the PEC level which was noticeable even on the election day. Financing issues should be also marked as a weakness for effective operations of DECs and PECs. Although CEC devoted enormous amount of work into updating the Voters Lists through a State Voter Registry, there were still cases of voters not finding themselves on the voter lists. Hence, it is strongly recommended that the authorities pay greater attention to voter education as well as to encourage the voters to examine their data in the voters list, in order to prevent further difficulties. Voters were given option to check their registration data online and could also request temporary change of voting address for presidential elections. For Crimean residents relaxed procedures were applied to change temporary address, nevertheless in practice for most of them this would require to travel twice from the Crimean peninsula to other

part of Ukraine, first to register and then to cast the ballot.

Voters turned out on Election Day in high numbers to cast their votes. In places where municipal elections were held concurrently with Presidential Elections, the voters and polling officials faced additional lengthy procedures and hours of waiting in long queues.

The election campaign of presidential candidates was of low intensity and main campaign tools used were paid advertisements in media, outdoor promotion (billboards, posters) and campaign street events. As the Election Day was imminent, political campaign was intensifying, but still it was hardly comparable to previous elections. Coverage of elections by media outlets was overshadowed by coverage of armed conflict in the east, nevertheless journalists and candidates were free to express their views and voters were provided with information to make informed choice all around the country with the exception of affected regions of Crimea, Luhansk and Donetsk. For the first time televised debates with presidential candidates were organized and broadcast on the First Channel. There were less cases of “jeansa” paid advertisements by candidates hidden as news reporting than in previous elections. Information on candidates was limited in Crimea and campaign and work of journalists were under serious threat in Donbas by armed anti-governmental groups. Campaign finance regulations introduced for the first time in Ukraine do not provide for full transparency and lack sanctions for non-compliance so there is a need for a genuine comprehensive campaign and political finance reform.

## **II. INTRODUCTION AND ACKNOWLEDGMENTS**

ENEMO’s Election Observation Mission to Ukraine 2014 began its work on 1 May, with the arrival of the six-member Core Team. 48 long-term observers arrived in Kyiv on 8 May. ENEMO’s long-term observer teams were deployed countrywide except for Lugansk and Donetsk oblast. During the pre-election period, ENEMO’s long-term observers focused on the conduct of the election campaign, the formation and work of election commissions, and official election complaints. Prior to election day, ENEMO observers, including Core Team members, held meetings with election commission members, candidate representatives, representatives of NGOs, domestic observers, journalists and many other domestic and international interlocutors.

On 22 May, 300 additional ENEMO short-term observers arrived to Ukraine. They were specially briefed and trained on the political environment, specifics of the election process and election legislation. On Election Day, ENEMO deployed 152 teams that observed the opening of polling stations, the conduct of voting inside polling stations, the environment around polling stations and the counting of votes in selected PECs and DEC. ENEMO’s methodology is strongly consistent with global standards for international election observation. ENEMO’s short-term observation teams operated as mobile teams. They visited 1622 polling stations equally dispersed throughout the Ukraine, followed the opening and counting procedures in 152 PECs, and observed the transfer of protocols to DEC. Moreover, ENEMO observers monitored the tabulation process at the DEC. On Election Day ENEMO’s observation focused on assessing the work of election commissions (PECs and DEC) and the conduct of voting, vote count and tabulation, and on identifying potential irregularities and violations throughout election day. ENEMO issued a statement on preliminary findings and conclusions on 26 May 2014.

ENEMO takes the opportunity to express its highest acknowledgments to the National Democratic Institute for International Affairs (NDI), the United States Agency for International Development, and the U.S. Department of State's Bureau of Democracy, Human Rights and Labor, the Embassy of the Federal Republic of Germany in Kyiv and the EU European Development Fund for funding of its activities. Additionally, ENEMO wishes to express its appreciation to the CEC for its cooperation and assistance in the course of EOM registration.

### III. POLITICAL BACKGROUND

The early presidential election took place against the background of a political, economic and security crisis, which seriously impacted on the election preparation and conduct, particularly in parts of Eastern and Southern Ukraine.

After the months of mass protests from late November 2013 through February 2014, known as "EuroMaidan," led to deaths of more than 100 protesters and police, as well as more than 500 injured, President Yanukovich fled Ukraine. A vote in parliament, joined by many of Yanukovich's supporters, declared that Yanukovich could no longer perform his presidential duties, thus removing him from the office. Parliament called a new presidential election May 25, 2014, to be followed by parliamentary elections, likely in late 2014. An interim government was put in place in Kyiv with political veterans as well as some civic activists involved in EuroMaidan demonstrations.

The newly formed government faced unprecedented challenges to ward off foreign invasion and keep Ukraine united. In March, claiming to act to protect its citizens and Ukrainians of Russian descent upon the request from ousted President Yanukovich, Russia invaded the Ukrainian territory of the Autonomous Republic of Crimea with thousands of troops, seized strategic assets, and gained de facto control of the region. Russia then supported the Crimean authorities to hold a hasty "referendum" on March 16 to decide on joining Russia. While the referendum had no legitimacy in Ukrainian law, or international legal norms for referendum, it meant in practice that no election could be held on the territory of Crimea and the city of Sevastopol, also annexed to Russia as a federal entity.

With Russian forces stationed on the border with Ukraine's eastern regions, the situation in these regions became soon unstable as armed groups seized administrative buildings in a number of cities in Donetsk and Luhansk oblasts (regions) and reports of violence and abduction of individuals began to appear. The anti-terrorist operation launched by the interim president in mid-April did not prevent the security situation from deteriorating in the weeks prior to the Election Day, nor did the 17 April agreement between representatives of the European Union, the United States, Ukraine and the Russian Federation "on initial steps to de-escalate tensions and restore security for all citizens." Several incidents, including a fire in Odessa that killed 46, deadly clashes on 9 May and the holding of so called referenda by self-proclaimed local authorities in Donetsk and Luhansk oblasts (Donbas region), continued to create the perception of a very volatile security environment. In the run-up to the Election Day the violence in Donbas intensified with direct attacks against District and Polling Election Commissions, threats against and abduction of election officials, confiscation and destruction of polling materials. As a result, voting was seriously impeded in Donbas and could only take place in eight of twenty-two election districts in Donetsk oblast and two out of twelve election districts in Luhansk oblast.

#### IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The legal framework for presidential elections consists of the Constitution of Ukraine, the Law on the Election of the President of Ukraine, the Law on the Central Election Commission, the Law on the State Voter Register, the Law on Political Parties, the Criminal Code of Ukraine, the Code of Administrative Proceedings and the Law on National Television and Radio Broadcasting Council as well as the regulations and resolutions passed by the CEC.

The President of Ukraine is elected by a popular vote by the citizens of Ukraine on the basis of universal, equal and direct suffrage by means of a secret ballot. Electoral system is a two round poll in which a candidate may be elected in the first round of poll if she or he receives more than half of the votes cast by all voters that took part in voting. In case there is no such candidate a second round of poll takes place as a runoff ballot with two top candidates who received the largest number of votes in the first round. In the second round a candidate who receives more votes cast than the other candidate is declared elected president.

The legal framework regulating presidential elections have been changed several times before and during the course of election process. First of all, the parliament in February restored provisions of the December 2004 amendments of the Constitution of Ukraine that were nullified on procedural issues by the 2010 decision of the Constitutional Court. The law on Election of the President of Ukraine was amended several times in March, April and May of 2014. The March amendments as part of electoral reform improved some flaws of electoral process and reflected previous recommendations by EOMs. Key changes included that domestic NGO observers were given right to observe elections, changes to the voter lists would not be permissible on election day, each candidate has right to nominate one member to each election commission, quorum for decision-making in election commissions requires majority, candidates had to use separate bank account for campaign payments and submit financial reports after elections and results tabulation procedures and media campaign regulations were harmonized with law on parliamentary elections. The April law amendments harmonized presidential elections procedures along with concurrent municipal and mayoral elections to be held in a number of cities on 25 May and Parliament also passed the law on ensuring the right and freedoms of citizens on temporary occupied territory of Ukraine which stated that voting will not take place in Crimea and gave Crimean voters option to participate in elections in other parts of country. The May amendments to the election law addressed issues with the minimum number of PEC members (from 12 to 9) and also entitled DEC to increase number of PEC members (to 18) and issues related to security circumstances in Donbas such as delivery of ballots and protocols, change locations of DEC and allowed military personnel deployed there to be included in voter lists on election day.

There were also legislative initiatives at Verkhovna Rada to adopt more comprehensive campaign and political party finance reform that would provide for more transparency and public oversight of campaign donations and expenditures. Furthermore Ministry of Interior proposed amendments to the Criminal Code that would better define election-related offenses and increase criminal liability for committing such offenses. However, these attempts to strengthen electoral reform failed to be passed by majority in the parliament. Despite that existing legal framework for the 2014 presidential poll provided sufficient sound basis for conduct of genuine democratic elections in line with international commitments and standards.

## V. ELECTION ADMINISTRATION

The three-tier election administration for the preparation and conduct of the 2014 presidential poll in Ukraine consisted of the Central Election Commission, District Election Commissions and Precinct Election Commissions. Territory of Ukraine has been divided into 225 election districts and there should have been formed 225 District Election Commissions as in previous elections. However, due to Russian annexation of AR Crimea and city of Sevastopol shortly after the announcement of 2014 presidential elections only 213 DEC were formed. Intimidation and violent acts against elections by armed separatist groups in Donetsk and Luhansk regions led to the outcome that there were 189 DEC functioning on election day where voting took place. As for the precinct election commissions initially before the Crimean crises around 33 600 PEC were planned to be formed and after Crimean occupation approximately 32 200 PEC were to be established. Obstructions to election process in Donetsk and Luhansk by militant separatists affected the total number of polling stations where voting took place and CEC reported that election result protocols were delivered by 29 213 PECs.

### Central Electoral Commission

The Central Election Commission is a permanent independent election management body which consists of 15 members appointed for a seven-year term. They are nominated by the president and appointed by the parliament of Ukraine.

The CEC worked in unbiased and professional manner under extreme security challenges in the Donbas region and hackers attacks on its electronic data system and website. During observation period, the Central Election Commission (CEC) held official sessions on a daily basis and they were open to observers. The vast majority of the CEC decisions were approved unanimously without debate dealing mostly with the proxy registration, substitution of members of District and Precinct Electoral commissions (DECs and PECs) and relocation of existing budget lines. Usually, the CEC holds closed working meetings (“naradas”) prior to the regular public meetings, where the actual decision-making process takes place. On 19 May ENEMO observer responsible for the CEC was present at such closed session and witnessed that real discussion on all important issues took place on these meetings. While the CEC voting was public, the real decision-making took place during the closed sessions, thus ENEMO cannot assess the overall work of the CEC as fully transparent.

According to the Election Law, representatives of presidential candidates have a right to be present at the meetings of the CEC and participate and contribute to the discussions. Although candidate representatives can exercise right of advisory vote, which they did in some cases, in general their influence on decision making process is minor due to the fact that CEC holds public sessions often just to vote formally on resolutions listed on the agenda. On average, the CEC members spent few minutes voting for a resolution without discussion. Therefore representatives of presidential candidates, observers and journalists are not able to see actual decisions until they appear on the CEC website.

Until 23 May, the CEC has received 22 complaints related to the work of DEC. Most of complaints dealt with substitution of DEC and PEC members and majority of them was resolved as soon as they have been received. The number of complaints registered was much lower compared to previous elections in Ukraine.

ENEMO mission acknowledges that CEC members worked impartially and made all efforts to keep electoral process going on given the fact that many lower level commissions faced significant challenges such as security risks and threats, lack of human resources and finances, as well as time shortage. With such challenges, some decisions were adopted under accelerated procedure, but at the same time following legal framework.

### **Formation of District and Precinct Elections Commissions**

There were 189 DEC and 30477 PECs administering early presidential elections in Ukraine. Due to the threats and conflict in Donbas not all DEC and PECs could be operational there on Election Day. In Donetsk region only eight of 22 and in Luhansk region just two of twelve DEC were opened and functioning.

DEC members were formed on the basis of nominations by presidential candidates. The minimum required number of DEC members was twelve and law stipulated that senior positions of chairperson, deputy chairpersons and secretaries in DEC to be allocated proportionally to the number of nominations submitted by candidates. The election law gave both nominations of DEC and PEC members to presidential candidates and allowed them to replace any member at any time prior to election day without any need to justify the reason of such changes.

Overall election administration during elections had performed its tasks satisfactorily with some drawbacks created by lack of professionalism and massive replacements in DEC and PEC membership<sup>1</sup>. It is difficult to say that there was any specific pattern in replacements as all DEC reported that this phenomenon applied to all candidates. One of the main reasons for DEC members to refuse to perform their duties was the fact that people initially appointed to DEC were residing in other parts of the country and would not move in for the period of the elections.

The members of some DEC and PEC in Donetsk oblast feared to work in the commissions. That was one of the reasons why political parties submitted applications to replace them. This made CEC responsible for replacing those members. Despite the fact that changes caused additional challenges, all DEC and PEC visited by LTOs as well as STOs were well organized and prepared for the elections.

The Parliament amended the Law on Presidential Elections of Ukraine on 6 May to decrease the minimum number of PEC members from twelve to nine. The reason for this change was that in a number of districts candidates failed to nominate enough people to serve as election officials in the PECs and there were not enough qualified persons in the reserve pool. According to amendment simple majority of PEC members has been required for PEC to be operational and minimum number for making the decisions was a simple majority.

Almost all of DEC and PEC had less members than in previous elections. According to analysis of MAG CIFRA there were more than 600 000 PEC members in 2012 parliamentary elections, while in 2014 during PEC formation eighteen candidates nominated 315 791 members of PECs and additional 38 042 were nominated by the DEC chairpersons. On election day the

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<sup>1</sup> In DEC 193 there were over 3000 PEC member replacements. DEC 82 (Zaporizhia region) replaced 30% of the PEC heads, in DEC 171 (Kharkiv region) one quarter of PEC members were changed. Replacements of 10-20 per cent of the PEC members were noticed also in DEC 117, 119, 120 (Lviv region), DEC 149, 151 (Poltava region), DEC 67 (Zhytomyr). In Kherson the PEC members turnover varied from 20% (DEC 188) to 59% (DEC 187)



number of PEC members increased to 380 000 of which 50 000 were nominees by DEC chairpersons.

The lack of election officials was solved as district election commissions were provided a “reserve pool of commission members”. It helped a lot later when closer to the elections day numerous commissioners nominated by candidate Symonenko started to resign from work following candidate’s announcement of his withdrawal from the race.

The challenge of election commissioner replacements continued at the PEC level, which was visible even on the day of elections. The representative of Opora in Kharkiv region mentioned that at several polling stations cases of PEC members’ changes on Election Day were still observed. Candidate representatives used approach when candidates’ quotas on PEC were filled in horizontal (from PEC to PEC) and vertical way (from candidate to candidate) and implemented with the help of DEC. The main cause of that fact was poor representation of presidential candidates in areas of Kharkiv region.

The situation with multiple dropouts of commission members in DEC resulted in extra burden and delays in formation of election commissions. As these were early elections, planning for the conduct of it began only two months in advance instead of usual four months for regular presidential elections. In several districts election administration was not prepared on time, e.g. Odesa, Sumy, Zaporizhia. In most cases DEC and PEC work was done in one and half week in advance of elections. Due to this, work was done hastily and in somewhat chaotic way. The frequent changes in DEC and PEC composition had not only negative impact on the workload of commissions but caused additional problem of untrained replacements of election officials.

### **Training of Election Commissions and Operational Issues**

During these elections commission members were mainly young and inexperienced people due to the large number of dropouts. The greatest challenge was poor level of awareness of majority of PEC members about electoral procedures that led to technical and procedural breaches on the election day. Opora’s and CVU’s representatives stated it was due to unexpected proclamation of the elections, a short election preparatory period, the armed conflict in Donbas region and also for a complicated political and economic situation caused by the February revolution of 2014.

The committee members have passed trainings organized by OSCE, the government, or other third parties. The head, deputy and secretary of PEC members were trained by the DEC members and the latter ones were supposed to provide training for remaining members. ENEMO LTOs and STOs observed still quite a significant number of untrained election commissioners and would recommend for the next elections to conduct trainings in a timely and more systematic manner. Election officials should get more training especially in rural areas so they can perform their tasks more precisely<sup>2</sup>. In Kirovohrad according to DEC chairperson the members of PECs received training from IFES but it was nonetheless deemed as not sufficient.

Financing of DEC for early presidential elections should also be marked as a serious drawback for effective operations of DEC and PEC. Mayoral elections were not financed at all. Most part of materials, logistics and salaries arrived to DEC and PEC during the week of elections on

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<sup>2</sup> The only systematic problem in Kharkiv, Kherson, Sumy, Zaporizhia was insufficient qualification of DEC and PEC members particularly in remote areas. Lack of education of the election officials did not cause serious breaches of the electoral process, but it made it very slow.

May 20 and 21. If financing would be supplied at an earlier stage election officials could operate in more favorable conditions. Delays with payments and finances were most noticeable in Kherson and Odesa. However, these problems did not cause significant obstruction of election process or limitation of the right of citizens to express their will freely in mentioned regions. Providing finances to the lower level of election administration was additional problem as most parts of materials, logistics and salaries for April arrived to DEC and PEC during the week preceding election day. Until then, DEC and PEC had organized their work "by themselves".

During election day, almost all PECs were opened on time and had worked well. In some of the larger PECs, long queues were formed even before midday but with no major impact on voting process.

At some DEC observers reported irregularities such as chaotic transmission of PEC protocols to DEC, long queues, disorder and confusion. In one case PEC staff decided not to wait in queue but rather to come back in the morning or even the following day. At well organized DEC, tabulation was completed and materials transferred to the CEC on Monday afternoon. At less organized DEC, tabulation process was completed and materials sent to the CEC on Tuesday or even few days later. There were some common mistakes for many PECs on the election day such as improper protocol sealing; mistakes in the written address on protocols; large quantities of spoiled protocols. Nevertheless, District Election Commissions managed to solve these problems.

When analyzing the protocols data from the PECs monitored by ENEMO observers in Kharkiv, Kherson, Dnipropetrovsk, Mykolaiv and Zaporizhia and comparing them to the data from the CEC website, ENEMO noticed minor discrepancies<sup>3</sup>. These were however considered as technical mistakes and could not influence the overall results. However, ENEMO recommends the CEC to implement more thorough system of checking and re-checking of input data.

Interlocutors highlighted neutrality and transparency of commissions and local administration throughout Kherson, Odesa, Kharkiv, Dnipropetrovsk. There were no instances of state executive bodies, local authorities, members of electoral commissions campaigning in favor of any candidate. In Kharkiv local administrations rendered all necessary technical support to election committees, without interfering into their work. Cases of agitation by workers of state executive bodies, by local self-government or by election committee members were not reported.

Authorities and powers of DEC and their members are terminated 10 days after the day of official announcement of results. However, the procedure of state registration of DEC termination as a legal entity can be finished not earlier than 30 days after the day of official announcement of results. This makes it unclear for the chairpersons and their deputies, how and why should they submit all the needed documents and follow the termination of legal entity procedure if they no longer have their responsibilities and rights as commission members. In previous wordings of Law of Ukraine "On the Elections of Presidents of Ukraine" 15 days were

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<sup>3</sup> PEC #350003, DEC 101 (mistake at the point 8 from the protocol, in our protocol it is 1, on CEC website it is 0). In Zaporizhia LTOs have found inaccuracy between results of DEC and on the CEC website:

1. DEC #75: 8<sup>th</sup> paragraph, item (8) – 88398, on website: 88385
2. DEC #77: 8<sup>th</sup> item: 95736, on website: 95726
3. DEC #78: 8<sup>th</sup> item: 63921, on website: 63919
4. DEC #76: 8<sup>th</sup> item: 90601; on website: 90600

given before the termination of powers and authorities of both DEC and PEC, but for the 2014 early presidential elections this period was shortened. Within these 10 days, two major tasks of post-election period are to be completed by DEC. Firstly, they need to submit all the documents to archive along with actual voters' lists. Secondly, DEC has to take the State Financial Inspection (SFI) audit. Submitting documents to archive is a laborious and time-consuming action. Thus it cannot be achieved in a day. On the other hand, SFI needs documents that are to be sent to the archive for audit. The Law gives 15 days for SFI to conduct audit and 10 days for DEC to submit the documents to archive, what makes it almost impossible to succeed with both.

Submission of both documents (archive certificate and statement on joint inspection) is obligatory for the procedure of state registration of termination of commission as legal entity. Members of commissions receive letters of their permanent work excuse for the period of commission functioning (terminates 10 days after official announcement). However, they will have to use their personal and usually working time to submit all the documents of liquidation of DEC as a legal entity at least 20 days after the termination of commission authority. Therefore, average of 30% of DEC remain not liquidated legal entities for a much longer period after elections. The case of DEC of Desnianskyj district after 2004 elections may serve as a perfect example. Neither the audit, nor storing was conducted. The accountant of that commission has already passed away, what makes this procedure simply impossible to complete. Nevertheless, in the post-election period all DEC were collecting inventory from PEC, They were also concluding the tabulation of results protocols and finishing the remuneration process to the PEC members; protocols have been taken to archive for five years. The counting process of all ballots was finished on 26 May.

Interlocutors stated that it is important to professionalize work of DEC and the composition of DEC could be improved. For example, members of DEC might go through the public lustration. On the other hand, there were proposals that political parties should create their own lists of potential DEC members. There is a belief that this would provide an opportunity to prepare and train highly qualified staff for the DEC.

*There is a need to stabilize election administration and provide a professional and somehow permanent system at lower level. This could be done through a certification process for DEC and PEC members by establishing a pool of competent staff across state agencies or other similar institutions that would undergo regular training. This would ensure that a competent workforce is available at any point in time for the organization of the elections.*

## VI. CANDIDATE REGISTRATION

Right to be nominated as presidential candidate has any citizen of Ukraine, who is 35 years old on the day of election, has a command of state language and has been resident on the territory of Ukraine for at least 10 years prior to the day of elections<sup>4</sup>.

Presidential candidates could be nominated either by a political party or through self-nomination. However, in order to be registered as presidential candidate every nominee must fill out required

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<sup>4</sup> Excerpts from the Law of Ukraine "On the Elections of the President of Ukraine"

application supported by proofing documents<sup>5</sup> along with certificate as evidence that required deposit of 2,5 million UAH has been paid to the special bank account of the CEC.

The process of candidate nomination for the 2014 Early Presidential Election in Ukraine started on 25 February and was open until 30 March. During the candidate registration period the Central Electoral Commission received 46 applications.

23 nominees were denied registration, mostly on the grounds of missing proof that required deposit had been paid<sup>6</sup>. Administrative Court of Appeals in Kyiv received 15 complaints from rejected applicants stating that deposit as financial requirement should be viewed as unconstitutional. Due to the fact that financial deposit requirement is prescribed by the Law on the Elections of the President of Ukraine, and might not contradict international practice and recommendations from Venice Commission<sup>7</sup> all these complaints were rejected by the Court. After withdrawals of two candidates within legal deadline, the total number of candidates appearing on the ballot in the 2014 Presidential Election was 21 out of which two were women.

## VII. VOTER REGISTRATION

Right to elect president of Ukraine is universal to all citizens of Ukraine who are older or have reached 18 years of age on the day of elections with the exception of those who were declared legally incompetent by a court.

Voter registration is continuous process using centralized nationwide database State Voter Register (SVR) providing the final version of the Voters List. The state register of voters is maintained and overseen by the CEC's SVR office which is in charge of any changes within voter's personal information. SVR database is updated on monthly basis with information received from 27 Registration Administration Bodies and 756 Register Maintenance Bodies. All interlocutors interviewed by ENEMO stated there were no significant problems with voter lists.

Prior to Election Day SVR has printed out 34 387 227<sup>8</sup> names on the Final Voters List. 171 078 voters changed their place of voting applying for temporary resident permit. One of biggest concerns for CEC was how to provide opportunity to vote for Crimea and Sevastopol city residents taking into account Russian annexation of this territory. CEC allowed those Crimean residents to register and vote in other parts of the country with temporary resident permit and in total 6038 of them exercised this possibility. Registration of such voters took place throughout Ukraine, biggest number of Crimean residents registered to vote in Kyiv, Odessa and Mykolaev. There were also 474 046 voters included in the voter lists at polling stations out of country.

CEC should be commended for enormous amount of work invested into updating the Voters Lists through a State Voter Register, however there were still some cases of voters not finding themselves on the voter lists. The condensed period of time between announcement of elections and actual elections did not provide enough timeframe for people to check their status in voter

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<sup>5</sup> List of documents considered as proof in the application is defined in the Law of Ukraine "On the Elections of the President of Ukraine", Chapter VII, article 51

<sup>6</sup> Following recommendation from EOMs and Venice Commission, the amended law gave opportunity to the nominees to correct technical errors and inaccuracies in submitted documents. 22 rejected applicants failed to provide proof of deposit payment and one failed to provide documents that would support his claimed identity as Darth Vader.

<sup>7</sup> Stated by representatives of the High Administrative Court in Kiev

<sup>8</sup> Information announced by the CEC chairman.

list or apply for non-residential voting for the lack of voter education on provisions of electoral law. Observers also noted cases when voters received official invitation, but were missing on the voter list and could not vote. This also had to deal with voters not checking their names in State Voter Register prior to the elections which were mostly mentioned cases in Mykolaiv, Poltava and specially Kyiv. In Sumy the most appeals to the court, DEC and State Voter Register bodies were related to the wrong spelling of people's names, address etc. The resolution of the written appeals was adopted and people were added to the voter list so that they could participate in the elections. The average number of appeals was ten to fifteen per polling station.

In Lviv the quality of the voter list preparation was excellent, although on the polling day some corrections were needed<sup>9</sup>. At some PECs up to ten voters were not included to the list and they were recommended to turn to the SVR bodies, courts and DEC. Before the elections, for the confirmation of the lists, the meetings of the PECs were held and the decisions about inclusions in the list of voters were made.

In Donbas there were significant problems with access to SVR and RMBs and distribution of voter lists to PECs was largely obstructed due to critical security situation with armed separatists.

*Voter registration was carried out in satisfactory manner. There is a room for further improvement by conducting effective awareness campaigns through media, Internet and NGOs to inform voters on data verification and change of temporary voting address.*

## VIII. THE MEDIA AND THE CAMPAIGN

During the pre-election period, the media mostly followed the ongoing electoral campaign, although the coverage aimed on limited number of main contestants. However, due to the conflict in Donbas, the media coverage of elections and campaign of candidates was sidelined. Candidates were free to express their views and had access to media and their voters. Most used campaign tools were paid advertisements in media, outdoor advertising and limited public events. Journalists were free to report on campaign except for Luhansk and Donetsk where they faced harsh harassment and intimidation.

There was no intensive campaign. The situation partially changed during the last week before the Election Day, during which few rallies were observed. Observers reported on isolated cases of destruction of outdoor advertisements, as well as on usage of so called "black PR" against candidates<sup>10</sup> and so called *jeansa* candidate paid promotion disguised as news articles.

On positive note all presidential candidates were given possibility to participate in seven televised 'national debates' broadcasted on the state-owned First Channel and in April the Law on Public Television and Radio Broadcasting was adopted to transform state-owned broadcasters

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<sup>9</sup> E.g. In Lviv DEC 120 PEC 111 there were 50 people who could not find themselves in voter lists. In Sumy several PEC voter lists missed few apartment houses. Voter lists included typing errors which created additional workload for commissions to correct errors and fill out reports. According to CVU coordinator in Kirovohrad the SVR body did a poor job since there were many voters who could not find themselves on the voter lists.

<sup>10</sup> In Zaporizhia Poroshenko's team claimed that unknown people spread black PR leaflets against Poroshenko and to discourage citizens to vote in Melitopol city and Kaminka village. In Mykolaiv LTOs were demonstrated a copy of anonymous leaflet-appeal against participation in elections and anonymous SMS threats. Throughout Zaporizhia region billboards of Dobkin were spoiled with green paint. E.g. "black PR" from Tymoshenko against Poroshenko - free newspapers in Kherson.

into public service media. Media monitoring projects<sup>11</sup> stated somewhat improved situation in media coverage of 2014 elections compared with previous 2012 elections in terms of unimpeded access of candidates to media, more balanced and neutral coverage of candidates, less open media bias in favor of a candidate and less cases of hidden paid articles. In stark contrast the situation in Donetsk, Luhansk and Crimea was critical for journalists due to violence, harassment and information war. Overall a number of issues related to media environment need to be addressed in Ukraine (e.g. transparency of ownership, conflict of interest, ethics, protection of freedom of speech and personal security of journalists).

## **IX. ELECTION DAY**

### **Opening**

ENEMO observers monitored the opening procedure at 152 Precinct Election Commissions (PECs). 87 per cent of PECs were opened on time, while 12 per cent were opened with minor delay up to 15 minutes and one PS opened with delay of more than 15 minutes. One PS opened 15 minutes earlier.

Observers registered several cases of improper filling of the protocol for opening. Protocol was filled out beforehand in 10 cases, for example in Kharkiv (PEC 630025, DEC 180), Kyiv (PEC 800635, DEC 220), and Mykolaiv (PEC 480186, DEC 132). Furthermore the protocol was not filled in four cases, e.g. in Zaporizhia (PEC 230415, DEC 83), in Kherson (PEC 650681, PEC 650719, DEC 184).

In 146 PECs ballot boxes were properly sealed and signed controlled sheets were inserted in. In 4 PECs control sheet was not properly signed and in 2 PECs ballot box was not properly sealed. For example in Kyiv PEC 800847, DEC 222 improper sealing of the ballot boxes was recorded as well as no seals of the ballot box in Chernivtsi PEC 730396, DEC 207.

The procedure of opening of the PECs was generally conducted in order and according to the procedures in 140 of the observed PECs. The work of the PECs during the opening was evaluated positively in 94 per cent.

### **Voting Process**

On Election Day ENEMO observers monitored the voting process in 1564 Precinct Election Commissions (PECs). During the observation of the voting process, at the majority of the observed polling stations (87%) there were no obvious problems with voter lists. Only in small percentage of the observed PECs (2%) significant number of people couldn't vote due to incorrect voter lists.

In 95% of the observed polling stations the secrecy of vote was respected, while the observers witnessed violation of the secrecy of vote in 5 per cent mostly due to the set-up of the voting booths or because polling stations were overcrowded. For example in Odesa (PEC 511018, DEC 142 and PEC 511270, DEC 137) voters attempted to disclose how they voted. Also secrecy of vote was violated because of improper set-up of polling station in Lviv (PEC 462053, DEC 119), Sumy (PEC 480189 DEC 133), Kyiv (PEC 800847, DEC 222 and PEC 800640, DEC 220). In

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<sup>11</sup> [http://www.coe.int/t/dghl/cooperation/media/projects/project\\_Monitoring\\_elections\\_Ukraine\\_en.asp](http://www.coe.int/t/dghl/cooperation/media/projects/project_Monitoring_elections_Ukraine_en.asp)

Kharkiv (PEC 631493, DEC 172) four observers representing different candidates went into voting booths from time to time and watched how voters voted asking them who they voted for. In Zakarpatiya (PEC 210509, DEC 73) two PEC members were marking some of the ballots on the back side by making small cross before the voter inserted ballot in the ballot box.

The observers witnessed cases of group voting in several polling stations such as in Odesa (PEC 510038, DEC 144; PEC511018, DEC 142; PEC 511196, DEC 136), Kyiv (PEC 800448, DEC 217; PEC 800057, DEC 214; PEC 800159 DEC 215), Lviv (PEC 461748, DEC 125; PEC 461749, DEC 125), Zaporizhia (PEC 230724, DEC 81), Rivne (PEC 560182, DEC 156), and Mykolaiv (PEC 480461, DEC 131).

In few cases ENEMO observers were prevented from either entering polling stations for opening or were asked to stay in the place where they cannot have a full insight in the voting process, e.g. two cases in Kharkiv (PEC 631072, DEC 178 and PEC 630965, DEC 179), one in Kyiv (PEC 800060, DEC 214) and one in Krasnoarmiisk (PEC 141074, DEC 50).

In Mykolaiv (PEC 480820, 480821, 480822, DEC 130) an anonymous call was received by police about a bomb at school 19, that caused interruption of the work of PECs for 30 minutes.

The work of the observed PECs was evaluated as good or very good in 96 per cent. Complaints regarding the voting process were submitted in 7% of the observed polling stations, out of which 6% were minor and not substantial.

### **Counting Process**

As assessed by the observers, counting procedures were followed properly and in the right sequence in almost 80 percent of the monitored PECs, hence in 94% of observed polling stations there were no complaints regarding the counting procedures. In 95% of the observed PECs, observers evaluated the counting process as positive. In Kherson DEC 185 the observes recorded invalidation of the results in PEC 650730 due to discrepancy between the number of issued ballots and signatures lists which appeared to be more than 10%.

### **Transfer of the Material**

The observers were following the transport of the election materials from PECs to DEC. In 98% of the cases the transport was made in an orderly manner by required composition of PEC members. The work of the DEC was assessed positively in almost 90 percent of the cases.

### **Elections in Donetsk and Luhansk**

In the two eastern oblasts of Donetsk and Luhansk voting was impeded. Due to armed separatists actions before and on Election Day,<sup>12</sup> voting took place in only eight districts in Donetsk oblast and two DEC in Luhansk oblast. Even then, a certain number of precinct election commissions did not open in those operational DEC.<sup>13</sup> As a result, the turnout in these two regions was much lower than in the rest of the country. In two districts of Luhansk oblast where voting took place turnout reached 39,9 % and in eight districts of Donetsk oblast with operational polling stations

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<sup>12</sup> These included direct attacks against PECs, threats against and abduction of election commissioners, confiscation and destruction of polling materials.

turnout was 15,4 %. However, out of 5 million voters registered in these two regions only about two hundred thousand voters did cast ballots. Thus the separatist militants obstructed the poll by disenfranchising majority of Donbas voters as 83 per cent of polling stations did not function on election day.

ENEMO EOM had initially planned to deploy LTO teams to Donetsk and Luhansk regions. However in view of the security situation that kept worsening closer to the Election Day, it was decided not to deploy on a permanent basis and to send mobile teams instead. As a result, one mobile team observed the opening and the voting in two DEC in Donetsk oblast.<sup>14</sup> However, due to increased tensions during the Election Day, the mobile team left in the afternoon and did not observe the end of the voting nor the counting.

In the two observed DEC, the ballot papers were delivered on the eve of the Election Day. There was also reinforced security consisting in both armed and unarmed police/militia officers and volunteers from the Dnepr Battalion.<sup>15</sup> Due to the mobilization effort, some thousand army officers stationed across the territory of the DEC had been put on additional voter lists, which had been handed out to PEC chairpersons directly with the election materials the night before.<sup>16</sup>

Apart from one PEC where ENEMO LTO team was denied access for the opening and where a number of procedural violations were observed, the process remained quite orderly and even very smooth in places. A substantial number of the PEC members had previous experience of running the elections, and those that did not, compensated with dedication and good will. This was even more commendable as most of the PECs had been working until the early hours of that morning to ensure that their PEC could open on time. In all PECs visited in urban areas, the number of commissioners present was below the required number by the law,<sup>17</sup> which was not the case for those PECs in rural areas. In nearly all PECs few candidate observers were seen, mainly representing Yulia Tymoshenko. In all PECs visited voter turnout was between a half and a third of usual turnout rate.

## X. TABULATION AND ANNOUNCEMENT OF RESULTS

The tabulation of results was concluded in legal time and most of DEC performed these procedures orderly in compliance with legal requirements. Based on ENEMO observer findings, the transfer from the PECs to the DEC went generally unobstructed and all materials reached the DEC. Main issues that ENEMO observers noted was ignorance of procedures by PEC and DEC members as well as dissatisfying online communication between DEC and CEC<sup>18</sup>. These problems caused that procedure of transferring protocols and materials intake from PECs to DEC

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<sup>13</sup> According to the CEC data only 601 of total 2432 PECs opened in Donetsk oblast on election day. Operational precincts represented 22,6 % of the total number of 3,3 million registered voters in Donetsk oblast. In Luhansk oblast 284 of 1476 PECs were opened for 218105 voters which represents 12,3 % of Luhansk oblast voters.

<sup>14</sup> DEC #50 in Krasnoarmiisk and DEC #49 in Dobropollja.

<sup>15</sup> In April 2014 the Ministry of Interior set up the Dnepr Battalion along with battalions in Donetsk, Luhansk, Kharkov, Odessa, Kerson and Nikoalev to organise patrolling and set up check points at the exit of urban centres.

<sup>16</sup> This was legally based on decision #711 of the CEC from 23 May regarding relocating military staff to existing PECs as part of an additional VL.

<sup>17</sup> Seven or eight instead of nine.

<sup>18</sup> Problems in communication between CEC and DEC appeared due to massive hacker attack on System "Vibory" causing that system did not work properly from 23 May until 25 May. Likewise communication problems were caused by unreliable internet connection that national operator MTS provided for purposes of electoral process.



and entering results in online database were stopped for some time, extending lengthy procedures in general and leaving members of PECs to wait in long queues in some DEC<sup>19</sup>.

At the end, problems with communication between CEC and DEC<sup>s</sup> were solved and all electronic protocols as well as hard copies were delivered to Kyiv on time. The Central Electoral Commission received last electronic protocol on Friday 30 May, while last hard copy arrived two days later. Thus the CEC Chairman was in a position to announce official results of 2014 Presidential Election on 2 June that is eight day after elections<sup>20</sup>. The CEC posted on its website also election results breakdown by polling stations. ENEMO observers compared official PEC protocols with those posted on the CEC website and found only few minor discrepancies of technical nature that did not affect overall election results. However, security situation in Crimea and Donbas affected largely voter turnout in these regions.

Having in mind specificity of security conditions and on-going armed conflict in Donbas, Central Electoral Commission allowed electoral procedures in Donetsk and Luhansk region to become very flexible, letting members of PECs and DEC<sup>s</sup> to exceed the legal framework. Many journalists, on regular CEC briefings, raised this issue challenging legality and legitimacy of results collected from these two oblasts<sup>21</sup>.

***ENEMO strongly recommends election administration to prevent in future elections frequent changes in DEC and PEC composition and to employ only trained commissioners thus to avoid ignorance of procedures and minimize possible human mistakes. Online communication must be supported with reliable secure and protected technical solutions to ensure correct tabulation procedures and delivery of protocols without major problems and delays.***

## XI. COMPLAINTS AND APPEALS

The Presidential Election Law provides two ways for addressing election disputes through higher election commissions and/or through courts. The right to seek legal redress on decisions, actions or inactions of election commissions and other actors in electoral process is granted to presidential candidates and their proxies, NGO observers, election commissions and voters. Complaints regarding decisions, action or inaction of PEC might be filed with the respective DEC and/or with local general court. Complaints regarding a decision, action or inaction of a DEC might be challenged before district administrative court and complaints about inaction of DEC might be filed with the CEC. The CEC decisions, action or inaction could be challenged in the Kyiv Administrative Court of Appeals or at the High Administrative Court of Ukraine.

According to most ENEMO interlocutors the 2014 presidential elections were characterized by significantly lower number of complaints than previous 2012 parliamentary elections. In pre-election period the CEC received 22 complaints. Most of them dealt with substitution of DEC and PEC members and payment of commissioners<sup>22</sup>. CEC did not consider matter or evidences of any of those complaints and answered to complainants with letters explaining legal shortcomings of the submitted complaints. Having sent those letters CEC considered issues to be resolved, without making any own initiative to consider questions raised in the complaints.

ENEMO has analyzed 75 complaints adjudicated by District Election Commissions, local and district administrative courts in Kharkiv, Dnipropetrovsk, Mykolaev and Ternopil during the

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<sup>19</sup> Most significant problems ENEMO observers reported from Kharkiv DEC 171, 173, 177, 183; Kyiv Oblast DEC<sup>s</sup> 91-99 and Kyiv city DEC 214 – 223.

<sup>20</sup> Law prescribes results to be determined and publicly announced no later than 10 days after the Election Day.

<sup>21</sup> Central Electoral Commission justifies such actions with enormous security risk that was present, but at the same time with clear will to implement elections in Donbas anyway.

<sup>22</sup> Information provided to ENEMO by interlocutors in the Central Election Commission.

period from 25 February to 30 May. ENEMO information on decisions passed in these 75 complaints were categorized according to the type of irregularities or violations as follows:

- Absence or mistakes in voter personal information in Final Voter lists - 64 cases;
- Complaints on illegal agitation on PEC activities - 6 cases;
- Complaints about composition of PECs - 3 cases;
- Complaint on cancellation of the decision to change the secretary in DEC<sup>23</sup> - 1 case
- Complaint by a former DEC member that he was not paid for performed job – 1 case.

Out of 75 complaints 45 were resolved, 5 were rejected, 5 were not taken in consideration at all, while for the rest of complaints ENEMO observers have not been provided with any information on final decision.

High Administrative Court (HAC) of Ukraine in pre-election period adjudicated complaints on denial of registration of applicants for presidential candidates, performance of the CEC, and as higher instance in cases not settled by local or district courts<sup>24</sup>. Out of 23 complaints received by the HAC fourteen dealt with denial of candidate registration, three with the registration of observers, two challenged the CEC resolutions, two were related to the actions of the DEC, one complaint was on spreading false information about presidential candidate and one complaint claimed illegal actions of a candidate. Only in one case, original court ruling was overturned.

Having in mind that in pre-election period 600 judges were trained and that judicial and electoral procedures on all levels were harmonized, the usage of modern communication tools was on much higher level than in previous elections<sup>25</sup>. In 2014 elections ENEMO notes improvement in judicial practice related to the redress of electoral disputes. However, bureaucratic system and rigidity of administrative clerks in local and district court is still an issue<sup>26</sup>.

***Analysis of complaints lodged to all levels of election administration and judiciary by ENEMO did not indicate any significant trend or systematic attempt that could negatively affect election process and results. ENEMO urges all levels of election commissions and judiciary to ease and unify the system of presenting information to the public. More user-friendly prescribed complaint requirement forms with list of all requested documents should be available on-line. Deadline for answer on official request should be shortened from current 30 day period to not more than ten days after official request has been filed.***

## XII. CAMPAIGN FINANCE

The election law requires from presidential candidates to use special bank accounts for collecting funds for campaign purposes and for payment of campaign expenses. Administrators of campaign accounts were required to submit to the CEC financial report no later than 15 days after the election day. The CEC published submitted financial reports from 20 candidates on its website. One financial report from candidate Zoryan Shkiryak has been not provided. Two

<sup>23</sup> District Election Commission No.183. Complaint was filed to Kharkiv Administrative Court.

<sup>24</sup> High Administrative Court could review cases in which decisions of local and district courts contradict. In cases where both local and district court issue same verdict, the High Administrative Court has no power to reconsider it and can only confirm it. 29 cases were reviewed by the Kyiv Administrative Court of Appeals of which 17 were subsequently appealed to the High Administrative Court.

<sup>25</sup> With frequent e-mail communication between courts and with unified consideration system for every filed complaint there was not noticed any case of unresolved complaint beyond legal time limit of 5 days. Article 95 of election law sets out the requirements for complaints filed with the election commission and the courts, including inter alia: a list of attachments to the complaint, personal details of the subject of the complaint even if not known, multiple copies of all documents attached, notarized copy of authority as a proxy or candidate representative even if already registered as such with the CEC.

<sup>26</sup> In 20 cases ENEMO LTOs were not in position to get a final resolution or explanation why it was not accessible. E.g. administrative officers in the Kyiv District Administrative Court after many requests by LTOs to accelerate the procedure and provide complaint/appeals database were not able to do that for the period of two weeks.

candidates (Yarosh and Tsushko) stated they did not use any financial means at all for their campaigns and declared total campaign costs to be zero (see Annex B.table under line 16).

Provided information from the CEC website shows that the most finances spent in campaign front runners which paid the highest volume of TV spots (Poroshenko, Dobkin, Tihipko and Tymoshenko). Some candidates declared to have spent only their own money (Poroshenko 96,4 million, Tihipko 75,5 million, Dobkin 78,3 million), while others spent mostly funds of political party (Tymoshenko 57 million, Tyahnybok 17,1 million, Hrycenko 6,8 million and Symonenko 1,3 million). Posted forms<sup>27</sup> with expense categories indicate that paid advertisements in media made often the largest share of candidate's campaign costs (77 to 97 per cent of declared costs).

Despite the fact that law does not require any information from candidates about funding sources or campaign costs prior to election day, NGO Chesno appealed to candidates to reveal such information and six presidential candidates provided at least partial information on campaign sources and costs (Hrycenko, Poroshenko, Tymoshenko, Bohomolets, Tihipko and Tyahnybok). Vague formal financial reports posted on CEC website in June 2014 demonstrate shortcomings of existing rules that do not provide for full transparency and prompt need to adopt campaign finance reform such as detailed financial reports before and after elections, specialized oversight body, sanctions for non-compliance and violations of campaign finance rules.

### **XIII. RECOMMENDATIONS**

Based on observations and analysis of election process, ENEMO presents the following recommendations for improving the election legislation and the electoral process in general. These recommendations address various stakeholders in accordance with their competencies.

#### **Proposals for the Parliament, Government, Political Parties, NGOs**

##### *Harmonization of Election Laws or Unified Election Code*

ENEMO acknowledges improvement of legal framework adopted in March 2014 as package of electoral reform that incorporated a number of recommendations. However, there is a further need to continue in open and inclusive electoral reform discussion with participation of various stakeholders including experts and civil society to provide for improved and harmonized electoral legislation. Unified election code might be adopted well in advance of future elections.

##### *Formation of Election Commissions*

It is recommended for election administration that commissioners at least on senior district management level should be hired on professional competence basis. DEC and PEC secretary positions could be transformed to permanent position of administrative clerks having right of only advisory vote. To ensure balanced representation in election commissions, the system of nominations by political parties and candidates should be revised to minimize replacements to allow election officials to be trained and work properly. The practice of submission a list of PEC/DEC nominees without their knowledge or consent and allowing subsequent multiple replacements should be abolished. Political parties and candidates taking part in elections shall have right to nominate one election commissioner and one reserve for substitutions in DEC and

<sup>27</sup> [http://www.cvk.gov.ua/vp\\_2014/finance/](http://www.cvk.gov.ua/vp_2014/finance/)

PECs (with their signed consent to work in given district or precinct) but their right to replace election commissioners at any time and for any reason shall be reasonably limited.

#### *Right to be Nominated as a Candidate and Financial Deposit*

Requirement of minimum 10-year residency on territory of Ukraine for eligibility as presidential candidate is excessive and shall be removed or altered. Financial deposit of 2,5 million UAH is quite high and maybe reconsidered. Deposit shall be returned not only to the candidate who was elected President or two candidates advancing to the second round of elections but to more candidates that received reasonable level of support from voters (e.g. 5 per cent of votes).

#### *Election Dispute Resolution*

Dual system of handling election disputes by election commissions and administrative courts may result in overlapping and conflicting decisions as it happened during 2012 parliamentary elections. Clear system of handling election complaints and appeals is required for various stages of electoral process: candidate registration, voter lists, campaign, media, election day and results tabulation. Courts need to be specially trained in adjudication of election disputes to protect the will of voters and special attention shall be given to protection of protocols and ballots during hearings. There shall be a scale of sanctions for violations especially voter bribery and abuse of administrative resources. Sanctions shall be proportional to the severity of violations committed. Complaints shall not be rejected just on formal deficiencies grounds instead more user-friendly prescribed complaint forms should be available on-line with list of all requested documents.

#### *Campaign Finance and Political Party Finance*

There is a need to adopt campaign finance reform to provide for increased transparency and public oversight. Public needs to get information on detailed financial reports from candidates on sources and amount of funds and costs before and after elections. There shall be established independent specialized oversight body to monitor campaign finance and observe compliance with the rules and have right to impose penalty and sanctions for non-compliance and violations of campaign finance rules. In similar way financing of political parties shall be regulated to provide for full transparency and public oversight.

### **Proposals to the CEC**

#### *Transparency of the Central Election Commission*

ENEMO recommends that the election administration take additional efforts to increase the transparency of its work, such as providing draft resolutions ahead of CEC meetings, thus taking decision at the open sessions in a transparent manner. If preparatory meetings are needed they shall be open to attend as well.

#### *Training of Election Officials*

CEC should undertake systematic approach to train election officials of DEC and PECs. Increased efforts and special emphasis shall be put in place to train election commissioners to avoid most common errors and breaches of procedures. Training modules should be designed to train election officials on polling day simulations especially on how to fill out PEC protocols properly, protection of secrecy of vote, transparent vote count, transfer of election materials, when and how to conduct recounts at the DEC. Secretaries of PEC and DEC may get special

training on filling out protocols and there may be developed a special software for PECs to fill in electronic PEC protocols which would perform logical reconciliation on filled out data.

#### *Voter Registration*

Targeted public awareness campaigns are needed to inform citizens on verification and data corrections in voter lists to further increase public confidence in accuracy of voter registration. Effective remedies shall be available for voters who are not found on voter list at the polling station even though they received invitation. Complaint forms related to this issue maybe available for voters at the PEC and then transferred to SVR bodies.

### **Proposal to the Parliament and Media**

ENEMO welcomes recently adopted Law on Public Television and Radio Broadcasting of Ukraine which shall transform state-owned broadcasters such as National Television Company into public-service broadcasters. Additional efforts should be made by authorities to protect journalist and media freedom, fight against malpractice of paid campaign materials disguised as news and to promote transparent rules in media ownership.

#### *Media Regulation and Monitoring during Election Campaign*

There is a need to transform National Council on Television and Radio Broadcasting to become independent media regulatory body that would by law oversee and guarantee compliance with the requirements of the election law related to media in providing information and conducting election campaign. Media-related complaints and violations shall be dealt timely and provided with adequate remedy as the sanctions should be proportionate to the gravity of violation.

### **Proposal for the Law Enforcement Bodies and General Prosecution**

#### *Prosecution of perpetrators of electoral offences*

It is of utmost importance to investigate impartially all previous election offences, prosecute and hold accountable perpetrators of fraud and gross violations during 2012 parliamentary elections. Atmosphere of impunity for election offences does not contribute to the rule of law and undermines public confidence in election process.

#### *Liability for Election Offences*

There is a need to adopt amendments to the Criminal Code that would better define election-related offences and increase criminal liability for committing such offences especially vote buying and voter fraud.

## XIV. ABOUT ENEMO

*The European Network of Election Monitoring Organizations (ENEMO) is an international network of nongovernmental organizations founded on September 29, 2001 in Opatija, Croatia. It consists of 20 leading domestic monitoring organizations from 17 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 Non-partisan Election Observation and Monitoring by Citizen Organizations. Each ENEMO observer signed the Code of Conduct for International Election Observers.*

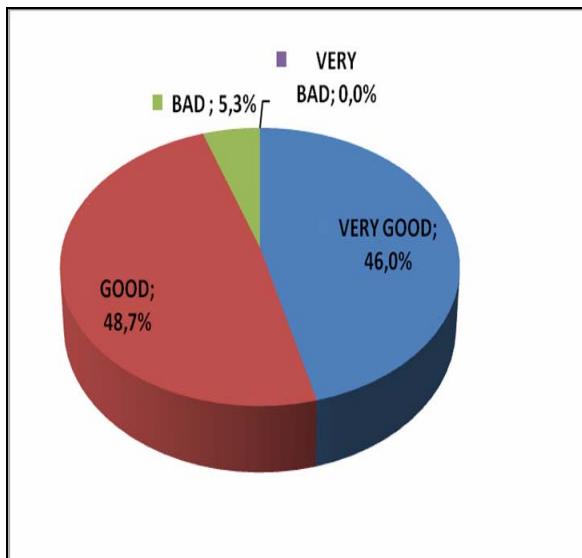
*ENEMO member organizations have monitored more than 200 national elections and trained more than 200,000 observers. To date, ENEMO has organized 20 international election observation missions to seven countries: Albania (2005 parliamentary elections), Georgia (2008 early presidential elections), Kazakhstan (2005 presidential elections), Moldova (2009 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 and 2014 early presidential elections).*

*ENEMO's international observation mission for Ukrainian Early Presidential Elections 2014 is financially supported by the National Democratic Institute for International Affairs, the United States Agency for International Development, and the U.S. Department of State's Bureau of Democracy, Human Rights and Labor, the Embassy of the Federal Republic of Germany in Kyiv and the EU European Development Fund.*

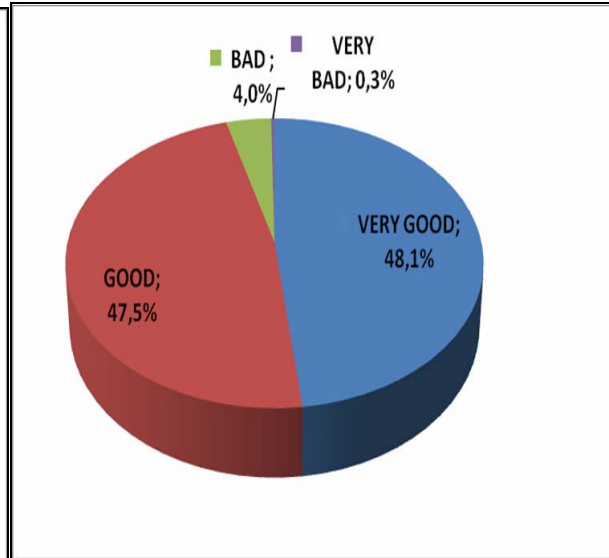


## ANNEX A ELECTION EVALUATION BY ENEMO OBSERVERS

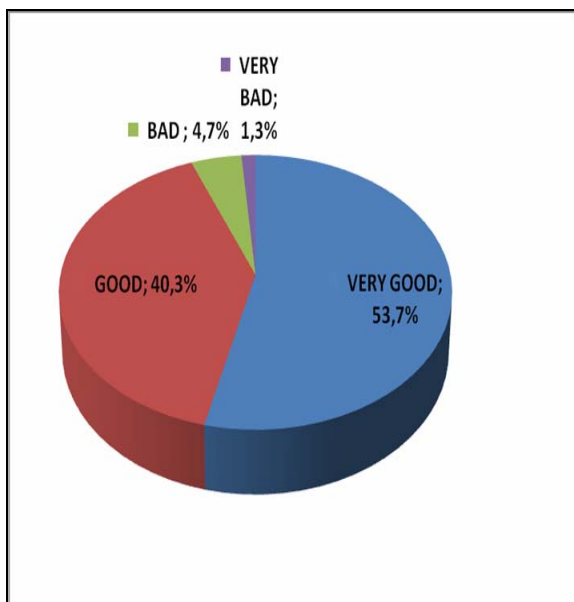
**Chart 1. Evaluation of Opening Process**  
(152 responses)



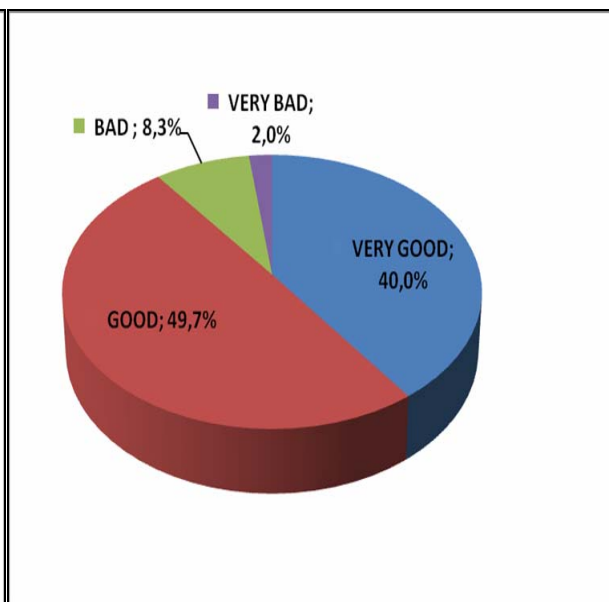
**Chart 2: Evaluation of Voting Process**  
(1654 responses)



**Chart 3. Evaluation of Counting Process**  
(149 responses)



**Chart 4: Evaluation of DEC's**  
(145 responses)



## ANNEX B FINAL RESULTS PROTOCOL AND CAMPAIGN EXPENSES

### CEC Final Results Protocol

1) Number of printed ballots	34 692 976		
2) Number of ballots not distributed to DEC's that are considered unused and to be destroyed	3 589 712		
3) Number of ballots received by DEC's	31 103 264		
4) Number of ballots not distributed to PEC's that are considered unused and to be destroyed	559 444		
5.1) Number of ballots received by PEC's	30 543 704		
5.2) Number of ballots made exceptionally by PEC's with permission of the CEC	474		
6) Number of voters in the voter lists at polling stations (PS)	34 214 652		
7) Number of voters in the voter lists at PS's where voting was organized and held	30 095 028		
8) Number of voters included in extracts of voter lists at PS's for voting at a place of stay	815 640		
9) Number of unused ballots	12 521 805		
10) Number of voters who received ballots at polling stations	17 318 937		
11) Number of voters who received ballots at a place of stay	703 243		
12) Total number of voters who received ballots	18 022 236		
13) Number of ballot papers not to be counted at polling stations	1 571		
14) Number of voters who took part in voting	18 019 504		
15) Number of invalid ballots	244 555		
<b>16) Number of votes cast for each candidate (* campaign costs from the CEC website)</b>			
Candidate Name	Number of Votes	Percentage of Votes %	Campaign Expenses in UAH*
Olga Bohomolets	345 384	1,92	1 880 972
Yuriy Boyko	35 928	0,20	2 811 063
Andriy Hrynenko	73 277	0,41	497 999
Anatoliy Hrycenko	989 029	5,49	7 135 430
Mykhailo Dobkin	546 138	3,03	78 324 790
Oleksandr Klymenko	10 542	0,06	6 900
Varleriy Konovalyuk	69 572	0,39	13 522 115
Renat Kuzmin	18 689	0,10	1 109 807
Vasyl Kuybida	12 391	0,07	4 313
Oleg Lyashko	1 500 377	8,33	7 038 247
Mykola Malomuzh	23 771	0,13	108 397
Petro Poroshenko	9 857 308	54,70	96 475 277
Vadim Rabinovych	406 301	2,25	2 897 870
Volodymyr Saranov	6 232	0,03	839 996
Petro Symonenko	272 723	1,51	1 039 000
Yuliya Tymoshenko	2 310 050	12,82	67 504 722
Serhiy Tihipko	943 430	5,24	75 498 920
Oleg Tyahnybok	210 476	1,17	17 162 537
Vasyl Tsushko	10 434	0,06	0
Zoryan Shkiryak	5 021	0,03	report not available
Dmytro Yarosh	127 772	0,71	0