



European Network of Election Monitoring Organizations International Observation Mission Ukraine Parliamentary Elections 2006	Європейська мережа організацій ,що спостерігають за виборами Міжнародна місія спостереження Парламентські вибори в Україні - 2006
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**PRELIMINARY REPORT ON FINDINGS
OF THE ENEMO OBSERVATION MISSION
2006 UKRAINIAN PARLIAMENTARY ELECTIONS**

Kyiv, March 27, 2006

SUMMARY OF FINDINGS AND OBSERVATION

The European Network of Election Monitoring Organizations (ENEMO), a coalition of 18 leading civic organizations from Central and Eastern Europe and Central Asia, observed significant improvement in the Ukrainian parliamentary elections over the 2004 Ukrainian presidential election. The election environment surrounding the 2006 parliamentary elections was generally free of pressure, intimidation or harassment against any political party or bloc or any specific parts of the electorate. In stark contrast to 2004, there were no reports of centralized misuse of administrative resources and ENEMO observers reported only isolated cases of pressure on employees by their local directors or employers. While these cases should be vigorously investigated this diminution marks a significant improvement.

In a noteworthy improvement from 2004, Election Day was peaceful and without report of serious fraud and violence. However ENEMO, reported that on Election Day there were significant organizational and technical problems concerning late opening of polling stations and violations or irregularities resulting from overcrowding in the polling stations and missing voters on the voter lists. In some isolated cases ENEMO observers reported violations of the secrecy of the vote, multiple voting, and campaigning in polling station.

ENEMO observers note that the Central Election Commission (CEC) is functioning in a professional, fair, and transparent manner. Since December 2005, the CEC has held 84 meetings, all of them open to observers and the press, during which 1330 rulings were adopted. The CEC has registered 3516 international, 287'610 partisan observers, and 3350 domestic non-partisan observers. ENEMO expresses its gratitude for the Commission's professional support.

The conduct of local and regional elections concurrently with parliamentary elections highlighted particular organizational challenges. Because of the added administrative burden of multiple elections, ENEMO notes that lower-standing election commission struggled in many cases to cope with overcrowded polling stations and to regulate the cumbersome voting process. In particular, ENEMO observers have reported serious problems with preparation of Precinct

Election Commissions (PECs) and the quality of the voter lists. The difficulty in filling precinct commissions due to low qualification, poor payment and potential commission members' fear of criminal liability, resulted in heavy delays in the electoral calendar. As a result, it was sometimes difficult for citizens to verify their names in the voter lists, and for changes to the lists to be made by the PECs in time for the election. These administrative problems were observed to different extents in different regions of Ukraine.

The Ukrainian Parliament tried to solve the most serious technical problems by amending election legislation. The electoral law amendments passed by parliament on March 14th and signed by the President on March 18th provide for extra compensation for election commission members, broaden the categories of individuals from which PEC members can be recruited, and allow PEC members to cast their ballots in the polling station they work on election day. While ENEMO realizes that these changes were critical to the relatively smooth administration of the elections, it is concerned about the apparent trend of amending election legislation shortly before Election Day. Activities of this sort make the election process vulnerable to additional criticism and are a sign of insufficient preparation for the election process.

ENEMO OBSERVATION MISSION:

The European Network of Election Monitoring Organizations (ENEMO) is a group of 18 leading civic organizations from 16 countries of Eastern and Central Europe and Central Asia. ENEMO member organizations have monitored more than 140 national elections and trained more than 190,000 observers. ENEMO seeks to support the international community's interest in and support for democracy in the OSCE region, to assess electoral conditions and the political environment, and to offer accurate and impartial observation reports. ENEMO international observation missions evaluate the electoral process using international standards for democratic and fair elections and benchmarks in the assessed country's legislation and constitution. During the 2004 Presidential Elections in Ukraine, ENEMO was one of the largest among the international monitoring missions. It twice deployed more than 1000 observers and monitored the election process during all three rounds of the elections in all regions of Ukraine.

For the Ukrainian 2006 parliamentary elections, ENEMO deployed 42 long-term observers covering all oblasts of Ukraine to monitor the pre-election environment including the political campaign and preparation activities of the election administration ahead of the March 26th parliamentary election. For Election Day ENEMO deployed 389 election observers to 2040 polling stations throughout all oblasts of Ukraine.

The ENEMO observation preliminary report is based on observations of the long- and short-term observers findings compared to international standards and national election legislation. Although Ukraine conducted both parliamentary and local multi-level elections on March 26th, the ENEMO mission focused its observation on monitoring elections at the parliamentary level. The mission emphasizes that this preliminary report does not render a final assessment of the entire election process. ENEMO will defer its final assessment until the end of the vote count, announcement of the results and the potential complaints have been addressed.

Election Administration on Election Day

ENEMO's primary focus was the ability of all voters to exercise their right to vote without impediment. This is the angle from which the organization evaluated the administration of Election Day. As noted above, ENEMO found that the environment surrounding the 2006 parliamentary elections was generally free of pressure, intimidation or harassment against any political party or bloc or any specific parts of the electorate. However, on Election Day ENEMO observed significant organizational and technical problems. ENEMO describes these problems here in the interest of providing information and recommendations directed at further improving Ukraine's electoral process.

The parliamentary elections are administered by Central Election Commission (CEC), 225 District Election Commissions (DEC) and 34,043 Precinct Election Commissions (PEC), involving 529,650 commission members. On Election Day, the CEC promptly issued statistics that were also available on the internet. As the stated number of absentee ballots issued in 2006 was 44,219 it is clear that absentee voting is unlikely to be abused, as it was on a major scale in 2004.

Opening

ENEMO observes noted that a number of the polling stations did not open on time. Thus, 26% of PECs opened 10-15 minutes behind schedule, 12% opened at least 30 minutes after the scheduled opening. While such delay are not exceptional, they seemed to largely related to the complicated pre-opening procedures related to the multiple levels of elections. Other reasons of lesser prevalence were the change to daylight savings time and the last-minute cancellation of local parties and blocs that needed to be crossed out from the ballots.

PECs opened at least 30 minutes late, among others, in Dnepropetrovsk, (DEC 30, PEC 1, 07:45), Luhansk (DEC 102, PEC 29, 7:30), Mykolaev (DEC 184, PEC 105, 07:45), Volyn (DEC 152, PEC 98 7:35), and Vinnitsa (DEC 12, PEC 87, 7:30).

Number of PEC members

ENEMO noted in its pre-election report serious concern about multiple changes in PEC membership during the campaign period. One of the potential worries was whether the Commissions would be staffed with the minimum amount of members during Election Day. It appears that this concern was resolved by the efforts of the CEC and last-minute changes made to election law that broadened the categories from which commission members could be recruited.

Disorderly Voting

The key concerns in the organization of Election Day were disorder at the precincts, including lines inside and in front of polling stations, especially during the first half of the day. These disruptions were largely caused by the extended period of time it took for ballot issuance, as well as for making a choice and voting. Most ballots were extremely long with more than 40 candidates, further lengthening the voting turnover time. As a result voters at numerous PECs were forced to wait in line for sometimes extensive periods of time, causing some of them to depart. It is unclear what percentage of voters later returned to vote. This impediment to voters was entirely preventable by better organization.

Concerns with crowds and disorderly voting were noted, among others, in Donetsk (DEC 41, PEC 99), Luhansk, (DEC 105, PEC 35), Crimea (DEC 6, PEC 6), Zaporizhie (DEC 73, PEC 25), Kirovohrad (DEC 99, PEC 101), and Zhytomir, (DEC 58, PEC 105).

Secrecy of Ballot

Another concern on Election Day was adhering to the secrecy of the ballot. ENEMO observers noted numerous p in which where citizens were voting outside of the polling booths or where families or friends voted in the same booth. This was, among other reasons, related to voters being unable to find an empty booth after receiving the ballots. Observers noted several cases when impatient voters marked their ballot outside the booth to save time. There seemed to be no pattern of forcing voters to violate the secrecy of the ballot. Nonetheless, it is vital for maintaining trust in the election system that voters mark their ballots in secret.

Cases of collective voting and voting outside the booth were observed, among others, in Donetsk, (DEC 41, PEC 99), Luhansk (DEC 105, PEC 34), Vinnitsa (DEC 11, PEC 10), and Kyiv (DEC

Oversized polling stations

One of the factors influencing the orderliness of polling stations seemed to be the number of voters registered – the more voters the more disorderly the functioning of the precinct. Of particular concern, as stated in ENEMO’s pre-election report, were precincts where the number of voters exceeded the ceiling set by Ukrainian law. . Of the PEC’s visited, 11% percent were over the maximum amount of voters (which has been set at 2500).

Insufficient number of ballots

According to election legislation, the amount of ballots PECs are to receive from the higher-standing commissions equals the amount of voters in the list plus 2 percent. Observers noted several cases where the number of ballots received was less than the number of voters on the lists. While the level of turnout ensured that there were sufficient ballots for all that wanted to vote, this could have potentially disenfranchised a significant number voters.

Insufficient ballots were observed, in, among others places Luhansk (DEC 104, PEC 98, 1374 ballots for 1497 voters), Kharkiv (DEC 173, PEC 48, 1617 ballots for 2452 voters), Volyn (DEC 153, PEC 1, 2004 ballots for 2046 voters), and Vinnitsa (DEC 12, PEC 10, 1008 ballots for 1125 voters)

Improper sealing of ballot boxes

ENEMO observers noted several cases of improper sealing of ballot boxes or failure to insert control sheets in ballot boxes as required by law. More often than not these were mobile ballot boxes. These violations were usually related to commissioners claiming to be unaware of the procedures. In one case, Commissioners claimed that they were given insufficient sealing materials.

Concerns with improper sealing of ballot boxes or control sheets were witnessed, at among other places Zaporizhie (DEC 78, PEC 30 and DEC 72, PEC 4), Luhansk (DEC 102, PEC 30), Vinnitsa (DEC 10, PEC 12), and Donetsk (DEC 53, PEC 116).

Double Voting

ENEMO Observers noted one case where a group of voters was able to vote twice within the half an hour that the PEC was being monitored. This case was observed in Donetsk in DEC 41. They were issued ballots and voted both times. While an isolated case, such activities are of the highest concern, especially given that any violation of this kind is impossible to commit without the participation of at least some commission members. Cases of this kind should be prosecuted vigorously by responsible bodies.

Voter Lists on Election Day

The challenges the PECs faced in generating accurate voters' lists was evident on Election Day. The inaccuracy of the lists from the beginning of the campaign period, described in greater detail below as well as the lack of preparation by the PECs, resulted in a segment of voters being unable to vote. While ENEMO cannot determine the impact of the voters who were denied the right to vote in the election itself, it believes strongly that the disenfranchisement of voters could have been prevented by earlier preparation of the PECs and more resources devoted to solving problems once the extent of the problem was identified.

In many cases chairmen of the PECs admitted that the voters' lists were inaccurate and that voters had been turned away from the polling station. For example, in Kharkiv (DEC 175, PEC 19), the chairman of the precinct judged that 10% of the voters were not on the voter list, approximately 170 individuals. Similarly, in Luhansk Oblast (DEC 103, PEC 3) the Chairman of the PEC estimated that 200 voters were still missing from the polling station despite the addition of 300 voters from March 23rd to 24th. The chairman explained that these numbers reflect three streets which were missing from the voters lists. Also in Luhansk (DEC 170, PEC 8) 170 individuals were reported not on the voters lists.

In Chernigiv, of the 75 polling stations the observers visited throughout the voting period, in 25 of them ENEMO observed voters who were unable to find their names on the lists and vote.

Voters' list problems reflected the technical difficulties faced during the pre-election period. For example, the absence of entire apartment buildings and streets indicated problems in compiling the lists. In Zhitomir (DEC 56, PEC 65) a building of voters, at 88 Shelyshova Street, was not included in the voter list. In Odesa Oblast (DEC 139, PEC 140) ENEMO observers witnessed 36 voters being denied the right to vote. Despite registering by legal means they were not on the voters lists. The PEC member was unable to provide an explanation.

Unauthorized persons in polling stations

Observers noted several isolated cases where individuals in a position of authority and influencing the activities and decisions of the PEC or voters. Such activities should be investigated rigorously, since they compromise the independence of the Commission and jeopardize the voters trust in fair administration.

Such cases were observed in Donetsk (DEC 41, PEC 99 and DEC 53, PEC 96), Kirovohrad (DEC 99, PEC 48),

CONCLUSIONS AND RECOMMENDATIONS

ENEMO recognizes improvements were made in the electoral legislation and that these contributed to an improvement of the election process compared with 2004. As many technical challenges lie ahead of Ukrainian citizens and their elected representatives, in order to improve the democratic election process in Ukraine ENEMO makes the following recommendations:

- Adopt, in a timely manner, a unified election code regulating all elections in Ukraine, to harmonize procedures for all elections.
- Review the voter registration process and create a central voter register to allow for systematic corrections and updates
- Form multi-party election commissions to ensure balanced representation, while ensuring a mechanism for additional nominations by local authorities to fill vacant places in precinct or district election commissions..
- Provide adequate finances and equipment for polling stations in a timely manner to improve effective organization of elections.
- Assess the calendar of elections in Ukraine and if feasible, separate local and regional elections from the national election process. .

SUMMARY OF PRE-ELECTION PERIOD

Violations Related to Campaigning

ENEMO observers everywhere in Ukraine continued to note a dramatic improvement from the 2004 presidential elections in the campaign environment. The atmosphere was generally free of pressure, intimidation or harassment. In stark contrast to 2004, there were no reports of centralized misuse of administrative resources and ENEMO observers report only isolated cases of pressure or intimidation of employees by their local directors or employers. ENEMO also notes cases of violations against party workers in the form of harassment and intimidation. While these cases were uncommon, ENEMO is concerned with any violation against legal campaign activists or property.

Some of these isolated violations, concerned, for example, campaigning by government officials. According to Ukrainian law, state officials are not allowed to campaign during working hours or use state resources. However, it was reported that on March 18th, Prime Minister Yuri Yekhanurov gave a speech at the Khmelnytsky National University. In response to students' questions, he promised to build homes for young people, create one million jobs, and increase salaries and living standards if elected to Parliament. At the end of the meeting Yekhanurov announced a supplement to the University budget of 2, 5 mil UAH. Both the Prime Minister and the Rector are candidates of Our Ukraine for parliamentary and local elections, respectively. ENEMO believes that events of this nature can be perceived as campaigning and should not be conducted during working time.

In another example of administrative pressure on voters, on March 13th at a rally of the Party of Regions (PoR) held in Poltava local administrative manipulation of voters was reported.

Employees of the Poltavagaz factory were bused to the rally and were threatened with job loss if they refuse to participate. At the rally, which was attended by 1,000 people, Victor Yanukovic, the party leader, was the speaker. Also reported in Poltava, director of School 29 forced teachers to campaign for the PoR. The teachers claim that they were forced to work in shifts at the campaign tents of the party.

While isolated, this campaign period has not been without incident against campaign workers. On the March 21st, explosion took place in Kharkiv at the entrance of the Party of Regions local campaign headquarters. PoR representatives argue that this was a planned attack on campaign leader, Yevheniy Kushnaryov. Kushnaryov was not injured, and the case is being investigated by local law-enforcement authorities.

Two campaign workers from NeTAK Block were beaten by four unidentified individuals while they were posting election materials in the street. The incident took place in Rakova district (Khmelnitsky oblast) on March 20th. A formal complaint was filed.

PORA-PRP reported intimidations against local campaign workers in Hertsia in the Chernivtsi oblast on March 8th. Campaign workers were followed by several cars with unidentified individuals and the activists were physically threatened to stop campaigning. An official complaint was registered.

Election Administration Issues

The election law stipulates in detail how commissions are to be formed and establishes deadlines for the completion of the different steps of the election administration process.

ENEMO noted serious concerns with the staffing of election commissions early in the election process, and expressed concern that this might interfere with efficient preparation for the elections. Shortly before Election Day, this issue became the focus of efforts of various Ukrainian political bodies. Parliament adopted changes in the election law that broadened the categories from which commission members could be recruited. The President approved the law and election commissions and local government were closely engaged in addressing the shortage of staff on commissions. This problem had largely been remedied by Election Day, and almost all Commissions were staffed at least according to the minimum level to start functioning. Nonetheless, these last-minute changes did not alleviate concerns that many polling stations started functioning too late in the pre-election period, causing a significant number of polling stations to be non-functioning during parts of the crucial voter list correction process.

During the pre-election period, PEC member resignation was wide-spread, leaving commissions unable to operate due to the absence of a quorum. The process of nomination and resignation in some places continued until shortly before the elections, making effective administration a challenge.

Many incidences of staff changes occurred in Odesa Oblast, (DEC 137, Razdelnaya), where the Secretary had changed four times as of March 15. In Chernihiv (DEC 211), PEC 45 has had three heads and two secretaries, and PEC 2 has had three heads, PEC 44 has had 4 secretaries changed during the campaign period. In Cherkasy Oblast, (DEC 203), 12 out of 17 commissioners in PEC # 84 have resigned since the original nomination. In Chernivtsi (DEC 210), the Chairperson had been replaced three times by March 6th.

Numerous polling stations were not staffed at the required capacity by the February 18th deadline for PEC formation. ENEMO observers noted such cases in Zakarpattia Oblast (DEC 70, on March 10th), Simferopol (DEC 1, March 13th), Odesa Oblast (DEC 137, March 15th), Zaporizhzhya (DEC 71, March 15th), Khmelnytsky (DEC 197, March 12th and DEC 192, Volochysk, March 15), Luhansk (DEC 102, March 6), Crimea (DEC 1, Simferopol, March 13), Chernihiv (DEC 211, March 20). Some polling stations were still closed when observed visited them: Zaporizhie (DEC 73, March 20), in Mikolaev (DEC 126, March 15).

The reasons given for commissioners' resignation to ENEMO observers include low pay, high degree of responsibility (some indicated the potential for criminal prosecution of commission members), and long working hours.

Organizational Set-up

Observers noted that some commissions experienced organizational problems that made their functioning difficult. These included: missing safes, telephone lines, transportation, heating, or stationary. These seem to be able to be remedied by Election Day but have made the preparation process more difficult. In Sumy, (DEC 158), PECs 8, 9, 12, and 53 as well as in DEC 162, 155, 131, and 12 there were no telephone connections as of March 22. In Kyiv Oblast, (DEC 86, Bela Cerква), ENEMO observers were informed that the Commission is concerned about its ability to transport ballots on Election Day.

Voter Registration Issues

While there have been efforts to improve the system of voter registration, ENEMO remained concerned with the number of inaccuracies in the lists and in the difficulty for the PECs to address these deficiencies in time for the elections. According to the CEC the total number of voters for the 2006 Parliamentary elections was 36,808,000 people (compared with 37,657,000 in 2004 Presidential elections). During the campaign period, the most common problems with the lists included inaccurate transliteration of voters' names, inclusion of deceased voters, and absence of voters, including absence of entire buildings and streets. The PECs responded to complaints on the voters lists in due time when the PECs were fully staffed and the problems identified early. As more PECs were formed and working properly, the number of reports of voter registration difficulties decreased slightly. However newly uncovered cases of voter registration toward the end of the campaign period were of higher concern for the ENEMO mission, as not all PECs were able to resolve voter list issues by March 26th.

The problems outlined above with the voters' list give no evidence that the inaccuracies in the lists were due to overt attempts by a particular authority to manipulate the lists or the electorate on Election Day nor did the problems seem to provide an advantage to one party or bloc over another. Rather, it was evident that the flaws in the lists were a result of technical difficulties and poor performances of the bodies responsible for compiling the voters' lists. In some cases repetition of individuals on the voters' lists was a result of the automatic transliteration from Russian to Ukrainian.

ENEMO observers reported that entire buildings or blocks of streets were absent from voters' lists in major oblasts including Donetsk (DEC 46 and 47), Sumy (DEC 158) Zhytomyr, Zarkapatiya, Kharkiv and Kirovograd (DEC 56 and 60). In many of these cases when the precinct election commissions were formed and working, these oversights were corrected

quickly. However, due to the slow formation of the PECs some regions continued to have inaccurate voter lists. And even one week before the election, many lists were still deficient. In Sumy Oblast (DEC 158) as of March 22nd, twenty apartment buildings in one PEC (PEC 103) were absent from the voters' list and in another (PEC 119), thirty-six apartments were absent. In Kirovograd Oblast (DEC 100) ENEMO observers witnessed that in one PEC 600 names were absent and in another PEC all buildings with a number higher than 27 were absent (as of March 22nd).

In Kyiv, as of March 23rd, all of the 162 PECs from DEC 93 had inaccurate voters' lists, according to the head of the DEC. In Crimea, estimates from a DEC member in Simferopol included approximately 5000 voters absent from the voters' lists as of March 15th. Kharkiv Oblast also records significant problems in the voters list in DEC 173 through 183.

The voters' lists also appeared to reflect out-dated information, such as individuals who were deceased and had been for several years. In some cases the deceased were properly left off the voters lists in 2004, only to reappear for these elections, such as in Dnepropetrovsk (DEC 109). Vinnitsya Oblast also recorded deceased individuals on the voters lists (DEC 17). Cherkassy Oblast DEC (205) also reported that as of March 15th over 1000 deceased voters were still listed on the voters' lists.

It is clear that where PECs were working properly and when inaccuracies were brought to the attention of the PECs, appropriate and timely changes were able to be made to the voters' lists. However in some cases DEC 173 acknowledged that changes would not be able to be completed in time for the elections due to understaffing at the PECs and a lack of voters' interest in checking their names on the lists.

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