

## ENEMO

European Network of Election Monitoring Organizations International Observation Mission Ukrainian Presidential Elections 2004	Європейська мережа організацій, що спостерігають за виборами Міжнародна місія спостереження Президентські вибори в Україні - 2004
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### **EUROPEAN NETWORK OF ELECTION MONITORING ORGANIZATIONS (ENEMO) STATEMENT ON 2004 PRESIDENTIAL ELECTIONS IN UKRAINE OCTOBER 31 - NOVEMBER 21, 2004**

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

Fifty experienced ENEMO monitors have been observing the pre-election environment in all Ukrainian oblasts since October 19, 2004, as well as the first round of voting on October 31. On November 21, approximately 1,000 ENEMO monitors observed voting and counting in more than 5,000 polling places and more than 200 territorial election commissions (TECs). Throughout the process, ENEMO observers received extensive assistance and cooperation from all levels of election commissions. The mission appreciates this support and looks forward to future cooperation. ENEMO is cooperating in this mission with Freedom House and the National Democratic Institute for International Affairs.

This report is based on the observations of the long-term monitors both in the lead up to the election and on November 21.

#### **I. SUMMARY OF FINDINGS AND OBSERVATIONS**

On November 21, the ENEMO mission identified a targeted and well-orchestrated campaign to disrupt voting in central oblasts including Chernihiv and Cherkassy, as well as outright fraud in Donetsk, Luhansk and several other oblasts. The methods used included violence, intimidation, attacks on polling stations and bomb scares. In addition, thousands of people, many of whom behaved aggressively towards local voters, were bused to other oblasts from the Donetsk home base of the government candidate. The

ENEMO Mission recorded widespread denial of access to polling places for observers, as well as instances of ballot stuffing and large scale abuses of absentee ballots and mobile voting procedures. These were especially prevalent in the densely populated regions of Lugansk and Donetsk. The ENEMO International Observation Mission believes that the violations it recorded cumulatively undermined the integrity of the election process.

In addition, the pre-election period did not provide a basis for fair political competition and full respect for voters' rights. Arrests, threats and harassment of NGO activists, pressure on students and government employees, misuse of state resources, violence and massively imbalanced media coverage have been well documented by the ENEMO observers, as well as the OSCE/ODIHR and other observer groups.

Based on findings of its own long-term observers, as well as those of other observer groups, the ENEMO mission believes that the problems in the pre-election period combined with those on November 21 were potentially serious enough to affect the electoral outcome, especially given the closeness of the race. The ENEMO International Observation Mission believes that it is therefore impossible to say that the November 21 election reflects the will of the Ukrainian people. The ENEMO mission will release a final report containing results of monitoring in comprehensive format.

## **II. RECOMMENDATIONS**

- The Central Election Commission should immediately publish all the results by precinct election commissions on its website. Data on absentee voting certificates and mobile voting should be also released.

All complaints of candidates' campaigns on violations of electoral law should be considered by courts in an unbiased, expeditious and transparent manner and effective remedies should be implemented.

- Persons involved in preparation and committing violence, gross violations and criminal acts prior and during elections should be prosecuted in accordance with Ukrainian law.
- Ukrainian election law should be amended to comply with the 1990 OSCE Copenhagen document, to provide for full access to all stages of the electoral process for observers from domestic non-governmental organizations.

## **III. SUMMARY OF OBSERVATIONS:**

### **A. PRE-ELECTION AND INTER-ELECTION PERIOD**

The most serious problems ENEMO observed in the campaign periods were, in summary:

**1. Organization Voting in Groups** The ENEMO mission received credible reports of a trend confirmed by other observer groups, concerning the organized transport of large groups to other oblasts before each Election Day. For example, ENEMO received several reports from coal miners in the Luhansk region about an organized effort to bring over 10,000 miners to Kyiv for Election Day. These miners were told they would be given absentee ballots so they could vote in Kyiv on behalf of Yanukovich

**2. Violence and Intimidation** The ENEMO mission is extremely concerned about threats and violence involving election commissioners, campaign workers, observers and media. Observers and staff of the mission have personally been threatened and have witnessed attacks violent confrontations between police and campaign activists. They have also received credible reports of threats and intimidation of election commissioners and media. The climate of intimidation created by these incidents substantially undermines public confidence in a fair electoral process.

**3. Pressure on Students, State Employees, and Others:** In most oblasts ENEMO observers reported that students had been pressured to campaign or vote for Yanukovich or sanctioned for campaigning for Yushchenko, sometimes under threat of losing scholarships or dormitory places, or expulsion from schools. Observers also heard first hand accounts of workers forced to attend rallies for the Prime Minister. Rural residents also reported to ENEMO observers threats from local government observers of loss of access to gas, agricultural credits and the lease of land plots and tractors if they did not vote for Yanukovich

**4. Campaigning by Government Officials or Denial by State Officials of Equal Conditions for Campaigning:**ENEMO noted interference by state officials with Yushchenko campaign events, and promotion of Yanukovich's campaign up to and including direct agitation for the candidate. For example, ENEMO observers saw road police preventing buses from Chernihiv from traveling to a Yushchenko rally in Kyiv on October 16. Similar events occurred in Zaporozhzhia Sumy, Ternopil and Chernihiv. On November 17 ENEMO observers witnessed the first deputy of the Krasnodan Town Administration (Luhansk oblast) convene a meeting of election commissioners in Lugansk, explaining that they must do what they can "to ensure the victory of our candidate, Viktor Fedorovich Yanukovich."

**5. Unethical Campaigning ("BLACK PR")** The pre-election period was marred by a significant level of campaigning designed to confuse and/or misinform voters. This type of campaign included individuals masquerading as members of other campaigns in order to mislead voters, the distribution of misleading campaign material in the name of other candidates and destruction of campaign materials from opposing candidates. ENEMO observers collected many examples of materials without legally required identifying information that were apparently designed to discredit Viktor Yushchenko. These materials portray Yushchenko as an extreme Ukrainian nationalist, or as manipulated by

foreign governments. ENEMO also has copies of materials suggesting that a Yuschenko victory would provoke ethnic conflict or civil war in Ukraine. The Yanukovych campaign reported destruction of its billboards throughout the country.

## **B. FIRST ELECTION DAY - OCTOBER 31**

ENEMO observed in 300 polling stations in every *oblast* of Ukraine on October 31 and noted serious violations throughout the day. Although ENEMO found far fewer problems on October 31<sup>st</sup> than on November 21<sup>st</sup>, the mission notes the following areas of concern: .

### **1. The disenfranchisement of voters as a result of voter list discrepancies**

ENEMO observers documented serious problems with voter lists, including both voters' omitted from lists and so-called "dead souls" added to lists in Kharkiv, Kyiv, Lutsk, Sumy, Cherkasy, Chernihiv and Kharkiv. Quite a few PECs denied voters access to lists to check their accuracy, both before and after October 31. When disenfranchised voters sought help at TECs, the complaint resolution process seemed inadequate for the large numbers of applications. When they did not receive satisfaction in the court, many voters protested outside Territorial Election Commissions. One of the largest protests was in Golosyivsky Square in Kyiv, where up to 1,000 people gathered. ENEMO, nevertheless, notes some positive steps, such as initiatives by both the Central Election Commission and the non-governmental Committee of Voters of Ukraine to improve voters' lists by updating them and urging citizens to check their names

### **2. Controlled voting by transporting groups to polling stations**

ENEMO observers received numerous reports of organized groups taken on trains or buses to vote in other cities. Even more disturbing, several of these instances included the use of absentee ballots (voter certificates) – as voters were transported to another city or region (reportedly Kyiv and Western Ukraine) and told to vote for a particular candidate using these ballots. Moreover, observers noted that certain groups of voters brought in from other regions could provoke tensions.

### **3. Intimidation at Polling Places**

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

## **C. SECOND ROUND ELECTION DAY – NOVEMBER 21**

On November 21, approximately 1,000 ENEMO monitors observed voting and counting in more than 5,000 polling places and over 200 territorial election commissions (TECs). They observed the following:

### **1. INTIMIDATION AND EXTRAORDINARY EVENTS**

Use of violence to disrupt voting, intimidate election commissioners, observers and voters was reported around Ukraine. Particularly in comparison with the first round, November 21 was marred by serious incidents including the death of a policeman and several dozen of cases of direct physical assault on campaign activists, observers and voters. There were few incidents or hoaxes that seemed intended to disrupt voting. These cases were concentrated in central Ukraine. Following are just a few examples of the many reports received by ENEMO observers.

### ***USE OF VIOLENCE***

- ❖ In Molodetska and attackers tried unsuccessfully to open safe containing ballots. In L'viv and Lutsk, safes with ballots were stolen overnight. In Lutsk, at TEC 23, PEC 143, a guard was beaten in the process.
- ❖ Two thugs armed with baseball bats invaded the Yushchenko campaign oblast headquarters in Lugansk, beating staffers including a guard who was hospitalized. Soon after the attack men in a car with Donetsk license plates paid a quick visit to the headquarters. The identity of the two assailants is being established.
- ❖ In Cherkassy a journalist from the newspaper "Vecherny Cherkassy" Oleg Bilera was seriously beaten by men claiming to belong to a Cossack Brotherhood who arrived in a group from outside of Cherkassy oblast. Bilera's head was broken and has lost one tooth.
- ❖ As has been reported in the media, in the village of Molodetska, Cherkassy oblast, a policeman guarding a polling station was killed. In a village nearby around 5 am on November 21 four masked young people attacked PEC 17, TEC 201, breaking all the ballot boxes and seriously injuring another militiaman.
- ❖ On November 21, a deputy of Yushchenko staff in Konotop, Sumy Oblast, told ENEMO observers that his house had been set on fire overnight.

### ***DISRUPTION OF POLLING***

- ❖ About ten polling stations in five TECs of Chernihiv were closed for considerable periods due to bomb threats. At one of these stations TEC 210, PEC 16, a bomb threat resulted in over 300 individuals being turned away from voting, according to ENEMO observers.
- ❖ In Chernivtsy TEC 206 station 68 was shut down after police discovered mercury spilled inside. Another was closed for an hour for the same reason.
- ❖ In Cherkassy TED #203 (Uman) PS #25 a voter dropped a chemical substance into the ballot box which after few minutes started to smoke, damaging ballots. There are several incidents of a similar nature involving glue, paint and other substances thrown in ballot boxes.

### ***INTIMIDATION OF VOTERS AND OBSERVERS***

- ❖ In the immediate pre-election period in Kirovograd, ENEMO observers at TEC 100 were physically threatened twice by officials who accuse observers of “interfering with their work.”
- ❖ In Zakarpatia, in Tarnovci village, a male ENEMO observer who was examining the location of a polling station on Saturday after being identified as an international observer was threatened with a gun and told not to return. This happened at TEC 70 in PEC 89.
- ❖ In Cherkassy, a representative of Yushchenko’s headquarters, who is also a city council member, was beaten by a group of men outside TEC 198, PEC 44.
- ❖ Throughout the country, observers have noted the presence of large groups of men “overseeing” the voting, as well as a significant number of police inside polling stations. In many cases, and there have been several instances of police or other individuals watching how each individual casts their vote.

## **2. FRAUD**

### ***ORGANIZED BUSING OF VOTERS AND MULTIPLE VOTING***

ENEMO found large-scale busing of voters to the polls, in what many observers believe to be an attempt to organize repeat voting by the same busloads of people, often using absentee ballots. For example in Kirovograd, polling station PEC # 48 ( TEC 101) a group of voters came with absentee ballot coupons, the names on which did not correspond to the names in voters passports.

- ❖ In Poltava, four buses brought voters to TEC 148, polling station #52, where ENEMO observers estimated about 100 people voted. They were accompanied by official representative of candidate Yanukovych Chernysh M. K. In the vicinity of polling station 23, TEC 148 two buses with voters were seen. In polling station 39, TEC 149 observers noticed few buses driving through the town of Kremenchug, apparently trying to find a polling station. They were not allowed to vote at the PS #18 by the chairperson of TEC 149, although they later they voted in PEC #3.  
In Kirovograd oblast , several buses, all with Donetsk license plates, arrived in the towns of Aleksandria and Galavanovski. All individuals on board voted with absentee ballots. At PEC # 67 ( TEC 101) ENEMO observers saw people filling out blank sheets for absentee voting certificates in a car near the polling station
- ❖ A bus with about 20 people approached a Kyiv polling station. Those aboard said they supported Yushchenko.. They fled when they saw international observers.
- ❖ In Odessa, a vehicle with a government-issued license plate escorted a bus to drop voters off at two polling stations in TEC #136. At another polling station in Odessa PEC 13 (TEC 142) absentee voting certificates dropped out of the pocket of one voter. When spotted, he fled the scene.
- ❖ In Sumy, polling station 68 (TEC 160) located at the Agrarian University about twenty people voted at least twice and were seen waiting in front of the entrance for a bus.

- ❖ In Cherkassy, 14 buses arrived to deliver voters to polling station #44, TEC 198. At another polling station in Cherkassy *Oblast*, in the city Zolotonosha, 20 buses arrived to bring voters to the polls. These buses had Donetsk license plates.

### ***EXTENSIVE VOTING WITH MOBILE BALLOT BOXES***

For the second round of elections, ENEMO observers noticed unusually high numbers of requests for voting outside the polling stations by using mobile ballot boxes. In some places they amounted to 10-20% of all votes and the process of mobile voting often lacked transparency.

For instance:

- ❖ In Zhitomir PEC 163 and PEC 165 (TEC 69) multiple applications for voting at home voting were written in the same hand and unsigned.. An ENEMO observer noticed 37 applications in both PECs with such problem.
- ❖ In Dnepropetrovsk a large number of voters were registered to vote at home e.g. 396 out of 1684 at PEC 126 (TEC 39), 420 out of 2040 at PEC 128 (TEC 39). At the polling station 27 (TEC 27) ENEMO observers were not allowed to see the list of the 237 voters who have been registered to vote at home. In some polling stations PEC 16 (TEC 36), PEC 53 (TEC 29), PEC 26 (TEC 27) the names of voters requesting to vote at home were not marked in the voter lists.

### ***OBSERVER ACCESS ISSUES***

On November 21, ENEMO observers encountered difficulties gaining access to polling stations at some level in almost all regions of the country. Problems faced by ENEMO observers ranged from complete denial of access to polling stations, to delayed entry, to refusal to show polling station documentation. For example:

- ❖ ENEMO observers were denied access to polling stations, particularly in eastern parts of the country.
- ❖ ENEMO observers only were allowed access to certain polling stations after intervention from higher levels of electoral commissions. The delay in providing access resulted from the contention of numerous PEC commissioners that observer accreditations issued by the CEC prior to October 31 – as was the documentation of many ENEMO observers – was no longer valid. This delay is worrisome, since observers were not able to witness poll opening procedures and early voting.
- ❖ In many PECs election officials refused to provide detailed information, such as on numbers of requested mobile and absentee ballots. For this reason, observers could not accurately track whether the number of absentee and mobile ballots printed matched those that were cast.

### ***POLLING STATION PROCEDURAL VIOLATIONS***

Across the country, ENEMO observers reported numerous procedural violations in polling stations observed throughout the day. Violations ranged from minor to severe, suggesting in some cases, simple ignorance of the law or poor administration, and in others intentional disregard of legal provisions. Of most concern, ENEMO noted that the composition of many polling station electoral commissions was changed without explanation on election-day. Most commissioners who were suddenly dismissed represented Viktor Yushchenko. In the majority of the polling stations observed by ENEMO, there was also a heavy presence of individuals representing the local and/or regional administration, observers/journalists representing unfamiliar organizations/newspapers, or unidentified individuals who declined to state their title and affiliation. ENEMO observers also made note of the violation of the secrecy of the vote and illegal distribution of ballots and campaigning inside polling stations. For example:

- ❖ In all polling stations in TEC 100, 470 precinct election commissioners were removed today.
- ❖ In Donetsk, in TEC 63 / PEC 74, individuals at the door of the polling station requested documents from voters. They were not members of the electoral commission, and they refused to provide their identity. Also in Donetsk, at several polling stations in TEC 42 , ENEMO observers reported the presence of unidentified individuals intimidating voters. Meanwhile, in Lugansk, in TEC 68/PEC 160 four young people who would not identify themselves were supervising the work of the commission.
- ❖ In Poltava TEC 154/PEC 40, an official representative of candidate Yanukovych stood next to the ballot boxes, recording voters on a video camera as they placed their ballots into the ballot box.
- ❖ In Chernihiv, at PECs 20, 21 and 200 in TEC 213, voters were able to receive ballots without showing any personal documentation. This was also noted in Vinnitsa. Meanwhile, in Lugansk, at TEC 58/PEC 106, the voter lists were posted by the door, and the commission crossed out those who voted.
- ❖ In Rivne TEC 9, PEC 182, ENEMO observers observed a woman campaigning for Yushchenko.

### ***VOTER LIST PROBLEMS***

Problems with voters' lists continued, although they were not as pronounced as in the first round. Observers continued to find voters excluded from lists or so-called "dead souls" added. In a few cases, observers noted that discrepancies on the voters lists from the first round had not been corrected for example, in Lutsk PEC 20, TEC 22 about 50 % of all mistakes found in the lists in the first round of elections haven't been corrected.

### ***INTERFERENCE BY STATE AND LOCAL ADMINISTRATIONS***

State officials' misuse of their positions was primarily observed in the pre-election and inter-election periods. Some of these activities culminated on election day, i.e. busing of students or state workers to vote in groups. In other cases, state influence was felt on

election day in a heavy police presence at polling stations. In a few places, local authorities, including rayon administration heads, tax inspectors and collective farm chairmen were in polling places appearing to intimidate voters or observers. ENEMO heard of multiple such instances in Sumy oblast, including a report that the mayor of Krolevets, Oleg Bolutin, gave an order to confiscate the cameras of journalists and observers.

### ***VOTE COUNT ISSUES***

- ❖ In Lugansk oblast some protocols by PECs were taken to TECs only after being 'approved' by the rayon state administration authorities.
- ❖ Vote counting results were delayed in TEC#160, with 115 protocols from all polling stations delivered and processed in TEC, except one protocol from polling station #28. However, at the same time ENEMO LTOs already received voting protocols for polling station #28 from STOs three hours ago.