



European Network of Election Monitoring Organizations International Observation Mission Ukraine Parliamentary Elections 2007	Європейська мережа організацій, що спостерігають за виборами Міжнародна місія спостереження Парламентські вибори в Україні 2007
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Report on Pre-Election Period

August 15 – September 26, 2007

On August 15, 2007, the European Network of Election Monitoring Organizations (ENEMO) established an election observation mission to monitor the early parliamentary elections in Ukraine scheduled for September 30. ENEMO deployed 25 long-term observers (LTOs) covering all oblasts of Ukraine to monitor the pre-election period and to prepare for the 400 short-term observers that arrive this week to monitor all stages of the electoral process on election day, including the opening, vote, and counting procedures. ENEMO long-term observers focused on the conduct of the election campaign, voter registration, the work of election commissions and court decisions.

SUMMARY OF FINDINGS AND OBSERVATIONS

- The Central Election Commission (CEC) has worked in a relatively transparent manner, but some of its decisions reflect the partisan political affiliations of its members and have negatively impacted the electoral process.
- The campaign period for the early parliamentary elections has been generally free of intimidation, pressure, and harassment.
- ENEMO remains concerned about the voter registration process and updates being made to the voter lists for the September 30 parliamentary elections. In particular, ENEMO fears that double entries in the voter lists might lead to cases of multiple voting and ballot stuffing.
- ENEMO fears that delays in setting clear procedures for mobile voting might cast doubt over the entire electoral process.
- The implementation of the provision that requires border crossing registration of voters is significantly delayed and unevenly enforced, thus ENEMO fears possibility of abuses and arbitrary decisions. Moreover, ENEMO considers that the provision itself might unjustly disenfranchise a significant number of voters.

- Compared to the 2006 parliamentary elections, ENEMO observers reported increased state administrative resource abuse and greater involvement of state officials in the campaign.
- Delays in the formation of precinct election commissions (PEC) have raised serious concern about the ability of these commissions to fulfill their duties and operate optimally in the electoral process.
- Mass media has enabled the electorate to familiarize itself with the programs of competing political parties via extensive coverage of the election campaign in news programs, television debates, and paid advertisements.
- The pending decision of the Constitutional Court on the constitutionality of the border guard provision could trigger post-election doubts.

ELECTION ADMINISTRATION

Ukraine's election administration is a three-pronged system comprised of the Central Election Commission (CEC), 225 District Election Commissions (DECs) and over 34,000 Precinct Election Commissions (PECs). The election law and its amendments stipulate the manner in which these structures should function and interact, while outlining precise deadlines for all stages of commission activities in the electoral process.

Central Election Commission

ENEMO observers note that the CEC has worked in a relatively fair and transparent manner during the pre-election period. However, due to sharp political divisions among the commissioners, some decisions have been highly politicized or significantly delayed.

One delay that has significantly hampered the activity of lower administrative bodies is the failure of the CEC to respond quickly to the court decision regarding mobile voting procedures¹. After long and sometimes non-transparent debates, on September 18 the CEC managed to pass a resolution on the format of the request for mobile voting. However, the CEC has offered little guidance to the DECs about the practicalities of checking and registering requests for mobile voting.

ENEMO observers reported that many DEC and PEC members are still unaware of mobile voting procedures for election day. ENEMO long-term observers also noted that, in absence of clear provisions issued by the CEC on this matter, election commission members are following their own personal understanding of the law. Thus, in Chernihiv oblast (DEC 214), there are 1,000 voters already registered to vote at home because DEC members combined disabled people with the elderly. A similar situation was reported in DEC 211 of the said oblast where the members of the commission are determined to send the mobile ballot box to elderly without any written request. Furthermore, in Donetsk

¹ September 12th ruling of the District Administrative Court of Kyiv

oblast (DEC 47, 48, 49) commissioners are using printed versions of mobile voting request forms instead of the required handwritten form.

Since abuses of home voting represented one of the major sources of fraud in the 2004 presidential election, ENEMO fears that unclear procedures for this type of voting might undermine the entire election process by creating the possibility for large-scale fraud.

Formation and Staffing of Commissions

ENEMO observed that parliamentary parties had difficulty properly staffing a large number of PECs and DECAs in all regions of the country. While this problem has been largely resolved by the end of the campaign period, the late opening of PECs disturbed the crucial process of updating the voter lists.

Many lower election commissions had to cope with resignations during the pre-election period. As a result, many DECAs and PECs functioned only with a minimum number of members or did not function due to a lack of legal quorum. Since the amended electoral law provision stipulates that only parliamentary parties can be represented on election commissions, the process of replacing the resigning members was very slow. Among the main reasons invoked for resignation is low payment, long working hours, criminal liability in case of mistakes, and, in limited instances, pressure and threats.

Significant problems occurred in Kherson oblast (DECs 184, 185, 186, 187 and 188), Crimea oblast (DEC 7), Kyrovohrad oblast (DEC 95) and Odesa oblast (DEC 137). PECs encountered even bigger problems in properly staffing the legal number of commissioners. ENEMO observers reported that 70 percent of the PECs in Odesa oblast (DEC 139) and Zarkarpattya (DEC 66) were understaffed, while 20 percent of the PECs observed in Kyiv faced similar shortages at the time of this report.

In Mykolayiv oblast (DEC 126 and DEC 128) and Rivne (DEC 151) up to 20 percent of election commission members were replaced several times as of September 18. In Donetsk (DEC 45), 200 PEC members were substituted in a single week, while 80 similar cases were documented in Rivne (DEC 154). In Kherson (DEC 185) PEC 58 failed to meet legal quorum as of September 26. High amounts of staff changes also occurred in Vinnytsya oblast. As of September 18, 10 PEC heads resigned in Vinnytsya (DEC 9). In Vinnytsya (DEC 10), PEC 13 is reported to be late sending out invitations to the voters because the Head and the Secretary are not attending PEC meetings on a regular basis.

A more dramatic situation was registered in Kherson oblast (DEC 184) where six out of twenty PECs visited by ENEMO observers were not functioning as of September 25. Eleven of those did not have the legal minimum of members. In PEC 73 (DEC 184) none of the four Socialist Party members took part in the work of election commission. PEC 4 (DEC 73) in Zaporizhya oblast, as of September 19, functioned without a chairperson.

Due to shortages in staff members a significant number of PECs opened after the legal deadline, which resulted in overwhelming the activity of the DECAs and the process of

updating voter lists. Massive delays were recorded in Poltava oblast (DEC 143², 146, DEC 150³); Odesa oblast (DEC 132, DEC 133); Zarkarpattya (DEC 70⁴); Luhansk (DEC 102, DEC 105, DEC 107, DEC 111⁵); Kyrovohrad oblast (DEC 95, DEC 101); Kherson (DEC 184⁶), and Kharkiv (DEC 174).

Logistical Shortcomings

ENEMO observers reported that many DEC and PECs were encountering logistical problems, including a lack of office supplies, a shortage of computers, poor telephone connections, and insufficient transportation. While these shortcomings could be overcome before election day, they have hampered the election preparation process.

More serious deficiencies were reported in Odesa (DEC 139, PEC 21) and in Luhansk (DEC 110, PEC 2) regarding the illegal set up of the polling stations. ENEMO observers also reported that some PECs were smaller than the legal required size by the number of registered voters.⁷ Due to logistical shortages, a number of DEC are failing to follow legal procedures and meet the prescribed deadlines. This was the case in Vinnytsya (DEC 11), Odesa (DEC 132), Lviv (DEC 119), Kherson (DEC 187), Rivne (DEC 157), and Kyrovohrad (DEC 95). While there is no evidence of deliberate mishandling of pre-election activities in these DEC, their improper activity adds to an already tense and hectic pre-election period.

VOTER REGISTRATION

ENEMO is highly concerned about a number of flaws reported on the voter lists and the election administration's ability to properly address these deficiencies before the September 30 election.

The most common problems with the voter lists include double registrations, inaccurate transliterations of voters' names, the inclusion of deceased voters, and the omission of voters, including the absence of entire buildings or streets in certain precincts. Due to the previously mentioned delays in the formation of PECs, the process of updating the voter lists has been slow. ENEMO is concerned that many inaccuracies will not be corrected before the legal deadline. These deficiencies reflect poor performance of the responsible bodies to revise the voter lists before the next parliamentary elections, even though most international observers had recommended this step after the 2004 and 2006 elections.

The poor quality of the voter lists is evident in complaints from DEC and PEC members regarding the activity of the Working Groups (WG) that made little or no changes to the 2006 lists, thus maintaining lists known to have serious inaccuracies.

² PEC 49 closed as of September 24

³ PEC 1 and PEC 109 remained closed as of September 19

⁴ PEC 15 and PEC 16 were not opened as of September 20

⁵ PEC 104, PEC 105, PEC 108, PEC 110, PEC 111 remained closed as of September 25

⁶ PEC 37 still closed on September 25

⁷ PEC 19 and PEC 22 in Odesa (DEC 139) and PEC 22 in Crimea (DEC 4)

ENEMO is particularly worried about the possibility of multiple voting and ballot stuffing due to reports of multiple entries on the voter lists. Long-term observers have received reports of the following figures: 94,000 double entries in Kharkiv,⁸ 3,624 deceased people and 76 double entries appear on the lists in Kyrovohrad oblast (DEC 95),⁹ 15,000 double entries allegedly discovered on voter lists in Kyiv, 16,000 double entries in Dnipropetrovsk, 2,000 double entries in Donetsk (DEC 43), and 700 double entries in Rivne (DEC 154).

ENEMO observers report that the correction process has been disorganized and inefficient. Thus, in PEC 73 in Zhytomyr (DEC 56), a group of voters could not check their names on the list because the precinct commission had closed as of September 19. A similar case occurred in Crimea (DEC 4), where commissioners of PEC 17 prevented voters from verifying their names on the list because the PEC was not working at full capacity. Furthermore, the Head of DEC 199 in Cherkasy oblast told an ENEMO observer that it was unlikely that the quality of the voter lists would significantly improve before election day.

Border Crossing Registration

New provisions in the election law required that border guards begin registering voters who crossed the Ukrainian border and did not return within three days prior to elections in order to erase these names from the voter lists. Although this border registration process was scheduled to start on August 1, ENEMO long-term observer reports show that the whole process was severely delayed in all regions of Ukraine and unevenly enforced.

For example, in Zarkarpattya observers reported that only some border guards fully registered the date of departure and expected return for people crossing borders there. ENEMO observed similar cases in Vinnytsya, where border officials made no special records for the use of forthcoming parliamentary elections. In contrast, the border officials in Lviv completed almost 100,000 registration cards regarding people that left the country from that region. These discrepancies raise serious questions about the functionality of the whole system.

Another issue of concern for ENEMO observers remains the technical procedures by which DEC and PEC members will proceed with the deletion of voters from the voter lists. The CEC's last minute decision on September 27 to revoke its explanation of how lower election commissions should implement this provision further added to the confusion. All DEC and PEC commissioners interviewed by ENEMO observers admitted uncertainty and uneasiness about the whole process. One border official, on the condition of anonymity, expressed the belief that DEC and PEC members would not be able to fully process the information coming from border guards in time for election day.

ENEMO is very concerned that this process will be characterized by mistakes and arbitrary decisions as a result of the administrative challenges posed by its implementation.

⁸ In DEC 174 alone 16,000 double entries are reported

⁹ In DEC 100, PEC 17, PEC 19 and PEC 21 register 46 double entries

Moreover, ENEMO considers that the provision itself might unjustly disenfranchise a significant number of voters.

CAMPAIGN VIOLATIONS

Parties and blocs campaigned primarily through paid media advertisements, televised debates and door-to-door campaigning. The energy of the campaign has been low, but observers report rising intensity in Dnipropetrovsk, Kharkiv, Donetsk, Kyrovohrad, Luhansk and Kyiv.

Compared to the same pre-election period during 2006 parliamentary elections, ENEMO observers witnessed a rising number of cases in which state administrative resources were used for campaign purposes. ENEMO observers also documented a few incidents in which campaign agitators were physically abused and campaign materials destroyed. Although these appear to be isolated cases, legal authorities would set a strong precedent by closely investigating such reports and holding the responsible individuals accountable.

The governor of Lviv oblast is reported to have used government facilities for campaign purposes, although no official complaint has been registered. In Sumy, the governor of the oblast prevented a paid article of the Party of Regions from being published. As a result, the Party of Regions organized a rally of its supporters to denounce “orange censorship” by the local media. In Kherson oblast, the governor is reported to be overtly campaigning for Our Ukraine – People’s Self-Defense (NU-NS), while the Mykolayiv oblast administration is accused of agitating for Lytvyn Bloc.

On September 11, one of the Party of Regions campaign tents in Kyiv was dismantled by local authorities who said that they lacked the proper authorization papers. Party of Regions representatives argued in a press conference that local authorities were overzealous and politically motivated in their actions. Subsequently, the matter was taken to court and resolved in favor of the Party of Regions.

ENEMO observers documented clear instances of mayors and local officials being involved in the campaign and misusing administrative resources in Sumy, Dnipropetrovsk, Poltava and Simferopol on behalf of the Party of Regions; in Lutsk for Yulia Tymoshenko Bloc (BYuT); and in Uzhhorod for Lytvyn Bloc.

ENEMO observers recorded cases of campaigning in schools and pressure on students in Mykolayiv, Rivne and Ternopil by NU-NS; in Vinnytsya, Lutsk, Zhytomyr and Ternopil by BYuT; and in Odesa, Uzhhorod, Dnipropetrovsk and Sumy by the Party of Regions.

Long-term observers reported substantial examples of smear campaigns, so called black PR, against BYuT in Uzhhorod, Donetsk, Odesa, Sumy and Lviv; against NU-NS in Poltava, Sumy and Odesa and against the Party of Regions in Lutsk and Volyn oblasts.

During the campaign period, many political parties alleged that other parties were engaged in vote buying. While these claims have not been proven, ENEMO believes that they add to the tension of the campaign and threaten to discredit the electoral process.

Another issue that came to the forefront of the campaign period was the alleged campaigning of the Ukrainian President, Viktor Yushchenko, on behalf of NU-NS. On September 22, the CEC decided in an eight-to-seven vote that the President should refrain from publicly supporting any party or bloc. ENEMO believes that clearer legal provisions regarding the involvement of state officials in the election campaign should be established before the start of a new electoral cycle.

CONSTITUTIONAL COURT

President Yushchenko questioned the constitutionality of border crossing provisions in the electoral law. On September 18, the Constitutional Court began considering the President's appeal. The matter is still pending with no estimated time for a final decision. The Constitutional Court should make all necessary efforts to decide on this matter before election day in order to prevent a post-election situation that could raise doubts about the legality of the electoral process.

This report was written in English and remains the only official version

European Network of Election Monitoring Organizations (ENEMO) is a group of 19 civic organizations from 17 countries of the former Soviet Union and Central and Eastern Europe. These nonpartisan organizations are the leading domestic election monitoring groups in their countries. In total, ENEMO member organizations have observed 200 national elections in their countries, monitored more than 100 elections abroad, and trained over 200,000 election monitors.

ENEMO has conducted multiple election missions to Ukraine. In 2004, ENEMO organized a full-scale international observation mission for the Ukrainian presidential elections. ENEMO deployed 50 long-term observers, who monitored the pre-election period and all three election rounds throughout Ukraine. ENEMO also deployed 1,000 short-term observers for the November runoff election and again for the repeat runoff in December. On November 21, for the original second round that was later annulled, ENEMO observers found that the poll "did not meet the will of the Ukrainian people." In 2006, ENEMO organized a full-scale international observation mission for the Ukrainian parliamentary elections. 42 long-term observers and 340 short-term observers noted significant progress in terms of free and fair elections, despite organizational drawbacks. In fall 2006, ENEMO organized an observation mission to monitor mayoral elections in 4 Ukrainian cities. Statements from these missions and other information are available at www.enemo.eu.