

COMMITTEE OF VOTERS OF UKRAINE
REPORT ON THE MARCH 31, 2002 PARLIAMENTARY ELECTIONS
ISSUED APRIL 9, 2002

The Committee of Voters of Ukraine (CVU) is a non-partisan citizens' election monitoring organization with 160 branches throughout Ukraine. In October 2001, CVU began a program of long-term observation for the March 31st parliamentary elections and issued periodic reports on the fairness of the election process. On voting day, CVU deployed 24,000 observers to monitor the conduct of voting and the tabulation and reporting of results. This report, which summarizes our findings, is a composite English version of Ukrainian-language statements issued April 1 and April 5, 2002, as well as earlier long-term observation reports.

CVU presents its findings in the expectation that the problems we observed can be addressed before the next national elections. We hope that the new parliament can be the agent of democratic reform in the coming months and years.

THE PRE-ELECTION PERIOD

Electoral Environment

The parliamentary elections took place in an environment marked by repeated interference on the part of state officials.¹ Although required by law to remain neutral with regard to political contestants, local authorities in many areas supported individual candidates and parties and sought to aid their campaigns. Some of these favored candidates were self-nominated, while others represented political parties, most commonly the bloc 'Za Edinu Ukrainu' (For a United Ukraine).

This interference often involved the expression of partisan support by powerful officials who encouraged subordinates and the public to follow suit. As a result of these directives, employees of the state or of state-run organizations, as well as students in public schools, were made to engage in various campaign activities. In other cases, candidates were given free access to state resources, such as transportation, office space, and media.

In many regions, CVU recorded instances where candidates and campaign workers were harassed, threatened or beaten, and their offices and campaign materials destroyed. Journalists from some private media were also subject to the same treatment. The perpetrators of most of these acts could not be convincingly identified. The pattern of violence reached a tragic peak the

¹ Throughout this report, the term "state officials" refers not only to direct government employees, but also to elected representatives of local self-government and to officials in state-owned or state-managed industries.

day before the election with the murder of Mykola Shkryblyak, a parliamentary candidate from the Ivano-Frankivsk region.

The state-owned mass media demonstrated partiality towards those candidates supported by the executive branch, while some private media outlets were harassed, usually through licensing disputes, tax inspections, or the curtailment of their publication and distribution. Certain election contestants found themselves repeatedly denied the opportunity to purchase advertisements at some private media outlets. Likewise, newsworthy public events or statements by these parties and candidates were often not reported upon.

Legal and Administrative Framework

The new law, “On Elections of People’s Deputies,” marks an important step forward towards establishing the democratic character of future elections in Ukraine. Significantly, the law provides for political party representation on election commissions, which is key to ensuring the transparency of the process. New provisions regarding the printing and safeguarding of ballots, the rights of international observers, the role of the courts, and access to the media are also positive.

The 2002 election process demonstrates that further legal reforms are required, however. Most important, Ukraine continues to flout its international commitments by failing to make any provisions for election observation by domestic organizations. The vagueness of the law with regard to campaigning and the absence of repercussions for violations are significant weaknesses that created a feeling of impunity among election contestants this year.

CVU was distressed to see that few parties, candidates, and voters were prepared to seek legal redress for abuses committed against them. The quality of election legislation is meaningless if citizens are not prepared to make use of it to ensure the integrity of the process.

The Central Election Commission (CEC) and most of its subordinate district election commissions (DECs) functioned relatively well. They made good faith attempts to follow proper procedure and to respond to appeals in a timely manner. The CEC facilitated the work of international observers. The only significant blot on its record was its decision to annul the registration of hundreds of candidates for alleged errors in their income statements. The election law gives wide latitude to the CEC to determine which errors in income declaration are “significant” and which are not, and to decide upon the appropriate timing of its actions. However, the CEC did not adequately explain the reasons behind its decisions in this regard. This shortcoming raised questions about the fairness of the electoral administration and created the perception that the regulations were being applied selectively and arbitrarily.

In contrast to the generally good record of the CEC and DECs, the conduct of polling-place election commissions (PECs) was disastrous. Although the law allows for political party representation on these bodies, most parties proved too weak and disorganized to recruit trusted members to serve as commissioners. In many areas, local executive authorities took advantage of the shortcomings of the political parties to appoint commissioners who, while nominally representing a party, were in practice loyal to the local administration alone.

Once formed, a majority of PECs did not function effectively. CVU witnessed considerable confusion and many violations of proper procedure. Much of this was probably innocent – commissioners were simply not given sufficient training and resources to do their jobs effectively – but the result, nonetheless, was that PECs failed to serve the public interest at nearly every step of the election process.

One particular area in which both PECs and local administrations did not ensure the integrity of the election was in the preparation of voter registries. While some PECs took the initiative to check the registry closely, most complacently relied on registries that had not been adequately reviewed. There were numerous cases where the names of the dead appeared on the registry, where voters were said to live in non-existing buildings or where they had been double-counted. On this basis, CVU estimates that the national voter registry was inflated by roughly 3 to 4%.

The Election Campaign

Most parties and candidates attempted to contact the electorate directly. The intensity of their efforts varied geographically, with campaign activities more robust in urban areas and in the west of the country. Rural voters were presented with a narrower range of choices, usually focusing on pro-governmental parties and candidates.

Every major party and bloc repeatedly violated legal provisions on fair campaigning. Many candidates in single-mandate constituencies made the distribution of small goods and services to voters a significant feature of their campaigns. All parties, blocs, and candidates began campaigning long before February 9th, the first day they could legally do so. After that date, they printed numerous campaign materials that lacked the necessary publication and circulation information and then failed to register these materials with the relevant election commission. In some cases, local authorities added to the confusion by failing to provide areas for the legal placement of campaign posters, as required by law. Since almost no one was punished for these transgressions, the expectation that future election campaigns must be conducted according to the law was not established in 2002.

ELECTION DAY

Voting

The process of voting on March 31st was chaotic all across the country. Inexperienced, untrained, and poorly equipped, most PECs were unable to administer the election in an orderly and efficient manner. Long lines formed at many polling stations in urban areas as voters waited, sometimes for hours, to collect ballots from election commissioners. All over the country, PECs did not provide an adequate number of private voting booths. These problems were especially acute at those stations that had been staffed only days before the election.

Most polling places did open on time and according to proper procedure. Where there were delays, they could be attributed to PECs not having finished the work of deleting from the ballot the names of candidates whose registration had been cancelled the day before.

CVU estimates that more than 50% of polling sites were located in rooms that were too small and dark for proper use. Because of the lack of a sufficient number of voting booths, prospective voters, after receiving their ballots, had to wait in a second long line in order to make their choices in secret. Frustrated by the delay and confusion, many people marked their ballots in full public view. Others simply gave up and left without voting. Overall, CVU estimates that 15% of the electorate was not able to vote due to poor administration.

The inadequacies of the voter registries prompted many PECs to adopt a permissive attitude towards unregistered persons requesting ballots. Even when these prospective voters lacked proper identification (such as a passport), PECs usually allowed them to vote so long as the commission knew them personally. More worrisome was the occasional practice of allowing some voters to cast ballots on behalf of family members who, they said, could not come to the polling place on election day. CVU noticed a few such cases in every region of the country but especially in Vinnitsia, Kharkiv, Volyn, Kyiv, and Kherson oblasts.

The distressing phenomenon of organized absentee balloting was widespread. Ukrainian law allows citizens to vote anywhere in the country provided they obtain a “leave permission” from their place of residence. A number of candidates used this provision to organize bus-loads of absentee voters to travel to selected districts to vote. In some cases, the number of such voters was very high – as much as 8,000 persons – and caused some PECs to run out of ballots before legitimate residents had voted. CVU also has reason to believe that some absentee voters were permitted to vote more than once, usually by traveling to several polling places during the day.

Overwhelmed by the number of voters, many PECs chose to stay open beyond the 8 p.m. closing time. One polling place (#59 of district #92) closed only at 12:20 am.

CVU observers, who held press credentials from the ‘Tochka Zory’ (Point of View) newspaper, were permitted to observe the process in most, but not all, polling places. Commissioners tried to facilitate our work and ensure the transparency of the voting process.

Counting and Tabulation of Results

Most PECs followed the law and began the long process of vote counting and tabulation immediately after they closed the poll. Likewise, most commissions permitted international and domestic observers full access to the process, with exceptions only in a few isolated cases.

Nonetheless, very few PECs followed proper procedure in full during counting and tabulation. CVU observed numerous violations of the law at this stage of the process. Most commonly, these involved counting performed by several commissioners simultaneously and unexplained, though usually minor discrepancies between the number of ballots and the number of voters according to the registry.

Even though they were not obliged to do so by law, many commissioners agreed to provide signed copies of the election results to CVU representatives.

CVU observed a few instances where the official protocols listing the election results were taken first to the local administration before transmission to the district election commission. In other

cases, DEC's took it upon themselves to correct errors on the protocols. As a consequence, the results in a few polling sites cannot be determined, either because the numbers tabulated do not add up or there are two or more official protocols in circulation.

THE POST-ELECTION PERIOD

Challenging the Results

CVU has collected protocols from approximately 15,000 polling places and is now in the process of reviewing them. Based on our analysis so far, we have documented violations of a sufficiently serious degree to throw the announced results from ten single-mandate constituencies into doubt. These are all constituencies where the margin of victory is small and where CVU observed numerous serious violations. We will continue to observe the process of dispute resolution in these and all other constituencies, and expect that decisions will be made strictly on the facts and the law, rather than on political considerations.

- ***Dnipropetrovsk Oblast, Constituency #35:***
Announced winner: Viktor Drachevsky, self-nominated.
- ***Zacarpattia Oblast, Constituency #72***
Announced winner: Ishtvan Haidosh, Social Democratic Party United (SPD(u)).
- ***Ivano-Frankivsk Oblast, Constituency #90***
Announced winner: Roman Zvarych, 'Nasha Ukraina'.
- ***Kyiv Oblast, Constituency #92***
Announced winner: Hryhoriy Bondarenko, 'Za Edinu Ukrainu'.
- ***Kyiv Oblast, Constituency #95***
Announced winner: Yevhen Zhovtyak, 'Nasha Ukraina'.
- ***Kirovograd Oblast, Constituency #99***
Announced winner: Anna Antonyeva, Democratic Union.
- ***Kharkiv Oblast, Constituency #180***
Announced winner: Ivan Diyak, 'Za Edinu Ukrainu'.
- ***Kharkiv Oblast, Constituency #182***
Announced winner: Oleg Karatumanov, 'Za Edinu Ukrainu'.
- ***Kyiv City, Constituency #218***
Announced winner: Vasil Horbal, self-nominated.
- ***Sevastopol City, Constituency #224***
Announced winner: Viktor Zaichko, 'Za Edinu Ukrainu'.

RECOMMENDATIONS

Pre-Election

- Senior executive branch officials should ensure that their subordinates maintain a position of strict neutrality towards political blocs and candidates. This requires educating state employees about their legal responsibilities, investigating reports of abuses, and disciplining law-breakers.
- The CEC should make certain that polling-place election commissions have the necessary resources, staff and guidance to function properly on election day.
- Parties, candidates, and citizens should submit complaints of violations to the relevant election commission and to the prosecutor's office. These bodies, in turn, should act swiftly to punish violations of the law.

Election Day and Post-Election

- The election law should be amended to allow for observation by domestic non-governmental organizations.
- District and polling-place commissions should provide complete election results to the representatives of parties, candidates and civic organizations. The CEC should publish results at each polling place for both the party list and single-mandate votes.
- In light of the delays in tabulation, the legal period for filing complaints (5 days) should be extended.
- "Leave permissions" and voter registries should be scrutinized carefully in all disputed constituencies. The system of absentee balloting should be reviewed before future elections.
- Parliamentary and local elections should be held on different days. Otherwise, polling place hours of operation should be extended.
- All allegations of fraud should be thoroughly investigated.