



ENEMO International Election Observation Mission Local Elections Ukraine 2020

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS FOR MAYORAL RUN-OFF ELECTIONS 27 October - 23 November 24 November

The voting process on 15 and 22 November was mostly well administered despite COVID-19 and numerous challenges faced by the election administration which affected the efficiency of the preparations. Different dates for scheduling second rounds due to delays in announcing first round results hindered the visibility of these elections, while cases of abuse of incumbency and negative campaigning among candidates continued to mar the campaign.

The European Network of Election Monitoring Organizations (ENEMO) officially deployed an International Election Observation Mission (IEOM) to Ukraine on 7 October 2020 to observe the 2020 Local Elections.

ENEMO has accredited a total of nine Core Team experts, three of which are based in Kyiv and six of which are working from abroad, due to the COVID-19 pandemic and related risks. The Mission is headed by Dr. Zlatko Vujovic. ENEMO has additionally engaged 48 virtual long-term observers (LTOs) in 24 teams to remotely conduct virtual observation of all regions in the country. Due to prevailing problems with COVID-19, the mission did not deploy short-term observers (STOs) and did not comprehensively observe the process at polling stations on Election Day.

Following the first round held on 25 October, ENEMO continued to observe crucial aspects of the electoral process ahead of the run-off polls. Core Team members and ENEMO LTOs conducted online meetings with election management bodies, political parties and candidates, state officials, media representatives and domestic civil society organizations, in addition to remotely observing campaign activities.

This statement is preliminary in nature, pending the final count and tabulation of results, and is based on ENEMO's findings throughout the regions of Ukraine observed from 27 October to 23 November. Following this preliminary statement of findings and conclusions, the mission will continue following mayoral run-offs and repeated elections scheduled for 29 November and 6 December, in addition to potential complaints and appeals after Election Day. This statement should be considered in conjunction with ENEMO's statement of preliminary findings and conclusions for the first round. A final report including a complete assessment of the process and recommendations will be issued within sixty days from the certification of results.

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Preliminary conclusions

Following the first round of local elections held on 25 October, second rounds were organized for the mayoral run-offs, in cities over 75,000 voters where no candidate obtained an absolute majority of votes in the first round. In those municipalities, a majoritarian two-round voting system was used in the run-offs to elect mayors. According to the Election Code, the second round had to be scheduled within three weeks after the announcement of the results of the first round.

Out of 37 cities with more than 75,000 voters in Ukraine, 20 held or will hold a second round, organized on four different dates (15 November, 22 November, 29 November or 6 December 2020). Repeated elections were also scheduled in a few communities. The overall turnout on 15 November was 24 percent¹, while the preliminary overall turnout announced by the CEC for 22 November was approximately 29.5 percent². In total, candidates representing 17 parties were competing in these run-offs.

The second rounds were held in the context of a worsening COVID-19 pandemic throughout the country. As of 14 November 2020, a nationwide lockdown was imposed by the government during weekends, in an effort to control the pandemic.

ENEMO assesses that the CEC worked diligently, professionally and generally transparently in between the two rounds. However, the CEC faced considerable difficulties related to the provision of protective personal equipment (PPE) and ensuring application of COVID-19 prevention measures on Election Day.

Several TECs failed to announce the results of the first round by the legal deadline, due to several factors including a high number of recount requests and the complexity of the new electoral system for tabulating local council results. ENEMO assesses that holding the run-off elections on different dates in various areas is highly problematic, as it may have led to confusion among voters and electoral contestants, decreased turnout, undermined consistency of the process and affected legal certainty.

ENEMO observed that, as for the first round of elections, numerous replacements of TEC members affected the overall efficiency of the process and also contributed to delaying the conduct of the second rounds. Despite previously formulated recommendations, the issue of frequent replacement of election commission members, including in-between the two rounds and on Election Day, has still not been addressed in the legislation or by the CEC in these elections.

The second round polls held on 15 and 22 November were assessed as calm and with only minor procedural irregularities. PECs did not seem to struggle with counting procedures overall, and managed to deliver election materials to the TECs without any delays. However, as reported by ENEMO observers, necessary logistical arrangements in many cases were not adequate, which negatively impacted the work of the PECs, and many PECs faced difficulties in accessing the internet, especially in rural areas. The provision of adequate PPE to polling stations varied and COVID-19 prevention measures were unevenly respected on Election Day.

¹ <https://www.cvk.gov.ua/novini/stanom-na-20-godinu-serednya-yavka-na-viborah-miskih-goliv-stanovila-24.html>

² <https://www.cvk.gov.ua/novini/stanom-na-20-godinu-serednya-yavka-na-viborah-miskih-goliv-stanovila-mayzhe-30.html>

Due to the late announcement of first round results by some TECs, the duration of the campaign for the second round was shortened in several instances, which left very little time for candidates to promote their platforms. Overall, the campaign for the second rounds remained extremely low-key, mainly due to the worsening of the COVID-19 pandemic throughout the country, which limited public events and gatherings. As a consequence, candidates campaigned mostly on social media (Facebook, Instagram, YouTube). ENEMO additionally notes that the campaign silence period was violated in several cities, with candidates either continuing to campaign openly or campaigning through social media.

ENEMO observed that the tone of the campaign during the second round deteriorated considerably compared to the first round. Observers reported on cases of campaign materials spreading false information about candidates. “Black PR” was widespread on social media, with numerous personal attacks among candidates and several cases of the spreading of disinformation on candidates reported.

The negative practice of misuse of incumbency and administrative resources, widespread during the first round, was also noted before the run-offs, undermining the principle of equal opportunities. Incumbents used the municipal website or social media pages to promote their candidacy, and based their campaign on the achievements of the local administration. A number of allegations of pressure on civil servants, either to openly support or to vote for incumbents, were reported.

The mandatory publication of financial reports of electoral contestants is a positive reform and is one of the notable improvements in the new Election Code. However, online publication of financial reports remained limited, due to the lack of online presence of most TECs and the absence of a centralized platform to publish all financial documents. ENEMO notes that political parties did not fully comply with financial reporting obligations, while several TECs were unwilling to scrutinize the reports. This considerably reduced political finance transparency and accountability of contestants.

Media reporting on the elections, both at the national and regional level, in between the two rounds was limited. ENEMO assesses that voters were not provided sufficient information on the importance of these elections in the context of the crucial decentralization process. Technical information on how to vote, and whether all of the health preconditions were met in order to protect citizens on Election Day amid the COVID-19 pandemic, were insufficiently communicated to voters by the media. These factors may have further contributed to a lower turnout and limited voters’ ability to make a truly informed choice when casting their ballot.

Positively, the number of women elected in the first round as local council members substantially increased, rising to 35.9 percent. However no women candidates were running in the second round, and no woman was elected mayor of any major city.

Background

The first round of the local elections took place on 25 October 2020, to elect mayors and members of local councils (at oblast, rayon, hromadas, city, city rayon, village and settlement levels). A total number of 1,400 mayors and 43,492 local council members were elected³, representing a total of 110 political forces. The turnout was 36,88 percent .

A second round was organized to elect mayors in cities over 75,000 voters where no candidate had obtained an absolute majority of votes in the first round. According to the Election Code, the second round had to be organized within three weeks after the announcement of the results of the first round, upon adoption of the decision to hold a second round by the respective TECs. Out of 37 cities with more than 75,000 voters, 20 held or will hold a second round, organized on four different dates (15 November⁴, 22 November⁵, 29 November⁶ or 6 December 2020⁷). Run-offs were also organized in a few communities where the two leading candidates obtained the same number of votes on 25 October⁸.

Several repeated elections will take place in late December 2020 and in January 2021, for different reasons. Three newly-elected mayors passed away from COVID-19 a few days after their election, in the cities of Boryspil, Novgorod-Siversky and Konotop.⁹ In Brovary, the second round planned for 22 November was canceled by a court decision, due to severe irregularities noted during the process. Repeated elections should take place in January 2021. A similar situation occurred in the UTC of Karolino-Buhaz and Novgorod-Volynsky.

The few weeks between the two rounds of elections were marked by significant political turmoil, after a controversial ruling from the Constitutional Court on 27 October 2020. The court declared unconstitutional some provisions of the Law of Ukraine on the Prevention of Corruption¹⁰ and cancelled the requirement for government officials to file e-declarations of their assets. President Zelensky responded promptly by submitting a bill asking for the removal of all 15 constitutional court judges, leaving the country on the verge of a constitutional crisis.

The second round of polls was held in the context of a worsening COVID-19 pandemic throughout the country, with all oblasts entering either “orange” or “red” zones, according to the classification

³ <https://www.cvk.gov.ua/pls/vm2020/pvm003pt001f01=695pt00 t001f01=695.html#>

⁴ Six cities with more than 75000 voters organized the second round on 15 November: Kramatorsk, Kamianets-Podilskyi, Lutsk, Odessa, Sumy and Kherson. Repeated elections also took place in Ukrainka, where the two leading candidates obtained the same number of votes in the first round.

⁵ Eleven cities organized the second round on 22 November: Berdyansk, Cherkasy, Dnipro, Drohobych, Lviv, Mykolaiv, Nikopol, Poltava, Rivne, Slavyansk, and Uzhhorod.

⁶ In the city of Chernivtsi.

⁷ In the city of Kryvyi Rih.

⁸ New election took place in Ukrainka (Kyiv oblast), on 15 November.

⁹ New elections are scheduled for 27 December 2020 in Boryspil, and 17 January 2021 in Novgorod-Seversky.

¹⁰ The Law on the Prevention of Corruption is considered as one of the main achievements following the “Revolution of Dignity”. The decision from the Constitution Court sparked numerous protests in the capital city.

elaborated by Ukrainian public authorities¹¹. As of 14 November 2020, a nationwide lockdown was imposed by the government during weekends, in an effort to control the pandemic.

Legal framework and electoral system

A. Legal Framework

Local elections in Ukraine are held every five years and are primarily regulated by the Constitution and the Election Code¹². ENEMO notes that the newly adopted legal framework does not sufficiently regulate essential parts of the second round, including the timeframes for campaigning and reporting on campaign finance.

According to the Election Code, the second rounds should all be scheduled on a Sunday within three weeks after the date of the decision that a run-off is required. The TECs are responsible for informing the CEC, the respective local council and the State Voter Register maintenance body and notify the public of the decision to hold a second round no later than the day after its adoption. As there is no fixed date for the second round of elections, the date depends on establishment of results by the TECs. Although there is a legal deadline for establishment of results (12 days), the time of announcement of the second round is at the discretion of the TECs.

The legal framework does not provide clear provisions on the official announcement of election results. A significant amount of time elapsed between the official establishment of the TEC election results and their publication by the CEC. The final results of the first round of elections should have been established by 6 November (or at the latest by 7 November) in order to further determine the date for the appointment of the second round. Thus, a second round was scheduled for the following dates: 15 November, 22 November, 29 November, and 6 December. Different dates for the second round may have led to confusion among voters, while undermining the consistency of the process and legal certainty.

The drawn-out and complex process of tabulation and establishing results in some TECs, led to inconsistencies that could create mistrust and also inequality among candidates regarding the duration of election campaigns in different constituencies. Most legal provisions of the Election Code are to be applied in the same way as during the first round of elections, though some differences exist in terms of design of the ballot papers, voter registration and funding of electoral contestants.

¹¹ Since 1 August 2020, the country has been divided into different zones (green, yellow, orange, red), depending on the epidemiological situation, and the risk of COVID-19 spread. “Orange” and “red” zones imply a prohibition of public gatherings.

¹² Additionally, certain aspects of elections are regulated by other laws such as: the Law on the Central Election Commission; Law on State Voters’ Register; Law on Political Parties; Code of Administrative Proceedings; Code of Administrative Offenses; Criminal Code of Ukraine. In addition, the CEC adopted a series of resolutions regulating the process.

B. Electoral System

Based on election results, the TEC should declare a person elected, appoint a second round for an election of a mayor if no candidate secured an absolute majority in the case of a city with 75,000 or more voters, or declare an election as not having taken place and thus appoint repeat elections. In case of a run-off, a majoritarian two-round voting system is used to elect mayors.

Election Administration

A. Central Election Commission (CEC)

Considering all the difficulties encountered between the two rounds, the CEC continued to perform its duties in a professional and transparent manner within its mandate and in accordance with the legal deadlines.

The legal deadline for announcement of the final results was 6 November. However, due to numerous difficulties, this deadline was not always met. The CEC was under public scrutiny and even some pressure from the National Security and Defense Council of Ukraine¹³, which expressed concern regarding the delayed announcement of the final results and claimed it could lead to public unrest, though no such unrest was noted.

Although the CEC was criticized for delays in the announcement of the final results, according to the Election Code the CEC is not authorized to receive operational information on voter turnout in local elections during the Election Day nor final results. Such information is organized and provided by the PECs and submitted to each respective TEC. ENEMO notes that the Election Code does not regulate terms and conditions for providing the information on final results to the CEC.

The Election Information and Analysis System, which could automatically transmit all the data to the CEC at once, has not been established at the TEC level. Due to limited funding caused by the pandemic, no funds were allocated for this purpose.

The CEC was again burdened with frequent requests for replacement of TEC members¹⁴ due to various reasons – political party initiative, illness of the members or revoking of the powers¹⁵ of the TECs due to serious violations of the Election Code. Despite previously formulated recommendations, ENEMO notes that the issue of frequent replacement of election commission

¹³ On 11 November, Secretary of the National Security and Defense Council of Ukraine drew the attention of the Central Election Commission to the need to take immediate measures to establish the results of the local elections on October 25, 2020 and publish them promptly on the CEC official website.

¹⁴ As of 20 November, the CEC terminated the powers of 5,444 members of territorial election commissions, 381 TEC chairpersons, 317 TEC chairpersons, 379 TEC secretaries, and 4,367 TEC members.

¹⁵ The CEC Resolutions on 6 November: Odessa oblast - Karolino-Buhaz, Dnipropetrovsk oblast – Marganets, Kyiv oblast - Vasylkiv; Kherson on 12 November.

members, including in-between the two rounds and on Election Day¹⁶, has still not been addressed in the legislation or by the CEC during these elections.

In order to ensure the conduct of elections in a safe environment in the midst of the pandemic, the CEC addressed an urgent request¹⁷ on 6 November toward public authorities and local government bodies for the preparation of the second round. Due to the increase in the incidence of COVID-19 in Ukraine, the CEC addressed the Cabinet of Ministers to ensure and approve standards for providing election commissions with PPE and hand sanitizers. According to domestic observers and noted by ENEMO, the Ministry of Health made no efforts to issue additional instructions on the protection measures during the second round, which may have additionally affected the turnout of voters confused by the weekend quarantine decision. The CEC also warned TECs and PECs and all electoral participants of the need for strict compliance with anti-epidemic measures during the process.

Given the difficult working conditions during the pandemic, the CEC made further efforts in order to provide additional support and overcome insufficient training of PEC and TEC members replacements, by organizing further “refresher sessions”¹⁸ and issuing supplementary clarifications and instructions on procedures of counting, transfer of materials, tabulation of results and anti-epidemic measures.

B. Territorial Election Commissions (TECs)

It was noted that after the first round of elections on 25 October, the process for tabulating and announcing final results was hindered by the numerous replacement of TEC members, a lack of quorum due to the illness of members and constant interruptions of TEC meetings.

In addition, the results process during the first round was also hampered by mistakes in protocols and improperly packed materials, which required additional efforts to resolve the issues. Problems with the information system and frozen servers due to the overload of data, and sometimes poor internet connection, also prolonged announcement of the results.

The number of complaints and objections submitted to the appeal courts after the first round of elections could be assessed as progress, in the sense that it indicates good understanding of election subjects regarding legal remedies. However, it also opens space for malpractice as complaints were not always legally well-grounded and were, allegedly, sometimes used for the purpose of delaying the announcement of final results in some instances.

¹⁶ Odessa, Cherkassy, Kherson - The CEC Resolution on changes in the composition of territorial election commissions that prepare and hold local elections - 15 November 2020, Resolution No.484

¹⁷ The CEC Resolution No. 364 - October 10; The CEC Resolution No. 450 “On urgent measures to create appropriate conditions for the safe organization and conduct of repeat voting in the local elections of 25 October, 2020 and certain issues of implementation of anti-epidemic measures during its organization and conduct” on 6 November.

¹⁸ The trainings were organized by the CEC in cooperation with the International Foundation for Electoral Systems in Ukraine (IFES Ukraine) and the Center for Management of Electoral Process Participants at the CEC (Training Center).

Delays in the publication of the results for the first round led to widespread accusations of electoral fraud from several of the main political parties¹⁹. While only a limited number of cases of ballot manipulation and falsification of protocols were actually documented by political party representatives or by domestic observers, the atmosphere in the lead-up to the run-offs was marked by strong criticism towards the work of the EMBs and questioning of their impartiality by some parties.

According to ENEMO observers, the second round held on 15 November in seven cities²⁰ and the second round of 22 November²¹ were calm, with a low voter turnout and without any serious issues regarding the counting and tabulation procedures. The major concern was the problem TECs had in ensuring the quorum of the bodies due to the illness and frequent replacement of TEC members.

Domestic observers emphasized the lack of PPE during the second round held on 15 November. However, during the second round held on 22 November, ENEMO observers noted a substantial improvement regarding PPE which was provided on time and in accordance with epidemiological recommendations in most TECs.

C. Precinct Election Commissions (PECs)

During the first round held on 25 October, a number of issues influenced and prolonged the process of counting. The number of ballots that needed to be counted, the complexity of filling the protocols, and some interference by political party observers, especially regarding the determination of invalid ballots, all unduly impacted on the timely completion of the process. The level of tiredness of PEC members during the lengthy procedures caused many mistakes and omissions during the counting procedures. In addition, some PECs were confused on transportation and the process for transferring materials to the TECs.

Insufficient training, unclear guidelines and lack of experience of PEC members affected the procedures and work of PECs in general during the first round of elections held on 25 October. As reported by ENEMO observers, necessary logistical arrangements in many cases were not adequate and were influencing the work of the PECs. EMB members informed on the lack of handbooks, hard copies of the Election Code and were directed to materials and additional instructions available online, though many PECs did not have access to the internet, especially in rural areas.

The second round of elections, held on 15 and 22 November, was assessed as calm and with only minor procedural irregularities issuing of a ballot paper without a voter showing a passport as ID

¹⁹ European Solidarity strongly criticized the process as a whole, on repeated occasions, without providing any evidence to substantiate their claims. Fatherland, Voice and Opposition Platform – For Life denounced some alleged cases of fraud and manipulation occurring in specific oblasts (Kyiv, Zaporizhia, Kharkiv, Rivne, Mariupol), a limited number of which were also reported by domestic observers.

²⁰ Odessa, Lutsk, Kramatorsk, Kherson, Sumy, Kamianets-Podilskyi and Ukrainka (Kyiv oblast).

²¹ Lviv, Berdyansk, Dnipro, Drohobych, Poltava, Mykolaiv, Sloviansk, Nikopol, Rivne, Uzhhorod, Cherkasy.

and some voters photographing their ballot paper. During the second round, PECs did not have problems with counting procedures, due to the fact that they were dealing with only a single election and managed to deliver election materials to the TECs without any delays.

Registration of voters

ENEMO interlocutors assessed the work of the State Register of Voters as transparent and professional and there were generally no complaints regarding the Register.

The introduction of a simplified procedure for voters to change their electoral address is generally to be commended, though some cases of abuse of the system were reported²². For instance, voters in some districts were mobilized and transported in order to support particular candidates, while cases of multiple registration of voters at the same address were reported²³. Police have responded to reported cases of such malpractices and criminal proceedings are ongoing.

Voters who registered for a change of voting address by 10 September were able to exercise their voting right in the second round without the need for additional registration. The change of voter address remains permanently recorded in the voter register until the voter submits a new request for change for the next election.

Voters who turned eighteen years of age between two rounds were included in the voters register automatically²⁴.

Electoral Campaign and Campaign Finance

A. Electoral Campaign

The election campaign for the second round started after the announcement of the official results of the first round of elections by the respective TECs, and the adoption of a decision to hold a second round. A few cases of early campaigning were observed both on the ground and on social media²⁵. However, those cases were fairly limited, and the environment following the first round was mostly calm and quiet.

²² Odessa, Zakarpattia, Khmelnytskyi, Kyiv, Zhytomyr, Zaporizhia, Ternopil, Kirovohrad, Dnipropetrovsk, Lviv.

²³ Sumy, Odessa, Kirovohrad.

²⁴ According to the SRV, 1 600 000 citizens could exercise their voting right on November 15 and were included to the voters lists, on 22 November 2 754,100 voters could exercise their right to vote.. Total number of registered voters on 31 October was 35 237 938.

²⁵ In Rivne, political party “Rivne Razom” started installing billboards, campaign tents and distributing campaign material on 1 November, before the announcement of the results by the TEC. In Kherson and Uzhhorod, both candidates started to campaign actively on social media just a few days after the first round.

Due to the late announcement of the results by some TECs, the duration of the campaign for the second round was shortened - limited to a week, in some cases²⁶, which left very little time for candidates to share their platforms with the electorate. Overall, the campaign for the second rounds remained extremely low-key, mainly due to the worsening of the COVID-19 pandemic throughout the country, preventing hardly any public events or gatherings. As a consequence, candidates campaigned mostly passively through posters and billboards, and on social media (Facebook, Instagram, YouTube).

The tone of the campaign deteriorated considerably compared to the first round. ENEMO observers noted distribution of campaign material spreading false information about candidates and their programmes²⁷. So-called “black PR” was widespread on social media, together with numerous personal attacks among candidates²⁸. Several cases of Telegram or Viber channels spreading disinformation and hate speech were noted²⁹. ENEMO interlocutors raised strong concerns regarding the possible impact of such widespread negative campaigning and dissemination of false information on voters, and consequently on election results.

Overall, the campaign lacked substance, and no meaningful discussion about programmes occurred. The campaign material (leaflets and newspapers) produced generally focused on the candidate’s personality or previous accomplishments, with no - of very few - concrete policy proposals. A number of candidates refused to participate in public debates with their opponents (see *Media* section). The very few debates that were organized before the runoffs focused mainly on the candidates' past achievements, rather than future policy initiatives.

The misuse of incumbency and administrative resources, widespread during the first round, was also noted before the run-offs, undermining the principle of equal opportunities. Incumbents used the municipal website or social media pages to promote their candidacy³⁰, and based their campaign on the achievements of the local administration; mayors announced important decreases of tariffs for utilities the week before the second round (Odesa), or asked their office to offer free legal advice to citizens being sanctioned for disrespecting COVID-19 protection rules and measures (Cherkasy); highly-publicized opening of new public facilities took place in several

²⁶ The decision to hold a second round on 15 November was adopted on 2 November in Sumy, on 3 November in Kamyanets-Podilsky, and on 5 November in Kerson and Odessa, leaving candidates with limited time to campaign.

²⁷ In Lviv, newsletters were distributed anonymously, indicating that the incumbent mayor, Andryi Sadovy, was planning on creating a Roma settlement in the city, purposely imitating the candidate’s official campaign. In Lutsk, a newsletter containing almost only “black PR” and personal attacks against self-nominated candidate Shyba was widely distributed; similar practices were noted in Cherkasy and in Rivne.

²⁸ In Lviv, Kherson and Sloviansk particularly, a very important number of Facebook posts denigrating candidates and spreading false rumors were reported by domestic observers. Rumors include candidates planning to destroy important city landmarks (Kherson), to cancel all social protection programmes, or allegedly drowning puppies (Sloviansk).

²⁹ In Poltava, for example, ENEMO observers reported the example of Viber channel “Ghrecka bez Aptecki”, which criticized incumbent mayor Mamay in a very offensive manner. In Sloviansk, a [YouTube channel](#) was created with the only purpose of defaming one of the candidate.

³⁰ Observed in the cities of Berdyansk, Cherkassy, Drohobych.

cities³¹. A number of allegations of pressure on civil servants, either to openly support or to vote for incumbents, were reported³².

A number of alleged voter bribery schemes were reported by ENEMO and domestic observers. ENEMO observers documented a case of large-scale vote-buying attempt in the city of Dnipro, organised through a messaging application³³; in Poltava, both campaign teams accused each other of implementing vote-buying through pyramidal structures. All of those cases are currently under police investigation. Domestic observers also raised strong concerns in Cherkasy, Sloviansk and Uzhhorod, but did not manage to gather sufficient supporting evidence.

The campaign silence period was violated in several cities, with candidates either continuing to campaign through posters and billboards, or through social media. In most cities, similarly to the first round, new “campaign silence” billboards were installed on the eve of Election Day³⁴, which qualifies as hidden campaigning.

B. Campaign Finance

Interim financial reports had to be submitted to the respective TECs by 20 October, and final financial reports by 1st November. However, a significant number of political parties and candidates did not comply with their reporting obligations, with only a limited number of reports submitted by the deadlines³⁵. Furthermore, out of the reports that were submitted, a number did not contain any financial information, allegedly because the candidates did not incur any expenses during the campaign, or because all expenses were paid for by their political party (either at city, oblast, or even central level). The lack of compliance with the reporting obligations limits transparency and raises concerns regarding “shadow funding” of political parties and candidates. Several interlocutors from TECs and CSO underlined that the current sanctions for not respecting the reporting obligations are clearly insufficient and do not serve as an efficient deterrent³⁶.

Most TECs stressed that they would only start scrutinizing financial reports after completing all other Election-day procedures. On a positive note, ENEMO observers noted that some TECs were

³¹ e.g. a hospital was inaugurated by the incumbent mayor of Sumy ; a reconstructed public road was opened in Rivne, a few days before the second round.

³² Pressures on civil servants, teachers and/or hospital workers to vote for the incumbents were reported to ENEMO observers in Cherkasy, Dnipro, Drohobych, Lutsk and Sumy. In Cherkasy and Odesa, public sector employees were asked to announce their support for the incumbent on their personal social network pages.

³³ In Dnipro, ENEMO observers reported the existence of a Viber group, with more than 16,000 subscribers, offering 1,500 grivnas to vote for one of the candidates. Domestic observers and local media confirmed the existence or additional groups on messaging applications aimed at vote-buying.

³⁴ i.e. billboards with no names of party or candidates, but that can easily be connected to the candidates thanks to the colors, symbol or messages used. Such billboards were observed in Dnipro, Kherson, Lutsk, Lviv and Sloviansk.

³⁵ For instance, Kyiv City TEC reported that out of the 2400 registered candidates, more than 1,400 did not submit any information. Out of the 20 candidates running for city mayor, only 8 submitted financial reports. OPORA studied the submission of financial reports in 15 major cities in Ukraine, and noted that only 13 percent of the registered organizations in Kamianets-Podilskyi submitted financial reports to the city TEC; only 21 percent submitted financial reports in Lviv, 30 percent in Poltava, and 37 percent in Mykolaiv.

³⁶ Sanctions for not complying with the reporting obligations range from 5,100 to 6,800 hryvnias (approximately 180\$ to 250\$)

very proactive throughout the process, setting up ad-hoc committees to scrutinize all financial reports, and organizing consultations with political parties and candidates to assist them with the reporting process³⁷. However, an important number of TECs stated that they will not examine the reports at all, given their lack of time and resources, and underlined that they did not have the capacity to check the accuracy of the expenses reported by candidates and political parties. Domestic observers reported several cases of financial reports containing obviously incorrect information (e.g. prices of billboards clearly undervalued), and still approved by TECs, who only performed a superficial analysis.

Mandatory publication of the financial reports was one of the notable improvements introduced in the new Election Code. However, online publication of financial reports remained very limited³⁸, due to the lack of online presence of most TECs and the absence of a centralized platform to publish all financial documents, which considerably reduced transparency and accountability.

The National Agency for the Prevention of Corruption (NAPC) is responsible for monitoring the timely submission of reports and the completeness and accuracy of the information provided in the reports. However, the agency remained passive during the election process; its limited human and financial capacities did not allow it to play a meaningful role.

Media

The legal framework provides the general preconditions for media freedoms and free and fair reporting. The conduct of the media during election campaigns is regulated by the Election Code, which prescribes the obligation of balanced coverage for all contestants³⁹. However, the media landscape, despite a proliferation of media outlets, lacks genuine pluralism and continues to be largely partisan. Considering the short period in between the two rounds, media reporting, both at the national and regional levels, was highly limited and lacked general content on elections, contestants and their programs. Analytical and investigative reporting was noticeably absent, and, as was pointed out by several ENEMO interlocutors, the media did not fulfil its informational and educational role. ENEMO assesses that voters were not provided sufficient information on the importance of these local elections, adequate technical information on how to vote, or information on measures to protect citizens on Election Day amid the COVID-19 crisis. These factors may have contributed to a lower turnout and limited voters' ability to make a truly informed choice.

Social media continues to be a dominant communication platform between the candidates and voters, and was used extensively for campaigning by the majority of candidates. During the campaign for the second round, contestants dominantly used Facebook, YouTube, and closed messaging group Telegram and Viber to target and reach their voters. More than 8,500⁴⁰

³⁷ e.g. Kamyanka TEC, Cherkasy oblast

³⁸ OPORA observers analyzed the publication of the interim and final financial reports submitted by political parties in 15 major cities of Ukraine, and noted that only 55% of the interim reports and 45 percent of the final financial reports were made public (online or at the TEC premises), which considerably limits transparency.

³⁹ Article 49, paragraph 2 of the Election Code of Ukraine.

⁴⁰ https://www.oporaua.org/en/report/vybory/mistsevi-vybory/mistsevi_2020/22441-promizhnii-zvit-za-rezultatami-sposterezhennia-opori-za-povtornim-golosuvanniam-na-viborakh-miskikh-goliv-22-listopada-2020-roku

advertising messages were paid and posted just on Facebook. On the other hand, Facebook announced⁴¹ it had taken down 46 profiles, 44 pages, one group, and three Instagram accounts as part of its monthly report on “coordinated inauthentic behavior”. A total of 800,000 people had subscribed to these profiles and more than \$2 million had been spent on them.

These platforms continue to transform the traditional conduct of political campaigning in Ukraine, while efforts to ensure transparency regarding sources of paid advertisements have so far been insufficient to prevent disinformation. Many EOM interlocutors raised concerns that such forms of political campaigning can have significant influence on voters, thus creating advantages for certain candidates who use paid and targeted black PR campaign tactics, such as “troll farms” (paid campaigners) for spreading misinformation against the rivals. However, in comparison to the first round the level of activity of political parties and candidates on social networks decreased significantly.

Additionally, ENEMO observers reported active campaigning on social platforms during the silence period. ENEMO notes with concern that the lack of regulations allows contestants to carry out direct or indirect campaigning beyond the legally prescribed timelines.

The National Television and Radio Broadcasting Council (NTRBC), as the regulatory body for broadcast media tasked with overseeing broadcasters’ compliance with the legal framework during election periods, continued to follow the conduct of media after the first round. The NTRBC was proactive, and used all legally prescribed mechanisms on recorded media violations in a timely manner. NTRBC conducted unscheduled inspections of five licensees, and drew protocols on administrative violations for four broadcasters⁴² on violations mainly related to improperly marked and hidden campaigning. The regulator took note of the results of the inspection, and announced it had sent the protocols on the administrative offense to the court, and information on violations to the CEC.

The Public Broadcaster organized debates of mayoral candidates, although a number of candidates refused to participate⁴³. Debates, with both candidates present, were held just in Lviv, Lutsk, Cherkasy, Uzhhorod and Rivne⁴⁴. ENEMO notes the importance of debates as a democratic practice, and an essential platform for giving voters the opportunity to hear candidates discuss and debate key issues prior to elections, while also increasing the degree of transparency and accountability of candidates.

ENEMO observers reported several cases of organized smear campaigns in regional printed media⁴⁵. Substantial violations of Article 50 of the Election Code, or improperly marked results of

⁴¹<https://www.reuters.com/article/us-facebook-misinformation/facebook-removes-inauthentic-networks-spanning-eight-nations-idUSKBN27M0XW>

⁴²“INTER” (PJSC “TV Channel” INTER”, Kyiv), “Z ZIK” (LLC “TV and Radio Company “NEW COMMUNICATIONS”, Lviv), TV channel “VTV Plus” (PE “TRK VTV PLUS”, Kherson, two licenses) and “Z radio 106.1 FM” (LLC “Zhytomyr Radio Company”, Zhytomyr).

⁴³ Drohobych, Poltava, Chernivtsi, Odessa, Sumy, Kherson city and Kamyanets-Podilsky.

⁴⁴<https://suspilne.media/81469-minuvanna-vidmovi-oponentiv-i-covid-19-ak-v-ukraini-prohodili-debati-pered-drugim-turom-viboriv/>

⁴⁵A few days before the election of the mayor of Lutsk, unknown people distributed newspapers from the NGO “Youth Human Rights Agency”, which called citizens not to vote for the mayoral candidate, self-nominated Bohdan Shibu. The non-governmental organization on whose behalf the print publication was distributed claims that their data was used without permission.

an election-related opinion poll were reported. The Mass Information Institute (IMI)⁴⁶ reported that only 1.7 percent of national media that published opinion polls complied with the law. ENEMO notes that these violations could have misled voters.

Gender Representation

As a positive achievement, the new gender quota provision led to a significant increase of women in city councils. The proportion of women rose to 35.9 percent⁴⁷, which represents a substantial increase.

According to calculations made by OPORA, most women were elected in communities with less than 10,000 voters (41.9 percent). Only 28.2 percent of women were elected to oblast councils, and only 16.8 percent of newly elected mayors are women. No women were elected mayor of any major city of Ukraine, and there are no female candidates running in the second rounds.

ENEMO observed that, overall, gender issues were not addressed during the campaign.

Inclusion of Persons with Disabilities

ENEMO notes that, as in the first round, the level of accessibility of polling stations for persons with disability was not good. This also applies to TECs and SRV offices.

Although the Electoral Code provides clear instructions for PWDs, such as applying to the head of the election commission with a preliminary request for voting at the polling station, in many instances PWDs faced difficulties while accessing polling stations in order to vote. In some polling stations, infrastructure was poor and conditions for PWDs were insufficient, and they often had to be carried with their wheelchair on stairs to the polling station by random people who happened to be there as well, which was extremely unfortunate. According to mission interlocutors, the time-frame was limited to fully implement the decision of the Cabinet of Ministers and the CEC to ensure voting rights of PWDs.

The above continues to be at odds with Ukraine's international commitments, in particular the Convention on the Rights of Persons with Disabilities (CRPD) ratified by Ukraine in 2010⁴⁸.

⁴⁶<https://imi.org.ua/en/monitorings/palchevsky-kivalov-and-other-pseudo-ratings-mass-media-totally-violated-the-election-law-i36099>

⁴⁷ According to [calculations made by OPORA](#), based on the analysis of data from 90 percent of the newly elected local councils

⁴⁸ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

Complaints and Appeals

According to the electoral legislation, decisions, actions, or inactions relating to the election process may be contested by filing a complaint to a relevant body⁴⁹.

Between the two rounds of elections, the CEC published the guideline on its official web-page describing the procedures for completing complaints and appeals related to local elections⁵⁰.

Before the first round, the CEC received some 297 complaints related to the electoral process, while since 23 October and following the Election Day it received 173 complaints. There are 17 resolutions adopted by the CEC as a collegial body regarding complaints after Election Day. Among them one complaint was satisfied, three did not satisfy or 13 complaints left without consideration mostly because of missed deadlines, or the complaint was submitted by an unauthorized person, or the CEC was not a relevant body to consider the merits of the complaint. The high number of rejected complaints which missed the deadlines or for other procedural grounds demonstrates the complexity of the complaints system, affecting complainants' understanding of the dispute resolution process.

Moreover, ENEMO observers were informed that TECs received written complaints. However, the registration process of formal complaints on TECs lacks transparency since there is no registry of complaints available publicly at any level of the election administration.

As of 27 October, the courts had received 1,548 election-related administrative claims. Among them 42 percent (654) of complaints were related to clarification of the voter list, while 37 percent (576) were related to the nomination and registration of candidates. 433 claims were satisfied regarding the clarification of voters' lists and 244 - regarding the registration of candidates. Other cases were related to the formation and composition of election commissions; election campaign and information support; as well as organization of voting and appeals against election results. As of 16 November, there were some 446 decisions and resolutions made by courts related to recounts of election results, including 138 decisions were made by the appellate courts. ENEMO observers were informed about a high number of complaints related to recounts that led to delays in establishing results. According to the court registry of Ukraine, a significant number of complaints were returned to the plaintiff due to missed deadlines or lack of legal grounds. ENEMO interlocutors noted that even though electoral contestants actively used these means for legal remedy, some complaints and appeals submitted to the courts lacked legal grounds and relevant evidence. OPORA also reported that several political groups disseminated false information about the responsibility of the CEC for determining the results of local elections.

⁴⁹ Article 63, paragraph 1 of the Election Code.

⁵⁰ CEC explanatory statement: <https://cvk.gov.ua/actualna-informaciya/poryadok-oskarzhennya-porushen-na-mistsevih-viborah.html>

It should be noted that in isolated instances, the TECs refused to acknowledge court decisions⁵¹ and the CEC had to apply to the police to verify the circumstances of the cases and resulted in the dissolution of non-compliant TECs⁵².

Administrative and criminal cases

Since the beginning of the election campaign, the police received 15,790 complaints about violation of the electoral legislation. Among them the police drew up 2,412 administrative protocols and initiated 1,119 criminal investigations. It should be noted that the majority of these cases are still pending due to the police not finding sufficient evidence, or no signs of offences were revealed. After the Election Day on 25 October, the National police had drawn up some 2,330 protocols on committing administrative offenses related to the election process⁵³.

According to the information provided by the court administration⁵⁴, as of 27 October there were 524 administrative offences considered by courts and 140 persons were identified as involved in administrative offences. Administrative sanctions were applied on 81 persons and a total of 14,110 UAH was imposed in fines, whereas 4,454 UAH was paid voluntarily.

Since the beginning of the election campaign, in the Unified Register of Pre-trial Investigations, information on 1,119 criminal proceedings has been entered⁵⁵. In 85 criminal proceedings, 103 people are identified as suspects by the Police.

During the Election days on 15 and 22 November, the police received 528 notifications related to election related violations. Among them, 15 administrative protocols were drawn up and 19 criminal investigations were initiated. Most reported alleged violations were illegal photographing of the ballot paper, illegal campaigning, voter bribery, damaging of ballot papers and other election documentation.

ENEMO received information about criminal cases considered by courts as of 27 October, according to which two criminal cases were submitted to court proceedings. Both cases concerned

⁵¹ This was the case for example Karolino-Bugaz TEC. a separate decision of the Fifth Administrative Court of Appeals dated November 3, 2020 in case #420/11492/20 notes that “the newly formed TEC did not eliminate any violation of citizens’ voting rights, did not comply with court decisions and the election took place in the absence of court decisions on the existence of violated rights of the plaintiff, who was not included in the ballot. CEC called the TEC to comply with the court decision and call for the repeat elections. Case # 160/13769/20 regarding the Marhanets City TEC of the Nikopol District of the Dnipropetrovsk Region; Case # 540/3489/20 regarding the Kherson Oblast TEC;

⁵² For example: CEC resolution: #453: [https://act.cvk.gov.ua/acts/pro-okremu-uhvalu-p-yatogo-apelyatsiy-nogo-administrativnogo-sudu-vid-4-listopada-2020-roku-u-spravi-420-11490-20-420-11492-20-420-11493-20-420-11495-20.html](https://act.cvk.gov.ua/acts/pro-okremu-uhvalu-p-yatogo-apelyatsiy-nogo-administrativnogo-sudu-vid-4-listopada-2020-roku-u-spravi-420-11465-20.html); CEC resolution #452: <https://act.cvk.gov.ua/acts/pro-okremi-uhvali-p-yatogo-apelyatsiy-nogo-administrativnogo-sudu-vid-3-listopada-2020-roku-u-spravah-420-11490-20-420-11492-20-420-11493-20-420-11495-20.html>

⁵³ Information from the Ministry of Internal Affairs (05.09-02.11) https://mvs.gov.ua/ua/news/35795_Iz_5_veresnya_policeyski_vidkrili_997_kriminalnih_provadzhen_za_faktami_porushen_viborchoho_procesu.htm

⁵⁴ Provided by Court administration from 23.07-27.10.

⁵⁵ Among them 180 obstruction of the exercise of suffrage, 173 - voters bribery, 105 - falsification, forgery, abduction, damage or destruction of an election document, 87 - providing false information register of voters, 67- illegal use of the ballot, 5 - violation of the secrecy of voting, 4 - violation of the procedure of financing a political party, 2 – illegal damage of an election documents

Article 158-1 of the Criminal Code of Ukraine (illegal use of the ballot, voting more than once, theft, damage, concealment or destruction of the ballot). Among these two proceedings, a fine of 1,700 UAH was imposed on one person. One criminal case has not yet been considered. It should be noted that according to the data of the Ministry of Internal Affairs, as of 2 November, in 78 criminal proceedings, 95 people received the status of suspects.

Constitutional Court

On 28 October, the Constitutional Court of Ukraine (CCU), published a ruling which declared unconstitutional several important provisions of the Law on Prevention of Corruption. Among them were the publication of civil servants' asset declarations by the National Agency on Corruption Prevention. The Constitutional Court of Ukraine denied the National Agency for the Prevention of Corruption (NAPC) to access state registers required for a special check of declarations of candidates for leadership positions in authorities. Without this operation, no chairman of state authority can officially be appointed. Therefore the CCU decision, inter alia, obstructed the implementation of the results of the local elections, since the appointment of elected candidates - in particular the chairmen of oblast and rayon councils and their deputies - is possible only after passing a special check by the NAPC. On 29 October, an urgent meeting of the National Security and Defense Council (RNBO) was held, at which it was decided to oblige the Government to take measures to maintain the Unified State Register of Declarations of Persons Authorized to Perform State or Local Self-Government Functions, and to resolve access to state registers for the NAPC⁵⁶.

Election Day

Due to the COVID-19 pandemic, ENEMO did not deploy short-term observers (STOs) and therefore did not conduct a systematic observation throughout the country on Election Day(s) for the mayoral run-offs and repeated elections taking place on 15 November and 22 November. However, the mission's 48 remote long-term observers (LTOs) conducted online observation of the polling process. LTOs followed public sources and discussed online with several interlocutors involved in the electoral process. This includes EMBs, domestic observers, political parties and candidates, media, police, courts, etc.

In order to limit spreading of the COVID-19 during Election Day, the CEC made additional efforts by approving supplementary text in personal invitations⁵⁷ sent to voters during the quarantine period. Personal invitations contained a warning and recommendations for voters regarding their obligation to wear a protective mask during the voting and to bring a personal pen.

The polls on both 15 and 22 November were held in a generally peaceful and calm environment. Commission members professionally conducted the process overall, while counting and tabulation was generally timely and well organized. However, as in the first round, observers reported uneven

⁵⁶ Decree #477 <https://www.president.gov.ua/documents/4772020-35469>

⁵⁷ CEC Resolution No. 471 of 12 November.

application of PPE and COVID-19 prevention measures at polling stations, especially in the second round held on 15 November.

Some minor technical mistakes were reported pertaining to sealing of ballot boxes or missing materials, although they did not seem to affect the legitimacy of the process. Few complaints on Election Day were formally filed, and included a few cases of missing ballots, missing election stamps, or ballot forgery⁵⁸. However, several cases of violation of the secrecy of the vote were observed by domestic observers, which reported on cases of voters photographing their ballots⁵⁹. Additionally, as in the first round, PEC members did not seem to instruct voters to fold the ballot paper, meaning at times their vote was visible when casting their ballots.

Concerns should be raised regarding some instances of voter intimidation or intimidation of PEC and TEC members which were reported to the mission on Election Day⁶⁰, as well as some instances of vote-buying in the vicinity of polling stations⁶¹.

Observers

The 116 domestic observation organizations accredited before the first round of elections remained accredited for the mayoral run-offs and repeated elections⁶². Likewise, 271 international observers from nine organizations⁶³ remained accredited from the first round in the second rounds, as well as 41 international observers from six countries⁶⁴. It should be noted that while the CEC website discloses the total number of international observers accredited by each organization, information on the number of domestic observers accredited by each organization or the total number of domestic observers are not indicated.

Domestic observers reported on cases of obstruction to their work in several instances, including some obstructions to observers' access to polling stations on Election Day. A few cases of intimidation of political party observers was reported as well⁶⁵. Concerns should be raised towards any forms of pressure on election observers, which is at odds with international standards and best practices.

⁵⁸ Reported in Ukrainka (Kyiv oblast).

⁵⁹ Sumy, Khmelnytskyi, Poltava, Cherkassy, Dnipropetrovsk, Dnipro, Sloviansk, Lviv, Mykolaiv, Cherkassy.

⁶⁰ In Odesa region on 15 November, for instance, the entrance to the premises of the Odesa city TEC was blocked by a group of young people (allegedly, members of a sports group). In Poltava on 22 November, a group of people in front of a polling station wearing intimidating outfits were discouraging voters from entering polling stations, claiming that voting during COVID-19 is too dangerous. Another case in Poltava included PEC members receiving text messages from an unknown sender instructing them not to go to the polling station.

⁶¹ Poltava, Dnipro.

⁶² In line with Article 58 paragraph 4 of the Election Code.

⁶³ ENEMO, OSCE-ODIHR, the Ukrainian Congressional Committee of America, the National Democratic Institute, Committee for Open Democracy, World Congress of Ukrainians, Public Association International Community for Human Rights, International NGO Coordination Resource Center, and International Foundation for better Governance (<https://www.cvk.gov.ua/pls/vm2020/pvm063pt001f01=695.html>).

⁶⁴ Republic of Hungary, Slovak Republic, Republic of Kazakhstan, Federal Republic of Germany, Kingdom of Spain, and Czech Republic.

⁶⁵ A political party observer in Poltava had his tires cut near a polling station, while some civil society observers had their car damaged while observing at the polling station (Mykholaiv).

About ENEMO

ENEMO is an international NGO that represents a network of national nongovernmental civic organizations founded on 29 September, 2001, in Opatija, Croatia. It consists of 21 leading domestic monitoring organizations from 17 countries of Central and Eastern Europe and Central Asia, including two European Union countries.

ENEMO seeks to promote democracy in the region by assessing electoral processes and offering accurate and impartial observation reports. ENEMO IEOMs use international standards for democratic elections to evaluate the electoral process and the host country's legal framework. ENEMO and all its member organizations have endorsed the 2005 Declaration of Principles for International Election Observation and the Declaration of Global Principles for Nonpartisan 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 250 national elections and trained more than 240,000 observers.

To date, ENEMO has organized 32 IEOMs to eight countries: Montenegro 2020, Parliamentary Elections; Serbia 2020, Parliamentary Elections; Moldova 2019, Local Elections; Ukraine 2019, Early Parliamentary Elections; Ukraine 2019, Presidential Elections; Moldova 2018-19, Parliamentary Elections; Armenia 2018, Early Parliamentary Elections; Moldova 2016, Presidential Elections; Ukraine 2015, Regular Local elections; Ukraine 2014, Parliamentary elections; Ukraine 2014, Presidential elections; Ukraine 2013, Re-run of Parliamentary elections 2012 in 5 TECs; Kosovo 2013, Local elections, first round; Ukraine 2012, Parliamentary elections; Kosovo 2011, Re-run of Parliamentary elections; Kosovo 2010, Parliamentary elections; Kyrgyzstan 2010, Parliamentary elections; Ukraine 2010, Presidential elections, second round; Ukraine 2010, Presidential elections, first round; Kosovo 2009, Local elections; Moldova 2009, Parliamentary elections; Georgia 2008, Presidential elections; Kyrgyzstan 2007, Parliamentary elections; Ukraine 2007, Parliamentary elections; Ukraine 2006, Local elections in Poltava, Kirovograd and Chernihiv; Ukraine 2006, Parliamentary elections; Kazakhstan 2005, Presidential elections; Albania 2005, Parliamentary elections; Kyrgyzstan 2005, Presidential elections; Kyrgyzstan 2005, Parliamentary elections; Ukraine 2004, Presidential elections, second round re-run; Ukraine 2004, Presidential elections.

ENEMO member organizations are: Center for Civic Initiatives CCI, Bosnia and Herzegovina; Center for Democratic Transition – CDT, Montenegro; Centre for Monitoring and Research – CeMI, Montenegro; Center for Free Elections and Democracy – CeSID, Serbia; In Defense of Voters' Rights 'GOLOS', Russia; Gong, Croatia; International Society for Fair Elections and Democracy – ISFED, Georgia; KRIIK Association, Albania; Citizens Association MOST, Macedonia; Promo- LEX, Moldova; OPORA, Ukraine; Society for Democratic Culture SDC, Albania; Transparency International Anti-Corruption Center (TIAC), Armenia; Election Monitoring and Democratic Studies Center (EMDS), Azerbaijan; Belarussian Helsinki Committee (BHC), Belarus; FSCI, Kazakhstan; Kosovo Democratic Institute (KDI), Kosovo; Coalition for Democracy and Civil Society, Kyrgyzstan; Center for Research, Transparency and Accountability (CRTA), Serbia; Obcianske OKO (OKO), Slovakia; Committee of Voters of Ukraine (CVU), Ukraine.