



**ENEMO International Election Observation Mission Local Elections, 25 October
Ukraine 2020**

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

15 September - 26 October

27 October 2020

The 2020 Local Elections were generally free and competitive and well administered, although the process was affected by challenges mostly related to COVID-19, the complexity of the new electoral system, biased media coverage, allegations of vote buying and abuse of administrative resources

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 Local Elections of 25 October 2020.

ENEMO has accredited a total of nine Core Team experts, three of which are based in Kyiv, and six Core Team members 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 the context of the Covid-19 pandemic, the mission did not deploy short-term observers (STOs) and did not comprehensively observe the process at polling stations on Election Day.

This is ENEMO's fourteenth mission to Ukraine. ENEMO has already gained considerable experience through observing elections in the country since 2004. ENEMO observed crucial aspects of the electoral process ahead of the 2020 Local Elections in Ukraine: 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. Observers of the mission conducted a total of 1,394 online meetings.

This statement is preliminary in nature, pending final count and tabulation of results, and is based on ENEMO's findings throughout the regions of Ukraine observed from 15 September to 26 October. Following this preliminary statement of findings and conclusions, the mission will continue following potential complaints and appeals after Election Day. A final report including potential recommendations will be issued within sixty days from the certification of results.

ENEMO's international observation mission for the 25 October 2020 Local Elections in Ukraine is financially supported by USAID through the National Democratic Institute (NDI). The content of the document is the sole responsibility of ENEMO and does not necessarily represent the position of the donors.



Preliminary conclusions

The 2020 Local Elections were generally held in a free, fair and competitive environment, although marred by challenges largely related to the COVID-19 pandemic. A number of reported violations on Election Day are of concern, although complaints in this regard remain to be addressed and will be followed by the mission.

The legal framework generally provides grounds for the conduct of elections in line with international standards. Recent reforms have, overall, strengthened the framework, although not all observer recommendations were addressed. The 2020 local elections were held under a new Election Code, including substantial changes to the electoral system.

The preliminary voter turnout announced by the Central Election Commission (CEC) was 36.88 per cent¹. The tabulation process, as well as allocation of seats remains to be finalized. ENEMO will continue to follow these closely and comment on them in its second preliminary statement after the second round of elections.

ENEMO deems that the combined use of proportional and majoritarian systems for the election of local officials is reasonable in the context, but does create a level of complexity for electoral officials and voters alike. As such, even more emphasis should have been placed on training and voter education for election officials and voters respectively. The inclusion of open party lists for the election of local deputies in areas with more than 10,000 voters was welcomed, as it enhances transparency and accountability. The adoption of a mandatory gender quota for party lists was a positive step towards higher levels of representation for women in political life, although ENEMO notes that it is not reinforced with an obligation to replace a leaving councilor with a candidate of the same gender.

The CEC demonstrated its professionalism and operated in a mostly transparent manner, working diligently to meet all deadlines in the election calendar, despite not providing an online register of complaints at the election administration level therefore limiting the transparency of the complaints adjudication process.

The work of the CEC was burdened by the need to adopt COVID-19 prevention measures for Election Day due to failure of the Verkhovna Rada to pass these measures ahead of the elections. Additional challenges were caused by uncertainties related to financing of these measures and late decisions of the Cabinet of Ministers.

In addition to uncertainties in the process pertaining to measures to limit COVID-19 infections at polling stations, the work of the CEC was further challenged by frequent requests for replacement of Territorial Election Commission (TEC) members. However, the work and professionalism of TECs can be positively assessed overall, in particular given the above mentioned challenges, although levels of preparedness of members seemed to vary due to frequent replacements and insufficient training.

Universal suffrage and the right to vote are generally provided for in Ukraine. However, nearly half a million Ukrainian voters were disenfranchised in these elections, due to the decision of the Verkhovna

¹<https://www.cvk.gov.ua/novini/yavka-vibortsiv-na-mistsevih-viborah-25-zhovtnya-2020-roku-sklala-3688.html>

Rada not to conduct elections in 18 communities in Donetsk and Luhansk oblasts, on account of security concerns caused by the ongoing conflict in eastern Ukrainian territories and the Autonomous Republic of Crimea.

The new simplified measures for voter registration were welcomed, in principle facilitating the participation of IDPs, economic migrants and voters without registration. However, few requests were filed and few voters took advantage of this possibility to register in the election, while some cases of abuse of this procedure were noted.

The process of candidate registration was overall inclusive, despite some cases of candidates and political parties not being given the opportunity to correct mistakes in the registration process, resulting in appeals to the courts. Several of these cases included non-compliance with the new gender quota in party lists and other technical issues. The mission observed inconsistencies in the application of the gender requirement by some TECs and by some courts.

Candidates and parties were generally able to campaign freely, despite considerable limitations on public gatherings due to COVID-19. As a consequence, electoral contestants put emphasis on campaigning through digital means including social media, messaging applications, and online platforms. Isolated cases of violence and widespread “black PR” towards candidates were reported by ENEMO observers during the campaign.

President Zelensky played an active role in the campaign, participating in several events to promote Servant of the People candidates. Additionally, a few days before the election, the President announced an opinion poll to be conducted in front of polling station premises on Election Day. ENEMO notes that this poll was funded by Servant of the People and related to policy proposals formulated by the President himself, granting an unfair political advantage and affecting the principle of equal opportunity.

A vast majority of ENEMO interlocutors raised concerns regarding misuse of administrative resources and abusing incumbency. Despite reinforced sanctions against direct and indirect vote-buying in the Election Code, multiple cases of vote buying schemes were also reported to the mission.

Additionally, the lack of an upper limit for candidates’ spending on electoral campaigns, political parties and candidates not complying with the financial reporting requirements, and the limited oversight capacities of the TECs, creates an unlevel playing field and limits campaign finance transparency.

Freedom of expression is provided for and the media landscape continues to be diverse, although disinformation, biased media coverage, and hidden advertising (*jeansa*) remain a concern. ENEMO deems insufficient the array of sanctions at the disposal of the National Television and Radio Broadcasting Council (NTRBC).

The scope for deploying international election observation missions to Ukraine for these polls was considerably limited due to the COVID-19 pandemic, limiting the opportunity to further increase the transparency of the electoral process.

Background

On 15 July 2020, the Verkhovna Rada called for local elections, scheduled for 25 October 2020, to elect mayors of cities, villages and settlements, and members of local councils of regions (*oblast*), districts (*rayons*), cities, city districts, villages and settlements, for a five-year mandate. These local elections were the first to be held under the new Election Code, adopted in December 2019.

The stakes of these elections were particularly high, given the ambitious decentralization process, initiated in 2014, which has significantly increased the powers and the financial resources allocated to local authorities.

The COVID-19 global pandemic created unexpected challenges for all stakeholders involved (e.g. logistical challenges for the EMBs, and limitations on the electoral campaign).

Due to the annexation of the Autonomous Republic of Crimea by the Russian Federation, in 2014, and the on-going conflict in the Donbas region, no elections were held in the territories that are not currently under governmental control. Following a decision from the Verkhovna Rada, no elections were held in 18 communities (*hromadas*) of Donetsk and Luhansk oblasts, currently under governmental control, due to security concerns. This decision disenfranchised almost 480,000 citizens of the right to vote, damaging the inclusiveness of the election and depriving a considerable number of potential voters from their constitutional right to vote.

Legal framework and electoral system

A. Legal Framework

Local Elections in Ukraine are primarily regulated by the Constitution and the Election Code. 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 process².

The Election Code of Ukraine was adopted in December 2019 after several years of negotiations and discussions between civil society, political parties and other stakeholders. Unification of the electoral legal framework in Ukraine has been a crucial recommendation of observers, election experts and other stakeholders. Therefore, adoption of the law should be considered as an important step towards implementing reforms to further strengthen the electoral process. The Election Code was further amended three times³ in June, July and September 2020. In July 2020, the Verkhovna Rada adopted a new amendment to the Election Code, the Criminal Code and the Code on Administrative Offenses in order to

² Since the beginning of the election campaign for Local Elections, the CEC adopted more than 247 resolutions.

³ <https://zakon.rada.gov.ua/laws/show/805-20#n109> ; <https://zakon.rada.gov.ua/laws/show/720-20#n135> ; <https://zakon.rada.gov.ua/laws/show/884-20#n2>

ensure proportionate sanctions for election related fraud. Moreover, the monetary deposit at local elections was reduced.

Some of the positive features of the newly adopted changes are the new open electoral party lists for oblast, rayon, city district councils and councils in cities, villages and settlements with 10,000 or more voters; limitation of parallel systems of election dispute resolutions; eased procedures for voters to change their electoral address; and a mandatory gender quota which is a step forward in increasing gender representation.

ENEMO notes that the primary legal framework, including the electoral system, was changed significantly less than a year before the elections, which is contrary to international good practice⁴. ENEMO observers were informed that the complexity of the new Election Code and its last-minute amendments have led to misinterpretation of some provisions and confusion among commission members and other stakeholders.

Notwithstanding the positive aspects of the changes, there was criticism of the failure to introduce legal procedures aimed at safeguarding the conduct of elections during the COVID-19 pandemic.⁵ Due to the outbreak of Covid-19, the Verkhovna Rada failed to adopt draft law #4117 regulating the electoral process during the pandemic. These gaps in the legislation were compensated for by the Resolution⁶ of the Cabinet of Ministers allowing homebound voting for voters with respiratory problems and COVID-19 symptoms. The Resolution additionally provided the right to vote to patients in health care institutions, and permitted PECs to set up safety measures including screening a voter's health condition.⁷ However, ENEMO deems that the legal framework failed to promptly address the challenges and the uncertainty caused by the COVID-19 pandemic.

ENEMO notes that overall the existing legal framework for the 2020 Local Elections provides sufficient ground for the conduct of elections in line with international commitments and standards, although space remains for improving the framework by further taking into consideration previously formulated observer recommendations.

B. Electoral System

The country consists of 24 oblasts, one autonomous republic (Crimea), and two cities with “special status” (Kyiv and Sevastopol). Each oblast is further divided into *rayons* (districts). In the framework of the recent decentralization process, the number of *rayons* has been reduced from 490 to 136.⁸ Similarly, 10,900

⁴ 2002 Venice Commission Code of Good Practice: “*The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law.*”

⁵ In response to the growing pandemic throughout the country, the CEC, and other stakeholders called lawmakers to set up special safety measures to prevent the spread of COVID-19 and effectively ensure the right to vote in the local elections.

⁶ The resolution #641; “*About establishment of quarantine and introduction of the strengthened anti-epidemic actions in the territory with considerable spread of sharp respiratory disease of COVID-19, of SARS-CoV-2 caused by coronavirus*”

⁷ Expenses related to the implementation of anti-epidemic measures in connection with the organization and conducting of elections were carried out at the expense of local budgets (including the reserve funds of these budgets) without allocation of additional funds and proper financial support. After several demands by stakeholders including the CEC, IFES, other international and local organizations, further clarifications were made by Ministers less than a week prior to the election day.

⁸ Resolution of the Verkhovna Rada of Ukraine *About formation and liquidation of areas* <https://zakon.rada.gov.ua/laws/show/807-IX#Text>

entities representing the lowest administrative division (settlements, villages and municipalities) have been agglomerated into a total of 1,470 new amalgamated territorial communities (*hromadas*).

Local Elections of deputies of the Supreme Council of Crimea, deputies of local councils and rural, city mayors in the temporarily occupied territories of Crimea, the city of Sevastopol, in certain areas, cities, towns and villages of Donetsk and Luhansk regions did not take place because of Russian annexation of Crimea and ongoing conflict in eastern Ukraine.

The Election Code provides for a different electoral system depending on the number of voters of a territorial unity where elections are held. The electoral system, under which elections of members of city, village or settlement council or city mayor were held, is determined by the number of voters who have the right to vote in the respective local elections.

For electing mayors, a system of a relative and a system of absolute majority were used, depending on the number of voters. A system of relative majority (first-past-the-post system) is used for mayors in settlements with up to 75,000 voters. As there could be only one round in order to be elected, a candidate needs to get more votes than other candidates (relative majority). A two round system of absolute majority (TRS) is used for elections of mayors for settlements over 75,000 voters. According to the CEC, TRS were used in 37 cities of Ukraine for local elections.

An open list proportional representation system was used for the first time for councils in settlements over 10,000 voters, offering voters the opportunity to influence the order of candidates in the list through preferential voting. Under this system, the party that receives 5 per cent of votes will participate in the distribution of seats in respective councils. Under the open list proportional representation system, parties are represented with a list of candidates for multi member districts, where voters vote for a party and candidate from the party list. The TEC establishes the order of candidates in each territorial electoral list of each party organization based on the voting results. The candidates, who meet or exceed 25 percent of the amount of the electoral quota⁹ are placed at the beginning of the territorial electoral list. No self-nominated candidate is allowed. Independent candidates can only run for mayoral elections and for council elections in communities with up to 10,000 voters.

For the election of council members in settlements up to 10,000 voters, a relative majority (first-past-the-post) system was used. No less than two and no more than four council members should be elected in each of the election districts. Under this system both independent (self-nominated) and party-nominated candidates could participate. The territory of the respective community is divided into multi-member constituencies¹⁰. The deviation from their approximate average number may not be more than one district. In order to maintain equality of votes the Election Code establishes that the deviation of the number of voters in a multi-member election district established within the territory of a village, settlement or city may not exceed 15 percent of the approximate average number of voters in the district.

Therefore the major difference from the previously used system of elections is the use of open party lists of candidates in the proportional elections. Some interlocutors felt there could be confusion among voters as the system requires an extensive information campaign for voters, which was not forthcoming. Also, unlike the 2015 local elections, when a gender quota was introduced but without an enforcement

⁹ Electoral quota is established according to Article 257 of the Election Code.

¹⁰ The approximate average number of multi-member election districts are determined as a quotient obtained as a result of the division of the quantitative composition of the respective council by 3.

mechanism, the newly adopted Election Code established a mandatory gender quota for candidate lists, as an essential precondition for registration of a party list for the local elections¹¹. Political parties are required to ensure that both men and women (no less than two candidates of each gender) should be present in each five candidates (places from the first to the fifth, from the sixth to the tenth and so on) in the electoral lists. No less than 40 percent of each gender should be nominated. However, in smaller communities (villages and settlements of less than 10,000 voters), parties were required to ensure the nomination of no less than 30 percent of persons of each gender, in the total number of candidates for the respective council.

Election Administration

Local elections are administered by a three-tier election administration consisting of the Central Election Commission (CEC), Territorial Election Commissions (TEC) and Precinct Election Commissions (PEC). In total, 1 642 TECs and 29 084 PECs conducted the Local Elections on 25 October 2020.

The CEC held daily meetings to respond to challenges as they arose. Its meetings were broadcast live and its decisions were published after sessions. Overall the body demonstrated a high level of transparency and professionalism and ENEMO interlocutors expressed trust in its integrity.

Lower level electoral commissions (TECs and PECs) were formed in accordance with the legal deadlines, while the CEC also conducted other electoral preparations in line with the provisions of the law despite facing numerous difficulties. Insufficient budgetary support for ensuring protective measures amid the pandemic posed a major challenge to the CEC when conducting preparations for the elections. This required taking into consideration the number of infected people, high risks of spreading the virus and its consequences in the context of elections, and challenges encountered by the TEC/PEC members already exposed to a high risk of infection while on duty. ENEMO assesses that the CEC addressed the issues to the relevant stakeholders in a timely manner¹², within their mandate, while expressing strong concern and requiring adoption and implementation of urgent measures¹³ to protect public health.

Additionally, due to the recent electoral reform and many legal uncertainties, the CEC overcame legal gaps by providing additional clarifications to provisions of the Election Code, mainly concerning Election Day procedures.

¹¹ Legal rules requiring a minimum percentage of persons of each gender among candidates should not be considered as contrary to the principle of equal suffrage if they have a constitutional basis. *Code of Good Practice in Electoral Matters (CDL-AD (2002)023rev)*, point I.2.5.

¹² CEC [Resolution № 158](#) on the Proposals of the working group to develop recommendations and measures to prevent the spread of acute disease, 4 August 2020. The CEC [Resolution № 257](#) about Proposals on legislative regulation of peculiarities of organization of preparation and holding of elections during the period of quarantine established for the purpose of prevention of distribution on the territory of Ukraine of especially dangerous and dangerous infectious diseases, and improvement of separate provisions of the election legislation, 14 September 2020.

¹³ CEC [Resolution № 364](#) on urgent measures to create appropriate conditions for the safe organization and conduct of voting, 10 October, 2020.

ENEMO notes that the CEC was burdened by a considerable number of requests for replacements of TEC members¹⁴ due to various reasons, including requests by political parties and illness of members. In some cases, the CEC prematurely revoked powers of the TECs due to violations of the Election Code¹⁵. Concerns should be raised regarding the high number of replacements, including during the week leading up to Election Day, as this may have affected the level of preparedness of commission members in the process.

Training for TEC and PEC members was conducted online by the CEC¹⁶ through September and October. There were no complaints regarding the content of the training, but the fact that it had to be done online meant that the presence and engagement of trainees was not guaranteed. Furthermore, given the changes to the law, the lack of experience of many commission members, challenges with computer literacy and even the quality of the network in rural areas, the training was perceived as challenging and insufficient. This raised concerns of some stakeholders as to the level of readiness and preparedness of TECs and PECs for Election Day and the complex count and tabulation.

Overall, according to ENEMO observers' findings and as confirmed by other interlocutors, the main challenges for the TECs and PECs were insufficient allocation of funds necessary for ensuring protective measures amid the pandemic, frequent replacements of TEC and PEC members, and insufficient training due to the changes in legislation, especially regarding the critical counting and tabulation procedures. Despite these challenges, the work and professionalism of TECs in the pre-election period was overall positively assessed by observers in most cases.

ENEMO observers reported on problems encountered by PECs related to the counting procedures and filling out the protocols due to complicated procedures prescribed by the new legislation, lack of experience of PEC members and insufficient training.

The tabulation process was slowed down due to the many rejections of protocols by the TECs and requested corrections of protocols. ENEMO observers reported that many PECs were queuing in front of TECs (while protective measures amid the pandemic were not followed), as there were technical problems with data entry in the Vybory System which slowed down the whole process.

Registration of voters

Voter registration is passive in Ukraine and voter lists are extracted from a centralized State Register of Voters, and comprises all citizens who will be 18 years of age on the day of the elections, except persons revoked of legal capacity by a court decision due to intellectual or psychosocial disability. The total number of voters' data is updated on a monthly basis and publicly available on the SRV website¹⁷.

Universal suffrage and the right to vote are generally provided for in Ukraine. However, nearly half a million Ukrainian voters were disenfranchised in these elections, due to the decision of the Verkhovna

¹⁴ By the 23 October 2020, the CEC terminated the powers of 4,988 members of territorial election commissions, 330 TEC chairmen, 287 TEC deputy chairpersons, 349 TEC secretaries, and 4,022 TEC members.

¹⁵ City TEC Odessa; Regional TEC Ivano - Frankivsk.

¹⁶ In collaboration with IFES (International Foundation for Electoral Systems).

¹⁷ The total number of registered voters on 30 September 2020 was 35,265,503.

Rada not to conduct elections in 18 communities in Donetsk and Luhansk oblasts, on account of security concerns caused by the ongoing conflict in eastern Ukrainian territories and the Autonomous Republic of Crimea.

There are 1,450,320 million internally displaced persons (IDPs) registered in Ukraine¹⁸, mostly displaced from Crimea and Donetsk and Luhansk oblasts. They make up approximately 4% of all voters in Ukraine. Positively, in order to ensure inclusion of IDPs but also economic migrants and citizens without registration (approximately 5.5 million voters in total), the CEC made necessary changes¹⁹ in order to ensure inclusion of these groups of voters and simplify registration procedures. For the first time, a voter's official domicile address and electoral address did not need to correspond for the purposes of voting. Such groups of voters had an opportunity to change their electoral address through an online application or in person (or by authorizing another person). By 10 September 2020, some 100,000 voters had changed their voting address.

However, it should be noted that while simplifying procedures for changing the electoral address may facilitate participation, it also increases the potential for abuse and manipulation. Despite improving voter inclusiveness in principle, this left space for multiple registration of voters at the same address, or electoral contestants mobilizing voters to change their addresses in view of gathering additional support. The CEC appealed to the National Police regarding a significant number of changes in electoral addresses in certain territorial communities to verify compliance with the law.

Positively, additional steps were taken by the CEC regarding the conditions for voters in quarantine or self-isolation to exercise their right to vote. Persons certified as having COVID-19 could request housebound voting up to 23 October 2020.

Candidate nomination and registration

The process for candidate registration started on 15 September and ended on 24 September. A total of 194 political parties registered throughout the country. There were an average of six candidates competing for every elective seat,²⁰ making the election process overall competitive and allowing the voters to choose between a wide-range of political options.

All Ukrainian citizens with the right to vote can stand as candidates, with the exception of citizens who have a criminal record for committing a grave crime, a crime against citizens' suffrage rights or for corruption. The Election Code only allows for independent candidates to stand for the mayoral races, and for city, village and settlement councils of up to 10,000 voters; in elections held under the open-list

¹⁸ [UNHCR Ukraine](#), 20 July 2020.

¹⁹ Resolution № 103 About the Procedure for determining the electoral address of a voter who does not have a registered place of residence, 11 June 2020.

²⁰ A total of 271 362 candidates were registered nationwide, for a total of 43,492 elective seats. According to calculations made by OPORA, the largest number of candidates were nominated by Servant of the People (10.9 per cent of all candidates), Batkivshchyna (10.5 per cent), For the Future (9.8 per cent), European Solidarity (8.4 per cent), and Opposition Platform - For Life (7.1 per cent). The vast majority of mayoral candidates ran independently (37.1 per cent).

proportional representation system, only local party branches have the right to nominate candidates. This restriction to independent candidacies is at odds with international standards²¹.

A financial deposit had to be paid by local party branches and independent candidates, and varies depending on the race and the size of the community.²² Recent amendments to the Election Code considerably reduced the amount of such deposits, and were welcomed by ENEMO interlocutors. However, the election code introduced a deposit for candidates running for member of settlements, villages and city councils (with less than 10,000 voters). This new provision was considered unnecessary by some ENEMO interlocutors, and possibly impeding the candidacy of minor candidates and political parties.

The Election Code stipulates that the nomination of candidates must be conducted during a meeting or conference held by the respective political parties, with the TECs notified in advance, and the information published on the political parties' website. ENEMO interlocutors raised concerns regarding the fact that the notification requirements were often ignored by political parties, with nomination events held behind closed doors. The lack of transparency diminished the legitimacy of the process, and led to numerous allegations regarding a biased distribution of places on the party lists.

The registration process was generally well-conducted and inclusive. However, a number of lists were rejected by the TECs, mostly due to technical errors, indicating a lack of understanding of the newly-adopted Election Code by political parties and candidates. Most notably, the new provision regarding gender quotas generated confusion, both for political parties and EMBs. This requirement was not respected by a number of political parties, with TECs often reacting in an inconsistent manner. Candidates and political parties were not always given the opportunity to correct technical mistakes, and had to appeal to the courts (see *Complaints and Appeals*). While the majority of lists rejected on technical grounds were registered by the TECs following court decisions, the campaign period was shortened for the candidates involved.

Electoral Campaign and Campaign Finance

A. Electoral Campaign

The election campaign officially started after the registration of political parties and candidates at TEC level (between 15 and 24 September 2020), and ended on Friday before Election Day, at midnight (23 October 2020). However, a wide range of political parties started campaigning before the registration of their candidates.²³ “Early campaigning” was observed since the month of June 2020, with political parties campaigning on social media, through billboards and advertising, which resulted in an uneven playing field, and compromised the requirement for the proper and full reporting of campaign expenses.

²¹ Paragraph 7 of the Copenhagen Document guarantying the right of citizens to seek political or public office individually or as representatives of political parties or organizations, without discrimination

²² Financial deposits range from 20 per cent of the minimum wage (candidates running for settlement, village, or city council in communities with less than 10,000 voters) to 4 minimum wages per 90,000 voters (candidates running for council of oblast, rayon, city rayon, cities with more than 10,000 voters, and Mayors of cities with more than 75,000 voters).

²³ Most notably Servant of the People, European Solidarity, Fatherland, Opposition Platform - For Life, For the Future, Proposition. According to OPORA, 70 parties have been engaged in “early campaigning” activities throughout the country.

The campaign was affected by restrictions linked to the COVID-19 outbreak, limiting the possibilities for large-scale gatherings in the regions most affected by the pandemic. Consequently, the campaign was very low-key, only slightly increasing in intensity during the last week before election day. Candidates relied mostly on social media (Facebook, Instagram, YouTube) and messaging applications (Viber, Telegram) to share their programmes, which raises concerns regarding voters who are not active users of digital platforms, and received less information compared to previous election processes, limiting their ability to make an informed choice.

Traditional means of campaigning were still used by most political parties, though in a more limited way than in previous elections. “Campaign tents”, distribution of leaflets, door-to-door canvassing, small gatherings, posters and billboards were observed, mostly in urban areas. The most visible and active parties nationwide were Servant of the People, European Solidarity, Opposition Platform - For Life, Fatherland, For the Future, Our Land, Voice, and Proposition, with additional regional parties active in different oblasts. Campaign messages mostly focused on local issues, with emphasis on health issues, given the pandemic context.

While the political climate was calm during the first weeks of campaigning, it deteriorated considerably during the two weeks leading to Election Day. A number of threats and violent attacks on candidates and supporters occurred²⁴, resulting, in one case, in the death of the candidate.²⁵ A number of cases of attacks on party headquarters and destruction of candidate vehicles were reported.²⁶ Destruction of campaign material (billboards, campaign tents) was widespread across the country and affected all major political parties.

Concerns regarding misuse of administrative resources by state officials and incumbents were raised by the vast majority of ENEMO interlocutors. While the Election Code stipulates that members of state executive bodies and of local government are not allowed to campaign while performing their official duties, President Zelensky, together with several oblast governors, took an active role in promoting candidates from their party (Servant of the People) while participating in official events, granting an undue advantage to said candidates.²⁷ The last-minute announcement by President Zelensky of a nationwide survey, funded by his political party, to be conducted in front of polling stations on election day, was seen as indirect campaigning, and was widely criticized by ENEMO interlocutors from both political parties and civil society organisations.

The misuse of incumbency as a systemic issue was reported by all ENEMO observers and interlocutors.²⁸ Multiple cases of social or infrastructure programmes funded with public resources and used by incumbent

²⁴ Attacks on candidates occurred in Dnipropetrovsk, Kivohograd, Kharkiv, Kherson, Kyiv, Lviv, Poltava and Sumy oblasts. Threats (including death threats) on candidates were reported in Kyiv, Khmelnytskyi, Kremenchug and Vinnytsia. The candidates affected by these incidents belonged to European Solidarity, Servant of the People, Opposition Platform - For life, Our Land and Shariy’s Party.

²⁵ In Transcarpathia oblast, Opposition Platform - For Life candidate Pavlo Sedlyar died, on 8 October, after being violently beaten by opponents.

²⁶ Attacks on party headquarters were reported by Servant of the People (Chernivtsi oblast) and Opposition Platform - For Life (Kharkiv, Sumy and Zhytomyr oblasts). Destruction of candidate vehicles occurred in Kharkiv, Lviv, Mykolaiv, Odessa, Rivne, and Zaporizhyya.

²⁷ During the months of August and September, official events were organized in all oblasts of Ukraine (except for Kyiv, Donetsk, Luhansk and the Autonomous Republic of Crimea) to present the future regional development strategies. All events were attended by the President of Ukraine, government officials including, in most cases, the governor of the oblast, and were used as an opportunity to introduce the main candidates from Servant of the People - before the official start of the campaign period.

²⁸ According to calculations made by OPORA, 70 per cent of incumbent mayors are running for reelection.

mayors as campaign tools, in the weeks leading to the elections, were documented by ENEMO observers.²⁹ Organizing social and cultural events (e.g. concerts, sports competitions) with municipal funds, used by incumbents for campaign purposes, was also observed in several cases.³⁰ Incumbents used municipal information papers or website to promote their achievements and candidacy³¹, and a number of candidates reported not being granted equal access to campaign facilities (e.g. billboards).³² Finally, the mission received credible allegations of pressure put on civil servants to vote for incumbents.³³

The new Election Code contains a broader definition of voter bribery, forbidding all gifts (monetary or in-kind), from political parties, candidates, as well as charity organizations. The Criminal Code of Ukraine was recently amended, increasing the sanctions related to this type of violation. However, the improvement of the legal framework did not seem to result in a significant decrease of the practice. Several cases of voter bribery were reported by ENEMO and domestic observers, mainly distribution of food or medicine packages, either directly by candidates, or by charity organizations closely linked to political parties.³⁴ Political parties and candidates adjusted to the pandemic context by distributing masks and hand sanitizers, and offering free health insurance or free medical consultation to potential voters.³⁵ One case of alleged direct bribery of voters, organized by a PEC chairman, was reported by the police in Odessa.³⁶

ENEMO observers noted a limited number of cases of breach of the period of campaign silence. These took the form of posters, leaflets, and new billboards installed on the eve of Election Day³⁷.

B. Campaign Finance

Regulations adopted since 2015, including the Political Finance Reform Law, have considerably improved the framework for campaign finance, increasing transparency and accountability. However, concerns about adequate respect for the provisions and enforcement mechanisms persist.

²⁹ A few examples include distribution of food or medicine packages to pensioners (Odessa); last-minute repair of streets, roads, playgrounds or public buildings (Cherkassy, Chernihiv, Chernivtsi, Kyiv, Lviv, Sumy, Zaporizhia oblasts) ; distribution of monetary subsidies to low-income families (Kharkiv oblast); free medical check-ups (Zaporizhia oblast); widely publicised inaugurations of new public facilities (e.g. medical clinic in Odessa, swimming pool in Melitopol).

³⁰ Reported in Cherkassy, Chernivtsi, Ivano-Frankivsk, Kharkiv oblasts.

³¹ Reported in Kirovohrad, Kyiv and Sumy oblasts.

³² Reported in Kyiv and Kharkiv oblast.

³³ Such cases were reported in Dnipropetrovsk, Khmelnytsky, Ternopil, Sumy and Vinnytsia oblasts.

³⁴ Distribution of food or medicine packages, and other types of gifts (including city trips, hot air balloon rides or microwave ovens) were documented by ENEMO observers in Cherkassy, Chernivtsi, Kharkiv, Kherson, Mykolaiv, Odessa, Poltava, Ternopil, Vinnytsia and Zaporizhia oblasts. On 14 October (Defender of Ukraine Day), a large number of candidates organized festive events, with distribution of food and alcoholic beverages. This practice was reported in almost every oblast.

³⁵ Our Land offered free health insurance in several oblasts (Dnipropetrovsk, Sumy, Zaporizhia); A number of political parties, including Trust in Deeds (Odessa), Social Democratic Party (Poltava) and Strength and Honor (Vinnytsia) offered free medical consultations.

³⁶ Law enforcement authorities reported to have seized 45,000 USD in cash from a PEC chairperson, in the city of Odessa, allegedly destined to bribe voters on Election Day. Several allegations of direct vote-buying have also been reported in Chernivtsi, Kyiv, Ivano - Frankivsk, Lviv and Zakarpattia oblasts, without supporting evidence.

³⁷ Such instances were noted, for example, in Poltava, Rivne and Chernivtsi Oblasts and involved Servant of the People, European Solidarity, Fatherland, Freedom, Proposition, and the Party of Common People of Serhyi Kaplin.

The Election Code foresees three sources of funding for local elections' campaigns: contributions from political parties, from candidates, and donations from private individuals.³⁸ Donations from foreigners, from legal entities (e.g. businesses) and anonymous donations are forbidden. However, several ENEMO interlocutors underlined that these provisions can easily be circumvented, given that candidates and political parties can contribute to their campaign funds without any limits, and without having to disclose the origin of the funds.³⁹ The Election Code does not foresee any ceiling for campaign expenditures. ENEMO interlocutors underlined that such a ceiling could help level the playing field.

Local branches of political parties and individual candidates had to open dedicated bank accounts for campaign purposes. However, candidates who did not foresee any expenses or donations were not obligated to open any bank account. ENEMO observers met with a significant number of candidates claiming to be running expenses-free campaigns, raising suspicions regarding "shadow funding", with parties and candidates not opening bank accounts to escape the financial reporting obligations.⁴⁰

Local branches of political parties and candidates taking part in the election process must produce two financial reports, containing all information regarding their campaign income and expenditures.⁴¹ Both reports are to be submitted to the TECs, which are in charge of scrutinizing the documents, and to notify the National Agency for the Prevention of Corruption (NAPC) or the police in case violations are noticed. Training programmes were undertaken to strengthen the capacities of TEC members in this regard, with limited success.⁴² A high number of TECs reported not having sufficient time or resources to properly examine the interim financial reports, submitted five days before Election Day. High concerns regarding their capacity and willingness to scrutinize the final financial reports remain.

The Election Code states that all financial reports must be published - online, if possible⁴³, which represents a notable progress in terms of transparency. However, the majority of TECs do not have online presence, and seemed confused regarding the proper channel to use for the publication. In practice, a very limited number of interim financial reports were published online, with the majority only made available for public scrutiny at the TEC premises.

Media

The Constitution guarantees freedom of expression, right to information, prohibits censorship, and defamation is a civil offence. The legal framework relating to media provides general preconditions for

³⁸ While donations from private individuals are limited to 10 minimum salaries (approximately 47,000 UAH), candidates and political parties can contribute to their election fund without any limit.

³⁹ A candidate in Poltava oblast admitted that private individuals made donations to her political party, who then transferred the donations to her electoral fund. This practice allowed for the donors to exceed the ceiling set by the Election Code.

⁴⁰ For example, the chairperson of Uman city TEC raised concerns regarding the activities of For the Future. The local branch of the political party did not open any bank account, even though the candidates were actively campaigning (using leaflets, billboards) throughout the city.

⁴¹ Political parties and individual candidates have to produce an interim report, no later than 5 days prior to election day, and a final report, no later than seven days following election day, using a template provided by the CEC. The template was recently updated by the CEC to include digital campaign expenses, a notable improvement given the increased importance of on-line campaigning.

⁴² Overall, trainers reported that participants' interest for campaign finance issues was very limited.

⁴³ The Election Code specifies that the financial reports must be published on the website of the respective TEC (if available), the website of the local council (if available), and the website of respective regional bodies of the Central Election Commission, or in another manner determined by it.

media freedoms. The media landscape is diverse given the proliferation of media outlets, granting voters access to a broad range of information. However, the high concentration of media ownership and vested economic and political interests of their owners has considerable influence on journalists, limiting diversity of viewpoints in the media and affecting the ability of voters to make a truly informed choice. Due to these prevailing issues, the mission found that in some areas candidates did not have equal opportunities to present their programs.

Ukrainian citizens are increasingly turning to the Internet as their major source of news and information. This is additionally the effect of the campaign limitations due to COVID-19. For the first time, social networks are the main source of information, with 68 percent of citizens turning to social networks for news. This represents an increase from 53 per cent in 2019, while TV consumption is down from 77 per cent in 2019 to 66 per cent. The levels of trust in both national and regional media have decreased in all media categories, in comparison to previous years. UA: PBC (public broadcaster) although informative and balanced is not seen as an adequate counterweight to privately owned media, primarily due to low ratings.

A majority of interlocutors identified disinformation as a key threat to the election process, preventing voters from accessing truthful information on candidates, their programmes and the elections in general. *Jeansa*⁴⁴ was also highly evident during the pre-election period at all levels. Based on the data provided by the IMI⁴⁵ the most frequent customers of *jeansa* in online media of 20 regions of Ukraine were political parties, (40 per cent of cases), followed by local politicians (37 per cent of cases)⁴⁶.

Campaigning was dominantly held in digital space, with contestants mostly using Facebook and closed messaging groups such as Telegram and Viber for direct communication with voters. Online campaigning started significantly before the official beginning of the election campaign. Several interlocutors raised the question of unregistered and unverifiable expenditures of parties and candidates on social networks. Reportedly, they spent over 2,5 million dollars⁴⁷ just on Facebook ads, before registering with the CEC. ENEMO notes there is no legal obligation for them to report these expenses.

On October 1, the CEC adopted a Resolution⁴⁸ on forms of the financial reports on receipt and use of means of election funds, compelling parties and candidates to report Internet expenses. However, considering the lack of legal regulation of political advertising, as well as the obligation that all expenses from campaign funds must be justified with invoices obtained from social networks, all interlocutors pointed out that this obligation would not be fulfilled by contestants.

The conduct of the media during election campaigns is regulated by the Election Code, which obliges state and private broadcast media to cover the campaign by providing equal and unbiased conditions to all contestants, and allows them to independently determine the amount of airtime to be allocated to the

⁴⁴ Disguised and improperly marked paid-for political material.

⁴⁵ NGO Institute Mass Information of Ukraine.

⁴⁶ <https://imi.org.ua/monitorings/sluga-narodu-i-mistsevi-partiyi-osnovni-zamovnyky-politychnoyi-dzhynsy-v-20-regionah-ukraviny-i35739>

⁴⁷ Chesno, Politicians spent more than \$ 2.5 million advertising on Facebook before registering with the CEC: <https://www.chesno.org/post/4249/>

⁴⁸ CEC, N 324 on forms of the financial reports on receipt and use of means of election funds of local organizations of political parties, candidates for deputies, candidates for a position of the village, settlement, city mayor, the order of their drawing up and carrying out the analysis.

coverage of the election process. Paid campaign advertising is allowed on public and private media and must be clearly marked. In order for elections to be transparent and fully inclusive, all media are obliged to provide balanced coverage to all candidates.

ENEMO notes that these principles prescribed by Law were not fully respected in the pre-election campaign period. The key issue is hidden political advertising in regional media outlets, dominantly in print media, which is not usually properly labeled. These promotional materials contain the marks of hidden advertising, including mention of the name of the potential candidate in the title, and the publication of a photo and articles written in a positive context.

The National Council of Television and Radio Broadcasting of Ukraine (NTRBC) must license Ukrainian broadcasters. Print media are only required to register with the Ministry of Justice, while online media have no registration requirements⁴⁹. The NTRBC is the body mandated to oversee media compliance with legal requirements and adjudicating media related complaints.

The National Council established a Working Group to monitor implementation of election legislation by broadcasters during the local election campaign for deputies of local councils, town and city mayors⁵⁰. The Working group analyzed information disseminated by electronic media related to the election campaign, based on the results of their in house media monitoring, and considered appeals and complaints from legal entities and individuals regarding violations. However, the existing legal framework does not sufficiently enable the NTRBC to adequately respond to and prevent media violations in the pre-election period, due to deficient sanctioning mechanisms, as well as lack of clear definitions of violations.

NTRBC recorded a number of violations, dominantly to hidden campaigning, as well as the placement or dissemination of campaign materials which were not marked in accordance with the requirements of the Code. In several cases, interlocutors and LTOs observed that the media do not provide equal opportunities to all contestants. Some complaints were lodged in the local courts, as well as in the NTRBC⁵¹. They have appointed an inspection to some of the channels to investigate the violations, although the violations continued.

Gender Representation

Positively, the Election Code introduced a mandatory gender quota, requiring that political parties include at least two women in each group of five candidates on party lists, which represents a significant step forward towards better representation of women in local politics. 44.82 per cent of women candidates were registered among the electoral lists running for local councils⁵².

⁴⁹ Since 2016, when the Law on transparency of media ownership was adopted, broadcasters have been legally required to disclose ownership and regularly update that information to the National Council, which makes the data available on its website.

⁵⁰ <https://www.nrada.gov.ua/zatverdzheno-sklad-robochoyi-grupy-z-naglyadu-za-dotrymannyam-zmi-zakonodavchyyh-vymog-pid-chas-mistsevyh-vyboriv/>

⁵¹ Court appeal of a candidate for Kryvyi Rih mayor Dmytro Shevchyk on the channel Rudana.

⁵² <https://www.cvk.gov.ua/novini/golosuvannya-na-mistsevih-viborah-trivaie-u-shtatnomu-rezhimi.html>

However, ENEMO notes that a number of party lists did not comply with the gender requirement as some lists not conforming with this requirement were still registered either by TECs, or by the court decision following their rejection by TECs⁵³. A number of ENEMO interlocutors shared concerns regarding the inclusion of women as so-called “technical candidates” on party lists, with women either withdrawing their candidacies after the completion of the registration process, or intentionally providing insufficient documentation in order to be rejected by the TECs⁵⁴.

Women remain largely underrepresented in the mayoral races, amounting to 16.42 per cent of candidates. ENEMO also notes that gender issues are mostly absent from campaign messages and candidates’ platforms. “Black PR” targeting female candidates and misogynistic messages were reported by several ENEMO observers⁵⁵. Hate speech targeting the LGBTQ+ community was also noted⁵⁶.

It was also noted that five out of seventeen CEC members are women and, according to the CEC, 73.67 per cent of TEC members were women.

National Minorities

Ukraine is a multi-ethnic country.⁵⁷ However, the current legislation does not provide any special measures to promote the representation of national minorities in political life.

The law “On ensuring the functioning of the Ukrainian language as a State language” makes Ukrainian the only language for the conduct of elections. All official election material (ballot papers, etc.) are produced in Ukrainian language. ENEMO observers reported several protests organized against this law, including calls to partially boycott the election process from members of the Romanian community⁵⁸.

National minorities were still able to use their language during the campaign period. ENEMO observers have reported a number of campaign events and campaign material produced in Russian (in Chernihiv, Kharkiv, Kirovohrad, Odessa, Vinnytsia, Zaporizhia, Zhitomyr oblasts), Hungarian (in Zakarpattia oblast), Romanian (in Chernivtsi oblast).

ENEMO notes that some national minorities are particularly underrepresented in the electoral process (for instance, members of the Roma community).

⁵³ See the Complaints and Appeals section

⁵⁴ Such cases were observed in the city of Kyiv, Kyiv oblast, and Zhytomyr.

⁵⁵ Misogynistic messages targeting female candidates were noted in Kyiv, Khmelnytsky and Ivano-Frankivsk oblasts.

⁵⁶ Reported in Zakarpattia oblast.

⁵⁷ According to the national 2001 census (the most recent census undertaken), Ukrainians represent 77,8 per cent of the total populations. Ethnic minorities include mainly Russians (17.3 per cent), but also Belarusians (0.6 per cent), Moldovans (0.5 per cent), Bulgarians (0.4 per cent), Crimean Tatars (0.5 per cent), Hungarians (0.3 per cent), Romanians (0.3 per cent), and Poles (0.3 per cent). While Ukrainian is the State language, and the native language of 67,5 per cent of the population, Russian is the native language of 29.6 per cent of the population. 2,9 per cent of the population have other native languages.

⁵⁸ In Chernivtsi oblast, the Interregional Union “Romanian Community of Ukraine” called for a partial boycott of the local elections, in a communique released on 14 October 2020.

Inclusion of Persons with Disabilities

Ukrainian electoral legislation guarantees the right to vote for persons with disabilities and for persons with temporary health disorder and the elderly. Such voters have the right to be provided with reasonable accommodation in accordance with individual needs to ensure their unimpeded participation in the election process. Prior to Election Day, each PEC had the obligation to assign duties to members of the commission to ensure the right to vote for such voters) as well as other voters with low mobility⁵⁹.

On 9 October 2020, the Cabinet of Ministers of Ukraine approved a resolution on accessibility for persons with disabilities and other low-mobility groups to premises provided for polling⁶⁰.

In order to ensure equal access to the election process for all participants and at all stages, the CEC decided that information posters should contain (in the lower right corner) a matrix two-dimensional QR-code for the transition from mobile devices to available formats of posters for people with disabilities, providing translation of the information displayed on the poster into Ukrainian sign language, reproduction of information in audio format and a special text digital format accessible to the visually impaired. Such measures are innovative and very positive.

However, ENEMO notes from observer reports that election-related premises, including TECs and PECs and state voter registry offices, often remain difficult to access for PWDs, at odds with the CRPwD⁶¹, which was ratified by Ukraine in 2010.

Complaints and Appeals

According to Article 55 of the Constitution everyone is guaranteed the right to challenge in court the decisions, actions, or inactivity of State power, local self-government bodies, officials and officers. The right to seek legal remedy on election related violations is granted to parties (party organizations), candidates and their agents, official observers from a candidate or party (party organization), official observers from local accredited organizations, election commissions and voters when their personal rights are violated. Decisions, actions, or inactions relating to the election process may be contested by filing a complaint to a court or to an election commission.⁶²

Election related complaints submitted to the court should be carried out in accordance with the Code of Administrative Adjudication, while complaints submitted to the election administration must be carried out in accordance with procedures established by the Election Code. In line with international standards, potential parallel complaints system is limited, as the court with which a lawsuit has been filed should immediately notify the respective election commission, a higher-level election commission, the CEC or

⁵⁹ Article 247; Paragraph 2 subparagraph 7 of the Election Code;

⁶⁰ www.kmu.gov.ua/news/uryad-zatverdiv-kriteriyi-dostupnosti-viborchih-dilnic-dlya-malomobilnih-grup-naselennya

⁶¹ 2006 UN Convention on the Rights of Persons with Disabilities: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

⁶² Article 63, paragraph 1 of the Election Code of Ukraine

the SRV. If the same complaint is submitted to the election commission, the respective commission should terminate consideration of the complaint⁶³.

According to the new Election Code the jurisdiction of election administration over the resolution of election complaints has been limited, as the election commissions only have the right to consider complaints submitted against lower-level commissions and their members.

From the beginning of the election campaign on 5 September 2020 up to 23 October 2020, the CEC received 9,610 applications/information requests, among them were 297 complaints related to the electoral process.

ENEMO notes that the CEC only publishes resolutions concerning the complaints which are subject to collective consideration of the commission. Thus information about rejected complaints or complaints returned to the complainants are not publicly available, creating a lack of transparency in the process. The election administration does not provide a publicly accessible register of complaints filed with commissions, which limits the transparency of the complaints adjudication process.

The Administrative Court of Cassation considers lawsuits against CEC decisions, actions or inactions related to the establishment of the election results. Its decisions are final and cannot be further challenged, while local court decisions and decisions delivered by local administrative courts can be challenged with higher instance courts.

Information about court decisions related to electoral cases is published on the State Registry of Court Decisions. As of October 22, there were over 300 cases related to registration of candidates/local party lists on the registry. In some cases, non-uniform approaches of the courts related to application of gender quota requirements to the political party lists were observed.⁶⁴ Practice regarding the consideration of cases related to the parties' compliance with the gender quota is different and the decisions of the courts in similar cases may differ. In some cases the court agreed with political parties' arguments about technical errors in compiling lists and canceled TEC decisions to deny registration, while in others took the opposite position and ruled that election commissions' non-registration of party lists were legal.

It is also worth noting that some election commissions refused to comply with court decisions and refused to take appropriate decisions⁶⁵.

⁶³ Article 63, paragraph 4, 5, of the Election Code of Ukraine

⁶⁴ Parties non-compliance with gender quota requirements was the reason for refusing to register the electoral list of the party European Solidarity in the election of deputies to the Kremenchug City Council. However, following the decisions of the Poltava District Administrative Court and the decisions of the Second Administrative Court of Appeal in Kharkiv the TEC registered the party's electoral list. In Khmelnytskyi region, Shepetivka TEC refused to register the electoral list of the party Our Land, due to non-compliance with the gender quota, but the list was registered after the decision of the Khmelnytskyi District Administrative [Court](#). In Donetsk region, on 6 October, the Third Administrative Court of Appeal overturned a decision of Berdyansk TEC to register candidates for City Council deputies from the party "For the Future" due to non-compliance with [gender quotas](#). In Kyiv, Kyiv District Administrative Court canceled the registration of the electoral list of the party "Fatherland to the Obukhiv City Council due to non-compliance with the gender quota.

⁶⁵ For example, Kremenchug City TEC decision was cancelled twice by the Court. However the TEC did not register the European Solidarity party list for not meeting legal requirements for gender quota (Article 219.9) and minimum number of five candidates required for each territorial candidate list (Article 219.5). Moreover, the TEC was dismissed in Tairovskaya settlement by the CEC, as the TEC refused to enforce the court decision to register a candidate from the party Trust in Deeds..

Several cases were submitted to the courts against the TEC's decisions refusing registration of candidates due to insignificant technical errors and deficiencies in the documents. The court found this a technical error and ordered the registration of candidates⁶⁶.

Administrative and Criminal offences

Administrative offenses are considered by the courts based on the information provided by police, electoral subjects, the National Broadcasting Council, and other authorized public bodies. Criminal offenses should be reported to the police. Respective law enforcement agencies undertake investigation, while local courts consider criminal cases.

The Election Code provides transparency mechanisms for administrative and criminal offences that according to Ukrainian legislation are directed to the Police⁶⁷. Since the beginning of the election campaign the police received 7,048 complaints about violation of electoral legislation. Among them the police drew up 1,581 administrative protocols and initiated 556 criminal investigations. It should be noted that the majority of the cases are still pending because police did not find sufficient evidence, or no signs of offences were revealed⁶⁸.

Election Day

ENEMO did not conduct a systematic observation throughout the country on Election Day, as the mission did not deploy short-term observers (STOs) due to the context of the Covid-19 pandemic. However, the mission's 48 virtual LTOs conducted remote online observation of the polling process. LTOs followed publicly available sources and spoke online with a number of interlocutors taking part in the electoral process (including EMBs, local observers, parties, candidates, media, police and courts). Additionally, a number of Core Team members visited a few polling stations in Kyiv to observe the voting process.

Election Day was generally assessed as calm and peaceful, although media and observers reported on some allegations and violations in certain localities⁶⁹, and the environment on the day of voting was considerably affected by the COVID-19 context. Management of the process at the polls was assessed positively overall by interlocutors of the mission as well as by ENEMO observers⁷⁰. However, it appears

⁶⁶ For example, September 28, 2020, the court satisfied the application of Rivne Regional Territorial Organization of Voice political party to Zdolbuniv Town TEC of the Rivne District, to declare illegal and cancel the TEC decision to refuse to register Zdolbuniv City Council candidates due to the fact that the Party's election program contained more than 4,000 characters.

⁶⁷ The Election Code defines that the day before the Election day, the National Police should publish preliminary information on the number of registered violations during the respective election process within ten days after the day of voting.

⁶⁸ The majority of complaints were reported to the police in city Kyiv (800), Kyiv region (660), Lviv region (484), Dnipropetrovsk region (421), Donetsk region (425), Odessa region (427), Zaporizhia region (294), Zakarpattia region (260), Kherson region (202), Kirovohrad region (232), Poltava region (220), Rivne region (210), Kharkiv region (260), Cherkasy region (185), Chernivtsi region (164), Mykolaiv region (206), Luhansk region (166), Chernihiv region (135), Ivano-Frankivsk region (127), Sumy region (145), Vinnytsia region (143), Ternopil region (131), Volyn region (110), Zhytomyr region (86), Khmelnytskyi region (80) and in National police of Ukraine (7).

⁶⁹ In total, 70 incidents were reported to LTOs by interlocutors during E-Day.

⁷⁰ In some cases however, lack of election material was reported (insufficient number of ballot papers, copies of protocols, ballot boxes, polling booths and informative posters). Regarding incidents and violations in general, the police were generally informed in a timely manner on irregularities, and cases investigated.

that COVID-19 prevention measures were followed with a considerable degree of variation and with uneven levels of preparedness and equipment⁷¹.

At some polling stations observed in Kyiv, a considerable number of voters were not properly folding their ballot papers upon casting them in the ballot box, possibly due to the sheer size of the ballot, therefore rendering their marked ballot somewhat visible.

Several allegations of vote-buying and intimidation of voters were reported by media sources and domestic observers⁷², with concerns reinforced by the fact that voters were reportedly taking pictures of their ballots in several polling stations. Several cases of organized transportation of voters were mentioned to ENEMO observers⁷³. A number of political parties were reported campaigning on Election Day, including on social media.

Additionally, domestic observers and media reported a number of incidents throughout the day, including potential cancellation of results due to violation of the secrecy of the vote in some localities, tearing up of ballot papers, voters allowed to vote without proper identification⁷⁴ and illegal election commissions formed as some communities rejected the redrawn administrative boundaries (reported in Sumy and Mykolaiv). Mistakes in the ballots, with candidates not included, were also noted. It should be emphasized that although some of these reported allegations and violations could be significant, complaints on these cases remain to be addressed and will be followed by the mission.

Observers

The rights of domestic and international observers are stated in Articles 58 to 60 of the Electoral Code, and additionally in Article 239. Domestic observers include official observers from candidates and parties that are electoral subjects, and from nongovernmental organizations.

In total, the CEC accredited 116 domestic non-governmental organizations to observe in these elections, including some organizations affiliated to political parties. Concerns should be raised regarding the possibility of politically biased conclusions and observations by NGOs clearly and publicly affiliated to political parties. ENEMO notes that requests for accreditation were rejected for six NGOs. In particular, four NGOs were rejected for not meeting the application deadline, while two NGOs had charters which did not include elections or monitoring electoral processes.

⁷¹ In Kyiv, some but not all polling stations were equipped with electronic thermometers, a special booth for voters with temperature exceeding 37.2 degrees and dedicated ballot box for those voters, while some commission members were equipped with face shields and others only with masks. In the oblasts, ENEMO observers reported a considerable number of technical issues, such as deficiency of protective equipment, long queues and disrespecting of social distance.

⁷² In Chernivtsi, Dnipropetrovsk, Kirovohrad, Kyiv, Odessa and Poltava oblasts.

⁷³ In Chernivtsi, Kharkiv, Khmelnytskyi, Kyiv, Odessa and Zhytomyr oblasts.

⁷⁴ For instance, reported in Kyiv, Lviv, Mykolaiv, Vinnytsia and Zakarpattia oblasts.

The Code enshrines two legal limitations regarding domestic observation groups and their right to observe: formal limitations (only NGOs with involvement in monitoring the election process specified in their charter have the right to observe), and a ban on citizens from aggressor states.

The ban on citizens from aggressor states affects the work of ENEMO, which due to this ban cannot accredit observers with Russian citizenship from its member organization GOLOS⁷⁵. This restriction continues to be at odds with the spirit of Article 8 of the 1990 Copenhagen document, which states that the presence of observers from participating CSCE states, both foreign and domestic, can enhance the electoral process and should be invited from any other CSCE participating state⁷⁶.

In total, the CEC registered 271 international observers from nine organizations⁷⁷. Additionally, 41 international observers were registered from six countries⁷⁸. Possibilities to deploy international election observation missions to Ukraine were considerably limited for these elections due to the COVID-19 pandemic, limiting opportunities to increase the transparency of the process.

⁷⁵ Members of GOLOS as political dissidents and human rights activists face double-discrimination: in their home-country in their struggle with the Russian government on one hand, and cannot be part of ENEMO's IEOM in Ukraine on the other.

⁷⁶ <https://www.osce.org/files/f/documents/9/c/14304.pdf>

⁷⁷ 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

⁷⁸ Slovakia, Hungary, Czech Republic, Germany, Spain, and Kazakhstan.

About ENEMO

ENEMO is an international NGO that represents a network of national nongovernmental civic organizations founded on September 29, 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 international election observation missions 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.