



International expert Center for Electoral Systems

Klumpkestraat 15, 6241 JC Bunde, The Netherlands

Elections Observation Mission

**Ukraine,
Parliamentary Elections, 28 October**

**Preliminary Report
31/08/12 - 25/09/12**

September 25, 2012
Kiev

1. General provisions

Election Monitoring Mission of the International expert Center for Electoral Systems (ICES) accredited by the Central Electoral Commission of Ukraine on August 31 to monitor the elections to the Verkhovna Rada to be held on October 28, 2012.

Expert Center ICES is a public nonprofit organization, founded in 2005, registered by the United Nations and included in the list of international non-governmental organizations endorsing the Declaration of Principles for International Election Observation and the Code of Conduct for International Observers adopted by the UN in 2005 in New York.

Mission of ICES in Ukraine now has 55 registered independent experts from 7 European Union countries, the U.S. and Israel. The mission includes: members of European and national parliaments, lawyers and former diplomats, political analysts, media representatives, and law students.

The group of long-term observers, who have commenced their work, includes eight experts. As a result of long-term observations, the mission plans to present a second interim report on October 26, 2012.

Dr. Alexander Tsinker, ICES president, Knesset member of XV convocation, heads the mission. Funding of the mission is provided by the ICES Center as a part of its work on "Monitoring the process of democratization in the post-Soviet space."

In the first phase, the ICES mission conducted research and analysis of the Election Law of Ukraine, the current electoral system of parliamentary elections, the pre-elections tensions in the country and the work of Ukrainian electronic media, and the analysis of the CEC work in preparation for conducting the elections.

2. The Ukrainian Election Law

The new Ukrainian Parliamentary Election Law, adopted in 2011, contains the basic elements necessary for a democratic electoral process, and generally allows organizing of a free voting and fair vote counting.

As a positive factor in the stabilization of electoral legislation in Ukraine, the ICES mission notes that, following the approval in 2011 of a new Election Law, which was jointly adopted by the coalition and the opposition, in 2012, no changes were made to the Law, despite the fact that such attempts have repeatedly been made by both the



coalition and opposition parties.

The positive innovations include the provision for the mass media to have free access to all public events related to the elections, as well as restricting the right to exclude members of the electoral commissions.

At the same time, the mission notes a number of shortcomings and comments on some points of the Election Law. For example, the current law does not stipulate clear criteria and terms for determining the boundaries of electoral districts; and there is some criticism of the article of law describing the procedure for challenging the election results.

A detailed analysis of provisions of the Ukrainian Parliamentary Election Law will be presented in the final report of the ICES mission after the completion of the election process.

3. The electoral system of parliamentary elections

In accordance with the new Ukrainian Parliamentary Election Law, the upcoming parliamentary elections adopt a mixed proportional-majority system, under which 50% of the parliament will be elected by proportional representation in multi-member constituencies using the lists of candidates from political parties. Another 50% will be elected by the majority system of relative majority in single-member constituencies.

The advantages of the mixed system should be noted, namely that under this model the voting majority and proportional electoral systems complement each other, one system's deficiencies are neutralized by the merits of the other, and together they contribute to the most effective and complete account of the interests of all constituents.

The mission experts hope that in the upcoming parliamentary elections in single-member constituencies the organizers of the election process will be able to minimize the frequent in the post-soviet countries interference of administrative apparatus into the nomination process and the organization of the election process.

In theory, mixed electoral system adopted in Ukraine is quite adequate. It fully meets the need of presence in the parliament of not only representatives of the major political parties, but also of a variety of small groups and bright individuals who do not belong to any political or party structures.

4. Political tensions in the country

The mission observers have expressed concern about the "increasing polarization" of Ukrainian society on the eve of the parliamentary elections. We call on all parties and candidates to show more responsibility in their election activities, promote the



establishment of a peaceful and friendly atmosphere in the election and not to make premature conclusions about the democratic extent of the elections.

The opposition should refrain from actions or statements that could cause an escalation of the already tense situation and sow doubts about the election results, and the authorities have the responsibility to ensure the equal application of the law and punishment of the perpetrators who break the law.

All participants in the electoral process must already at the pre-election stage declare their readiness to conduct a fair and transparent election campaign, and, subject to a fair election, to recognize its results, regardless of whether or not they have achieved the anticipated results. This is the essence of democracy.

We think that the decision to use video cameras during the parliamentary elections, voting and counting of votes will allow significantly reducing fraud attempts and increasing observers' control over the events. The ability to follow a live broadcast of the events at the polling station will enhance public confidence in the election process and will benefit the transparent and fair elections.

The mission observers noted the fact that, in contrast to the participants in the electoral process, the population of Ukraine at this stage, for the most part, treats the election calmly. Most voters are not only ready to vote, but already decided on their sympathies, reflecting the maturity of the Ukrainian society.

5. Analysis of the electronic mass media

The study of participants of the Ukrainian information space showed the presence of a large number of popular electronic media and their political multi-directionality.

The analysis of the state of Ukrainian electronic media revealed several negative trends, which include: a relatively high degree of media bias, the increasing number of violations of journalists' rights and legal claims against the media, and the presence of the instances of pressure applied against journalists, especially at the local level.

In the process of covering of the election campaign, many media outlets, rather than providing an objective assessment of the parties and candidates, try to take part in the campaigning of a political party, especially in discrediting opponents with negative articles about them.

However, despite the marked negative trends, the presence of polar points of view, and the opposing media, ordinary voter has the opportunity to learn about a full range of opinions and assessments pertaining to all parties and candidates, which preserves the freedom of expression, pluralism and democratic process in the coverage of the electoral process.



6. The work of CEC

The Central Election Commission of Ukraine, formed of representatives of the various political forces who are under tremendous pressure from the opposing sides, pursues an independent policy, respecting schedules and stages of the electoral process in strict accordance with the election law, which may be indicative of the professionalism of the CEC members.

Despite the large number of charges against CEC in regard to non-transparent formation of district election commissions, the mission finds that the process was conducted in full compliance with the election law. In addition, this section allows for participation in the district commissions of the representatives of new non-parliamentary parties, whereas in some European countries seats in such commissions are distributed only among the parliamentary parties of the current parliament.

The mission hopes that in the future, the Central Election Commission will comply with all provisions of the parliamentary election law and the earlier decisions and instructions of the CEC.

Worthy of note is CEC's traditionally productive cooperation with foreign observer missions. All of the issues that we have raised since the time of our mission's registration have been addressed in a timely fashion, and the CEC staff are providing to us the comprehensive assistance and advice whenever it is needed.

In Ukraine, as in most countries of the former Soviet Union, one observes same practical problems of maintaining the voters list up to date and, as a consequence, the problem of trust in the correctness of these lists. Maintaining the accessibility of the electoral rolls and comprehensive control of the voting process by the observers can rectify the inaccuracies of the list and prevent a breach of the law.

7. Summary and conclusions

The mission of the International Expert Center for Election Systems (ICES), having noted the increased societal anxiety that is being escalated by participants of the electoral process, as a whole assesses the preparation and organization of the pre-election period as adequate:

- The legal framework of elections in Ukraine for the most part matches international democratic norms. Election law, despite a few concerns and required improvements, adequately describes all of the election procedures of the electoral process. Strict compliance with provisions of the law can ensure the transparency of the vote of the citizens of the country.



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- The Central Election Commission of Ukraine, formed of representatives of the various political forces and being under strong pressure from the opposing sides, pursues an independent policy, respecting schedules and stages of the electoral process in accordance with the election law, which may be indicative of the professionalism of the CEC members.
- Active struggle between party headquarters gives competitive nature to the election campaign, preserving the intrigue of the outcome of elections to the Verkhovna Rada, which is one of the indicators of the development of civil society in Ukraine.
- The mission calls on the opposition to refrain from actions or statements that could cause further escalation of the already tense situation and cast doubt on the results of the elections, and on the government—to increase the responsibility for ensuring the equal application of the law and due punishment of those who break the law.
- The mission believes that the decision to use video cameras during the parliamentary elections, voting and counting of votes will allow significantly reducing fraud attempts and increasing observers' control over the events in the polling stations.
- The mission believes that all participants in the electoral process must already at the pre-election stage declare their readiness to conduct a fair and transparent election campaign, and, subject to a fair election, to recognize its results, regardless of whether or not they have achieved the anticipated results. This is the essence of democracy.
- The mission hopes that the rest of the pre-election period, the election day and election count will be held in the country within the legal framework without the aggravation of the situation, and the election itself will meet international standards.
- The final evaluation and conclusions of the mission on the democratic nature of the parliamentary elections will be made only upon completion of the election process.

Reports are available in the English and Russian languages, each of which is an official document.