

INTERIM REPORT
19 September–7 October 2014

10 October 2014

I. EXECUTIVE SUMMARY

- President Petro Poroshenko on 26 August called early parliamentary elections for 26 October. The elections will be held under a mixed parallel proportional-majoritarian system, with 225 members of parliament (MPs) elected from closed party lists in one nationwide constituency, and the remaining MPs elected in single-mandate election districts.
- No elections will take place on the Crimean peninsula, as it is not under the control of the Ukrainian authorities, while they are unlikely to be held in more than half of the election districts in Donetsk and Luhansk regions (*oblasts*) due to the hostile security environment in these areas, where illegal armed groups are operating. This will affect the participation in the election of a large part of Ukraine's population, including native Russian speakers, as well as the Crimean Tatar minority and other residents of Crimea.
- The Central Election Commission (CEC) has registered 29 party lists for the proportional component of the elections, and 3,487 candidates running in single-mandate districts. A relatively high number of nominations were rejected on formal grounds.
- The electoral legal framework was amended in late 2013 and early 2014. The amendments resulted in some improvements but did not address a number of concerns noted previously. Despite strong public demand, the outgoing parliament did not pass a comprehensive electoral reform package.
- The CEC is holding regular, open sessions and has thus far met all legal deadlines. The CEC formed 213 District Election Commissions (DECs), which will form around 32,000 Precinct Election Commissions (PECs). According to the CEC, only about one half of the DECs in Donetsk and Luhansk *oblasts* are currently fully or partly functional.
- Some 35.9 million voters are registered for these elections. Voters from the Crimean peninsula can temporarily transfer their voting address to other parts of the country under simplified procedures; the CEC adopted similar provisions for voters from Donetsk and Luhansk *oblasts*.
- The campaign was visible during the reporting period, and freedom of assembly has been largely respected. However, a number of cases of physical assaults on individuals associated with the previous regime, including candidates and election commissioners, has overshadowed a thus far largely peaceful campaign.
- The media legislation generally provides a sound framework for freedom of the media, but the increasing concentration of media ownership may affect pluralism and foster a political polarization of media reporting. The election law provides for equal conditions for contestants, including free airtime on state broadcast media. In a positive development, state television will host debates among representatives of the parties running in the elections.

- Courts have received a relatively high number of complaints and appeals related to the parliamentary elections, mainly concerning candidate registration. The CEC has thus far received 35 complaints; none of these have been considered in a formal CEC session.
- The OSCE/ODIHR EOM opened in Kyiv on 19 September, with a 17-member core team and 80 long-term observers who are deployed to 23 locations throughout the country.

II. INTRODUCTION

The President of Ukraine, Petro Poroshenko, on 26 August 2014 called early parliamentary elections for 26 October.¹ Following an invitation from the Ministry of Foreign Affairs of Ukraine, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 19 September. The EOM, led by Tana de Zulueta, consists of a 17-member core team based in Kyiv and 80 long-term observers (LTOs) who were deployed on 27–28 September to 23 locations around the country. The OSCE/ODIHR EOM is drawn from 24 OSCE participating States. Participating States have been requested to second 600 short-term observers to observe voting, counting, and tabulation of results.

III. BACKGROUND

The 2014 early parliamentary elections are taking place in a challenging political and security environment. Since the early presidential election in May, the escalation of use of violence in the eastern part of the country intensified, culminating with the loss of government control to illegal armed groups over parts of Donetsk and Luhansk regions (*oblasts*). After a ceasefire agreement and subsequent implementation memorandum signed in Minsk on 5 and 19 September, respectively, the level of violence subsided, but elections are unlikely to be held in more than half of the election districts in these two *oblasts*.² No voting will take place on the Crimean peninsula, which was annexed by the Russian Federation in March.³

Recent events have transformed the country's political landscape considerably compared to the 2012 parliamentary elections. The previously victorious Party of Regions (PoR) did not register a party list for these elections, with some of its members competing in single-mandate districts or standing as self-nominated candidates.⁴ Candidates of the United Democratic Alliance for Reform (UDAR), one of five political parties to pass the five per cent threshold in 2012, will compete as part of the Petro Poroshenko Bloc (PPB) party, the successor of the All-Ukrainian Union Solidarity. Meanwhile, proceedings to ban the Communist Party of Ukraine (CPU) were initiated by the Ministry of Justice on 8 July.⁵ Other prominent party contenders, including several that were newly registered, include All-Ukrainian Union – *Batkivshchyna* and its splinter People's Front (PF), the Radical Party of Oleh

¹ President Poroshenko dissolved parliament after no governing coalition emerged for more than 30 days. On 24 July, the Ukrainian Democratic Alliance for Reforms (UDAR) and *Svoboda* factions along with 20 independent members of parliament (MPs) left the government coalition to allow for a dissolution of parliament.

² On 16 September, parliament passed a law awarding 'special status' to territories outside government control in Donetsk and Luhansk *oblasts*. This law has yet to be promulgated by the president.

³ A so-called 'referendum' on the Crimean peninsula on 16 March, in breach of Ukraine's Constitution, was followed by decisions of the two chambers of the Russian parliament to include Crimea and the city of Sevastopol as federal subjects of the Russian Federation. See the European Commission for Democracy through Law (Venice Commission) Opinion No. 762/2014, adopted on 21 March 2014. The opinion is available at: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)002-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)002-e).

⁴ Some former PoR members are running as part of lists or as single-mandate constituency candidates nominated by other parties, including the Opposition Bloc (OB) and Strong Ukraine (SU) parties.

⁵ The case is currently pending with the Kyiv District Administrative Court.

Lyashko (RP) and Civil Position (CP).⁶ Among the candidates, many new individuals are competing for votes, including civil society activists, journalists, as well as commanders of volunteer battalions involved in the fighting in the east.

IV. THE LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The conduct of parliamentary elections is primarily regulated by the Constitution and Law on the Election of People's Deputies (hereinafter, election law). The legal framework for elections also comprises the Law on the Central Election Commission, the Law on the State Voter Register, the Law on Political Parties, the Code of Administrative Proceedings, other laws, as well as regulations of the Central Election Commission (CEC). Despite long-standing OSCE/ODIHR recommendations, there has been no consolidation and harmonization of the electoral legislation.

In February 2014, parliament voted to restore the 2004 amendments to the Constitution which had been found unconstitutional by the Constitutional Court in 2010 on procedural grounds. The restoration of the 2004 amendments strengthened the powers of parliament versus the president. The electoral legislation was amended in 2013, as well as in early 2014.⁷ The amendments provided for substantial changes and resulted in some improvements but did not address a number of concerns noted previously. These concerns include, among others, limitations on candidacy rights for those with a criminal record, the five-year residency requirement, the lack of provisions allowing for party blocs, and the lack of pluralism in the election administration due the existing formula for the composition of DEC's and PEC's.⁸ Despite strong public demand, the outgoing parliament did not pass a comprehensive electoral reform package by the time these elections were called.

Parliament is elected for a five-year term, on the basis of universal, equal and direct suffrage, by secret ballot. The electoral system is a mixed parallel proportional-majoritarian one. One half of the 450-member parliament is elected on the basis of proportional representation with closed party lists in one single nationwide constituency. Political parties must receive at least five per cent of all votes cast in order to participate in the distribution of mandates in the proportional system; electoral blocs are not allowed. The remaining MPs are elected in single-mandate districts, under a plurality system (first past the post).

The right to be elected is subject to a five-year residency requirement. The law also imposes a restriction on candidacy rights based on prior criminal conviction, irrespective of the severity of the crime committed. Following the reinstatement of the 2004 constitutional amendments, MPs will lose their mandate if they fail to join or remain in the parliamentary faction of the political party for which they were elected.

V. THE ELECTION ADMINISTRATION

Parliamentary elections are administered by a three-level system of election commissions: the CEC, 225 District Election Commissions (DECs) in as many single-mandate districts, and some 32,000

⁶ Other prominent contestants include Self-Reliance (*Samopomich*), SU, *Svoboda*, CPU, OB, and Right Sector (RS).

⁷ The 2014 amendments were mainly adopted in order to facilitate the simultaneous conduct of the May presidential election with a parliamentary by-election in one single-mandate district.

⁸ See the Joint Opinions of the OSCE/ODIHR and the Venice Commission on draft amendments to legislation on parliamentary elections of 17 June 2013, available at: <http://www.osce.org/odihr/elections/102816?download=true>, and of 14 October 2013, <http://www.osce.org/odihr/elections/107085?download=true>.

Precinct Election Commissions (PECs).⁹ The CEC is a permanent body with the responsibility, among other things, to ensure the implementation and protection of citizens' electoral rights. Its 15 members are appointed for a seven-year term of office by parliament, on the proposal of the president. Most of the current CEC members were appointed in June 2007.¹⁰

The CEC has been holding regular, open sessions which are attended by observers, media and candidate representatives. However, the CEC routinely holds pre-session meetings behind closed doors, leaving most open sessions without any substantial discussion, which decreases the transparency of the CEC's activities.¹¹ In addition, observers are usually not provided with any draft decisions or other materials, apart from the session agenda. Since the publication on 27 August of the presidential decree calling the elections, the CEC has passed 656 resolutions, which are published on its website. Most CEC resolutions are adopted unanimously. Despite the limited timeframe and challenging political context, the CEC has thus far respected all legal deadlines. The CEC informed the OSCE/ODIHR EOM that the necessary funds for these elections were allocated by the government, albeit with a considerable delay.¹²

On 5 September, the CEC formed 213 DEC's, based on nominations from political parties participating in the proportional component of the elections.¹³ Parties represented by a faction in parliament are guaranteed representation in DEC's. The remaining seats (DEC's have between 12 and 18 members) were filled by lottery, from among nominees of eligible parties. The DEC chairpersons, deputy chairpersons and secretaries (so-called executive positions) are assigned based on each party's proportional share of the total, nationwide DEC membership. The initial appointment of DEC members was followed by a relatively high number of replacements, including of members in executive positions. Since 9 September, 1,357 of the 3,804 DEC members (35 per cent) have been replaced.¹⁴ The International Foundation for Electoral Systems (IFES) conducted training for DEC members from 1 to 3 October. OSCE/ODIHR EOM LTOs observed training in 58 DEC's and in general assessed it positively. OSCE/ODIHR EOM LTOs have thus far visited 102 DEC's, of which only few expressed major impediments to their work.¹⁵

Women are well-represented at the DEC level, where they account for 54 per cent of all members. As of 1 October, 97 DEC's are chaired by women, while there are 108 female deputy chairpersons and 137 secretaries. In the CEC, 5 of the 15 members, including one of the two deputy chairpersons and the secretary, are women.

According to the CEC, of the total of 32 DEC's established in Donetsk and Luhansk *oblasts*, only 17 are fully or partly operational. The hostile security environment in these parts of the two *oblasts*, where illegal armed groups are operating, has negatively affected electoral preparations in a relatively high number of electoral districts there. In an effort to facilitate their work, the offices of several

⁹ The number of PECs for the 2014 early parliamentary elections may change due to the situation in Donetsk and Luhansk *oblasts*. According to Article 96.11 of the election law, a DEC is obliged to establish election results regardless of the number of precincts declared invalid.

¹⁰ An amendment to the Law on the CEC promulgated on 13 March enables CEC members to continue to fulfill their functions after the seventh year of their appointment.

¹¹ The Law on the CEC stipulates that the commission must act in an open and public manner. Observers, party and candidate proxies can participate in discussions on all issues related to the elections. The OSCE/ODIHR EOM was thus far allowed to observe three pre-session meetings.

¹² The CEC on 28 August requested some UAH (Ukrainian *hryvnia*) 980 million (approximately EUR 55 million). On 8 September, the Cabinet of Ministers decided to allocate some UAH 957 million for these elections.

¹³ No DEC's were formed for the 10 election districts located in the Autonomous Republic of Crimea and the 2 election districts located in the city of Sevastopol, where the elections will not be conducted.

¹⁴ According to CEC Resolutions No. 884, 906, 918, 932, 950, 966, 980, 1008, 1045, 1079, 1112, 1133, 1167, 1222, 1260, 1297, 1348, 1401, 1423 and 1467.

¹⁵ These were mainly related to lack of time, resources and funding.

DECs were moved to government-controlled areas within these *oblasts*.¹⁶ Nevertheless, in view of the security situation in the east of the country, it is unclear how many of the currently functional DECs will be able to continue their work.

PECs for regular and special polling stations, as well as for polling stations abroad, should be formed no later than 10 October. In ‘exceptional cases’ the CEC may form special PECs for specific categories of voters up to ten days before election day.

VI. VOTER REGISTRATION

Voters are registered automatically in the centralized State Voter Register (SVR). The CEC supervises the central SVR office, 27 Registration Administration Bodies (RABs) and 756 Register Maintenance Bodies (RMBs), which continuously update and maintain the SVR.¹⁷ According to the CEC, as of 2 October, 35,852,015 voters were registered to vote. Some 660,616 homebound voters were registered to vote at their place of stay, and 465,718 voters were registered to vote abroad.

Voter lists are extracted from the SVR and compiled separately for each polling station. Preliminary voter lists together with voter invitation cards are to be delivered to the respective PECs no later than 14 October.¹⁸ PECs should post voter lists for public scrutiny the day after they receive them, in order to allow voters to verify their records and request amendments if necessary. Political parties represented by a faction in parliament are entitled to electronic copies of the entire voter register.

The election law allows all eligible voters to change, on a temporary basis, their voting address.¹⁹ As of 2 October, 2,816 requests for temporary transfers of voting addresses were filed. Internally displaced persons (IDPs) from Donetsk and Luhansk *oblasts* can utilize this mechanism to participate in upcoming elections.²⁰ On 7 October, the CEC adopted a simplified procedure to facilitate the participation of voters from these two *oblasts*.²¹ Voters from the Crimean peninsula benefit from a simplified procedure under which they can temporarily transfer their voting address based only on the registration stamp in their domestic passports.²²

¹⁶ According to CEC Resolutions No. 1165 of 25 September and No. 1396 of 30 September, DECs 53 and 59 in Donetsk *oblast* and DEC 114 in Luhansk *oblast*, respectively.

¹⁷ Access of the 31 RMBs in the Crimean peninsula to the SVR is blocked as the territory remains occupied. On 15 April, parliament passed the Law on Ensuring the Rights and Freedoms of Citizens and the Legal Order on the Temporary Occupied Territory of Ukraine. According to the law voting will not take place on the Crimean peninsula. Due to the security situation, as of 3 October, 54 of the 65 RMBs in Donetsk and Luhansk *oblasts*, which are responsible for 3.2 million registered voters, were temporarily not working. The 11 RMBs in these two *oblasts* that are currently operational are responsible for some 600,000 registered voters.

¹⁸ On 6 October, the CEC adopted Resolution No. 1494 that allows the CEC to designate specific RMBs to print and hand over voter lists to the PECs in areas where RMBs are not functioning. Voter lists for special polling stations are to be delivered to PECs seven days before election day.

¹⁹ Such voters have to justify their requests. Voters who would like to temporarily transfer their voting address outside their respective single-mandate constituency are only entitled to the proportional ballot.

²⁰ As of 2 October, 76 voters from these areas had filed such requests.

²¹ According to CEC Resolution No. 1529 of 7 October, voters from Donetsk and Luhansk *oblasts* do not need any justification when requesting temporary changes of their voting address. On 6 October, the CEC adopted Resolution No. 1495 that allows any RMB to enter changes to the voter registration records of residents of Donetsk and Luhansk *oblasts* where RMBs are not functioning.

²² On 29 April, the CEC adopted Resolution No. 415 that allows any RMB to enter changes to the voter registration records of residents of the Autonomous Republic of Crimea and the city of Sevastopol, where RMBs are not functioning, thus enabling these citizens to temporarily change their voting address.

VII. CANDIDATE REGISTRATION

Candidate nomination lasted from 28 August to 25 September. Candidates could be nominated by political parties or through self-nomination. Parties are entitled to put forward electoral lists of no more than 225 candidates for the nationwide election district and one candidate in each single-mandate district. Non-party candidates could nominate themselves in single-mandate districts. A person could be nominated either on a party list or in one single-mandate district, but not both.

For registration of a party's candidate list or candidates in single-mandate districts, a financial deposit and a variety of documentation is required.²³ The CEC has to decide on the registration within five days of receiving a nomination; a very short time period to process more than 7,000 requests. A total of 6,607 candidates were registered; of these, 3,120 are running on 29 party lists in the nationwide election district and 3,487 are running in single-mandate districts.²⁴ The CEC adopted 216 resolutions on the rejection of a total of 811 candidates, out of whom around 150 were ultimately registered.²⁵

Equal rights between men and women, including in public and political life, are guaranteed by the Constitution and are further protected by the election law and the Law on Ensuring Equal Rights and Opportunities of Women and Men.²⁶ However, the level of women's representation remains low. Women held only 9.4 per cent of the seats in the outgoing parliament, against an OSCE average of 25 per cent. Women constitute more than a quarter of party list candidates,²⁷ however they account for less than 13 per cent of the single-mandate candidates.

VIII. CAMPAIGN ENVIRONMENT AND CAMPAIGN FINANCING

According to the election law, parties and candidates may begin campaigning once they have been formally registered by the CEC. However, campaign materials were displayed prior to the registration of parties and candidates, some featuring typographical design associated with a number of leading party contenders but not the actual party name. The law requires that equal conditions be provided for all contestants, including access to campaign venues and advertising space.

The campaign was visible during the reporting period. Billboards, banners and posters can be seen across Kyiv and in other urban centres, as well as along major roads.²⁸ Several political parties informed the OSCE/ODIHR EOM of their plans to purchase airtime on TV and radio, while many are also making ample use of social media to reach out to the electorate. Most are planning to organize

²³ Including a decision of the party on the nomination of candidates (for party-nominated candidates only); autobiographies of the candidate(s) with detailed personal information; a statement from each candidate consenting to terminate any activities incompatible with an MP's mandate if elected; and a document certifying payment of the electoral deposit.

²⁴ Forty-three parties registered candidates in single-mandate constituencies. For a full list of contestants, see: <http://www.cvk.gov.ua/pls/vnd2014/wp501?PT001F01=910>.

²⁵ Around 600 rejections were made due to missing data in autobiographies or incompatibility statements, or other minor technical mistakes and omissions. The CEC considered any incomplete documents required by law as not having been filed and therefore rejected the candidates for the omission of documents.

²⁶ According to Article 15 of the Law on Ensuring Equal Rights and Opportunities of Women and Men, political parties shall provide for the representation of women and men on their candidate lists for the national multi-mandate constituency. In 2013, an amendment to the Law on Political Parties was passed which stipulates that a 30 per cent quota requirement for either gender on electoral lists be written into party statutes. However, there are no mechanisms to sanction parties whose candidate lists do not meet this requirement.

²⁷ Some parties have placed women in prominent positions on their lists. For example, among the top 10 candidates, *Samopomich* included 5 women; PPB, *Batkivshchyna* and the People's Front included 3 women; and Strong Ukraine and the Opposition Bloc included 2 women.

²⁸ Most visible are the materials of *Batkivshchyna*, PF, PPB, CP, SU, *Samopomich* and RP. In general, materials of candidates contesting the single-mandate district elections are less visible.

rallies or smaller events, and many have set up campaign tents to distribute fliers and party newspapers to voters. Campaign messages are focused on issues of sovereignty, stability and national unity, as well as devolution/decentralization and ‘special status’ for the territories in the east. Other topics include reforms of the economy, the electoral system and the armed forces, the fight against corruption and oligarchy, lustration, as well as the recently signed EU Association Agreement and relations with NATO and the Russian Federation. Military themes feature prominently in the campaign materials and messages of some parties.

Several interlocutors raised concerns about, and media reported on, irregularities such as vote-buying and the misuse of administrative resources during the election campaign.²⁹ Some associate these problems with the continued use of a mixed parallel electoral system, which enjoys only limited confidence among stakeholders.

Freedom of assembly has been generally respected during the reporting period.³⁰ The OSCE/ODIHR EOM has to date observed 19 rallies. While these events were peaceful, the start of the campaign coincided with a surge of physical assaults on individuals associated with the former government, including candidates and other election stakeholders.³¹ In many instances, targets are thrown into trash bins, with several enduring other forms of humiliation meant to supplant an official lustration process that has been mooted. Newspaper reports suggest that some candidates expressed support for these events, which serve to intimidate and potentially restrict the freedom to campaign. Some of these incidents have taken place in plain view of uniformed police and in many cases video recordings have been uploaded on the internet. Moreover, on several occasions the campaign rhetoric has featured violent themes or strong verbal attacks on competitors, further aggravating the already sensitive campaign environment.³² Several OSCE/ODIHR LTO teams reported instances of campaign materials being defaced in some cities.³³

Recent amendments to the election law introduced limited additional measures to increase the transparency of campaign finances. The law stipulates that parties with candidate lists and majoritarian candidates must establish electoral funds from which all campaign expenses must be paid directly by bank transfer. The size of an electoral fund for a party with a candidate list may not exceed 90,000 minimum salaries (some UAH 112.5 million or less than EUR 7 million), while for a majoritarian candidate it may not exceed 4,000 minimum salaries (some UAH 5 million or just over

²⁹ For instance, OSCE/ODIHR EOM LTOs reported on three cases of alleged bribery in Kharkov *oblast*, including one case currently being investigated by the police. Allegations of bribery or vote-buying were made to LTOs in Ivano-Frankivsk, Mykolaiv, Kirovohrad, Cherkasy and Rivne *oblasts*.

³⁰ Exceptions have been reported to OSCE/ODIHR LTOs. For instance, the CPU office in Kryvyi Rih was vandalized and materials were destroyed on 25 September; in Dnipropetrovsk, the CPU informed that it could not campaign due to the poor security situation; two RP activists in Zaporizhya were attacked verbally while handing out campaign material. Further cases of election-related violence were reported in the media.

³¹ For instance, on 16 September MP Vitaliy Zhuravskyy was thrown into a bin outside the parliament building as lawmakers debated a lustration law. On 25 September, candidate Viktor Pylypyshyn was attacked in front of the CEC building while trying to submit his nomination documents; he was subsequently able to submit the documents. On 30 September, OB party list candidate Nestor Shufrych was assaulted in front of the regional administration building in Odesa. Similar attacks against current MPs, DEC members, and state or regional administration officials have been reported from Kyiv, Odesa, Ternopil, Zaporizhya, Sumy, Cherkasy, and several other regions.

³² For instance, OSCE/ODIHR EOM LTOs reported such language from Cherkasy during an RP rally on 30 September. On 6 October, media reported that Lyashko threatened [Dnipropetrovsk *oblast* governor] Ihor Kolomoyskyi after accusing the businessman of making false statements about the RP leader’s mother. A number of interlocutors also informed the OSCE/ODIHR EOM about aggressive campaign rhetoric in Kyiv, Ternopil and Zaporizhya *oblasts*.

³³ In the city of Kyiv and from Zhytomyr, Chernivtsi, Vinnytsia, Odesa, Mykolaiv, Cherkasy, Dnipropetrovsk, Sumy, Ivano-Frankivsk and Zaporizhya *oblasts*. In addition, media reported several instances of campaign tents being damaged or vandalized.

EUR 300,000). The source of funds is limited to the party's or candidate's own resources and private donations. Interim financial reports on the receipt and use of funds must be filed no later than 20 days before election day with the CEC by parties, and with DEC's by majoritarian candidates. Final financial reports must be filed with the CEC no later than 15 days after election day by parties, and with DEC's no later than 10 days by majoritarian candidates. The CEC publishes analyses of interim reports no later than 5 days before and final reports no later than 30 days after election day.

IX. THE MEDIA

While there is a wide range of media outlets operating in Ukraine, the lack of autonomy of the media from political or corporate interests and the increasing concentration of media ownership may affect pluralism and foster a political polarization of media reporting, both at the national and regional level. Television remains the main source of information, but Internet sources are increasing their audience and role.

The state-owned television and radio, which includes national, regional and municipal channels, is currently undergoing a transitional period, pending its transformation into a public-service broadcaster.³⁴ In a positive development over the 2012 parliamentary elections, the state-owned television, *First National Channel*, will organize and broadcast debates among representatives of the political parties participating in the proportional component of the elections.³⁵ Nevertheless, shortcomings remain to be addressed; for instance, *First National Channel* does not have full editorial control of externally produced broadcasts.³⁶

The media legislation generally provides a sound framework for freedom of the media. Nonetheless, Ukrainian and Russian media outlets operating in the country are facing restrictions in relation to the ongoing crisis between the two countries.³⁷ Furthermore, journalists' safety remains a major challenge in eastern Ukraine, where journalists are hindered in their work, receive constant threats, and have been abducted and killed.³⁸

The election law provides that both state and private media shall cover the campaign by providing equal conditions to candidates and political parties. Contestants are granted free airtime and print space in state national and regional media; the CEC and DEC's are responsible for the allocation of the free time and space.³⁹ Paid campaign materials are allowed on both state and private media. The National Television and Radio Broadcasting Council is responsible for overseeing compliance of audiovisual media with the election law.

³⁴ The Law on Public Television and Radio Broadcasting of Ukraine was enacted on 13 May 2014, although, due to transitory provisions, it will not be effectively enforced until 2015.

³⁵ Seven debates, each with representatives of four political parties, will take place from 13 to 23 October 2014. All parties except the CPU agreed to participate. On 7 October, *First National Channel* drew a lottery to establish the order of appearance of political parties in these debates.

³⁶ The National TV Company has no control over the talk show *Shuster Live*, produced by the Savik Shuster Studio and broadcast from Monday to Friday during prime time by *First National Channel*.

³⁷ The National Television and Radio Broadcasting Council declared that by 9 September 2014, 15 Russian TV channels were banned from being broadcast on national cable operators. Ukrainian TV channels such as *5 Channel* and *Inter* faced disruption of their activity, due to bomb threats or signal interference.

³⁸ See Statement by Ukrainian and Russian media organizations adopted following a meeting at the Office of the OSCE Representative on Freedom of the Media, available at <http://www.osce.org/fom/124537?download=true>.

³⁹ CEC Resolutions No. 1421 and No. 1422, adopted on 1 October 2014, and No. 1492, adopted on 6 October, define the modalities for allocating free airtime and space in state national and regional media within the limits of the funds allocated from the state budget for the elections.

The OSCE/ODIHR EOM on 26 September commenced a quantitative and qualitative media monitoring of the prime-time broadcasts of six national TV channels and two regional channels.⁴⁰

X. PARTICIPATION OF NATIONAL MINORITIES

According to the 2001 census, 77.8 per cent of citizens of Ukraine are ethnic Ukrainians, 17.3 per cent are ethnic Russians, and the remaining 5 per cent comprise Belarusians, Bulgarians, Crimean Tatars, Jews, Hungarians, Moldovans, Poles, Roma, Romanians, Germans and other small minority groups. Twenty-nine per cent of the population considers Russian as their native language.

The participation in these elections of approximately half of these native Russian speakers residing in Donetsk and Luhansk *oblasts* and the Crimean peninsula,⁴¹ as well as the entire Crimean Tatar minority in Crimea may be diminished severely due to the inability of the Ukrainian authorities to organize elections in the districts where these communities live, caused by the annexation of Crimea and the operating of illegal armed groups in parts of the Eastern regions. Simplified voter registration procedures for Crimean voters are designed to facilitate their involvement, yet still entail travel, risk and expense that may inhibit their participation. Similar procedures that may be adopted by the CEC for voters from Donetsk and Luhansk *oblasts*, IDPs, and for those who have fled to neighboring countries may not be comprehensive or timely enough to ensure their voting rights.⁴²

Several structural aspects of the electoral system do not facilitate national minority representation. The requirement that a political party form its base from two-thirds of the country's *oblasts*, the five per cent threshold for party lists and the lack of legal provisions allowing for election blocs discourage the emergence of national minority parties. At the same time, continuing complaints about the delimitation of electoral districts in areas of concentrated minority settlement also indicate that majoritarian contests may not facilitate minority participation.⁴³ Election legislation does not provide for any special measures promoting national minority representation.

XI. COMPLAINTS AND APPEALS

Electoral complaints and appeals are regulated by the election law and the Code of Administrative Proceedings. All participants in the electoral process are granted the right to submit complaints and appeals, which can be filed either to superior election commissions or to courts. In the event that the same complaint is filed with both the election administration and the judiciary, the election commission is required to suspend consideration of the complaint and the relevant court is required to notify the commission as well as the CEC of its decision. The general deadline for filing complaints, either with courts or commissions, is five days, and two days for the review of complaints.⁴⁴

⁴⁰ The state-owned *First National Channel* and private *Inter*, *5 Channel*, *ICTV*, *1+1* and *TRK Ukraina*, as well as two private regional TV channels, *ZIK TV* (Lviv) and *A/TVK* (Kharkiv).

⁴¹ According to the 2001 census, of the country's 14 million native Russian speakers, approximately 5.4 million live in Donetsk and Luhansk *oblasts*, and 1.9 million live on the Crimean peninsula.

⁴² According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) Situation Report No. 13, as of 26 September, there were 295,156 IDPs in Ukraine, while approximately 341,000 people had fled to neighboring countries. See: <http://reliefweb.int/report/ukraine/ukraine-situation-report-no-13-26-september-2014>.

⁴³ The Cultural Association of Hungarians in Subcarpathia informed the OSCE/ODIHR EOM that they filed a complaint with the CEC and the Kyiv Administrative Court of Appeals on 1 September regarding the delimitation of electoral districts in Zakarpattya *oblast*, where ethnic Hungarians are compactly settled. The Hungarian community raised this issue prior to the 2012 elections when, after the decision to return to a mixed electoral system, electoral boundaries were redrawn in such a way as to make it impossible, in their view, for ethnic Hungarian candidates to secure a majoritarian mandate. Both the CEC and the court rejected the complaint, and the Hungarian community has stated publicly that they will pursue a claim with the European Court of Human Rights.

⁴⁴ Different deadlines apply to complaints filed on election day.

Thirty-five complaints have been filed with the CEC thus far. As acknowledged by the CEC chairperson, none of these were considered in a formal CEC session. Some 235 appeals against CEC decisions were filed with the Kyiv Administrative Court of Appeal, mostly concerning candidate registration. The High Administrative Court received 164 election-related appeals thus far, of which 162 concerned candidate registration. Of these, 70 were reviewed, resulting in 29 decisions being reversed. In several cases, rallies and protests were held during hearings on candidate registration in front of the Kyiv Administrative Court of Appeal, as well as the High Administrative Court. In a meeting with the OSCE/ODIHR EOM, judges stressed that these actions contained threats and constituted pressure on the courts, potentially undermining judicial independence.

XII. CITIZEN AND INTERNATIONAL OBSERVERS

The election law provides for observation of the election process by international and citizen observers, including domestic non-governmental organizations (NGOs) which are registered in accordance with Ukrainian legislation and whose statutory activities include observation and issues related to the electoral process. In total, 37 NGOs were granted permission to have official observers.⁴⁵ Twenty-five NGOs, among them OPORA and the Committee of Voters of Ukraine (CVU), are registered to observe countrywide, while the rest will observe in particular *oblasts*. As of 6 October, the CEC had registered 310 observers from 7 international organizations and 3 embassies. The process of registration of international observers is ongoing.⁴⁶

XIII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM formally opened in Kyiv with a press conference on 19 September 2014. The Head of Mission has met the CEC chairperson, the Deputy Minister of Foreign Affairs, the head of the High Administrative Court, the OSCE Project Co-ordinator in Ukraine, representatives of political parties, and members of the diplomatic community. The EOM has also established regular contacts with the CEC, governmental institutions involved in the election process, political parties and candidates, civil society, the media and the diplomatic community. A first briefing for members of the diplomatic community and international organizations was held on 2 October.

The OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament have announced that they will deploy observer delegations for election-day observation. The OSCE Chairperson-in-Office has appointed Kent Harstedt as Special Co-ordinator and Leader of the short-term OSCE observer mission for these elections.

⁴⁵ The deadline for NGOs to apply to have observers was 5 September. The accreditation of individual citizen observers from these NGOs is done by DEC, no later than five days before election day.

⁴⁶ The deadline for foreign states and international organizations to apply for registration of observers is 18 October.