

**INTERIM REPORT No. 1**  
**20 March–14 April 2014**

**17 April 2014**

**I. EXECUTIVE SUMMARY**

- The parliament of Ukraine on 22 February 2014 voted to call an early presidential election for 25 May. If no candidate wins an absolute majority in the first round, a second round between the top two candidates will be held three weeks later. While interlocutors of the OSCE/ODIHR Election Observation Mission (EOM) have stressed their commitment to ensure that the electoral process meets international standards for democratic elections, they note that the current volatile political and security environment may pose major challenges.
- The Central Election Commission (CEC) registered 23 candidates, among them 3 women. Twenty-three applicants were denied registration due to deficiencies in the submitted documentation, including lack of proof that they had paid the electoral deposit.
- The electoral legal framework has undergone significant and substantive changes in the last two months, in an effort to adjust the timeline for the 25 May election date and to harmonize the various election laws. Legal and civil society experts acknowledged the necessity of amendments, which addressed some outstanding OSCE/ODIHR recommendations and are seen as positive.
- The CEC is holding regular, open sessions and has thus far met all legal deadlines. The CEC has formed 213 District Election Commissions (DECs), which will in turn form some 32,000 Precinct Election Commissions (PECs). No DECs were formed for the Autonomous Republic of Crimea and city of Sevastopol, as they are not under the control of the Ukrainian authorities. It is not yet clear if additional procedures for voters from these territories will be put in place to facilitate the exercise of their voting rights.
- The number of registered voters is around 35.9 million. For the first time in a presidential election, voters are able to check their records online. Voters can request amendments to their records with the Register Maintenance Body at their current residence.
- The election campaign has started slowly and is expected to intensify in May. The campaign environment has been affected by recent political developments, particularly in the east. While the election law includes campaign financing provisions, candidates only have to file financial reports after election day.
- The media legislation generally provides a sound framework for freedom of the media, but recent cases of pressure on media outlets and harassment of journalists raise concern. Concentration of media ownership may affect pluralism and foster a political polarization of media reporting. The presidential election law provides for equal conditions for all candidates in state and private media, including free airtime on state broadcast media.
- No complaints related to the presidential election have been filed with the CEC thus far, and relatively few appeals have been lodged with the administrative courts. Nine of the 23 rejected candidates appealed the CEC decisions in court, in all cases the CEC decisions were upheld. Since

the appointment of the new government, there have been significant legislative developments impacting the judiciary; according to some OSCE/ODIHR EOM interlocutors, these changes might have implications on the election process.

- The OSCE/ODIHR EOM opened in Kyiv on 20 March, with a 21-member core team and 100 long-term observers who are deployed to 26 locations around the country.

## II. INTRODUCTION

The *Verkhovna Rada* (parliament) of Ukraine on 22 February 2014 voted to call an early presidential election for 25 May. Following an invitation from the acting foreign minister of Ukraine, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 20 March. The EOM, led by Tana de Zulueta, consists of a 21-member core team based in Kyiv and 100 long-term observers who were deployed on 29–30 March to 26 locations around the country. Participating States have been requested to second 900 short-term observers to observe voting, counting, and tabulation of results. On 25 May, together with the early presidential election, 275 local elections (for mayor or council) will take place, including for Kyiv city mayor and council. The OSCE/ODIHR EOM will comment on those only to the extent that they impact the presidential election.

## III. BACKGROUND

Mass protests started in November 2013 in Kyiv and other cities in Ukraine as a reaction to the decision of the then leadership not to sign an Association Agreement with the European Union.<sup>1</sup> Following the escalation of violence in January and February 2014, an agreement between the opposition and then President Viktor Yanukovich was signed on 21 February, calling for a government of national unity, the reinstatement of the 2004 Constitution, constitutional reform and an early presidential election. After Mr. Yanukovich fled the country, parliament on 22 February voted to remove him from power and call an early presidential election. Parliament named its newly elected speaker Oleksandr Turchynov as interim president and appointed a new government led by Arseniy Yatsenyuk (both members of the All-Ukrainian Union – *Batkyvshchyna*).

On 6 March, the parliament of the Autonomous Republic of Crimea voted in favor of joining the Russian Federation and called a referendum, which was held on 16 March. The referendum, which the Council of Europe's European Commission for Democracy through Law (Venice Commission) opined was not in line with the Ukrainian Constitution and international standards,<sup>2</sup> was followed by decisions in the Russian parliament to include Crimea and city of Sevastopol as federal subjects of the Russian Federation.<sup>3</sup>

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<sup>1</sup> The political provisions of the Association Agreement between the EU and Ukraine were eventually signed on 21 March.

<sup>2</sup> 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).

<sup>3</sup> The United Nations General Assembly on 27 March adopted a resolution on the territorial integrity of Ukraine, which was supported by 45 OSCE participating States, while 3 voted against. See the resolution and voting results available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/68/262](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/262) and <https://papersmart.unmeetings.org/media2/2498292/voting-record.pdf>. See also the Council of Europe Committee of Ministers' decision of 3 April: [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/Dec\(2014\)1196/1.8&Language=lanEnglish&Site=CM&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/Dec(2014)1196/1.8&Language=lanEnglish&Site=CM&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864), and the Parliamentary Assembly of the Council of Europe's resolution 1988(2014): <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=20873&lang=EN>.

As of early April, several groups initiated protests in the eastern and southern parts of the country,<sup>4</sup> calling for closer ties with or joining Russia, or for more decentralized government. In a number of cities in eastern Ukraine, including Donetsk and Luhansk, buildings of the public administration and of security forces were occupied by unidentified armed people.

The early presidential election is viewed by the Ukrainian authorities and numerous international actors as an important step towards the stabilization of the country. While interlocutors of the OSCE/ODIHR EOM have stressed their commitment to ensure that the electoral process meets international standards for democratic elections, they also note that the current volatile political and security environment may pose major challenges.

#### IV. THE LEGAL FRAMEWORK AND ELECTION SYSTEM

The president of Ukraine is elected by popular vote for a five-year term. The same person may not serve as president for more than two consecutive terms. In case no candidate wins more than 50 per cent of the votes cast in the first round, a second round takes place three weeks after the first round, between the two candidates who won the most votes.

The entire legal framework for the presidential election has undergone significant and substantive changes in the last two months. The primary legal framework is comprised of the Constitution and the Law on Election of the President of Ukraine (hereinafter, the election law), the Law on the Central Election Commission (CEC) and the Law on the State Voter Register, all of which have been recently amended.<sup>5</sup> There have also been changes to the broader legal framework, including amendments to the Code of Administrative Proceedings and the Criminal Code.

On 21 February, the parliament passed a law on restoring provisions of the Constitution that were initially introduced in amendments made in 2004 and were found to be unconstitutional on procedural grounds by the Constitutional Court in 2010.<sup>6</sup> Immediately following the adoption of that law, parliament passed a resolution on the legal force of the Constitution with the 2004 amendments, with the stated aim of restoring the legitimacy of the constitutional order and setting aside the 2010 Constitutional Court decision. Neither the law nor the resolution was considered by parliament as amendments to the Constitution and therefore the special procedures for amending the Constitution were not followed. Appeals to the Constitutional Court on the constitutionality of laws adopted by parliament can be made by the Supreme Court, a group of at least 45 members of parliament, the Ombudsman or the President. To date, the recent changes to the Constitution have not been appealed.

The election law has been amended three times in 2014. Amendments adopted in February adjusted the electoral timeline to make the 25 May election date feasible. In March, extensive amendments were passed as part of larger efforts for electoral reform, to harmonize the law with the recently amended parliamentary election law and address outstanding recommendations made by previous OSCE/ODIHR EOMs. In April, amendments were made to the local election law and other election legislation, so as to bring the local election law in line with the parliamentary and presidential election laws and to make holding local and presidential elections on the same day possible.<sup>7</sup>

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<sup>4</sup> Mainly in the regions (*oblasts*) of Donetsk, Kharkiv, Luhansk, and Odesa.

<sup>5</sup> The primary legislation is supplemented by the Law on Political Parties, and some provisions of the Code of Administrative Proceedings, Code of Administrative Offenses and the Criminal Code, as well as regulations adopted by the CEC.

<sup>6</sup> Decision of the Constitutional Court of Ukraine № 20-rp/2010, dated 30 September 2010 (case № 1–45/2010).

<sup>7</sup> The amendments to the legislation governing local elections harmonize the polling arrangements, thereby facilitating the simultaneous holding of the two types of elections. However, the holding of local elections alongside the presidential election could increase the time necessary to process voters and count votes.

The March amendments to the election law were passed in a condensed time frame, according to special provisions for urgent legislation. Legal and civil society experts welcomed the amendments as necessary, although they were adopted in such a short time frame, during an election period and with little public discussion.

## V. THE ELECTION ADMINISTRATION

The election administration comprises the CEC, one District Election Commission (DEC) for each of the 225 election districts, and some 32,000 Precinct Election Commissions (PECs).<sup>8</sup> The CEC is a permanent, collegial state institution with the responsibility, among other things, to ensure the implementation and protection of citizens' electoral rights. Its members are appointed for a seven-year term by parliament on the basis of presidential nominations. An amendment to the law on the CEC was promulgated on 23 March, which enables CEC members to continue to fulfill their functions after the seventh year of their appointment.<sup>9</sup> On 1 April, parliament accepted the resignation, for personal reasons, of two CEC members and appointed two new commissioners.

The CEC has been holding regular, open sessions which are attended by observers, media and candidate representatives. Since 25 February, the CEC has passed 254 resolutions, which are published on its website. Most CEC resolutions are adopted unanimously. Despite the difficult political context, the CEC is functioning normally and all legal deadlines have been respected. The CEC informed the OSCE/ODIHR EOM that it does not foresee any problems with the financing of the elections.<sup>10</sup>

The recent amendments to the election law shorten many electoral deadlines, including those related to the establishment of DEC and PECs. These commissions are established on a temporary basis. Their members are nominated by the registered presidential candidates or their representatives.<sup>11</sup> They must have a minimum of 12 members. Article 23 of the election law provides that in the event that no or not enough nominations are made, the DEC is created by the CEC. As of 9 April, the deadline to file nominations, 21 candidates had nominated 4,171 DEC members; a number sufficient to form 213 DEC. The DEC chairpersons, deputy chairpersons and secretaries are assigned in proportion to the number of nominations, using a formula established by the CEC.<sup>12</sup> No candidate nominated DEC members for the 12 election districts in the Autonomous Republic of Crimea and city of Sevastopol (districts 1–10, 224 and 225). On 13 April, the CEC adopted Resolution No. 265 on the impossibility to form DEC in these districts.<sup>13</sup> On 14 April, the CEC announced the establishment of 213 DEC. DEC are to commence their work by 16 April.

Election precincts were formed on 4 April. Special precincts may be formed no later than 24 April.<sup>14</sup>

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<sup>8</sup> According to the election law, Article 90(2), “[the] territorial election districts formed for conducting the previous elections of the President of Ukraine shall be used for conducting the extraordinary elections of the President of Ukraine.” In the 2010 election, 225 election districts were formed. The number of election districts and PECs for the 2014 presidential election may change if parliament passes the Law on Ensuring the Rights and Freedoms of the Citizens in the Temporarily Occupied Territory of Ukraine.

<sup>9</sup> Twelve of the 15 current CEC members were appointed on 1 June 2007.

<sup>10</sup> The revised election budget is UAH 1,174,000,000 (approximately EUR 75 million).

<sup>11</sup> The recent election law amendments reduce the number of DEC/PEC nominees per candidate from two to one.

<sup>12</sup> CEC Resolution No. 70 of 25 March 2014.

<sup>13</sup> Due to the non-submission of DEC nominees by the candidates, the non-response of local government bodies established under Ukrainian law to letters sent by the CEC on resourcing DEC and proposing candidates to DEC (of 24 March and 10 April, respectively) and the social and political situation in these territories which make it impossible for public authorities to ensure upholding the fundamental principles for a popular vote.

<sup>14</sup> Special polling stations are established for, *inter alia*, electors in inpatient health care institutions; on ships sailing under the Ukrainian state flag on the election day; and in penitentiary institutions and other places of temporary stay for electors with limited movement. In exceptional cases, the CEC may form special polling stations at the territory of military units (formations).

PECs for regular and special polling stations, as well as those located abroad, will be formed no later than 6 May. However, in ‘exceptional cases’ the CEC may form special precincts for specified categories of electors (and the respective PEC) up to 14 May.

## VI. VOTER REGISTRATION

Voter registration is passive and continuous and is based on the centralized State Voter Register (SVR). The CEC as the custodian oversees the SVR, which is updated monthly and maintained continuously by 27 Registration Administration Bodies (RABs) and 756 Register Maintenance Bodies (RMBs). For the first time in a presidential election, voters can check their records online.<sup>15</sup> According to the SVR office, the total number of registered voters as of 10 April is 35,865,899.

Voter lists are extracted from the SVR and compiled separately for each polling station. Preliminary voter lists together with voter invitation cards are prepared by the respective RMBs for regular polling stations, no later than 16 days before election day. Voter lists for special polling stations are prepared by the respective PECs based on the list of voters submitted to them by the heads of the respective institutions, either 15 or 7 days before election day.<sup>16</sup> 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. Candidates are entitled to electronic copies of voter lists. As of 14 April, electronic copies were issued to the seven candidates who had requested them.

The CEC has sought to raise awareness of Article 7.3 of the Law on the State Voter Register, which allows all Ukrainian citizens to change, on a temporary basis, their voting location without changing their residence.<sup>17</sup> This provision could be utilized by voters who are resident in the Autonomous Republic of Crimea and city of Sevastopol to vote at polling stations outside these territories, but its feasibility as a means to protect their electoral rights is uncertain.

Following the recent amendments to the election law, voters can no longer register on election day. According to the CEC’s SVR office, some 422,517 Ukrainian citizens residing abroad who have registered with a Ukrainian embassy or consulate will be able to vote there. Under the recent amendments to the election law, they can only vote with international, diplomatic or service passports.<sup>18</sup>

## VII. CANDIDATE REGISTRATION

A Ukrainian citizen is eligible for the presidency if he or she is older than 35, has the right to vote, has resided in Ukraine for at least 10 years prior to election day, and has command of the state language. The provision that a presidential candidate must not have been convicted of an intentional crime has been removed from the law.

In order to be registered, each prospective candidate must submit a comprehensive set of documents and forms, together with a document certifying that UAH 2.5 million (around EUR 178,000 at the

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<sup>15</sup> Voters can check their records in the SVR on the CEC’s webpage, at: <https://www.driv.gov.ua/apex/f?p=111:LOGIN>.

<sup>16</sup> Voter lists for special polling stations are prepared 15 days before election day, except for those in medical institutions and special polling stations established by the CEC in exceptional cases (7 days).

<sup>17</sup> Article 35-1 of the election law grants the CEC the authority to define the procedures for exercising this right. Requests for temporary changes of voting address must be filed no later than 5 days before election day and must be justified, except in the case of voters whose voting address is in the Autonomous Republic of Crimea and city of Sevastopol. However, the law does not specify what can be considered as justification.

<sup>18</sup> Before the recent amendments, voters residing abroad could also vote with their national ID (passport of citizen of Ukraine).

time of registration) has been deposited in a special bank account to the CEC. Candidates can be nominated by parties (a party can nominate only one candidate) and through self-nomination. The provision that a candidate can be nominated by an electoral bloc has been removed from the law.

The candidate registration process started on 25 February and concluded on 4 April. The CEC received and considered applications from 46 nominees within the legal deadlines.<sup>19</sup> The CEC registered 23 candidates, among them 3 women.<sup>20</sup> It rejected 23 applicants, for a variety of reasons;<sup>21</sup> most commonly due to an absence of the documents required and non-compliance with the submission or documentary procedures.<sup>22</sup> Three of the rejected nominees resubmitted their documents to the CEC within the deadline. All prospective candidates as well as their representatives who were present at the CEC session at which their applications were considered were able to address the commission on issues related to their application.

To date, 9 of the 23 rejected applications have been appealed to the Kyiv Administrative Court of Appeals. All CEC decisions to reject registration based on the absence of proof of deposit and deficiencies in the documentation submitted were upheld by the Kyiv Court of Appeals and the High Administrative Court upon second-instance review.<sup>23</sup> In the one case where the rejected applicant had paid the deposit, the appeal was withdrawn at the request of the appellant. One rejected candidate unsuccessfully appealed the CEC decision to register Petro Poroshenko.<sup>24</sup>

## VIII. CAMPAIGN ENVIRONMENT AND CAMPAIGN FINANCING

A candidate can officially start campaigning the day after he or she has been registered. The official campaign ends at midnight on the Friday before election day (23 May for this election). The election law contains provisions aimed at ensuring equal campaign opportunities for all contestants, including access to campaign premises and designated places for political advertising.

The majority of candidates have developed campaign programs around the issues of territorial integrity, decentralization, judicial reform, the fight against corruption, social protection, economic development, and language policy. Future relations with Russia, the EU and NATO also feature in the campaign.

The campaign environment has been affected by recent political developments, particularly in the east. The campaign has started slowly. OSCE/ODIHR EOM interlocutors expect this campaign to be

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<sup>19</sup> The deadline to submit application documents was 30 March. The CEC was required to decide on the applications within five days of receipt. The CEC did not consider applications submitted after 4 April.

<sup>20</sup> The 23 registered candidates are: Olha Bogomolets, self-nominated; Yuriy Boyko, self-nominated; Mykhailo Dobkin, self-nominated (supported by the Party of Regions); Andriy Hrynenko, self-nominated; Anatoliy Hrytsenko, nominated by the Civil Position party; Oleksandr Klymenko, nominated by the Ukrainian People's Party; Valery Konovalyuk, self-nominated; Nataliya Korolevska, self-nominated; Vasil Kuybida, nominated by the People's Movement of Ukraine; Renat Kuzmin, self-nominated; Oleh Lyashko, nominated by the Radical Party of Oleg Lyashko; Mykola Malomuzh, self-nominated; Petro Poroshenko, self-nominated (supported by the Ukrainian Democratic Alliance for Reforms – UDAR); Vadym Rabynovich, self-nominated; Volodymyr Saranov, self-nominated; Zoryan Shkiryak, self-nominated; Petro Symonenko, nominated by the Communist Party of Ukraine; Serhiy Tihipko, self-nominated; Oleh Tsaryov, self-nominated; Vasil Tsushko, self-nominated; Oleh Tyahnybok, nominated by the All-Ukrainian Union *Svoboda*; Yulia Tymoshenko, nominated by *Batkivshchyna*; Dmitro Yarosh, self-nominated (supported by the Right Sector party).

<sup>21</sup> Two of 23 rejections were made via letter signed by CEC members, rather than by CEC resolution.

<sup>22</sup> Twenty-two of the 23 rejected candidates did not provide the required document certifying that the deposit had been paid.

<sup>23</sup> The Kyiv Court of Appeals partially satisfied two cases regarding deficiencies in the documents, but upon further review by the High Administrative Court the original CEC decisions were upheld in their entirety.

<sup>24</sup> The appeal was on the grounds that Poroshenko's election program called for a disruption to the constitutional order of the country.

short and to intensify in May. Campaign activities are mainly conducted in the media, and to a lesser extent in the social media. Some candidates have started to hold rallies in the regions. During the reporting period, two presidential candidates were assaulted and cases of attacks on political party offices were reported. Two prominent candidates, Petro Poroshenko and Yulia Tymoshenko, have separately called for a fair campaign based on an exchange of ideas rather than verbal attacks between candidates.

Freedom of assembly is guaranteed in the Constitution, although reasonable and sufficient notice must be given in order for local authorities to make the necessary preparations.<sup>25</sup> According to the Constitution, any procedures for organizing public gatherings must be set out in law and to prohibit a gathering, local authorities must seek a court order. Some local and city councils still have and are enforcing old local regulations for requesting gatherings, while others have sought court orders to prevent public gatherings out of concern for public order.

Recent amendments to the election law did not introduce any additional transparency measures for campaign finances. The election law stipulates that a presidential candidate must create two designated campaign bank accounts, for funds and expenditures respectively. All expenditures must be made by bank transfer from the expense account. There are no limits to campaign spending. A presidential campaign can be financed from candidates' private funds, individual donations from physical persons, and funds from the nominating party. There is no limit to the amount a party can contribute to its candidate's campaign. Individuals can donate up to 400 minimum salaries (some UAH 490,000, around EUR 32,000) to a candidate. Donations from foreign citizens, anonymous sources and legal entities are not permitted. The candidates must submit financial reports to the CEC no later than 15 days after election day, and the CEC must publish these reports no later than 18 days after election day.

## IX. THE MEDIA

Ukraine has a wide range of media outlets; however, 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. Television is still the primary source of information, but Internet is increasing its penetration and offers a wide range of views.

The state-owned National Television and Radio Company, which includes national and regional channels, has not yet been transformed into a public-service broadcaster and thus remains under the influence of the government.<sup>26</sup> At the time of writing, the state-owned *First Channel* does not have full editorial control of externally produced broadcasts, which raises questions regarding its capacity to duly comply with legal provisions on campaign coverage.<sup>27</sup>

The media legislation generally provides a sound framework for freedom of the media. In a positive development, parliament recently adopted amendments to a set of laws to reinforce effective access to

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<sup>25</sup> Article 39 of the Constitution and its interpretation from Constitutional Court of Ukraine Decision № 4-rp/2001 dated 19 April 2001 (Case № 1–30/2001).

<sup>26</sup> The new general director of the National TV Company, who was appointed on 25 March, has declared his autonomy from the interim government and announced an internal reorganization of the channel. He was appointed after the previous acting general director was subject to a physical assault and heavy intimidation by three members of *Svoboda* on 18 March, among them the Deputy Head of parliament's Committee on Freedom of Speech and Information, over allegations that his channel criticized *Svoboda* and aired anti-Ukrainian content. The assault was videotaped and broadcast by several media.

<sup>27</sup> The National TV Company has signed a commercial agreement with the Savik Shuster Studio to produce a daily talk show, *Shuster Live*, broadcast on prime time on the *First Channel*. According to the general director of the National TV Company, the channel has no control over the program's content. Since 26 February, the *First Channel* is allotting several daily time slots to live rebroadcasts of the online TV channel *Hromadske.TV*.



public information.<sup>28</sup> However, issues affecting media freedom remain. A temporary ban on Russian TV channels took effect on 25 March,<sup>29</sup> while state and private local media, as well as journalists, operating in the south and east are facing harassment and restrictions of their freedom.<sup>30</sup>

The election law provides that both state and private media shall cover the campaign by providing equal conditions to the contestants. Candidates are granted free airtime on and print space in state national media; the CEC is responsible for the allocation of the free time and space.<sup>31</sup> Paid campaign material is allowed on both state and private media, without limitations on the amount of paid advertisement. State broadcast media are obliged to organize a debate among the two candidates contesting a possible second round, and state and private broadcasters are entitled, but not obliged, to organize candidate debates before the first round. The rules on candidates' participation in TV debates potentially limit the space for a lively public debate among the contestants.<sup>32</sup> The election law does not clearly stipulate the body responsible for overseeing the media during an election.

The OSCE/ODIHR EOM on 1 April commenced a qualitative and quantitative media monitoring of the prime-time broadcasts of 7 TV channels and the content of 2 newspapers.<sup>33</sup>

## X. PARTICIPATION OF NATIONAL MINORITIES

According to the 2001 census,<sup>34</sup> the majority of citizens are ethnic Ukrainians (77.8 per cent), while ethnic Russians form the most sizeable minority (17.3 per cent). The remaining five per cent of the population is comprised of Belarusians, Bulgarians, Crimean Tatars, Jews, Hungarians, Moldovans, Poles, Roma, Romanians, and other small minority groups. Twenty-nine per cent of the population said that they consider Russian as their native language. Nearly half of this native Russian-speaking population is comprised of members of other minority groups, as well as Ukrainians.<sup>35</sup>

Language policy and the status of the Russian language feature prominently in the campaign, in particular after parliament voted to repeal the 2012 language law, which allowed local authorities to

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<sup>28</sup> The laws amending the Laws of Ukraine on Information and on Access to Public Information adopted on 27 March included amendments to several existing legislative acts. The new laws have not yet been signed by the interim president and are thus not yet in force.

<sup>29</sup> See the statement of the OSCE Representative on Freedom of the Media of 27 March 2014, <http://www.osce.org/fom/116888>. The National Television and Broadcasting Council filed a claim in the Kyiv District Administrative Court demanding a temporary order for the cessation of the retransmission through multichannel television networks of four Russian TV channels, claiming they were airing broadcasts that incite ethnic hatred on the grounds of recent political developments. The decision of the Kyiv District Administrative Court on the temporary cessation of these four TV channels (Decision No. 824/3456/14) will be in force until a final decision of the court on the merits.

<sup>30</sup> See the statement of the OSCE Representative on Freedom of the Media of 8 April 2014, <http://www.osce.org/fom/117259>. Following an increase in cases of harassments of journalists and attacks on media outlets, journalists on 8 April staged a demonstration in Kharkiv, while the National Union of Journalists and the Union of Independent Media issued a joint statement demanding that the authorities provide journalists with effective protection.

<sup>31</sup> CEC Resolutions No. 262 and No. 263, published on 13 April 2014, define the modalities for allocating free airtime and space in state media, and on the lottery to establish the order of appearance of the candidates, respectively.

<sup>32</sup> Article 62 of the election law stipulates that only two candidates may participate in a televised debate and that each candidate can participate only in one debate per channel during the election campaign.

<sup>33</sup> The state-owned *First Channel* and private channels *Inter*, *5 Channel*, *ICTV*, *1+1*, *TVi*, *TRK Ukraina*, as well as the state-owned newspaper *Uryadovyi Kurier* and the private *Fakty i Kommentarii*.

<sup>34</sup> The next census was originally scheduled for 2011, but has been postponed to 2016.

<sup>35</sup> Official data from the 2001 census indicates that the Russian language is native for over 14,273,000 Ukrainian citizens (29.6 per cent of the total population), 53 per cent of which identify themselves as ethnic Russians. See: <http://2001.ukrcensus.gov.ua/eng/results/general/language/>.



give Russian the status of “regional language” in large parts of the country.<sup>36</sup> The law remains in force since the acting president has not promulgated its abrogation.

Crimean Tatars and other minorities residing in Crimea face particular difficulties to participate in the election due to the fact that Ukraine has no effective control over the territory. It is unclear what effect the recent political changes in Ukraine and the current tense situation in the east, where Russian speakers comprise a majority of the population, will have on the participation of national minorities and Russian-speaking communities in the election process.

## XI. COMPLAINTS AND APPEALS

The right to appeal decisions, actions or inactions of election commissions and other actors involved in the electoral process is granted to all participants in the election process.<sup>37</sup> For the majority of election-related matters, complainants can choose whether they file their complaint with the election administration or the courts. To date, the CEC has not received any complaints.

Election-related complaints and appeals are heard by administrative courts; the High Administrative Court is the court of last instance for election matters. In addition to appeals related to candidate registration, the High Administrative Court received two appeals of parliament’s decisions to appoint the acting president and to call the 25 May election. The court refused to hear both matters on the grounds that the appeals raised constitutional questions that are not within its jurisdiction.

Since the appointment of the new government, there have been significant legislative developments impacting the judiciary. On 23 and 24 February, parliament dismissed the chief justice of the High Administrative Court and five judges of the Constitutional Court.<sup>38</sup> Appeals of parliament’s decision to dismiss the judges were filed to the High Administrative Court by sitting and dismissed Constitutional Court judges and are still pending. In a similar case, on 11 April, the High Administrative Court invalidated the decision of parliament to dismiss the chief justice. On 8 April, parliament passed a new law on “Restoring Trust in the Judiciary,” requiring the lustration of sitting and newly appointed judges, the re-composition of the High Judicial Council and the High Qualification Commission of Judges and the removal of all heads and deputy heads of general, administrative, commercial, and high specialized courts from the posts. Some judges of the highest courts voiced concerns to the OSCE/ODIHR EOM about the law and pointed to the need for the EOM to observe the possible implications of this legislation on the election process.

## XII. CITIZEN AND INTERNATIONAL OBSERVERS

The amended 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 the legislation and whose statutory activities include observation and issues related to the electoral process.<sup>39</sup> In total, 10 NGOs were granted permission to have official observers within the legal deadline.<sup>40</sup> Five NGOs, among them OPORA and the Committee of Voters of Ukraine

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<sup>36</sup> A language can be adopted as a regional language upon the decision of the local or city council if no less than 10 per cent of the population is a speaker of that language or if more than 10 per cent petition for the language.

<sup>37</sup> Presidential candidates, parties that are participating in the election process, election commissions, as well as voters whose rights were violated can file complaints and appeal decisions.

<sup>38</sup> Resolutions of the *Verkhovna Rada* of Ukraine № 4195 dated 23 February 2014 and № 775–VII dated 24 February 2014.

<sup>39</sup> The CEC rejected one application, from an NGO whose statute does not include election-related activities and which did not submit the required documentation.

<sup>40</sup> 25 March was the deadline for NGOs to apply to have observers. The accreditation of individual citizen observers from these NGOs is done by DEC’s.

(CVU), were registered to observe countrywide, while others will observe in particular *oblasts* or cities. The CEC has thus far registered more than one hundred observers from international organizations. The process of registration of international observers is ongoing.<sup>41</sup>

### XIII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM formally opened in Kyiv with a press conference on 20 March 2014. The Head of Mission has met with the CEC chairperson, the deputy minister of foreign affairs, the president of the Constitutional Court, the heads of the Supreme Court and the High Administrative Court, the OSCE Project Co-ordinator in Ukraine, candidates, 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, candidates and their campaign offices, political parties, civil society, the media and the diplomatic community in the capital and in the regions.

The OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE) have announced that they will deploy observer delegations for election-day observation. The OSCE Chairperson-in-Office has appointed João Soares as Special Co-ordinator to lead the short-term OSCE observer mission for this election.

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<sup>41</sup> 17 May is the deadline for foreign states and international organizations to apply for registration of observers.