

INTERIM REPORT

9 September – 8 October 2015

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I. EXECUTIVE SUMMARY

- On 17 July 2015, the Ukrainian parliament (*Verkhovna Rada*) scheduled local elections for 25 October 2015. Local elections will not be held in the Autonomous Republic of Crimea, the city of Sevastopol and, as described in a resolution of the Central Election Commission (CEC), in certain areas of Donetsk and Luhansk regions (*oblasts*) which are declared by the parliament as temporarily occupied territories. In addition, the CEC declared holding elections not possible in some territories of Donetsk and Luhansk *oblasts* that are under the control of Ukrainian authorities.
- The election law introduced three electoral systems for the local elections, increased the threshold to five per cent, limited candidacy rights of independent candidates, provided for recall procedures, and introduced the requirement of at least 30 per cent representation of each gender on a party list, but did not provide for any sanctions for political parties that fail to comply with this rule. The law does not provide for voting by internally displaced persons (IDPs). Delimitation of constituencies, as well as absence of permissible deviation and significant fluctuation of number of voters among the constituencies was criticized by some interlocutors. The process of the adoption and the complexity of the law was criticized by most of OSCE/ODIHR EOM interlocutors.
- The elections are administered by the CEC, 10,778 Territorial Election Commissions (TECs) and some 30,000 Precinct Election Commissions (PECs). The CEC is to ensure uniform application of the legal framework. The CEC has been holding regular open sessions. Election results are established at TEC level. The initial appointment of TEC members was followed by some replacements, including of members in executive positions. As of 5 October 2015, the State Voter Register contained 29,815,753 voters.
- More than 350,000 candidates stand for 168,450 positions of mayors of cities, villages and settlements and for councillors of village, settlement, city, city district, district (*rayon*) and regional (*oblast*) councils. In a number of cases TECs rejected candidates based on inaccuracies in submitted documents, which were mostly overruled by the courts. Affected parties and candidates claimed that TEC decisions were politically motivated.
- The campaign environment has so far been permissive and calm. The campaign takes place against the backdrop of a growing disillusionment with the political establishment, ongoing economic crisis and hurdles encountered in implementing policies for fighting corruption and poverty. The campaign is marked by frequent reports of vote-buying and the misuse of administrative resources. Concerns were raised about allegedly wide-spread use of undeclared funds by parties for political advertisement displayed prior to the registration of candidates, as these will not be subject to reporting.

- The media sector with its vividness and internal turmoil reflects Ukraine's overall political climate. The growing power of multi-media groups and their politicization affect both national and regional media. The proprietors' political and business interests are often observed to influence editorial policy; as does the tolerated malpractice of paid-for journalism. On 12 September the OSCE/ODHIR began quantitative and qualitative media monitoring of 13 media outlets.
- The participation in these elections of approximately half of Ukraine's native Russian speakers, residing in Donetsk and Luhansk *oblasts* and the Crimean peninsula, as well as the Crimean Tatar minority, is diminished severely due to the fact that the Ukrainian authorities are prevented from organizing elections in the districts where they live. The absence of legal regulations enabling IDPs to vote further impedes the participation of these communities. In addition, certain provisions of the election law and the electoral system may hinder the election of national minority representatives.
- According to the information available to the OSCE/ODIHR EOM, some 138 complaints were submitted to the courts. The CEC has thus far received 54 complaints, 3 of which were considered in a formal CEC session. The vast majority of cases considered concerned formation of election commissions and candidate registration and were dismissed on procedural grounds or rejected on substance.

II. INTRODUCTION

On 17 July 2015, the Ukrainian parliament (*Verkhovna Rada*) scheduled local elections for 25 October 2015. 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 9 September. The EOM, led by Tana de Zulueta, consists of a 16-member core team based in Kyiv and 80 long-term observers (LTOs) who were deployed on 19-20 September to 28 locations around the country. The OSCE/ODIHR EOM is drawn from 25 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 2015 local elections are taking place against the backdrop of an armed conflict in the East of Ukraine and a constitutional reform process aiming at decentralization. The planned transfer of most executive functions from central state administrative bodies to the elected local councils raises the stakes for political parties and candidates. Local elections will not be held in the Autonomous Republic of Crimea, the city of Sevastopol and, as described in a resolution of the Central Election Commission (CEC), in certain areas of Donetsk and Luhansk regions (*oblasts*) which are declared by the parliament as temporarily occupied territories.¹ In addition, the CEC declared holding elections not possible in some territories of Donetsk and Luhansk *oblasts* that are under the control of the Ukrainian authorities.²

¹ See Chapter XV Transitional Provisions of the Law on Local Elections, as well as CEC resolutions No. 176 of 11 August, No. 189 and 190 of 28 August with a list of territories where elections were not called due to the armed conflict in the East, and No. 207 and No. 208 of 29 August.

² According to the CEC, in Donetsk and Luhansk *oblasts* 525,888 voters will not vote, as their polling stations are located in the proximity to the contact line.

Local elections will be contested by 132 political parties. The Bloc Petro Poroshenko party, joined by the United Democratic Alliance for Reform (UDAR), fields most of the candidates under the new party name – the Bloc Petro Poroshenko Solidarnist (BPPS). Members of the People’s Front (PF) chaired by the prime minister are mostly running with the BPPS; the Communist Party of Ukraine (CPU) was banned by court decision.³ Members of the once dominant and now dissolved Party of Regions (PoR) will compete under other political parties or as self-nominated candidates for mayoral positions.⁴

IV. THE LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Local elections are primarily regulated by the Constitution and the Law on Local Elections (hereinafter, the election law), as well as regulations of the CEC.⁵ Despite long-standing OSCE/ODIHR recommendations, there has been no consolidation and harmonization of the electoral legislation.

The election law was passed by parliament on 14 July 2015 and signed by the president on 6 August, less than four months before election day.⁶ It was adopted in an expedited manner without public consultation yet with broad support from the ruling coalition. The major revision of the electoral legislation without open discussion shortly before an election is not in accordance with good international practice.⁷ In addition to criticizing the process of adoption of the law, most of OSCE/ODIHR EOM interlocutors voiced concerns regarding its complexity.

The election law introduced three electoral systems for the local elections, increased the threshold to five per cent, limited candidacy rights of independent candidates, and provided for a possibility to recall elected mayors and council members by a petition initiated by voters. It contains gaps and ambiguities and lacks clarity, including with regard to candidate registration, campaign and campaign finance rules, electoral dispute resolution, and media regulations. The law does not provide for voting by internally displaced persons (IDPs). A number of draft laws, including on political party finance and ensuring voting rights of IDPs, as well as Criminal Code amendments regarding definition and stricter sanctioning of vote-buying, were registered in the parliament, but, despite strong public demand, have not been reviewed so far.

The election law introduced the requirement of at least 30 per cent representation of each gender on a party list, but did not provide for any sanctions for political parties that fail to comply with this rule. Moreover, on 23 September the CEC adopted a regulation clarifying that non-fulfillment of the 30 per cent gender quota requirement cannot be the ground for rejection of registration of candidate lists. The Kyiv Administrative Court of Appeals ruled that the clarification was illegal, which was later overruled by the High Administrative Court.

³ On 9 April 2015, the Ukrainian parliament passed the law “On condemnation of the Communist and Nazi totalitarian regimes in Ukraine and banning of propaganda of their symbols”. See the [statement by the OSCE Representative on Freedom of the Media](#).

⁴ Former PoR members are nominated by the Opposition Bloc (OB), Nash Kray (NK), BPPS and Renaissance.

⁵ Other relevant legislation includes the Law on the CEC, the Law on the State Voter Register, the Law on Political Parties, the Code of Administrative Procedure, and the Criminal Code.

⁶ A draft of the election law prepared with the participation of the civil society did not pass the first reading in the parliament. The election law was amended on 4 September 2015 to empower the CEC to call first local elections in the “Voluntary Unified Communities”.

⁷ The [Code of Good Practice in Electoral Matters](#) of the Venice Commission of the Council of Europe states that “the fundamental elements of electoral law, in particular the electoral system, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendments less than one year before an election”, see point II.2.b.

Mayors, settlement and village councils are directly elected under a majoritarian system; by a first-past-the-post system in villages, settlements and cities with fewer than 90,000 voters and a two-round system for mayoral elections in cities with at least 90,000 voters.⁸ Region, district, city, and city district councils are elected under a multi-member constituency proportional electoral system that Ukrainian law-makers refer to as an “open list” system. This electoral system cannot be considered an open list system, since voters are not given the possibility to choose among different candidates, which is a feature of open list systems. Many OSCE/ODIHR EOM interlocutors expressed concerns that the newly-introduced “open list” electoral system will prove difficult for voters to understand and for the election commissions to implement.

A total of 168,450 constituencies were established by the respective TECs. The number of constituencies within a given district equals the number of seats of the respective council. By law, boundaries of single mandate districts should be contiguous, however such requirement is absent for multi-mandate constituencies. According to the election law, the number of voters should be equally distributed among the constituencies, however distribution of voters and delimitation of constituencies rests solely at the discretion of TECs with no criteria for legally permissible deviations.⁹ Various interlocutors criticized the delimitation of constituencies, as well as absence of permissible deviation and significant fluctuation of number of voters among the constituencies.

V. THE ELECTION ADMINISTRATION

The local elections are administered by the CEC, 10,778 Territorial Election Commissions (TECs) and some 30,000 Precinct Election Commissions (PECs). The CEC is a permanent body with the responsibility to ensure the implementation and protection of citizens’ electoral rights. Its 15 members, five of whom are women, are appointed for seven-year terms by the parliament, on the president’s proposal.¹⁰ Some stakeholders have challenged the legitimacy of the CEC on the grounds that most of the current CEC members’ mandates have expired.¹¹ The CEC has been holding regular open sessions. Since calling of elections, the CEC has passed some 230 resolutions, which are published on its website. Most CEC resolutions are adopted unanimously.

TECs were formed at different levels of administrative-territorial units. On 6 September, the CEC formed 640 TECs in *oblasts*, districts (*rayons*), cities of regional importance and Kyiv, and districts in Kyiv, which in turn formed TECs at the level of cities, city districts, villages and settlements. TECs comprise 9 to 18 members, all nominated by political parties.¹² The initial appointment of TEC members was followed by some replacements, including of members in executive positions.¹³ Cascade training for TEC members has begun and was so far positively assessed by OSCE/ODIHR EOM long-term observers (LTOs). The election administration has not yet placed any voter education in media with a nation-wide reach, however some regional media outlets have informed voters on procedural issues.

⁸ If no candidate in a majoritarian contest receives a majority of votes cast, a second round will be held no later than three weeks between the two leading candidates.

⁹ For instance, in Kharkiv oblast the number of voters per multi-member constituency varies from 27,000 up to 60,000.

¹⁰ Some members were appointed in 2004.

¹¹ An amendment to the Law on the CEC promulgated on 13 March 2014 enables CEC members to continue to fulfill their functions after the seventh year of their appointment. The composition of the CEC has not changed since the 2014 parliamentary elections.

¹² Parties represented by a faction in the parliament have two guaranteed members in each TEC. The remaining seats are filled by lottery, from among nominees of parties registered as political organizations in respective administrative-territorial unit.

¹³ OSCE/ODIHR EOM observers reported that replacements were the result of requests from political parties, resignations and, to lesser extent, non-compliance with legal requirements.

The OSCE/ODIHR EOM has attended sessions of TECs across the country. Some TECs raised concerns regarding lack of financial and other resources, in particular printed materials. Almost all TECs visited voiced concern regarding the counting and tabulation process under the new law. PECs are to be formed by 9 October. Some TECs visited by OSCE/ODIHR EOM LTOs fear that they may not be able to find qualified candidates for PEC membership.

VI. VOTER REGISTRATION

Following the adoption of the Law on State Voter Register (SVR), in 2009 a centralized database was compiled containing names of all voters. The custodian of the SVR is the CEC. The SVR database is maintained by 669 Register Maintenance Bodies (RMBs).¹⁴ As of 5 October 2015, the SVR contained 29,815,753 voters, of which 1.8 per cent are registered as permanently homebound voters. Voters may check their entries through the CEC webpage.¹⁵ OSCE/ODIHR EOM interlocutors expressed general trust in the voter registration system.

Preliminary voter lists (PVLs) are extracted from the SVR to be handed over to the PECs by 11 October together with personal invitations for voters. Thereafter PVLs will be opened for public scrutiny. A voter may request corrections by submitting an application to the PEC, to the RMB or to the local court.

Final voter lists are to be handed over to the PECs no later than 22 October. Changes based on court decisions may still be incorporated in voter lists until 24 October. Only technical corrections can be made on the day of voting. Voters who will be away from their voting addresses on election day will not be able to vote, except for those voting in special election precincts established in medical institutions.

VII. CANDIDATE REGISTRATION

Any citizen with the right to vote can stand for election, except those with an unexpunged criminal record for a grave or especially grave crime, crime against citizens' suffrage rights or for corruption. Candidate lists and candidates are nominated by local branches of political parties, as well as by self-nomination for mayoral and village and settlement council elections. Nominations should be accompanied by a monetary deposit of 4 minimum monthly salaries, UAH 5,000 in total (some EUR 200), for each 100,000 voters in the respective electoral contest.¹⁶ The law does not allow for independent candidacies at all levels of local authority (it is allowed only at village and settlement levels).¹⁷ Candidates can stand in any constituency irrespective of their place of residence.

In order to contest the elections, parties need to be first registered with the CEC.¹⁸ The highest managing body of registered parties authorize local party branches to participate in the elections,

¹⁴ Excluding the territories where elections will not be held. As a rule, one RMB serves one administrative district.

¹⁵ See <https://www.driv.gov.ua/apex/f?p=111:LOGIN>.

¹⁶ Mayoral candidates who win the elections and political parties that pass the 5 per cent threshold are entitled to a refund of their electoral deposits.

¹⁷ Paragraph 7.5 of the OSCE Copenhagen Document (1990) states, "The participating States will... respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination."

¹⁸ Out of 142 parties, which applied for registration with CEC, 132 were registered. Article 10 of the Law on Political Parties (2001) requires that parties demonstrate a base of support in two-thirds of the country's oblasts in order to register.

which then organize conferences to approve candidates for mayors and councillors. In the final step party branches apply for registration of their respective candidates and lists with the respective TECs.

The election law lacks clarity on several aspects of candidate nomination and registration, including on resubmission of registration documents and compliance with the gender quota requirement.¹⁹ The election law provides for correction of mistakes and inaccuracies in candidate registration documents and does not allow for rejection of registration based on these grounds; however, in a number of cases TECs rejected candidates based on inaccuracies in submitted documents.²⁰ In most cases, courts overruled the rejected registrations upon appeal.²¹ In a number of instances, affected parties and candidates have claimed that TEC decisions were politically motivated.²²

Some political parties claimed to the OSCE/ODIHR EOM that they nominated their candidates at the latest possible moment because they feared intimidation by other parties, threats of dismissal from employment or pressure by state authorities. In some instances, fear and intimidation have been mentioned as reasons for candidates deciding to contest mayoral races as non-partisan self-nominees, as opposed to standing with backing of a party, or withdrawing from the race. Similar reasons were mentioned for commission members resigning from their duties.

More than 350,000 candidates stand for 168,450 positions of mayors of cities, villages and settlements and for councillors of village, settlement, city, city district, district (*rayon*) and regional (*oblast*) councils. In total 209,546 candidates are contesting 28,589 councillor seats in regional and district councils. In the city mayoral races 2,763 candidates are running for 358 positions.

VIII. CAMPAIGN ENVIRONMENT AND CAMPAIGN FINANCING

The election campaign starts once a candidate or a party list is registered and ends 24 hours before the election day. The law guarantees equal conditions to be provided to all electoral subjects. It narrowly defines election campaign as an activity encouraging voters to vote or not to vote for candidates and does not regulate the display or distribution of political advertisement by contestants before the registration. In practice, some political parties placed billboards and tents prior to official registration.²³

The campaign environment has so far been permissive and calm. The campaign takes place against the backdrop of growing disillusionment with the political establishment, ongoing economic crisis and hurdles encountered in implementing policies for fighting corruption and poverty. However, OSCE/ODIHR EOM interlocutors reported frequent allegations of vote-buying and misuse of

¹⁹ TECs in Olevsk, Zhytomyr and Berdychiv denied registration of candidate lists based on non-compliance with the gender quota requirement; however, the courts overruled these decisions.

²⁰ The OB was denied registration by Zaporizhzhia, Mariupol, Oleksandrivka, Kharkiv, Cherkasy and Berdiansk city TECs. Kherson, Zhytomyr, Staryi Sambir and Novomoskovsk TECs refused registration of NK.

²¹ OB challenged rejection of their registration by Kharkiv Oblast TEC with the CEC. Complaint is pending consideration at the time of this report.

²² Berdiansk city TEC refused registration of the Opposition Bloc. This decision was overruled by both Berdiansk Administrative Court and Dnipropetrovsk Court of Appeal. However, the TEC refused to register the list and requested clarification on how to implement this decision from the court and the CEC, thus further prolonging the registration process.

²³ Amongst others Movement for Reforms (MFR), Ukrainian Association of Patriots (UKROP), New Faces (NF), Renaissance, *Samopomich*, Radical Party (RP), Svoboda, and BPPS. On 26 September, a complaint on early campaigning of the charity fund “*Zdorove Misto*” was declined by the Dnipropetrovsk District Administrative Court on the ground that the fund and the free water bottles it distributed were not visibly connected with the UKROP mayoral candidate.

administrative resources. Several OSCE/ODIHR EOM interlocutors noted that some candidates try to profit from the financial hardship of voters and bribe them with food packages.²⁴ The law does not define this practice as vote-buying so long as the value of distributed campaign materials and goods does not exceed five per cent of the minimum wage (UAH 69).²⁵ Some incumbent mayors and councillors running for re-election initiated a series of amendments to council decisions fulfilling electoral promises of the last campaign.²⁶

Since the start of the campaign, its visibility in urban areas has intensified, yet peripheral rural communities and areas in government-controlled territories in Luhansk and Donetsk *oblasts* are less frequented by the campaigners. Parties with larger campaign funds tend to use traditional methods of campaigning, including TV and radio advertisements, billboards on arterial roads, campaign tents and door-to-door canvassing and leafleting. In contrast, lower-key campaigns mostly rely on retail tactics in the form of party newspapers, brochures, face-to-face visits where candidates interact directly with small groups. Mayoral candidates are already staging rallies.²⁷ In Kyiv the incumbent mayor and in Dnipropetrovsk the mayoral OB candidate displayed campaign materials on public transport such as the subway and buses respectively for campaigning, which is prohibited by law. Most parties have an active digital campaign through party websites and social media accounts. In a few instances, government officials took an active role in candidate campaign meetings.²⁸

The majority of campaign slogans refer to the parties' national agenda focused on socio-economic and pro-European themes. Whilst the continuing armed conflict in the East and military themes do not play a prominent role, heated debates at the regional and district councils on corruption, land distribution or the work of local utility companies are mirrored in local campaigns.

Local party organisations and candidates may establish electoral funds upon registration with the respective TEC. The law does not establish ceilings for campaign expenditures and provides that all campaign expenditures must be paid directly through bank transfer. The campaign can be financed by candidates, parties, and private donations. The latter are not to exceed the amount of 10 minimum salaries (UAH 12,180, equivalent to some EUR 487). Donations from foreign citizens and anonymous sources are prohibited.

TECs are mandated to exercise campaign finance oversight and respond to campaign finance violations. All contestants must submit interim and final financial reports on the income and expenditures to the relevant TECs. According to the election administration, TECs do not have the capacity to perform crosschecking to establish whether reports reflect actual spending. The election law does not address a number of previous OSCE/ODIHR recommendations regarding transparency of campaign finance. Several OSCE/ODIHR EOM interlocutors raised concerns about allegedly

²⁴ Mayoral candidate from NK in Kirovohrad and incumbent mayor in Chernivtsi distributed food-packages.

²⁵ There is a discrepancy between the definitions of vote-buying stipulated in the election law and Criminal Code. While the election law (Article 60) allows the distribution of campaign materials with value not exceeding 5 per cent of a minimum wage, the Criminal Code (Article 160) sets a 3 per cent limit.

²⁶ The Kyiv city council published an order "On arrangement of providing funds for (...) fulfilment of pre-electoral programs and assignments of voters by the Kyiv city mayor and deputies of the Kyiv city council". In Kriyyi Rih councillors supported the decision on an additional allocation of UAH 65 million for street repair works.

²⁷ The OSCE/ODIHR EOM observed 16 rallies, mainly held by mayoral candidates; of these 6 rallies by the BPPS, 2 by *Samopomich* and Renaissance each, and 1 by the OB, Vinnytsia European Strategy (VES), Civic Position (CP), Strong Ukraine (SU), Sergey Kaplin Party of Ordinary People and Svoboda each.

²⁸ On 7 September, during a press conference the Speaker of the Verkhovna Rada endorsed the VES mayoral candidate. On 30 September, the head of regional administration in Odessa took part in a campaign event of the BPPS mayoral candidate. In Kharkiv the incumbent mayor nominated by Renaissance used the municipal website and newspaper for his campaign.

wide-spread use of undeclared funds by parties for political advertisement prior to the registration of candidates, as these will not be subject to reporting.

IX. THE MEDIA

The media sector with its vividness and internal turmoil reflects Ukraine's overall political climate. Television is the primary source of political information, followed by online media and periodicals. The growing power of multi-media groups and their politicization affect both national and regional media. The proprietors' political and business interests often influence editorial policy and the malpractice of paid-for journalism is widespread, as widely observed by the OSCE/ODIHR EOM.²⁹

The legal framework for the media comprises the Constitution and a plethora of laws that are generally conducive to freedom of expression. The election law governs the media's conduct throughout the electoral period. It contains a number of ambiguities and lists stringent, yet vaguely defined, provisions for the pre-election coverage and prohibits reporting on political campaigns in the news. Furthermore, the election law envisages that the candidates pay for taking part in the debates, which appears to conflict with a provision compelling media to provide equal coverage to all contestants. The OSCE/ODIHR EOM observed instances of arbitrary application of the law, particularly by the regional branches of the National Television and Radio Company (NTRC).

The slow pace of transformation of the NTRC from a state-owned to a public broadcaster has affected the regional media environment. A decision to discontinue the contracts of the staff at the NTRC regional branches has impacted on the coverage of the elections. In 18 out of 25 regional branches of the NTRC visited by the OSCE/ODIHR LTOs the management acknowledged persisting uncertainty and expected staff reductions; 6 out of 25 admitted to self-censorship as a consequence.³⁰ Moreover, 16 regional branches will only broadcast election-related programmes that are paid for by parties and candidates, 8 are planning issue-oriented discussions, and 5 will provide voter information at their own expense. The overall exception is the NTRC branch in Kramatorsk, where the newly established, under-resourced broadcaster is primarily aiming to report on developments in the East, not to inform about the upcoming elections.

The National Television and Radio Broadcasting Council (NTRBC) is overseeing media's compliance with legal provisions and reviewing reported violations on a weekly basis. Yet, lacking an inclusive remit and effective sanctioning powers, timely and resolute measures, in cases of media's noncompliance with the law, could not be taken. As noted by OSCE/ODIHR EOM interlocutors, a genuine cooperation between the NTRBC and the CEC on campaign violation issues is lacking.

On 12 September the OSCE/ODHIR began quantitative and qualitative media monitoring of 13 media outlets.³¹ Preliminary results reveal a substantial presence of a political discourse within the broadcaster's prime time programming, as well as political advertisement aired before 1 October.

²⁹ LTO teams in Chernivtsi, Ternopil, Zhytomyr, Lviv, Rivne, Kharkiv, Zaporizhzhia, Berdiansk, Kramatorsk, Yahotin, Poltava, Odesa report on biased coverage for or against particular candidates and/or local media's direct affiliation with specific political parties or their sponsors.

³⁰ From 26 to 29 September the OSCE/ODIHR LTOs visited 25 out of 26 local branches of the NTRC to assess the effect of the transformation.

³¹ First National Channel, 1+1, Channel 5, Inter TV, ICTV, TRK Ukraina, 7th Channel (Kharkiv), 34 TV Channel (Dnipropetrovsk), Glas TV (Odesa), Khmelnytsky ODTRK (Khmelnitsky), Zik TV (Lviv). Newspapers – *Segodnya*, *Fakti i Komentarii*, *Komsomolskaja Pravda v Ukraine*.

X. PARTICIPATION OF NATIONAL MINORITIES

The participation in these elections of approximately half of Ukraine's native Russian speakers, residing in Donetsk and Luhansk *oblasts* and the Crimean peninsula,³² as well as the Crimean Tatar minority, is diminished severely due to the fact that the Ukrainian authorities are prevented from organizing elections in the districts where they live. The absence of legal regulations enabling IDPs to vote further impedes the participation of these communities.³³ Several aspects of the law may hinder the election of national minority representatives. Candidates representing compactly settled communities cannot run independently in contests for councillors' seats, but must do so through party lists. However, the necessity of political party affiliation can pose an obstacle for national minority candidates, since minority political groups may not have the nationwide base needed to form a political party, and individual candidates may not have the influence to be listed with larger parties. In addition, the provisions of the election law may lead to fragmentation of the vote across constituencies, thus disadvantaging candidates with a strong base of support in a given area.

Concerns about the delimitation of electoral districts in areas of concentrated minority settlement also indicate that the law may not set forth sufficient safeguards for national minority interests.³⁴ The electoral legislation does not provide for any specific or special measures promoting national minority representation.

XI. COMPLAINTS AND APPEALS

All participants in the electoral process are granted the right to submit complaints and appeals; however, voters can only challenge violations of their personal electoral rights. The general deadline for filing complaints, either with courts or commissions, is five days, and the law provides for two days for the review of complaints.³⁵ 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 respective commission and the CEC of its decision. The law does not establish the procedure for challenging election results. The 2015 amendments to the Law on Court Fees institute relatively high costs of filing court cases applicable to all election related cases, excluding complaints regarding the inaccuracies in the voter lists.³⁶

To date, the CEC has received 54 complaints, out of which 3 were considered in the formal CEC sessions. At least 13 appeals against CEC decisions were filed with the Kyiv Administrative Court of Appeal. According to the information available to the OSCE/ODIHR EOM, some 138 complaints were submitted to the administrative courts and courts of first instance. The vast majority of cases considered by election commissions and courts concerned formation of election

³² 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.

³³ UNHCR reports that there are 1.46 million IDPs in Ukraine as of 7 September, three-quarters of whom live in the eastern regions of Donetsk, Luhansk, Zaporizhzhia, Dnipropetrovsk and Kharkiv: <http://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20UKRAINE%20Operational%20update%207SEP15.pdf>. While the ethnic background of IDPs is not recorded, civil society representatives estimate that about half of the 20,000 IDPs the State Emergency Service has recorded as Crimean are Crimean Tatar.

³⁴ In public statements and meetings with the OSCE/ODIHR EOM, representatives of two Hungarian minority parties in Transcarpathia have alleged that the delimitation of four electoral districts in Berehovo disadvantages Hungarian representatives in contests for oblast council seats.

³⁵ The complaints filed with the CEC are considered within three-day deadline.

³⁶ The fee for filing court cases is up to UAH 1,218 (EUR 50) for the first instance courts and 1,339 UAH (EUR 56) for the appeal courts.

commissions and candidate registration.³⁷ Many of those were dismissed on procedural grounds or rejected on substance. All court decisions are published on the web-site of the Unified State Register of Court Decisions, although often after the legally-prescribed deadline.³⁸

In some cases, courts provided inconsistent interpretation of the law. In one case, Lviv administrative court considered previous work experience in election commissions as the determining criteria in the distribution of executive positions, whereas the Zaporizhzhia Administrative Court stated that experience is not a requirement according to the election law. In another instance the Kyiv Administrative Court of Appeal considered CEC's interpretation of the gender quota requirement invalid, however, stated that it is in full compliance with the law in another case on the same matter.

XII. CITIZEN AND INTERNATIONAL OBSERVERS

The election law provides for observation of the election process by domestic non-governmental organizations (NGOs) and international observers from foreign states and organisations. The CEC has granted 84 NGOs observer status; among them, OPORA and the Committee of Voters of Ukraine. International observers may apply for accreditation to the CEC by 14 October.

XIII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM formally opened in Kyiv with a press conference on 9 September 2015. The Head of Mission has met the CEC chairperson, the Deputy Minister of Foreign Affairs, the Head of the High Administrative Court, representatives of political parties, and members of the diplomatic community. The EOM has also established regular contacts with governmental institutions involved in the election process, political parties and candidates, civil society, the media and the diplomatic community.

The Congress of Local and Regional Authorities of the Council of Europe and the European Parliament have announced that they will deploy observer delegations for election-day observation.

*The English version of this report is the only official document.
Unofficial translations are available in Ukrainian and Russian.*

³⁷ Other complaints concerned district delimitation and violation of campaign regulations.

³⁸ According to the Law On Access to Court Decisions, courts are obliged to submit copies of the decisions no later than one day after their adoption, which are then to be published within three days on the website of Unified State Register of Court Decisions. In a number of cases, decisions were published after these deadlines.