



EUROPEAN PARLIAMENT

**ELECTION OBSERVATION DELEGATION TO  
THE PARLIAMENTARY ELECTIONS  
IN UKRAINE**

**(28 October 2012)**

**Report by  
Pawel Kowal, Chair of the Delegation**

## **Introduction**

Following an invitation by Mr Volodymyr Lytvyn, Chairman of the Parliament of Ukraine, the Conference of Presidents of the European Parliament authorised, on 6 September 2012, the sending of an enlarged delegation of 15 Members to observe the parliamentary elections in Ukraine on 28 October 2012. The Conference of Presidents also authorised the Bureau of this delegation to travel to Ukraine on a pre-electoral visit ahead of election day, in order to meet relevant interlocutors and prepare the ground for the election observation delegation itself.

At its constitutive meeting on 27 September, the Delegation appointed Mr Pawel Robert KOWAL, Chair of the Delegation; Mr Michael GAHLER, Mr Juan Fernando LÓPEZ AGUILAR and Mrs Rebecca HARMS were appointed Vice-Chairs.

## **Background**

Prior to the elections, the European Union has repeatedly emphasised that these would be an important test of Ukraine's democratic credentials. In the latest resolution of European Parliament of 24 May and in the Final Statement and Recommendations of Nineteenth Meeting of EU-Ukraine PCC the importance of the parliamentary elections for further progress in relations of Ukraine with the EU was underlined.

Since the 2010 presidential election, the governing coalition formed by the Party of Regions, the Communist Party and the People's Party/Lytvyn Bloc, has enjoyed a clear majority in parliament. These parties competed against opposition parties, primarily the United Opposition–Batkivshchyna (Motherland) and the non-parliamentary parties United Democratic Alliance for Reform (UDAR) and Svoboda (Freedom).

While the 2010 presidential elections were described by the International Election Observation Mission and ODIHR as “meeting most international commitments”, the subsequent 2010 local and regional elections were marred by significant irregularities (European Parliament resolution of 25 November 2010 on Ukraine).

Two leading opposition figures, Ms Yulia Tymoshenko and Mr Yuriy Lutsenko, remain in prison banned from running in the elections. The European Parliament has addressed the situation in Ukraine repeatedly<sup>1</sup>.

## **Pre-electoral visit**

The pre-electoral visit authorised by the Conference of Presidents took place from 8 to 10 October, with the participation of Mr Pawel Kowal and Mr Michael Gahler. Ms Harms was represented by a member of staff from her political group.

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<sup>1</sup> [European Parliament resolution of 24 May 2012 and European Parliament resolutions of 9 June 2011, 27 October 2011 and 1 December 2011.](#)

The Bureau of the EP Election Observation Delegation met the EU Head of Mission in Kyiv, Mr Jan Tombinski, Dame Audrey Glover (Head of the long-term ODIHR mission) and her core team; Deputy Foreign Minister of Ukraine Mr Olefirov; the Central Electoral Commission; OPORA and CVU domestic observers; and representatives of political parties (Party of Regions, Batkivshchyna (Fatherland), UDAR, Ukraine Forward (Natalia Korolevska) and Svoboda. The Bureau also met with the head of the OSCE PA election mission, Ms. Walburga Habsburg Douglas.

The Bureau of the EP Election Observation Delegation noted stakeholder's concern around several issues:

- The implementation of the new electoral law: The new law for parliamentary elections was adopted in November 2011 by a broad majority in the Parliament of Ukraine, after abandoning the project to follow-up ODIHR's recommendation for a new electoral code. According to the ODIHR long-term mission and other sources, some important issues remain unaddressed and political will is essential to ensure effective implementation. The law returns to a mixed electoral system which existed before 2006, bans electoral blocks and raises to 5% the threshold to enter parliament.
- Central Electoral Commission's capacity to act: while recognising the intents by the CEC to act in a professional manner, ODIHR confirmed its lack of transparency (closed doors meetings) and the procedure followed to nominate members of the District Electoral Commissions (DEC) and the Precinct Election Commissions (PEC). Most positions in electoral commissions (at the district level and at polling stations level) were filled by a single lottery instead of a prior practice to hold a lottery for each DEC, as a result of which some technical parties obtained representation in all DEC's while other parties with candidates throughout the country were not represented at district level at all. Almost half of PEC and 60 per cent of DEC members were subsequently replaced.
- The opposition denounced that the participation of "technical parties" ("fake" parties created only to gain representation at the electoral commissions) gave all opportunities for forged results.
- Opposition parties denounce that some candidates have been pressured to withdraw, including by means of tax inspections, prosecution on old criminal charges and threats.
- Lack of a level playing field, pressures on freedom of press and absence of political pluralism in media; lack of enforcement of provisions on campaign financing; abuse of administrative resources.

Imprisonment of former government members and opposition leaders that the EP resolution describes as selective justice comes on top of all these framework conditions.

The Bureau of the EP Election Observation Delegation verified during its pre-election visit, the low level of trust among electoral participants and with regard to the electoral administration itself. The election campaign evolved against a background of intense polarization among political actors and reports of violations of the electoral rules.

The OSCE/ODIHR long-term Election Observation Mission conducted media monitoring from 16 September until the start of the electoral silence on 27 October. The long-term mission also followed up closely the response and remedies provided by competent bodies and law enforcement bodies.

## **Election Observation**

The European Parliament Election Observation Delegation (EP EOD) was composed of fifteen Members, nominated by the political groups of the EP:

Mr Pawel Robert KOWAL (Chair), ECR, Poland  
Mr Michael GAHLER (Vice-Chair), EPP, Germany  
Mr Juan Fernando LÓPEZ AGUILAR (Vice-Chair), S&D, Spain  
Ms Rebecca HARMS (Vice-Chair), Verts/ALE, Germany  
Ms Anna Maria CORAZZA BILDT, EPP, Sweden  
Mr Andrzej GRZYB, EPP, Poland  
Mr Joachim ZELLER, EPP, Germany  
Mr Jan KOZLOWSKI, EPP, Poland  
Mr Jacek PROTASIEWICZ, EPP, Poland  
Mr Mário DAVID, EPP, Portugal  
Mr Norbert NEUSER, S&D, Germany  
Mr Marek SIWIEC, S&D, Poland  
Mr Kristian VIGENIN, S&D, Bulgaria  
Mr Marek Henryk MIGALSKI, ECR, Poland  
Mr Adrian SEVERIN, NI, Romania

The European Parliament Delegations perform election observation in accordance with the Declaration of Principles of International Election Observation and the Code of Conduct for international election observers. Members of the EP Delegation signed the Code of Conduct for Members of the European Parliament Election Observation Delegations, in conformity with the decision of the Conference of Presidents of 10 December 2009.

The Delegation conducted its activities in Ukraine from 26 to 29 October and was integrated within the framework of the International Election Observation Mission (IEOM), with OSCE/ODIHR in charge of the long-term observation mission. The EP Delegation cooperated closely with the OSCE/Parliamentary Assembly Delegation headed by Ms. Walburga Habsburg Douglas, the Parliamentary Assembly of the Council of Europe headed by Mr Andreas Gross, the Delegation of the NATO Parliamentary Assembly, headed by Mr Assen Agov and the OSCE/ODIHR mission headed by Dame Audrey Glover.

## **Program**

Before election day, the parliamentary delegations integrated in the framework of the IEOM were extensively briefed by experts from the OSCE/ODIHR mission. Presentations were made on the political environment, the campaign activities, the media landscape and the legal framework of the parliamentary elections. The joint programme also included a series of meetings with media representatives, NGOs and the electoral administration.

The EP Election Observation Delegation also held bilateral meetings with the Chairs of main parties and with the CEC

## **Election day**

On election day, the EP delegation was deployed in Kyiv, Lviv, Dubno, Odessa and Dnipropetrovsk (and around these cities) All teams visited a significant number of polling stations from opening to the closure and the counting process and not encountered difficulties in observation.

Overall, the EP delegation observed a peaceful E-day even if rumors about carrousel and other violations of the law were widely spread, most of them related to the majoritarian part of the election. Teams that followed the counting process noted the cumbersome procedures.

The International Election Observation Mission also concluded the voting and counting process on election day was orderly and well organized in the large majority of polling stations observed, with only minor procedural problems noted. However, the unusually high number of homebound voters in some election districts raised concerns. Following the received information from long term observers the tabulation process was assessed negatively in one third of DEC's observed, mainly due to problems with PEC protocols and limited transparency. The active involvement of a large number of domestic observers throughout the entire electoral process enhanced its overall transparency during the election day.

## **Press conference of the International Election Observation Mission**

As usual, the statement of preliminary findings and conclusions was shared between the OSCE/ODIHR mission and the four parliamentary delegations. All the stakeholders of the IEOM shared a common assessment of the pre-electoral period and their findings concerning election day were also in line with one another.

The press conference took place on 29 October and attracted high media attention. Substantial shortcomings led the IEOM to conclude that 'certain aspects of the pre-electoral period constituted a step backwards compared with recent national elections'. The main areas of concern outlined by the IOEM include:

- Lack of transparency of campaign and party financing, which is problem of systematic character and concerns all political parties.
- The new electoral law, adopted in November 2011, reinstated a mixed electoral system without the required wide consensual discussion and re-introduced deficiencies that were noted when it was previously used. The law includes some important improvements, in particular with regard to voter and candidate registration although it also contains a number of shortcomings, mainly regarding the full enjoyment of candidacy rights, adequate campaign finance provisions, absence of clear criteria for the delimitation of single-mandate election districts, and lack of effective sanctions for serious violations of the law.
- Candidate registration was inclusive, even though over 400 nominees were rejected, almost half for minor technical problems and 2 opposition leaders (Tymoshenko and Lutsenko) were denied registration.
- Abuse of administrative resources and cases of 'harassment' and 'intimidation' of candidates.

- Lack of balanced media coverage due to limited diversity in media ownership and pluralism and the need for considerable resources to reach out to voters via TV (five times more paid political advertising compared to standard reporting) and also due to broadcasting restrictions imposed on independent TVi.
- Lack of transparency (mentioned in interim report) in the decision-making process of the Central Election Commission (CEC) due to closed pre-session meetings. There were claims, some of which were verified by the OSCE/ODIHR EOM, that election commissioners nominated by technical parties were, in fact, affiliated with other parties, especially the ruling Party of Regions. The CEC did not always take steps to ensure a consistent implementation of the electoral law.
- Vote buying and indirect vote bribery (providing material goods or services), issues that were not addressed by the CEC.
- Lack of transparency during the tabulation process.

The assessment is subject to further careful observation of the post-electoral phase: Tabulation of results and complains and appeals procedures are still ongoing at the time of writing.

## **Results**

The Central Electoral Committee announced on 29.10.12 that turnout had reached 58% (compared to 62% in 2007). It has been assessed as 'high' by most international observers who highlighted the Ukrainians' interest in the electoral process.

The following results, for the proportional part of the election, are to be confirmed, they are based on the preliminary counting of 96.2% of ballots as of 31.10.12. Indeed, due in part to the complexity of the mixed electoral system and the fact that complaints are yet to be addressed, the final results will be established till 12th November and announced till 17th November.

**Summary of the 28 October 2012 Verkhovna Rada election results**

**(preliminary result with 96.20% of the ballots counted)**

<b>Parties</b>	<b>List votes</b>	<b>%</b>	<b>Swing %</b>	<b>Seats (proportional representation)</b>	<b>Seats (constituencies)</b>	<b>Seats (total)</b>	<b>Change (2007)</b>
<b>Party of Regions</b>	5,944,238	30.50	▼3.87	74	117	191	▲16
<b>All-Ukrainian Union "Fatherland" (incl. United Opposition)</b>	4,905,656	25.17	▼5.54	61	42	103	▼53
<b>UDAR (Ukrainian Democratic Alliance for Reform)</b>	2,682,779	13.76	<i>New party</i>	33	6	39	<i>New party</i>
<b>Communist Party of Ukraine</b>	2,609,345	13.39	▲8.00	32	—	32	▲5
<b>All-Ukrainian Union "Freedom"</b>	1,993,381	10.23	▲9.47	25	10	35	▲35
<b>Independents</b>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	—	43	43	▲43
<b>Total (turnout 57.98%)</b>			▼4.04	<b>225</b>	<b>225</b>	<b>450</b>	—

The Parties United Centre, People's Party and Union, not participating in the election for proportional representation, obtained 6 seats in the "majoritarian" election.

### **Preliminary conclusions**

In general the pre-election period was assessed negatively, because of a number of shortcomings in the new electoral law and lack of a level of playing field. The process of voting and counting of votes on the election day has been assessed as relatively positive. There have been many negative comments concerning the tabulation process, which has not been completed yet. The criticism focuses on tabulation in some single-mandate districts, in contrast to proportional districts, where tabulation is assessed rather positively.

The widespread presence of representatives from different political parties and individual candidates in the election commissions can be read as a sign of high social involvement in the election process.

The high election turnout shows a clear commitment on the part of Ukrainian society to belong to the family of European democracies. It must be underlined that Ukrainian people

having possibility to choose gave strong support to the parties which support integration with the EU.

The OSCE/ODIHR long term mission will remain in the country until the end of the election process and will issue a comprehensive final report, including recommendations for improvements, some eight weeks after the completion of the election process.

The European Parliament Election Observation Delegation recommends that the Election Coordination Group, the Foreign Affairs Committee and the Delegation to the EU-Ukraine Parliamentary Cooperation Committee follow-up closely the conclusions and recommendations of this final report and reaction of Ukrainian side.