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## Observation of the early presidential election in Ukraine (25 May 2014)

### Election observation report

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Contents	Page
1. Introduction .....	1
2. Legal framework .....	2
3. Administration of the election, registration of candidates and voter lists .....	4
4. Election campaign and media environment .....	5
5. Election day .....	7
6. Conclusions and recommendations .....	8
Appendix 1 – Composition of the ad hoc committee .....	10
Appendix 2 – Programme of the observation mission .....	12
Appendix 3 – Statement of the pre-electoral delegation .....	14
Appendix 4 – Statement of the International election observation mission .....	16

### 1. Introduction

1. On 22 February 2014, the Verkhovna Rada of Ukraine adopted a resolution removing the President from office and calling an early presidential election on 25 May 2014.<sup>1</sup> On 28 February, the Speaker of the Verkhovna Rada, Mr Oleksandr Turchynov, invited the Parliamentary Assembly to observe these elections.

2. At its meeting on 6 March 2014, the Bureau of the Parliamentary Assembly decided to observe the early presidential election and authorised a pre-electoral mission to take place one month before the election. On 7 April, the Bureau took note of the declarations that the candidates for the observation mission had no conflicts of interest and approved the composition of the ad hoc committee (see Appendix 1) made up of 50 members and the two co-rapporteurs from the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and appointed Mr Andreas Gross (Switzerland, SOC) chairperson.

3. Under the terms of Article 15 of the co-operation agreement signed between the Parliamentary Assembly and the European Commission for Democracy through Law (Venice Commission) on 4 October 2004, "When the Bureau of the Assembly decides to observe an election in a country in which electoral legislation was previously examined by the Venice Commission, one of the rapporteurs of the Venice Commission on this issue may be invited to join the Assembly's election observation mission as legal adviser". In accordance with this provision, the Bureau of the Assembly invited an expert from the Venice Commission to join the ad hoc committee as an advisor.

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1. This report does not deal with the crisis situation in Ukraine, which was described in the Monitoring Committee's report (Doc. 13482), which gave rise to the adoption of Resolution 1988 (2014).



4. The ad hoc committee observed the elections as part of the International Election Observation Mission (IEOM), which also comprised delegations from the Parliamentary Assembly of the Organization for Security and Co-operation in Europe (OSCE-PA), the European Parliament and the Parliamentary Assembly of the North Atlantic Treaty Organisation (NATO-PA), as well as the election observation mission conducted by the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

5. In order to assess the organisation of the election campaign and the political climate, the Bureau sent a pre-electoral mission to Ukraine from 28 to 30 April 2014. The multiparty delegation was composed of Andreas Gross (Switzerland, SOC), head of the delegation, Frank Jenssen (Norway, EPP/CD), Ingebjørg Godskesen (Norway, EDG), Tinatin Khidasheli (Georgia, ALDE), Nikolaj Villumsen (Denmark, UEL) and Marietta de Pourbaix-Lundin, co-rapporteur of the Monitoring Committee (*ex officio*) (Sweden). Unfortunately, the other co-rapporteur responsible for monitoring of Ukraine was unable to take part in the visit.

6. The ad hoc committee met in Kyiv from 23 to 26 May 2014 and met, amongst others, with candidates standing for the election and their representatives, the Head of the OSCE/ODIHR Election Observation Mission and her staff, the Chairperson of the Central Election Commission (CEC) of Ukraine, the Representative of the Secretary General and Head of the Council of Europe Office in Ukraine, representatives of the OSCE/ODIHR election observation mission in Ukraine, the European Union delegation, the NATO Office, and civil society and media representatives. The programme of ad hoc committee meetings is set out in Appendix 2.

7. During the pre-electoral mission to Ukraine (28-30 April 2014), the delegation met: presidential candidates and their representatives; Oleksandr Turchinov, Chairman of the Verkhovna Rada and acting President of Ukraine; Prime Minister Arseniy Yatsenyuk; the Deputy Secretary of the National Security and Defence Council of Ukraine Oleksandr Lytvynenko; the President of the Central Electoral Commission and the members of OSCE/ODIHR election observation mission. Meetings were also organised with representatives of civil society and the media. The pre-electoral mission, at the end of its visit to Ukraine, found that “[f]ollowing the revolution, Ukraine needs a democratic and credible presidential election to establish legitimate political authority. Therefore, it calls on all Ukrainian citizens, whatever their political convictions or linguistic and regional sensibilities, to play an active part in the election campaign and to participate in the forthcoming election. Any external interference in the domestic affairs of Ukraine and in the electoral process should be excluded, in order to guarantee the people's freedom to vote”. The declaration issued by the pre-electoral delegation is set out in Appendix 3.

8. On election day, the ad hoc committee split up into 22 teams to observe the elections in the cities of Kyiv, Odessa, Rivne, Vinnitsa, Khmelnytskyi, Cherkassy and the surrounding areas.

9. On 26 May, the International Election Observation Mission concluded that “the 25 May early presidential election in Ukraine was characterised by high turnout and a clear resolve by the authorities to hold what was a genuine election largely in line with international commitments and that respected fundamental freedoms in the vast majority of the country, despite the hostile security environment in two eastern regions of the country”. “The extraordinary quality of yesterday's election provides the new president of Ukraine with the legitimacy to establish immediately an inclusive dialogue with all citizens in the eastern regions, to restore their trust and confidence, and to decentralise State power in order to preserve the unity of the country by respecting the diversity of Ukrainian society. There is no military solution to today's crisis”. The IEOM press release published after the elections is reproduced in Appendix 4.

## **2. Legal framework**

10. The early presidential election on 25 May 2014 was the eleventh election, parliamentary and presidential, since Ukraine joined the Council of Europe in 1995. The Parliamentary Assembly has observed every parliamentary and presidential election held in Ukraine since 1994.

11. The presidential election was marked by the events since November 2013, with mass protests against the then President Viktor Yanukovich, who fled the country in February 2014. There was escalating tension and unrest, as well as several local referenda organised. Amendments to the electoral legal framework continued against this background.

12. On 22 February 2014, the Verkhovna Rada voted to call an early presidential election for 25 May. If no candidate were to win an absolute majority in the first round, a second round between the top two candidates would be held three weeks later.

13. Ukraine has no unified electoral code. There are too many laws governing elections, and they are unnecessarily complex and unclear; furthermore, they often contradict each other. This is why the Parliamentary Assembly and the Venice Commission have repeatedly advised the Ukrainian authorities to develop and adopt a unified and simplified electoral code. In 2010, a new unified electoral code was drafted by the Verkhovna Radar's Kliuchkovsky working group. All the parties took part in the drafting process which was conducted in close co-operation with the Venice Commission. Unfortunately, this project was withdrawn from the agenda of the parliament by the Party of Regions following the decision by the Constitutional Court in 2010 to revert to the 1996 Constitution.

14. The legislation on presidential elections has undergone significant changes, in an effort to improve the Law of 5 March 1999. The amendments, adopted on 13 March 2014 by the parliament, aimed to adjust to the short timeline and harmonise the electoral legislation. The following changes were introduced:

- each presidential candidate to appoint one representative in each electoral commission, instead of two;
- election districts and precincts to be the same as those established for the last parliamentary elections. This is a positive change from the old framework, which provided for temporary districts and precincts that changed with each election;
- after the first round of the presidential election and in the event of a second round, the electoral commissions to be reconstituted so that the two candidates taking part in the second round appoint an equal number of representatives in each electoral commission;
- presidential candidates able to change their representatives in the electoral commissions at any time without explanation. While this change will help to prevent overly frequent changes of political allegiance by members of electoral commissions after they have been appointed, it will, however, also make them less independent and does nothing to ensure that new nominees have received the necessary training;
- the new law has improved the accuracy of the voter lists, by prohibiting changes in the lists on election day and by allowing candidates to receive a copy of the voter register not later than 20 days before election day;
- a quorum of the majority of members of the electoral commission to be required in order to take decisions;
- procedures for printing ballot papers have been improved;
- decisions of the Central Electoral Commission and the district electoral commissions (DECs) to be published on the CEC website in order to make the electoral process more transparent;
- arrangements regarding media coverage of elections have been improved.

15. These amendments have also made it possible for domestic non-governmental organisations (NGOs) to act as electoral observers and prevent them from being excluded from a precinct except by a vote of two thirds of an election commission. Domestic NGOs are also allowed to observe the entry of voting results at electoral commissions. The ad hoc committee of the Assembly underlined this as a positive measure, since, like in the previous elections, the presence of domestic observers considerably reinforced the credibility of the election results.

16. According to the opinion of the Venice Commission of 16 March 2014, the referendum on the self-determination of Crimea was unconstitutional and against international law. On 15 April 2014, the Verkhovna Rada adopted a law on “temporarily occupied territories” excluding Crimea from the voting; citizens from these territories could register to vote in other parts of Ukraine.

17. On 15 May, the Verkhovna Rada of Ukraine amended the Law on the election of the President, allowing district election commissions, at the request of the heads of local authorities, to change the location of polling stations outside of the relevant constituencies. The police services must, starting no later than eight days before the voting day, assure permanent surveillance of the polling stations. The Ukrainian security services may be asked by the CEC to ensure the protection of the transportation of electoral materials.

18. On 22 April, 101 members of Verkhovna Rada submitted a request for clarification to the Constitutional Court concerning the term of office of the President, specifically asking whether the president to be elected in this early election should serve for five years or whether the term of office should extend only until 2015, the date of the next regularly scheduled election. On 15 May, the Constitutional Court decided that the presidential term would be five years.

19. The Parliamentary Assembly has frequently stressed the need for more robust legal mechanisms to regulate the financing of election campaigns and for greater transparency. The Venice Commission and the OSCE/ODIHR have constantly recalled in their joint opinions the need to review the legislation on campaign financing in a comprehensive manner.<sup>2</sup> Unfortunately, the latest amendments to the law on presidential elections do not address this concern.

20. The amended legislation on the president does not require the CEC to publish financial reports on election campaign expenditure, as is the case for parliamentary elections. Nor are there any penalties for presidential candidates if the reports on their election campaign expenditure are submitted late or if they contain inaccuracies. There is no upper limit on spending for presidential candidates despite the fact that the Venice Commission has recommended capping election campaign expenditure. The maximum amount that may be donated by an individual to fund a presidential election campaign remains one of the highest in the region at around €32 000, and there has been no change in the amount of the deposit that candidates are required to pay in order to be registered, which remains very high at around €178 000.

21. With regard to the place of money and oligarchies in politics in Ukraine in general and in the election process in particular, in its declaration of 30 April 2014, the Assembly's pre-electoral delegation recalled the Assembly's conclusions following the last presidential and parliamentary elections in 2010 and 2012. The Assembly had expressed its concern with regard to "the place of money and oligarchies in politics in Ukraine in general and in the election process in particular. This reality appears to have reached even more alarming proportions during this election campaign. Unfortunately, many Ukrainian citizens see the political 'combat' as a struggle between different clans and their financial interests rather than between competing platforms and ideas".<sup>3</sup>

### 3. Administration of the election, registration of candidates and voter lists

22. The presidential election was administered by a three-tier system of electoral commissions: one Central Electoral Commission, which is a permanent body with 15 members, 213 district electoral commissions and 32 244 polling station commissions (PSCs).

23. Despite the challenging environment and limited time frame, the CEC generally operated impartially and efficiently and met all legal deadlines. The lack of adequate regulation of a few aspects of the election, however, reduced the uniformity in the administration of the process. The substitution of numerous candidate nominees to district and precinct election commissions affected the stability and efficiency of election administration, but most commissions outside the Donetsk and Luhansk regions were able to overcome time constraints, the frequent changes in their composition and some problems with resources. During the election campaign, some 43% of DEC members were changed.

24. The new law limited the number of election commission members, giving each candidate the right to nominate one person per commission. The law was further modified on 6 May 2014 to reduce the minimum number of PSC members from 12 to 9.

25. The election administration made genuine efforts to conduct voting throughout the country, despite continued unrest and violence in the east, which seriously impacted the election environment, obstructed meaningful observation, and had a significant adverse affect on preparations. Forced evictions and closures of district election commissions by armed groups, abductions, death threats, forced entry into private homes and the seizure of equipment and election materials were some of the methods used to try to prevent the election and to deny citizens their right to vote.

26. In this regard, the Assembly pre-electoral delegation strongly condemned all cases of violence, in stressing that during the campaign and on election day, all necessary measures should be taken to ensure the security of the entire electoral process, including the functioning of district election commissions and polling stations, to avoid possible cases of intimidation or violence towards their members.

27. The election campaign began on 25 February. The closing date for the registration of candidates was 4 April. The CEC registered 23 candidates, of whom 7 were appointed by political parties; the registration of candidates was inclusive and transparent. Three candidates decided to withdraw their candidacy after having

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2. See, *inter alia*, CDL-AD(2013)016 and CDL-AD(2013)026.

3. [Doc 12132](#), report on the observation of the presidential election in Ukraine (17 January 2010); [Doc. 13070](#), report on the observation of the parliamentary elections in Ukraine (28 October 2012).

been registered.<sup>4</sup> The registration of 23 applicants was rejected by the CEC for different reasons: 22 candidates failed to pay the deposit sum of 2 500 500 UAH (around €178 000) and one candidate for errors in his application.

28. Eleven of the rejected candidates filed appeals with the courts and all decisions were upheld on appeal. Existing obstacles to becoming a presidential candidate based on the Tax Code, establishing that residence was linked to taxation status and requiring registration with the Minister of Justice, have been eliminated by the new legal framework.

29. The CEC is responsible for the content and updating of the civil register. According to official data 35 906 852 voters were included on the electoral lists, some 666 990 voters were registered for home voting and 472 058 voters were registered to vote in 114 polling stations established in 75 foreign countries.

30. On 12 May 2014, a new so-called referendum, following the Crimean referendum, took place in the Eastern part of the country, mainly in the regions of Donetsk and Luhansk, which are demanding increased autonomy. No international monitoring of the referendum was organised and the Ukrainian Government considered it a “farce”.

31. Due to security reasons, the CEC denied access to the State Voter Register to some organisations in charge of the content and updating of the register in the Donetsk and Luhansk regions. As a result, the voter lists of some 1 500 polling stations were not printed and distributed.

32. During previous elections, the Parliamentary Assembly and the Venice Commission have criticised the legal provisions allowing voters to be added to the voter lists on the day of election which could compromise the final results of elections in some regions of Ukraine. The ad hoc committee welcomes the recent changes in the election legislation which have improved the accuracy of the voter lists, by prohibiting changes in the lists on election day and by allowing candidates to receive a copy of the voter register.

#### **4. Election campaign and media environment**

33. During its pre-electoral visit to Ukraine from 28 to 30 April, the Parliamentary Assembly delegation, while assessing the political climate of the election campaign, noted that Ukraine needed a democratic and credible presidential election to establish, after the revolution, legitimate political authority. Therefore, it called on all Ukrainian citizens, whatever their political convictions or linguistic and regional sensibilities, to play an active part in the election campaign and to participate in the election on 25 May. The delegation warned that any external interference in the domestic affairs of Ukraine and in the electoral process should be excluded, in order to guarantee the people’s freedom to vote.

34. The election campaign environment was affected by tensions, and the interference of armed groups, particularly in the eastern regions. Numerous cases of intimidation and violence towards citizens and presidential candidates were reported. The election campaign intensified only during the last few weeks before the election day. The main presidential candidates conducted a visible campaign with distinct electoral programmes.

35. Petro Poroshenko was registered as an independent candidate, supported by the Udar Party (Ukrainian Democratic Alliance for Reform) of Mr Klitschko, who was a candidate for the election of Mayor of Kyiv. Mr Poroshenko has spoken out in favour of Ukraine’s accession to the European Union, restoring economic co-operation with Russia; strengthening national defence and security should be a priority for the government; the military industrial complex should serve as a basis for the country’s economic revival; Ukraine should remain a unified State that takes account of the specific features of the regions; all political and diplomatic means must be used to bring about the return of Crimea to Ukraine. Mr Poroshenko favoured a hybrid parliamentary–presidential regime and believed that early parliamentary elections should be held at the end of 2014 on the basis of a fully proportional system. He also believed there was a need to enact legislation concerning parliamentary opposition.

36. Yulia Tymoshenko, the candidate of the unified opposition “Batkivschyna” advocated signing association agreements with the European Union by the end of 2014 and said that Ukraine should join the European Union at the earliest opportunity. She was in favour of increasing the military budget to 5% of Ukraine’s gross domestic product (GDP) and of creating a well-equipped professional army. According to her, Crimea had to be liberated from the occupying forces and action taken to secure compensation for Ukraine’s

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4. Natalia Korolevska (independent), Oleg Tsarov (self-nominated) and Zoruan Shkiryak (independent). Mr Shkiryak only withdrew his candidacy on 10 May, his name therefore remained on the ballot paper.

losses through the international courts. Ms Tymoshenko proposed to abolish parliamentary immunity and to introduce a system that would allow MPs to be removed from office. She supported wider powers for the regions in order to give them more financial independence.

37. Serhiy Tihipko was registered as an independent candidate. He has stated that it is time to stop the senseless search for foreign protectors to help Ukraine and that talks with Russia should be resumed in all areas, in a spirit of pragmatism and with due regard to the interests of Ukraine. He wanted to see an effective army established, on a contractual basis, and a plan drawn up to restore Ukraine's territorial integrity within its internationally recognised borders. He has spoken out in favour of holding early parliamentary elections and introducing a system for MPs to be removed from office. Mr Tihipko proposed to swiftly enact the legislation needed for these reforms and to hold direct elections for regional governors. He also believed there was a need to introduce reforms in order to give as much cultural and economic autonomy as possible to the regions. In the economic sphere, Ukrainian businesses should be reoriented towards European markets and action taken to attract foreign investment.

38. Mikhail Dobkin was registered as an independent candidate and supported by the Party of Regions. He advocated the rapid restoration of friendly relations with Russia in all areas, and the creation of a common humanitarian space with Russia. A customs union was, in his view, the best solution for Ukraine's economy. He was in favour of creating a professional army and believed that federalisation was the only way of ensuring Ukraine's territorial integrity and preserving the identity of all the population groups present in the country. He supported the introduction of direct elections for regional governors.

39. Oleh Lyaschko was registered as a presidential candidate from the Radical party. He has spoken in favour of the liberation of Ukraine from invaders. Mr Lyaschko proposed the prohibition of Russian language media in Ukraine and the introduction of a visa regime with Russia and reinforce the army forces of Ukraine. He has spoken out in favour of the lustration of persons working in State administration and stressed the importance of fighting against oligarchies.

40. Oleh Tyahnybok was registered as a presidential candidate from the "Svoboda" Party. He supported the introduction of a visa regime with Russia and the abolition of visas with the European Union. He proposed that Ukraine should leave any institutions of which Russia is a member and where it plays a dominant role, and that Ukraine should sign military aid agreements with the United States and the United Kingdom in case of military aggression on the part of Russia. Ukraine should join NATO and the process of signing association agreements with the European Union should be speeded up. Mr Tyahnybok wanted to increase the military budget to 5% of GDP and to create a well-equipped professional army. According to him, it was important to re-establish Ukraine as a nuclear power. He advocated introducing proportional representation for parliamentary elections with open lists.

41. On 23 May, during his meeting with the international observers, the representative of Mr Tyahnybok confirmed his party's opinion on the prohibition of the Communist Party of Ukraine. In this regard, the ad hoc committee considers that prohibition of any political organisation should only be done on the basis of a court decision according to the legislation in force and not for political considerations.

42. On 14 April, two presidential candidates, Mikhail Dobkin and Oleh Tsarev, were attacked in Kyiv as they were leaving the ICTV television studios. The speaker of the Verkhovna Rada, Mr Turchynov, made a statement, calling on the presidential candidates not to break Ukrainian law and to refrain from issuing calls for separatism, and calling on voters not to obstruct the candidates' campaign activities.

43. The presidential candidate, Serhiy Tihipko, a former member of the Party of Regions, has alleged that some of his supporters have been subjected to intimidation and pressure from the Party of Regions. On 18 April, the Speaker of the Verkhovna Rada and Acting President of Ukraine, Mr Turchynov, signed a decree to assure the protection of the following presidential candidates during the election campaign: Poroshenko, Tymoshenko, Tihipko, Dobkin, Bogomolets and Liashko.

44. The Assembly's pre-electoral delegation strongly condemned all cases of violence and stressed that it was crucial for all presidential candidates to enjoy equal conditions to meet electors and inform them about their programmes, have equal access to the media and be able to conduct their campaigns in all regions of Ukraine without discrimination and according to Ukrainian legislation.

45. During the election campaign, the Ukrainian authorities declared that they intended to amend the Criminal Code in order to clamp down on electoral corruption, such as vote buying and the falsification of election results, to reinforce sanctions for voters who accept money or other forms of remuneration as well as for those who give bribes. The ad hoc committee noted with satisfaction that not one interlocutor mentioned any case of the misuse of administrative resources, unlike in previous elections observed by the Assembly.

46. The new law regulates in a detailed manner media coverage of the presidential election, in a similar way to the existing Law on Parliamentary Elections. It prohibits the dissemination of defamatory or deliberately false information concerning presidential candidates, although these two notions are not clearly defined. Moreover it also prohibits certain kinds of speech, such as incitement to violence or inter-ethnic hatred.

47. In the Venice Commission and the OSCE/ODIHR joint opinions of June<sup>5</sup> and October 2013<sup>6</sup> on the electoral legislation concerning the parliamentary elections, it was recommended to establish detailed regulations for assuring a balanced coverage of the elections. There is a lack of transparency of media ownership and a lack of independence of the media in general.

48. Ukraine has a wide range of media. The public television channel 1 organised television debates among the presidential candidates from 9 to 23 May and all candidates took part in the debates. The schedule of the debates was decided by a draw.

49. According to the OSCE/ODIHR mission media monitoring report, the State channel "Pershyi Nationalnyi" devoted 59% of its airtime to covering the authority's activities and only 11% to the candidates. The tone of private media coverage in general was neutral, but in some cases the coverage was not balanced. For instance, TV 5, belonging to Mr Poroshenko, devoted 60% of its editorial coverage to Mr Poroshenko. Around 82% of all total paid advertising on the TV channels monitored was devoted to four candidates: Poroshenko 33%, Timoshenko 20%, Dobkin 15% and Tihipko 14%. According to the same report, since 25 March, broadcasting by four Russian television channels was temporarily prohibited in Ukraine.

50. The Assembly's pre-electoral delegation was informed of cases of harassment and restrictions on the freedom of journalists, intimidations and violence. It firmly condemned any attempt to undermine media freedom and asked the authorities to provide journalists and others in the media with effective protection.

## 5. Election day

51. In general, election day was calm, the ballot was conducted in an efficient, orderly and transparent manner, according to the established procedures. The members of the ad hoc committee noted a very active participation of electors. The ad hoc committee split up into 22 teams to observe the elections in the cities of Kyiv, Odessa, Rivne, Vinnitsa, Khmelnytskyi, Cherkassy and the surrounding areas. They identified a certain number of technical problems in the polling stations visited:

- a number of polling stations were late in opening;
- a number of small polling stations had around 2 500 voters registered on the voters lists; this situation resulted in congestion of the premises;
- there were long queues in some polling stations, though this did not diminish the enthusiasm of electors to vote massively;
- in some regions, including in the cities of Odessa and Kyiv, the local elections took place on the same day as the presidential election; the vote-counting procedure was chaotic in those polling stations where the elections were being held for mayors and members of municipal councils; around three hours after the closing of the polling stations the vote counting had still not started;
- in those polling stations the vote-counting procedure was very long, complex and somewhat confused, also because single ballot boxes were used for different elections;
- cases of non-compliance with the opening and vote-counting procedures in certain polling stations were observed, but these were unintentional;
- in some polling stations there were apparently difficulties with regard to the application of the new law due to the fact that the new members of polling stations had not had sufficient time for proper training on procedures to be followed;
- in one polling station in the Cherkassy region, located in a prison, some 500 people had voted before 10 o'clock in the morning; the administration of the penitentiary establishment was not able to show the electoral material or the premises where the vote took place;
- in general, the polling stations were not easily accessible to persons with disabilities.

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5. CDL-AD(2013)016.

6. CDL-AD(2013)026.

52. According to the results announced by the CEC, Poroshenko obtained 54.7% of the votes cast, Tymoshenko – 12.82%, Lyaschko – 8.33%, Hrytsenko – 5.48%, Tihipko – 5.23%, Dobkin – 3.03%, Rabinovich – 2.25%, Bogomolets – 1.91%, Simonenko – 1.51% and Tyahnybok – 1.16%. The other candidates obtained less than 1%. M. Poroshenko was elected President of Ukraine. The turnout was 60.29%.

## 6. Conclusions and recommendations

53. The ad hoc committee of the Parliamentary Assembly concluded that the 25 May early presidential election in Ukraine was characterised by a high turnout and a clear resolve by the authorities to hold a genuine election largely in line with international commitments and which respected fundamental freedoms in the vast majority of the country, despite the hostile security environment in two eastern regions of the country.

54. The ad hoc committee is convinced that the results of the election provides the new president of Ukraine with the legitimacy to establish immediately an inclusive dialogue with all citizens in the eastern regions, to restore their trust and confidence, and to decentralise State power in order to preserve the unity of the country by respecting the diversity of Ukrainian society. There is no military solution to today's crisis.

55. The ad hoc committee welcomes the high level of participation of Ukrainians in the election. In this regard, it recalls the Assembly's pre-electoral delegation declaration of 30 April calling on "all Ukrainian citizens, whatever their political convictions or linguistic and regional sensibilities, to play an active part in the election campaign and to participate in the forthcoming election".

56. The election campaign environment was affected by tensions and the interference of armed groups, particularly in the eastern regions. Cases of intimidation and violence towards citizens and presidential candidates were reported in some other regions too. In this regard, the ad hoc committee strongly condemns all cases of violence, stressing that it is crucial that all presidential candidates enjoy equal conditions to conduct their campaigns in all regions of Ukraine without discrimination and according to Ukrainian legislation. The ad hoc committee noted with satisfaction that not one interlocutor mentioned any case of misuse of administrative resources, unlike in previous elections observed by the Parliamentary Assembly.

57. With regard to the legal framework, the ad hoc committee noted that the new Law on presidential elections had brought about significant improvements, in particular by improving the legal framework and harmonising the Law on the presidential election with that on the parliamentary elections. Nevertheless, Ukraine still has no unified electoral code. There are too many laws governing elections, and they are unnecessarily complex and unclear. This is why the Assembly has repeatedly advised the Ukrainian authorities to develop and adopt a unified and simplified electoral code.

58. The Central Election Commission generally operated efficiently and impartially and made genuine efforts to conduct voting throughout the country, despite continued unrest and violence in the east, which seriously impacted the election environment, obstructed meaningful observation, and had a significant adverse effect on preparations. The ad hoc committee strongly condemns all the cases of death threats, forced entry into private homes and abduction of election administration officials.

59. With regard to the financing of election campaigns, the ad hoc committee once again highlighted the need for more robust legal mechanisms to regulate the financing of election campaigns and for greater transparency. The Venice Commission and the OSCE/ODIHR have constantly recalled in their joint opinions the need to review the legislation on campaign finance in a comprehensive manner.<sup>7</sup> The place of money and oligarchies in politics in Ukraine in general and in the election process in particular continue to be a matter of serious concern. Unfortunately, the latest amendments to the law on presidential elections do not seem to address this concern.

60. Concerning the media coverage of the election campaign, the ad hoc committee noted that Ukraine has a wide range of pluralistic media and that television debates were organised among presidential candidates from 9 to 23 May in which all candidates took part. Nevertheless, the ad hoc committee pointed out that despite the regular criticisms expressed the Assembly regarding the predominance of the oligarchies in the media, the lack of transparency of media ownership and the lack of independence of the media was still a grave matter of concern.

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7. See, *inter alia*, CDL-AD(2013)016 and CDL-AD(2013)026.

61. The ad hoc committee considers that the Parliamentary Assembly should continue its close co-operation with the Ukrainian authorities, by means of its monitoring procedure, and with the Venice Commission, in order to resolve the problems noted during the early presidential election on 25 May 2014 and further consolidate the whole electoral process. Consequently, the ad hoc committee invites the Ukrainian authorities to:

- adopt a unified electoral code;
- fully implement the recommendations of the Parliamentary Assembly, the opinions of the Venice Commission and the recommendations of the Group of States against Corruption (GRECO), in order to reinforce the transparency of political party and election campaign financing;
- take the necessary legislative measures and apply them fully to guarantee media pluralism during electoral campaigns, the independence of journalists with regard to the financial oligarchic groups and to reinforce the transparency of media ownership;
- to improve the premises of polling stations and to adjust the maximum number of voters registered in the polling stations according to the size of the premises;
- examine ways of simplifying the long, complex ballot-counting procedures on the day of the election;
- organise training courses for members of the polling stations in order to improve their command of procedures on the day of the election.

62. The Assembly is prepared to assist Ukraine in implementing these important electoral reforms.

## Appendix 1 – Composition of the ad hoc committee

Based on proposals by the political groups of the Assembly, the ad hoc committee was composed as follows

- Andreas GROSS (Switzerland, SOC), Head of the delegation
- **Socialist Group (SOC)**
  - Joe BENTON, United Kingdom
  - Robert BIEDROŃ, Poland
  - Maryvonne BLONDIN, France
  - Bernadette BOURZAI, France
  - Ute FINCKH-KRÄMER, Germany
  - Andreas GROSS,\* Switzerland
  - Sabir HAJIYEV, Azerbaijan
  - Stella JANTUAN, Republic of Moldova
  - Liliane MAURY PASQUIER, Switzerland
  - René ROUQUET, France
  - John TOMLINSON, United Kingdom
- **Group of the European People's Party (EPP/CD)**
  - Lolita ČIGĀNE, Latvia
  - Bernd FABRITIUS, Germany
  - Béatrice FRESKO-ROLFO, Monaco
  - Frank JENSSEN,\* Norway
  - Jacques LEGENDRE, France
  - François ROCHEBLOINE, France
  - Rovshan RZAYEV, Azerbaijan
  - Kimmo SASI, Finland
  - Tobias ZECH, Germany
- **European Democrat Group (EDG)**
  - Brian BINLEY, United Kingdom
  - Reha DENEMEÇ, Turkey
  - Roger GALE, United Kingdom
  - Ingebjørg GODSKESEN,\* Norway
  - Morten WOLD, Norway
- **Alliance of Liberals and Democrats for Europe (ALDE)**
  - Marieluise BECK, Germany
  - Doris FIALA, Switzerland
  - Karl GARDARSSON, Iceland
  - Alfred HEER, Switzerland
  - Tinatin KHIDASHELI,\* Georgia
  - Kerstin LUNDGREN, Sweden
  - Andrea RIGONI, Italy
  - Kristýna ZELIENKOVÁ, Czech Republic
- **Group of the Unified European Left (UEL)**
  - Andrej HUNKO, Germany
  - Grigore PETRESCO, Republic of Moldova
  - Nikolaj VILLUMSEN,\* Denmark
- **Venice Commission**
  - Srdjan DARMANOVIC, Montenegro
  - Amaya ÚBEDA, Administrative Officer
- **Secretariat**
  - Chemavon CHAHBAZIAN, Deputy to the Head of Secretariat of the Interparliamentary Co-operation and Election Observation Division
  - Yann de BUYER, Head of the Central Division
  - Nathalie BARGELLINI, Press Officer
  - Danièle GASTL, Assistant, Interparliamentary Co-operation and Election Observation Division

- Catherine LAKBAR, Assistant, Parliamentary Assembly

\* members of the pre-election delegation

## Appendix 2 – Programme of the observation mission

### Friday, 23 May 2014

- 08:30-09:20 Meeting of the ad hoc committee of the Assembly:
- Briefing on the pre-electoral mission by Mr Andreas Gross, Head of the Delegation
  - Briefing by members of the pre-electoral mission
  - Briefing by Mr Vladimir Ristovski, Head of the Council of Europe Office in Kyiv
  - Briefing on recent modifications of election legislation, by Mr Srdjan Darmanovic from the Venice Commission
  - Practical and logistical arrangements, Secretariat
- Joint meetings with other parliamentary delegations:
- 09:30-9:45 Opening of the joint briefing by the heads of parliamentary delegations:
- Mr João Soares, Head of the OSCE Parliamentary Assembly Delegation and Special Co-ordinator to lead the short-term OSCE observer mission
  - Mr Andreas Gross, Head of the Delegation of the Parliamentary Assembly of the Council of Europe
  - Mr Göran Färm, Head of the European Parliament Delegation
  - Mr Karl Lamers, Head of the NATO Parliamentary Assembly Delegation
- 09:45-10:15 Presentations by heads of local offices in Ukraine:
- Mr Rene BeBeau, Senior Project Officer, OSCE Project Co-ordinator in Ukraine
  - Mr Vladimir Ristovski, Head of the Council of Europe Office in Kyiv
  - Ambassador Jan Tombiński, Head of the European Commission Delegation to Ukraine
- 10:15-12:00 Briefing by the OSCE/ODIHR Election Observation Mission in Ukraine:
- Welcome and overview of the EOM's work: Ms Tana de Zulueta, Head of the OSCE/ODIHR EOM
  - Political overview, Election Campaign: Ms Aleška Simkić
  - Media Monitoring: Mr Pietro Tesfamariam
  - Electoral Legal Framework: Ms Meaghan Fitzgerald
  - Election Administration: Mr Paul O'Grady and Mr Kakha Inaishvili
  - Election day procedures and statistical analysis: Mr Kakha Inaishvili and Mr Goran Petrov
  - Security issues: Mr Davor Čorluka
  - Questions
- Meetings with presidential candidates:
- 12:00-12:30 Mr Ihor Zhdanov, Head of presidential campaign of Ms Yulia Tymoshenko
- 12:30-13:00 Mr Taras Osaulenko, Head of presidential campaign of Mr Oleh Tyahnybok
- 13:00-13:30 Mr Andriy Voloshyn, Assistant to presidential candidate Mr Oleh Tyahnybok
- 14:30-15:00 Mr Roman Zvarych, Deputy to the Head of the election campaign of Mr Petro Poroshenko
- 15:00-15:30 Mr Vadim Rabinovich, presidential candidate
- 15:30-16:00 Ms Svetlana Fabrikant, Head of the election campaign of Mr Serhiy Tihipko  
(The candidate Petro Symonenko refused to receive the invitation letter)
- 16:00-16:45 Meeting with Mr Mykhaylo Okhendovsky, Chairperson of the Central Election Commission of Ukraine

- 17:00-18:00 Panel with representatives of mass media:
- Ms Darya Yurovska, Deputy Director-General, National TV Company
  - Ms Lyubov Bakalenko, member of the National Television and Radio Broadcasting Council
- 18:00-19:00 Panel with representatives of civil society:
- Mr Oleksandr Chernenko, Chairperson of the NGO Committee of Voters of Ukraine
  - Mr David Ennis, Resident Director, IFES

**Saturday, 24 May 2014**

- 10:00-11:30 Area specific briefings by the OSCE/ODIHR Long Term Observers for Kyiv and Kyiv region
- 11:30-12:30 Meeting with interpreters and drivers

**Sunday, 25 May 2014**

- 07:00-20:00 Observation in polling stations
- From 20:00 Observation of closing of polling stations and counting

**Monday, 26 May 2014**

- 08:00-09:00 Ad hoc committee meeting
- 09:00-10:30 Meeting of the Heads of delegations of the IEOM
- 14:30 Press conference

### **Appendix 3 – Statement of the pre-electoral delegation**

#### **A pre-electoral delegation from the Parliamentary Assembly of the Council of Europe (PACE) visited Kyiv to evaluate the election campaign and preparations for the early presidential election on 25 May 2014**

30.04.2014 – The PACE delegation is convinced that, following the revolution, Ukraine needs a democratic and credible presidential election to establish legitimate political authority. Therefore, it calls on all Ukrainian citizens, whatever their political convictions or linguistic and regional sensibilities, to play an active part in the election campaign and to participate in the forthcoming election. Any external interference in the domestic affairs of Ukraine and in the electoral process should be excluded, in order to guarantee the people's freedom to vote.

The PACE delegation noted that significant changes have been made to the legal framework for the election during the last two months which could improve its credibility. Regrettably, however, some important issues have not been addressed, including election campaign financing. There is no upper limit on spending for presidential candidates, despite the fact that the Council of Europe's Venice Commission has recommended capping election campaign expenditure.

In this regard, the PACE pre-electoral delegation recalls the Assembly's conclusions after the last presidential and parliamentary elections in 2010 and 2012: "The place of money and oligarchies in politics in Ukraine in general and in the election process in particular. This reality appears to have reached even more alarming proportions during this election campaign. Unfortunately, many Ukrainian citizens are seeing the political 'combat' as a struggle between different clans and their financial interests rather than between competing platforms and ideas."

Traces of this oligarchic dominance are still to be found in the media and in the way the public domain is structured. Although Ukraine has a wide range of pluralistic media outlets, the lack of independence and the lack of transparency of media ownership are matters of serious concern. The Assembly delegation was also informed of cases of harassment and restrictions on the freedom of journalists. It firmly condemns any attempt to undermine media freedom and asks the authorities to provide journalists and others in the media with effective protection.

The delegation pointed out that the election campaign environment has been affected by tensions, and the interference of armed groups influenced by the Russian authorities, particularly in the eastern regions. Numerous cases of intimidation and violence towards citizens and presidential candidates have been reported. The Assembly delegation strongly condemns all cases of violence. It is crucial that all presidential candidates enjoy equal conditions to freely meet the electors and inform them about their programmes, have equal access to the media and are able to conduct their campaigns in all regions of Ukraine without discrimination and according to Ukrainian legislation.

The delegation welcomes the efforts of the Ukrainian authorities to enable all Ukrainian citizens whose homes are occupied, such as in Crimea, or are the subject of armed interference, such as in the regions of Donetsk and Lugansk, to go to the closest polling stations in order to cast their vote. Voters must be sure that they can exercise their right to vote in safety and security.

The election campaign provides the presidential candidates, with their various political, linguistic and regional sensibilities, the opportunity to exchange ideas and platforms in order to build bridges between the citizens of all regions of Ukraine rather than reinforce dangerous dividing lines. Therefore, it calls on all presidential candidates to assume this heavy responsibility.

The pre-electoral delegation was informed that the process of registration of presidential candidates was inclusive. Despite the difficult political environment, the Central Election Commission is functioning normally; its sessions are open for observers, media and candidates' representatives. During the campaign and on Election Day, all necessary measures should be taken to ensure the security of the entire electoral process, including the functioning of district and precinct election commissions, to avoid possible cases of intimidation or violence towards their members.

The Parliamentary Assembly will send a 52-member delegation to observe the early presidential election on 25 May 2014.

The delegation had meetings with presidential candidates and their representatives; with Oleksandr Turchinov, Chairman of the Verkhovna Rada and acting President of Ukraine; Prime Minister Arseniy Yatsenyuk; the Deputy Secretary of the National Security and Defence Council of Ukraine Oleksandr Lytvynenko; the President of the Central Electoral Commission and the members of OSCE/ODIHR election observation mission. Meetings were also organised with representatives of civil society and the media.

Members of the delegation: Andreas Gross (Switzerland, SOC), head of the delegation, Frank Jenssen (Norway, EPP/CD), Ingebjørg Godskesen (Norway, EDG), Tinatin Khidasheli (Georgia, ALDE), Nikolaj Villumsen (Denmark, UEL), Marietta de Pourbaix-Lundin, co-rapporteur of the Monitoring Committee (ex officio) (Sweden)

#### **Appendix 4 – Statement of the International election observation mission**

##### **Despite violence and threats in east, Ukraine election characterised by high turnout and resolve to guarantee fundamental freedoms, international observers say**

26.05.2014 – The 25 May early presidential election in Ukraine was characterised by high turnout and a clear resolve by the authorities to hold what was a genuine election largely in line with international commitments and that respected fundamental freedoms, despite the hostile security environment in two eastern regions of the country, international observers concluded in a preliminary statement released today. While the election administration ran the process impartially and transparently on the whole, some decisions taken may have been beyond its authority.

“This election proved the democratic spirit of the people of Ukraine, who had the opportunity to genuinely express their will at the ballot box, and seized it in high numbers,” said João Soares, the Special Co-ordinator who led the short-term OSCE observer mission. “The electoral and security authorities of Ukraine should be commended for their efforts – under extraordinary circumstances – to facilitate an election that largely upheld democratic commitments.”

Genuine efforts were made by the electoral authorities to conduct voting throughout the country, despite continued unrest and violence in the east, which seriously impacted the election environment, negatively affected the human rights situation, obstructed meaningful observation, and had a significant adverse effect on preparations. Forced evictions and closures of District Election Commissions by armed groups, abductions, death threats, forced entry into private homes and the seizure of equipment and election materials were attempts to prevent the election and to deny citizens their right to vote, the observers said.

“The extraordinary quality of yesterday’s election provides the new president of Ukraine with the legitimacy to establish immediately an inclusive dialogue with all citizens in the eastern regions, to restore their trust and confidence, and to decentralise State power in order to preserve the unity of the country by respecting the diversity of Ukrainian society,” said Andreas Gross, Head of the PACE delegation. “There is no military solution to today’s crisis, and those who belong together can only come together through dialogue, mutual understanding, social reforms and greater fairness.”

The election did not take place in the Crimean Peninsula, which is not under the control of the Ukrainian authorities, and Ukrainian citizens living there faced serious difficulties in participating in the election.

“Unfortunately, many citizens were prevented from voting in Donetsk and Luhansk, as were nearly all in Crimea, due to the ongoing threats to Ukraine’s territorial integrity,” said Ilkka Kanerva, Head of the OSCE PA delegation. “However, the impressive turnout in the rest of the country offered a powerful rebuke to those who would challenge Ukraine’s unity and progress.”

Despite the challenging environment and limited lead-time, the Central Election Commission operated independently, impartially and efficiently, in general, and met all legal deadlines. A lack of adequate regulation of a few aspects of the election, however, lessened uniformity in the administration of the process. The substitution of numerous candidate nominees to District and Precinct Election Commissions affected the stability and efficiency of election administration, but most commissions outside the Donetsk and Luhansk regions were able to overcome time constraints, the frequent changes in their composition and some resource problems.

“Before Sunday, everyone agreed that this was going to be an important, if difficult election, but few believed it would be successful. Our assessment is clear: the Ukrainian authorities and the Ukrainian people have made this election a success,” said Karl Lamers, Head of the NATO PA delegation. “Despite an exceptionally challenging environment, we have seen a good election process and election officials performing their duties with dedication and professionalism, sometimes in extremely difficult conditions. And we have seen the Ukrainian people expressing confidence in their country’s future by voting in large numbers, wherever they were able to do so.”

“This election has laid a solid foundation for the future of Ukraine, and the pressing tasks of economic consolidation, political reforms and uniting the country,” said Göran Färm, Head of the EP delegation.

Most candidates were able to campaign without restrictions, except in the two eastern regions, although there were a number of campaign-related incidents, including cases of intimidation and attacks on party and campaign offices, and allegations of instances where campaigning by candidates was obstructed.

In a positive development, no cases were observed of the misuse of State resources and, unlike in previous elections, allegations of such practices were not made to observers. Despite recent amendments to campaign finance regulations, these should be further strengthened to provide greater oversight and transparency, the statement says.

The media landscape is diverse, but the lack of media autonomy from political or corporate interests often affects their editorial independence. Freedom of the media was severely undermined in the east, where journalists and media outlets faced threats and harassment throughout the campaign period. Editorial coverage of candidates was limited and focused on a few candidates. The organisation and broadcasting of debates among all candidates by State television and the adoption of a law transforming State television into a public-service broadcaster were both welcome initiatives. Steps to stop certain channels from broadcasting alleged propaganda, while they did not directly impact the election, were an unwelcome restriction, the observers found.

The legal framework is adequate for the conduct of democratic elections, the statement says. Numerous changes were introduced to this during the election period, both to address the rapidly changing political and security environment and as a further step in the electoral reform process. While most of the changes were seen as necessary by election stakeholders, the result was a significantly different framework than the one in place when the election was called.

While voting was largely conducted in line with procedures, there were long queues to vote in some parts of the country, and there were some technical problems in the early stages of the tabulation process.

“Over the two months our mission has been present in Ukraine we have witnessed impressive efforts by the election administration to ensure citizens’ rights to vote,” said Tana de Zulueta, Head of the OSCE/ODIHR long-term election observation mission. “ODIHR deployed more than 1,000 observers, from 49 countries, to monitor the process on election day. Based on their reports, I can say with confidence that those voters who had the opportunity to cast ballots took part in a process that was largely in line with international commitments and respectful of fundamental freedoms.”