

**INTERNATIONAL REPUBLICAN INSTITUTE
1994 UKRAINIAN PARLIAMENTARY ELECTION REPORT**

**I. INTRODUCTIONINTERNATIONAL REPUBLICAN INSTITUTE1994 UKRAINIAN
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The International Republican Institute (IRI) sponsored a 15-member delegation to observe the election of deputies to Ukraine's Supreme Council (Parliament) on March 27, 1994. IRI observers convened in Kiev for briefings by officials of Ukrainian political parties, representatives of the Central Election Commission (CEC), Ukrainian civic organizations, election law experts, candidates, and U.S. Embassy officials. Observers then deployed to five additional cities with geographic, political and ethnic diversity: Odesa, Simferopol, Lviv, Kharkiv, and Zhytomyr. Before observing election day activities in their respective cities, delegates met with local representatives of political parties, Ukrainian media, domestic monitoring groups, district electoral commission officials, candidates, and voters.

This report contains 21 recommendations for improving future elections in Ukraine. These recommendations will be forwarded to the appropriate Ukrainian and American officials in a constructive effort to help Ukraine examine its electoral process in anticipation of presidential and local elections on June 26, 1994, and parliamentary repeat elections in 112 districts on July 24, 1994*.

The pace of democratization and reform in Ukraine is painfully slow, but can gain strength over time. Ukraine's transition to democracy is clearly dependent not only on free elections but also on, among other factors, its ability to create an economic system that allows people to build better lives for themselves and for their families.

It is our sincere hope that Ukraine will accelerate the empowerment of its people and move quickly with economic and political reform so that all of its citizens can reap the benefits of a government responsive to the electorate. Only then will Ukrainians have the democracy that they so richly deserve.

II. CONCLUSIONS

As a matter of policy, IRI does not make simple findings as to whether an election can be categorized as free and fair. The IRI delegation found the elections for Ukraine's Supreme Council (Parliament)--the first since independence from the USSR--to be an important first step in Ukraine's development as a democracy. IRI did conclude that the anti-party bias of the law that governed Ukraine's parliamentary elections and the administration of that law by the Central Election Commission resulted in an election process that was a missed opportunity to advance significantly the institutions and practices indicative of a democracy.

Refining election laws is a never-ending process. Even countries with a long history of free and competitive elections suffer from imperfect electoral systems and practices and continually seek improvements in the laws and

* Repeat voting (popularly known as a run-off election in the United States) occurs when a candidate fails to receive a majority of votes cast in a district and the votes of at least 25 percent of the district's registered voters in the general election.

A repeat election is held when a district fails to achieve the 50 percent minimum turn-out requirement in the general election and when a candidate fails to receive 25 percent of the votes of a district's registered voters during repeat voting.

traditions that govern their elections.

The weaknesses of the parliamentary elections in Ukraine had their origins in the new election law adopted by Parliament in November 1993. The law was passed in a fractious and acrimonious atmosphere by a vote of 245 to 6, with many pro-democratic deputies walking out in protest. It included certain provisions that set the stage for a complicated and confusing electoral process.

The absence of a proportional system of representation and a nomination process that created an inordinate number of independent candidates resulted in the notable absence of debate on issues of national concern and importance. In addition, the election law discriminated against political parties that conventionally serve as catalysts for formation of consensus on national issues. As a result, the new Parliament will begin work without a national mandate on the course to follow as it addresses the serious problems facing Ukraine.

The election law established the Central Electoral Commission as "the highest electoral body on the organization and conduct of elections." In addition to the specific responsibilities given to this body, there was an implicit mandate to assure that elections were conducted in a manner that promoted the democratic process. IRI observed that during the course of the election, the CEC met many of its statutory responsibilities. However, it, too, missed opportunities to develop, advance, and consolidate political institutions and practices that are a necessary part of a flourishing democracy. These missed opportunities resulted from a series of decisions made by the commission that failed to recognize the special needs of a developing democracy.

Although the election process is not over, the number of deputies elected during the general election and repeat voting (run-off elections) exceeded the required quorum of 300. With this quorum, Ukraine has a new Parliament. This is a critical achievement at this point in the development of Ukraine as a new and independent nation.

IRI applauds the courage, commitment and spirit of optimism of many candidates who participated in the political process for the first time. Notwithstanding some isolated incidents, we commend the citizens of Ukraine for their peaceful conduct during the campaign period--a period marked by severe economic hardship and potential political uncertainty. Further, we salute Ukrainians for repeatedly returning to election polls in numbers sufficient to overcome restrictive turnout requirements imposed by the election law. Finally, we acknowledge the efforts of the Ukrainian government to promote ethnic harmony throughout the campaign period.

Ukraine now faces a critical test in its attempt to consolidate its independence and become a functioning nation. The problems facing the country require consensus by its political leaders. They must strive to overcome regional and ideological differences to forge a path to move ahead and to deal with the problems that have been brought about by the tremendous change of the last five years.

III. RECOMMENDATIONS

System of Representation

Issue 1: When Parliament adopted a new election law in November 1993, it retained the unicameral legislative structure it had during the time when it was a republic of the Soviet Union. The election law provided for 450 single-mandate districts. Representation by single-member seats, rather than a mixed system of single member representation and proportional representation by political party, results in the absence of deputies who can speak for the interests of the nation as a whole and stunts the growth of national political parties that serve to unite and clarify the concerns of the entire population.

Recommendation 1: ***As Ukraine debates a new constitution and the nature of its governing institutions, consideration should be given to a mixed system of single mandate representation and proportional representation of political parties.***

Candidate Registration

Issue 2: Candidate nomination methods encouraged a proliferation of independent candidates, created procedural obstacles for political party candidates, and facilitated nomination of labor collective candidates. Nascent political parties were required to nominate candidates in 450 separate local organizing meetings, rather than in regional or national nominating conventions. This bias in favor of unaffiliated independent candidates and against representative political organizations made it difficult for voters to understand clearly and distinctly their choices in the electoral process.

Recommendation 2: *The candidate registration process should include provisions for political party nomination through national or regional nominating mechanisms. The registration process for parties should not include administrative procedures more complex or burdensome than those of other nominating entities.*

Issue 3: The election law allowed independent individuals access to the ballot by essentially requiring only 300 signatures of support in districts with populations in excess of 85,000. This relatively easy access to the ballot resulted in inordinate numbers of candidates--an average of 13 per district, with some districts as high as 31. Candidates should have a reasonable minimum base of support to give voters realistic choices and to eliminate confusing and lengthy ballots.

Recommendation 3: *Access to the ballot should include requirements that demonstrate a minimum base of support and seriousness. Nomination should come from viable, representative political parties. Independent candidates should be required to gather petitions of support in numbers that demonstrate substantial support. The practice of nominating candidates from labor collectives is a holdover from the old regime that should be discarded. Rather, groups of workers should be able to nominate candidates through the petition process.*

Minimum Turn-Out Requirements/Candidate Eligibility

Issue 4: One anomaly of a democratic process is the right of every citizen not to vote. In Ukraine, however, a valid election in each district required a turnout of at least 50 percent of the district's eligible voters. In order for a candidate to be elected, he/she had to receive a majority (50 percent plus one) of the votes cast and the votes of at least 25 percent of the district's registered voters. Elections in districts that did not achieve the 50 percent minimum turn-out requirement were considered void. Candidates in districts in which elections were void are prohibited from running in repeat elections as are candidates who did not receive a majority and 25 percent of the vote in the repeat voting (run-off election).

This minimum turn-out requirement ignored the rights of voters either not to vote or to vote against all candidates as a statement of protest. It also can create an unnecessary constitutional crisis if a sufficient number of members are not elected to constitute a valid Parliament. Further, it extends unnecessarily the election process by requiring repeat elections that result in additional expense, confusion and burden on the citizenry.

Recommendation 4a: *The eligibility of candidates to run in a repeat election should not be linked to voter turnout.*

Recommendation 4b: *Minimum turnout thresholds should be discarded. If voters are provided free and unencumbered access to the polls, those who participate will constitute a valid mandate.*

Campaign Finance

Issue 5: Democratic elections require vibrant campaigns that allow candidates to communicate with voters and adequately present themselves and their ideas to the public in an unencumbered manner. The election law restricted campaign spending to 6 million karbovanets (equivalent to \$160 at the time of the election) and required that campaign expenditures be disbursed through a process controlled by local electoral commissions. In some districts this amount was insufficient to purchase one minute of advertising on independent television or a one-page ad in an independent newspaper. Printing costs for literature sufficient to reach voting populations in excess of 85,000 could also easily exceed this amount. This unrealistic spending limit either stifled communication between candidates and voters, or forced candidates to violate the law in the very process of trying to become lawmakers. It also resulted in candidates' being dependent on state media in order to communicate with voters. Such a situation is fraught with the potential for abuse by those in authority.

Recommendation 5: *Campaign spending limits should be set at reasonable levels to allow candidates to conduct vibrant campaigns and to communicate adequately with voters.*

Issue 6: The campaign finance provision also required that campaign funds be disbursed through mechanisms controlled by local electoral officials. This allowed intrusive monitoring of campaigns by existing authorities and unnecessarily complicated the process of funding a campaign.

Recommendation 6: *Campaign funds should be controlled by the candidate. In order to assure compliance with finance limits, the law should require public disclosure of all sources and expenditures of campaign funds.*

Issue 7: Although the law established specific campaign finance limits, it did not address how those limits applied to a second round of voting should it be necessary. This ambiguity resulted in wide variation in the interpretation of these limits in regard to repeat voting (run-off elections).

Recommendation 7: *The law should establish separate finance limits for general elections as well as for repeat voting (run-off elections) if it is required.*

Voting Procedures

Issue 8: The election law included detailed requirements for voting procedures to be followed on election day at the polling station. In contrast, only one sentence of the law referred to voting before election day and did not address the procedures of such "pre-term" voting. Observers noted wide variation in the volume of pre-term voting that occurred throughout the country. They also noted wide variation in the control and tracking of such voting by polling station commissioners. In many cases, the ballots cast in the pre-term period were mixed with ballots cast on election day during the ballot count. In those cases in which pre-term votes were counted separately, the percentage of votes cast for different candidates was not consistent with the votes cast on election day.

Recommendation 8: *If pre-term voting is retained in future elections, the law should specify clearly the time period in which pre-term voting should occur, require that ballots cast through pre-term voting be secured in separate ballot boxes and counted separately from other ballots, and require that pre-term voters sign a statement with the date of the vote and justification for voting pre-term.*

Issue 9: Citizens residing outside Ukraine on election day were allowed to vote, but all were assigned to one electoral district (District #1 in Kiev City). The assignment of these voters was made by the Central Electoral Commission without informing the candidates in District #1 until one week before election day. Candidates in this district were not able to communicate with these voters. Additionally, voters abroad were denied the opportunity to vote for candidates who represented their domicile in Ukraine.

Recommendation 9: *Administration of the election process should allow voters living abroad to cast ballots in the district in which they previously maintained a residence.*

Issue 10: The election law provided for "mobile" ballot boxes to be taken to the residences of voters who were unable to go the polling station "due to health or other serious reasons." This practice can be viewed as an inclusive practice that allows all citizens access to the electoral process. However, it is by its nature subject to abuse. Observers noted wide variation in the number of votes cast through the mobile ballot box procedure, the number of times a day the box was taken from the polling station, the number of mobile ballot boxes used, whether the mobile box ballots were counted separately, and, in some cases in which those ballots were tabulated separately, the results differed significantly from the results at the polling station on election day.

Recommendation 10: *If the mobile ballot box voting procedure is retained, the law should specify that only one mobile ballot box per polling station be used; that the box leave only once during the day at a pre-determined time; and that ballots from the mobile box be counted separately. The law should remain in place requiring that more than two commissioners accompany the box and that observers have the right to observe the mobile ballot box voting and counting processes.*

Issue 11: While the law foresaw that voting would occur by members of the military, it did not require them to vote at civilian polling stations. Polling stations for military personnel were situated primarily inside military installations. As a result, many domestic and international observers were denied access to military polling stations for security reasons.

Recommendation 11: *The election law should require that members of the military vote at civilian polling stations or that polling stations be set up outside secure installations so that voting can be observed. Situating polling stations inside secure boundaries that are off-limits to observers should be prohibited.*

Issue 12: The law required a "negative" voting methodology--crossing out the names of those candidates the voter did not wish to elect. This is a practice retained from the Soviet era. Voting should be an affirmative act whereby voters cast their ballot for the candidate of their choice. Negative voting in a situation of multiple candidates--as was the case in the general election--unnecessarily provided opportunities for error by the voters. Observers noted excessively large numbers of invalid ballots in the general election because of this requirement. In some districts, invalid ballots constituted as high as 20 percent of the total ballots cast.

Recommendation 12: *The law should require that ballots be designed so that voters can indicate with one mark the candidate for whom they wish to vote. This change should be accompanied by an effective explanatory public education program.*

Issue 13: The election law did not specify procedures to be followed for the printing, storage, or distribution of ballots, although the law did include procedures that required that the ballots be marked at the

time of voting by a polling station commissioner as well as verification of that mark during tabulation. Nevertheless, more explicit procedures on ballot security could enhance confidence in elections.

Recommendation 13: *Procedures on the printing, storage and distribution of ballots should be set forth in the law. In addition, observers should be guaranteed the right to witness these processes.*

Provision of Full and Open Information

Issue 14: Although the CEC had a list of all candidates standing for election throughout Ukraine several weeks before election day, it consistently denied requests from the press and from citizens to publicly release the list. The provision of a master list of candidates and the accompanying information would have allowed the press and the voters the opportunity to analyze and discuss the nature of their election from a national perspective. A member of the Journalists Union told one IRI observer that the press relations and public information service set up by the CEC had provided almost no information and had been unresponsive to numerous requests for basic information.

Recommendation 14: *The election law should require the CEC to publish a list of all registered candidates. Other factual information that is part of the registration process should be provided to the press and the public.*

Issue 15: The election law required minimum participation by registered voters for an election in a district to be considered valid, and a minimum number of votes of registered voters to be received in order for a candidate to be elected. Thus, the number of registered voters was a critical element in determining whether election results were manipulated. In addition, the law required that district boundaries be set so that populations were equal within plus or minus 12 percent. Publication of these statistics would have provided a baseline to judge adherence to these requirements and to facilitate monitoring by the press and observers.

Recommendation 15: *The law should require the CEC to publish, in a timely manner and on a nation-wide basis, voter lists within each electoral district.*

Non-Partisan Observer Groups

Issue 16: The election law provided groups of non-partisan citizens the opportunity to serve as independent observers throughout the election process. This is a positive aspect of the election law. Encouraging citizens to act as guardians of the election process, in addition to individual candidates or parties representatives, promotes a democratic culture. It also makes them an active participant in the election process. One group petitioned the CEC weeks before election day seeking recognition and accreditation as a national domestic observer group. After placing a series of conflicting and burdensome conditions on the group's registration, the CEC refused to accredit them barely two weeks before election day. It then issued a regulation concerning such groups that forced them to hold founding meetings and seek recognition in more than 30,000 polling station divisions. This action stifled the development of an institution that would have greatly advanced the democratic process in Ukraine.

Recommendation 16: *The election law should continue to permit groups of non-partisan citizens the right to serve as observers of the election process. The law should establish clear criteria for the registration of such groups at the national level and require the*

CEC to accredit such groups when those criteria have been met.

Response to Reports of Election Violations

Issue 17: The IRI delegation was unable to find a single instance in which the CEC responded to reports of violations or petitions to correct violations before election day. An election process that provides safeguards against abuse and violations of the law on paper but has no functioning system of adjudication and resolution cannot be judged to be a democratic one. Without protection and sanctions against those who would undermine the democratic process, the average citizen is helpless against those in authority. Some three weeks after the general election, the CEC stated that it was inadequately staffed to address the reports of violations that it had received.

Recommendation 17: *The law should provide for more explicit procedures and penalties for violations that occur during the election process. The CEC should have adequate staff to investigate and adjudicate allegations of election law violations.*

Date of Repeat Voting (Run-Off Elections)

Issue 18: After March 27, election, the CEC determined that repeat voting (run-off elections) could occur on any Saturday or Sunday within the two-week period (April 2, 3, 9 or 10) following the general election. Further, the choice of the day to hold repeat voting was determined by the respective district electoral commissions. This was a reasonable interpretation of the law but resulted in elections being held on four different days throughout Ukraine. Those districts that held repeat voting on April 2 or April 3 did not provide sufficient time for the remaining two candidates to run an effective campaign.

Recommendation 18: *The election law should require that repeat voting (run-off elections) throughout Ukraine be held on the same day. There should be a sufficient interval between the general election and repeat voting to enable the remaining candidates to conduct campaigns.*

Local Administration of the Election Law

Issue 19: IRI observers were impressed by the openness, conscientiousness, friendliness, and helpfulness of many polling station officials. Polling station commissions were well organized and took their duties and responsibilities seriously. Notwithstanding this general attitude, IRI did observe polling station officials who violated the law. The most consistent examples were allowing individuals to vote on behalf of family members, issuing multiple ballots to individuals who presented more than one passport, and issuing ballots to individuals who failed to produce any form of identification.

Such practices occurred during the Soviet era but are now explicitly prohibited by law. When these practices were brought to the attention of voting officials, they frequently blamed voters for failing to recognize the importance of adhering to the election law.

Recommendation 19: *The election law must be enforced by polling station officials. Greater effort should be made to educate polling station officials and voters on the importance of the "one man/one vote" concept. Compliance with the law in this regard is in the hands of the polling station official who has the authority to disburse ballots. Therefore, consideration must be given to imposing strict penalties on officials who violate the law.*

The Media

Issue 20: No democracy can exist without a free and independent media. Because of the economic conditions existing in Ukraine, independent newspapers and television stations suffer from a lack of advertising revenue and paper shortages. These factors have stunted the growth of independent sources of information and have left the general population dependent on state print and broadcast media. Observers found that state media in general attempted to adhere to the requirements of the law to provide equal access to candidates but were told about regional variations in adherence to these requirements. Because of the financial limits, it was impossible for candidates to adhere to the law and communicate with voters by advertising on independent media outlets.

IRI was impressed particularly with the attempt to establish an independent information source by a group called "Elections '94." Observers found this group to be dedicated to the principles of independent and free journalism. Further, observers found that Elections '94 was frequently the only source of timely and generally accurate information on the election process. However, observers were particularly dismayed by repeated statements by the Chairman of the CEC condemning this organization and the CEC's refusal to provide information to it.

Recommendation 20: *Creation of free and independent news organizations that provide objective but critical information is vital in the development of a free society. National and local authorities should play a positive role in moving media institutions toward greater freedom and independence. The new Parliament should look for additional legislative safeguards that guarantee freedom of the press and encourage the development of independent sources of information.*

Political Parties

Issue 21: For a variety of reasons, this election represented a missed opportunity for the development of political parties as institutions to unify and represent divergent national interests. The majority of deputies in the new Parliament will not be affiliated with any recognized party nor will they have a mandate from the citizens on future policies to address the problems of the nation. Preservation of democracies requires strong institutions that can survive times of challenge and crisis. One of those institutions is a political party system that is dynamic, competitive, and representative of the citizenry.

Although the parliamentary elections did not advance the development of strong political parties, perhaps the new Parliament can begin to form blocs and coalitions that advance the concept of unified and competitive philosophies.

Moreover, the new Parliament must govern effectively the new nation of Ukraine and constructively address its problems. A democratically elected body that cannot function because of the inability to form stable majority viewpoints will not serve the citizens of Ukraine. New members must seek to find common interests and coalesce around those rather than focus and split on differences.

Recommendation 21a: *Political parties must focus on building broad bases of support by building structures at the regional and local level to help develop distinct party platforms, recruit candidates, and mobilize popular support.*

Recommendation 21b: *New members of the Parliament should seek to find common interests, viewpoints, and objectives and form formal caucuses and organizations around them. These organizations should hold regular meetings, form structures of leadership, recruit professional staff with technical expertise, and regularly communicate*

with the public through press releases, forums, and conferences.

For a complete report of IRI's 1994 Ukrainian Parliamentary Election Observation please contact:

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