

**IRI**



**Ukraine Election Observation Report**

**Verkhovna Rada Elections**

**March 31, 2002**



**IRI**

**Advancing Democracy Worldwide**

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The International Republican Institute  
Ukraine Election Observation Report  
Verkhovna Rada Elections  
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## **EXECUTIVE SUMMARY**

The International Republican Institute (IRI) deployed a 15-member delegation to observe the election environment, voting and tabulation process for the March 31, 2002 parliamentary elections in Ukraine. The program was made possible by the National Endowment for Democracy. Although Ukraine also conducted local elections on the same day, IRI's mission focused primarily on the parliamentary elections.

The March elections were Ukraine's third parliamentary elections since the country declared independence in 1991. Prior parliamentary elections were conducted in 1994 and 1998. Each parliamentary election in Ukraine has been conducted under a new election law. The law governing the 2002 elections was passed by the Verkhovna Rada, Ukraine's parliament, on October 18, 2001.

IRI deployed international observers to both previous parliamentary elections in Ukraine. After the 1998 elections, IRI made 19 recommendations to improve the electoral process, many of which, such as reducing the closing time of voting from 10:00 p.m. to 8:00 p.m. to better accommodate hand ballot counts, were incorporated into the new electoral code. IRI's 2002 observation mission reports cites 11 recommendations for improving the electoral process.

In addition to its election day observation effort, IRI determined that the pre-election environment in Ukraine also warranted particular scrutiny. This was based on several factors, including the continued existence of a critically underdeveloped independent media sector, and widespread opinion among the electorate that so-called administrative resources would unfairly influence the outcome of the election. Consequently, IRI conducted a pre-election assessment in Ukraine from February 4-9, 2002 to review the pre-election and pre-campaign period. The findings from the pre-election assessment mission were presented to Myhailo Ryabets, chairman of the Central Election Commission (CEC) of Ukraine, and U.S. government officials. The final pre-election assessment report is attached in Appendix I.

IRI's work on the parliamentary elections began in fall 2001, with numerous training programs on campaign techniques and communications for representatives of more than 30 political parties. This work, plus IRI's eight years of ongoing political party development work in Ukraine, provided a solid framework from which to measure the ability of political parties to compete on a level playing field in the elections.

### **Election Day Observation**

The election day observation mission was conducted from March 27-April 2, 2002. The mission team examined the elections in their totality, including the findings from the pre-election assessment report. The delegation attended a full-day briefing on the election process upon their arrival in Kyiv, then deployed to the regions. Delegates deployed to the following oblasts: Kyiv, Odesa, Donetsk, Kharkiv, Dnipropetrovsk, Zaporizhiya, Khmelnytskyi, Chernihiv, Luhansk,

Zhytomyr and the Autonomous Republic of Crimea.

Upon arrival at their deployment site, delegates conducted a series of interviews with local party leaders, local government officials, journalists from state and independent media outlets and election commissioners. On election day, observers witnessed the opening of a polling station and then visited several polling stations throughout the day to observe polling station organization, adherence to proper voting procedures, the ability of election administrators to conduct their work, the role of domestic and other international observers and the role of militia at polling stations. Each attended the closing of a polling station in their deployment region, where they witnessed the tabulation process, and, where possible, the delivery of protocols and final tabulation results to the next level of election administration. The delegates' findings were recorded by the IRI-Kyiv office and made part of a Preliminary Statement that was announced at a press conference in Kyiv on April 1, 2002. A copy of the preliminary statement is attached in Appendix II.

The following are some abridged findings from the IRI election observation mission. The complete set of recommendations and commentary are included in the full election observation mission report, which follows this executive summary.

- The new election law makes several significant improvements, including providing political party representatives a role in election administration.
- Ukraine must continue to work toward the establishment of an independent media sector in order for voters to make fully informed choices about the politicians they elect to represent them.
- The new election law made important improvements in providing a greater role for the courts to resolve election-related cases.

This report will be submitted to the Central Election Commission of Ukraine, representatives of Ukrainian political parties and news media and U.S. government and non-governmental organizations. The report includes an examination of the new parliamentary election law, an assessment of the campaign environment and recommendations for improving balloting, tabulation and reporting processes in future elections.

### **Pre-Election Assessment**

IRI's pre-election assessment was conducted from February 4-9, 2002. An eight-member delegation examined the pre-election environment in four regions of Ukraine, Odesa in the south, Kharkiv in the east, Ivano-Frankivsk in the west and Chernihiv in the north. Meetings were also held in Kyiv. The delegation conducted approximately 85 interviews with government officials, election commissioners, including Mykhailo Ryabets, chairman of the Central Election Commission (CEC), journalists from state and independent media, representatives of political

parties, candidates, judges and representatives of non-governmental organizations. The delegation examined five categories: election administration, political parties and candidates, media, adjudication/judicial oversight, and non-governmental organizations.

Among the findings from the pre-election assessment:

- An area that requires significant review is the role of the CEC in providing “interpretations” of the election law, a role that legally belongs to the courts of Ukraine.
- Procedures for appointing chairmen, vice chairmen and secretaries of election commissions are still open to improper influence.
- The lack of an independent media in Ukraine and the election law’s over regulation of what the media can cover and when, continues to deny Ukrainian voters full and objective information about candidates and issues.

## ELECTION OBSERVATION DELEGATION MEMBERS

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## IRI IN UKRAINE

IRI's training programs in Ukraine started in 1993, with the goal of promoting the creation of democratic structures at both the national and regional levels. IRI's early programs centered on building political parties at the local level. Programs have evolved to reflect the results of democratic elections, and today include training for local elected officials, development of youth and women auxiliaries in political parties and development of nongovernmental organizations.

Political parties and pro-reformers in Ukraine face obstacles at both the national and local level. Although progress has been made, reformers remain challenged to build nationally viable political parties with well developed, grassroots organizations. At all levels, progress is hindered by continued conflict between the executive and legislative branches of government, allegations of worsening government corruption and deepening economic problems.

IRI's programs seek to overcome these obstacles and to increase voter confidence in the political system. IRI's programs meet the specific needs of democratic parties, candidates, and elected officials as they improve in strength and organization at the grassroots and national level. IRI political party seminars offer practical training in such topics as:

- political party structure and organization,
- coalition building,
- campaign and election techniques,
- member recruitment and voter education,
- political party auxiliary organization for youth and women, and
- communications.

Seminars for local elected officials provide training in:

- constituent outreach,
- formulation of a legislative agenda, and
- orientation for newly elected officials.

In 2001, IRI began a comprehensive nongovernmental organization (NGO) development program that provides training and support to Ukrainian NGO's involved in increasing citizen participation in the political process.

IRI also conducts poll watcher training when necessary to coincide with Ukraine's local, parliamentary and presidential elections and has monitored each of Ukraine's national parliamentary and presidential elections. Finally, IRI conducts seminars to contribute to the professional growth of elected officials and their staff.

IRI's work is concentrated where it will achieve the greatest positive impact at both the local and national level. Through a long-term focus, IRI is helping to build a stable core of democratic political parties, coalitions and activists.

## **ELECTION BACKGROUND**

### **Introduction**

Ukraine's parliament, the Verkhovna Rada, is a 450-member unicameral body. Two hundred twenty-five deputies are elected via a party list system, and 225 deputies are elected in single-mandate elections. Parties must pass a four percent threshold of total number of ballots cast to seat candidates from their lists. Parties in the Verkhovna Rada organize themselves according to "factions" that include at least 14 members from one or more parties. Deputies serve four year terms. By law, Ukrainian deputies enjoy parliamentary immunity under which they cannot be charged with crimes.

In October 1997, in preparation for the second post-independence parliamentary election, Ukraine adopted a new parliamentary election law that made significant improvements to the law governing the March 1994 elections. A number of recommendations made by IRI following the 1994 elections were incorporated into the new law. These recommendations included providing for a mixed system of single mandate and proportional representation by political parties and electoral blocs, positive voting and elimination of the minimum voter turnout level.

However, the Constitutional Court invalidated several sections of the new law, such as articles dealing with the appeals process, only days before the 1998 parliamentary election. In addition, the Verkhovna Rada was unable to resolve some important issues in a timely manner, such as the voting rights of approximately 65,000 Crimean Tatars. In this way, the 1997 law, which in itself prescribed a complex combination of ballots involving a large number of political parties and candidates, contributed considerably to an atmosphere of confusion, uncertainty and tension both prior to the 1998 election and on election day that year. Under these circumstances, it was clear that a new election code or significant changes to the existing code would have to be implemented before the next parliamentary election.

### **2001 Parliamentary Election Law**

After the 1998 election, the Verkhovna Rada adopted six different versions of a new parliamentary election law in an effort to correct the shortcomings of the 1997 law. However, each time the law was vetoed by President Kuchma. The Rada passed new legislation on October 18, 2001, which the president signed several days later. The new law makes several significant changes to the previous electoral code. Recommendations from earlier observation missions covered in the new law include:

- precise procedures for appeals to election commissions;
- regulations for ensuring proper visibility of the entrance and exit to polling booths in an effort to guarantee ballot security and privacy;
- clearly designated activities for each level of election commission; and,
- better defined guidelines for pre-election campaign publicity in both state and

independent media outlets.

One of the most significant changes to the new law is the mandate that political party and electoral bloc representatives enjoy the right to serve as officers and as members of constituency election commissions and polling station commissions. This new provision gives Ukrainian political parties administrative oversight of elections for the first time, an important new role in the organizational development of Ukrainian political parties.

### **Political Situation 2001-2002**

The 2002 parliamentary elections came at a crucial moment in Ukraine's history. After ten years of independence, economic and social reforms have been slow and Ukrainians are increasingly weary from higher costs of living and lower wages as the country slowly transitions toward a market economy. In the political arena, legislative stalemate between President Leonid Kuchma and the Verkhovna Rada caused deadlock over many key reforms.

The death of journalist Heorhiy Gongadze in the fall of 2000 made a significant mark on the political landscape of Ukraine. The government's inability to resolve the case and the alleged involvement of President Kuchma in the journalist's murder fueled the creation in late 2000 and early 2001 of an organized anti-presidential movement and many factions in parliament became polarized on either side of the issue. Rivalries mounted, and eventually, in April 2001, a coalition of Communists and pro-presidential factions mounted a successful vote of no confidence in Prime Minister Viktor Yushchenko. Yushchenko was then replaced with Anatoliy Kinakh as prime minister.

This conflict eventually manifested itself during the campaign through the formation of pro-presidential and anti-presidential electoral blocs and parties. Yuliya Tymoshenko of the Motherland Party and Olexander Moroz of the Socialist Party were the strongest voices on the anti-presidential side. An electoral bloc called For a United Ukraine, chaired by Volodymyr Lytvyn, the head of the presidential administration, was the leading pro-presidential bloc. Viktor Yushchenko formed his own electoral bloc, Our Ukraine, and stated that he is not running against anyone, rather he is running based on his vision for Ukraine.

Leading into the elections, public opinion polls showed that both President Kuchma and parliament had low ratings among the electorate and that voters wanted to see a real change in government. The outcome of these elections, therefore, served as an important signal for the possible future course of Ukraine's development. In fact, many have viewed these elections as laying the groundwork for possible contenders to the 2004 presidential elections in Ukraine.

### **Leading Electoral Blocs and Parties in the 2002 Elections**

In the 1998 elections, eight parties or blocs passed the four percent threshold required to win representation in the Verkhovna Rada. The eight parties were the Communist Party of



Ukraine, Rukh, the Socialist/Peasant Bloc, the Green Party of Ukraine, the People's Democratic Party, the Progressive Socialist Party, the Social Democratic Party (United) and Hromada. The Communist Party won the majority of seats in the 1998 elections.

As of 2002, there were more than 110 political parties registered in Ukraine. The Central Election Commission registered 33 electoral blocs and political parties to run in the parliamentary elections. To apply to be registered for the election, parties had to have passed the four percent threshold in the last parliamentary election or have been registered at least one year prior to election day. The order in which blocs and parties were listed on the ballot was determined by lot.

Prominent blocs and parties registered in 2002 were:

1. The Communist Party, chaired by former presidential candidate and current Rada Deputy Petro Symonenko
2. The Bloc of Viktor Yushchenko, Our Ukraine, chaired by former National Bank Director and Prime Minister Viktor Yushchenko. Includes the National Rukh of Ukraine, Ukrainian National Rukh, Reforms and Order, Congress of Ukrainian Nationalists, Liberal Party of Ukraine, Solidarity, Christian People's Union, Republican Christian Party of Ukraine and Ahead, Ukraine, among other parties and organizations.
3. Bloc Democratic Union, chaired by the head of the State Commission for the Military Industrial Complex, Volodymyr Horbulin. Includes Democratic Union and the Democratic Party of Ukraine.
4. Bloc For a United Ukraine, chaired by the head of the Presidential Administration, Volodymyr Lytvyn. Includes People's Democratic Party, Labor Ukraine, Agrarian Party, Party of the Regions, Party of Industrialists and Entrepreneurs, and Christian Democratic Party of Ukraine.
5. Bloc of Yuliya Tymoshenko, chaired by former Deputy Prime Minister for Fuel and Energy Yuliya Tymoshenko. Includes Tymoshenko's Motherland Party, Sobor (Cathedral) and Ukrainian Republican Party.
6. The Socialist Party, chaired by former Rada Speaker and current Rada Deputy Oleksander Moroz.
7. Social Democratic Party (United), chaired by former Rada Deputy Speaker and current Rada Deputy Viktor Medvedchuk.
8. Progressive Socialist Party of Ukraine, chaired by Rada Deputy Nataliya Vitrenko.

9. Yabloko (Apple), chaired by Rada Deputy Mykhailo Brodsky.
10. Unity, chaired by Kyiv city Mayor Oleksandr Omelchenko.
11. The Party of the Greens, chaired by former presidential candidate and current Rada Deputy Vitaliy Kononov.
12. All-Ukrainian Political Alliance Women for the Future, chaired by the head of the State Committee for Family and Youth Affairs, Valentyna Dovzhenko.

Many small or one-issue parties were on the ballot, and all had less than one percent support in nationwide public opinion polls. They included, the Bloc for Ukraine, Belarus and Russia, Russian Bloc, New Power Party, Bloc Against All, New World Party, the All-Ukrainian Party of Workers, the Ukrainian Sea Party, and the Ukrainian National Assembly, among others.

### **Election Results**

Public opinion polls conducted before the election consistently showed Our Ukraine in the lead, trailed by the Communist Party and For a United Ukraine. The Social Democratic Party (United), the Bloc of Tymoshenko, the Socialist Party, the Greens and the Women for the Future Bloc all hovered in the single digits up until election day. Final election results follow.

Party/Bloc	Party List Seats	Single Mandate Seats	Total
Our Ukraine	70	42	112
Communist Party	59	7	66
For a United Ukraine	36	66	102
Tymoshenko Bloc	21	-	21
Socialist Party	21	3	24
Social Democratic (United)	8	5	13
Democratic Union/Dem. Party		4	4
Unity Bloc		3	3
National Economic Development Party		1	1
Ukrainian Naval Party		1	
Independents who won Single Mandate Seats:		93	

Many independent candidates immediately announced their allegiance to certain political parties and/or electoral blocs, which indicated that For a United Ukraine would be in the majority in parliament.

The national vote by percent was: Our Ukraine (24 percent); Communist Party (20 percent); For a United Ukraine (12 percent); Yuliya Tymoshenko Bloc (7 percent); Socialist Party (7 percent); Social Democratic Party (6 percent).



## **RECOMMENDATIONS**

IRI's recommendations on both the pre-election environment as well as the election day process, are based on the findings from the IRI pre-election assessment and the election day observation as well as the understanding of the Ukrainian electoral system the Institute has gained from more than eight years of programming in the country. This programming has included election observations to three parliamentary elections and two presidential elections, and broad-based training in political techniques at the grassroots level throughout the country.

IRI determined that the 2002 parliamentary elections benefitted from a new parliamentary election law that provided better guidelines for commissions, courts and candidates. In addition, IRI views the stipulation allowing representatives of political parties to serve as election commissioners as a significant step forward in developing stronger political party organizations.

IRI found that election officials at all levels generally made good faith efforts to administer the elections fairly and openly nationwide. However, there were cases in which systemic fraud or abuse appeared at the regional level as well as individual cases where charges of fraud were highly plausible. The elections revealed the great need to improve the technical aspects of election administration in order to make the voting process more efficient and less open to possible violations.

IRI's analysis of the pre-election environment was less positive. The lack of a developed, independent media continues to constrain voters from making fully informed choices about the candidates they choose to represent them. IRI also noted many allegations of an inappropriate use of the power of incumbency on the part of candidates at all levels.

IRI does not characterize elections as free or fair, rather IRI analyzes the strengths and weaknesses of an election and an electoral system in its entirety and offers recommendations for improvements. IRI's recommendations follow.

### **Pre-Election Recommendations**

(IRI's complete Pre-Election Assessment Report is found in the Appendix.)

#### **1. Pre-election campaign and pre-election campaign publicity**

Article 50 of the new election law states, "The pre-election campaign may be commenced fifty days before the election date," or, in this case, February 9. However, the term pre-election campaign publicity, what in the West is simply called campaigning, is not clearly defined. Many parties promoted themselves prior to February 9 but defended this as being "propaganda" not campaigning.

Furthermore, Article 51 of the law exempts "official announcements" regarding the "actions of the candidates for deputies connected with their exercise of government duties,"

although it disallows any commentaries in the media about these actions that may be construed as campaign publicity.

The IRI pre-election assessment determined that Articles 50 and 51 of the election law are inherently difficult to enforce. The law provides no clear distinction about the type of media coverage allowed during the candidate nomination and registration stage, and the pre-election campaign period. By attempting to restrict what media can and cannot cover, the law denies the constitutional guarantee for freedom of press and speech during an election period.

IRI delegates cited numerous examples of violations of the law during the pre-election period. For example, state newspapers ran articles prior to February 9 with extensive coverage of incumbent candidates, many of whom were affiliated with the pro-presidential bloc For a United Ukraine. Yet, because the law does not set a strict standard, it is difficult to define what is or is not campaigning.

Recommendation: If the law is going to regulate the media environment before and during the pre-election (campaign) period, the law should clearly define what constitutes pre-election publicity and what does not. In terms of incumbent office holders seeking re-election, the law should define exactly what can be covered outside of the incumbent's official duties.

## 2. Rules of the use of mass media

Post February 9, according to the majority of groups monitoring the parliamentary elections, the media surrounding the elections was overtly biased in favor of pro-presidential parties and blocs. Some organizations reported that the national state broadcaster UT-1 devoted more than 50 percent of its news coverage to the For a United Ukraine bloc, giving it four times more airtime than any other party. Furthermore, campaigns for parties outside the pro-presidential category also reported difficulties in securing media coverage and recounted several instances of technical problems that disrupted scheduled programming. There were also reports that independent media outlets were threatened with tax raids if they covered certain candidates.

There were several improvements in the media situation. In particular, there was an increase in the amount of information about the elections made available to the citizens of Ukraine. Debates were aired on television, candidates were able to appear during allotted times on state broadcasts and there were many more news programs and information programs devoted to elections and candidates than ever before.

Despite these advances, even independent newspapers are often biased in their reporting. Consequently, if the electorate is not provided the facts necessary to make an informed decision, the Ukrainian elections will not accurately reflect the will of the people.

Recommendation: National and local authorities should not influence what appears on either state or independent television and radio. While it is important for the government to

enforce existing laws, authorities should be cautious or avoid entirely enforcement of tax or licensing violations during the campaign period in order to avoid the appearance of a conflict of interest.

### 3. Restrictions in carrying out pre-election publicity campaigning

During both the pre-election assessment and the election day observation, IRI observers heard many complaints that factory directors, school principals, hospital administrators, farm directors and other officials directed their subordinates to vote for a particular party or bloc. In some instances, official complaints were filed.

Article 56 of the election law specifically prohibits “bodies of executive power and local self-government authorities as well as officials and employees thereof” from participating in pre-election publicity campaigns.

Recommendation: The parliamentary election law must be strictly enforced to guarantee that such interference is prohibited. The election law must more clearly define activities associated with “pre-election publicity campaigns.” A simple standard would be to define campaigning as “advocating the victory or defeat of a particular candidate.” The government or CEC should undertake a sincere and comprehensive effort to educate voters and government authorities at all levels that government authorities are prohibited from directly or indirectly advocating the defeat or victory of any candidate and that any such advocacy is grounds for criminal charges.

### 4. Formation of Constituency Election Commissions and Polling Station Commissions

The provision in Article 20, which allows political party representatives to actually serve as election administrators, is an important step forward for political parties in Ukraine. Their increased role in the process will help institutionalize political parties, and give them badly needed responsibilities.

Nonetheless, there were difficulties with the new regulation. First, a vast number of individuals who had never before served on election commissions had to be trained, which proved to be a formidable task in the time between the commissioner selection deadline and election day. As a result, there were some commissioners who did not understand election regulations, and general confusion over roles and responsibilities.

Second, many individuals with obscure or tenuous party affiliation were placed on commissions, which called into question the legitimacy of their representation and destroyed the checks and balances on many commissions. For example, many obscure parties with poorly disguised affiliations dominated the polling stations in Odesa.

Recommendation: The transition to using representatives of political parties and electoral

blocs to staff commissions was challenging; however, it was an important step forward and IRI recommends that this procedure be continued in the future. Now that the framework has been established, IRI recommends that the Central Election Commission and political parties work well in advance of elections to provide materials and training to a corps of individuals who will serve as commissioners. Decisions as to the composition, chairperson, deputy chairperson and secretary of polling station commissions should be made at the local level. Bipartisanship between officers of the commissions should be continued on each commission as well as bipartisanship among chairpersons of all polling stations within each constituency election commission.

#### 5. Time and process for commission member selection and replacement

In some cases, where parties failed to appoint their representatives to local election commissions or where party commission representatives resigned after being appointed, the local state administration took charge of the process of nominating replacements despite the fact that there is no provision in the election law giving state administrations this authority. Furthermore, it is the observation of IRI that in many cases, failure of parties to appoint representatives was not due to lack of party organization, rather to the very short time period parties had to make these appointments.

Recommendation: The election law must clearly prescribe the process by which vacancies are filled on local commissions, stating who and under what circumstances vacancies on the commissions can be filled. Furthermore, more time should be allocated to the period during which parties are allowed to appoint commission members. This will decrease the number of vacancies and contribute more time to the technical training of new election commission members.

#### 6. Selection of polling sites

The election law fails to stipulate criteria for what constitutes appropriate quarters for a polling site and who is responsible for choosing polling sites. IRI observers noted many polling sites in which the disorderly environment appeared directly related to the layout of that particular site. Many sites were often small and this added to the long lines of voters waiting to cast their ballots. The substantial increase in the number of poll workers made the situation all the more problematic.

Recommendation: In order to create a more orderly polling environment and to decrease the time voters are required to wait in line before casting their ballot, the election law should clearly define criteria for site selection that contributes to the selection of larger and more convenient polling sites. IRI believes greater transparency in the site selection process is needed and would help eliminate the chaotic atmosphere that prevailed at many locations.

## 7. The role of Central Election Commission in providing guidelines on how to implement the law

As discussed in IRI's pre-election assessment report, an area that warrants greater scrutiny is the role of the Central Election Commission in providing guidelines on how to implement the election law, a role that legally belongs to the courts of Ukraine. For example, during the pre-election assessment, commissioners in Kharkiv told the IRI delegation that they expect the CEC to provide interpretations of the law and had complained that the CEC did not provide adequate guidance to the field on how to apply the new law. There is a discrepancy in that while Chairman Ryabets acknowledges that it is not the role of the CEC to provide such guidelines, the CEC necessarily must provide manuals on procedure to constituency election commissions and others involved in the administration of elections in Ukraine.

Recommendation: The law governing the Central Election Commission should clearly delineate the role of the CEC in providing guidelines and/or interpretations to the parliamentary election law. CEC materials should be clearly marked with language indicating that the courts of Ukraine have the final jurisdiction over legal interpretations.

## **Recommendations on Election Day Process**

### 8. Technical assistance to commissions

In addition to guidance on how to implement the law, it was apparent during IRI's pre-election assessment review that many polling station and constituency election commissions lacked basic resources to adequately conduct their work. The lack of pens, pencils, calculators, tape, papers in which to wrap ballots, and other essential supplies greatly diminished the efficiency of the election administration. In Crimea, one polling station commission lacked a calculator and pencils for making the final tabulations, as well as paper and string in which to wrap ballots to be delivered to the constituency election commission. The absence of these supplies contributed greatly to the disorganization of the process and the hours it took to complete the final tally.

Recommendation: Until Ukraine is able to adopt a mechanized voting system, efforts should be made to increase the funds budgeted for election administration in order to provide basic office supplies to polling station and constituency election commissions throughout the country.

### 9. Voting and tabulation process

IRI witnessed election commissioners who were dedicated to performing their duties to the best of their abilities. Yet many polling stations were chaotic. By far, the overriding reason for this was the simple fact of the large number of ballots being filled out on election day. This calls into question the continued practice of holding both local and national elections



concurrently. Voters received six ballots on average, a cumbersome, time-consuming process. Lines for receiving ballots stretched outside many polling stations, and by the time voters received their ballots they were already impatient about moving on to the next process, which meant that voters did not wait until they entered the voting booth to cast their ballots. In Luhansk, one voter was so frustrated with waiting in line that he left the polling station with his ballots, only to return hours later to cast them.

In addition, the sheer number of ballots makes final tabulation extremely cumbersome. Commissioners working without calculators in many instances had to count thousands of ballots by hand. The process is obviously prone to error and opens the door for more purposeful violations.

Recommendation: IRI recommends that the Central Election Commission review the possibility of conducting local and national elections separately in an effort to bring more efficiency and exactness to the election administration process. In addition, IRI believes this may give voters better access to candidates and, ultimately, may encourage both candidates and elected officials to be more accountable to their constituents.

#### 10. The right to vote in private

Throughout Ukraine, voters often continue to vote in open public view. In the majority of situations, there are no attempts at skirting the law, rather, voters are trying to save time by not waiting to enter the voting booth. In other situations, voters continue to practice “family voting” whereby husband and wife, and sometimes children, enter the voting booth together and vote together. Family voting was witnessed in Luhansk, Khmelnytsky, Odesa, and Crimea, among other oblasts.

On a similar issue, during the pre-election assessment it was apparent that many individuals were concerned that somehow their vote would be known by government authorities. If, for example, a farm administrator told a worker to vote a certain way, the worker accepted that some government authority would be able to discern which vote among the hundreds was his. One farm worker said he suspected the poll workers could put a special mark on his ballots. Or, if the majority of votes cast at the polling station did not support the candidate stipulated by the farm administrators, the farm workers would be reprimanded in some fashion.

Recommendation: Ukrainian voters must learn to recognize the sanctity of a private vote. The Central Election Commission or government of Ukraine should undertake a public service campaign before the next election to educate voters about not only their constitutional right to vote in private but also about the importance of voting in private. Furthermore, voters should be educated about the fact that votes remain private once they are placed in the ballot box. Every effort should be made to enforce existing law, which specifically prohibits more than one person from entering a voting booth together or disallows voting outside a designated voting booth.

## 11. Absentee balloting

New regulations in effect in the 2002 elections allowed voters to obtain absentee ballots with relative ease; unfortunately, IRI observers witnessed organized efforts exist to use large numbers of fraudulent absentee ballots in particular polling stations to influence the outcome of the vote in that particular precinct. For example, IRI observers reported busloads of people entering polling stations with absent ballot requests in a clearly partisan, organized fashion.

Recommendations: Article 31 clearly defines the several steps that must be taken to verify a voter's use of an absentee ballot. However, given the short campaign period, there is little time to properly verify such requests before elections, leaving all oversight to be conducted in post-tabulation review. IRI suggests that a more rigorous review structure would provide election commissions with a more accurate way to assess the validity of absentee voter requests.

## 12. Adjudication/judicial oversight of the election process

In pre-election interviews, it was apparent that many commissioners and political party representatives did not fully understand the distinction provided for in the new law between administrative and judicial remedies to election disputes. Furthermore, most people interviewed did not give courts high credibility for handling election-related cases. Ultimately, however, more than 80 percent of alleged violations were filed with the courts as opposed to commissions.

The new law provides for complaints to be filed with either election commissions or with the courts. If a judicial complaint is filed, that complaint process has precedent over a complaint filed with the election commissions. Administrative complaints can be appealed from the polling station commission to the constituency election commission to the Central Election Commission to the Supreme Court. Judicial complaints can be appealed from district courts to the Court of Appeals, formerly known as the Oblast Court. In judicial complaints, the general understanding and overwhelming view is that the appeals process ends at the Court of Appeals.

Recommendation: Election commissioners, candidates, political party representatives and courts must better understand the complaint process as outlined in the election law. IRI endorses the training provided to the courts by the Supreme Court and encourages the continuation and expansion of such training at the local level well in advance of the next national election.

## 13. Ballot tabulation and eligibility

The continued practice of administering balloting and tabulation by hand leads to subjective interpretation of which ballots are valid and which are invalid. Standards for voiding ballots continue to vary widely from polling station to polling station. IRI also observed situations in which this process can be easily manipulated. For example, in Odesa some 16 percent of ballots that were marked for one candidate were voided at one polling station because they lacked signatures of the commissioners who handed out the ballots. The large percentage of

ballots voided for one particular candidate raises questions, and the situation clearly suggests an organized effort when the IRI observer learned that the 16 percent was just enough to tip the scale in favor of the opponent.

Article 70 of the election law also provides for an over vote of up to 10 percent in each polling station, a stipulation that could encourage less than rigorous oversight of the tabulation process.

Recommendation: Article 68 of the election law outlines in great detail the process of ballot tabulation, voiding ballots, packaging ballots and the role of commissioners in each step of the process. Absent mechanized counting of ballots, IRI recommends that every effort be made to ensure that correct procedures are strictly followed in an effort to avoid the perception, however correct or false, that commissioners can manipulate the process by withholding their signatures on ballots. IRI recommends that there be an appropriate balance of multipartisan representation on polling station commissions in an effort to ensure greater transparency. IRI furthermore encourages appropriate authorities to fully investigate violation charges that indicate an organized effort of fraud.

## **ELECTION OBSERVATION REGIONAL FINDINGS**

### **Chernihiv/Kyiv Regional Summary**

#### Summary

The leaders of the IRI parliamentary election observation delegation in Ukraine, IRI President Mr. George Folsom, IRI Eurasia Division Director Stephen Nix, and U.S. Federal Judge Bohdan Futey, visited Chernihiv city on Saturday, March 30, 2002, the day before elections. They conducted pre-election interviews with local party leaders, election commission officials and journalists. On election day the group visited eight polling sites in Kyiv city.

#### Activities Prior to Election Day in Chernihiv

The delegation's first pre-election meeting was with the head of the Chernihiv city constituency electoral commission (CoEC) #207. The chairman stated that the pre-election period went smoothly, and his commissioners "worked objectively, ensuring proper preparation for the elections." He mentioned that practically all political parties were represented in the commission. He personally was a member of People's Democratic Party. All 18 commission members actively participated in the commission meetings and all the commission's activities throughout the entire pre-election period. The chairman expressed hope for the proper resolution of all complaints, were any to occur in the election day process. He also mentioned that the new election law was a step ahead of the law in 1998, but clarified that many articles should be worded much more clearly. For example, a clearer definition of "informing" the public on parties or leaders' official activities and "campaigning" or "campaign agitation."

The delegation next met a journalist, who works as a Chernihiv oblast-based Western radio station reporter. He said that these elections were even worse than the 1998 parliamentary elections. Independent or opposition candidates had no chance to be covered by media on the local level. There were many cases in Chernihiv oblast when independent media reporters were intimidated by local administrative bodies and criminal group representatives. He alleged strongly that there is no freedom of speech in Ukraine.

The next meeting was with Our Ukraine campaign headquarter representatives. They described their campaigning activities in the environment of limited access to mass media. They described cases when Our Ukraine candidates were refused rooms or halls for their meetings with voters in public buildings or clubs. Local administrative pressure was placed upon public servants who were in charge of all public halls. They stated that in many cases polling station commissions were formed by local administrations and their headquarter officers had to file complaints to local administrations and courts, though there were few cases where these complaints were resolved positively. They also mentioned cases when volunteers, who were posting their candidates' flyers outside, were taken into custody without any reasonable explanations.

Then the delegates visited polling station commission (PEC) #48, located in a school, to see how preparations for election day were proceeding. The election commission deputy chairman showed the delegates around the site. All party and bloc posters were posted on the walls. The voting room, a gym, was big enough to accommodate a large number of voters in case of a high turnout. The ballots were secured in a safe and a policeman was guarding it.

#### Election Day Activities in Kyiv

The delegation opened the elections at PEC #2 in CoEC #221. By 7:40 a.m., only three commission members and 18 domestic pollwatchers were present. The commission deputy chairman was not proceeding forward with appropriate steps pursuant to the law, which caused some confusion. The delegates did witness the signing of protocols and their placement in the ballot box. At 8:00 a.m. there were still only three commission members present and all pollwatchers were trying to push them towards performing their duties in a more organized manner, without much success. When the first voters arrived, the three commission members were not prepared to proceed with their duties, explaining that ballots were received late the night before and all commission members, including the chairman, were counting them. Finally, by 8:30 a.m., ballots were brought in the voting room and the three commissioners began dividing them into stacks for distribution to the voters. At that moment, approximately 12 voters were waiting for the commissioners to start the process. Several voters who were in a hurry left the site without casting their ballot. The delegates left the polling station when it was clear that the situation was more organized.

Then the delegates visited six other polling stations where no major problems were observed, except for PEC #19 in CoEC #218, where approximately 200 people were witnessed standing waiting to vote. According to statements made by several voters, they had been waiting in line for two hours. The delay was caused because the chairperson of the polling station, which was located near a military base, allowed all military personnel to vote first. One of the voters approached the IRI delegates saying that the site was not big enough for so many voters and commissioners could not even put enough desks in the small voting room, which caused much chaos and confusion. He asked IRI delegates to bring this fact to the attention of the Central Election Commission. Many voters were leaving the line as no forward progress was being made.

IRI later learned that a candidate for the single mandate seat in district #218 filed a complaint to the CEC that there were many violations committed by the eventual winning candidate. The Supreme Court subsequently ruled that the CEC had to reconsider their finding that the other candidate was the official winner in light of the fact that the CEC probably did not give sufficient weight to the original complaint. In response, the CEC met once again and reviewed the case; however, they again ruled in favor of the winning candidate.

The IRI delegation closed the day at the same PEC #2 in CoEC #221, where they opened the election day. At 7:30 p.m., people were still voting and more were coming. Several people

came to the station for the second time because they could not vote during the day. Some of them, noticing the line again, left the station for good. By 8:30 p.m., the last voters voted and 10 commissioners were waiting for the chairman to take lead on the counting process. Domestic pollwatchers tried to call for the chairman to start carrying out her duties. The chairman alone was trying to start the counting procedure, but she had lost track of a certain paper she needed and was rushing around the station looking for it. An atmosphere of chaos and disorder dominated the room. Local pollwatchers were demanding the start of the vote count without any real success. The delegation left the polling station in an atmosphere of disorganization.

## **The Crimean Autonomous Republic Regional Summary**

### Summary

IRI staff member Gretchen Birkle deployed to the Crimean Autonomous Republic on Friday, March 29. On Saturday, March 30, 2002 the team conducted pre-election interviews with local party leaders and election commission officials. On election day the group visited eight polling sites in Crimea.

### Activities Prior to Election Day

The IRI delegation's first meeting was with the vice chairman of Constituency Election Commission (CoEC) #10 in Simferopol. The meeting was originally scheduled with the chairman; however he had been called away for official business. The CoEC was hectic, with commissioners coming and going throughout the meeting. One commissioner, unknown to anyone else on the commission, arrived to receive instructions while the IRI delegation was present. Some commissioners present remarked that it was odd that a new commissioner should be reporting to duty for the first time the day before the election.

The vice chairman was accommodating and knowledgeable about the election law. He fielded several telephone calls from various Precinct Election Commissions (PECs) during the interview with IRI and used a well read copy of the election law to verify answers and recommendations. He told the delegation he had received sufficient reference materials from the Central Election Commission (CEC) in order to make appropriate decisions and said he was also comfortable looking up answers in the election law, which "had everything in black and white."

He said that some commissioners had resigned, mostly because other obligations prevented them from working on the commission, and he did not know on what basis the chairman chose the replacements for the commissioners who resigned, nor was he familiar with their party affiliations.

The commission had received their ballots on March 25 and planned to complete delivery throughout the day to all PECs. The vice chairman said ballots were distributed according to the

voter lists, plus an additional three percent. Changes to voter lists were still being verified, as were requests for mobile ballot boxes.

The second meeting was with the headquarters coordinator for the Our Ukraine campaign in Crimea. He began the meeting with a discussion of the importance of covering issues related to the Crimean Tatars and also explained that his was the last Our Ukraine campaign to get started and that because the campaign included individuals well placed within the local administration, the headquarters team was able to make up for lost time. When asked to explain further, he cited the ability to find a location for the office, purchase advertising, etc. He also commented that the Kyiv headquarters said this was one of the best Our Ukraine campaign organizations and noted the successful visit to the region of Viktor Yushchenko, the leader of the Our Ukraine bloc. The Crimea office had good relations with the national headquarters, according to the coordinator. He also said that campaign workers had participated in both IRI and Our Ukraine training. The campaign had conducted door-to-door outreach, and purchased bill boards and kiosk advertising.

When asked about the electoral bloc's ability to field poll watchers at each PEC in Crimea, the coordinator mentioned the informal bloc with the Socialist Party and the bloc of Tymoshenko that will enable them to coordinate coverage of the entire region.

He asked his colleague, a Tatar representative on the campaign, to join the meeting and discuss his viewpoints. The gentleman noted that the use of administrative resources during the pre-election period, particularly in terms of mass media, was troubling. He cited the problems with deregistering and reregistering candidates, and said that the campaign had gone door-to-door to make sure voters knew certain candidates were reregistered. He noted a significant flaw in the system, in that a candidate could be deregistered the day before the election and voters would not know. He also noted the excellent cooperation of the Our Ukraine campaign with Crimean Tatars. He discussed the Tatar alliance with Vyacheslav Chornovil (leader of the Rukh party prior to his death last year) in 1998 and said it was natural for Tatars to again ally with Rukh via Our Ukraine.

The delegation's third meeting was with the first secretary of the Socialist Party of Crimea and chair of the Socialist Party headquarters in the oblast. He described the work of the Socialist Party during the campaign season and noted that the Socialist Party "is the real opponent to the President." He said his party is the poorest in terms of financing, and said that immediately after the party received a donation, tax authorities automatically showed up, so he believed there is some connection.

The chairman said Socialist Party activists attended both IRI and NDI training seminars. He said the seminars were "very good, although the U.S. doesn't teach tough agitation techniques, so the Party added their own information because they have to face intimidation." He added that the Socialist Party in Crimea coordinates closely with the party in Kyiv, and said that he had received literature and other materials from Kyiv. He also cited the difficulty the

party had when it tried to field a commercial for local candidates that included a statement by the national party chairman, Olexander Moroz, in the party's effort to reach local voters. Originally the CEC banned the commercial, but the Supreme Court overruled the CEC decision.

When discussing the ability to field pollwatchers, he noted that chairpersons on all commissions were pro-presidential, and said that he knew of irregularities on voter lists, but, when asked, said the party did not file official complaints over the matter. He also cited the importance of the "temporary alliance" established with Our Ukraine and Tymoshenko's bloc to coordinate information from polling stations since each party cannot be at each station. He noted that the 2001 law is better than the 1998 law because of the representation of all parties on each commission, but said problems still exist, such as inability to monitor the mobile ballot box, and voting outside home precincts.

The final meeting was with the For a United Ukraine campaign staff in Simferopol. The team spoke to several campaign representatives who came and went throughout the meeting. An impressive chart of campaign activities planned throughout the oblast was posted on the wall. The chairman of the For a United Ukraine headquarters said that the bloc had "representatives on 90 percent of the PECs, but not one chair of any CEC." He noted that the campaign was facing "black PR" from opponents.

A lawyer for the campaign then entered the discussion and said that the main problem in Crimea was the fact that there would be three laws governing elections: the new national election law, the new local election law and the law on elections of The Crimean Autonomous Republic. When asked about his views on the increased role of the courts in the new parliamentary election law, the lawyer said that it was "good because commissioners are not schooled in legalese and courts are therefore more qualified."

The final pre-election meeting was with a young, sophisticated Tatar candidate to city council. The Mejlis had voted on his candidacy and given their approval before he could run. The candidate had participated in Our Ukraine-sponsored training and in several local meetings to increase his visibility. The candidate was very polished and had an enthusiastic and young campaign team. One exception was his campaign manager, who actually did most of the talking and brought more substance to the interview. In fact, several times during the interview, the candidate deferred to his campaign manager for answers.

### Election Day Activities

On election day, the team arrived at PEC #2 in CoEC #10 at 7:40 a.m. There were 1916 registered voters at this site, and they had received 2160 ballots. The polling station had received 23 requests for the mobile ballot box.

Approximately five voters were waiting to cast their ballots when the IRI team arrived. The IRI team witnessed the ballot boxes being sealed. Boxes were displayed to observers before



they were sealed to confirm that they were empty. The IRI team sat with other observers and noticed that one observer was referring to an official-looking piece of paper during her review of the polling station. The IRI team learned that when the CoEC handed out observer credentials, the credentials included an “observer guidelines” written by For a United Ukraine. The observer did not think anything was wrong with having a particular party provide guidelines to all domestic observers in this manner and thought that it wouldn’t matter who provided guidelines as long as some were available.

The polling station was orderly and well prepared to receive voters by 8:10 a.m. As soon as the polling station opened, a pollster approached the chairwoman and asked to conduct a survey on the premises and the chairwoman called to Kyiv to ask if it was okay. The IRI team could not determine exactly to whom the call was placed. The IRI team noticed that a uniformed militia man was standing close to the ballot boxes, talking with the commissioners as they were signing in voters, and actively participating in helping to run the polling station. When the IRI team asked one of the commissioners if they thought this was unusual, the embarrassed commissioner said she did not know that the militia weren’t supposed to be helping out and immediately went up to the militia man, who quickly stood toward the far end of the room.

There was also a lengthy discussion about how to assist an elderly, partially blind woman. The observers and commissioners were both confused about what to do, and eventually they asked an unknown voter standing in line to aid the woman to the booth and help her mark her choice.

Next, the team visited PEC #53 in CoEC #10. There were 1411 voters registered at this site. The voter list was received by March 10 and confirmed by March 15. Ballots were received on Saturday, March 30 and stored in a safe at the polling station under militia watch. The chairwoman represented For a United Ukraine, the deputy chairwoman was from the Green Party and the secretary represented Democratic Union.

The actual voting took place in a very small room that was completely inadequate to house the number of voters going through. The polling station was close to a military base and large numbers of soldiers were standing in long lines leading from the one, very small room and around the building into a courtyard. An officer was checking off soldiers as they approached the voting booths and the commission had designated one commissioner to deal solely with the soldiers as they registered. This commissioner had received a separate stack of ballots to provide the soldiers.

The room was overcrowded and voting instructions were impossible to see. The actual balloting process was chaotic with people voting inside and outside the booths.

The third station visited was PEC #54 in CoEC #10. There were 1400 voters registered at this PEC and the commission received a total of 1448 ballots. The PEC originally had 14 commissioners but two commissioners were ill. Three of the commissioners had served on a

commission before. The chairman of the station had received training from CoEC in Simferopol and the CEC in Kyiv had sent materials to be posted. There were also very long lines at this polling station. While the IRI delegation was present, the chairman of CoEC #10, who had had to break his appointment with IRI the previous day, unexpectedly arrived at the polling station. The chairman explained that he was working his way to the CoEC by stopping at polling stations along the way to see if everything was running smoothly.

The meeting with IRI was conducted in a separate room and the IRI team asked about an extra ballot box that was in the office. The chairwoman of the polling station replied that it was “extra” in case someone objected to part of the process, the commission could use a new ballot box.

The delegation then observed voting in Sevastopol, which has a special federal designation and did not participate in the election to the Crimean parliament. There are two Verkhovna Rada districts in Sevastopol and the IRI delegation had learned from the OSCE representative in Simferopol that a high number of candidates had been ordered to withdraw from the race throughout Sevastopol. The team first went to PEC #63 in CoEC #224.

This PEC was busy, although orderly. There were 1529 registered voters at this site. The voter list was received on March 15 and had been verified by March 29. The chairwoman explained that, like 1998, there was a problem again this year with the voter list because different houses on the same street belong to different PECs. The chairwoman said they always ask for the situation to be corrected but it never is. In addition, she said there were many new voters because two streets were missed on the voter list. Eleven commissioners were present, down from 17 who were originally on the commission. There were 10 domestic observers present.

The overriding problem at this site was the fact that voters felt completely comfortable voting anywhere in the polling station: in the voting booth, in line to the voting booth, standing next to the ballot box, using the tables scattered throughout the room. Voters freely discussed amongst themselves for whom they were voting and why. It is interesting to note that there was no attempt at fraud, rather a general sense that a private vote is of no importance.

At PEC#62 in CoEC #224, the chairwoman reported that there had been no problems with voter lists or voting. The station had 1545 registered voters and at 12:45 p.m. 527 voters had cast their ballot. There were no requests for the mobile ballot box, except when a disabled woman drove up with her husband and they brought the mobile box to her. Her husband had asked to use the mobile box too, but the chairwoman told him he had to come inside and use the regular ballot boxes.

This was the third chairwoman at this site. The first two chairpersons had resigned for unknown causes. When asked about the party affiliation of the commissioners, the chairwoman replied, “There are 13 commissioners representing 13 different parties.” The chairwoman was storing ballots in a safe behind her and rather haphazardly pulled out bunches as commissioners

needed more. Twice, batches of ballots ended up scattered back into the safe. This seemed to indicate that there could be problems during the final count when they attempted to confirm the number of used and unused ballots.

The next polling station visited was #61 in CoEC #224. This was a very organized, spacious facility. The polling station was located in a school gym and the candidate posters and CEC instructions were well placed for voters to see as they entered the gym. This was the first polling station at which the IRI delegation observed voters reading and scrutinizing the candidate posters. There were 2581 voters registered at this site and the commission had received 2500 ballots. Fifty new voters had registered by 1:00 p.m., however, the chairwoman was not worried about running out of ballots because she did not expect 100 percent turnout.

A major problem at this site was the fact that eight single-mandate candidates had been removed from the ballot. This required the chairwoman and her deputy to stay up all night using one stamp between the two of them to cross out the eight names. The IRI team saw that the deputy chairwoman was still stamping out names on election day.

The IRI team observed that a Communist Party candidate for a single mandate seat who was also the owner of the local newspaper had published "observer guidelines" on the back of his paper, which was distributed to observers at this site.

At PEC #19 in CoEC #5, there were 2298 registered voters. The IRI delegation was told that the chairman was out and the vice chairman would be conducting the interview. The vice chairman said that three candidates to the Verkhovna Rada had to be stamped out and that the process took all night. The PEC was orderly and the vice chairman was clearly very busy handling issues as they arose. Nonetheless, the vice chairman was too busy to provide the IRI team with the party affiliations of the other commissioners. There were 21 requests for the mobile ballot box and three commissioners were out with the box during the IRI visit.

The IRI team also discussed with the other domestic observers their observations. The observers reported that there had been no irregularities at the site and that the opening and voting had proceeded smoothly. When the IRI team asked where the chairman was, one observer pointed him out across the room. The chairman had been present all along, but had clearly told his deputy to tell the IRI delegation that he was out.

The IRI team closed PEC #63 in CoEC #2 in Simferopol. The delegation arrived at 7:50 p.m. as the last voters were casting their ballots. The chairwoman reported that there were 1644 voters registered at this site. The chairwoman gave conflicting answers on all other statistics. The chairwoman first said they had received 1700 ballots, but later in the evening told IRI the number was actually 1750 after they had counted them. The chairwoman was not certain of the number of mobile ballot box requests and a domestic observer who had overheard the question answered. There were 16 commissioners present representing a wide variety of parties.

When it came time to vote, the chairwoman and her deputy moved the ballot boxes into a small conference room and left them there. Only when the IRI team moved to watch the ballot boxes did the other observers and commissioners realize it was not correct procedure to leave them unattended. The chairwoman then went to her office for over an hour and throughout the remainder of the long night was clearly stalling for time. Ballots were eventually dumped on the center table and one person was selected to count them and divide them into piles. The chairwoman asked the domestic observers to aid in the count, which they gladly did. The chairwoman constantly complained to the IRI delegation about the fact that she did not even have pens, pencils or calculators for tabulation. At 4:00 a.m. after the only domestic observer with a calculator left, the IRI team loaned the commission a calculator - the only one to help in the additions of the final numbers. Ultimately, the counting process was a mass of confusion. Too few commissioners knew the procedures, and too few commissioners took part in the counting. The final results were agreed upon after much argument at approximately 5:00 a.m., at which time the commissioners began copying protocols. The chairwoman said there were not enough copies for observers, so observers transcribed their own copies. No one in the room could write out numbers correctly in Ukrainian (Crimea is a predominantly Russian speaking region of Ukraine), and asked the IRI translator if she could assist. The IRI translator wrote numbers out on a separate sheet of paper as a guide for the commissioner.

## **Donetsk Regional Report**

### Summary

IRI delegate U.S. Congressman Bob Schaffer and IRI staff member John Poepsel deployed to Donetsk on Friday, April 29, 2002 to conduct pre-election interviews and observe the March 31, 2002 parliamentary elections. The delegation returned to Kyiv on April 1.

### Activities Prior to Election Day

The IRI team met with four political party representatives, one election official and three members of the news media. The delegation's first meeting was with the chairman of the Donetsk headquarters of Our Ukraine. He spoke about the difficulty of gaining equal access to the media, and some incidents of harassment from the local administration. One example of intimidation was that employers were threatened with termination if For a United Ukraine did not carry their polling station. He expressed concerns about "dead souls" on the voting list and was aware of long-deceased people still on the list. He believed that there would be irregularities based on the vote tabulation and with outsiders coming from other regions to cast ballots. He also stated that For a United Ukraine controls local media outlets and allows very few opposition parties to advertise.

The team's second pre-election interview was with the chairman of SDPU(o), Donetsk oblast. The chairman expressed concern about appointments to the constituency election commission (CoEC) by the local administration. He said that a majority of appointments are For

a United Ukraine supporters and believed that problems with the vote counts will occur at the CoECs after ballots have been cast. He said there is a bias for For a United Ukraine in the local media and a lack of free press for opposition parties. He mentioned that “dead souls” would be permitted to vote in the elections even though people have been deceased for many years and expressed concerns regarding the easy manipulation of the mobile ballot box. He also stated that SDPU(o) was denied billboards in the Donetsk oblast, even though they offered many times to pay the asking price.

The next interview was with a Rada deputy and chairman of Donetsk oblast For a United Ukraine. He said that the elections will be the most free and transparent of any elections in Ukraine since 1991. He argued that most poll watchers and election officials were well trained and experienced sufficiently to handle their duties. He stated that all parties have been treated fairly in the media in the Donetsk oblast. When asked about allegations of bias in the local media, he stated that all parties were given equal access on television stations. Each candidate received fifteen minutes to broadcast his or her message on the state-owned television station. He claimed that some parties, such as the Communist party, did not accept offers to broadcast, but admitted that For a United Ukraine has more financial resources for political advertising than other parties.

The next meeting was with the chairman of the electoral bloc Justice, which is a political bloc made up of four leftist parties in the Donetsk oblast. The chairman heard IRI had a delegation in Donetsk and wanted to talk to the delegation regarding various election violations. The chairman listed many problems for opposition parties in Donetsk. She said that For a United Ukraine has an unfair advantage because of the pressure they are forcing on people through the local administration. She spoke of intimidation on students and factory workers, pressure on spouses of opposition activists such as losing their jobs and pressure from employers to support For a United Ukraine candidates. The chairman mentioned that the local administration has access and means to print “dead souls” lists and have people vote in areas other than their official ballot precinct. She gave several examples of election violations that deal with issues from denied media access for leftist candidates to CoEC officers appointed by local administration to harassment by tax authorities against opposition candidates and concern with ballot counts at the CoEC. The chairman stated that the elections will not be free or fair.

The delegation then met with a 24-year-old deputy of the local rayon council, Donetsk oblast, who was making his first attempt for re-election. He believed that the voter list in his district would be open to fraud and expressed concern about the appointment of the chairman, deputy chairman and secretary as officers to the local CoEC. He stated that pro-administration officials could manipulate vote counting, but that the presence of foreign election observers might force the election officers to keep everything transparent and legal. He expressed concerns about “non resident voters” and the possibility of ballot stuffing.

The next meeting was with a journalist of a local television channel in Donetsk city. This journalist was very forthright in her remarks about media bias in the Donetsk media market. She

stated that all allegations of media favoring For a United Ukraine in Donetsk were true and the opposition parties did not have equal access to print, radio and television news sources. The journalist observed that many reporters were forced to write or broadcast favorable stories about For a United Ukraine candidates and unfavorable stories about opposition candidates. The journalist believed that the election day process might appear free and fair, but manipulation would occur in the vote counting, the ballot stuffing and the use of “dead souls” voter lists.

The delegation then met with the chairman of the constituency commission of Kalinin rayon council of Donetsk city. The chairman provided the IRI delegation with details about the preparation for the elections. The chairman stated that they have received all the necessary materials from the CoEC and have seen no signs of bias by the CoEC in regard to the appointment of commissioners or poll watchers. The only problem they anticipated was a large turnout of voters. He stated that the majority of election officers at this CoEC were experienced and prepared for the elections. He anticipated no major problems.

The final meeting was with a journalist for the Donetsk department of one of the major news information agencies. The journalist gave several examples of how the local administration had used pressure to limit the amount of coverage given to opposition parties and candidates. Examples consisted of threats and intimidation to reporters for covering a certain candidate and lack of advertising freedom in many independent papers and radio stations (the television stations are totally controlled by the state administration). The journalist said that the election would not be free and fair solely because of the access to the media by most candidates and that even private newspapers were threatened with closure if they publish stories that are too critical of For a United Ukraine candidates. This person also reported incidents of intimidation of independent reporters and gave examples of how plant workers were being pressured to vote at their work place and not their homes. The journalist said that students were pressured to vote for For A United Ukraine and attend For A United Ukraine rallies, or otherwise their grades would be negatively affected.

### Election Day Activities

The delegation visited seven polling sites on election day, with three visits to the opening site throughout the day. Election day began with the opening of PEC #72 in CoEC #42. The poll was open by 8:00 a.m.; the ballots were stored in an office safe, in a secure, guarded location. There were 2717 registered voters at this site with 19 constituents requesting a mobile ballot box form. CEC voting instructions and candidate posters were visible, no partisan literature or campaigning was seen. Sixteen commissioners were present representing all political parties and most had previous election experience. The lines to register and vote were long, which lasted all day until closing time. Most voters were able to understand the voting procedure, although reading six different ballots was difficult for the elderly. The box was sealed properly as well as closed properly. Though there were rumors of some improprieties, the IRI team witnessed none. The observation delegation came back to this site three times throughout the day and everything seemed proper. The delegation also followed the mobile ballot box to two apartments where

elderly people were able to cast their ballots. An inordinately large number of election officials watched the voters cast ballots in their own apartments and no violations appeared to take place.

The delegation chose to observe the closing of this polling site as well. At closing time, the procedure was proper, but the counting of ballots was delayed. All unused ballots were hand-counted, cancelled and properly stored. Then all other ballots were separated and hand-counted. The commission first started counting ballots to the Verkhovna Rada, but switched to local ballots (rayon council, city council) after about one-hour. This caused a major delay in the vote counting procedure. The IRI delegation was the only group of foreign observers all day. One reason for the chaotic atmosphere was that the chairman of the polling site, who was drinking throughout the counting process, left the building at 2:15 a.m. and did not return. The deputy chairman took over duties at this point and the delegation left the site when a break was called at 3:00 a.m.

PEC #51 in CoEC #42 opened at 8:00 a.m. and ballots were stored in a safe, secure location. At this location, 2287 registered voters with nine requesting mobile ballot box forms. Posters and instructions were visible and approximately 30 observers were present. Twenty-one election commissioners from all parties were present. Most commissioners served in previous elections and all were familiar with the election procedure. The environment at this location was secure and the only concerns the team delegation recorded were the long lines and people voting outside the voting booths. All aspects of the voting process seemed to be in order in that ballot boxes were in the open and voting booths provided privacy, if desired, for the voters. The IRI delegation was the first group of foreign observers at this site.

PEC #52 in CoEC #42 was stationed in the same school as PEC #51. At this site, 2400 registered voters with 10 constituents requesting the mobile ballot box. The polling station opened at 8:00 a.m. and the ballots were stored in a secure location. Candidate posters and CEC instructions were visible and no irregularities were seen at this location. Although once again, long lines with people voting outside the actual voting booths were observed. The delegation felt that all other aspects of the process seemed to be in order as ballot boxes were in the open and booths provided privacy. The IRI delegation was also the first group of foreign observers at this location.

PEC #34 in CoEC #43 was held at a local television station/community building. Sixteen election commissioners were present at opening with all parties represented. Ballots were stored in an office safe and guarded by local militia. This location had 2300 registered voters with 500 having already voted by 10:00 a.m. Twenty-two voters requested mobile ballot box forms and no major improprieties were seen at this location. Long lines, some out-of-booth voting and general over crowdedness were the only concerns by the observers. All aspects of voting at this site appeared to be proper as once again ballot boxes were in the open and voting booths provided privacy for voters.

PEC #9 in CoEC #44 was located on the main street of Donetsk in a local movie theater. This site had 1860 registered voters and by 3:00 p.m., nearly 60 percent had cast their vote. Twenty-four people requested mobile ballots and CEC posters and candidate posters were visible, with no partisan activity in the building. Eighteen election commissioners were present and most had served as commissioners in previous elections. Most political parties were represented and a group of foreign observers from Russia was present. Although the site was crowded, no irregularities in the voting procedure were observed as ballot boxes were in the open and booths provided privacy for the voters. The IRI delegation spoke with two young voters, ages 18 and 19, and they found everything to be in order and were able to understand the sometimes confusing ballots. The chairwoman was very professional and orderly.

PEC #50 in CoEC #62 was the village of Bughust, located about 30 minute drive south of Donetsk city. The voting was held in the local administration building. All 20 commissioners were present at the voting site and the ballots were stored in a safe, guarded location. The number of registered voters at this location was 1142 with 47 requests for the mobile ballot box. All CEC and candidate posters were visible and no partisan literature was inside polling site. This was a strong Communist village, but all political parties were present. There were 30 domestic poll watchers while the IRI team represented the only foreign observers. All commissioners have had previous experience and received training. One young commissioner representing SDPU(o) party felt everything was in order and saw no violations throughout the day. Ballot boxes were in the open and the voting lines were short.

PEC #49 in CoEC #42 was visited after receiving reports that two opposition party commissioners were denied access to the polling site to observe the sealing of the ballot box. The commissioners were told that they arrived too late and thus could not enter. They informed us that they arrived at the site at 7:15 a.m. on election day and were denied access. IRI spoke with the chairman, who stated that all things were proper and no problems had occurred. When asked about the two election commissioners who were denied access, he became defensive and stated that they arrived after 7:30 a.m. and that is why they were not allowed in. When it was brought up that the two persons said they arrived at the site at 7:15 a.m., Mr. Burtsev stated "I am not going to argue what time they arrived," and walked away while the delegation stayed and observed. There were three young, plain-clothed men keeping a watchful eye on the team and when asked who they were, the chairman stated "private security." The delegation stayed at the site for about 15 minutes and saw no obvious violations even though there seemed to be many idle people standing in the area. Ballot boxes were in the open and booths provided privacy for the voters. The team left the polling site at 7:40 p.m. and told the chairman they would return. He looked irritated by this possibility and proceeded (with his three "private security" men) to watch the delegation very closely. Besides the encounter with the chairman, the polling site seemed to be following all the regulations with no apparent violations. The delegation did receive a call, though, about 30 minutes later from one of the commissioners who was denied access, stating that one of the "private security" men approached him and had rough words with him for having informed the IRI delegation of the problems at this site. This was the last polling site visited before the delegation returned to PEC #72 in CoEC #42 to observe the closing.



## **Kharkiv Regional Summary**

### Summary

On March 28, 2002, IRI delegates Aleksandr Primostko and Elizabeth Ruedy deployed to Kharkiv to observe the parliamentary election. On Friday, March 29, and Saturday, March 30, they met with representatives from various political parties, candidates, and members of the media to discuss the campaign period leading up to election day. On election day, March 31, they visited a total of 10 polling stations throughout Kharkiv and neighboring villages.

### Activities Prior to Election Day

On Friday morning, the team met with two representatives from the media group “Objektiv.” They claimed that the campaign period in Kharkiv had been rife with media bias, going on to explain that owners of local television stations were pressured by authorities to limit opposition parties’ and candidates’ access to the media. Reporters and other employees who attempted to cover these parties and candidates were accused of bias and were threatened with their jobs. One of the representatives said that Objektiv itself had been portrayed by authorities as an “opposition” organization, and that he feared retribution after the election. He further noted that the reputation of the media as a whole had been tainted by the pro-government bias, and said that he regularly received complaints from the public regarding this biased coverage.

The second meeting was with a correspondent for the Russian “Independent Newspaper,” also a candidate, who echoed the sentiments of the Objektiv representatives. He stated that he found himself on the opposition “blacklist” and had therefore had no success in securing air time on local channels. He also added that the court system put in place to handle complaints of campaign fraud and bias was, in fact, being used by the authorities as a way of categorically eliminating candidates deemed a threat to the party of power’s candidate. Faced with court ordered removal from the ballot himself, the correspondent claimed that such proceedings were brought forth under the guise of addressing minor inconsistencies in candidate registration, but the manipulation of the system was evidenced by the fact that the majority of candidates exposed to the courts’ scrutiny were from the opposition, and that court dates were set so that there would be no time to appeal the decision before the election day. He also noted that the removal of opposition candidates from the ballot had not been covered by local television stations.

A meeting with representatives from the local Socialist Party headquarters resulted in similar claims. They also, however, noted that television station employees were not the only people who had been threatened for providing alleged “assistance” to opposition candidates. The SPU representatives detailed several instances in which they and other parties had attempted to arrange for a meeting space to meet with voters and been denied. They stated that those involved with arranging rental of rooms in schools and other public places had been told that their jobs were in jeopardy if they authorized use of this space to opposition parties or candidates. For

instance, during a visit to Kharkiv by Socialist Party leader Olexander Moroz, the party was unable to secure a place where he could deliver his address and meet with voters. The party's inability to locate a venue had seriously damaged the reputation of the party, the representatives said, as many voters, especially the elderly, considered it a sign of the party's disorganization and flawed leadership rather than the result of bias.

The SPU representatives brought up an issue that was to be addressed in a meeting of Constituency Election Commission (CoEC) #172 later that day, which was fraudulent election lists. Allegedly, it had been revealed that the voter lists for this constituency included the names of several "dead souls," some of whom had died over twenty years prior. The SPU members told of a meeting they had had with a young woman who, having learned that her two deceased parents were on the voter list, had tried to have them removed, but had been told to "go home and not say anything." The SPU members estimated that approximately seven percent of the list comprised of these "dead souls."

After the meeting at the SPU headquarters, the team went to meet with party representatives who were serving on the CoEC #172, and found that the meeting called to address the issue of the fraudulent voter lists was still under way. After the meeting adjourned, several candidates and representatives who were present spoke with the IRI delegates about their concerns. One relayed that a member of the CoEC had been threatened with her life and had been assigned a body guard. She did not wish to be named. Other polling station commissioners and candidates had received threats and/or been imprisoned, and it was reported that there had been two deaths. All those present agreed that they anticipated fraud on election day, citing the CoEC's reluctance to allow, for example, poll watchers to travel with the counted ballots from the polling station to the CoEC.

On Saturday, the delegation met with a representative from the Rukh party organization, part of the Our Ukraine bloc. The representative was also a candidate in the local elections, but spoke at length of the lack of support he had received from national Our Ukraine headquarters. The bloc had refused to endorse him, opting instead for his opponent, a member of the For a United Ukraine bloc. Overall, he claimed that the strategy of Our Ukraine seemed to be to focus on candidates to the Verkhovna Rada and mobilizing polling station commissioners, at the expense of regional candidates. A lack of effective campaigning methods, and the nomination of weaker candidates for various posts left several districts wide open for For a United Ukraine, according to this representative.

Meetings with representatives from For a United Ukraine and SDPU(o) headquarters were far more positive. Instead of enumerating problems that these organizations faced during the campaign period, the representatives spoke of a strong party organization that had been instrumental in developing and carrying out a successful campaign. Both considered the new election law to be a great step forward in Ukraine's democratic development, and indicated that they had spent time preparing representatives from their organizations for service in the capacity of election monitors and commission members.

## Election Day Activities

The IRI team observed the opening of PEC #64 in CoEC #169. Despite the large number of voters registered at this polling station, the commission members and chairman seemed well-organized. The ballot boxes were sealed in the presence of election monitors with no objections, and the first voters began to cast their ballots shortly after the doors opened at 8:00 a.m. The polling station, located in the school gymnasium, appeared well prepared to handle large numbers of registered voters. CEC-mandated candidate posters were clearly visible, and the initial stages of the voting process appeared orderly.

The team then moved on to PEC #86 in CoEC #172. The polling station was located in a mental hospital. Because potential fraud in the polling stations of CoEC #172 had been the topic of the CoEC meeting on Friday, the team decided to observe the election process here. The commission chairman at the hospital was not overly welcoming to the IRI team. Several people asked to see credentials and identification, including a militia member who was present. The chairman was willing to answer questions, but the militia representative was present throughout the conversation. Generally, the voting seemed to be going on in an orderly fashion. The room was very small and crowded, but voters were waiting in the back of the room, away from the sign-in table and the voting booths. However, the team did observe two individuals going through the voting process whose mental fitness to vote was questionable. These individuals seemed completely unaware of their surroundings while waiting, and had to be prompted to go into the booths by others. Having observed this, the team questioned the chairman on the availability of the mobile box, and were told that of the 1180 registered voters, 300 had requested the box. These were, apparently, mental patients unable to leave their beds. Because the mobile box was not going out until later in the day, the team was unable to follow the box to determine whether or not voters were being coerced.

A visit to a second polling station in CoEC #172, PEC #52, followed. This was the largest polling station visited, 2750 people were registered at PEC #52. When the team entered, the atmosphere was chaotic. The room was too small for the number of people present, and long lines for the voting booths caused people to begin voting outside the booths. There were several domestic election observers present, and during the team's conversation with the commission chairman, they would bring these violations, including two voters in a booth and an individual voting on the ballot box itself, to his attention. Unfortunately, the chairman seemed unable to deal with all the problems that were occurring. Two election observers who spoke with the team indicated that the chairman and the majority of the commission were all employees at a factory owned by a candidate in that district, and that all commission meetings had occurred in his office, but the chairman denied this. In addition, the observers noted that the commissioners were counting both the number of ballots distributed and the number of ballots cast, and that there was a discrepancy of 20 additional ballots cast. At around 9:50 a.m., the commission began stamping multiple-mandate ballots to indicate the removal of the "Against all Parties" party, saying that they had just received word that this party needed to be removed. Later, however, it became unclear whether the order was to remove the entire party or merely a single candidate.

The team then traveled to the villages outside of Kharkiv and visited PECs #10 and #146 in CoEC #177, and PEC #7 in CoEC #176. For the most part, voting at these stations was orderly, although overcrowding was a consistent problem. At PEC #7, the team observed two people standing in one booth, and while the chairman explained that sometimes people with poor vision brought someone to help them read the ballot, neither he nor any other commission member tried to confirm this. It is worth noting that one of the candidates the team had interviewed earlier was running for office in CoEC #177, but had, in fact, been removed from the ballot. The necessary alterations to the ballot therefore caused a few minutes' delay in opening at least one polling station in that constituency.

Upon returning to the city center, the team visited PEC #4 in CoEC #175. Although this site also had a large number of registered voters, they seemed much better prepared than some earlier sites. The room was large, and eight booths had been set up. Domestic observers noted only one major concern, that earlier in the day two buses of people had shown up at the polling station. The commission chairman, however, noted that only 13 voters had used the "coupons" to vote at that site.

The next two sites visited, PEC #56 in CoEC #174, and PEC #1 in CoEC #171, also seemed well prepared for large numbers of voters. PEC #1 had set aside a room designated as a secret voting area where desks and chairs were available for elderly voters who did not want to stand. Although chairmen from both sites said that there had been a problem with crowds, commission members seemed to be watching for violations and correcting them. As with most other polling stations visited by the team, the commission chairmen and members were friendly and helpful, and the atmosphere in the polling station was relaxed.

The team then traveled to PEC #71 in CoEC #170, to observe the closing of the polling station and the counting of the ballots. The polling station was located in a radiological hospital and served 189 registered voters, all patients at the hospital. In addition to the IRI team, there were five domestic poll watchers representing different candidates and political parties. Explaining that all 189 voters had cast their ballots by about 3:30 p.m., the commission officially closed the station at 7:48 p.m. According to the observers present, there had been no objections during the voting process. The commission first read out the number of ballots that had been received from the CEC. They then read out the number of ballots that had been distributed. After the unused ballots had been counted in full view, the commission invalidated the unused ballots and sealed them. The actual vote-counting began at approximately 9:50 p.m., at which point the mobile ballot box votes were counted. When the standard ballot box was emptied, the commission divided the ballots and assigned one counter for each type. The ballots, however, were counted individually in the presence of the commission and observers. Any irregularities in a ballot, such as a mis-marking or a blank ballot, were brought to discussion and then to a vote to determine whether or not the voter intent could be determined. Questionable ballots were also shown to the observers. No irregularities were noted by the IRI team. After the counting was completed, the commission prepared them to be sent to the CoEC. Packages of ballots were signed and sealed in the presence of the commission and the observers, as was the box in which

the ballots were delivered to the CoEC, and the protocols. Copies of the protocol were given to all observers who requested them. Preparation of the ballots continued until approximately 2:30 a.m., at which point a militia member entered to request a copy of the protocol, as well as detailed information about the winners, the proportion of votes received by parties, the names of local candidates, etc. The secretary seemed annoyed by this, and asked why he needed the additional information since he had received a copy of the protocol already. He replied that his supervisor would not let him back to work without this information.

At this point it is important to note that commission members called for an official car and militia escort to bring the ballots and protocols to the CoEC. Because there was a long delay waiting for the car, all the domestic observers departed before the results left the polling station. The IRI team waited and followed the official car to the CoEC, where, at approximately 4:00 a.m., they witnessed the unsealing of the box and ensured that the numbers read from the protocol matched those that had been read at the polling station.

## **Khmelnysky Regional Summary**

### Summary

IRI delegate Marjorie Klein and IRI staff member Oleksandr Sputay arrived in Khmelnytsky on Friday, March 29. On Friday and Saturday, pre-election interviews were conducted with candidates, political parties and electoral blocs, journalists and Constituency Election Commission chairmen. On election day, the IRI delegation visited 13 polling stations.

### Activities Prior to Election Day

The first meeting was with the deputy chairman of the election bloc Our Ukraine in Khmelnytsky oblast. He told the delegation about the bloc's strategies and tactics for working with the electors and said the national headquarters had helped very much with training and supplies. He also discussed a lack of correspondence between the law about local elections and the elections to the Verkhovna Rada. All further interviewees also indicated problems with the local election law. The Our Ukraine bloc planned on covering nearly 100 percent of the polling stations with observers by coordinating with other parties and blocs, namely the Socialist Party and Yulia Tymoshenko's bloc.

The next meeting was with a journalist from the local television and radio station. The journalist told the delegation that the station is a private company that places political advertisements without bias, but only those blocs and candidates that can pay for the advertisement get on the air. The station published their advertising rates for candidates 80 days before the election. The journalist noted that ad rates for candidates and for businesses were the same because "it is the law." The station ran political advertisements for For a United Ukraine, Our Ukraine, Tymoshenko's bloc, and SDPU(o). During the election campaign 80 percent of the station's income came from these various political advertisements.

The next meeting was with an independent candidate to the Verkhovna Rada in CoEC #190. The candidate is a businessman and owns a bread-baking plant which produces about 75 percent of the bread in the Khmelnytskyi oblast. His primary form of campaigning involved going door-to-door and emphasizing personal contact with the electors. About 2500 volunteers worked on his campaign. The candidate complained about the strong pressure being applied from the local authorities and his competitors and illustrated this by pointing out the increase of audits from the state tax police to which his business had recently been subjected. The candidate also showed a sample of ballots with examples of “proper voting” for For a United Ukraine and candidates from that party. He told the team that the State Ukraine Post distributed such ballots among all the citizens in his constituency.

The head of the SDPU(o) headquarters and candidate to the Verkhovna Rada from this party in CoEC #188 forecasted violations with absentee ballots such as letting people vote not according to their official registration or military papers. He also pointed out that he could not get the results of the census conducted in Fall 2001. He said his party had struggled because it’s not very popular in the region. Their target audiences are the middle class, teachers, and doctors. They’ve reached this group through door-to-door campaigning. He reported that his party was able to place a commissioner at every precinct polling station.

A local television journalist informed the delegation that all parties and candidates had equal opportunities to be put on the air. All who wanted to have a political advertisement not only had to pay, but also needed to get permission from the director of the T.V. company. He informed the IRI team, though, that the majority of political advertisements were from For a United Ukraine, but that SDPU(o) also paid great attention to political advertisements.

The chairwoman of CoEC #188 told the team that the commission was ready for election day; she had received everything from the CEC on time. All the constituency members were trained accordingly, though the chairwoman indicated a lack of time for the commission’s preparation in that commission members have had to work at night sometimes. The chairman of CoEC #192 said that more than half of the commissioners were new and not all parties were represented. He said every station in his CoEC received five copies of CEC instructions.

The chairman of the Tymoshenko bloc told the delegation that there is a department of “Motherland” in every rayon. There are 11000 members of the party in Khmelnytskyi oblast and the election campaign was in its active stage. Cooperation with mass media was problematic, so the main focus was on the door-to-door campaign. The bloc hoped to receive about 15 percent of vote in the oblast. The chairman considered the new election law to be positive, except for the fact that every candidate could be removed from the ballot just before election day.

The deputy chairman of the Socialist Party told the team about the lack of resources for conducting election campaigns. He said the biggest problem was the unequal access to mass media. There were also complaints that precinct boundaries had been changed right before the

election. The deputy chairman also pointed out the lack of support from the central headquarters of the party. Nonetheless, he described this election as much better than the last.

The mayoral candidate from the Socialist party told the IRI team about pressure on his headquarter members who work in state institutions. He, too, complained of a lack of money and problematic access to mass media. He also commented that directors of oblast enterprises did not permit him to have meetings with their workers.

### Election Day Activities

The IRI delegation visited 13 different polling stations. Election day began with the opening of PEC #86 in CoEC #188. The polling station opened at 8:15 a.m. with approximately 40 people waiting impatiently for their chance to vote. The delay occurred because the chair of the polling station read excerpts from the election law and voting guidelines to all commissioners. This polling station is situated in a city hospital and all voters were patients. Ballots were securely stored in a safe. There were 612 registered voters at this site with 247 requesting a mobile ballot box. CEC voting instructions and candidates' posters were visible. Eighteen commissioners were present, representing five different parties. No signs of voter fraud were observed at this polling station.

At PEC #81 in CoEC #188, which was a post office, there was a long line of about 150 military college students. The station had 2128 registered voters. The students were disciplined, though, and were eventually able to vote. The CEC candidate posters and voting instructions were visible and there was no literature inside or outside the polling location. There were 15 domestic poll watchers present and no violations were observed.

At PEC #88 in CoEC #188, a maternity home, there were no voting booths because each of the 185 patients had requested a mobile ballot box. There were six domestic poll watchers present, and 13 election commissioners representing 13 parties.

At PEC #45 in CoEC #188, a student hostel, no violations were observed and at PEC #69 in CoEC #188 no violations were observed, though, there were long lines of military students, some of whom had been waiting for more than three hours. This site had 3200 registered voters. There were 22 commissioners present, with six commissioners having served on previous elections.

The next three polling stations visited were situated in villages 15-25 km from Khmelnysky city. PEC #201 in CoEC #190, in village Red Star, was a first-aid station and the smallest PEC visited where 73 of 84 electors had voted by 1:00 p.m. The eight commissioners had all served during previous elections and stated that they fully understood the voting and tabulation process. At PEC #200 in CoEC #190, there were 1100 registered voters. As at many polling stations, voters had trouble understanding the large number of candidates and parties listed on the many ballots used during the election. At PEC #194 in CoEC #190, no major

violations were observed. However, there were problems with the voter lists and the IRI team witnessed several people voting outside the voting booths.

The next two PECs, #12 and #11 in CoEC #188, were situated in a school. At PEC #11, some electors were shouting at the commissioner of the PEC because some people from this city rayon were not put on the voter list and they couldn't vote anywhere.

Long lines, overcrowding, and voting outside the voting booth were witnessed at PEC #74 in CoEC #188 and PEC #213 in CoEC #190. There were problems with the voter list at both sites. At PEC #74, the voter list excluded people who were eligible to vote, while at PEC #213, several names were listed twice or were misspelled.

PEC #62 in CoEC #188 was a cooperative college and the last polling station visited. There were 1498 registered voters at this site, and 1009 had voted by the 8:00 p.m. closing. The IRI team was present at the station from 7:30 p.m. to 3:00 a.m. and during that time observed that there were no policemen present at any time. No fraud was observed and the tabulation appeared to have been conducted according to the election law.

One superfluous ballot was found during the tabulation process. Polling station members said they had received one extra ballot by mistake from CoEC #188 and they didn't know how to register it. As a result, the protocols showed a miscalculation of one ballot.

The next day, April 1, at 12:00 p.m., the IRI delegation visited CoEC #188. The head commissioner reported that the ballots from PEC #62 had not been delivered yet, in spite of the fact that the tabulation had been finished by 3:00 a.m. the previous night. The team then departed to PEC #62. There was only one commissioner present, who was tired from not having slept for two days and who did not understand the delegation's questions. The delegation learned that CoEC #188 had received ballots, but hadn't received the protocols because of the mistake and sent them back to define them more precisely and write a precise protocol. According to the commissioner, all protocols were kept at the home of the PEC secretary.

## **Luhansk Regional Summary**

### Summary

IRI delegates Ross Chomiak and Jeff Greene traveled to Luhansk to observe the March 31, 2002 parliamentary and local elections. On March 29 and 30, the IRI team met with representatives from various media groups, political parties, and precinct election commissions (PECs). The delegates visited a total of 12 polling stations on election day in the Luhansk city center and surrounding areas. Based on their observations, the team concluded that there were no major violations of the election law in the region. However, there was considerable pro-presidential media bias in the pre-election period.



## Activities Prior to Election Day

The IRI team held numerous meetings for pre-election assessments with media outlets, political parties, and election commissioners. The team paid particular attention to interviews with political parties and candidates in an effort to discern possible problems on election day. Over two days the delegates met with four political groups.

All four political groups had in common a concern about fraud on the day of election. The chairman of the Reforms and Order party was concerned about bribery. He told stories claiming that students were offered 20 hryvnias (approximately \$4.00) and a bottle of alcohol for an unused ballot. There was also the allegation that students were told they would not pass their class if they did not vote for specific candidates. He also cited the possibility that voters could mark one or two of the ballots and drop them in the box, while carrying out three or four unmarked in their pocket, for possible sale to a representative of, for example, a candidate for mayor. The purchased ballots then could be marked "properly" and stuffed by a "trusted" voter later.

Yulia Tymoshenko's chief of staff for the Luhansk district, the head of the oblast Socialist Party, and the former mayor of Luhansk who was running for a deputy position, both focused their complaints on the lack of media coverage allowed them and the abundance of presidential coverage that was seen prior to and was expected on election day. These groups had attempted to address cable television and state television channels and were refused from getting air time. Nasha Ukraina leader Viktor Yushchenko made an attempt for air time, but his speech was instead taped and aired mid-day when no one was home, rather than during prime time.

The election law says that all campaigning must cease by midnight Friday, 32 hours before the opening of the polling stations, but the parties were concerned with the power of incumbency, what the Ukrainians call "administrative resource" or "adminresurs," that could be used to bend the rules. At 11:45 p.m. March 29, television production company Era, owned by a leader of the For a United Ukraine bloc carried its last newscast of the day on UT-1 network, seen in every corner of Ukraine. Virtually the entire newscast dealt with the elections and "news events" featuring high government officials or "approved" candidates. On Saturday, March 30, some newspapers came out with stories about the "approved" parties and candidates, while the delegation heard of two opposition party newspapers whose issues were held up because of breakdowns in the printing plant, the one and only in Luhansk, that also managed to print the "approved" newspapers.

Several other possibilities for fraud discussed by the parties dealt with the signing of "contracts." For a United Ukraine bloc in Luhansk printed thousands of official-looking "social contracts" signed by known personalities in the oblast, promising all kinds of social benefits to the citizens. By signing this "document" a voter promised to cast his ballot for For a United Ukraine. Opposition candidates noted that simple law-abiding citizens who signed this paper would feel obliged to keep their end of the bargain, even if no one could verify how the voter

actually voted.

The other real area of concern dealt with the recently abolished internal passports and absentee voting system. Persons who did not expect to be in their districts on election day could obtain a document saying they were on voter rolls, and could cast their ballot elsewhere. Some candidates brought busloads of supporters from out of town to the district in which they were running, all with certificates from their home districts. Television network 1+1 showed several busloads of people from Chernivtsi voting in Lviv, about 100 miles away, then heading home.

After hearing various stories about possibilities of fraud and the media being the biggest hindrance for a fair and free election, the IRI delegation met with various media groups. The overwhelming topic of concern by the opposition media was lack of access. The editor-in-chief of a newspaper in Luhansk related how his paper, which reaches about 15000 readers in the Luhansk region, was confiscated by the government, causing them to go underground. However, later that year the newspaper lost a libel case brought on by a local chairman of the Party of Regions, making the newspaper pay 2000 hr (\$400). An editor and a publisher of a local newspaper called "Nasha Ukraina" both complained that the state had a monopoly on information. They related how they tried to get a paper out a day before the deadline, but the state printing press informed them that their machines were broken. Nonetheless, a day after the official deadline for distributing campaign material, state newspapers came out with campaign pamphlets from the same printing press that had blocked "Nasha Ukraina."

The delegation next visited the owner of several television stations that, collectively, reach 2.2 million viewers. The broadcasts transmit through an independent tower, but in April moved to the state television tower which should have allowed for greater coverage and consistent electricity. The station owner argued that the television stations were not politically motivated because they had not shown state-related parties on the stations, but had aired numerous opposition parties, however not during prime time.

The delegation also met with the chairman of PEC #34 in Constituent Electoral Commission (CoEC) #107. Throughout the conversation the chairman was very confident about his ability to organize the polling station based on his past experience in previous elections. There were no new commissioners on the PEC and they had had four official training sessions. The chairman explained the process with which the ballots would arrive and how they would be guarded. He gave no reason to be suspicious about the process. He anticipated no problems on election day with the registered number of voters being 2256.

### Election Day Activities

Election rules allow candidates to withdraw up to midnight of the day before elections. In Luhansk, Anatoliy Yagoforov was a candidate for both mayor and for a Verkhovna Rada seat. He withdrew from the mayoralty race shortly before midnight March 30. This meant that before the opening of the polls at 8:00 a.m. his name on the mayoralty ballot had to be stamped "vybuy,"

dropped out, or exited. The first polling station the delegation visited, PEC #34 in CoEC #107, the same station where the team visited the chairman, declared that because of this they would open an hour late. Other polling stations worked with the situation and opened at 8:00 a.m., but this station did not appear to make the attempt.

The IRI team visited a total of 12 sites. At every voting station visited, local officials seemed to be happy to see the delegation; they took the time to answer questions despite being hurried. At only one place, PEC #44 in CoEC #105, did the deputy chairman ask the team to show a picture ID in addition to official ID's as observers. This was in accordance with the rules. At no site was the IRI delegation the only observers; domestic observers were present at each site.

The delegation was surprised by the low turnout rate. By noon at PEC #11 in CoEC #107, only 500 of 2380 had voted. By 1:00 p.m. at PEC #20 in CoEC #105 only 368 of 1699 had voted. As the day neared an end, most polling stations counted between 40-60 percent turnout.

There are any number of reasons that can account for the low turnout rate including the large number of ballots, with separate ballots for mayor, members of the oblast Rada, members of the city council, and members of rayon council, and in some places votes on additional questions. Overcrowding, lines to get inside a polling station, lines to register and pick up the ballots, and lines in front of the (too few) election booths, may have also contributed to the low turnout rate. As a result, there were people marking ballots outside the booth and consulting with each other. Only with this public voting, though, did the stations get through the number of people that they did. Had everyone waited in line to vote privately, fewer would have made it through. At every polling station visited, twice the number of polling booths were needed.

While traveling from polling station to polling station the delegation did not spot any party posters near any of the polling places. However, at PEC #11 in CoEC #107, a big theater in the center of the city had a huge, colorful banner on the facade that did not mention any specific party, but the text contained "blossoming Ukraine," a phrase used throughout the campaign by the Regions Party, one of the parties in the For a United Ukraine bloc. Additionally, on a building just to the left of the theater, at the 15th-story level, there was another huge banner showing the president greeting the people of Luhansk and saying, "Together we'll win," a clear reference to the For a United Ukraine bloc, whom the president had earlier recommended to the voters of Ukraine.

At the end of the day the team went back to the polling station where the opening was observed. Five minutes after the close of voting, and while one woman voter was still marking her ballots inside a booth, a man turned up with rolled up ballots and wanted to drop them in the box. The lines were long, he explained, so he had left to mark them elsewhere. The local chairman didn't want to let the man vote, although at the time the ballot boxes were not yet unsealed. The man insisted. The chairman then asked the commission members and about eight observers what should be done. No one objected to the man voting, and the chairman let him

drop the ballots in the box. Meanwhile, the woman who had been inside the booth as the polling place closed was allowed to drop her ballots without objection from anyone.

The delegation stayed for the count until about 3:30 a.m. The team observed election officials who did their best despite little sleep, and who kept checking their dog-eared, highlighted election law booklets to make sure they were following the complex rules of the latest version of the election law. There also were political party, Ukrainian NGO and foreign observers watching the process carefully.

The IRI team, with other foreign and domestic observers, was allowed to watch the count at close proximity and there was no indication of fraud. The vote count was orderly and all ballots were counted at least twice. Spoiled ballots were examined individually and were voted on by the commission. The IRI delegation had left the premises, but returned the next morning just as the commissioners were finishing counting. The minutes were properly prepared, but it wasn't until after the delegation followed the commissioners and police officers to the CoEC and the election materials were delivered that the IRI team received a copy of the minutes. The team was then allowed into the CoEC room that received all the precincts' vote tabulations. The delegates observed the process, which was completed in an orderly fashion.

## **Odesa Regional Summary**

### Summary

On March 29, 2002, IRI delegate Brian Mefford deployed to Odesa oblast to observe the Ukrainian parliamentary elections. The team visited three media outlets, three candidates, one political party bloc, two local polling station (PEC), one Constituency Election Commission (CoEC), and attended two court hearings regarding candidate registrations on March 29 and 30. On election day, the IRI team visited twenty PEC's, observed voters voting via the mobile ballot box, and observed the counting process at a PEC.

### Activities Prior to Election Day

The first meeting was with a journalist for the opposition Yuh Newspaper that has a circulation of 43000. The paper was open to the advertisements of all candidates, but did not write endorsements. Our Ukraine, Bloc of Yuliya Tymoshenko, a parliamentary candidate, and mayoral candidate Eduard Hurvits were the largest buyers of ad space. The paper receives revenue from subscriptions as well as advertising. The paper also published public opinion surveys, the last of which showed Eduard Hurvits leading Ruslan Bodelan in the mayor's race by 42-26 percent. The journalist was proud that her paper was an opposition paper because, "in Odesa there are only two journalistic freedoms: first to support Ruslan Bodelan; and second to print bad things about Eduard Hurvits." Because the paper printed neither of the above mentioned "freedoms," she was worried about a backlash from city administration.

The next meeting was with Slova, a professional looking, color newspaper with a

circulation of 98000. It receives both advertising and subscription revenues and is owned by a Verkhovna Rada Deputy and leader of the Ukrainian Sea Party of the Social Democratic Party United faction. This deputy, who is running for re-election to the Verkhovna Rada (CoEC #136) “still has to pay for advertising though,” in spite of owning the paper. Political advertising in the paper requires a disclaimer to be added to each ad entitled “paid political advertisement” so that the readers will not mistake it for a news story. The delegation met with a representative of the paper who said the paper had printed all advertisements from all candidates except for one particular ad containing a public opinion survey. This was because “it was after the legal deadline to print polls in the news media and it would have violated the law.” Mayor Bodelan views the paper an opposition paper but “can’t do anything to us because of [the owner].” The city owns 27 percent of the stock in the paper and it has been a source of contention. The American organization IREX-Pro Media has cooperated with the paper on a number of projects and the paper currently employs 24 persons.

The third media meeting was with Channel 26, the most highly rated television channel in the oblast reaching over one million viewers. The privately-owned station has 25 employees. The team met with journalists at the paper who reported no pressure from any candidates or the administration. Due to the 850 hryvnas (\$170) campaign spending limit applicable to the mayor’s race, none of the mayoral candidates advertised on the channel. In addition, the channel only accepts payment for advertising via bank wire transfer to protect themselves from the State Tax Administration. However, other candidates, particularly in Verkhovna Rada races, did advertise on the station. For election night, the channel said they would provide live coverage from 8:00 p.m. to 1:00 a.m. including a live call in show.

The first political party meeting was at the Our Ukraine headquarters, located in the offices of the Reforms and Order Party. The director of the headquarters wanted two things from the elections, “openness, real results and no falsifications.” He pointed out that though Eduard Hurvits beat Ruslan Bodelan in 1998 by 72000 votes in the mayoral election, the Kirovohradskiy Court later removed Hurvits as a candidate allowing Bodelan to occupy the mayor’s office. Now the effect of administrative resources was being applied full force against Our Ukraine and Hurvits. The director was particularly worried about hospitals, jails, and mobile ballot boxes since all were hard to monitor. In addition, the fact that Odesa’s ballots were printed in Odesa rather than in Kyiv was a concern since the local administration control access to the ballots. To combat some of the effect of the administrative resources, Our Ukraine planned pollwatchers at 93 percent of polling stations around the oblast and city of Odesa. Two items of additional concern were the addition of “phantom voters” in a nearby village when voter registration increased by 400 persons in a village of 1800, and elderly citizens exchanging their Soviet Union passports for Ukrainian passports since the local administration would have control of those passports until new ones were issued. In addition, the IRI delegation heard reports of a number of students who supported Our Ukraine receiving bad marks at the university from professors working for For a United Ukraine and said all student hostels were required to display campaign propaganda for For a United Ukraine bloc.

The delegation then met with candidate Hurvits. Mr. Hurvits served as mayor of Odesa

from 1994-1998. In 1998, it is widely believed that he defeated the current mayor, Ruslan Bodelan (then governor of Odesa) overwhelmingly, but had his candidate registration rejected by the Kirovohrad rayon court due to his residency in Fountanka district which is technically outside the city of Odesa. Though Mr. Hurvits is #46 on the Our Ukraine party list, he is focusing his energies on the mayoral election. In addition, Russian television channels linking Hurvits to the foreign intelligence agencies as well as comparing Our Ukraine to “fascists” has complicated campaigning. Also, due to the refugee status Hurvits granted 40 Chechens during the Russia-Chechnya war resulted in a negative campaign against Hurvits by pro-Russian forces. The local media had been playing a number of programs about the Chechen war for the week leading up to the election with the intent of linking Hurvits to the Chechens. Due to three assassination attempts against him already, the Ukrainian Security Service was providing several bodyguards to protect him. Recently the Russian government released one of the attempted assassins from jail in Moscow whereupon he promptly disappeared. Buoyed by every public opinion survey in the country showing him leading Bodelan by 15-30 points, he remained concerned about falsifications and asked IRI to pay particularly close attention to polling sites in the city.

The delegation also met with a candidate and well known Odesa journalist who was first elected to the city council in 1994 and re-elected in 1998. He narrowly missed election to the Verkhovna Rada in both of those years. This year he ran for both Verkhovna Rada and re-election to the Odesa City Council. He is also the Chairman of Reforms and Order Party in the oblast. His campaign was coordinated closely with both the mayoral campaign of Eduard Hurvits and the Our Ukraine campaign in the oblast. As a result, he had pollwatchers at every polling station in CoEC #137. The candidate had advertised extensively, campaigned door-to-door, and was positive about the work he had put into his campaign. He was forced to edit one television advertisement though because it featured former Mayor Eduard Hurvits for one second. Upon request of the television station, the one second of Hurvits was removed and the candidate was allowed to then air his ad.

The delegation met with another candidate who was facing a tough reelection. Complicating his campaign was a legal challenge to remove his candidacy that remained undecided by the courts for the last eight days of the election. His opponent claimed that he did not disclose all his financial assets.

The meeting with the chairman of the CoEC was delayed because of a dispute one candidate was having with the commission. When the chairman was free he said that he believed the CoEC was ready for election day. Only three persons had no previous election commission experience and the CEC had provided all the necessary materials for the commission’s work. He and the vice chairman of the CoEC had received training from Development Associates, a USAID funded program. One commissioner had to be dismissed due to an extended business trip, but all of the other original commissioners were the same. The chairman stated that out of 2225 polling station commissioners in CoEC #135, 400 persons had requested to be dismissed and another 200 had been dismissed by the PEC’s themselves for “neglect of duties.” The delegation observed an award from Odesa Mayor Ruslan Bodelan on the chairman’s desk.

The team then met with the chair of a polling station located in a night club past a billiards hall, massage parlor, and beauty salon. Out of 22 poll station workers, 13 were working elections for the first time. The chairman had worked elections previously and attended a seminar with “lawyers from the CoEC” to improve his election administration knowledge. Though the commission had enough workers to administer the election, 10 commissioners had already been dismissed because “they were lazy.” The chairman was upset that a local television reporter had attempted to interview him about alleged irregularities with the registration lists shortly before the delegation’s visit. A poll watcher from Yabloko the delegation met outside the PEC recounted a number of complaints. She stated the secretary of the PEC had been dismissed as well as eight others in the last few days. Now, all but two of the remaining poll workers were working for the city administration. The dismissed secretary and other members were informed later that the PEC met without them to vote on their dismissal. The CoEC later restored the secretary to the PEC post, but allegedly because of the stress of the ordeal she wrote a letter of resignation from the commission. The poll watcher also stated that at least 60 new voters had been added to the registration list at the site although it was difficult to get the PEC to allow her access to the information to check further.

Another chairwoman from a different PEC was visibly annoyed at having to speak with international observers. She abruptly stated that “everything was in order” and that the PEC was ready for the election. Out of 35 workers, 23 were new commissioners. She said the CEC had provided adequate materials for the election. One Yabloko party pollwatcher and two candidate pollwatchers were upset that they were not allowed to view the voter registration list at the site. In response, the chairwoman stated that they “must file an application with the city administration” to view the registration list. “If the city administration will approve their request, I will let them see the list.”

The team then met with a candidate for Odesa mayor who campaigned under the slogan, “don’t vote for me, vote for Hurvits” while wearing a “Our Mayor Hurvits” campaign pin. Due to the court action removing Hurvits as a candidate in 1998, the Hurvits campaign this time ran a total of four candidates for mayor to give voters a choice against Bodelan. The other two pro-Hurvits candidates dropped out of the race on the eve of the election throwing their support to Hurvits while the third candidate stayed in the race to pursue legal action against Bodelan. The candidate claimed his rights were violated by Ruslan Bodelan’s violations of the 850 hryvnas campaign spending limit for mayor. He filed 14 complaints against Bodelan with CoEC #135 and 11 of those complaints were settled by the CoEC. To receive an answer on the remaining three complaints, the candidate sued the CoEC in the Odesa Rayon Court. The three complaints against Bodelan all dealt with violations of the 850 hryvnas spending limit in regard to newspaper advertisements, brochures, and billboards. The judge initially denied the candidate permission to call witnesses on the grounds that “time would not allow,” because it was Friday, March 29, at 9:00 p.m., the final night to settle legal challenges against the CoEC. However, following the recess, the judge reversed his earlier decision not to allow witnesses on behalf of the plaintiff. In the end, the judge dismissed the three complaints of Bodelan’s alleged violations of the campaign spending limits for lack of evidence.

The delegation also met with a SDPU(o) Verkhovna Rada Deputy who was removed as a candidate for the Verkhovna Rada in CoEC #139 following a complaint from his For a United Ukraine opponent regarding inadequate financial disclosures. Though the CoEC initially approved of the candidate's registration, the CoEC later reversed themselves and agreed with the complaint to remove him as a candidate on March 22. The SDPU(o) candidate appealed and under the law was supposed to have a verdict within five days. However, the court case was not heard until the fifth day, which was the afternoon before the election. The case was heard by a three judge panel in the Malinovskoho rayon court. Eventually, the three judges ruled in favor of the candidate and ordered his candidacy reinstated.

### Election Day Activities

The IRI team began the day at PEC #8 in CoEC #137 which opened 11 minutes late with no reason given by the commissioners. The chairman showed the empty box to the observers. All ballots were secured in a safe until opened in the morning as required by law. There were 18 requests for the mobile ballot box and 668 registered voters at the site. Only one of the first four voters was a newly registered voter at the site. A number of problems were observed including the fact that candidate posters were being located in a separate room, the commission was almost entirely dependant on the knowledge and direction of the chairman, and, according to the chairman, there were "many adjustments to the voter list." Observers from the French Embassy, three observers from the OSCE, and 28 candidate or party poll watchers were present at the opening as well. The commission consisted of 21 persons, almost all without experience and six had already been dismissed. The chairman refused to provide the delegation with a list of the candidate/party affiliations of the poll workers.

At PEC #23 in CoEC #137 there were 2206 registered voters and 70 had already cast ballots when the delegation arrived. Many changes were made to the voter registration list prior to election day and no newly registered voters had yet voted as a result. The chairperson of the PEC was representing Women for the Future, the vice chairperson the Democratic Union, and the secretary a Verkhovna Rada candidate. There were 22 commissioners present although only the officers and five others had worked in previous elections. The polling station was extremely small and overcrowded. Upon the delegation's arrival, the militia began to force the voters to line up to vote starting at the door to the polling site rather than allow them to congregate inside. There were three voting booths and most voters voted outside the booths to save time. The presence of 25 poll watchers crowded the room even more. By the time IRI finished speaking with the chairperson, the voters were lined up 10 deep outside the station.

PEC #68 in CoEC #137 was in a school that was the site of three polling stations. At PEC #68, 2506 voters were registered and 157 had voted by the time of IRI's inspection. There were 24 election commissioners present and 17 had previous election experience. The chairwoman was a representative of the Communist Party, the vice chairperson with the Ukrainian Sea Party, and the secretary was with Unity. The 15 poll watchers reported that the chairwoman had refused to tell the observers the number of persons that had voted each hour as



required by law. However, IRI was later informed that the chairwoman began to state the count to the observers following IRI's visit. The delegation observed one man who voted for Yabloko request a new ballot. The spoiled ballot process was watched and procedures were followed according to the law.

Next, the delegation entered the second of three polling sites, PEC #69 in CoEC #137 in the building. There were 2380 registered voters at the site and the chairwoman refused to say the number that had voted when the delegation arrived. Only one newly registered voter had voted and there were 19 requests for the mobile ballot box. Of the 20 commissioners, all but one had worked in previous elections with the vice chairperson representing the Social Democratic Party United, and the secretary representing an independent candidate. Numerous persons were voting outside the voting booth and voters had to wait in long lines to register. The 15 domestic observers reported that everything looked "normal" to them and that it was common for older voters to vote outside the voting booth. Adding to the confusion, the militia officers were not in uniform and were difficult to spot.

At PEC #67 in CoEC #136 there were 2461 registered and 260 had voted when IRI arrived. That was an increase from the 115 that voted fifty minutes earlier when the chairperson announced the count to observers. The 25 election workers were led by the Unity Party chairman, Russian Bloc vice chairperson, and secretary from Against All. Only five of the workers had been involved in previous elections. The delegation observed long lines and many voters voting outside the voting booths. The 16 observers reported that the site had been busy and that persons voting outside the voting booth had been common throughout the morning. Upon request of IRI, the chairman pointed out the lone security service officer monitoring the site although no uniformed militia or Interior Ministry officer was visible.

PEC #79 in CoEC #137 had 726 registered voters plus hospital patients. The site was chaired by a commissioner from Rukh for Unity, with a vice chairperson from the Communist Party and a secretary representing an independent Verkhovna Rada candidate. Only four of the 14 commissioners had worked in previous elections. The small room for voting was packed with voters, many of whom chose to mark their ballots outside the voting booths. Candidate and party list postings were disorganized, one on top of the other on a table outside the room in which voting took place. Although no problems had been encountered with the registration list, "it can be adjusted later" according to the chairwoman. The 17 poll watchers observed no violations and militia officers were present and visible. The delegation followed the mobile ballot box to observe the process with one hospital patient. The procedure was followed properly although one family member repeatedly told the patient/voter to vote for a specific candidate. Commissioners were visibly disturbed that the delegation accompanied them on this visit.

The next polling room was a large hallway divided by a string near the ceiling holding an 8x11 inch piece of paper designating PEC #93 in CoEC #137 on one side and PEC #92 in CoEC #137 on the other side. More than 300 of the 1936 registered voters had voted when the delegation arrived although the chairwoman didn't know the exact amount and failed to provide it upon a second request. The chairwoman stated that 60 persons had requested the mobile ballot

box. Because of the general confusion in the hallway and lack of voting booths, most voters were standing looking puzzled while they marked their ballots. Thirty-six poll watchers were present and several complained about the disorganization at the site. A Russian observer had visited previously. The commission was chaired by a representative from the Party of Rehabilitation of Invalids of Ukraine, while the vice chairperson represented Rukh for Unity and the secretary represented the Greens. Of the 25 poll workers, “almost all” had worked in previous elections. When two persons entered the voting booth at the same time, one worker asked one person to leave to allow the other privacy.

By 11:00 a.m., 356 persons in PEC #92 had voted out of 2480, but the chairperson would not provide more updated numbers. Only three persons were newly registered at the site but 23 had requested use of the mobile ballot box. IRI was constantly followed throughout the building. The chairperson of the PEC was a representative of the Democratic Union, the vice chairperson a representative of the Verkhovna Rada candidate for For A United Ukraine, and the secretary represented the All Ukrainian Christian Union. Of the 22 poll workers, “all had experience” according to the chairperson. However, the poll watchers were very concerned that the school principal, a member of For A United Ukraine was exercising undue influence over the numerous teachers on the commission. In addition, poll watchers were prohibited from filming the activities of the commission in violation of Article 60 of the Election law. Another poll watcher alleged that a For a United Ukraine candidate had “handled three packs of ballots” earlier in the day.

One of the more orderly polling sites observed, PEC #13 in CoEC #136, was noticeably monitored by no less than four uniformed militia and internal security officers. Of the 1990 registered voters at the site, 484 had voted by 12:00 p.m. The PEC had five requests for the mobile ballot box although they stated they had received six new applications on the day of elections which they intended to honor. Though the process was relatively orderly compared to other sites on election day, there were long lines to vote and confused voters marked their ballots in full view of election officials and other persons.

The 25 poll watchers present were extremely upset that the chairman of the PEC had opened the polling site without showing the empty ballot box to the observers. The PEC chairman stated that at 4:30 a.m. on March 31, 2002, a gas explosion had shaken the windows near the safe where the ballots were stored and police rushed to the site. Because of the police presence and the ensuing questions, the poll watchers were not allowed into the site until 8:00 a.m. At that time the ballot boxes were already sealed without allowing the other poll watchers to examine the empty box. The chairman claimed that four observers and several militia men had observed the empty box but added that they “were not present in the building at this time.” The other observers stated they had never seen the four observers who the chairman claimed witnessed the empty box.

Another independent observer was prohibited from filming at the site until the IRI delegation arrived. He said that when he handed the chairman a written complaint about the

violations at the site, the complaint was taken from him and thrown away. Inspection of the premises in the building and nearby neighborhood by the delegation showed no signs of any explosion. In addition, conversations with residents in the building next door indicated no explosions were heard the previous night. The delegation was followed by the PEC vice chairman and secretary who attempted to convince IRI how orderly the process was being conducted. Militia officers at the site asked a number of questions and attempted to convince the delegation that the ballot box “was empty” when it was placed in the polling site and that indeed an explosion had occurred the previous night.

At PEC #22 in CoEC #135 there were 2205 registered voters at the site and at 2:00 p.m., 509 had voted. Twenty-two voters were newly registered on election day and 17 persons had requested the mobile ballot box. Of the original 33 commissioners, 22 were present on election day and six had been dismissed. The chairwoman was a representative of the Green Party, the vice chairperson a representative of For a United Ukraine and the secretary a representative of the Social Democratic Party United. Due to the long lines to vote and general lack of space in the small room, the voters were marking their ballots outside the voting booths. Many voters appeared confused and a general disorganization overwhelmed the process. There were 33 poll watchers present. They stated that the chairperson had prevented them from filming or making photographs as well as threatened to expel them from the building if they “got in the way.”

At 3:00 p.m., 762 of the 2124 voters had participated in the elections at PEC #9 in CoEC #135. The PEC had 12 requests for the mobile ballot box and nine voters that were newly registered on election day at that site. While the site was busy, it was calm relative to other sites and voters were observed using the voting booth rather than marking their ballots outside the booth. Of the 22 commissioners present, out of 34, seven were serving for the first time. The officers of the PEC were represented as follows: chairperson with the Green Party; vice chairperson with the Ukrainian Sea Party; and secretary with the Russian Bloc. The 37 observers were all in general agreement that the process was orderly and no major violations had occurred.

PEC #10 in CoEC #135 appeared generally calm. Of the 2456 registered voters, 1224 had voted by 4:00 p.m. Fourteen people had moved their registration to this polling site on election day. All of the 22 commissioners had worked in elections previously. The chairman was a representative of Russian Bloc, the vice chairman a representative of the All-Ukrainian Union of Christians, and the secretary a representative of New Power. Some voters looked confused with the ballots and several were marking their ballots outside the voting booths.

About “one third” of the 2589 registered voters had voted at PEC #11 in CoEC #134 when IRI arrived at the polling site. At PEC #10 in CoEC #134, of the 2300 registered voters, 733 had voted by 4:00 p.m. In addition, 23 persons had requested the mobile ballot box and 34 persons were newly registered at the site. Only two of the 31 commissioners had not worked in previous elections.

Though only 848 of the 2074 voters had voted at PEC #8 in CoEC #134 when the IRI delegation arrived, the PEC expected 60 percent of the voters to vote before the end of the day. There were 50 persons newly registered at the site and 19 requests for the mobile ballot box. Long lines to vote were observed and several voters marked their ballots outside the voting booth. Of the 29 commissioners, 21 were new workers.

There were 2722 registered voters at PEC #1 in CoEC #135 and 950 had voted when the delegation arrived. In addition, 29 persons had requested the mobile ballot box and 60 persons had changed their registration to the site on election day. The 19 poll watchers confirmed that the site had been orderly all day. However, the voters appeared to be a bit confused as to where PEC #1 and PEC #2, both located at this site, started and ended as no clear distinguishing signs were noticed.

At PEC #2 in CoEC #135, 1267 of 2530 person had voted. Only 12 newly registered persons voted at the site during the day but there were 30 requests for the mobile ballot box. Of the 24 commissioners, five were serving for the first time. The chairwoman of the PEC was a representative of the Communist Party, and the vice chairman represented an Our Ukraine Verkhovna Rada candidate. The chairwoman refused to state the candidate or party represented by the secretary. Some of the voters were voting outside the booth and there was no clear distinguishing divider between PEC #1. The militia officers stood midway between the two polling stations. The 24 observers at the site included one Moldovan observer as well. No major violations were observed.

IRI returned to the troubled polling station/night club PEC #45 in CoEC #135 around 6:30 p.m. on election day. "About half" of the 2075 registered voters had voted so far although the chairman was unsure exactly of most figures. He stated that, "50 or more" persons were newly registered and 39 had requested the mobile ballot box. The night club was generally disorganized with the poll watchers sitting at the bar area while the bartender served drinks. The voters were marking their ballots outside the voting booth as there were an inadequate number of booths and lines were long. In addition, there was no clear division where PEC #44 began and PEC #45 ended as they were both located on the dance floor of the night club. The chairman stated that 28 commissioners were present but could not remember the party or candidate affiliations of his vice chairperson or secretary. He believed that "most" of them had worked in previous elections but was unsure. The chairman was also unsure of the number of poll watchers present. Two poll watchers told the delegation they had observed two people trying to take ballots outside of the polling site before being stopped by the militia.

The night club also served as the site for PEC #44 in CoEC #135. According to the chairman, who represented the Russian Bloc, 1000 of the 2972 voters had voted during the day. There were 22 requests for the mobile ballot box and the delegation saw the chairman glueing the seal on the box before sending commissioners out to pick up the last of the mobile voters. The chairman also informed the delegation that 40 persons had been newly registered that day. The chairman could not recall the party affiliations of his vice chairperson or secretary although 22 of the 32 commissioners were present. Poll watchers were routinely and consistently negative in

their opinions of the voting process that day. Long lines, confusion, voters marking ballots outside the voting booths, and the distraction of a bar all were factors in the poll watchers' unanimous opinion.

About 1400 of the 2398 registered voters had cast ballots when the delegation arrived to close PEC #75 in CoEC #137. Approximately 50 persons had been newly registered and 17 persons had requested the mobile ballot box. There were 24 commissioners present with the chairman representing For a United Ukraine, the vice chairman representing the All-Ukrainian Union of Christians, and the secretary representing an independent Verkhovna Rada candidate. The chairman was unsure how many commissioners had worked in elections before or whether they were familiar with election procedures. Of the 20 observers present, they were generally positive about the overall organization of the site. The site was closed just after 8:00 p.m. and the counting process began.

The counting process began extremely slowly as it became apparent that the chairman intended to stall the process. The ballots were sorted into piles for multi-mandate, single mandate, City Council, mayor, and Oblast Council. Then one commissioner read aloud the marked choice on each ballot while the other 23 placed the ballot on the appropriate pile. The process was excruciatingly slow and inefficient.

Following a 30 minute break, the commissioners began the slow process of counting single mandate ballots, one at a time. After throwing out 239 ballots, or 16 percent, for lack of a commissioner signature, the candidate for For a United Ukraine bloc had edged out the candidate for Our Ukraine by 374-367. However, the delegation carefully observed the marks on the "disallowed" ballots and counted 70 for the Our Ukraine candidate and only 12 for the For a United Ukraine candidate. Thus, if all the ballots would have been counted, the Our Ukraine candidate would have won by 51 votes rather than lost by seven. As a result, a commissioner from the Communist Party walked out of the tabulation process in protest, followed shortly by a commissioner from Winter Crop who said, "I can't take this anymore, I won't be part of this" and threw her 20 hryvnas (\$4) of salary on the table before walking out.

The chairman then instructed all non-local candidate poll watchers to leave the premises because they had to be "especially accredited" to observe local ballot counting. The IRI delegation left the premises at that time but stayed in mobile phone contact with a local poll watcher who remained to observe the rest of the tabulation process and who reported additional alleged violations, including verbal and physical assault against herself. The delegation learned that the poll watcher was forcibly removed from the polling station after voicing repeated objections over the tabulation process. She was then detained at a local police station where she suffered a mild stroke.

## **Zaporizhzhya Regional Summary**

### Summary

IRI staff members Katie Uhre and Evgeniy Zelenko deployed to the Zaporizhzhya oblast on Thursday, March 28. On Friday, March 29 and Saturday, March 30 pre-election interviews were conducted with local election officials and political party regional leaders. On election day, the IRI delegation visited 11 polling sites.

#### Activities Prior to Election Day

The delegation's first meeting was with a Nasha Ukraina bloc representative. He stated that Zaporizhzhya was a traditionally "red" region and it is very difficult to persuade the voters to vote for the right candidate. He also stated that the bloc's main rival in the region is "For a United Ukraine."

The Our Ukraine representative stated that the bloc's headquarters was prohibited from placing their ads on billboards and light boxes. He explained that the mayor's office issued annual licenses to the advertising companies and the companies were threatened with losing the licenses if they offered their services to opposition forces. Instead, the bloc used street stands, door-to-door and direct mail campaigns. He also mentioned alleged pressure on teachers, local government officials and public doctors. He drew the delegation's attention to problems of inaccuracy of the voters lists. The Our Ukraine representative mentioned that while it is hard to conduct fraud on Verkhovna Rada elections, the local elections are rather vulnerable. He was concerned by the fact that the local ballots are printed locally.

The Our Ukraine representative alleged that local candidates and commissioners from opposition forces, especially in rural areas, were pressured to withdraw their candidacies under the threat of losing their jobs. The representative also mentioned that there was only one non-biased local television company, "Khortytsya," but it was shut down before the elections. He mentioned that political advertisement in local media was very expensive and said the bloc faced no problems with local newspaper and radio ads. He also praised the new election law and said the commission formation by party activists was the most positive aspect of the new law.

The next meeting was with a local Yabloko headquarters representative. He added that his and other political parties' printed materials placed on fences and buildings were being destroyed. According to him, the Zaporizhzhya governor was in violation of the law, because he actively campaigned for For a United Ukraine. He mentioned that for his party it was impossible to get access to local television. The Yabloko representative stated that his party organization was forced to sign preliminary contracts with eight publishing houses in order to avoid the situation when the publishing house would cease printing their material under pressure from the local authorities. He mentioned that he received reports from voters about inaccurate voters lists. He praised the new election law especially the stipulation for partisan election commission formation.

The representative of the Communist party said that "administrative resources" were being widely used in the region. He mentioned several instances when local government officials were

campaigning for For a United Ukraine with budget funds. For example, he alleged voters of CoECs #81, #79, #83 received gifts and free service from the local candidates. He complained about the high prices of ads in local television companies. He mentioned that in most of the commissions the leadership positions were assumed by the For a United Ukraine block representatives. The Communist party representative praised the new election law, and mentioned that governors must be elected and accountable to the voters.

The delegation next visited CoEC #78. The chairman mentioned that the commission received all necessary supplies from the CEC. When asked about problems, he said that the candidates and blocs' visual information sent by the CEC is printed in a very large format and requires 44 sq. meters of display area. He was concerned that it would be very difficult for the voters to make a conscientious choice since there would be a lot of different ballots to councils of different levels. When leaving the commission the delegation was approached by a voter who complained that he was deprived the right to vote since he did not have "propiska" registration. He said that he submitted the documents to the CoEC proving his ownership of the apartment in this area but nevertheless was refused the right to vote.

The next meeting was with a Socialist Party representative who stated that massive fraud with forged ballots was being prepared in the town of Energodar. He complained that despite the fact that the law provides for candidates and parties to have time on local television which they can use on their own discretion, the Socialist Party was banned from running their national ad as a part of their time. He complained that the party was not able to rent premises for election headquarters because of red tape. He stated that the political parties were not proportionally represented in the electoral commissions and leadership positions in them were usurped by the For a United Ukraine representatives. He mentioned that some commissioners and candidates faced pressure to resign but were reluctant to appeal to the courts because they were afraid of losing their jobs. He was concerned with the accuracy of the voters' lists. According to him, voters who passed away or did not reach the eligible voter age were included into the voters' list in CoEC #52. He stated that several candidates were registered with violations of due procedure. He stated that the Socialist Party faced numerous problems with fund-raising. Sponsors were afraid to donate money to the party under fear of repressions from the local government. He said that the Socialist Party has to print its advertising materials in Dnipropetrovsk oblast since the oblast's publishing houses were afraid to contract with them. The Socialist Party representative was upset with the unprofessional work of local journalists who allegedly gave manipulated coverage of Moroz's visit to the region.

At polling station (PEC) #66 in CoEC #76 the IRI team met with the chairman and secretary of the commission. They said that they received all necessary materials from the CEC. They complained that time requirements in the election law were not adequate. For example, they said that they personally had to sign 13000 ballots in two days. They also complained that the new law provided for too many procedures and formalities to be observed in a short time period.

The delegation next visited the headquarters of Yuliya Tymoshenko's bloc. The bloc's representatives said that massive violations were observed. He said that the local public hospital organized a free program in the rural area where only those rural voters that were going to vote for For a United Ukraine were allowed to receive free medical inspection. According to him, he received a report from local militiamen who complained that they were pressured to vote for For a United Ukraine, and they also allegedly had to provide their leadership with a written commitment that their family members would vote the same way. The Tymoshenko bloc representative was concerned with inaccuracy of the voters' lists, and high prices for political ads in local television and newspapers. He was concerned with the numerous reports he received from opposition commissioners, candidates and observers about pressure being placed on them to resign.

### Election Day Activities

The delegation opened PEC #66 in CoEC #76. Twenty-two of 23 commissioners were present along with 12 poll watchers representing a broad spectrum of political parties. The chairwoman displayed the empty ballot boxes and sealed the boxes according to proper procedure. Voting started at 8:00 a.m. Three international election observers from the OSCE were present.

The next site was PEC #27 in CoEC #79. The polling station was located in very small premise. Only a small part of the official CEC information materials on the parties and candidates were displayed. Due to the lack of space, the work of the polling station was not very organized.

The delegation next visited PEC #94 in CoEC #84. Several voters were voting outside the booths. There were several voters in one booth and voters filling in the ballots outside the booth. The chairwoman was curious whether the delegation planned to stay at this station. A militia officer asked the delegation driver whether the delegation planned to return back to this polling station and what was the route planned.

At PEC #116 in CoEC #84 the IRI delegation followed the mobile box. The commission chairwoman explained to the IRI team that it would be very difficult since there were 98 voters who applied to vote at home and it would require a lot of time. One of the neighbors of a voter who requested the mobile box was upset when she learned that she would not be allowed to vote since she did not submit a written application to the PEC. She claimed that prior to election day a local government official or election commissioner stated that voters who needed the mobile box did not need to apply for it. The delegation observed that not all the voters who requested the mobile box were apparently sick, aged or unable to come to the polling station personally. When asked about what documents the voters were required to display to be eligible to receive a ballot the chairwoman answered passport, military or pension I.D. When asked who was helping the voters when they had any procedural questions the chairwoman answered commissioners or observers.



At PEC #29 in CoEC #81 the commissioners stated that they heard numerous complains from the voters who were confused with the ballots.

The team also observed voting at PEC #57 in CoEC #78, which was located in a hospital. The commission's chairman who also served as intensive care department head complained that the law provided for formation of the patient voters' lists twenty days prior the election. He stated that during this period most of the registered voters were discharged from the hospital and new patient voters arrived.

The delegation next visited PEC #66 in CoEC #73. The PEC was located in a mental hospital. The commission chairwoman who also served as the doctor of the hospital mentioned off the record that, in her opinion, most of the voters registered there were not able to make a conscientious choice and that it was not very humane to make these people go through the voting procedures.

The IRI team also observed voting at, PEC #176 in CoEC #84, PEC #117 in CoEC #84, PEC #111 in CoEC #84, in PEC #115 in CoEC #84. No major violations were observed at these polling stations. The commissioners stated that they heard numerous complaints that voters were confused by the number of ballots.

The IRI delegation closed PEC #116 in CoEC #84. Fifteen minutes before the closure of the polling station the commissioners left with the mobile box. At 8:05 p.m. when they returned the commissioners followed polling site closing procedures and counted the ballots.

## **APPENDIX I.**

### **IRI PRE-ELECTION ASSESSMENT REPORT**

#### **Introduction**

The International Republican Institute (IRI) deployed an eight-member delegation to Ukraine to evaluate the impact of Ukraine's new parliamentary election law on the pre-election environment for the March 31, 2002, parliamentary and local elections. This assessment mission was conducted from February 4-9, 2002, and was made possible by funding from the National Endowment for Democracy.

On September 13, 2001, the Verkhovna Rada, Ukraine's parliament, passed a new law governing the parliamentary elections. This law will govern Ukraine's third parliamentary elections since the country declared its independence in 1991. A new election law was required after the Constitutional Court of Ukraine declared several articles of the previous law unconstitutional during the 1998 parliamentary elections. IRI has monitored each of the two previous parliamentary elections in Ukraine, in 1994 and 1998, as well as the 1999 presidential election, each time recommending a series of legal and administrative changes to Ukraine's Central Election Commission (CEC). The CEC has implemented many of these recommendations and over the course of the past eight years, IRI has witnessed significant improvements in the administration of elections and in the ability of political parties to campaign effectively.

While the actual balloting and tabulation process in Ukraine has significantly improved, one area that continues to demand closer scrutiny is the pre-election period. First, Ukraine's further political development continues to be marred by the lack of a thriving independent media, a factor that contributes significantly to a biased and ineffective campaign period. Secondly, Ukrainian law is exceptionally weak in regulating how an elected or appointed official uses the trappings of incumbency toward his or her reelection effort. Allegations of inappropriate use of "administrative resources," correct or not, have become so commonplace as to significantly impact citizens and candidates' views of how elections are being administered.

IRI therefore determined that the pre-election period of the March 31 elections was an area that demanded particular scrutiny. The findings of IRI's pre-election assessment mission will be part of a final report that will include the results of an election day observation mission. This report will be made available to election officials, political party representatives, candidates and members of the media in Ukraine and the United States.

#### **Assessment Team Members**

The Honorable Bohdan A. Futey, Judge, U.S. Court of Federal Claims, Washington, DC  
Dr. Volodymyr Zabihailo, Professor of Law, Taras Shevchenko University, Kyiv, Ukraine

Mr. Ross Chomiak, Correspondent, U.S.-based newspaper "Svoboda", Kyiv, Ukraine  
Dr. Vadim Naumov, IRI Program Officer for National Political Party Programs, Kyiv, Ukraine  
Dr. Valentin Korolko, Head of Chair and Professor, Kyiv Mohyla Academy and President of the Ukrainian non-governmental organization, Knowledge Society, Kyiv, Ukraine  
Mr. Stephen B. Nix, Esq., IRI Director of Eurasia Programs, Washington, DC  
Mr. H. Brian Mefford, IRI Program Officer, Kyiv, Ukraine  
Ms. Gretchen Birkle, IRI Deputy Director of Eurasia Programs, Washington, DC

## **Methodology**

IRI examined five categories of the election environment in order to evaluate the application of the new election law and the atmosphere under which political parties can effectively participate in Ukrainian elections. The five categories were election administration, media, political parties and candidates, adjudication/judicial oversight, and non-governmental organizations.

To collect information on each category, IRI conducted approximately 85 interviews in Kyiv, and four regions of Ukraine (Odesa, Kharkiv, Ivano-Frankivsk and Chernihiv). Interviews were conducted with government officials, election commissioners, journalists from state and independent media outlets, chairmen of political party campaign headquarters, independent and party-affiliated candidates, judges and representatives of non-governmental organizations.

## **Election Administration**

The new election law stipulates a fundamental change in the conduct of Ukraine's local and parliamentary elections with the requirement that election commissions include representatives of political parties as members. Article 20 of the law states that constituency and polling station commissions consist of representatives of parties or blocs that received four or more percent of ballots cast in the last election. Parties were required to submit their list of commission representatives to the CEC by January 9, 2002.

The result is that vast new groups of people will be administering elections for the first time. While a significant amount of effort and money have been invested over the past several years in training election commissioners, the new law requires the training of an entirely new corps of commissioners. Both the CEC and non-governmental organizations have conducted training, including the distribution of training materials for commissioners on constituency election commissions (each constituency election commission has jurisdiction over the territory of one of the 225 single-mandate constituencies to national parliament). Much of this training was underway during IRI's assessment mission, and commissioners from Ivano-Frankivsk, Kharkiv and Chernihiv said they had participated in such training. Preliminary reports demonstrate that the process of integrating political party members into constituency election commissions is working reasonably well. Future assessment teams should focus on similar

issues regarding the integration of political party representatives into polling station commissions.

An area that will require significant review is the role of the CEC in providing guidelines on the implementation of the election law, a role that legally belongs to the courts of Ukraine. For example, commissioners in Kharkiv told the delegation they expect the CEC to provide interpretations and complained that the CEC had not provided adequate guidance to the field on how to apply the new law. Even though CEC Chairman Ryabets has publicly stated that it is not the role of the CEC to interpret the law, the CEC has nonetheless distributed a manual to constituency election commissions, providing guidelines on interpretation of the election law. Future assessment teams should focus on whether lower level commissions are receiving the guidance necessary from the CEC in order for them to do their jobs effectively and in accordance with law.

The most common complaint from each region was the need for more funding and equipment from the CEC so that the constituency election commissions could better fulfill their duties. However, the majority of commissioners interviewed replied that the process was going smoothly. In addition, another complaint heard in several regions was that the CEC showed favoritism in appointing the chairmen and secretaries of constituency election commissions. The appointment of the commission officers is a distinct and important departure from the previous law, under which commissioners themselves voted for each commission chairman and secretary.

A few commissioners also expressed concern about the number of ballots that will be presented to voters on election day, an area that demands future scrutiny. The combination of local and national elections means voters will receive 6-7 ballots. One district election official in Ivano-Frankivsk said this would be a problem again this year, as in 1998, particularly for older voters who find the process confusing.

The composition of polling station commissions was finalized on February 23, after the delegation concludes its pre-election review. However, members of the delegation asked commissioners about their understanding of how polling stations are to be formed, and in most instances, were told that no problems were expected. One exception to this was in Chernihiv, where a commissioner expressed complete confusion on how the polling station commissions should be formed or if parties had adequate representatives to fill the seats. Similarly, while most delegates reported that constituency election commissions had adequate plans in place to train polling station commissioners, the commissioner from Chernihiv was not sure where he would find the resources to conduct such training. Again, the formation and training of polling station commissions, and the selection of their officers, is an area which future assessments should focus on.

## **Media**

The lack of an independent media sector in Ukraine, coupled with Ukrainian journalists' legitimate fears for their own physical safety, has prevented the full development of a competitive campaign environment in the country. Until a truly independent media sector exists in Ukraine, citizens will not have access to objective information about candidates and issues and will lack the information necessary to make fully-informed decisions about the individuals they choose to represent them.

The IRI delegation evaluated two areas of media coverage in the election environment. The first being how media outlets respond to Article 50 of the election law, which states that the pre-election campaign may be commenced fifty days before the election, or February 9, 2002. The law specifically forbids carrying out any pre-election publicity campaign beyond these time constraints. The second area is whether journalists felt pressure to cover certain candidates or aspects of the elections.

The IRI review determined that Article 50 of the election law is inherently difficult to enforce and IRI questions the constitutionality of the regulation. Under Article 50 there is no distinction among the campaign period, the agitation period, or pre-election publicity period. By restricting what media can cover, the law denies the constitutional guarantee for freedom of press and speech during the election period. Furthermore, the law is exceptionally vague, and IRI delegates cited numerous examples of violations of this regulation. For example, numerous state newspapers ran coverage of incumbent candidates, many of whom were affiliated with the pro-presidential bloc For a United Ukraine. Yet, because the law does not set a strict standard, it is difficult to define what is campaigning.

IRI delegates also witnessed a sense of fear on the part of many journalists. Journalists in Odesa and Chernihiv specifically expressed concern about their personal safety. One journalist in Odesa reports he was told to carry a gun to protect himself and another in Chernihiv said if he "even considered investigating allegations against state media it would be equal to suicide." This view was not uniform throughout the country, however, as an independent journalist in Ivano-Frankivsk remained positive in his view of how he was able to cover the election. Future assessments should place a strong focus on the media's ability to provide coverage of campaign events without fear of reprisal.

## **Political Parties/Candidates**

The IRI team interviewed national and local representatives of political parties as well as party-affiliated and independent candidates. IRI witnessed national and local level campaign operations at varying degrees of sophistication and overall improvements in the ability of political parties to participate in the nomination, registration and agitation components of the election.

One significant change under the new election law is the affiliation fee required from candidates and parties/blocs in order to be registered as opposed to the previous law's requirement of collecting signatures. More than 50 parliamentary deputies in mid-January requested that the Constitutional Court of Ukraine rule on the legality of the fee and on February 6, the Court recognized this fee as constitutional. Political party representatives and candidates had mixed views on this subject. Most party candidates reported that there was no hindrance with the new requirement. On the other hand, two independent candidates from Chernihiv, one running for a Verkhovna Rada seat, the other for mayor, both said the fee was prohibitive and prevented people from participating in the election process.

Article 50 also seemed to be loosely applied as far as political parties and candidates were concerned. Delegates heard several accusations about candidates from the For a United Ukraine bloc putting up billboards before the official February 9 start of the campaign period. There were also reports of candidates from the Social Democratic Party United circulating flyers and painting campaign slogans on the sides of buses.

When questioned on the adequacy of the 50-day campaign period, there was no uniform answer. Some candidates said the length of the campaign was adequate, others expressed frustration with the short time period. There is also no common thread concerning candidates' views toward media availability. For example, one candidate from Nasha Ukraina expressed satisfaction that advertising rates for all regional media outlets were available ahead of time. For this candidate, it was not so much a question of availability, but of finding the resources to purchase the advertising. On the other hand, a Yabloko candidate from Kharkiv said that candidates from his party will not be allowed to purchase advertising because of the existence of a "black list" of parties that will be prohibited from advertising.

The election law also introduces new demands on political parties by requiring them to identify hundreds of local party members across the country who could serve as both constituency and polling station election commissioners. Most parties reported they could fulfill this role, with only minor exceptions reported in Chernihiv.

### **Adjudication/Judicial Oversight**

IRI reviewed how judges understood Article 29 of the new election law. While the law allows both legal and administrative remedies for election law issues, this provision states that when a case with similar facts is filed with a commission and a court, the commission should cease hearing the matter until the court has rendered a decision. In addition, the IRI delegation asked judges if they were prepared to handle large numbers of cases as a result of confusion over the new election law. The IRI delegation heard a wide variety of views on this subject. One judge in Chernihiv expressed complete satisfaction with the new law. He had participated in a seminar in Kyiv in January on how to interpret the law and said the Chernihiv oblast court was planning to conduct similar programs for lower district courts. On the other hand, the chief judge

of an Odesa oblast court said he was still awaiting further clarification on how to interpret the law, particularly Article 29.

### **Non-governmental Organizations**

IRI interviewed several Ukrainian non-governmental organizations (NGOs) to assess their views of how the election is being conducted. In general, most politically-oriented NGOs assumed the role of "watch dog" organizations and were willing to publicize allegations of abuse and fraud. Two of the organizations IRI interviewed included the Committee of Voters of Ukraine and the Kharkiv-based Eastern Ukrainian Development Democracy Fund.

However, members of the IRI delegation heard from various political party representatives that many of the claims made by these organizations, while well-intentioned, were not always accurate. IRI believes that any NGO publicizing allegations of fraud and abuse would benefit from the advice of legal counsel.

### **Recommendations**

IRI recommended to the head of the Central Election Commission that in the future, the law on Election of Deputies should include a clear standard for campaigning, as opposed to party propaganda. For example, the standard might include language defining campaigning as "advocating the election or defeat of a particular party, bloc or candidate." In addition, IRI recommended including in any new or amended law a provision restoring the CEC's power to provide interpretations of the election law.

## **APPENDIX II.**

### **STATEMENT ON THE UKRAINIAN ELECTIONS BY GEORGE A. FOLSOM, PRESIDENT OF THE INTERNATIONAL REPUBLICAN INSTITUTE --- “PROGRESS MADE BUT IMPROVEMENTS REQUIRED”**

#### **Delegation**

I had the honor to co-lead this 17 member IRI delegation to Ukraine’s March 31st elections with Congressman Bob Schaffer, representing the 4th District of Colorado and Chairman of the Congressional Caucus on Ukraine, and Judge Bohdan A. Futey, of the United States Court of Claims. I also want to introduce Stephen Nix, IRI Director for Eurasia, and Ukraine Country Director Chris Holzen, resident here in Kyiv. The delegation observed voting in the following oblasts: Kyiv, Odesa, Donetsk, Kharkiv, Dnipropetrovsk, Zaporizhiya, Khmelnytskyi, Chernihiv, Luhansk, Zhytomyr and the Autonomous Republic of Crimea. This April 1st Preliminary Statement, will be followed by a definitive Assessment after we have received all of the facts on these elections. This Assessment will cover the pre-election period, the day of elections, and the post election period, particularly in order to uncover post election intimidation and inadequate access to a free press.

#### **Background**

The Institute has worked with our Ukrainian partners to promote democracy here since 1992. Through work with 33 political parties, women’s and youth organizations, IRI’s contribution to these elections was broad and substantial. In addition to providing nationwide campaign training to parliamentary parties and pollworker training to many of the parties competing in the election, IRI has also been active in increasing the professional capabilities of local elected officials.

In 2001 and the first two months of 2002, IRI trained thousands of representatives from political parties in 14 oblasts. By focusing on grassroots political party development and encouraging coalition building, IRI’s aim has been to strengthen the ability of parties to communicate to a broader cross-section of society based on substantive issues about which voters care. In doing so, IRI hopes to increase public confidence and participation in Ukraine’s political institutions. The vigorous campaigns waged in the past few weeks point to the success of IRI’s efforts.

#### **Lack of Fairness**

Taking account of the full election process, we can say that Ukraine still labors under systematic manipulation of elections. Since the 1999 elections, ten journalist have been killed, and 41 have been injured. The fact that political parties do not have equal access to the press in Ukraine is a severe weakness in the electoral system. Nevertheless, IRI applauds those journalists and news outlets who do indeed provide unbiased access and coverage. IRI also notes that during the period before election day the rallies and meetings of several political parties were systematically disrupted, which is not a sign of responsible and transparent competition. We also heard evidence



that candidates were physically threatened and voters were pressured to cast their votes for certain parties. We will monitor carefully the post election period on these issues.

## **Technology**

The IRI delegation met many people involved in the process of the election: pollworkers, pollwatchers, commission chairmen, journalist, judges, and others. Almost all were sincere in their efforts to do their jobs with the limited resources. The lack of resources for pollworkers in the months leading up to the election and on election day needs to be addressed. We were particularly concerned about the apparent technology gap of Ukrainian election workers as compared to other countries at similar stages of democratic development.

For example, voter lists are still typed on manual typewriters and no systematic voter registration process which guarantees a maximum amount of checks and balances against multiple voting exists. At the very least, by computerizing voter registration lists at all levels of administration, election commissions will be able to more accurately ensure equal suffrage and political party pollwatchers will have equal opportunities of checking the activities of one another. We received numerous warnings from Ukrainians who feared fraudulent voting using the names of deceased persons on the voter lists, and by organized busing of voters using fraudulent absentee tickets. Both of these deficiencies should be rectified as part of improving the voter rolls.

In some cases, the smallest items such as pens and paper were not always available due to what some local pollworkers described as a lack of funds from various levels of government. If Ukraine is serious about continuing down the path of a more open and transparent democratic society, it can begin by providing to all levels of the election administration process the technology which is widely available. Antiquated technology leads to opportunities for fraud.

## **Training**

Most polling stations were well staffed with observers representing many different political parties who appeared well coordinated and knowledgeable. In contrast, Election Administrators, many of whom were very new to the process, generally evidenced a lack of knowledge of the election law and procedures. While most political parties warmly embraced their new role as Election Administrators, their representatives for the most part did not receive enough training. As a result, election-day tasks were not performed in timely and uniform fashion. This in turn resulted in long lines at polling stations, as well as a lack of timeliness in the reporting of results. Clearly, these new Election Administrators are in great need of additional training, about which Congressman Schaffer will comment shortly.

## **Legal Framework**

The legal framework for the elections provides a significant number of improvements over the previous election law. These include a more effective means of resolving election disputes and a

greater role for political parties in the administration of elections. IRI will wait until the courts and various election commissions resolve election day-related complaints before we will make a determination as to how well the new law has been implemented and enforced. Indeed, Judge Futey will make a more detailed statement shortly regarding the deficiencies in the legal regime for elections, which is appended as part of this Preliminary Statement.

### **Engagement**

In its own right, Ukraine is a country very important to the American people. IRI believes Democracy is the best formula for the successful development of Ukraine. IRI, therefore, remains committed to helping the courageous Ukrainian people advance and deepen the institutions and practices of democracy crucial for its genuine independence, development of free markets, and integration into the Euro-Atlantic community.

**IRI**

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