

**A Report on
Ukraine's Parliamentary
and
Local Government Elections**

**By a Delegation of Former Members of the United States
Congress**

20-24 February 2006

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A Program Developed and Managed by
The U.S.-Ukraine Foundation

In Partnership with
The U.S. Association of Former Members of Congress

With Funding Provided by
The United States Agency for International Development

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I. Program Overview

The U.S.-Ukraine Foundation (USUF), as part of its election program in Ukraine, in partnership with the U.S. Association of Former Members of Congress (USAFMC), sent a delegation of former Members of Congress to the Kharkiv oblast to observe and report on the election process in that highly competitive region. The Program was modeled after a successful program USUF and USAFMC ran during the 2004 Ukrainian Presidential Election, which sent six delegations over a six month period to observe and report on Ukraine's adherence to free and democratic elections.

The first of two delegations, the February Delegation separated into three teams of two former Members each, and accompanied by support staff visited Kharkiv and seventeen communities in the Kharkiv oblast. The teams met with local government officials, mass media representatives, political party representatives, candidates, NGOs and individuals interested in or involved in the election process. In addition to reporting on the election process, the Delegation delivered a unified message to officials, politicians, the media and others that it is important for Ukraine's international reputation and standing that the 26 March elections be free and fair. The Delegation reiterated at every meeting and in every forum made available to it, that the Delegation had no interest in which party won the election. Its only interest is in seeing that the election is free and fair; that all candidates and parties have an equal and fair opportunity to present their views to the electorate; that the voters have the ability to cast their votes without fear and without intimidation; and, that those votes be counted correctly and fairly according to Ukrainian law.

The former Members of Congress did not receive any compensation for this activity. Funds were provided by the United States Agency for International Development (USAID) to cover only economy class airfare to Ukraine and to cover lodging and meals in Ukraine.

Another delegation will visit Ukraine to report on the final week of campaigning and election day activities, including the vote count. That delegation will be composed of former Members of the U.S. Congress and former Members of the European Parliament. As with this delegation, it will be separated into teams and dispatched to locations that are determined to be battleground regions.

II. February Delegation

The February Delegation consisted of the following former Members of the U.S. Congress:

Congressman William Franklin (R-MS)
Congressman James William Grant (R-FL)
Congressman Herbert Klein (D-NJ)
Congressman Michael Kopetski (D-OR)
Congressman William Martini (R-NJ)
Congressman David Minge (D-MN)

The bipartisan delegation represents many years of experience and involvement in the U.S. electoral process as well as experience in observing elections abroad. Among the delegation were two sitting judges, one at the Federal level and one at the state level.

Before departing for the Kharkiv oblast, the Delegation met with U.S. Ambassador Herbst, Hryhoriy Nemyria, advisor to Yulia Tymoshenko, Yevhen Kushniarov, campaign manager

for the Party of Regions, and Roman Bessmertny, campaign manager for Our Ukraine. The Delegation was also briefed on the election process and election law by USUF staff.

Upon completion of the Kharkiv oblast visit, the Delegation met with U.S. Ambassador Herbst and Mykola Melnyk, Deputy Head of the Central Election Commission of Ukraine (CEC), to report its findings.

The Delegation visited the following communities in the Kharkiv oblast: Balaklia, Bohodukhiv, Chuhuiv, Derhuiv, Derhachi, Kolomak, Krasnohrad, Krasnokutsk, Liubotyn, Merefafa, Nova Vodolaha, Pechenihiy, Pervomaisk, Shevchenkovo, Valky, Vovchansk, Zmiiv and Zolochiv.

III. Findings

Overall, the Delegation found a remarkable improvement in the atmosphere of these elections as compared to the 2004 presidential election. One of the most important improvements is that all parties have access to the mass media and, accordingly the representatives of the various parties are generally fairly treated. Moreover, testimony by mass media representatives and political party representatives confirms that the Yushchenko Government is not using administrative resources to influence the outcome of the election. Both of these two findings are consistent with President Yushchenko's promise to conduct free and fair elections, a first for Ukraine. For this President Yushchenko and his Government deserve praise and much credit.

If this trend is maintained, it will mark an important milestone in Ukraine's democratic future. While all gave the President and his Government much praise for creating an atmosphere in which free and fair elections can be conducted, there were reports of potential problems at the local level, perhaps beyond the sight of the authorities in Kyiv.

First among those potential problems is the use of administrative resources by village and community governments and, perhaps, by regional authorities. The Delegation saw no direct evidence of any improper use of so-called administrative resources in any of the communities or regions it visited. However, the Delegation notes with concern that it did observe at least one instance where political signs were posted on government buildings and it heard several allegations of political involvement by elected officials, which is contrary to Ukrainian law. These instances seem to be minor at this point and a result of isolated abuses rather than a systemic effort to manipulate the outcome of the election. Nevertheless, it behooves authorities in Kyiv to remind local officials of their respective obligations under Ukrainian law.

The Party of Regions representative in Kyiv reported to the Delegation that violations of law, especially concerning the use of administrative resources, at the local level were occurring. The Delegation asked for but did not receive specific information that it could look into. The Our Ukraine representative in Kyiv also expressed deep concern about the potential for inappropriate use of administrative resources in the Eastern regions where the Party of Regions dominates the political scene. Some local representatives of The Party of Regions also reported minor problems, including questions about election lists. However, upon questioning, the Regions representatives were unable to provide specifics.

It is evident from the Delegation's site visits, that political parties are not being limited in their ability to hand out literature and discuss their views with voters. Political tents

representing numerous parties were ubiquitous throughout the oblast — a stark contrast to the previous presidential election. The Delegation stopped and visited with political party representatives manning the tents in various locations. There were no reports of any efforts to limit their respective activities or to intimidate them in any way.

In all its meetings with political party representatives, media representatives, NGOs, and officials in the local communities, the Delegation heard again and again that this is, so far, the most free and fair election in Ukraine's history.

There are some technical concerns with the process and the election law that, if they materialize, could taint the outcome of the election. First among those concerns is the length of time required to count the ballots. Since there are 45 different parties in the country (not all on the ballot in each district) and since five different paper ballots will be given to each voter, the task of manually counting them will place an enormous burden on the local election commissions. The time required is variously estimated to range from three hours to three days. According to the law, the commissions should count all the ballots in one sitting in spite of the fact that they will have been working in the polls all election day. What happens if the commissioners leave for a rest? Who secures the ballots? What happens if some of the commissioners leave and others remain to count? These questions can be significant if challenges are raised to the final count.

The Delegation notes that in 2004 it took three hours to count one ballot if there were few challenges. This time, with polls closing at 10:00 p.m., there are five ballots to count. Based on the 2004 experience, it can be expected to take 15 hours to count the ballots, unless there is some expeditious means of counting that was not disclosed to the Delegation.

The CEC has mandated that the ballots are to be color coded and separated to make counting easier and more accurate. While that will help, it does not eliminate the concern.

At least one official told the delegation that ballot tampering in the counting process was an area of concern. The law provides that any tear, additional mark, or alteration on a ballot may cause it to be invalidated. Such post-cast ballot alterations, surreptitiously done by inside officials, can alter the election outcome. He pointed out that monitors should be aware of any polling stations with large numbers of invalidated ballots.

Another concern that was frequently raised is the accuracy of the voter lists. The Delegation was told that there is no unified voter list in Ukraine. The election commissions will be working from two lists — one national and one local. It is claimed that these lists contain many dead souls. Moreover, the new election law does not permit the election commissions to let voters whose names are not on the lists vote. The burden is on the voters to verify before election day that his or her name is properly entered on the voter list. If it is not on the list on election day, there is no legal mechanism to allow the person to vote. We did learn that steps were taken to circulate the lists a month prior to the elections, to make them available to parties, to remove “voters” who are deceased or no longer in the area, and to add omitted voters.

Several members of election commissions expressed dissatisfaction with funding from the CEC, in particular that there has been inadequate training for commissioners. The Delegation was told by the CEC that training is scheduled and will be conducted by the Committee of Voters of Ukraine, an NGO that has long been involved in observing elections in Ukraine. It

should be noted that the Delegation is impressed by the cooperative and constructive manner in which the local election commissions are working across party lines to ensure a clean and fair election. The Delegation felt very confident that the members of the local election commissions are approaching their work with professionalism and competence.

The Delegation heard a concern expressed that many older people have not replaced their old Soviet Internal Passport with a new Ukrainian Internal Passport which will result in their not being able to vote, since the internal passport is the means of identification for voting. That concern was raised by the head of the Party of Regions, who claimed that there are many thousands of elderly who fall in that category.

The Deputy Head of the CEC assured the Delegation that sufficient funds will be available to conduct the election and that the CEC is committed to that goal. He stated that additional polling stations have been provided to facilitate voting and vote tabulating. The election law states that there should be at least one polling place for every 2500 voters.

The Delegation's meeting with Mykola Melnyk, Deputy Head of the CEC, and the teleconference with the Head of the CEC and all election commissions nation-wide, that was attended by some of the Delegation, were reassuring. The CEC appears to be committed to doing its utmost to ensure free and fair elections.

In many communities visited by the Delegation, officials and residents pointed out the need for economic development. They said that economic development is important to the election process since an improving economy will provide the government with sufficient revenue to adequately fund elections. Moreover, as a result of the bad economy, citizens are more focused on surviving and putting food on their table rather than on voting. A bad economy makes it much easier for dishonesty to take place in elections.

Congressman David Minge provided the following supplemental views: "Many times we heard that the oligarchs and their money control Ukraine's political process. I suggest that a future delegation include a couple of meetings with some of the so-called oligarchs who are active in the political process."

IV. Conclusion

The Delegation finds that, so far the election campaign in Ukraine is being conducted freely and fairly. There is no systemic use of administrative resources by government officials and Kyiv is not instructing the media on how to report the news. However, in spite of the positive findings thus far, the potential exists for serious abuses to take place at the local level. It behooves the government of Ukraine and international and domestic observers to keep a watchful eye out for any such abuses and to stop them where possible or, at least, to report them. Technical aspects of the vote will make election day long and arduous for election commissioners and observers alike.