

A Report on
Ukraine's Parliamentary
and
Local Government Elections

**By a Delegation of Former Members of the United States Congress
and Former Members of the European Parliament**

22 — 27 March 2006

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

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

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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) and the European Parliament Former Members Association, sent two delegations of former Members of Congress and former Members of the European Parliament to Ukraine to observe and report on the election process for the 26 March 2006 parliamentary and local government elections. The program was modeled after a highly 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 acceptable international norms for democratic elections.

Visiting multiple sites in the Kharkiv, Cherkasy, Kherson and Donetsk oblasts, the delegations divided into teams of two former members supported by USUF staff to meet with local government officials, mass media representatives, political party representatives, candidates, NGOs and individuals interested or involved in the election process. In addition to reporting on the election process, the delegations 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 delegations reiterated at every meeting and in every forum made available to them that the delegations had no interest in which party won the election. Their only interest was in seeing that the election was free and fair; that all candidates and parties had an equal and fair opportunity to present their views to the electorate; that the voters had the ability to cast their votes without fear and without intimidation and that those votes be counted correctly and fairly according to Ukrainian law and international standards.

The former Members of Congress and former Members of the European Parliament did not receive any compensation for observing the elections. 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.

II. March Delegation

The March Delegation consisted of the following former Members of Congress and former Member of the European Parliament:

U.S. Former Members of Congress:

Peter Barca (D-WI)

Jim Bates (D-CA)

Lawrence DeNardis (R-CT)

Jay Dickey (R-AR)

Allen Ertel (D-PA)

Bill Grant (R-FL)

Dennis Hertel (D-MI)

Lawrence Hogan (R-MD)

Joe Wyatt, Jr. (D-TX)

Former Member of the European Parliament:

Mathilde van den Brink (Netherlands)

The Delegation was split into three smaller delegations and sent to the following oblasts: Cherkasy, Kherson and Donetsk.

Once on site in the oblasts, the smaller delegations divided into observation teams in order to visit as many communities and election districts as possible. The teams visited the following locations: Cherkasy, Smila, Zolotonosha, Kherson, Tsiurupinsk, Hola Prystan', Nova Kakhovka, Bilozerka, Veryslav, Kozachi Laheri, Donetsk and Kirovkse. The teams coordinated with other international observers and non-partisan domestic observers to ensure that the maximum number of polling stations was covered on election day and during the count.

II. Findings

The 2006 elections in Ukraine were by far the freest and fairest in Ukraine's history - a marked improvement from the flawed 2004 presidential election. The Delegation found no evidence of any systemic fraud or attempts to manipulate the results. Nor did the Delegation observe any attempts by authorities – local or national – to use their resources to “stack the deck” in favor of one party or another. To the contrary, officials were intent on proving that free and fair elections could be conducted in Ukraine. The President and his Government deserve much credit for establishing the environment and conditions in which all parties could be fairly heard and all voters could freely express their views at the ballot box. It appeared that all parties pursued lawful campaigns consistent with international norms.

Discussions with media and political party representatives did not disclose any attempts to influence or pressure the media into covering the elections from the vantage of a particular party. The media coverage appeared to be robust and vigorous as was the competition between the parties. Media representatives frequently mentioned that there had been no pressure on them, a significant difference from the 2004 presidential election.

While the Delegation is pleased to report that from its observations the election was free and fair, there were nonetheless technical issues that caused the process to be more cumbersome than it should have been. Addressing these issues legislatively and administratively before the next election will vastly improve the election process in Ukraine.

The process of a voter entering the polling station, signing the voter registration list, signing the top of each ballot, and having the top of the ballot separated from the ballot to be marked prior to the voter entering the voting booth seems cumbersome and unnecessary. The process created longer lines to vote and may have kept some people from voting. Also, the vote count could not begin until the torn ballots were individually counted. The number of election observers

representing the national and local parties obviates the need for such ballot security which delays voting, counting, and places unnecessary time requirements on election officials.

The most obvious and most often mentioned issue was that of holding five separate elections simultaneously. By holding elections for the Verkhovna Rada (Ukraine's National Parliament) at the same time, voters were also asked to choose representatives to the Oblast Councils, District Councils, City Councils, and mayors, causing there to be insufficient attention to the campaigns for local councils according to many people. This is unfortunate since the local councils are so important to strengthening local governments by making them more responsible and accountable to the electorate. Additionally, the process of counting ballots for all five elections meant that it took multiple days to do so and therefore many observers were not able to stay for that extended length of time and those that did were tired and therefore the observation process was seriously compromised.

If there continue to be separate elections on the same day, election officials should provide separate ballot boxes for each election being held. That will simplify the work of election commissioners during the counting of ballots.

Further complicating the election was the fact that for the first time the voters were asked to vote solely for the party or election bloc of their choice rather than candidates for the Verkhovna Rada and local councils (with the exception of village and town councils).

As many as 45 parties were listed on the ballot. Many were smaller parties that had no realistic expectations of crossing the 3% threshold to win seats on the councils. This fact unnecessarily made the voters' job that much more confusing by distracting from the more popular parties that did have a chance of making the 3% threshold. The combination of the 3% threshold and the large number of parties ensured that a significant percentage of the population would vote for parties that did not receive any seats on the councils.

The need to reduce the number of political parties and election blocs to a more meaningful number was frequently mentioned by voters, election officials, and party officials. At least one member of the Delegation suggested that the primary system would be an effective means of reducing the number of parties. A requirement that candidates or parties obtain a certain number of signatures in order to get a place on the ballot is another means of eliminating those parties without popular support. Additionally, a runoff system could benefit the electoral system in Ukraine.

The election law is rewritten too frequently and too near the election, making it difficult and confusing to voters and poll workers alike. The frequent and more importantly the late changes lend themselves to inconsistent procedures for tabulating and reporting the ballots at the polling places, confusion among voters, and insufficiently trained election workers.

The Delegation found that uniformly the election commissioners at the polling station level were very competent, professional and conscientious in performing their assigned duties. It was obvious they were trying to do the right thing. However, because the law was amended and changed so frequently it was necessary to completely retrain the election commissioners. And,

while the Central Election Commission (CEC) did an admirable job of providing training, time was not sufficient to do as much training as necessary. By providing for a more stable election law that is retained from election to election, a body of experienced poll workers can be retained which in turn adds to the general efficiency and professionalism of the election process. The CEC should be commended for reaching out to USAID-supported election projects for assistance with training more than 180,000 election commissioners.

Voter lists were a consistent source of concern to election officials. There is currently no provision for a permanent national voters register in Ukraine. The list has to be recreated each election. Moreover, in this election there had to be two lists – one for the national election and another for the local election, requiring a needlessly labor intensive process wrought with the potential for honest mistakes as well as intentional mischief. To compound the problem at times lists were delivered to the polling stations too late for adequate public scrutiny and updating.

During the last presidential election voters whose names were missing from the list or were denied the vote as a result of errors on the list could appeal to the court for restoration of voting rights. The changes to the election law eliminated that process resulting in the loss of voting rights to citizens who did not check in advance to see if their names were on the list and were correctly listed. Unfortunately that resulted in an unknown number of citizens being disenfranchised. The Verkhovna Rada only a few days before the election sent amendments to the President for his signature that would have, if signed, reestablished the ability of a citizen to appeal to court for restoration of voting rights if they were denied at the polling station. The Delegation is disappointed that President Yushchenko and the Rada were unable to work out this issue earlier in the process to enable these amendments from being put into effect.

The law should provide for one permanent voter list, perhaps alphabetized, for all elections. It should not be necessary for a voter to have to check before every election to see if his or her name is on the list and correctly listed. That places an unnecessary burden upon citizens.

In Cherkasy, the court ordered the name of one of the candidates for mayor removed from the ballot the day before election day, necessitating election commissioners to stamp over the name on the ballots since it was too late to print and distribute new ballots. As a result, poll workers had to work through the night marking out the name from the ballots. It also caused the polling station to open late. In other jurisdictions candidates withdrew their names as late as the day before the election. That was confusing to the voters and further drained the resources of the election commissions in that jurisdiction. It might be wise for the Verkhovna Rada to consider legislation that would not permit a name to be “deregistered” after a certain point in the election process. Perhaps one month or two weeks before the election should be the point of no return for removing a candidate from the ballot.

In some instances polling stations were established on upper floors of buildings without elevators, making it very difficult for older voters, disabled voters who chose not to vote by mobile ballot, and for polling station workers.

The Verkhovna Rada should address the issue of absentee voting. The current system of “mobile” voting or more properly “voting at home” does not seem adequate to the needs of the

electorate. The fundamental principles behind any system should be ease of voting, fairness to voters and candidates, and the ability to ensure the system's integrity. Nevertheless, the efforts by Ukrainian authorities to make voting accessible to disabled voters are laudable.

One political party suggested to the Delegation that many voters would be disenfranchised because they had never turned in their old Soviet internal passports for new Ukrainian ones, which are used as identification for voting purposes. Under the new election law, people who did not have Ukrainian internal passports would not be allowed to vote. These citizens – primarily older people living in the eastern and southern oblasts – would be effectively denied their right to vote. The Delegation did witness at least three such cases in Cherkasy, but received no complaints from voters regarding this issue. A receipt showing that the person had applied for the new passport was sufficient for voting purposes.

The same party officials raised concern about Ukrainian citizens working abroad but leaving their internal passports with family in Ukraine so that family members can vote for them. The Delegation was told that from five to seven million Ukrainians work abroad. This appears to be a valid concern that should be addressed by officials in Kyiv through the legislative process.

The CEC performed admirably given the difficulties of this election. The CEC demonstrated a commitment to conducting free and fair elections. It provided training and logistical support to the extent that it was available to it and sought, and found support from the government for the additional financial resources when necessary. The additional compensation for polling station commissioners was particularly justified and necessary and added immeasurably to fulfilling the minimum requirement for polling station commissions. Those Ukrainian citizens who took part in the work of the election commissions cannot be praised enough for the professionalism and commitment with which they performed their duties. The Delegation should not fail to mention again that substantial assistance from U.S. and international donors provided assistance to the CEC and Ukrainian NGOs so that training could be provided to many more election commissioners than would have been otherwise possible. The Verkhovna Rada should consider providing the CEC with funds to establish a permanent training center for election officials. Additionally, they should create the conditions so that training could be provided in off-election years.

The Delegation noted with interest that Ukrainian law prohibits campaigning on the day before election day. It seems to many that this prohibition is counterproductive since the day before election day is an opportunity for parties and candidates to work on turning out the vote – a laudable goal in any democratic society. The Delegation was specifically told that get out the vote calls were not being made the day before or on election day because of this prohibition.

The same law prohibiting campaigning the day before election day also mandates that political signs be removed the day before election day. This does not seem to be very practical for several reasons. Some abided by it and some did not. Many posters and billboards were taken down but some were not. It is a very difficult law to enforce and if it is enforced, what is the penalty and who is punished?

The Delegation has taken the liberty of recommending changes in Ukraine's election law in order to improve it, but the recommendations should not otherwise detract from the fact that Ukraine's elections were free and fair, meeting international norms for democratic elections. No doubt many well established democracies with a long history of free and fair elections could learn some valuable lessons in holding free and fair elections from Ukraine.

IV. Summary

The Delegation finds that Ukraine's 2006 parliamentary and local government elections were conducted in a free and fair manner, consistent with Ukrainian law and international norms. There was no systemic use of administrative resources by government officials in Kyiv or at the local level, so far as the Delegation could determine. In fact authorities in Kyiv, especially the Presidential Administration and the Central Election Commission, conducted themselves in such a way as to encourage local officials and election officials at every level to conduct free and fair elections. Nowhere was this more evident than in the mass media.