

**U.S. Association of Former Members of Congress
With the Support of the U.S.-Ukraine Foundation**

**Presidential Election Observer Project
Delegation Report
July 2004**

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Program Overview

The U.S.-Ukraine Foundation (USUF) is a nonprofit, non-governmental organization established in 1991 to facilitate democratic development, encourage free market reform, and enhance human rights in Ukraine. Through a partnership with the U.S. Association of Former Members of Congress (USAFMC) and with funding from the United States Agency for International Development (USAID), the U.S.-Ukraine Foundation sent the first of four delegations of former Members of Congress to Ukraine as official election observers for the presidential election campaign, officially underway since July 3, 2004. These former Congressmen were registered by the Central Election Commission (CEC) of Ukraine and accorded all the rights and privileges provided to foreign observers by Ukraine's law on presidential elections.

The Foundation's strategy of sending former Congressmen and former parliamentarians as international observers will assist Ukraine in reaching international standards for free and fair elections through adherence to domestic election laws. First, the interest and care of these respected international observers in Ukraine's election supports and buoys up the public to stand for free elections, or at the very least to vote for their choice – not their boss' or rector's choice – when alone in the ballot box. In addition, these former Congressmen shine a spotlight on the irregularities in the election campaign, thereby demonstrating to the Government of Ukraine the international community's deep concern about the fairness of these elections, Ukraine's commitment to democracy and rule of law, and its role in the international community.

According to Ukrainian law, the people of Ukraine are entitled to express their views on candidates and parties at the ballot box, freely and without interference from any source. Therefore, this project is focused exclusively on the fairness of the election process and does not in any way advocate for any particular candidate or party.

The project draws on the Foundation's strong experience in Ukraine and its wealth of in-country resources to create a meaningful monitoring agenda for its observers. In addition, the members of the USAFMC have solid electoral experience, and many have experience as election observers in various parts of the world. This combination of a strong program infrastructure and talented, respected human resources in the former Members renders this project unique, effective, and what is needed for Ukraine at this time.

The following report was produced by the delegates from the U.S. Association of Former Members of Congress, with support provided by the U.S.-Ukraine Foundation.

July Delegation

The July delegation, of three Democrats and three Republicans, visited Ukraine from July 25-31, 2004. The delegation was comprised of the following former Members:

Hon. John Conlan (R-AZ)
Hon. Arlen Erdahl (R-MN)
Hon. Jack Hightower (D-TX)
Hon. Gregory Laughlin (R-TX)

Hon. Andrew Maguire (D-NJ)

Hon. Tom Sawyer (D-OH)

The six former Members divided into three pairs and visited communities in the Kharkiv, Poltava and Sumy Oblasts, meeting with mayors and local officials, representatives of political parties, NGOs, and the mass media. Meetings were public and open to all who wished to attend.

Before traveling to the oblasts, the delegation participated in a series of meetings in Kyiv with officials from the Organization for Security and Cooperation in Europe (OSCE): Cordula Wohlmuther, Senior Programme Officer, Harald Jepsen, Election Expert, T.J. Tappe, Junior Election Expert, Yaroslav Yurtsaba, Ph.D., Adviser, Small and Medium Business Development, and Maria Dotsenko, Media Adviser; U.S. Embassy: Ellie Seats, USAID Democratic Project Officer; Sheila Gwaltney, Deputy Chief of Mission, Aubrey A. Carlson, Counselor for Political Affairs; Stepan Havrysh, representing Prime Minister Viktor Yanukovich's campaign; and Oleksandr Zinchenko, Chairman of Viktor Yushchenko's campaign. Both campaigns were generous with their time and briefed the delegation on the current political situation in Ukraine and shared their respective views on the campaign.

After a day of briefings and meetings in Kyiv, the delegation departed by air for Kharkiv. Over the following three days, the three two-member teams traveled to the designated communities to meet with local government officials, representatives of NGOs, political parties, the media, and ordinary citizens to get their respective views on the campaign thus far. The communities visited were: Kupiansk, Merefa and Vovchansk in the Kharkiv Oblast; Chutove, Dykanka, and Karlivka in the Poltava Oblast; Lebedyn, Okhtyrka, and Trostianets in the Sumy Oblast. The U.S.-Ukraine Foundation arranged all meetings, transportation, hotel, meals, translators, and general logistics.

Both in Kyiv and Kharkiv, the delegation was briefed on the election law as passed by the Verkhovna Rada and signed by the president. The delegation had copies of the election law with them and Ukrainian election law experts were available for consultations at all times.

The delegation also met with the Deputy Governor of the Kharkiv Oblast, Oleksandr Kryvtsov, to report its findings and to hear his comments and views on the presidential election. The deputy governor highlighted the region's economic development, highly educated population, and strong relationship with the U.S. He also noted that the wisdom of the Ukrainian citizens will prevent them from returning to authoritarianism and that no significant changes are envisioned after the elections. The people will vote for the candidate who has the most attractive program and he does not doubt the result of the elections. The current governor of the Kharkiv Oblast, Yevhen Kushnaryov, heads the prime minister's campaign in the Kharkiv Oblast.

Upon completing the site visits and returning to Kyiv, the delegation met with Chairman of The Central Election Commission, Serhiy Kivalov, and officially reported its findings. The chairman was most cordial and very interested in the opinions of the delegation. He pledged to look into the questions raised by the delegation. He pointed out that the CEC has representatives of all parties and takes very seriously any allegation of wrong doing regarding the electoral process.

At the end of their trip, the delegation took part in a de-briefing with USAID representatives Karen R. Hilliard, Deputy Director, Allen F. Vargas, Regional Controller, Ellie Seats, Democratic Project Officer, and Assia Ivantcheva, Deputy Director, Office of Democracy and Governance.

During all meetings, the delegation stressed that it is approaching its work from the standpoint of friendship and has no other motive than to see Ukraine gain wide recognition internationally as a law-based democratic society.

Findings

Generally, in the communities visited, local officials were very cooperative and generously shared their time and opinions with the delegation. Local officials provided space for meetings and assisted in extending invitations to representatives of political parties, media, and NGOs to meet with the delegation. The delegation does note, however, that there were occasions when opposition parties were not informed of the meetings and, thus, were denied an opportunity to express their views and have their respective cases heard.

It was reported to the delegation that some local officials blocked efforts by opposition parties to obtain space for local campaign headquarters. If true, that constitutes a violation of Ukraine's law on presidential elections. (All references are made to the Law of Ukraine "On the Election of the President of Ukraine" as amended and signed into law by the President of Ukraine on March 18, 2004.)

It was reported that school officials, local government officials, hospital officials and private employers threatened employees with the loss of jobs if they did not sign petitions in support of a particular candidate. If true, this would be a violation of Ukraine's law on presidential elections.

The delegation noted that signs supporting a particular candidate are on public facilities, such as the airport in Kharkiv. The use of public property to promote a candidate or party would be in violation of Ukraine's law on presidential elections.

Generally, it can be stated that mass media in the smaller communities are not completely free to objectively cover political news; a representative of a local media outlet stated that items set to appear in the previous week's edition had been censored by local authorities. In many cases, the media are owned or partially owned by the local government or by businesses that are closely associated with local government. Privately owned mass media are generally not profitable because of the lack of adequate advertising revenue. Failure to provide equal and impartial coverage in the mass media for all candidates for president of Ukraine and all parties would be a violation of Ukraine's law on presidential elections.

It was reported to the delegation that opposition parties are not equally accorded the use of public facilities for meetings, as mandated by Ukraine's law on presidential elections.

It was reported that some employees were threatened with the loss of employment if they did not attend political meetings and rallies for a particular candidate. If true, this is a violation of Ukraine's law on presidential elections.

It was reported that supporters of a particular candidate were intimidated and prevented by local police from traveling to a rally in Kyiv for their candidate. Reports were also received that planned rallies by particular candidates were disrupted at the site of the rallies by construction equipment that appeared for "emergency" work at a public place on a Sunday, and that on another occasion electricity suddenly failed when thousands of supporters turned out for a particular candidate.

It was reported that some people were threatened with having their gas cut unless they supported the preferred candidate. If true, this is a violation of Ukraine's law on presidential elections.

The delegation noted the appearance of signs on buildings and over highways in towns and other locations that may or may not constitute a violation of law, depending upon if the buildings are public or private and, if private, whether pressure was used by authorities to require the appearance of the signs. The delegation cannot speak to that, but it does note that the signs present the appearance, at least, of a "heavy hand" behind the scenes.

It is also noted that in the City Building in Kupiansk, Kharkiv Oblast, the delegation noticed two young men emerge from one of the offices wearing tee shirts supporting a particular candidate. If those young men were just visiting the City Building and didn't work there, that is one thing. If, on the other hand, they worked there and were openly campaigning for a particular candidate by wearing the tee shirts, that would constitute a violation of Ukraine's law on presidential elections.

Conclusion

While the delegation cannot investigate the allegations made, it does note with deep concern the repeated allegations of the systematic use of the government's administrative resources to bring pressure upon voters to support the candidate endorsed by government authorities. These reports are too numerous, consistent, and from too many different locations to be set aside; in fact they appear to the delegation to constitute a pattern of officially sanctioned political activity by government employees that is in violation of Ukraine's law on presidential elections. The delegation is very concerned about these reports and appeals to the Ukrainian government to ensure that all local government officials strictly adhere to the law.

If true, these allegations taken in totality point to an organized and conscious effort on the part of authorities to influence the outcome of Ukraine's presidential election. This delegation can only refer the information it has gathered to the proper authorities and ask them to investigate and ensure that the law is followed throughout the country. But beyond that, **this delegation has an obligation to the people of Ukraine to make the concerns they have expressed to us known to the Ukrainian and international media and to international authorities and institutions with a plea to follow this election closely and help the people protect the sanctity of the electoral process.**

In conversations with participants in the meetings the delegation attended and in conversations with ordinary Ukrainian citizens, it was appalling to find that an overwhelming number do not expect the outcome of the election to be fairly decided -- an expectation that has been further enhanced by the news that the government has decided to use transparent ballot boxes. Those that hold this view often reply that the outcome has already been

determined and that the vote count will support that determination. Independent polls verify that around 70% of the population believes this. That reinforces the view that every effort must be made by observers to ensure that the vote count is accurate and fair.

The delegation is unanimous in its praise of the long suffering Ukrainian people and their desire to live in peace, freedom and prosperity. In every community the delegation visited they were greeted with hope and anticipation of a brighter tomorrow. They welcomed contact with the wider world and were anxious to host foreign visitors to show off their beautiful country and its great potential. They deserve nothing less than an opportunity to go to the polls and freely express their views without threats or intimidation, and to be secure in the knowledge that all their votes are counted accurately and that the totality of the vote in fact determines the outcome freely and fairly in accordance with the law of the Ukraine.

Attachment A - Field Notes from Accompanying Staff

Kupiansk, Kharkiv Oblast (pop. 35,000)

- The delegation stressed the importance of Ukraine's economic future and the role of free and fair elections in contributing to Ukraine's economic development.
- The delegation also emphasized the importance of the press in the electoral process to provide voters with accurate and unbiased information.
- The delegation told the audience that the whole world was interested in what happened in Ukraine.
- The delegation emphasized that it is a secret ballot and that no one will know how one voted. The delegation told those present to vote according to their conscience.
- In response to a question the delegation expressed its concern about the use of "administrative resources" to influence elections in Ukraine.
- The meetings were widely covered by the press, including television and five print media.
- The audience was very interested in how elections are conducted in the U.S.

Merefa, Kharkiv Oblast (pop. 29,200)

As requested by representatives of all invited groups, a joint meeting was held. Participants included representatives of numerous political parties (Agrarian Party, Social Democratic Party, Our Ukraine, Social Progressive Party, People's Democratic Party, Party of Regions, "Apple"), NGOs, and the media. It was reported that there haven't been any confrontations.

- Supporters of Yushchenko, Yanukovich and the Communist party have set up stands for campaigning. The other parties have not requested such premises.
- Representatives from the local administration voiced their concern that although the law provides for support of polling stations (12 have been set up in the city), the local budget can not support their operations. As a result, they have had to approach local businesses for help. The delegates responded that they would bring this up during their meeting with the Kharkiv governor.
- No election committees have been formed yet. The voter lists have been prepared. They are still trying to account for those local residents who are living abroad.

Vovchansk, Kharkiv Oblast (pop. 23,800)

In spite of a large turnout with a great variety of party members, NGO officials, and media representatives, meeting attendees did not voice many concerns regarding the election. This could be attributed to the presence of local government officials at every meeting. General questions about the political process in the United States were raised, as well as U.S. foreign policy towards Iraq.

- One individual expressed concern regarding funding for particular candidates coming from individuals in the United States.

Chutove, Poltava Oblast (pop. 8,500)

- The mayor expressed his concern about the need for economic development and foreign investment in the region. Though a member of the Social Democrats United and a supporter of Yanukovich, he pledged that he will be fair. The delegation talked with many people who expressed a high opinion of the mayor and confirmed his fairness.
- The mayor stressed that the law would be followed in his region.
- All political parties were invited to attend a meeting with the delegation. It appeared that all, except the Communist Party and Socialist Party, were in attendance, including Our Ukraine.
- The village heads did not hesitate to express their unanimous support for Yanukovich.
- Most regional and village authorities identified with the Social Democrat United Party.
- The media did not report interference from the regional administration. One media representative stated that their radio station would air any candidate's advertisements if they have the money to pay for the ads.

Dykanka, Poltava Oblast (pop. 9,000)

The schedule had been arranged to allow for a number of meetings that day, some without the presence of local government officials. However, due to the delegation's late arrival, the meetings were condensed into only one general meeting attended by the media, NGO representatives and local government officials. Some did express their concerns during the meeting, but it seems that many individuals were not as truthful as they could have been because of the presence of officials in the local government. The following comments were noted:

- Individuals stated that access to mass media is extremely limited, and people can only receive information regarding Yanukovich's campaign. Additionally, it seems that the mass media only covers the candidate that is favored by the current government, that being Viktor Yanukovich. There is a huge lack of independent mass media sources.
- Concerns were expressed regarding fair and balanced elections. A participant in the meeting stressed that Ukraine is far behind in that respect.
- The delegates were informed that the local law enforcement officials have a list of those individuals eligible to vote, complete with names and addresses.
- Candidates of government administration and the current local administration are taking advantage of administrative resources for the presidential election. People from the current administration have collected signatures before the start of the presidential campaign, which is illegal under Ukraine's law on presidential elections.

- The law against collecting signatures is not enforced, except in cases when the opposition participates.
- Candidates are also having difficulty in gaining access to public facilities in Ukraine.

Karlivka, Poltava Oblast (pop. 20,500)

An initial meeting was held with representatives from the local administration, political parties, NGOs and media. Individual meetings were then held with representatives from each of the groups.

- Although there were representatives from several political parties (Women's Party, Party of Justice, Social Democratic, and others), when asked, they all voiced their support for Yanukovich. When asked why there were no representatives from political parties which supported other candidates, the reply was that they were invited, but did not show up. They also noted that in the past year, four roundtables were held, and although all parties were invited, not all came. The delegates voiced their concern that such one-sided representation gave the appearance of a lack of pluralism in the administration. It is suspected that opposition groups simply were not invited to this meeting.
- When asked if all political parties had access to the media, the response was positive, as long as funds were available. Media representatives stated that prices for campaign materials have been established and that all parties are given equal opportunity for media coverage.
- A respected journalist and head of an independent media club in the Poltava Oblast was also invited to these meetings. She made statements contrary to those given by local representatives of NGO's, political parties and the media, commenting that freedom of the press is compromised and there is pressure on those supporting opposition candidates.

Lebedyn, Sumy Oblast (pop. 31,500)

Due to the delegation's late arrival, a brief meeting was held with the mayor and his staff, and a joint meeting was held after lunch with approximately 25 representatives of political parties, NGOs, and the media. Representatives from the mayor's office were also in attendance.

- A representative of Our Ukraine presented the delegates with a letter that was sent to the mayor requesting use of a hall in the medical training institute for a public educational meeting on election rights. The mayor's written response stated that the medical building "was not within the competence of the City Council." The delegation's meeting took place in the same hall that Our Ukraine had requested to use. The deputy mayor made a statement that the matter of access to this location for meetings would be addressed later. When pressed, he took the position that a regional authority, not the mayor, had control of the space, even though he was the one who arranged the delegation's meeting.
- A representative of Our Ukraine stated that 48 people were prevented by the police from going to a July 4 Yushchenko rally in Kyiv. The police threatened the owners of the automobiles.

- A representative of Our Ukraine stated that lists of participants in Yushchenko meetings were given to local authorities and that participants were threatened with loss of jobs and other sanctions.
- The head of the local Yanukovych campaign is an official of the City Council.
- A representative of Our Ukraine stated that teachers are being coerced into going door to door to get signatures for candidates. These people are being told to sign blank signature sheets where the name of the candidate has not yet been filled in.
- A representative of the Socialist Party agreed with the criticisms made by the Our Ukraine representative. In addition, she noted that there is a lack of appropriate accommodations for political meetings.
- The Head of Education Department, who was in the audience, has a campaign station in his office in violation of the law and is using teachers and instructing children to campaign at their homes for Yanukovych.
- The Deputy Regional Administrator also has deployed children for the campaign through the Pioneers group.
- The House of Culture is not under the mayor's jurisdiction, but has nevertheless been closed and turned into Yanukovych headquarters.
- Alternative opposition parties are banned from the local press.
- The Communist Party representative agreed that all of these questions are quite important and that the root of evil is the government's use of administrative resources for the Yanukovych campaign.
- The Liberal Party Yanukovych representative greeted his American friends and stated that he is fascinated by American culture and hopes that the delegates do not get a negative impression of Ukraine. He stated that his party treats all others with respect and that falsification of the election is impossible.
- Several additional speeches were made by others to the effect that those who support Yanukovych use intimidation of supporters of other political parties.

Okhtyrka, Sumy Oblast (pop. 5,200)

The Mayor met privately with the delegation, assured the delegation that she intends to comply with the new election laws, and noted that government officials must abstain from the election process. She then introduced the delegation to a gathering of approximately 80 local officials and staff. Meetings were held with four representatives of official and private media, then with approximately 40 representatives of at least 18 political parties and NGOs. The Mayor did not attend these two meetings. During the final meeting, which was characterized by open statements and discussion, the following comments were related to the delegation.

- On 22 July, the regional council passed a resolution in support of Yanukovych. This is in violation of the election law, as government officials are required to be impartial in the election process. It was further stated that the local council was scheduled to meet on August 10 and that pressure would be brought on the local council to duplicate the resolution passed by the regional council.
- It was suggested that U.S. mass media provide some coverage of the current situation in Ukraine.
- A local newspaper is issuing propaganda materials in support of Yanukovych.
- Workers employed in public services are forced to give their signatures in favor of Yanukovych. This is a blatant violation of Ukraine's election law that is occurring everywhere, and only by representatives of Yanukovych's campaign.
- The people do not believe that the elections will be free and fair. Skepticism was expressed that election observers could change this. It was stated that the 2002 election observers were removed before the tabulations were complete and also that, despite obvious gross violations, observers concluded that everything was fine and left satisfied.
- The delegation was met with applause when it was noted that certain American politicians who had broken election laws are now serving jail sentences. (The delegation concluded that those applauding wish for similar treatment of election law violations in Ukraine.)
- Employers are threatening employees that they may lose their jobs if they do not vote for the favored candidate. Unemployment is extremely high in Ukraine.
- Another individual expressed concern that although people vote for the candidate they prefer and their votes may initially be counted correctly, the balloting is later compromised by substitution or stuffing of incorrect ballots -- a statement that drew renewed applause. It was further stated that habits of Soviet rule are continued by government authorities who select themselves and alienate citizens who are hoping to achieve democracy.
- At all public enterprises, people are forced to give their signatures to vote for Yanukovych. This happened with nurses and doctors, as well as patients in a local hospital, who were threatened with being discharged if they failed to comply. Teachers, agricultural workers, even yard workers are forced to go house to house collecting signatures. In addition, they are given quotas that they must sign for regarding the number of Yanukovych signatures that are expected if they wish not to lose vacation time or lose their jobs.
- The third meeting in Okhtyrka included representatives from a diverse number of political parties. The meeting was extremely candid, as representatives supporting different presidential candidates were able to voice their concerns.

Trostianets, Sumy Oblast (pop. 25,000)

The delegation met first with the regional administrator and the mayor and later with three press representatives (two government owned; one private). In the afternoon, delegates met with representatives of a dozen political parties (also attended by the mayor) and then with ten NGO representatives.

- The delegation stated that President Kuchma has invited international observers to Ukraine because he knows that fair elections are important to Ukraine's economic growth.
- The regional administrator emphasized the importance of foreign investment to his region. As an example, he cited the Kraft Foods plant which employs a large work force and utilizes much of the region's agricultural resources. He also stated that a German company is interested in a beet root processing plant and a wood processing plant in the region.
- The regional administrator said that he could not guarantee the total absence of election law violations, but said that he could assure that the election in this region would be fair.
- The regional administrator said that he is governed by his overall objective to achieve and secure economic development. Stability is essential to achieve these goals.
- The mayor asked questions about U.S. election laws, stating that Ukraine election laws are more strict. For example, can the mayor of Washington, D.C. make a speech in support of a presidential candidate? He said that as mayor of Trostianets he is barred by law from giving a speech in support of a presidential candidate.
- The mayor said that he had received telephone calls from opposition parties demanding that he hire some of their people in the city.
- The mayor said that he provides all political parties with fair access to public facilities. The regional administrator stated that when many parties want to meet at the same place at the same time (as on May 1, for example) it cannot be allowed and the precedent is that the first request is honored.
- The delegation later learned that the mayor had excluded the Our Ukraine representative from the political parties meeting. When the representative asked to meet with the delegation, the delegation agreed and also issued its own invitation to the representative to attend the political parties meeting. The representative stated that Our Ukraine could not obtain access to public facilities and was even blocked by regional authorities from establishing a party headquarters in town, although the public regional library had been turned into a Yanukovich headquarters. He further reported that many public and private employees were being coerced into signing petitions in support of Yanukovich, or even blank sheets that later can be given a Yanukovich heading.
- When the regional administrator and mayor learned that the delegation had met with the Our Ukraine representative they advised the delegation that for that reason they would decline to join the delegation for lunch. The mayor then attended the political parties meeting and frequently interrupted participants who spoke of election law violations.

- At the meeting with political parties, the Socialist Party representative said that the election is not being conducted honestly. She also noted that village councils collect signatures for Yanukovych, using blank sheets if the person favors another candidate.
- The delegation received reports that teachers are distributing Yanukovych literature to students and asking that they take the literature to their homes.
- It was stated that the Minister of Transport formed a pro-Yanukovych political party and is threatening railroad workers with loss of their jobs if they do not sign petitions and vote for Yanukovych.
- The meeting with NGOs was well attended and was held at the Union of Entrepreneurs building. The NGO representatives stated that they generally stay out of politics and are involved in other activities.
- One man asked if administrative resources are not important in U.S. elections, why was Bush elected even though Gore received more votes?
- In a meeting with the press, one press representative frankly told the delegation that the media must be “sensitive” to the wishes of the regional authorities when reporting news and explained that financial support from the regional government is essential to the local press.