

# Ukraine Parliamentary Elections



**February 27, 2002**

**Briefing of the  
Commission on Security and Cooperation in Europe**

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**COMMISSION ON SECURITY AND COOPERATION IN EUROPE**  
**234 Ford House Office Building**  
**Washington, DC 20515-6460**  
**(202) 225-1901**  
**csce@mail.house.gov**  
**http://www.csce.gov**

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## **ABOUT THE ORGANIZATION ON SECURITY AND COOPERATION IN EUROPE**

The Helsinki process, formally titled the Conference on Security and Cooperation in Europe, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. As of January 1, 1995, the Helsinki process was renamed the Organization for Security and Cooperation in Europe (OSCE). The membership of the OSCE has expanded to 55 participating States, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia.

The OSCE Secretariat is in Vienna, Austria, where weekly meetings of the participating States' permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations. Periodic consultations are held among Senior Officials, Ministers and Heads of State or Government.

Although the OSCE continues to engage in standard setting in the fields of military security, economic and environmental cooperation, and human rights and humanitarian concerns, the Organization is primarily focused on initiatives designed to prevent, manage and resolve conflict within and among the participating States. The Organization deploys more than 20 missions and field activities located in Southeastern and Eastern Europe, the Caucasus, and Central Asia. The website of the OSCE is: <[www.osce.org](http://www.osce.org)>.

## **ABOUT THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

The Commission on Security and Cooperation in Europe, also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance by the participating States with their OSCE commitments, with a particular emphasis on human rights.

The Commission consists of nine members from the United States Senate, nine members from the House of Representatives, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair rotate between the Senate and House every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

In fulfilling its mandate, the Commission gathers and disseminates relevant information to the U.S. Congress and the public by convening hearings, issuing reports that reflect the views of Members of the Commission and/or its staff, and providing details about the activities of the Helsinki process and developments in OSCE participating States.

The Commission also contributes to the formulation and execution of U.S. policy regarding the OSCE, including through Member and staff participation on U.S. Delegations to OSCE meetings. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from participating States. The website of the Commission is: <[www.csce.gov](http://www.csce.gov)>.

# UKRAINE PARLIAMENTARY ELECTIONS

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# UKRAINE PARLIAMENTARY ELECTIONS

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**FEBRUARY 27, 2002**

The briefing was held at 10:00 a.m. in Room 340, Cannon House Office Building, Washington, DC, Ronald J. McNamara, Chief of Staff, Commission on Security and Cooperation in Europe, moderating.

*Panelists present:* Ambassador William Green Miller, former U.S. Ambassador to Ukraine; Ambassador Nelson Ledsky, Regional Director, Eurasia, National Democratic Institute (NDI); and Stephen B. Nix, Regional Program Director, Eurasia, International Republican Institute (IRI).

Mr. McNAMARA. Good morning, ladies and gentlemen. My name is Ron McNamara. I'm currently serving as the Chief of Staff of the Commission on Security and Cooperation in Europe.

I wanted to acknowledge at the outset the presence of Congressman Steve Horn, who, though not a member of our Commission, has provided significant leadership on Ukraine-related issues through his participation in the Ukraine Caucus here in the House.

Certainly if the Congressman has any remarks he'd like to make, he can do so at this time. I know that he has a vote on the floor and must leave for that vote shortly.

Mr. HORN. Well, thank you, Mr. Chairman.

Ukraine is a wonderful and large country, and the bread basket historically for Europe. We hope that their democracy will evolve, and I am very dedicated to helping do that.

Thank you very much, Mr. Chairman. We do have a vote now on the floor, so people will be going in and out today.

Mr. McNAMARA. Great. Thank you very much, Congressman.

Before introducing our expert panelists today, I did want to make a few general remarks. I dare say that there's not another entity on Capitol Hill that has had as sustained a level of activity in support of democracy and human rights on behalf of the people of Ukraine as our Commission. The materials relating to the Commission's work on Ukraine are available through our web site, which is [www.csce.gov](http://www.csce.gov), and I invite those interested parties to visit our web site. Materials including our most recent Commission hearing that took place in May 2001 in conjunction with Ukraine's 10-year anniversary of independence are available electronically.

One other housekeeping point that I wanted to raise was that today's proceedings are being recorded and there will be a transcription. At the end of the panelist presentations, the audience will be invited to come forward. We have a stand-up mike in the middle aisle, and we ask individuals to identify themselves and any affiliation that they may have before presenting a question to our panelists.

At the Commission, we always like to put our work in the context of commitments that the participating States themselves have undertaken. In that regard, I wanted to briefly mention three of them. Perhaps the most important is a commitment that all participating States, including Ukraine, have undertaken: to build, consolidate and strengthen democracy as the only form of government for our nations.

With respect to the elections, it's also important to note that the participating States, again including Ukraine, have committed themselves to bringing their laws, regulations, practices and policies into conformity with their obligations under international law and into harmony with OSCE commitments.

So those are a couple of points that I just wanted to raise at the outset to serve somewhat as a framework for at least the Commission's work and how we view questions in the run-up to next month's elections.

The stakes in the Ukrainian elections later next month are high, both in terms of the outcome as well as an important indication as to whether Ukraine moves forward on the path of democratic development and integration into Europe.

The parliamentary elections, along with local elections taking place on the same day, will chart Ukraine's course over the next 4 years, including on the presidential elections scheduled for 2004. They could have important implications for U.S. policy toward Ukraine.

While Ukraine moves along the path of democracy, the question of the supremacy of law is obviously one of great importance. Will Ukraine have a policy which actively works toward greater integration into Euro-Atlantic community, or will it shift its focus away from Europe, as some argue is already happening?

Despite the positive changes that have occurred in Ukraine since independence in 1991, including the growth over the last 2 years of Ukraine's economy, Ukraine is still deeply in the process of transition.

The pace of that transition is frustrating, slowed by insufficient progress with respect to the rule of law, especially by the stifling presence of pervasive corruption, which continues to exact a huge toll on the Ukrainian people.

Most of independent Ukraine's elections have generally met international democratic standards for elections. I would point out that the Commission and the Commission staff have participated in the observation of nearly all of the elections in Ukraine since independence.

The 1999 presidential elections, however, were more problematic. The OSCE election's mission report on the 1999 elections asserted that they, quote, "failed to meet a significant number of the OSCE election-related commitments," end quote. Even the last parliamentary elections in 1998 were, quote, "marred by incidents of violence, arrests and actions against candidates in abuse of public office that represents a serious shortcoming in the conduct of the campaign and raises questions about the neutrality of the state apparatus in the elections," end quote.

Helsinki Commission Chairman Senator Ben Nighthorse Campbell and Commissioner Representative Louise Slaughter have introduced identical resolutions in the Senate and the House, urging the Government of Ukraine to ensure a democratic, transparent and fair election process. Copies of those resolutions and related statements are available outside our room today.

I think it's important to stress that the reason for this congressional interest in the Ukrainian elections, and, for that matter, U.S. interest, is because an independent, secure, democratic, economically stable Ukraine is important, and we want to encourage Ukraine in realizing its own goal of integration into Europe.

In that regard, I have noted that a variety of commentaries have circulated in the aftermath of the introduction of those measures. I'm not certain whether individuals may have read more into the text than not, but I think they actually are quite straightforward and certainly are consistent with OSCE commitments, which we hope Ukraine will observe.

It remains an open question whether the elections will be a step forward for Ukraine. There are still 4 weeks left in the campaign, but there are some discouraging indications—credible reports of abuses and violations of the election law, including intimidation of journalists, candidates refused access to media, and unlawful use of public funds and facilities.

These actions are inconsistent with Ukraine's clearly undertaken OSCE commitments and undermine its reputation with respect to human rights and democracy.

A democratic election process is a must in solidifying Ukraine's democratic credentials and the confidence of its citizens and in its stated desire to integrate with the West.

For those who have asserted, as I've seen in one report at least, that somehow the United States is interfering in the internal affairs of Ukraine, those individuals might be mindful of another OSCE commitment where the participating States categorically and irrevocably declared that commitments undertaken in the field of a human dimension are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned.

It's now my privilege to introduce our expert panelists in the order in which they will address the group today.

Ambassador William Miller is a senior public policy fellow at the Woodrow Wilson International Center for Scholars and served as the United States ambassador to Ukraine from 1993 to 1998.

Ambassador Nelson Ledsky has managed democratic development programs in the former Soviet Union since 1992 for the National Democratic Institute for International Affairs.

Mr. Steve Nix currently works as the director of the International Republican Institute's Eurasia division.

Welcome, and we look forward to your contributions.

Again, for the members of the audience, you will have a chance to ask questions of the panelists at the conclusion of the group's presentations.

Thank you.

Amb. MILLER. Thank you, Mr. McNamara. It's a great delight to be here at the Commission. The work that this group has done has been of great importance in Ukraine and certainly in other countries. It certainly has laid out the standard by which elections and democratic institutions should be measured.

This is a very important election for Ukraine, even though Ukraine is a young nation just a bit more than 10 years old. It's important to put that short time frame into perspective. We can measure what Ukraine has done against what we ourselves did as a nation.

Those of you who have studied American history know that after the first 10 years of our republic, we were a basket case. We were deeply in debt, at war. We had 20 currencies, just four banks, and were afflicted with massive corruption. It was very unclear that we would survive as a nation. There were uprisings on the frontiers and the beginnings of great splits between North and South and differences between dominant forms of economic activity.

But it was at that point that we pulled up our socks and formed "a more perfect union," a work that we've been engaged upon for the many decades that followed.

If we measure democratic institutions by elections, we've had our share of difficulties in elections. I do not need to remind this audience that in the recent past we've had difficulties that have strained the confidence of the people. But we faced up to it and have gotten on with the job.

I would say that after 10 years of independence in Ukraine, and I've seen almost all of this at first hand, that there's much to be proud of. There's certainly is much to be done, but sovereignty, I think, is assured and there is a healthy competition, a healthy struggle for the future, for the destiny of the country.

The parliamentary election is certainly one way of expressing this struggle. The array of candidates for the Parliament in this election coming up on March 31 reflects, in fairly accurate measure, the political complexion of the country.

After 10 years, there is still a very strong Communist element. It is probably still the most effectively organized political party, inheriting an apparatus and a way of doing things, a way of thinking and generations who support that way of thinking from the time of the Soviet Union. It's expected by all who have followed these matters, that the Communists will maintain a substantial minority in the next Parliament and, for quite a few years into the future, will play an important role in the political life in Ukraine.

The party of power, as it's called, that is the incumbents, are the best organized, one could say, after the Communists because they are able to take advantage of the governmental structure itself to try and perpetuate its people and ideas.

The party of power, as you know, is structured, presently, largely in two main blocs, as they are called.

These in turn are heavily influenced by what are called the oligarchs, those who have managed to acquire enormous amounts of money in the first 10 years of transition through what some might call extraordinary entrepreneurial skill at best and others might call criminality at worst.

Nonetheless, the power of money is a very important element, and it's reflected in the makeup of the political groupings of Ukraine—all of them. The money comes from different places for different reasons, but it is now, in this new independent Ukraine, as in Russia, as in our own country, a major factor in determining the success of elections.

At the time of independence, one of the great issues, as many in the audience here know so well because they were involved, the defining cause, the major issue was Ukrainian independence, Ukrainian nationalism, "Ukraineness," to put it in one word.

This was the heart of the independence movement. The movement called Rukh was an attempt to create an independent Ukraine separate from domination in Moscow. In that regard, Rukh was successful. There is an independent Ukraine. The ideas of Ukraineness have been enshrined in the Constitution of 1996, and it's a dominant common factor in all political discussion about Ukrainian politics.

Remarkably, in this run-up to the election on March 31, the party of Our Ukraine, which is a combination of Rukh, the democratic parties of the right so-called and, one could say, moderate centrists has done remarkably well without media, and despite harassment and many inhibitions. For all of the difficulties, Our Ukraine is leading the pack.

It seems at this juncture, one month before elections, that they will get around 20 percent. The Communists will get about the same, perhaps a little less. One bloc of the oligarchs will get about 10 percent or less, and the other will be at the threshold, probably crossing.

The issue is whether smaller parties will make it across the threshold of 4 percent. The party of Yulia Tymoshenko, and the party of Oleksandr Moroz, are the ones to watch. That is where much of the pressure from so-called "administrative resources" attempting to prevent their crossing the threshold will be evident.

But if we look at outcomes, the likely outcomes now, based on what the polls indicate at this point, it's a very healthy outcome and one that reflects the reality of Ukrainian politics in 2002.

Why is Yushchenko popular? The reasons are complicated, but he seems to reflect what Ukrainian themselves think are the best of themselves and of their culture despite all the difficulties they face.

For one thing, as Prime Minister he put the people first. He paid salaries and pensions. For another, he delights in things Ukrainian. And for another, he ran very successfully the national bank. He did it so well that he was regarded internationally as one of the world's best international bankers. He speaks to the people. He comes from the people and has talents that are much honored in Ukraine.

But how do the people know this if there's no television available and if the press is limited? How does this get out? How do Ukrainians make their political choice on an informed basis?

If we go back to the heritage of Ukraine in the Soviet era, of course, elections produced very high voter turnouts. One had to vote. The Soviet habit of voting still remains. There have been in the past high voter turnouts. A high turnout is expected in this election. In contrast, of course, in our country, high electoral turnouts are, unfortunately, not expected; we are lucky to get 50 percent. In Ukraine it will be at least 70, perhaps higher.

Word of mouth is the main way Ukrainian voters learn about the incumbents for election. Much more is said than is printed or put on television. Reputations are spoken about over the years, and all of the major figures in this election have been spoken about for years. The Ukrainian people know the main cast of characters.

In the absence of available television and other media, many candidates have been forced to get on the road and go into the hustings and meet the people face to face. That difficult requirement will have an enormous effect. It's a novelty, in many respects, to have large campaign effort over a sustained period of time based upon actually going to the people.

What kinds of campaigns are run? Are they negative or are they positive? There are two types, not surprisingly. One way is to have no negative discussion, but only speak to what needs to be done and what needs to be done in a positive fashion. That seems to have had a very positive impact on the Ukrainian voter, just as it does in our country. Negative campaigning, in the end, has a harmful effect.

Over the past 10 years, the West, including OSCE Commission, NDI, IRI, and certainly our fellow nations in the European community, have worked very hard to help Ukraine develop democratic institutions, starting from scratch really. In 10 years of independence, there have been what I regard as remarkable results, although obviously a great deal more has to be done.

To turn to the issue of election monitoring, the ability of the people to have a say in whether the elections are fairly carried out, there's been a great effort made and, I think successfully, to create a very effective, credible monitoring system. There are 33,000 or so polling centers, places where votes are cast. The Committee of Voters of Ukraine [CVU], an NGO citizen organization that was assisted by NDI over the 10 years of independence, will have coverage of all of those polling stations.

IRI, NDI, and their European counterparts have been working very closely with parties in education about how to assure that the electoral process is as good as it can be.

As ambassador, I was very aware of the good work that IRI and NDI were doing and, of course, the Helsinki Commission and the European counterparts and these efforts were enthusiastically supported, I would say, in large measure, by Ukraine itself.

So what we have now gradually more than 10 years—and that is, I remind you, a very short time frame for these institutional measures, free major elections, Ukraine has an election commission with a fairly well-developed set of laws and regulations, an effective communication system between the polling centers and the center. There are a great number of monitors around and a great many more ordinary people, both Ukrainian and foreign, who have deep interest in Ukraine's electoral outcome who have been watching with sympathy and a desire to assist Ukraine to have as good an election as they can have.

There are many difficulties. I was there recently. I know Steve Nix and Ambassador Nelson Ledsky were there, and members of our administration have been there recently, and there will be many others who will go in the run-up to the election. There's a fairly good understanding of the realities on the ground. There are what, by any standard, would be called abuses, but there are also, at the same time, mechanisms to bring those to the attention of the authorities, both the electoral commission and the courts.

The issue in this next month is whether the shortcomings identified by various people, Ukrainians and sympathetic foreigners, will be attended to. But I would say, given the complexion of the polling now, that there is very little that can be done to alter what seems to be the likely outcome.

Obviously, it would do great credit to Ukraine if this were as good an election as it can be. Obviously, whether it will be or not is in the hands of Ukrainians themselves, particularly their leaders. They will have to do it. It's their country, it's their future, and I think they understand that.

It's my hope that, beginning with this election and the very important election that follows for president, that Ukraine's steady march toward democratic institutions of real viability will continue, and Ukraine will become the kind of sovereign independent truly democratic nation its talented people have every right to expect.

Thank you.

Mr. McNAMARA. Thank you, Ambassador Miller.

Ambassador Ledsky?

Amb. LEDSKY. Thank you.

It's very hard to follow Ambassador Miller in commenting on Ukraine. Ambassador Miller not only served with distinction as ambassador for a long period of time at the beginning of the Clinton administration, but also joined with NDI in a pre-election delegation to Ukraine 2 weeks ago.

So he is a man who can speak with great authority about what's going on in Ukraine. I would not in any way want to detract one iota from what he has just said about the electoral atmosphere or about the opportunities which Ukraine has through the forthcoming elections on March 31 and subsequent elections for president 2 years from now.

Let me begin my remarks with an advertisement for our organization. NDI conducted a pre-election mission to Ukraine 2 weeks ago. The mission was led by former Secretary of State Madeleine Albright and, as I said, included Ambassador Miller, former Congressman Sam Gejdenson and half a dozen other rather distinguished Americans and Europeans.

They have issued, jointly, a report, and that report is available for you after this meeting.

Secretary Albright will be giving a debriefing of her visit on Monday at NDI headquarters, and I invite all of you to come at 2 o'clock on March 4 to our offices at 2030 M Street to hear Mrs. Albright report on her trip to Ukraine, on her meetings with President Kuchma and with all of the other political blocs and leaders that are running in these elections.

As Ambassador Miller said, we have been working as an organization in Ukraine for 10 years. We opened our offices in 1992 and have been conducting programming in Ukraine, along with our colleagues from the International Republican Institute, over this past decade.

We've worked extremely well together. We have worked cooperatively. We have trained at each other's seminars. We have cooperatively set aside districts and oblasts where we each work, so that we know what each of us is doing and we're working in concert with one another.

We have spent a good deal of our time over the past decade building, as Ambassador Miller says, a civic organization, called the Committee of Voters of Ukraine [CVU], which monitored the elections in 1994, in 1998, in 1999, in 2000, and which has engaged in a pre-election monitoring effort which began in October and which will continue through election day, covering every oblast of the country and reporting on the conduct of campaigns for the party list and single-mandate seats, which is now in progress.

The Committee of Voters of Ukraine is reporting each month on what they see, what they find, what they conclude. Five reports have already been issued and a sixth report will be issued today in Kiev, reporting on events in the first 3 weeks of February, since the official campaign began on February 9.

The report, I'm sorry to say—which is coming out today and is a continuation of the report which was done in January, which is also available to all of you today at the conclusion of the briefing—the report coming out today will point to violations which have occurred in the last two or three weeks, which are more extensive and more serious than anything which occurred in October, November, December and January.

These violations are in two general categories. One relates to access to the media and coverage of the elections. The second relates to what Ambassador Miller and others have referred to as administrative resources and the misuse of these administrative resources as part of the campaign purposes.

Previous reports, and I think the report coming out today, will point to four different kinds of violations with respect to administrative resources.

They are, one, government spaces being used for campaign purposes, which is contrary to Ukrainian law.

Secondly, public employees working on political campaigns and citizens pressured to join parties and blocs.

Third, government authorities actually interfering in the election campaigns that have been authorized since February 9, and the fourth, which is denial to, by government officials, of public facilities and services to candidates, parties and blocs.

This is something which Mr. Yushchenko has begun to refer to himself publicly in speeches in the last 2 weeks, where his candidates and his representatives have been denied access to facilities, found meeting rooms rented, locked and so forth.

These are the major violations which have been reported and continue to be reported, and they are all, I think, quite serious.

Our civic group is in the process of doing four things between now and election day. I've already described the long-term election monitoring which they are carrying out and the reporting which they are doing.

Secondly, they are training political party observers. By the way, I think my colleague from IRI will confirm that our Republican colleagues are doing the same thing with respect to training political party observers, who will be admitted into polling stations all over the country on election day.

Third, we are both training political party constituency election commissioners; that is, party members who, this time around, have been appointed under the law to serve as commissioners in polling stations and in districts all across the country.

Finally, as Ambassador Miller said, we will be doing election day monitoring. I'm not sure we will have somebody in every polling station in Ukraine, but we are aiming for 20,000 observers to complement whatever our OSCE friends are going to be able to put into the field on election day.

Amb. LEDSKY. We will have mobile groups, and we will report promptly on what we find and what we see.

As I said, and as Ambassador Miller said so eloquently, far more than I can, these elections are important. One reason they are so important, as far as we are concerned, is that, at least the last two previous elections, that of 1999, which Mr. McNamara has already referred to as flawed according to the OSCE report, and the referendum elections of 2000, which I think were more seriously flawed, are leading Ukraine not in the right direction, but in the wrong direction. We believe very fervently that a correction in the course of the last two or three elections is very much needed to put Ukraine back on the democratic path.

Secondly, as Ambassador Miller indicated, these parliamentary elections have brought forth an array of candidates, parties and blocs that represent the spectrum of political thought in the country. It's very important that Ukrainian voters have, for the first time, this vast array of choices before them which should be made in a free and fair manner.

It's that which is important. It is not whether one bloc or another gets 3 percent or 6 percent or 9 percent, but that the Ukrainian voter is free to make his own or her own selection.

There is, at the present time, it seems to me, two distinct contests going on in Ukraine, and I think this distinction needs to be pointed out.

The first is the contest for the proportional representation seats, and here there are more than 30 blocs and parties competing. What is crucial in this contest are those who get over the 4 percent hurdle which the Ukrainian election law provides.

Getting over the 4 percent hurdle is significant because there are 225 seats at stake, and because there are so many blocs running, many of the voters and many of the blocs will not get over the hurdle and will not be recorded.

Those parties that do get over the 4 percent hurdle will be rewarded, more than their simple numbers would suggest. In other words, parties will benefit disproportionately for getting more than 4 percent, because they will be compensated with the votes of all those parties which did not get more than 4 percent.

Hence, whether Mr. Yushchenko gets 15 percent or 16 percent will make a significant difference in terms of his actual seats in the Parliament.

Secondly, there is a contest for 225 single-mandate seats. There are 225 districts in the country which are being competed for separately. Here what we are seeing is that the battle is going on behind the scenes in each district, in each oblast, in each constituency. That administrative resources are being used illegally to make sure that the single-mandate seats move in one direction

So there are really two contests to watch, two battles going on, and the outcome of one will not necessarily reflect the outcome of the second.

Let me conclude by saying again that we have seen an enormous difference this time, an enormous opportunity this time in Ukraine, which was not present in 1994 or 1998. There really is a competition that's going on across the country. It's serious, it's real, and it's important.

Mr. McNAMARA. Thank you, Ambassador.

Mr. Nix?

Mr. NIX. Thank you, Mr. McNamara.

First, I'd like to acknowledge and thank Amb. Miller for the nice political overview, and to Ambassador Ledsky for pointing out some of the monitoring activities and some issues that have arisen to date.

Therefore, I'd like to focus my remarks more on some of the procedural, administrative and legal issues that we have found of great importance in the upcoming election.

IRI did conduct a pre-election assessment from February 4–9, and it was a very interesting time for us to be in Ukraine because we were present just prior to the February 9 deadline set forth under the election law for what it terms "pre-election agitation."

This was a big issue during that time, and our conclusion was that one key problem with the new law, which is actually very progressive and a huge improvement over previous laws, is that there was no discernible standard for what's described as propaganda or pre-election agitation.

In other words, there was mass confusion, we feel, among parties, among candidates, among monitoring groups trying to keep track of events, as well as election administrators, as to what constitutes propaganda and what constitutes agitation.

We brought our concerns to Central Election Commission [CEC] Chairman Ryabets. Articles 50 and 51 we feel need to be amended for future elections.

It's a moot point now, because February 9 has come and gone. But during the time that we were there, we clearly saw that some parties observed this February 9 deadline; others did not.

So we advocated some clear discernible standard, possibly similar to the standard we have in the United States, which is—campaigning means would be articulating or calling for the election or defeat of a given candidate or party. That's what we advocated to the CEC.

Another key issue with regard to election administration is how disputes will be handled. The current election law provides dual remedies, both administrative and legal remedies. In other words, if a party has a complaint during the campaign period or on election day, that party has the right to go either to an election commission or to a local court.

The new election law states, under Article 29, that the courts—if there is a similar complaint filed both with the administrative agency and with the courts, that the court shall issue a stay of the administrative action.

One thing that we found that was disturbing to us is that many judges in Ukraine didn't appear to understand this distinction and didn't understand that they had the right, in fact the duty, to take jurisdiction of these cases and order the administrative actions to cease.

So we tried to bring these legal issues to the attention of Mr. Ryabets, and they seemed to be well-received.

While we're discussing election administration, what I think is probably a key difference in this election is that political parties are now the individuals that staff, for the most part, of constituency election commissions and, to a certain extent, polling station commissions.

The United States had spent considerable amounts of money to help train and educate polling station commission members, constituency election commissioners and the CEC . All that changed dramatically with the adoption of the new law.

Our focus now has been to try to train as many political party members who are parts of commissions as possible. There is the contractor on the ground in Ukraine charged with this training. This change in the law, however, was not entirely foreseen, so there is a real gap in terms of the training that these political party representatives might be able to receive prior to election day.

So IRI has shifted some of its efforts to try to educate and train these people who have never administered elections before, so that they will, A) understand the law and, B) be in a position to implement it. So a large focus for IRI and, as Nelson mentioned, for NDI has been on the training of election commission members.

With regard to the situation with the media, we have found, as stated earlier, there is tremendous pressure on many media outlets, print and electronic. Many reporters that we spoke to felt threatened and didn't feel comfortable reporting on some things that they wished to report on.

That is a problem that, I think, as Nelson alluded to, is only going to worsen as the campaign progresses. That is an area that I think we all need to be watchful of.

With regard to political party development, per se, I think what we have found is an increased level of sophistication and planning among the various political parties.

As Amb. Miller stated earlier, the key difference this time is that the center-right seems to have coalesced, in large part, around Nasha Ukraina.

What we've seen is that these parties have taken advantage of some technical assistance that's been provided to them over the years. We see a great sense of what we would call basic campaign tactics and techniques—targeting, get out the vote, message development. All of that was very encouraging.

On the non-governmental side, which is another area that we looked at, I think that the contribution of CVU and other monitoring groups has been a terrific benefit, just in terms of making sure that government authorities are on notice, that people are monitoring events, they are covering the campaign and they are going to be reporting on it.

I think that, as stated earlier, the problem of administrative resource being devoted to campaigns might be inhibited.

Let me make a couple of brief remarks about the issue of the use of administrative resources.

Many people in Washington are using this term loosely. In fact, there's some confusion among Ukrainians about this term "administrative resource." What we're trying to say, in making this allegation, is that government funds or government facilities are being used to political advantage, period. That's the standard that we are using.

Ukrainians are somewhat confused by this term when it's used because, under the current law, in fact the previous two parliamentary election laws, because election commissions are ad hoc entities set up just prior to elections, they have no resources whatsoever. The law requires that localities grant them items such as transport, facilities, computers and other material resources. So I think we've tried to be very cautious about how

we use the term here in Washington because of the way it's interpreted in Ukraine. But the issue of devoting government resources during the campaign is an important one. I think that Nasha Ukraina is starting to feel the effects of this.

You can see that during the national tour conducted by Viktor Yushchenko, his campaign is being denied access to local media, is being denied access to certain political gatherings and to voters. So that is another area that we need to be watchful of.

Just in terms of our recommendations to the CEC, in addition to the recommendations in Article 50 and Article 29, there's also an issue of interpretation of the law.

Previously, the Ukrainian election law had always empowered the CEC to provide interpretation and clarifications of the election law. The new law no longer grants that power. Mr. Ryabets has said on the record that he does not have the power to interpret the law. This is problematic because he is also charged under the same law with providing guidance to lower commissions.

So the question that we posed during our meeting with him was, how can one provide guidance to lower-level commissions without making an interpretation of the law? He concedes that that's problematic for him, and that is an area that we're going to have to look at in terms of amending the law with an eye toward the presidential election.

So we made a number of recommendations. They seemed to be well-received. They may be moot as far as this election is concerned, but I think that they have merit in terms of the next election, the presidential election which is not far off.

I would conclude my remarks in saying that the efforts that IRI and NDI have been conducting I think have been very helpful not just in political-party development, but also in allowing civic organizations of voice in monitoring the elections and, I think, to a certain extent, being able to deter vote fraud.

Then finally, our training of election commissions I think is going to be important. The one commonality that all these parties have, regardless of ideology, is that they all want some sort of guarantee of a deterrent against fraud. That is the one common thread that holds these various political parties and blocs together.

So, we feel that allowing political parties a greater role in monitoring what takes place not just on election day, but during the campaign period, and actually helps implement the law I think is a positive step.

So I would say that some changes in the law have been problematic because of ambiguity and lack of clarity. I would also say that some changes I think have been for the best.

With the formation of the constituency election commissions, and then last week with the formation of the polling station commissions, there were 30,000, many of which have political party representation. We hope that these parties are in place on election day, and with the added monitoring that's being done, that we will have some effective means to deter any fraud that might take place.

I will conclude my remarks there.

Mr. McNAMARA. Thanks a lot, Steve.

Before leaving the office this morning, I received from the OSCE's Office of Democratic Institutions and Human Rights (ODIHR) based in Warsaw, an information sheet regarding ODIHR's observation of the March 31 elections and the naming of Ambassador Michael Wygant as the head of that mission of both long-term observers and a cadre of short-term international observers as well.

Just a couple of personal observations. Ambassador Miller tended in his remarks to emphasize the relatively brief period of Ukraine's independence. Certainly, as one who

has followed developments in that country now for more than 2 decades, I certainly appreciate the sentiments that he conveyed, as well as Ambassador Ledsky's raising some concern regarding the general direction Ukraine may be heading in.

I guess my observation is, first and foremost, that in terms of our work at the Commission, we emphasize or try to emphasize trends within countries, because the OSCE participating States obviously have a significantly different historical development in terms of their political and other developments, so we do try to be mindful in that regard.

In that sense, I guess my observation, having worked on the Hill for almost 22 years now, is that there's generally a very large amount of goodwill in terms of Ukraine issues here on the Hill. But I think those people who have been particularly supportive of Ukraine have found it a bit more challenging in recent years, particularly as—I guess my observation is that there's a perceived stagnation, if you will, in terms of the democratic development in Ukraine.

Ambassador Miller mentioned the CEC as well as the courts. Back in the mid '90s, when one of my Commission colleagues returned from an observation, it really struck me, because we were talking about that election, that it's very easy for us here in the States to feel that once a country has gone through several generally free and fair elections that you can sort of check that off and move on to the next country. But obviously there is the question of the development of democratic institutions, such as independence courts and the judiciary, which certainly, in the context of the upcoming election, could be tried in decisions that they may be called upon to make as well.

So those are just a couple of personal observations.

On a housekeeping matter, there will be about a little over a half-hour of time for questions from the audience. Again, if you'll come forward, indicate your name and any affiliation that you may have, who the question is directed to, if that's applicable.

And then I would just note that an informal transcription of today's proceedings will be available tomorrow by the end of the day, accessible through the Commission's web site, which again is [www.csce.gov](http://www.csce.gov).

Thank you for your attention.

If Congressman Horn has any questions, I'd certainly recognize him first.

Mr. HORN. That's very kind of you, but I want to listen and see as much as I can.

Mr. McNAMARA. Great, thanks a lot.

If the first questioner will come up and speak into the mike, that would be helpful. Thank you.

QUESTIONER. My question's really for all the panelists. It pertains to your work as Western observers observing the election situation in Ukraine.

I'm wondering, is there, when you approach the question philosophically, is there a danger in any way that you feel, or a responsibility, of not being excessively, in a sense, critical of the situation in Ukraine?

In other words, can an overly negative spin on a situation, if you will, isolate Ukraine more from Western democracies? Or do you feel, in fact, that the more scrutiny you apply and if you do set the highest standards for looking at what's going on in Ukraine, will that actually benefit Ukraine's progress toward westernization?

Amb. MILLER. I was there in Kyiv last week with the delegation led by former Secretary of State Madeleine Albright. We spoke about the problems and opportunities in intensive meetings with as many people as we could, from President Kuchma down to the

heads of all the major parties as well. We also spoke to the head of the election commission, Mr. Ryabets, and others involved in the electoral process.

The question you pose is one of discussion that has taken place in Ukraine and here as well between friends. All of us, I think, have an interest in Ukraine elections because we want Ukraine to succeed as a democratic nation. The discussions we've had were based on that premise that we would not raise difficult questions unless we thought it is necessary to do that. Obviously, we try to discuss difficult problems frankly and as courteously as possible, but we do not always succeed.

I think as friends of Ukraine, we have to point out problems as we see them, particularly when we think they are crucial. In this case, this election is a crucial election. It's very important for Ukraine, for its government, for its system of governance, to have as free and fair an election as possible. It's crucial to its international reputation and to the dignity of its own people to do so.

I think we Americans and the Europeans who have gone to Ukraine to meet with its leaders, have traveled there systemically, and have gone with the idea that we want to help in whatever way we can. One way that we can help is to speak honestly about what we see with our own eyes and make constructive suggestions about remedies.

Mr. NIX. I would just add to that, as someone who worked on the election laws of Ukraine for a number of years, we were outside counsel, Judge Bohdan Futey and myself were outside counsel to the legal reform committee in the Verkhovna Rada (Parliament), and we also served as legal consultants to IFES, who worked with the CEC.

In terms of some things we brought up with the election law, it was done with the backdrop that the previous laws in the dark old days still had Ukrainians conducting negative voting—in other words, they were voting against people, as opposed to voting for the candidate of their choice. There were impossible turnout standards and vote margin standards, which led to a mass of seats not being filled in the Rada, a lot of other systemic problems with the law.

Ukraine has come a long way systemically in terms of developing a legislative framework for conducting elections. So our approach throughout this pre-election assessment was to acknowledge the gains that have been made, but some things can be improved.

I think as long as we communicate things in that spirit that we are in a position of trying to help Ukraine make improvements, make sure that it has the best legal and electoral framework, make sure it has the best system that it possibly can at this point in its history, that's the focus and that's what we have tried to achieve in our work there.

Mr. McNAMARA. Ambassador Ledsky?

Amb. LEDSKY. Everybody hears questions differently. The two previous speakers have responded to you as they understood the question.

I understand the question to be whether one ought to give Ukraine a certain level of slack in evaluating what it's doing as compared to what others are doing.

My answer to the question is, NDI works in 50 or 60 countries around the world; so does IRI. We think we would be doing a disservice to Ukraine to judge it on a lower standard than the countries to which it wishes to be associated, namely the West, namely the United States.

So we do not wish to cut it any slack. We do not wish to judge it on a standard different from any other country that is a member of the OSCE, that is an aspiring member of the European Union or the European community, that is an aspiring member of the Western world.

QUESTIONER. In previous elections, the Central Election Committee has come out with statements regarding violations, such as “Violations had no significant impact on the outcome of the vote.” I’m sure both Steve Nix and Nelson Ledsky are familiar with these kind of statements.

Now, this is primarily in reaction to Ambassador Ledsky’s comments about the ongoing violations and the escalations and Steve Nix’s knowledge of the new election law.

Seeing where we’re going this time around, do you feel that you are going to see more of the same kind of excuses from the Central Election Committee, or does the new law address some of these issues?

Mr. NIX. Well, I think the situation is different, because now you’ve got jurisprudence, you’ve got court decisions that have basically carved out of a standard in Ukraine very similar to the standard that courts have developed in the United States and in western Europe. That is that alleged violations of the election law, alleged violations, whatever they may be, have to be sufficient in amount to have affected the outcome of the elections in order for that election to be overturned.

It’s a very simple standard. In fact, that’s the standard that many Western advisers, legal advisers, including myself, have discussed with our Ukrainian counterparts. Because you did have cases where there were allegations that perhaps 2,000 votes might not have been valid, but yet the outcome of the election was a margin of 20,000 votes. I mean, given that set of facts, I think the courts have carved out a clear standard here.

So, I think your question goes probably more to what the courts will do as opposed to the CEC. Because you have to remember that decisions of the CEC are directly appealable under this law to the Supreme Court of Ukraine, and the Supreme Court will decide whether or not allegations have met the standard that I just discussed.

Mr. McNAMARA. Ambassador Ledsky?

QUESTIONER. Having had the opportunity to serve as an accredited observer for the 1999 presidential election for the IRI, I observed a fairly high level of professionalism and transparency in that election.

I was wondering if there’s a consensus in today’s panel that there have been some setbacks to the progress that had been done at that time?

Mr. NIX. The big question really is—I mean, I think we all acknowledge that, due to the education and training and the willingness of the Ukrainian government to invest resources in this, that election administration in Ukraine for the previous two parliamentary elections is generally acknowledged to be fairly well-conducted.

The big question mark emerged when that system was turned in and replaced by this new system of having partisan, political party activists take their place on the Commission. So the big question is whether or not that is a step in the right direction or is it not, if I understand the question.

Now, I tend to think that it is. I think that giving parties a greater role in the administration process is a step in the right direction. As I said earlier, the commonality of the common, united stand against fraud I think will result in positive developments.

The biggest challenge, I think, that we’re going to see is that, even though the law confers the right of political parties to have people on all the way down to the polling-station level, some parties are obviously not well-developed enough to have people in all 30,000 polling stations. Actually, it’s over 32,000.

That’s the big problem, because if parties do not submit candidates, then local authorities, pursuant to the law, are allowed to select who will serve on commission. Then I

think the possibility of what we discussed earlier of having people in position of power and local authority the administrative resource, that might be a threat to the integrity of the elections.

But we're not there yet. The commissions—the polling station commissions were formed as of February 23. For the most part, in large cities, medium-sized cities and even small towns, political parties have done their job, they've gotten people on the commissions.

But there are some areas in rural villages that are going to be of concern. But we'll take that into account, and NDI will and others, when they direct their monitoring effort. Because that's got to be the big focus of the monitoring effort, is those places where parties aren't represented.

So, in general, I think it's a positive development.

Amb. LEDSKY. Let me answer your question and the one before.

I want to associate myself with everything Steve has said about the electoral administration and the improvements that have been made in the law. I think these are steps forward, and I think they are very important.

What we discovered in 1999, and I think the OSCE report reflects this, is that the administration of elections on election day was fine. One could raise some questions about 2000, but in 1999 in the run-off presidential elections, there is a general recognition that election day went smoothly.

But what the OSCE report pointed out was that there were major questions about what went on before election day, what went on during the campaign period, whether the playing field on which the election was carried out was level, and what needed to be done to make it more level. That is the area we have focused on with respect to 2002.

That is why a major effort has been made to put monitors into the field in the months prior to the election. That is why the Committee of Voters of Ukraine have begun to issue periodic pre-election reports on the situation prior to the election. Once again, they have found that there are problems in this pre-election period, major problems.

Secondly, I would add this point. These are parliamentary elections. It's easier to say in a presidential election that 2,000 votes here or 2,000 votes there will not affect the outcome. But in an election in which there are 225 single-mandate districts, the shift of a few votes, a few votes in the individual constituency, can mean the difference between success and failure of a candidate, particularly under this election law where a plurality will get a candidate election. There are not run-off elections in the 225 seats. First past the post wins all.

Hence, when you have 15 or 16 candidates running, whether there is a tiny level of cheating or a large level of cheating will make an enormous difference.

Amb. MILLER. The way elections are won has been changing over the 10 years of Ukrainian independence. What I mean by that is that, how do you get yourself known in the country so that people would vote for you? A question as fundamental as that.

If you do not have access to television or newspapers, or even if you do have access to the papers and you're not known, what techniques do you use to become known?

Those few who now have the access to television have been flashing their names through ads, through reports of their activities on the stations that they very often own. At the present time television is the main way information gets to the public at large.

In some cases, candidates have gone from relatively unknown to known by a substantial majority. It has had an impact. So those, unfortunately most of the candidates, who do not have access to television, are behind the power curve. That's quite evident.

What's very interesting is to look at the power of polling, something that we take for granted here and Western countries. The present importance of polls in Ukraine is enormous, because it's one way of reporting to the nation, and the people can see the relative balances on key issues of importance to them.

The polls have had a very powerful effect on public opinion. They also indicate, when they are done skillfully—and there are skillful polls taken in Ukraine—of what the people think. They even approach the discrimination of what we call here focus polling. It's proven to be quite effective.

The assistance given in the past by the United States and the West to improve the quality of polling is a very important part of democratic institution-building. In this election, it is a critical factor in reducing the possibilities for fraud.

I would say that many of the important issues in the election can only be dealt with by hand-to-hand combat. The candidates have to go out into the districts to make their case, and this is healthy. The denial of equal access to media has produced a tougher democratic political man, so to speak, and it's a plus.

So it isn't all negative. The adversities have produced positive results, and one can see it. The outcome of denial to television or media access is that those candidates that have been denied equal access have gone up in public favor.

QUESTIONER. I was just wondering if you gentlemen could comment on whether the Bush administration and Congress could do something more to help assure free and fair elections in Ukraine.

Amb. MILLER. Yes, I think paying attention, direct policy attention to the importance of Ukraine as a democratic nation, as a part of Europe, of NATO and the EU, and urging to the Ukrainian leaders that the election be free and fair as hortatory expression is important in itself. But I think sustained assistance to democratic institutions that affect elections, in the long term, is very important.

In the whole area of the former Soviet Union, a great missing element in the development of sound democratic institutions has been the development of the media in ways that can contribute to public discourse. Support for independent television, support for independent reporting is a crucial element in democratic institutions, and that's something that we can and should do.

In the short term, support for polling and weekly polls, and support for anything that brings to public attention the quality of candidates and the facts that are most important in the election should be done.

Mr. McNAMARA. I would note that one of our Commissioners, Congressman Joe Pitts, has joined us.

Congressman, if you had any questions or a statement?

Mr. PITTS. No, thank you. I was just wanting to catch some of the briefing. I'm sorry I missed the first part due to other meetings.

Mr. McNAMARA. OK. Thank you very much, Congressman.

As I had announced earlier, there will be a full informal transcription of today's proceedings available by close of business tomorrow, so we certainly will make sure that gets to your office.

The next questioner, please.

QUESTIONER. We've been discussing elections for about an hour and a half, and somehow the question of money, soft or hard or otherwise, has never come up, which is kind of surprising, if one compares it to our own system here.

Is it really true that Ukraine has not advanced to the level where it has money problems in its elections?

Mr. NIX. Let me just say this, that the current structure of campaign finance regulation in Ukraine is not particularly mature nor strong. There are not really stringent requirements for disclosure, per se, such as we have in the United States.

One of the biggest problems is how to implement the law when most of the electoral administration structures are ad hoc and disappear after 90 days; they no longer exist.

So it's a problem that I would describe as emerging, and I think you're going to see money and campaign finance play an increasing role in campaigns in Ukraine. I predict that it will be a very big factor in the presidential elections when they arrive.

In response to your question about the current situation, there are allegations. The law isn't particularly strong in terms of oversight, but I would venture to say that there are other problems more pressing presently in Ukraine with regard to its electoral system.

Amb. MILLER. No, I thought I alluded to the money issues. But yes, money is terribly important. Money makes advertising possible, access to television, the purchase of television stations, the purchase of newspapers, the financing of campaign staff. It has become a major element in the conduct of elections in Ukraine.

The difficulty of defining limits for the use of money in elections is still in a beginning stage. There are limits in the law, but they are not observed. Money is a very crucial factor now and for the future— you're quite right to raise it—and all of the campaigns of all of the parties and individuals depend on money to function. The question is how do you create a level playing field?

QUESTIONER. [Off-mike].

Mr. McNAMARA. That would be the issue of electronic or written ballots, where are we on that for the rural areas and the urban areas?

Mr. NIX. I would just say that Ukraine, like many of the neighboring states, uses exclusively a system of paper ballots. There are no electronic means to record votes. Ukraine is not quite at the stage where it's ready to venture into the electronic age in that particular area.

I will add for the record, though, that one of the major improvements for the use of paper ballots in Ukraine is the fact that, even though they are individual ballots, they reflect the dual system of party list seats and single-mandate constituencies.

There are provisions now, better provisions for centralized printing of these ballots, and also for their security. That was an important advancement in this particular law with regard to the use of paper ballots.

QUESTIONER. This question is for everyone on the panel and follows on the question about money in the campaigns.

There have been worries raised in the past over the influence of neighboring countries, and in particular Russia, on the electoral process and on politics in Ukraine and, in particular, in connection with money from Russia and Russian oligarchs.

I wonder, in your view, if this is warranted in this election, and how that might play out.

Thank you.

Amb. MILLER. Well, that's a key issue. That's right on the nose.

There has been a considerable discussion in Ukraine about the power of the oligarchs, including Russian oligarchs, not just in this election but in government itself, in the presidency, in the courts, in the legislature and everyday life.

The power of the oligarchs and their money is reflected in the structure of governance generally.

The issue is, when is oligarchical money illegal? When is it unethical? In what ways should it be curbed? This election in large measure is about those issues.

Some candidates who have no money of their own depend on money of others for their success, and others depend on their reputation and quality, and the voters are really choosing in that realm. There is not yet a legal structure that adequately addresses this problem.

Amb. LEDSKY. There are, in this election, several blocs which are clearly pro-Russian and organizations running on a platform of closer ties to Russia.

There are a number of other parties and blocs that have been using advisers, consultants, firms from Russia to do their advertising, to do their public relations, to do their outreach.

There has been, in this election, a larger Russian presence than in previous elections. There is no question that the appointment by the Russians of former Prime Minister Chernomyrdin as ambassador to Ukraine has had the beginnings of a real influence on the closeness of Russian-Ukrainian relations.

So, your question, I think, is very precise and very pertinent. I do not think anybody could give you a very clear answer as to the level of Russian involvement in this campaign over previous campaigns, but it is clearly more extensive, more prominent, more visible.

QUESTIONER. I'd like to ask the panel as a whole to comment, if you will, on the perception of these elections in the EU by the European countries.

I ask that question, because the article by Taras Kuzio suggests, I think, that the EU has almost written Ukraine off or at least is in the process of doing so.

And therefore, the real question is, do they share your perception, the general perception of the panel, that these elections do indeed matter, that the stakes are very high?

This seems to be the consensus here. Let's hear what we think about the European Union at this time.

Amb. MILLER. No, I wouldn't agree with that. I think that the members of the European Union share with the United States the belief that Ukraine is vital to the security of Europe and the stability of peace in the area, to use the mantra.

I found, when I served there as ambassador, that the Europeans had a very deep understanding of political dynamics and a sense of where Ukraine was going and the problems they are encountering. They were very helpful in joining with us on efforts to support Ukraine, efforts to strengthen democratic institutions. I think that's the case now.

I know from my recent trip that Ambassador Pascual, my very good friend, is working closely with the European ambassadors and the EU formally to assist in this effort to have as open and transparent and decent an election as possible. So I think that's a mistake. The Europeans understand the importance of Ukraine.

Amb. LEDSKY. I would simply add to the point Ambassador Miller made. The Europeans are making an effort equal to American institutions to support and underscore a free and fair election process in Ukraine in March.

We have worked closely with some European organizations. Some of the funding for Committee of Voters of Ukraine has come from Europeans.

As Ambassador Miller said, the European ambassadors in Kiev are working almost on a weekly basis with our ambassador to help ensure that this electoral process is going to be free and fair. They are only doing this because they agreed with us, I think, on the panel that these elections are important and are crucial to Ukraine and to the relationship between Ukraine and Europe.

QUESTIONER. My question is to representatives of NDI and IRI. First, thank you for your job in Ukraine. My question is, Yulia Timoshenko announced a couple of days ago that her bloc, Nasha Ukraina and the Socialists, would conduct an alternative count of votes. Do you plan to help them? Do you plan to cooperate? Do you plan to conduct something like that by yourself?

Thank you.

Amb. LEDSKY. Thank you for this question. We have worked with Yulia Timoshenko, as well as with many the other blocs that are competing in these elections. Secretary Albright and Bill Miller met with Mrs. Timoshenko a week and a half ago to discuss her campaign and to get her insights. So we are aware of her campaign and her campaign difficulties.

We have worked with her party in an effort to help them spread the word, their word, across the country, along with the word of all the other 32 blocs.

As for quick counts and parallel vote tabulations and other devices to an election day, the Committee of the Voters of Ukraine intends to do a targeted deployment to prevent fraud. This would not occur across the whole country, because that's going to be impossible, and not related to the parliamentary lists, because we have determined that it's impossible to determine to within 2 percent whether a bloc clears or does not clear the 4 percent hurdle.

I'm not sure that Mrs. Timoshenko and her people have the capacity to run a vote tabulation of this kind.

As I said, I think what we found is that the counting on election day is usually accurate and fair. The CEC has already announced it will post, precinct by precinct, the tabulation on election night or as soon as possible thereafter.

So I do not know that this kind of tabulation could be effective, is necessary, or will be run. We will do a parallel vote tabulation on 20 or 30 other crucial single-mandate districts.

Mr. NIX. One quick note on procedure. IRI is focusing more on the training of political party reps on polling station commissions and constituency election commissions, and there's a good reason for this.

The new law provides, requires in fact, that the protocol for all polling stations be signed by all the officers of the commission—those all will be political party members—they all have to sign off on that document. It's sealed, before those ballots and those results go up to the constituency election commission.

Party people are also allowed access and will accompany—have the right to accompany these materials as they make their way up the administrative chain, all the way to the CEC.

Mr. NIX. That's really where our focus has been, to try to train people on how to conduct their jobs on election day as opposed to trying to do the various parallel vote counts and other measures.

Mr. McNAMARA. Dick Murphy had his hand up earlier. I do not know whether has a question or not, but our time really has expired for today's briefing.

On the behalf of the Commission, I want to express our appreciation to the panelists, drawing on their many years of engagement with Ukraine and including considerable on-the-ground involvement.

So thank you very much, ambassadors and Mr. Nix. This concludes today's briefing.  
[Whereupon, the briefing was concluded at 11:30 a.m.]

## **APPENDICES**

### **MATERIAL SUBMITTED BY AMB. NELSON LEDSKY, NATIONAL DEMOCRATIC INSTITUTE**

#### **STATEMENT OF THE NDI PRE-ELECTION DELEGATION TO THE MARCH 31 ELECTIONS IN UKRAINE KYIV, FEBRUARY 17, 2002**

This statement is offered by an international pre-election delegation headed by NDI Chairman and former U.S. Secretary of State, Madeleine K. Albright. The delegation includes: NDI President Kenneth Wollack; former U.S. Congressman Sam Gejdenson; former U.S. Ambassador to Ukraine, Bill Miller; a former Assistant Secretary-General of the United Nations, Cedric Thornberry; Director of Georgetown University's Institute for the Study of Diplomacy, Casimir Yost; former Advisor to the President of the National Assembly of Slovenia, Mjusa Sever; international trade consultant Robin Carnahan; and NDI Senior Advisor Laura Jewett.

#### **SUMMARY CONCLUSION**

At this moment, it is unclear whether the March 31 elections will mark a step forward for Ukraine's democratic future. Despite significant improvements in the election law, the delegation is concerned about how those laws are being applied. Most significantly, the delegation observed or received credible reports of intimidation of journalists, denial of access to the media, unbalanced news coverage, and abuse of power and illegal use of public funds and facilities. Immediate steps need to be taken, primarily by government authorities, to reverse the historical trend of seriously flawed elections in Ukraine and to build public confidence in the country's political system.

A strong, independent, democratic and prosperous Ukraine is vital not only to the citizens of the country but to the stability and development of the entire region. Therefore, the election process, as a means to advance and deepen democracy, has drawn the attention of the international community. Ukrainians with whom the delegation met defined the conduct of these elections as pivotal for Ukraine and a determinant of its place in the community of democracies.

#### **THE DELEGATION AND ITS WORK**

The purposes of NDI's multinational delegation are to demonstrate the international community's interest and support for a genuine democratic election process in Ukraine, and report on the environment surrounding the March 31, 2002 parliamentary and local elections, and preparations for the polls.

The delegation conducted more than 70 meetings in different regions of the country. These included meetings with government officials at all levels, including President Leonid Kuchma, election officials, leaders of political parties, candidates, and representatives of the news media and civic organizations. The delegation would like to express its appreciation to all those with whom it met for their warm reception and for sharing their insights.

The methodology of NDI for monitoring elections is based on the premise that all aspects of the process must be considered to accurately assess an election. This includes the period leading up to election day and the broader political environment in which an election takes place. At the same time, NDI recognizes that it is ultimately the people of Ukraine who will judge the conduct of the elections.

NDI has conducted similar pre-election missions in dozens of countries in every region of the world. The Institute has been working in Ukraine since 1992 to support the development of democratic processes and institutions. The Ukrainian government, political parties and civic organizations have welcomed this and other international observer efforts.

## **BACKGROUND**

Ukraine's presidential election in 1994 resulted in a peaceful transfer of power. Unfortunately, subsequent elections were increasingly marred by procedural irregularities and violations of political rights that called into question the integrity of the process. The international community and local observers noted that the 1998 parliamentary elections and the 1999 presidential elections were characterized by politically motivated violence and intimidation, media bias and abuse of public office, and legal and administrative problems. The integrity of the 2000 referendum was called into particular question by falsified signatures, abuses of early voting, and inflated voter turnout. The electoral history has undermined public confidence in the country's political processes. This is reflected in recent public opinion polls showing that there are more people who believe the upcoming elections will be unfair than people who believe they will be fair.

International experience demonstrates that in countries where doubts have been raised about the conduct of elections in the past, as is the case in Ukraine, it is necessary to take extraordinary steps to build or restore public trust in the process. Confidence in the electoral system and the perception of its fairness are as important as the letter of the law.

## **OBSERVATIONS**

The 2002 parliamentary election law incorporates a number of positive changes that provide opportunities for a more democratic electoral process. It spells out rights for party, candidate and international observers. It provides for multi-party representation on election commissions. It calls for equal opportunities for all electoral contestants and equal access for them to the media. It sets rules for posting protocols of results at polling stations. It outlines rights of appeal and specifies administrative penalties for violations.

Regrettably, the opportunities created by these legal changes are not being realized in a number of significant areas, and the election law still fails to meet Ukraine's international commitments in at least one important respect: the right of citizens to act as non-partisan domestic monitors on election day. The delegation was most concerned about the following violations of the letter and spirit of the law:

- Access to the news media and coverage of the election;
- some media outlets, critical of government or business interests, have been subjected to harassment, including financial investigations, and abrupt suspension of licenses;
- journalists have been subjected to intimidation and violence;

- the state-controlled media have demonstrated a pro-government bias;
- candidates have been denied the opportunity to purchase paid advertising time.
- The use of “administrative resources”;
- The term “administrative resources,” which is widely used in Ukraine, is meant to describe abuses of power and illegal expenditure of public funds by government authorities;
- government spaces have been used for campaign purposes;
- public employees have been working on political campaigns and citizens have been pressured to join parties or blocs, or to work for certain candidates;
- government authorities have interfered in campaigns;
- government authorities have denied public facilities and services to candidates, parties or blocs.

These problems undermine the perceived independence of those overseeing election procedures, advantage some participants over others and deny voters the information and freedom required to make informed political decisions.

## **RECOMMENDATIONS**

Reflecting its discussions with Ukrainians, and in the spirit of international cooperation, the delegation would offer recommendations to help improve the prospects for credible elections on March 31. Beyond the legal framework, political will is now necessary to create a democratic environment in the remaining weeks of the campaign.

The responsibility for addressing many of the problems outlined above lies disproportionately with government authorities. They must use all means at their disposal to educate employees at all levels about their responsibilities under the election law. They should compel government officials and state institutions, including the media, to comply with the letter and spirit of provisions of the law that require strict impartiality toward all political parties, blocs and candidates, that prohibit interference with the election process and that bar the use of state resources for the advantage of particular electoral contestants. They should investigate expeditiously all credible reports of improprieties and violations, and be prepared to impose swift disciplinary action.

Additionally, candidates, political parties and blocs, civic groups and individual citizens should make use of electoral complaint mechanisms to bring matters before appropriate law enforcement bodies for prompt review and resolution. They should work cooperatively, along with government authorities, to support the work of journalists to combat an environment of fear and intimidation.

The delegation noted significant confusion surrounding the new election law and procedures in meetings at the district level. We recognize that it is early in the campaign period and many planned training and education programs are not yet underway. Nevertheless, poorly administered elections can create opportunities for misconduct. Given the new law and the number of elections taking place on March 31, the Central Election Commission and relevant NGOs should redouble their efforts to train and support commissioners and pollwatchers so they can fulfill their duties professionally and efficiently.

## **CONCLUSION**

The delegation was inspired by the dedication and engagement of many party activists and candidates, who have sought to offer voters a range of choices. Equally impressive has been the work of civic activists, who have sought to promote and protect the integrity of the election process. In particular, the long-term observer effort by the Committee of Voters of Ukraine has made an important contribution to the understanding of challenges that must be overcome prior to election day. The work of NGOs to educate the citizenry, solve local problems, shape national policies, and hold their elected representatives accountable contributes measurably to the political life of the country. These political and civic activists represent the greatest hope for Ukraine's democratic future.

An election that allows parties and candidates to compete on a level playing field, gives voters the news and information they need to make informed decisions and provides citizens with confidence that their ballots will be counted accurately would provide the foundation for public trust in government and would signal a clear commitment to a democratic course for Ukraine.

**MATERIAL SUBMITTED BY AMB. NELSON LEDSKY,  
NATIONAL DEMOCRATIC INSTITUTE**

**COMMITTEE OF VOTERS OF UKRAINE  
LONG-TERM OBSERVATION REPORT  
ON THE 2002 PARLIAMENTARY ELECTIONS  
JANUARY 2002**

**SUMMARY**

In October 2001, the Committee of Voters of Ukraine (CVU) began its long-term observation of the 2002 parliamentary election process. CVU is a non-partisan citizens' election monitoring organization with 160 branches throughout Ukraine. CVU will report regularly until the March 31, 2002 elections.

In January, 50 long-term observers visited 577 cities and 679 political party branches, and attended 418 events conducted by political groups. CVU found that the violations of the election process increased both in number and in variety compared to December.

In previous months, CVU monitored violations of fundamental political freedoms and human rights. With the official start of the campaign period on December 31, 2001, the meaning of the term "violation" now also includes contraventions of Ukrainian election legislation.

Each time a problem was reported to an observer, the head of the regional CVU organization called the individual making the report to verify it and obtain details. In many cases, people are reluctant to talk about violations, fearing retribution from their employers or others.

The main violations recorded by CVU in January were:

- Open election campaigning, by all political forces, in contravention of the election law;
- Campaigning by state officials or use of state resources to support favored political candidates and groups;
- Government pressure on some political parties, candidates, and media outlets;
- Poor administration in the formation of district election commissions and in their subsequent activities;
- Free goods and services given to sway voters;
- Isolated cases of violence against journalists and political party activists.

CVU noted no instances where violators of the law were punished. Part of the blame for this lies with the candidates, parties, and citizens whose rights have been infringed. CVU has been surprised and disappointed to note that very few complaints have been lodged with election commissions and the courts.

**MAJOR FINDINGS**

*Illegal Campaigning.* Ukrainian law prohibits "the conduct of an election campaign" more than 50 days prior to election day (*Law on Elections of People's Deputies of Ukraine*, Articles 50 and 51). For the March 31 parliamentary elections, February 9 marks the first day that parties and candidates can campaign legally.

In practice, however, most parties and candidates were actively campaigning for public support throughout the month of January. These activities represented the most common and widespread violation that CVU observers witnessed. The imprecision of the election law—which does not define “election campaigning” – contributed substantially to this situation. Faced with a vague law, state authorities ignored almost all these violations.

The number of cases of open election campaigning is large and varied. Although virtually all political blocs and parties were active, those supported by state officials were the most common perpetrators.

## **PARTISAN INVOLVEMENT BY LOCAL AND NATIONAL EXECUTIVE BRANCH OFFICIALS**

Apart from the many instances of illegal campaigning, partisan interference by executive branch officials into the election process constitutes the most common violation in January. The number of these cases does not appear to be falling. Such involvement is in direct contravention of the election law, which requires “impartial treatment of parties (blocs) and candidates ... by bodies of state power, bodies of local self-government, their officials and officers, and head of enterprises, institutions, and organizations.” [Article 10.2.7]

The most serious violations involve the expression of support by powerful executive branch officials for selected candidates or parties. These comments are usually followed by recommendations to subordinates to follow suit. In other cases, favored candidates or parties are given access to state resources, such as transportation, office space, and media. The majority of these violations involve the bloc ‘Za EDU’ and its candidates in single mandate constituencies. During January, CVU observers recorded more cases of state involvement on behalf of single mandate candidates rather than for party lists.

Ukrainian legislation permits state officials to stand as partisan political candidates. It is, nonetheless, illegal for them to use state property to campaign. To avoid confusion, CVU has recorded only those cases where such candidates have explicitly used state resources on their own behalf.

Some examples:

- *Vinnitsa oblast*: Senior oblast officials (Deputy Governor S. Tatusyak, Deputy Governor V. Gavryluik, and V. Cherniy, Director of Agriculture) have been using their official position to campaign on behalf of the bloc ‘Za EDU’, in which they hold leadership positions. Free commercials have been produced by the state-owned Vinnitsa television station and “VITA” agency. These three officials campaign for their bloc during staff meetings and make use of official transportation for partisan activities.
- *Dnipropetrovsk oblast*: Most educational institutions received a formal “recommendation” of the oblast administration for students and teachers to prepare placards with such messages as “For United Sovereign Ukraine,” “For Sovereign Ukraine,” “For United Ukraine.”
- *Ivano-Frankivsk oblast*: Deputy Governor Shkriblyak has been using official transportation to travel around constituency # 90, asking people to vote for him and disseminating calendars with his portrait.
- *Zakarpacie oblast*: A senior official of Tyachivska rayon administration, V. Kushilka, encouraged his deputies to work for the authorities of the election bloc ‘Za EDU’. In turn, they made similar statements of support for the bloc.

- *Zakarpacie oblast*: Genadiy Moskal, the governor, appealed to his deputies to support independent candidate Vasyl Durdynets, the Minister of Emergency Situations. The governor's remarks surprised his colleagues since he had earlier spoken out in favor of Stepan Bobyk, head of Irshavska rayon state administration. They had already been actively supporting him.
- *Rivne oblast*: On January 10, at the session of the oblast council, its leader, D. Korylkevych, expressed support for independent candidate I. Bakay saying: "We need to chose such deputies whom we can turn to and solve problems of our oblast. I wish we had more people like Bakay."
- *Kyiv oblast*. O. Kovalenko, deputy head of Khmelnytsky rayon state administration, is the director of the headquarters of the candidate M. Petrenko of 'Za EDU'. The campaign's headquarters is housed in a government building and Kovalenko has been using official transportation for his political work.
- *Chernihiv oblast*: Governor Vasyl Kovalyov, speaking at a meeting of the oblast administration said: "We must prove that our oblast administration is able to chose people who are needed both for local authorities and in the parliament. We have to come up with the right candidates, we have to draw the line. I don't care what they say about us."
- *Kharkiv oblast*: State officials have been staffing the office of the election bloc "Za EDU" and meeting with voters.

#### **LOCAL EXECUTIVE BRANCH PRESSURE ON SOME POLITICAL PARTIES, CANDIDATES AND MASS MEDIA**

CVU observed a number of cases of executive branch pressure being put on selected political movements and media outlets.

- *Crimea*: The antimonopoly committee of the Crimean territorial government has begun intrusive inspections of the private television and radio channels "Zhisa," and the state television and radio channels "Krym." The committee has further announced that it plans to inspect the private television channels "Chornomorska," "Yalta-TV," "Visit," "Feodosia," "Kerch." Many observers see this campaign as politically motivated. For instance, Anatoliy Sivachenko, national representative on TV and radio issues in Crimea, wrote a letter to the head of the central antimonopoly committee, Olena Asmolova, calling attention to the inappropriate use of anti-monopoly measures in the midst of an election campaign.
- *Chernivtsi oblast*: Deputy Governor B. Rusnak has decreed that, for the duration of the campaign, parties and candidates are forbidden to meet with voters without the permission of rayon state administrations.
- *Kharkiv oblast*: V. Ivanov, interim mayor of Izuim, suggested to representatives of "Batkivshyna," "Our Ukraine" and the Socialist party that they not run for the mayoralty. Ivanov said that a person with "a great experience" already existed: B. Sidora, National Democratic Party member and head of Izuim rayon state administration.
- *Kharkiv oblast*: V. Slabunov, a prospective candidate to the oblast council from "Batkivshyna" bloc, was warned by local authorities to abandon his campaign and eventually refused registration as a candidate.
- *Chernivtsi oblast*: Ivan Popesku, director of Gertsaiiv rayon library, was fired for "opposition political activities."

- *Cherkasy oblast*: Leonid Polyovyi, head of the village council was prevented from running for the local council and eventually forced to leave his post by the rayon administration. A member of the Democratic Party, Polyovyi defied requests to join Social Democratic Party (United).

## **POOR ADMINISTRATION IN DISTRICT ELECTION COMMISSIONS**

The process of forming district election commissions was generally marked by indifference, sloppy procedures, and a weak application of the law. After their formation, the CEC received appeals from dozens of members saying they had been appointed without their consent. As a result, CEC “set free” 54 members of district commissions, including 4 commission heads and 8 deputies, from a variety of parties.

More seriously, administrative inattention has led to a situation where the blocs “Our Ukraine” and “Za EDU” illegally hold a number of leadership positions on the commissions. According to the election law (Article 20), the commission head, deputy and secretary cannot be representatives of the same party or bloc. District election commissions were formed before the blocs “Za EDU” and “Our Ukraine” themselves were established, leading to a situation where the leaders of several commissions represent different parties but all are members of a single bloc.

For instance:

- *Crimea*: The head and deputy head of commission #3 both represent the bloc “Za EDU”
- *Volyn oblast*: All three leaders of commission #23 represent “Our Ukraine.”
- *Lviv oblast*: In one commission (#117) two leaders represent “Our Ukraine,” in three others (#122, 123 & 126), “Za EDU.”
- *Odesa oblast*: The deputy head and secretary of commission #138 represent “Our Ukraine.”
- *Kherson oblast*: The commission head and secretary in constituency #184 are representatives of “Our Ukraine.”
- *Donetsk oblast*: In the constituency # 59, one person represents two different parties.

Once formed, many of the district commissions did not observe proper administrative procedures in their initial meetings. Often, commissions met later than they were supposed to under the law (January 11) and minutes were not kept. In some cases, state officials were also present. This is forbidden under the election law.

## **GOODS AND SERVICES TO VOTERS**

Compared with December, CVU witnessed fewer cases of voters being given small goods and services by political groups. Nonetheless, the number of such cases is still very high. All are prohibited by the election law: “Conducting of election campaigns accompanied by giving-out of money or by free or preferential distribution of commodities, services, works, securities, credits, lotteries or any other material values shall be prohibited” [Article 56.6].

A few illustrative examples:

- *Donetsk oblast*: Parliamentary candidate M. Yankovsky and mayor V. Rogachev gave away first medical aid kits, vitamins, and sweets to the public. In January, Yankovsky funded the installation of telephones in a remote village.
- *Kharkiv oblast*: O. Bandurka, a candidate, gave 50,000 hryvna (\$9400) for gas installation in the villages of Borisivka and Vesele.
- *Cherkasy oblast*: Deputy governor Tereshuk, a 'Za EDU' parliamentary candidate, visited the city hospital and gave away medications to patients.
- *Cherkasy oblast*: Parliamentary candidate M. Onufriychuk and the representatives of the charity foundation "For Spirituality" granted people who live in that district modern medical equipment worth 109 hryvnia (\$20) each. In Talny, Onufriychuk gave a computer and copying machine to the rayon Department of Work and Social protection.

## **VIOLENCE**

Unfortunately, in January the number of the attacks on journalists and political party activists increased. The attacks themselves and the trend are worrisome, but, so far, this is a marginal phenomenon.

- *Zaporizzhie oblast*: The chief editor of the newspaper "Business Berdyansk," Tetiana Goryacheva, was beaten and hospitalized. Her newspaper has offended influential people of the town and Goryacheva had been threatened in the past.
- *Kirovohrad oblast*: A member of "Our Ukraine" bloc Grygoriy Kovalchuk was beaten up. This is the third attack on him. In the same city on January 25, the oblast coordinator of the "Ukrainian Youth" bloc, Dmytro Kosartenko, was also attacked.
- *Lviv oblast*: The leader of rayon headquarters of the bloc "Our Ukraine," Bogdan Glova, was beaten up by two unknown people, who threatened him and demanded he abandon his election activities.
- *Kherson oblast*: On January 19, a chief editor of TV news channel Makalova was beaten up.

## **RECOMMENDATIONS**

- Government authorities should maintain a position of strict neutrality towards political blocs and candidates. Those displaying partisanship should be disciplined;
- Those state officials who are participating in the election as candidates should follow President Kuchma's recommendation and take a "vacation" from their jobs;
- The Central Election Commission should retroactively alter the leadership of district election commission to ensure multi-partisanship and compliance with the law. It should further examine administrative procedures to ensure that similar problems to not occur in the formation of polling place commissions;
- Parties, candidates, and citizens should submit complaints of violations to the prosecutor's office;
- Foreign states and international organizations should be aware of the behavior of political groups, politicians and enterprises and should limit their contacts with those that violate principles of fair elections;
- Voters should refuse to support candidates who do not campaign fairly.

**MATERIAL SUBMITTED BY AMB. NELSON LEDSKY,  
NATIONAL DEMOCRATIC INSTITUTE**

**COMMITTEE OF VOTERS OF UKRAINE  
LONG-TERM OBSERVATION REPORT  
ON THE 2002 PARLIAMENTARY ELECTIONS  
FEBRUARY 1-22, 2002**

**SUMMARY**

In October 2001, the Committee of Voters of Ukraine (CVU) began its long-term observation of the 2002 parliamentary election process. CVU is a non-partisan citizens' election monitoring organization with 160 branches throughout Ukraine. CVU will report regularly until the March 31, 2002 elections.

During the first three weeks of February, 100 groups of long-term observers visited 504 cities and 581 political party branches, and attended 315 events conducted by political groups. CVU found that the violations of the election process it observed were more serious than those in the previous reporting period.

During the last three months of 2001, CVU monitored violations of fundamental political freedoms and human rights. With the official start of the campaign period on December 31, 2001, the meaning of the term "violation" has been expanded to include contraventions of Ukrainian election legislation.

Each time a problem was reported to an observer, the head of the regional CVU organization called the individual making the report to verify it and obtain details. In many cases, witnesses are reluctant to talk about violations, fearing retribution from their employers or others.

The main types of violations recorded by CVU during the first three weeks of February were:

- Campaigning by state officials or use of state resources to support favored political candidates and groups. The block 'Za Edu' (For a United Ukraine) was the overwhelming beneficiary of this support.
- Government pressure on certain political parties, candidates, and media outlets.
- Criminal interference in election campaigns through violence, threats of violence or destruction of campaign materials;
- Illegal campaign practices by candidates offering free goods and services to voters and distributing unregistered campaign materials.

Executive branch interference in the election process has increased markedly since January and is now dedicated almost exclusively to the support of the 'Za Edu' bloc. Much of this interference takes place openly; in many cases, government officials involve themselves in the electoral process in an apparent attempt to win favor with their superiors. These efforts may be in response to the relatively low levels of public backing for 'Za Edu', as reported in opinion polls. CVU is very concerned that the remainder of the electoral process will be marred by even greater executive branch interference, especially if the popularity of 'Za Edu' is not seen to rise.

CVU has uncovered no evidence that state support for 'Za Edu' has been ordered or coordinated by the bloc's leadership or senior government authorities. In recent weeks, in fact, a number of cabinet ministers and government officials running for office have followed President Kuchma's recommendation that they take a "vacation" from their positions. On February 26th, the President repeated his call for strict neutrality on the part of executive branch officials.

Although no violations of the law were punished during the first three weeks of February, CVU has noticed that candidates, parties, and citizens whose rights have been infringed are beginning to lodge formal complaints with election commissions and the courts. The number of such complaints, when compared to the number of violations, is still quite low, however.

## MAJOR FINDINGS

*Partisan Involvement by Local and National Executive Branch Officials.* Partisan interference by executive branch officials into the election process is the most serious violation CVU observed. This involvement is in direct contravention of the election law, which requires "impartial treatment of parties (blocs) and candidates ... by bodies of state power, bodies of local self-government, their officials and officers, and heads of enterprises, institutions, and organizations." [Article 10.2.7]

The number of these cases is rising dramatically: CVU observed three times as many abuses during the first three weeks of February than during the entire month of January. Almost all executive branch interference is intended to assist the bloc 'Za Edu' and its candidates in single-mandate constituencies.

Some violations involve the expression of partisan support by powerful executive branch officials who also recommend to subordinates that they follow suit. As a result of these directives, employees of the state or of state-owned industries, as well as students in public schools, are made to engage in various campaign activities. In other cases, favored candidates are given access to state resources, such as transportation, office space, and media.

Ukrainian legislation permits state officials to stand as partisan political candidates. It is nonetheless illegal for them to use state property to campaign. To avoid confusion, CVU has recorded only those cases where such candidates have explicitly used state resources on their own behalf.

Some examples:

- *Kharkiv Oblast:* Public school teachers were obliged to attend a meeting in support of parliamentary candidate V. Potapov, mayoral candidate B. Sydor and other 'Za Edu' candidates, at which the teachers were urged to work on the candidates' behalf. The following day, the Izyum secondary school was closed so that children could distribute Potapov's campaign materials.
- *Vinnitsya Oblast:* Governor Y. Ivanov frequently campaigns for 'Za Edu' while traveling around the oblast on official business.
- *Donetsk Oblast:* On February 7, the mayor of Gorlivka, V. Rogach, ordered administrators of state institutions to have no contact with any party except 'Za Edu'.
- *Donetsk Oblast:* State workers at the "Stirol" factory have been campaigning, on public time, for plant manager, M. Yanovsky ('Za Edu').

- *Dnipropetrovsk Oblast*: During the meeting with entrepreneurs, Y. Zayets, the Deputy Head of the City Executive Committee ordered that no billboard advertising be allowed for any party except 'Za Edu'.
- *Dnipropetrovsk Oblast*: The head of Zhovtnevy raion executive committee, V. Lukashova pressured subordinates and also paid them 40 hryvnia (\$8) to campaign for 'Za Edu' and its candidate, S. Bychkov. The candidate's campaign literature is stored in raion executive committee headquarters.
- *Zakarpacie Oblast*: The head physicians of all the hospitals in Tyachiv raion force their subordinates to campaign for 'Za Edu'. Strangely, almost all the physicians are prominent members of the Social Democratic Party of Ukraine (United).
- *Lviv Oblast*: According to the 'Yabluko' (Apple) party, teachers in one of the raions were not given their bonuses. Instead, they were told that the money had been given as a voluntary donation to an unnamed bloc.
- *Rivne Oblast*: Governor M. Soroka, speaking on behalf of the oblast government, endorsed 'Za Edu' at a public rally on February 9.
- *Poltava Oblast*: At an official meeting of the Poltava raion council on February 20, its chairman, P. Matiokha urged support for 'Za Edu'.
- *Kherson Oblast*: The oblast administration adopted a resolution expressing support for 'Za Edu'.
- *Chernivtsy Oblast*: Senior officials in Novoselytsky, Glybotsky, Khotynsky, and Khotyn raions campaign for 'Za Edu' during working hours, using official transportation and other public resources.
- *Chernivtsy Oblast*: On February 9, most newspapers of the local state mass media published 'Za Edu' advertisements for free.
- *Zaporizhie Oblast*: The official oblast newspaper (#27) published an advertisement of 'Za Edu' for free.
- *Cherkassy Oblast*: 'Za Edu' campaign literature was distributed together with the official oblast newspaper "Nova Doba."

*Local Executive Branch Pressure on Some Political Parties, Candidates and Mass Media.* CVU observed a larger number of cases of pressure being put on selected political movements and media outlets by local executive branch officials. This interference involves, for instance: refusal of media access to some political forces; denial of permission to conduct campaign activities; and harassment of candidates and their supporters.

Some examples:

- *Crimea*: On February 11 at 7 p.m. electrical power to the city of Simferopol city was cut just as a film about Yulia Tymoshenko, leader of the 'Batkivshchyna' (Fatherland) party, was due to be aired on television.
- *Dnipropetrovsk Oblast*: Some teachers at high school #57 were made to sign letters of resignation when their director discovered they were members of 'Spravedlyvist' (Fairness) bloc. She had been trying to force them to support 'Za Edu'.
- *Dnipropetrovsk Oblast*: Radio Liberty is being jammed in some areas by local authorities.
- *Donetsk Oblast*: A 'Batkivshchyna' party meeting the village of Panteleymonivka was disrupted, without apparent cause, by local police. Party representatives say the police forced them to take down 'Batkivshchyna' posters attached to their own balconies.

- *Zaporizhie Oblast*: Local authorities in the town of Tokmak forced the 'Yabluko' party to take down the banner on party headquarters. They authorities explained that Governor Kartashov was due to visit the town and would be offended to see the banner. Also, 'Yabluko' members were forced to park the party's car as far away as possible in order not to disturb the governor.
- *Zaporizhie Oblast*: Parliamentary deputy V. Ponedilko, of the Communist Party, was prevented from using the state-owned "Orbita" concert hall for a campaign event despite having a signed contract.
- *Kyiv Oblast*: 'Nasha Ukraina' (Our Ukraine) parliamentary candidate B. Buts was fired from his state job without cause or due process.
- *Kirovograd Oblast*: 'Nasha Ukraina' leader Victor Yushchenko was abruptly refused access to public television and radio while visiting the oblast. 'Nasha Ukraina' had written agreements with the media ensuring Yushchenko's appearance and had widely publicized the events.
- *Lviv Oblast*: Local officials in Kamianka-Buzky raion ordered the directors of cultural and educational institutions to charge exorbitant rental fees to all political forces except 'Za Edu'.
- *Mikolaiv Oblast*: A public meeting of Winter Crop Generation Team was disrupted by raion officials who then destroyed the party's leaflets. The Winter Crop official responsible for organizing the meeting was threatened by the Deputy Head of the Bashtan raion administration.
- *Mikolaiv Oblast*: Victor Yushchenko's appearance on local television was disrupted by a mysterious 20-minute power outage. Likewise, his scheduled meeting with voters at the "Unist" cinema was abruptly cancelled.
- *Mikolaiv Oblast*: The print run of the 'Ukrainsky Pivden' (Ukrainian South) newspaper, which highlighted Yushchenko's visit to the area, was suddenly halted. According to the paper's chief editor, the printing house discovered "technical difficulties" after the paper was examined by local authorities.
- *Poltava Oblast*: On February 14, the "Ltava" television station denied access to Victor Yushchenko despite a signed contract. The station director explained that since Yushchenko did not sign the agreement personally, he did not have the right to appear.
- *Poltava Oblast*: Under pressure from state officials, local distributors have refused to carry five independent local newspapers, "Poltavska Dumka," "Pryvatna Sprava," "Nova Poltava," "Novy Den" and "Informbulletin."
- *Sumy Oblast*: The private business of B. Tkachenko, a candidate for Mayor of town of Lebedyn, was closed by local government order after Tkachenko complained publicly that he was being harassed by local government officials.
- *Ternopil Oblast*: Electrical power was cut off to the town of Chortkiv for one-half hour during the television debate between representatives of 'Batkivshchyna' and the 'Yednist' (Unity) bloc.

*Criminal Interference in Election Campaigns.* As in January, there continue to be incidents of violence or threats of violence against political party activists. With the start of legal campaign activities on February 9, a new phenomenon has emerged in which the campaign headquarters and election materials of some blocs and candidates have been destroyed by unknown persons.

Some examples:

- *Poltava Oblast*: On February 7, parliamentary candidate V. Gorayev ('Yabluko'), was attacked, in an attempted kidnapping, by assailants armed with guns. Gorayev had received a number of anonymous threats if he did not withdraw his candidacy.
- *Zakarpacie Oblast*: On February 10, in Kirovograd, A. Dorogan, a representative of 'Yabluko' parliamentary candidate L. Lozova was violently attacked outside Lozova's house.
- *Chernivtsy Oblast*: Y. Tsaryk, head of 'Batkivshchyna' in the town of Dubivka, was violently attacked, along with a party volunteer.
- *Donetsk Oblast*: The chief of 'Batkivshchyna' in Kostyantyniv rajon was threatened by representatives of 'Za Edu' candidate M. Komar, also the head of the raion state administration.
- *Lviv Oblast*: On February 15, four unknown persons asked a mechanic at the "Vysoky Zamok" publishing house to destroy the printing machine. The company publishes about 30 newspapers, representing a range of political opinion.
- *Rivne Oblast*: On February 18, unknown persons ransacked the offices of 'Nasha Ukraina' in Rogytne and Berezne raions. V. Chervoniy, the bloc's leader in the oblast, has accused the local police of failing to investigate the incident properly.
- *Chernivtsy Oblast*: Unknown persons broke into the 'Nasha Ukraina' headquarters in Glybotsky rajon. All the party's campaign material was stolen.
- *Dnipropetrovsk Oblast*: In the town of Pavlograd some unknown persons destroyed a billboard of 'Nasha Ukraina' bloc. Three 'Nasha Ukraina' billboards were illegally replaced by ones by 'Za Edu'.
- *Zakarpacie Oblast*: Two large 'Nasha Ukraina' billboards were destroyed in Uzhgorod and Mukachevo on February 9.

*Illegal Campaigning.* As was the case in previous months, a number of candidates in single-mandate constituencies have been distributing small goods and services to voters in an effort to influence their decision on election day. Such activity is prohibited by Ukraine's election law: "Conducting of election campaigns accompanied by giving-out of money or by free or preferential distribution of commodities, services, works, securities, credits, lotteries or any other material values shall be prohibited" [Article 56.6].

CVU has also observed a large number of technical violations of those provisions of the election law that govern campaigning. Many blocs and candidates have been printing campaign materials that lack the necessary publication and circulation information [Article 52.7]. Likewise, many candidates have failed to register their campaign materials with the relevant election commission [Article 52.4 and 52.6].

These violations are quite widespread but appear to be mostly the result of ignorance or poor planning. In some cases, local authorities have added to the confusion by failing to provide areas for the legal placement of campaign posters as required by law [Article 52.8].

## **RECOMMENDATIONS**

- Senior executive branch officials should act swiftly to ensure that their subordinates maintain a position of strict neutrality towards political blocs and candidates. This requires educating state employees about their legal responsibilities, investigating reports of abuses, and disciplining law-breakers;

- State officials who are participating in the election as candidates should follow President Kuchma's recommendation and take a "vacation" from their jobs;
- Parties, candidates, and citizens should submit complaints of violations to the prosecutor's office;
- Foreign states and international organizations should be aware of the behavior of political groups, politicians and enterprises and should limit their contacts with those that violate principles of fair elections;
- Voters should refuse to support candidates who do not campaign fairly.









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