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## Observation of the early parliamentary elections in Ukraine (26 October 2014)

### Election observation report

Ad hoc Committee of the Bureau

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### 1. Introduction

1. On 26 August 2014, Mr Petro Poroshenko, President of Ukraine, dissolved the Verkhovna Rada and called for early parliamentary elections on 26 October 2014. The Speaker of the Verkhovna Rada, Mr Oleksandr Turchynov, invited the Parliamentary Assembly to observe these elections.

2. At its meeting on 2 September 2014, the Bureau of the Parliamentary Assembly decided to observe the early parliamentary elections and authorised a pre-electoral mission, to take place one month before the election. On 29 September, the Bureau approved the composition of the ad hoc committee, made up of 40 members plus the two co-rapporteurs from the Monitoring Committee (see Appendix 1), took note of the declarations of absence of conflict of interests of the candidates for the observer mission and appointed Christopher Chope (United Kingdom, EC) as Chairperson.

3. On 4 October 2004, a co-operation agreement was signed by the Parliamentary Assembly and the European Commission on Democracy through Law (the “Venice Commission”). In pursuance of Article 15 of this Agreement, “[w]hen the Bureau of the Assembly decides to observe an election in a country in which electoral legislation was previously examined by the Venice Commission, one of the rapporteurs of the Venice Commission on this issue may be invited to join the Assembly’s election observation mission as legal adviser”, the Bureau invited an expert from the Venice Commission to join the ad hoc committee as an adviser.

4. The ad hoc committee formed part of the International Election Observation Mission (IEOM), which also comprised delegations from the Parliamentary Assembly of the Organization for Security and Co-operation in Europe (OSCE), the European Parliament and the Parliamentary Assembly of the North Atlantic Treaty Organization (NATO), as well as the Election Observation Mission conducted by OSCE’s Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

5. The ad hoc committee present in Kyiv from 24 to 27 October 2014 met, amongst others, with representatives of the parties standing for election, the President of the Central Election Commission (CEC), the Head of the OSCE/ODIHR Election Observation Mission and her staff, the Heads of the Council of Europe Office in Ukraine, of the OSCE mission in Ukraine, of the European Union delegation and of the NATO Office, and civil society and media representatives. The programme of the ad hoc committee's meetings appears in Appendix 2.

6. On election day, the ad hoc committee formed 21 teams to observe the elections in the cities and the region of Kyiv, Dnipropetrovsk, Kharkiv, Lviv, Odessa and surrounding areas.

7. In order to assess the organisation of the election campaign and the political climate, the Bureau had previously authorised a pre-electoral mission to Ukraine from 6 to 9 October 2014. The multiparty delegation was composed of Christopher Chope, Chairperson (United Kingdom, EC), Arcadio Díaz Tejera (Spain, SOC), Tinatin Bokuchava (Georgia, EPP/CD), Karl Garðasson (Iceland, ALDE), Andrej Hunko (Germany, UEL), Marietta de Pourbaix-Lundin, co-rapporteur of the Monitoring Committee (*ex officio*) (Sweden) and Mailis Reps, co-rapporteur of the Monitoring Committee (*ex officio*) (Estonia). The statement issued by the pre-electoral delegation at the close of its mission appears in Appendix 3.

8. The International Election Observation Mission concluded that “[t]he 26 October early parliamentary elections marked an important step in consolidating democratic elections in line with international commitments, and were characterised by many positive aspects, including an impartial and efficient Central Election Commission (CEC), competitive contests that offered voters real choice, and general respect for fundamental freedoms”. The Chairperson of the PACE ad hoc committee declared that “[the Ukrainian people] have chosen a new Verkhovna Rada, which will be very different in composition from its predecessor. By doing so, the Ukrainians have shown their desire for action to address their needs. The Verkhovna Rada must now accept this new mandate in the same spirit and work quickly to implement reforms, many of which are long overdue. The PACE and Venice Commission are ready to assist in this urgent and important work”. The IEOM press release published after the elections appears in Appendix 4.

9. The ad hoc committee would like to thank the OSCE/ODIHR Election Observation Mission and the Council of Europe Office in Kyiv for their co-operation and support.

## 2. Legal framework and political context

10. The early parliamentary elections on 26 October 2014 were the twelfth parliamentary or presidential elections since Ukraine joined the Council of Europe in 1995. Since 1994, the Parliamentary Assembly has observed every parliamentary and presidential election held in Ukraine.

11. Despite strong demand by civil society, the outgoing parliament did not pass a comprehensive electoral reform package before these elections were called. One of the key demands of the Euromaidan movement was the reform of the electoral system in order to eliminate single-mandate constituencies, which have been disproportionately vulnerable to fraud in Ukraine in the past. Representatives of non-governmental organisations (NGOs) also advocated for “open” rather than “closed” party lists, which would allow voters to express a preference regarding the order in which candidates are elected, making the parties more accountable to voters.

12. From 8 to 11 July 2014, during their last visit to Ukraine, the two co-rapporteurs of the Monitoring committee of the Assembly noted that “neither comprehensive electoral reform nor the adoption of a Unified Election Code is planned by the authorities and the Verkhovna Rada to be adopted. The Assembly urged that this system be based on multiple regional constituencies (and thus candidate lists) and not on one single national constituency. The latter could lead to a composition of the Verkhovna Rada that is, or would be perceived as, dominated by the central party structures in Kyiv, and not seen as being genuinely representative of the interests of all Ukrainian citizens in all parts of the country. This will be compounded by the difficulties, in the current context, of organising elections in the east of the country”.<sup>1</sup>

13. In this regard, the ad hoc committee for the observation of the early elections in Ukraine recalls in particular Assembly [Resolution 1988 \(2014\)](#) which called on the Ukrainian authorities to adopt a unified Election Code, on the basis of which new parliamentary elections should be promptly organised when

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1. Document AS/Mon (2014) 16.

technically and politically feasible. The 26 October early parliamentary elections took place before many of the electoral reforms had been implemented. As a result, the concerns regarding the legal framework that characterised the 2012 parliamentary elections remain valid in 2014.

14. The legal framework for these elections is established by: the Constitution; the Law on the Election of the People's Deputies, adopted in 2011; the Law on the Central Election Commission; the Law on the State Register of Voters; the Law on Political Parties; the Code of Administrative Proceedings, and the regulations of the Central Election Commission. The Law on the Election of the People's Deputies was modified in 2013 and in April 2014. However, although the amendments introduced some improvements following previous Assembly recommendations and Venice Commission opinions, a number of concerns remained unaddressed:

- limitations on candidacy rights for those with a criminal record;
- the five-year residency requirement;
- the lack of provisions allowing for party blocs;
- the lack of meaningful campaign finance regulations;
- the lack of pluralism in the election administration due the existing formula for the composition of district election commissions (DECs) and precinct election commissions (PECs).

15. Before the presidential election on 25 May 2014, the following changes were introduced to parliamentary election legislation:

- election districts and precincts to be the same as those established for the last parliamentary elections; this is a positive change from the old framework, which provided for temporary districts and precincts that changed with each election;
- the new law has improved the accuracy of the voter lists, by prohibiting changes to the lists on election day;
- a quorum of the majority of members of the electoral commission is now required in order to take decisions;
- procedures for printing ballot papers have been improved;
- decisions of the CEC and DECs are now to be published on the CEC website in order to make the electoral process more transparent;
- arrangements regarding media coverage of elections have been improved.

16. The Verkhovna Rada is elected for a five-year term. The new Law on the Election of the People's Deputies has brought back the hybrid parallel system which was in place in 1998 and 2002. Half of the 450 deputies are elected under a proportional system of fixed party lists within a single constituency. The remaining 225 deputies are elected in single-mandate constituencies under a single-ballot system (the best-placed candidate obtains the seat). In order to take part in the allocation of mandates under the proportional ballot, political parties must obtain at least 5% of the votes cast, as compared with 3% for previous elections.

17. According to representatives of civil society and independent experts, the overall system gives disproportionate advantages to established parties and incumbents, especially in the context of the shortened time frame of early elections, making it difficult for new entrants to translate electoral support into representation.

### **3. Administration of the elections, registration of candidates and voters**

18. The CEC is a permanent body comprising 15 members appointed by the Verkhovna Rada for a 7-year term. The work carried out by the CEC during the election period was independent and professional. It held regular meetings which were open to party representatives, candidates, the media and observers. However, according to OSCE/ODIHR long-term observers, the CEC also held some meetings behind closed doors, which decreased the transparency of its work.

19. The CEC President informed the PACE observation delegation that 213 DECs and 29 977 PECs were established for the early parliamentary elections. Concerning the Autonomous Republic of Crimea, no DECs were established for the 10 election districts in Crimea or for the two districts in the city of Sevastopol.

20. The 18 members of each DEC are appointed by the CEC on the basis of party nominations. Parties with parliamentary groups have guaranteed representation in the district commissions. The other seats are filled by a single drawing of lots for all the constituencies among the 29 political parties which stood in these elections and the majority candidates registered in the single-seat constituencies. The CEC also informed the PACE delegation that the necessary funds had been allocated by the authorities for these elections

21. According to the CEC, in the regions of Donetsk and Luhansk there are around 5.2 million registered electors. While electoral authorities made significant efforts to organise elections throughout the country, the hostile security environment in parts of the Donetsk and Luhansk *oblasts* negatively affected electoral preparations in a relatively high number of electoral districts there. Out of 32 DECs in these two regions, only 17 could fully or partially operate on election day. According to the election law, a DEC has the obligation to establish election results regardless of the number of PECs declared invalid. In order to facilitate the participation of the electors from those parts of Ukraine and assure the security of the functioning of the election administration, several DECs were moved to the government-controlled areas.

22. In this regard, the PACE pre-electoral delegation, during its visit to Kyiv from 6 to 9 October, asked the authorities of Ukraine “to take additional measures to ensure the security of the electoral process, including the security of the election administration’s members, the transfer of electoral material and the security of polling stations”.<sup>2</sup>

23. According to the preliminary report of the International Election Observation Mission, “[s]ince 9 September, 2 207 of the 3 769 DEC members (58.8%) have been replaced. Replacements occurred in all DECs with 588 replacements in Donetsk and Luhansk *oblasts*”.<sup>3</sup> The first wave of replacements of members of election commissions started shortly after their formation and continued up until election day, thereby affecting the work of both the DECs and the PECs. In some cases, half or more than half of the members of the commissions were replaced.

24. The PACE delegation was informed by the CEC and by some NGOs that various electoral assistance programmes had been successfully implemented by the Council of Europe in the context of the early parliamentary elections in Ukraine: projects with the NGOs “Committee of Voters of Ukraine” and “OPORA” on training approximately 1 500 domestic observers on international standards and writing of election observation reports. On 7 October, the Venice Commission, in co-operation with the High Administrative Court of Ukraine, organised a workshop in Kyiv on election disputes resolution for the judges of the High Administrative Court and 15 judges from regional courts.

25. The Central Election Commission registered 29 party lists and 3 556 candidates running in single-mandate districts (43 parties registered candidates in single-mandate constituencies); among the registered candidates around two thirds were members of the current Verkhovna Rada. Women constituted around 25% of party list candidates and around 13% of the single-mandate candidates.

26. The PACE delegation was informed about cases of rejection of candidates and inconsistent application of rules on candidate registration. The CEC informed the delegation that 640 candidates had been rejected, in most cases because of missing data in autobiographies or incompatibility statements, but no cases had been reported of candidates being rejected for political reasons. Some CEC decisions had been appealed against and, as a result, 49 candidates were registered based on court decisions.

27. According to the CEC, 35 828 401 voters were registered to vote, including 460 000 registered to vote in 112 polling stations abroad. The ad hoc committee noted with satisfaction that its interlocutors expressed confidence in the accuracy of the voters lists, which had been a recurrent problem in previous parliamentary elections.

28. Concerning the voters from Donetsk and Luhansk *oblasts*, the CEC adopted a simplified procedure to facilitate the participation of internally displaced persons (IDPs). Voters from the Crimean peninsula had a similar simplified procedure. As of the 20 October deadline, some 190 200 voters had requested to temporarily change their voting address, including 3 600 voters from the Crimean peninsula, and some 32 800 voters from the Donetsk and Luhansk *oblasts*. Some 25 000 Ukrainian military personnel located in the armed conflict zone could vote only for the party lists.

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2. Appendix 3, Declaration by the pre-electoral delegation.

3. Ukraine, early parliamentary elections, preliminary findings and conclusions, IEOM, 27 October 2014, p. 5.

#### 4. Campaign environment and campaign financing, and media coverage

29. The election campaign was conducted in very challenging circumstances, due to the continuing war in the eastern part of Ukraine and the illegal annexation of Crimea by the Russian Federation. The election campaign was visible and competitive. The biggest political issues centred on the security of the country, the peace plan negotiated in Minsk in September, sovereignty, stability and national unity, as well as issues of decentralisation. Other main issues of the election campaign were the reform of the economy, the electoral system, the fight against corruption, lustration law, and relations with the European Union and the Russian Federation.

30. The PACE observation delegation was informed by different interlocutors of numerous cases of irregularities during the election campaign: intimidation and violence against candidates or their representatives associated, in general, with the former government; as well as destruction of campaign offices or tents. According to the Ministry of Internal Affairs of Ukraine, 572 election-related complaints and incidents were registered, including 141 cases of voter bribery which were under investigation.<sup>4</sup> According to the OSCE/ODIHR interim report, “some of these incidents have taken place in plain view of uniformed police and in many cases video recordings have been uploaded on the internet. Moreover, on several occasions the campaign rhetoric has featured violent themes or strong verbal attacks on competitors, further aggravating the already sensitive campaign environment”.<sup>5</sup>

31. The PACE delegation noted with satisfaction that, unlike in past elections, the misuse of administrative resources was not an issue in this election campaign. Various interlocutors reported that in some single-mandate constituencies there were so-called “technical” candidates with the same or similar family names. Such candidates allegedly played into the hands of the main candidates by appointing representatives to the electoral commissions who often had neither the intention nor the potential to be elected.

32. The Ukrainian electorate was divided into two main groups: supporters of the pro-European movement and those supporting the pro-Russian orientation. The pro-Russian electorate was represented by the parties Strong Ukraine, the Civic Bloc and the Communist Party. The Party of Regions did not take part in the elections with a party list, but some of its members were running in single-mandate districts or as self-nominated candidates.

33. The pro-European camp was composed of two different and divided groups: a “peace party” group which was in favour of finding a compromise solution to the conflict in the east of the country; and a “war party” group opting for a military solution. The first group was made up of the Poroshenko Bloc and the Union of Democratic Alliance for Reform (UDAR); the second was composed of other pro-European parties led by Prime Minister Yatsenyuk, the Head of the People’s Front, advocating a military solution, possibly for tactical reasons, in order to try to defeat *Batkivshchyna*, its main rival. During the meeting with the pre-electoral delegation, the representatives of the Poroshenko Bloc and the People’s Front did not exclude the possibility of establishing a coalition in the newly elected parliament.

34. During its pre-electoral visit to Kyiv, the PACE delegation met the leaders and representatives of six political parties: the Petro Poroshenko Bloc, the All-Ukrainian *Batkivshchyna*, the People’s Front, the Civic Position Political Party, the Communist Party of Ukraine and the All-Ukrainian *Svoboda*. The delegation regrets that the three other political parties invited to meet the PACE delegation were not able to participate in the meetings, namely the Oleh Lashko Radical Party, Strong Ukraine and the Opposition Bloc.

35. The Petro Poroshenko Bloc (PPB) was founded in 2001 as the Solidarity Party, and has had its present name since August 2014. It is formally led by Yuri Lutsenko, but effectively by Petro Poroshenko, who created the party. The adoption of a common list of candidates with the UDAR party enabled it to use that party’s large-scale structures, which the Poroshenko Bloc itself lacks. The PPB electoral programme is based on the following commitments: decentralisation of power; Ukrainian language as the only State language with the development of other “regional” languages; lustration and fight against corruption; European Union membership. The PPB has declared itself to be in favour of a peaceful solution to the conflict in the eastern regions of Ukraine.

36. The Oleh Lyashko Radical Party was founded in 2010 as the Ukrainian Radical-Democratic Party, and has had its present name and leadership since 2011. During the 2014 early presidential election, Lyashko came in third, with 8.32% of the vote. The party programme is based on national unity and liberation,

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4. *Ibid.*, p. 9.

5. OSCE/ODIHR interim report, 19 September-7 October 2014, p. 7.

illegalisation of the Communist party of Ukraine and the Party of Regions, lustration and the fight against the oligarchy. It is considered as a typical one-man party, centred on Oleh Lyashko, member of the Verkhovna Rada. The party is in favour of the use of force to resolve the conflict in the eastern regions of Ukraine.

37. The All-Ukrainian Batkivshchyna (Fatherland) Association was founded in 1999, and has been led since the beginning by Yulia Tymoshenko. Until September 2014, it was one of the principal political parties of Ukraine, but since the split between Yulia Tymoshenko, Prime Minister Arseniy Yatsenyuk and the Speaker of the Parliament Oleksandr Turchynov, the electoral potential of Batkivshchyna has been undermined. Its programme is based on the following commitments: strong professional army and new military doctrine; independence of energy supplies from the Russian Federation; decentralisation of power; lustration and the fight against corruption. The party is in favour of the use of force to resolve the conflict in the eastern regions of Ukraine.

38. The People's Front was formed in March 2014, and since September has been under the direction of the Prime Minister Arseniy Yatsenyuk and Speaker of the Verkhovna Rada Oleksandr Turchynov. The party mainly absorbed people and structures from Batkivshchyna. Its programme is based on the following commitments: euro-Atlantic integration; new military doctrine; lustration and the fight against corruption; decentralisation of power; energy-field development. The People's Front has declared itself to be in favour of the use of force to resolve the conflict in the eastern regions of Ukraine.

39. The party Samopomich (Self-Reliance) was registered in December 2012. The party's list includes representatives of the volunteer battalion "Donbas" and several activists from civil society. The mayor of Lviv, Andriy Sadovyy, appeared in 50th position on the list. The programme of Samopomich is based on the following ideas: decentralisation; withdrawal of deputies' immunity; lustration and the fight against corruption; new military doctrine; and rejection of neutrality.

40. The Civic Position (CP) was founded in 2010 by Anatoliy Hrytsenko, former defence minister of Ukraine. During the 2012 parliamentary elections CP joined Batkivshchyna, but later abandoned the bloc. In the 2014 presidential election, Hrytsenko finished fourth with 5.48% of the vote. CP's programme is based on the following commitments: a strong army and well-organised defence; lustration and the fight against corruption. The party has declared itself to be in favour of the use of force to resolve the conflict in the eastern regions of Ukraine.

41. The Communist Party of Ukraine was founded in 1993 (after the lifting of the ban on the activities of communist parties). It has been led since the beginning by Petro Symonenko. The party programme is based on the fight against fascism and nationalism, on the federalisation of Ukraine, the use of Russian as an official State language and closer relations with the Russian Federation. During the meeting with the pre-electoral delegation, Petro Symonenko declared that his party was for the territorial integrity of Ukraine and did not support the separatists in the eastern part of Ukraine.

42. The Opposition Bloc was founded in September 2014 following the merger of six small political groups (at the last minute, the Party of Regions decided not to join). Its programme is based on the following commitments: adoption of a new constitution; fiscal autonomy for the regions; reconciliation with the Russian Federation, Russian language as a second State language. The party is in favour of a peaceful solution to the conflict in the eastern regions of Ukraine.

43. The Serhiy Tihipko Strong Ukraine party was founded in 1999 under the name of the Labour Party of Ukraine. It has had its current name and leader (Serhiy Tihipko) since 2009. Between 2012 and 2014 it disbanded (its leader became Vice-Prime Minister and the party's members entered the Party of Regions). The party was revived in August 2014. Its programme is based on the ideas of peace and national unity, local elections in Donbas, direct elections of governors of regions, economic development and foreign investment. The party is in favour of a peaceful solution to the conflict in the eastern regions of Ukraine.

44. The All-Ukrainian Svoboda (Freedom) Association was founded in 1991 as the Ukrainian Social-Nationalist Party, and has used its present name since 2004. Its leader is Oleh Tiahnybok. Its programme is right-wing, nationalist-conservative. The party is in favour of the use of force to resolve the conflict in the eastern regions of Ukraine.

45. As regards the financing of the election campaign, the law stipulates that parties with candidate lists and majoritarian candidates must establish electoral funds from which all campaign expenses must be paid directly by bank transfer. The size of an electoral fund for a party with a candidate list may not exceed 90 000 times the minimum salary (some UAH 112.5 million or less than €7 million), while for a majoritarian candidate it may

not exceed 4 000 times the minimum salary (some UAH 5 million or just over €300 000). The source of funds is limited to the party's or candidate's own resources and private donations. Interim financial reports on the receipt and use of funds must be filed no later than 20 days before election day, with the CEC by parties and with DEC by majoritarian candidates.

46. The Council of Europe's Group of States against Corruption (GRECO) has frequently stressed the need for more robust legal mechanisms to regulate the financing of election campaigns in Ukraine, to reinforce the transparency and accountability to voters, and to investigate allegations of violations of the rules on political party financing. The law remains vague on the information that has to be included in the financial reports to be submitted to the CEC and the reports do not have to be published. There are no sanctions for not submitting the reports or sending incomplete or false information. The Venice Commission has consistently stressed in its opinions the need to review the legislation on campaign financing in a comprehensive manner.<sup>6</sup> Unfortunately, these recommendations remain unaddressed and election campaign financing enforcement mechanisms remain weak.

47. A broadcasting Law was adopted on 14 May 2014 and seems to have taken up some of the recommendations made previously, namely requiring State-controlled media to give way to public service broadcasting, granting contestants free airtime and print space in State national and regional media; making the CEC and DECs responsible for the allocation of the free time and space, and authorising paid campaign materials on both State and private media. The National Television and Radio Broadcasting Council are responsible for overseeing compliance of audiovisual media with the election law. The law prohibits the dissemination of defamatory or deliberately false information on candidates, although these two notions are not clearly defined. It also prohibits certain kinds of speech, such as incitement to violence or inter-ethnic hatred.

48. Ukraine has a wide range of pluralistic media outlets and the conditions for free and equal access of political parties in this election campaign have been significantly improved, particularly on public television channels. In a positive initiative, the First National Channel organised and broadcast "National Debates" between political parties. However, the safety of the work of journalists in the conflict zone of Ukraine remains a matter of serious concern; they received constant threats, and some have been abducted and killed.<sup>7</sup>

49. According to the ODIHR media monitoring report, President Poroshenko and Prime Minister Yatsenyuk took unfair advantage of their positions with televised appeals to voters to elect a pro-reform parliament on the eve of the election during the campaign silence period.

50. The PACE delegation was informed about the persistent problem of the lack of transparency of media ownership concentrated in the hands of wealthy individuals with close connections to political parties. This situation limits the impartiality of the news and the rights of voters to make informed electoral choices.

## 5. Election day

51. Election day was quiet and well organised. The ad hoc committee noted the well-ordered running of the election. The voting and vote-counting operations were generally conducted in a professional and calm manner. The members of the polling stations co-operated fully with observers.

52. The ad hoc committee identified a number of technical shortcomings in the polling stations visited:

- cases were noted of unintentional non-compliance with vote-counting procedures in some polling stations;
- cases were noted of unintentional non-compliance with procedures of establishment of protocols;
- some polling station premises were overcrowded, particularly during vote-counting;
- in many polling stations, there were very few observers from civil society;
- on the whole, the polling stations were inaccessible or difficult to access for persons with disabilities.

53. According to the official results announced by the CEC on 10 November, under the proportional system, the People's Front obtained 22.14% of the votes cast (64 seats), the Petro Poroshenko Bloc – 21.81% (63 seats); the Somopomich Union – 10.97% (32 seats); the Opposition bloc – 9.43% (27 seats); the Radical Party

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6. See, among others, documents CDL-AD(2013)016 and CDL-AD(2013)026.

7. Ukraine, early parliamentary elections, preliminary findings and conclusions, IEOM, 27 October 2014, p. 10.

of Oleg Liashko – 7.44% (22 seats); and Batkivshchyna – 5.68% (17 seats). The number of seats obtained by parties, including the results of the single-mandate constituencies (see paragraph 16 above): Petro Poroshenko Bloc – 132 seats; People’s Front – 82 seats; Somopomich Union – 33 seats; Opposition bloc – 29 seats; Radical Party of Oleg Liashko – 22 seats; Batkivshchyna – 19 seats; Svoboda – 6 seats; Strong Ukraine – 1 seat; Volia party – 1 seat; Zastup – 1 seat; and Right sector – 1 seat. According to the results, 94 independents candidates are elected. The other 23 parties standing in the elections failed to reach the 5% threshold for a parliamentary seat. The turnout was 52.42%; the highest turnout was in the Lviv region, 7%, and the lowest in the Donetsk region, 32.40%.

## 6. Conclusions and recommendations

54. The PACE ad hoc committee concluded that the 26 October 2014 early parliamentary elections in Ukraine marked an important step in consolidating democratic elections in line with international commitments, and were characterised by many positive aspects, including an impartial and efficient Central Election Commission, competitive contests that offered voters a real choice, and general respect for fundamental freedoms.

55. Election day was quiet and well organised. The ad hoc committee noted the well-ordered running of the election. The voting and vote-counting operations were generally conducted in a professional and calm manner. The members of the polling stations co-operated fully with observers.

56. With regard to the legal framework, the ad hoc committee pointed out that, despite strong demand backed by civil society, the outgoing Verkhovna Rada had failed to pass a comprehensive electoral reform package before these elections were called. One of the key demands of the Euromaidan movement was the reform of the electoral system in order to eliminate single-mandate constituencies, which have been disproportionately vulnerable to fraud in Ukraine in the past. In this regard, the ad hoc committee recalls in particular Assembly [Resolution 1988 \(2014\)](#) asking the Ukrainian authorities to adopt a unified Election Code.

57. The election campaign was conducted in very challenging circumstances, due to the continuing armed conflict in the eastern part of Ukraine and the illegal annexation of Crimea by the Russian Federation. The election campaign was nevertheless visible and competitive. Unlike in past elections, the misuse of administrative resources was not an issue during this election campaign. The ad hoc committee welcomes the significant efforts of the electoral authorities to facilitate the participation of the electors from eastern parts of Ukraine in the election and to assure the security of the electoral process.

58. The PACE observation delegation was informed by different interlocutors of numerous cases of irregularities during the election campaign, including cases of intimidation and violence against candidates or their representatives associated, in general, with the former government, the destruction of campaign offices or tents, and allegations of voter bribery, which are under investigation. Moreover, on several occasions the campaign rhetoric featured violent themes or strong verbal attacks on competitors, further aggravating the already sensitive campaign environment.

59. Therefore, the PACE delegation strongly condemned any violence and asked the relevant authorities of Ukraine to investigate all cases thoroughly. The delegation also deplored the phenomenon of so-called “technical” candidates present in a number of single-mandate constituencies who allegedly played into the hands of the main candidates by appointing representatives to the electoral commissions who often had neither the intention nor the potential to be elected. This decreases the electors’ confidence in the democratic election process.

60. With regard to party funding and the financing of the election campaign, the ad hoc committee regrets that the recommendations of the Venice Commission and of GRECO remain largely unaddressed. For many interlocutors, the public perceptions of corruption are pervasive and undermine confidence in the political process.

61. Concerning the media coverage of the election campaign, the conditions for free and equal access of political parties have been significantly improved, particularly on public television channels. In a positive initiative, the First National Channel organised and broadcast “National Debates” between political parties. The PACE delegation was informed about the persistent problem of the lack of transparency of media ownership concentrated in the hands of wealthy individuals with close connections to political parties. This situation limits the impartiality of the news and the ability of voters to make informed electoral choices.

62. The ad hoc committee considers that the Parliamentary Assembly should continue its close co-operation with the newly elected Ukrainian Parliament, by means of its monitoring procedure, and with the Venice Commission, in order to resolve the problems noted during the early parliamentary elections on 26 October 2014 and further consolidate the whole electoral process. Consequently, the ad hoc committee invites the Ukrainian authorities to:

- adopt a unified electoral code, as recommended by the Assembly in its [Resolution 1988 \(2014\)](#), as well as by the Venice Commission in its joint opinions of 2013;
- reform the electoral system by improving regional representation and increasing voters' influence over their representatives in parliament, by adopting a multi-constituency proportional representation system;
- fully implement the recommendations of the Assembly and GRECO in order to reinforce the transparency of political party and election campaign financing;
- conduct effective investigations into the irregularities identified during the elections; establish the responsibilities of those responsible for these irregularities and any others working behind the scenes, and inform the Assembly of the outcome as soon as possible;
- examine the means of simplifying the complex vote- and ballot-counting procedures on the day of the election;
- organise further training courses for members of the polling stations, particularly in rural areas, in order to improve their command of procedures on the day of the election.

63. The PACE ad hoc committee considers that the Council of Europe and its Parliamentary Assembly, through its different co-operation programmes, should continue to assist Ukraine in implementing these important reforms

## Appendix 1 – Composition of the ad hoc committee

Based on proposals by the political groups of the Assembly, the ad hoc committee was composed as follows:

- Christopher CHOPE\* (United Kingdom, EC), Chairperson of the ad hoc committee
- **Socialist Group (SOC)**
  - Claude ADAM, Luxembourg
  - Deniz BAYKAL, Turkey
  - Philippe BLANCHART, Belgium
  - Arcadio DIAZ TEJERA,\* Spain
  - Tadeusz IWŃSKI, Poland
  - Fatma PEHLIVAN, Belgium
  - Frank SCHWABE, Germany
  - Kostas TRIANTAFYLLOS, Greece
  - Birute VESAITE, Lithuania
- **Group of the European People’s Party (EPP/CD)**
  - Pedro AGRAMUNT, Spain
  - Mónika BARTOS, Hungary
  - Tinatin BOKUCHAVA,\* Georgia
  - Lolita ČIGĀNE, Latvia
  - Jim D’ARCY, Ireland
  - Şaban DİŞLİ, Turkey
  - Catherine NOONE, Ireland
  - José Ignacio PALACIOS, Spain
  - Andrej ŠIRCELJ, Slovenia
  - Emanuelis ZINGERIS, Lithuania
- **European Conservatives Group (EC)**
  - Richard BALFE, United Kingdom
  - Christopher CHOPE,\* United Kingdom
  - Sir Roger GALE, United Kingdom
  - Ingebjørg GODSKESEN, Norway
  - Ömer SELVI, Turkey
- **Alliance of Liberals and Democrats for Europe (ALDE)**
  - Marieluise BECK, Germany
  - Karl GARDARSSON,\* Iceland
  - Alfred HEER, Switzerland
  - Judith OEHRI, Liechtenstein
  - Chiora TAKTAKISHVILI, Georgia
  - Jordi XUCLÀ, Spain
  - Kristyna ZELIENKOVA, Czech Republic
- **Group of the Unified European Left (UEL)**
  - Andrej HUNKO,\* Germany
  - Ögmundur JÓNASSON, Iceland
- **Co-Rapporteurs of the Monitoring Committee (ex officio)**
  - Marietta de POURBAIX-LUNDIN,\* Sweden
  - Mailis REPS,\* Estonia
- **Venice Commission**
  - Paloma BIGLINO CAMPOS, Spain

– **Secretariat**

- Chemavon CHAHBAZIAN, Head of Secretariat a.i., Interparliamentary Co-operation and Election Observation Division
- Danièle GASTL, Assistant, Interparliamentary Co-operation and Election Observation Division
- Véronique FREUND, Assistant
- Nathalie BARGELLINI, Press Officer
- Amaya UBEDA DE TORRES, Administrator, Venice Commission
- Tom VAN DIJCK, Secretary of the EC Group

\* members of the pre-election delegation (6-9 October 2014)

## Appendix 2 – Programme of the election observation mission (24-27 October 2014)

### Friday, 24 October 2014

- 09:00-09:50 Meeting of the ad hoc committee
- briefing on the pre-electoral mission by Mr Christopher Chope, Head of the PACE Delegation
  - briefing by members of the pre-electoral mission
  - briefing by Mr Vladimir Ristovski, Representative of the Secretary General in charge of the co-ordination of co-operation programmes, Head of the Council of Europe Office in Kyiv
  - briefing on recent modifications of election legislation, by Ms Paloma Biglino Campos from the Venice Commission
  - practical and logistical arrangements, Secretariat

#### *Joint parliamentary briefings*

- 10:00-10:15 Opening by the Heads of Parliamentary Delegations:
- Mr Kent Härstedt, Special Co-ordinator and Leader of the short-term OSCE observer mission
  - Ms Doris Barnett, Head of Delegation, OSCE Parliamentary Assembly
  - Mr Christopher Chope, Head of Delegation, PACE
  - Mr Andrej Plenković, Head of Delegation, European Parliament
  - Ms Rasa Juknevičienė, Head of Delegation, NATO Parliamentary Assembly
- 10:15-10:45 Introduction by local offices:
- Ambassador Vaidotas Verba, OSCE Project Co-ordinator in Ukraine
  - Ambassador Vladimir Ristovski, Head of the Council of Europe Office in Ukraine
  - Ambassador Jan Tombiński, Head of the Delegation of the European Union to Ukraine
  - Mr Marcin Koziel, Head of the NATO Liaison Office in Ukraine
- 10:45-12:15 Briefing by the OSCE/ODIHR Election Observation Mission:
- Welcome and overview of the EOM's work – Ms Tana de Zulueta, Head of the OSCE/ODIHR EOM
  - Political overview, the candidates and the election campaign, participation of women, participation of national minorities – Mr Stefan Szwed, Political Analyst
  - Media overview and media campaign – Mr Pietro Tesfamariam, Media Analyst
  - Electoral legal framework and legal aspects – Mr Armen Mazmanyan, Legal Analyst
  - Election administration, candidate registration and voter registration – Mr Vladimir Misev and Mr Kakha Inaishvili, Election Analysts
  - Election day procedures and statistical analysis – Mr Kakha Inaishvili, Election Analyst, and Mr Anders Uno Eriksson, Statistical Analyst
  - Security – Mr Davor Čorluka, Security Expert
  - Questions
- 13:45-14:30 Mr Mykhaylo Okhendonovskyy, Chairperson of the Central Election Commission of Ukraine
- 14:30-17:30 Meetings with political party representatives:
- Ms Iryna Herashchenko, MP, Bloc Poroshenko, Envoy to Peace Plan for Eastern Ukraine of the 2014 pro-Russian conflict in Ukraine
  - Mr Igor Popov, First Deputy Head of the Election Headquarters, Oleh Lyashko's Radical Party
  - Mr Serhiy Vlasenko and Mr Borys Tarasyuk, MPs, Batkivshchyna
  - Mr Leonid Emets, MP, People's Front
  - Mr Petro Symonenko, Chairperson of the Communist Party of Ukraine

- Mr Mikola Garmash, Deputy Head of the Election Headquarters, Svoboda
- 17:30-18:15 Panel with representatives of the mass media:
- Mr Andrii Saichuk, Journalist, Hromadske TV
  - Ms Olga Herasymyuk, First Deputy Chairman, National Television and Radio Broadcasting Council
  - Mr Taras Shevchenko, Director, Institute of Media Law
- 18:20-19:00 Meetings with political party representatives (continued)
- 18:20-18:40 Mr Yuriy Boyko, Chairperson, and Ms Yulia Levochkina, MP, Opposition Bloc
- 18:40-19:00 Mr Oleg Kanivets, Deputy Chairperson, Civic Position

**Saturday, 25 October 2014**

- 09:30-10:15 Panel with representatives of civil society:
- Mr Vitaliy Teslenko, Executive Director of the NGO Committee of Voters of Ukraine
  - Ms Olha Ayvazovska, Chairperson, Opora
  - Mr Gavin Weise, Deputy Director for Europe and Asia, IFES
- 10:15-11:00 Area specific briefings by the OSCE/ODIHR Long-Term Observers for Kyiv and the Kyiv Region
- 11:00 Meeting with interpreters and drivers

**Sunday, 26 October 2014**

- 07:00-20:00 Observation in polling stations
- After 20:00 Observation of closing and counting

**Monday, 27 October 2014**

- 08:00-09:00 PACE ad hoc committee debriefing meeting for members deployed in Kyiv and the regions
- 14:30 Press conference

### Appendix 3 – Statement by the pre-electoral delegation

Kyiv, 26.10.2014 – With regard to the legal framework, the PACE pre-electoral delegation recalls the Assembly's resolutions, in particular [Resolution 1988 \(2014\)](#) asking the Ukrainian authorities to adopt a unified Election Code, on which basis new parliamentary elections should be promptly organised when technically and politically feasible. The early parliamentary elections will take place before many of the electoral reforms have been implemented. We regret that the existing Verkhovna Rada was unable to agree on the necessary legislation. That makes it the all-important to have early elections so that a newly-elected Verkhovna Rada can implement electoral and other important reforms which are long overdue.

The election campaign is being conducted in very challenging circumstances, due to the continuing war in the eastern part of Ukraine and the Russian illegal annexation of Crimea. The delegation understands the decision to hold early elections and is impressed by the efforts being made to ensure that as many people as possible are able to participate, including internally displaced persons. The biggest political issues centre on the future security of the country and the peace plan negotiated in Minsk in September.

The delegation notes that seats will be kept in the new Verkhovna Rada for MPs from those parts of Donetsk and Louhansk regions where it will not be possible for security reasons to hold elections. Likewise seats will also be kept for those from Crimea whose territory has been annexed.

The pre-electoral delegation was informed by certain interlocutors about some cases of intimidation and physical violence towards candidates and their representatives. The delegation strongly condemns any violence and has been assured by the relevant authorities that they will investigate all cases thoroughly.

Concerning the financing of the election campaign, the Council of Europe's Group of States against Corruption (GRECO) has frequently stressed the need for more robust legal mechanisms to increase the transparency of political financing of election campaigns. Unfortunately, many recommendations still remain unaddressed and the delegation hopes that the new Verkhovna Rada will be able to address these issues as a top priority.

Ukraine has a wide range of pluralistic media outlets and, according to different interlocutors, the conditions for free and equal access of political parties in election campaigns have significantly improved, particularly on public TV channels. The PACE delegation was informed about the persistent problem of lack of transparency of media ownership concentrated in the hands of wealthy individuals. The delegation therefore welcomes the draft laws which are being put forward in response.

The Central Election Commission (CEC) informed the delegation that additional measures should be taken to ensure the security of the electoral process, including the transfer of electoral material and the security of polling stations. The delegation understands that the CEC has drawn up draft legislation which the delegation hopes will be approved by the Verkhovna Rada on 14th October.

The PACE delegation calls on all political stakeholders to assume their heavy responsibility in the election campaign, dominated at this stage by the military conflict. It encourages all Ukrainian citizens to play an active part to ensure that the newly elected Verkhovna Rada has the authority to take forward a programme of reforms.

The delegation notes that despite the armed conflict, the general atmosphere in the election campaign is conducive to a democratic election.

The Parliamentary Assembly will send a 42-member delegation to observe the early parliamentary elections on 26 October 2014.

The delegation had meetings with Olexander Turchynov, Chairman of the Verkhovna Rada, leaders and representatives of the main political parties participating in the elections, Andrii Olefirov, Deputy Minister of Foreign Affairs, representatives of the Ministry of the Interior, the Chairman of the Central Election Commission, foreign ambassadors and the head of the OSCE/ODIHR election observation mission in Ukraine. Meetings were also organised with representatives of civil society and the media.

Members of the delegation: Christopher Chope, head of the delegation (United Kingdom, EC); Arcadio Diaz Tejera (Spain, SOC); Tinatin Bokuchava (Georgia, EPP/CD); Karl Gardasson (Iceland, ALDE); Andrej Hunko (Germany, UEL); Marietta de Pourbaix-Lundin, co-rapporteur of the Monitoring Committee (*ex officio*) (Sweden); Mailis Reps, co-rapporteur of the Monitoring Committee (*ex officio*) (Estonia)

#### **Appendix 4 – Press release by the International Election Observation Mission (IEOM)**

Kyiv, 27.10.2014 – The 26 October early parliamentary elections marked an important step in consolidating democratic elections in line with international commitments, and were characterised by many positive aspects, including an impartial and efficient Central Election Commission (CEC), competitive contests that offered voters real choice, and general respect for fundamental freedoms, international observers concluded in a preliminary statement released today. The new parliament should ensure that key reforms are passed, and grievances should be resolved with respect for the rule of law and through democratic institutions, the observers said.

“At this crucial moment for the future of their country, Ukraine’s institutions and voters responded to daunting challenges with an election that largely upheld democratic commitments,” said Kent Hårstedt, the Special Co-ordinator and leader of the short-term OSCE observer mission. “That response and, in particular, the authorities’ determination to enable voting in as many areas of the country as possible, demonstrate a resilience that will help the country overcome its national and international challenges.”

“The sombre mood of the Ukrainian people in these elections reflects the gravity of the crisis facing the country. They have chosen a new Verkhovna Rada, which will be very different in composition from its predecessor. By doing so, the Ukrainians have shown their desire for action to address their needs,” said Christopher Chope, Head of the PACE delegation. “The Verkhovna Rada must now accept this new mandate in the same spirit and work quickly to implement reforms, many of which are long overdue. The PACE and Venice Commission are ready to assist in this urgent and important work.”

In most of the country, election day proceeded calmly, with few disturbances and only isolated security incidents reported. The voting process was well-organized and orderly and was assessed positively in 99% of the polling stations observed, although some procedural irregularities were identified, including during the counting and the early stages of the tabulation processes. Due to the efforts of the election administration to ensure voting in as much of the east as possible under extraordinary circumstances, including through simplified procedures allowing voters to temporarily transfer their voting address, voting took place in 12 out of 21 election districts in the Donetsk region, and in 5 out of 11 in the Luhansk region.

“The nearly 30 seats that will be left empty in the new parliament serve as a stark reminder that illegal armed groups prevented voters in some parts of the country from being able to vote,” said Doris Barnett, Head of the OSCE PA delegation. “These illegal actions do not call into question the validity of the overall election. We look forward to these seats being filled as soon as possible so that representatives of those areas can join their colleagues in an open dialogue to the benefit of all Ukrainians.”

Candidates were generally free to campaign in what was a competitive and visible campaign environment. While largely peaceful, there was a marked increase in violence in the last ten days of the campaign, including cases of intimidation, threats and the targeted destruction of campaign property. The observers noted that no intolerant speech targeting national minorities was used during campaigning, despite the prevalence of nationalistic campaign rhetoric.

“The elections clearly showed the resolve of the Ukrainian society for change – the people have chosen Europe and peace,” said Andrej Plenković, Head of the EP delegation. “The new Rada and the future Government will have the responsibility to embark on the ambitious European reform agenda and the reintegration of the entire Ukrainian territory. The European Union and the European Parliament will support Ukraine throughout this process.”

“We must not lose sight of the context in which these elections took place. Ukraine is at war. Yet, despite the ongoing violence, voting took place yesterday in a majority of districts in Donetsk and Luhansk,” said Rasa Juknevičienė, Head of the NATO PA delegation. “Despite that, the elections marked significant progress for Ukraine’s democracy. The parliament that was elected yesterday will now have the difficult but important responsibility to carry this work forward, and address remaining issues.”

In a positive development, the misuse of State resources was not named as an issue of major concern, although the president and prime minister took unfair advantage of their positions on the eve of the elections in televised appeals calling on voters to elect a pro-reform parliament. A number of credible allegations of vote buying were reported and are being investigated by the authorities.

The CEC administered the process in a largely professional and efficient manner. However, the holding of closed-door meetings before CEC sessions and unilateral decision-making undermined the transparency of the process. In commissions at lower levels, the replacement of commission members partly affected the

stability and efficiency of election administration. Candidate registration was generally inclusive and offered voters a wide variety of choice among 6,600 candidates. The rejection of more than 640 candidates on the basis of technicalities restricted the choice of candidate and runs counter to international standards, however.

“The impartial management of the process by the Central Election Commission can further contribute to reinforcing public confidence in democratic elections in Ukraine,” said Tana de Zulueta, Head of the OSCE/ODIHR long-term election observation mission. “Our statement also notes some persisting difficulties, so the positives in these elections can be used as a basis for further improvements. Moving forward, the OSCE ODIHR is ready to provide assistance and expertise in this process.”

The media environment was dynamic and diverse and offered voters a broad range of views. However, media autonomy and independent reporting were in some cases inhibited by political or business interests, and some private media outlets demonstrated bias in their campaign coverage. The ongoing hostilities in the east jeopardized journalists’ safety and prevented the transmission of Ukrainian broadcasts, while steps taken to prevent certain channels from broadcasting alleged propaganda remain in place. In a positive step, election debates between political parties were held for the first time and broadcast on national television.

The legal framework is generally adequate for the conduct of democratic elections. Recent amendments addressed some previous recommendations by the OSCE Office for Democratic Institutions and Human Rights and the Council of Europe’s Venice Commission. A number of concerns remain, however, including with regard to certain candidacy requirements. Persistent issues with electoral district boundaries meant that national minorities were under-represented, the statement noted. Despite recent amendments to increase the transparency of campaign finances, corruption continues to undermine confidence in the electoral process.