



# Final Reports of EPDE Election Experts on the Presidential Elections in Ukraine

25 May 2014

- Arkadii Lyubarev: Legal Aspects and Election Campaign
- Piotr Andrusieczko: Mass Media Reporting
- Maria Amparo Tortosa-Garrigós: Security Situation

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**European Platform for Democratic Elections (EPDE)** conducted election observation of the Presidential elections in Ukraine, 25 May 2014. Among other activities, EPDE organized a Civic Experts' Mission on security issues, the role of the media and the use of administrative resources during the election campaign.

Three election experts - Arkadii Lyubarev, Piotr Andrusieczko and Maria Amparo Tortosa-Garrigós carried out their field research in Ukraine from 8<sup>th</sup> to 15<sup>th</sup> May 2014. This brochure contains final reports of the EPDE Civic Experts' Mission.

## IMPRESSUM

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# Legal Aspects and Election Campaign

by Arkadi Lyubarev

This report is based on author observations from the campaign for the election of the President of Ukraine on 25 May 2014 during his trips to Kiev on 8–15 May and 23–27 May as well as after studying materials related to the election campaign.

## 1. Problems found during previous Ukrainian national elections

After Ukraine's independence in 1991, the country has had 10 national election campaigns – six parliamentary campaigns (1994, 1998, 2002, 2006, 2007 and 2012) and four presidential campaigns (1994, 1999, 2004 and 2010).

The presidential campaign of 2004 was the most dramatic. Due to multiple violations in the course of the polling day, the Supreme Court of Justice of Ukraine cancelled the results of the run-offs (49,4% for Viktor Yanukovich and 46,7% for Viktor Yushchenko). Given the narrow difference between the candidates' results, a proper count of the voters' will was deemed impossible. A repeated ballot was scheduled, which led to the victory of Viktor Yushchenko with a result of 52% of the votes cast.

The subsequent election campaigns (parliamentary polls in 2006, 2007, and 2012 and presidential polls in 2010) gained increased attention on behalf of international organizations (OSCE/ODIHR, ENEMO and others). In their reports, these organizations pointed out at a series of electoral legislation and procedural shortcomings in Ukraine.

For all the campaigns, international organizations registered cases of abuse of the administrative resource. Thus, in 2007, ENEMO mission noted: "Compared to the pre-electoral period of 2006, the ENEMO observers witnessed a large number of cases of use of state and administrative resources in the election campaign." In particular, there were mentions of the participation of governors, mayors and other representatives of the local government in campaigning for a certain political party as well as creating obstacles for the campaigning of others. The President also campaigned in favor of a political party.

A small amount of cases of participation of government officials in electoral campaigning was noted during the presidential election of 2010.

In the report of the OSCE/ODIHR mission for the 2012 election, the following forms of abuse of administrative resources were reported: use of official measures, meetings or public works to promote the party or certain candidates, active participation of local and regional officials in meetings with candidates during working hours, forced participation of workers of state and municipal enterprises to meetings with the candidates, campaigning materials in the newspapers or on the sites of regional and local administration bodies, cases when candidates were refused meetings with the voters, scheduled meetings were cancelled, or their occurrence was impeded for no valid reason.

OSCE/ODIHR and ENEMO also noted, in 2012, the decline of pluralism in the media, intimidation and pressure on journalists, and a clear bias in favor of the ruling Party of Regions by state-run media.

As for the buying of voters, the 2007 and 2010 election reports mentioned individual or unconfirmed cases. In 2012, larger numbers of cases of vote buying by candidates were reported. However, this may be due primarily to the fact that, in 2012 (as opposed to presidential elections and parliamentary elections in 2006 and 2007), there were candidates running for single-mandate districts.

The reports noted there were complications with the creation of District (DECs) and Precinct (PEC) Electoral Commissions. There were many cases of refusals of appointed commissioners to fulfill their duties, which led to a constant change of the composition of the Commissions, making them often unable to make decisions due to the lack of quorums. Insufficient funding and poor logistics of election commissions were also reported.

The legally founded principle, which states that electoral commissions are formed by participants in the electoral process, is intended to ensure the neutrality of the electoral commissions. However, reports in 2012 stated that this was not achieved in all cases. Thus, a number of “technical” parties provided election commissions with a large number of members who, in 2010, were part of the same commission on behalf of candidate Yanukovich. This way, Commissions could form majorities based on actual supporters of the Party of Regions.

The reports of 2006 and 2007 elections noted an extremely low quality of voter lists -absence of many voters (including entire households) from the lists, double counting, which could allow voters to vote more than once. By the 2010 elections in Ukraine, the State register of voters was established. Nevertheless, in its 2010 election report, the ENEMO mission noted that: “the accuracy of voter lists continues to be a problem for these elections.” In 2012, the situation was better, but even then, in 16% of the polling stations, cases were reported when voters could not find themselves in the lists.

In the course of the Polling Day, biggest issues were registered with voting outside of the polling stations. In particular, in 2010, the report of the ENEMO Mission noted that the PECs in different regions found different solutions to the problems associated with the inclusion of the voters in the list for such voting.

During the 2012 elections, a big issue became the way certain DECs proceeded to receive PECs tabulation protocols. Reported issues included absence of transparency, data manipulation, changing data in the process of computer input. In five single-mandate constituencies election results were cancelled.

## **2. Presidential election legislation and its shortcomings**

Following the announcement of the 2014 presidential election, numerous changes were made to the Law of Ukraine “On the Election of the President of Ukraine” seven separate times: on February 28, March 13, April 8, April 17, May 6, May 15 and May 20.

The most significant amendments were passed on 13 March: 90 articles of the Law were changed (out of total 105 articles), nine new articles were added, and five items excluded. In fact, a completely new version of the law was adopted.

Thus, the electoral legislation of Ukraine is characterized by extreme volatility, which is not in line with the recommendations of the Venice Commission. Nevertheless, many of the changes made during the campaign were needed. They comply with the recommendations of national and international organizations monitoring the elections, and were designed to overcome the shortcomings noted in previous campaigns. Changes made were similar to those made to the Law of Ukraine "On the Election of People's Deputies of Ukraine".

The timetable for electoral action during early presidential elections was also specified. Some changes were dictated by the current situation and new circumstances, in particular, the inability to conduct elections in the Autonomous Republic of Crimea and Sevastopol, and the risk of jeopardizing the voting in other regions. The amendment passed on May 6 was due to the lack of quorum in PEC members - it reduced the minimum number of PEC members from 12 to 9.

The Ukrainian Law "On the Election of the President of Ukraine" (as amended on March 13, 2014 and later), which governed during the campaign, was largely consistent with international standards and allowed to conduct free and fair elections. Many of the provisions of this law may serve as a model for other countries, in particular Russia. Nevertheless, the law has kept a number of shortcomings, which are noted below.

Thus, the Law contains a number of rules designed to prevent abuse of administrative resources. Section 2 of Paragraph 4 of Article 3 prohibits the intervention of public authorities and local administration in the electoral process, except as for the cases provided by this Law. Section 4 of the same paragraph requires an equal and equitable treatment of public authorities and local governments and their officials for the candidates standing for Ukrainian Presidency.

Section 2 of Paragraph 1 of Article 64 prohibits participation in campaigning of executive authorities and local governments, law enforcement agencies and courts, their officials and officers during business hours (unless the person is a candidate for Presidency of Ukraine). Paragraph 4 of the same Article prohibits campaigning for or against candidates for President of Ukraine, assessment of electoral programs or preference in any form by state and public media officials, creative and service personnel in their materials and programs for the duration of the electoral process.

Paragraph 15 of the same Article prohibits candidates for presidency of Ukraine who hold positions, including part-time, in the executive authorities and local government, state-owned, municipal enterprises, institutions, agencies, organizations, military units (formations) to use their positions subordinated persons, official transport, communications, equipment, premises and other facilities and resources in the workplace as well as use the service or production meetings, staff meetings for election campaigning.

At the same time, the Law does not contain such prohibitions for officials who are not running for office and for candidates that hold chairing positions in private enterprises or institutions, which creates opportunities for them to abuse their official position for election campaigning purposes.

To prevent buying of votes, Paragraph 6 of Article 64 prohibits campaigning accompanied by the provision of voters with money, free or discounted goods and services, jobs, securities, loans, lotteries. Furthermore, there is a prohibition for concluding electoral fund paid contracts with voters for election campaigning. This ban comes as an attempt to prevent a known voter corruption technique, in which voters are handed money allegedly for campaigning, but, in fact, for voting in favor of a certain candidate. However, in relation to the candidate for the office of President of Ukraine, every citizen of Ukraine is a voter, hence it is unclear how one can prevent a candidate from concluding contracts with those who actually are part of their campaign staffs. With regard to the distribution of goods, it is necessary to make an exception for printed products; otherwise even the distribution of leaflets could fall under the definition of bribery of voters.

Paragraph 2 of Article 49 provides that the election deposit in case of victory of the candidate in the first round is only returned to the winning candidate, and in the case of the run-offs – to both candidates who made it to the second round. Thus, the Law creates equal conditions for serious candidates, who are in real competition in the elections, and candidates running exclusively for self-PR or as “assistants” to the major candidates.

In accordance with Section 3 of Paragraph 1 of Article 51, Paragraph 1 of Article 56(4) and Paragraph 5 of Article 74, information posters of the candidates for president of Ukraine are installed in the premises of the polling station. The posters contain the manifesto of the candidate in a volume up to 12 thousand characters. This provision is both technically and legally problematic. In case of a big number of candidates, the posters could cover too much space inside the polling station. Moreover, posters of some candidates are located in more convenient and visible locations at the polling station, which creates uneven conditions for all candidates. The volume of information contained in the posters is huge, making none of the voters able to read all posters at the polling station. But the main thing is that the manifestos of candidates are essentially campaigning materials, and campaigning on polling day is prohibited.

To ensure access to ballot for the voters who will be located on another precinct on the Polling Day, Article 351 of the Law of Ukraine "On the Election of the President of Ukraine" and Part 3 of Article 7 of the Law of Ukraine "On the State Register of Voters" provides for the temporary change of the voter location - based on a motivated request from the voter submitted no later than 5 days before the Polling Day. This decision seems to be more successful than the previous absentee ballot paper practice cancelled by the Ukrainian legislation. However, the law does not regulate the procedure of this action, containing only a reference to a Bylaw of the Central Electoral Commission. The Central Electoral Commission and other authorities are not obliged to publish information on the number of voters who benefit from the right to temporarily change the place of voting, making it difficult to control this process.

The ban for the submission of mobile ballot requests after 20:00 last Friday before Polling Day seems overly rigid (Part 5 of Article 77), making it impossible to vote for citizens unable to move independently on the eve of Polling Day. At the same time, Section 1 of Paragraph 3 of Article 77 of the Law provides for the inclusion of disabled or immobilized persons in the list for mobile ballot and their visit by election commission members - regardless of the wish of the voters to participate in elections, which is inconsistent with the principle of voluntary voting.

Although the vote count by the precinct election commission is regulated in detail in Article 78, an important requirement that ballots be counted in shifts, and not simultaneously for different candidates, was missed. Without these requirements, the counting process cannot be considered transparent. Also, to improve transparency, it would be useful to have a larger form of the protocol (tabulation protocol demo), which would record all results of the count.

In our opinion, the Law does not address issues related to the recognition of invalid ballots (Part 26 of Article 78), unaccountable ballots (Article 78, paragraphs 20-22), or recognition of the polling station void (Article 80, paragraph 14 of Article 82) efficiently. The law does not provide for any possibility of annulment of the election results.

Worth mentioning is also the unsettled issues related to the combination of various election levels. So, part 1 of Article 78 of the Law of Ukraine "On the Election of the President of Ukraine" contains a provision: "If concomitantly with presidential elections, local or people's deputies elections are held in Ukraine the vote count for these elections is held only after the compilation of the tabulation protocols of the vote counting for the elections of the President of Ukraine." This provision does not take into account the multiple stages a vote count includes; each of these stages must be completed at the same time for all types of elections. In addition, when elections are combined, it is advisable to have general voter rolls (with the possibility to put a signature for each of the ballots received).

Another problem is the absence of an official translation of the laws and other legal acts in Russian. At the same time, Russian is a regional language in several Ukrainian regions. It should be noted that the Law of Ukraine "On the Election of the President of Ukraine" obliges mandatory knowledge of the state (i.e. Ukrainian) language only to the secretaries of district and precinct electoral commissions; in other words, a situation is possible where the majority of the members of election commissions does not speak Ukrainian language enough to understand the provisions of the law for their level.

### **3. Particularities of the presidential election campaign of 2014 in Ukraine**

The campaign for the election of the President of Ukraine in 2014 has several particularities that distinguish it from all or most of the previous campaigns.

The first feature of these elections is the fact that this is an early poll. Political parties, candidates and their teams did not have time to prepare them in advance, including to accumulate adequate financial resources. According to experts, this campaign was for the candidates much less costly than the previous ones.

The second feature is that, in premiere in the Ukrainian election practice, the incumbent president, the incumbent head of government, and the acting chair of the Supreme Rada did not participate. Moreover, among the candidates there were no official representatives of the executive branch. This circumstance substantially reduced the risk of the use of administrative resources in the election.

The third feature is that the campaign took place in a situation when the territorial integrity of the country was violated. In March 2014, two regions (Autonomous Republic of Crimea and Sevastopol) were separated and unilaterally annexed to a neighboring state (the Russian Federation). In two regions (Donetsk and Luhansk regions), a significant part of the territory came under the control and



influence of armed groups aiming to secede from Ukraine, who prevented carrying out Ukrainian presidential elections.

#### **4. Abuse (of administrative resources) during the 2014 presidential election campaign in Ukraine**

As already mentioned in Chapter 3, there were no executive branch officials among the candidates, which significantly reduced the risk of misuse of administrative resources.

The association “Spilny prostir” monitored the mainstream media. According to the monitors, interim President Turchinov and Prime Minister Yatseniuk did not interfere in campaigning.

The association also assessed the media representation of the five candidates, which it considered major: Dobkin, Poroshenko, Simonenko, Tyhypko, and Tymoshenko. On television, Poroshenko outnumbered Tymoshenko slightly, Dobkin came third; TV information was predominantly neutral, basically lacking negative coverage. On the radio Poroshenko also outpaced Tymoshenko, Tyhypko ran third - they were accompanied by positive coverage information, while Dobkin and Simonenko - by negative information. In the printed press, Tymoshenko leded visibly and positive information prevailed on her; Poroshenko’s shares of neutral, positive and negative coverage information were approximately equal; for Tigipko the amount of neutral and positive coverage information was about the same as for Poroshenko, while there was very little negative. On the Internet, all candidates were covered neutrally with Timoshenko and Poroshenko’s results close, while other candidates were markedly lower. In general, according to experts, media pluralism was greater than in previous campaigns.

During the campaign, the Civic Network OPORA created an online resource (map of the violations), gathering information on violations coming from its observers (<http://map.oporaua.org/>). On 3 June 2014, the website contained 693 posts. Only 12 qualified as involvement of officials in the election campaign and their influence on the course of the campaign.

Thus, in the Zakarpatye area, leaders of several cities and district councils participated in meetings of the candidate Poroshenko with the electorate. Later, there were signals of campaigning for Poroshenko by the first deputy chair of the regional council, the chair of the Hungarian cultural Association of Zakarpatye, and in the regional administration newspaper “News of Zakarpatye.” In Vynnytsya region, Ukrainian MP Hrihory Zabolotnyi campaigned for Poroshenko during his meeting with the voters in the hall of the Haissinsk regional state administration. On May 22, the cadets of the military lyceum “Heroiv Krut” were summoned for a meeting with candidate Poroshenko in Lviv.

There were reports of campaign materials for candidate Oleh Lyashko in the premises of the office of the state post enterprise “Ukrpochta” in Chirnivtsy region. Observers from OPORA network found bags with campaign materials for candidate Oleh Tyahnibok inside one of the offices of the Koretsk District Council (Rivne oblast’). It was reported that, on May 4, Oleh Tyahnibok participated in the presentation of the territorial defense battalion, which took place in the premises of Kirovohrad Regional State Administration. Tyahnibok was introduced to the attendees as a candidate for presidency several times by the regional state administration chairman Oleksandr Petik.

There was a report thatm on April 23, the chairman of the Rivne district administration Alexei Buchinsky unlawfully accompanied presidential candidate Oleg Tyagnibok during a visit to

Dubrovnytsya, while on duty. However, the press service of the Rivne Regional State Administration explained to OPORA representatives that Buchynskiy assumed his duties only on April 24.

In Kherson region, there were alleged reports of pressure on behalf of the former head of the local administration on members of polling electoral commissions, causing them to refuse to work in the commissions.

Thus, we can assume that the cases of abuse of administrative resources during the presidential campaign were isolated and could not significantly interfere with the course of the election campaign.

## **5. Corruption of voters in the presidential election campaign in 2014 in Ukraine**

The OPORA network map of violations recorded 18 cases, qualified as attempts to corrupt the voters. Ten such cases of bribery were assigned to Poroshenko's team, two – to Oleh Lyashko, and single cases to Yuliya Tymoshenko, Serhiy Tyhypko, Oleh Tyahnibok, Olga Bogomolets and Andriy Grynenko, and another case envisaged UDAR party (with reference to the Kyiv district, where the party participated in local elections).

However, in our view, nine such cases (six attributed to Poroshenko, and three – to Tymoshenko, Lyashko, and UDAR) do not contain evidence of bribery. Thus, in some cases, transportation of the voters to meetings with the candidate was improperly qualified as bribery.

Below are the remaining nine cases.

A voter in the village of Volhynia said that he was offered 300 hryvnias on the Polling Day to vote in favor of Serhiy Tyhypko.

Representatives of Oleh Tyahnibok in Rivne gave fighters of the local defense unit new uniforms.

On May 21, before the election meeting with residents of Vynnytsya, staff representatives of the candidate for President Oleh Lyashko handed flags and t-shirts to the attendees with the inscription "Lyashko-national president."

On May 17, Olga Bogomolets, while on a visit to Rivne, Koretsky, visited Svyato-Troitsk women monastery and made them a present - the icon and the relics of Saint Agapius of Kyiv.

On April 20, in Kharkov candidate Andrei Grynenko personally handed to voters Easter cakes and greeting cards.

Representatives of Poroshenko's electoral staff in Rivne Oblast organized a competition of reposts with monetary rewards on a social network "V Kontakte."

The campaigning kits handed out in the campaign tents of candidate Poroshenko included a poster calendar for 2014, a ballpoint pen and a paper bag with the candidate image.

On May 14, at a meeting with voters, Petro Poroshenko and Ukrainian economist and PhD Oleksandr Paskhaver presented the book "Whom to be?" Books were distributed free of charge, and the author personally signed them. The book was published in 3000 copies.

On May 5, 25 children from Kotovsk, Odessa region, were sent to the sanatorium “Lermontov” on behalf of and with funding of presidential candidate Poroshenko.

These facts require litigation. But, in general, there is reason to believe that bribery of voters in the presidential campaign took place in a very limited extent, having no significant effect on the will of the voters.

## **6. Other problems related to election campaigning**

Paragraph 17 of Article 64 of the Law of Ukraine “On the Election of the President of Ukraine” requires the relevant services of the local executive authorities and local governments to remove the election materials starting 24:00 on the last Friday preceding the Polling Day.

This requirement is easily met in respect of campaign materials posted on special advertising boards (billboards, banners, etc.) And, according to our observations, in respect of such materials, the requirement was accomplished. However, in respect of campaign leaflets posted on poles, buildings and other objects, the requirement was not met everywhere, and in many places materials continued to hang including on Polling Day.

Most likely, the requirement to remove all glued printed campaign materials is unrealistic, and therefore it is better to exclude it from the law. These materials (as opposed to large billboards, etc.) has no significant impact on voters on election day, and their selective removal has a rather negative effect, threatening violation of the equality of candidates.

(Formally) social advertising was widely used for the May 25 election to encourage citizens to participate in elections. These ads were still hanging on the day before the election and on the Polling day. In reality, a part of the posters was designed in the style of Poroshenko’s campaign (containing messages such as “time to live in a new way”), while the other part - in the style of campaigning for Tymoshenko (“Only a strong leader can restore peace”). Thus, this was in fact hidden campaigning for these candidates, bypassing the statutory prohibition.

Experts noted the presence of “jeans” publications (paid materials that are not labeled as advertisement and are perceived by unsophisticated readers and listeners as journalistic materials) in the media, while also noting that the quantity of such materials was smaller than in previous campaigns.

The Law of Ukraine “On the Election of the President of Ukraine” does not provide for any mandatory TV debates between the candidates before the first round of voting. However, Article 62 of the Law allows for such debates at the initiative of TV channels, but compliant with rather strict conditions. They may be carried out at the expense of the election funds of the candidates, and no more that two candidates may participate in one TV debate program (the latter requirement is actually impossible for an odd number of candidates).

Nevertheless, the First National Channel, in active partnership with a number of NGOs organized a cycle of seven broadcasts, which were called “national debates.” Twenty candidates participated (out of 21), and every broadcast (except one) featured three candidates, which were provided equal

conditions. The broadcasts turned out quite informative and certainly helped voters make an informed choice, but they did not meet the requirements of the law.

## **7. Work of the electoral authorities during the 2014 presidential election campaign in Ukraine**

In accordance with the Law of Ukraine “On the Election of the President of Ukraine”, presidential elections in Ukraine are organized and conducted by election commissions at three levels: Central Election Commission (CEC); District Election Commissions (DEC), formed in each of the 225 territorial districts; and Precinct Election Commission (PEC), of which there are over 32 thousand. Only CEC is a permanent body, DECs and PECs are formed during the election campaign from members proposed by the presidential candidates’ staffs.

According to OSCE/ODIHR, the CEC proved to be an independent, impartial, fair and overall efficient operation.

### 7.1. Formation of election commissions

213 DECs were formed by the CEC within the statutory period. 12 DECs matching territorial districts located on the territory of the Autonomous Republic of Crimea and Sevastopol was not formed.

The majority of registered candidates took part in the formation of the DECs (21 of 23). Eight candidates put forth 210 to 213 members for the DECs, 4 had more than 200 members, and 4 candidates sent between 150 and 200 members

However, the everyday work of the DECs was complicated by the constant changes in their composition, carried out massively by most candidates. According to the OPORA network, as of May 20, the composition of the DECs was renewed by more than a third (36%). The main reason for rotations was the representation requests made by the candidates to replace electoral commission members. In percentage terms, champions on replacements were Vasyl Tsushko (who replaced 83% of the members of the DECs), Vladimir Saranov (74%) and Renat Kuzmin (71%). Candidates Oleh Tyagnibok and Zoryan Shkiryak made the least changes to their representatives (9% substitutions).

The withdrawing from the race of Natalya Korolevska and Oleh Tsarev required their DECs proposed representatives be removed. Some candidates ended their participation in the campaign after the term for withdrawal of candidacy expired. There were reports that a significant portion of district commission members nominated by such candidates in practice jeopardized the work in the commissions.

OSCE/ODIHR observers reported that more than half of the DECs had difficulties appointing members to PECs in the statutory period (May 6), mainly due to the fact that some candidates did not forward their nominees or forwarded an insufficient number. In this regard, an amendment was voted on May 6 in the Law of Ukraine “On the Election of the President of Ukraine”, reducing the minimum number of PEC members from 12 to 9.

In accordance with the law, DECs must assign leadership positions in PECs to members representing different candidates proportionally to the number of nominees submitted by the candidates.

According to the OPORA Civil Network, in Lviv region, DEC 123 violated the principle of proportional distribution of chairing positions in the composition of the PECs. In particular, such candidates as Tymoshenko, Poroshenko, Bogomolets, and Tyagnibok received more representatives in the management of commissions than they were supposed to according to the distribution by apportionment. Instead, the quotas of candidates forwarded by Kuibida, Lyashko, Tyhypko and Malomuzh diminished.

In practice, all DEC's conducted training of the PECs members. Also, polling stations were provided with handbooks, which covered in detail all matters related to the presidential elections in 2014.

However, just like in the case of the DEC's, the composition of the PECs after the formation of commissions continued to change (according to Civil Network OPORA, one third to one half of members changed). New PEC members were not adequately trained. In addition, these replacements interfered with the organization of the PECs' work process.

According to the Committee of Voters of Ukraine (CVU), in Kyiv, there were significant changes in the composition of the PECs even on the eve of voting.

Experts of the monitoring-analytical group "Tsifra" noted that there was a large number of PEC members who were first nominated by one candidate, and later - by another. By use of this data, they managed to track the connections between candidates. The greatest number of churns was recorded between candidates Tymoshenko, Malomuzh and Shkiryak; and a noticeable amount - between candidates Poroshenko, Kuibida and Klimenko.

## 7.2. Voter registration

According to the overall assessment, registration of voters was conducted quite well. Nevertheless, as noted by the ENEMO mission, in some areas, a significant number of people (2%) were unable to vote because of inaccuracies in the voter list.

According to the protocol of the CEC results of the presidential elections of May 25, 2014 34,214,652 voters registered in the voters' lists at polling stations. Clearly, this number does not include the voters residing in the Autonomous Republic of Crimea and Sevastopol, where no polling stations were created. The CEC website provides for an "approximate number of voters" - 35500913, which apparently does not include overseas voters, but does include voters in Crimea and Sevastopol. According to the CEC, the latter represent 1,508,838 and 301,806 people, respectively. If we subtract them, the result is 33,690,269. If we subtract 474,046 voters included in the lists for foreign polling stations from the number of voters listed in the report of the CEC, the result is 33 740 606. Thus, the difference between data from the website of the CEC and the CEC protocol is 50,337 voters. The difference is small, nevertheless its origin is not clear.

According to ENEMO, 171,078 voters claimed their right to change the place of voting, including 6,038 people in the Crimea and Sevastopol.

### 7.3. Voting and counting

During the voting, the biggest issue registered was the long queues of voters at many polling stations. Queues could also be observed by the end of the Polling day, causing many polling stations to close long after 20:00 because they had to ensure all voters who arrived before the closing hour the opportunity to vote. It should be noted that the size of the polling station premises specified in the law, apparently, is not designed for queues. Given the hot weather, unbearable heat and stuffiness was noted in the polling stations.

The insufficient number of PEC members, their lack of training and inexperience, mostly explains the registered queues. In Kyiv and several other places, an additional factor was the combined elections; thus, each voter in Kyiv was issued 4 ballot papers and had to be identified in two different voters' lists (the lists were often differently divided into separate books). The complexity of procedures for issuing the ballot paper should also be mentioned: each ballot contained a detachable coupon that was supposed to be completed by the PEC member who issued it to the voter, with his/her name, initials, signature and voter list registration number. All of it takes considerable time and there is no assurance that such time spending is justified.

Although there are no specific objections to the mobile voting, some problems can be detected by statistical data. This way, 815,640 voters were introduced on the mobile voting list (2.7% of the number of voters included in the lists in areas where voting took place), but only 703,243 of them received the ballot papers (2.3%). Hence 112,397 voters were included in the list, but did not vote. Most likely it is the voters with disabilities who were included in the list of mobile ballot voters without their knowledge and desire.

Disparities between various territorial constituencies in the proportion of voters who voted by mobile ballot should also be noted. With an average of 2.3%, this proportion ranged from 0.2% at DEC 215 (Kyiv) to 6.5% at DEC 209 (Chernyhiv region). Aside from the Donetsk region, in eight territorial districts, the share of the mobile ballot vote was less than 0.5% (6 out of 10 DEC of Kyiv, one DEC in the city of Odessa, and DEC 78, comprising Berdyansk and the adjacent areas of Zaporizhia region). Even in Kyiv the share of mobile ballot vote ranged from 0.2% to 1.0% (in DEC 219). In 17 regional districts (two in Lviv, three in Poltava, two in Sumy, three in Ternipol, three in Khmelnytsky, one in Cherkassy and three in Chernihiv regions) the share of mobile ballot voting exceeded 5%. This shows, at the least account, a difference in approaches to mobile ballot voting in different regions of Ukraine.

The counting process in most polling stations was undisturbed. ENEMO reported that, in 80% of the observed PECs, the vote count was held in accordance with the law and in the correct sequence. OSCE/ODIHR observers assessed the vote count positively in 95% of the 363 monitored polling stations. It was noted that unauthorized persons were present at the counting of votes at 9% of the stations, often interfering with the process of counting or conducting it. At 17% of the PECs, during the counting of votes, PEC staff had problems with filling protocols of vote counts, and 20% commissions were forced to review their preliminary figures. OSCE/ODIHR observers noted 30 cases of the use of pre-signed blank protocols.

According to observers, the most common violation during the vote count was the failure to input data in the report immediately after receiving it (24%). In 18% of cases, the procedure for count of

the unused ballots was not respected, in 16% of cases, there was no full compliance with the procedure of counting the votes cast for candidates.

The analysis of electoral statistics provides additional information. At 8 polling stations where voting results were declared valid, in the ballot boxes there were more ballots than issued to voters: PEC 230936, Zaporizhia region - a difference of one ballot; PEC 511078, Odessa region - eight ballots; PEC 650769, Kherson region - two ballots; PEC 800028, Kyiv – eight ballots; PEC 800063, Kyiv - seven ballots; PEC 800559, Kyiv - two ballots; PEC 800806, Kyiv - seven ballots; PEC 800889, Kyiv - five ballots. Such a small difference arose rather from inaccurate counting than from actual ballot stuffing.

Voting results were declared invalid at four polling stations: PEC 230635, Zaporizhia region; PEC 440266, Luhansk region; PEC 531186, Poltava region; and PEC 650730, Kherson region. In the first three cases, we are talking about small polling stations: at the PEC 230635, 21 ballots were issued to the voters, at PEC 650730 - 24 ballots. In both cases, the basis for invalidating the results was illegal voting by more than 5% of the voters (in this case, more than 5% represents two or more people). At PEC 531186, there were 120 voters included in the list, so the ground for recognition of the results invalid is unclear. On the PEC 650730, 1308 voters received ballots; results were invalidated due to excessive number of ballots in the boxes, 10% more than issued.

In general, 1571 ballots were declared unaccountable, of them in 1353 - in areas where the results of the vote were declared invalid. The remaining 218 came from 17 stations where voting results were validated. The analysis of these 17 cases showed that, in most cases, the completion of this line in the protocol showed that the PEC misinterpreted the provisions of the Law of Ukraine “On the Election of the President of Ukraine”, which provides only two grounds for deeming ballots unaccountable (parts 20 and 21 of Art. 78), and in both cases it refers to all the ballots in the ballot box. However, they are not counted in determining the number of people who participated in the vote.

In nine of the 17 examined cases, the number of voters who received ballots is exactly equal to the number of those who cast their votes - in these cases, the error is obviously on the PEC side (the total number of unaccountable ballot papers in these areas is 191). In 6 cases, the number of unaccountable ballots turned out exactly equal to the difference between the number of voters who received ballots and the number of voters who participated in the vote: in four cases it was one ballot, in another case – two, and another case - 10 (total 16). It's easy to assume that, without understanding the meaning of the corresponding line, PEC just filled into it the mentioned difference. Only in two cases, the number of unaccountable ballots proved equal to the number of voters who received mobile ballots (4 and 7) - in these cases, apparently, the PEC in accordance with the law recognized unaccountable the mobile ballot box ballots.

The difference between the number of voters who received ballots and the number of voters who participated in the vote also requires attention. Mostly positive difference is quite acceptable, since a small number of voters can omit dropping ballots into the ballot box and carry them out. However, in 25 PECs, this difference exceeded 10, which is already raising suspicions of inaccurate counting. Thus, 72 ballots were “taken away” in PEC 800427, and another 60 ballots in PEC 800360 (both in Kyiv).

In 76 tabulation protocols of the PECs the balance of ballots did not converge: numbers of ballots received by the PEC is not equal to the sum of the number of ballots issued to voters and the number

of unused ballots. This may be due to errors not only in the voting results, but also in the earlier calculation of the number of ballots received, as well as due to the loss of ballots. In 67 protocols of the PECs, the balance of votes does not converge: number of voters who participated in the vote is not equal to the sum of votes cast for candidates and the number of invalid ballots. This can only be attributed to errors in the calculation.

Unfortunately, the Central Election Commission of Ukraine did not officially report the number of cases where the number of control coupons did not match the number of signatures in the list of voters for ballot issue. According to observers, such cases were observed in 10% of the stations where they watched the vote count. There are no official data on the number of other emergencies, where the law provides for written acts: ballot papers changed without a CEC decision; difference in number of ballots received by the PEC and the number put in the protocol of the DEC; damaged band on the seals of the safes; damaged seals on the ballot boxes.

In our opinion, all the deficiencies noted (whose number is negligible on the scale of about 30 thousand PECs) testify of the lack of experience and training of the members of electoral commissions than of bad intention.

#### 7.4. The work of election commissions in the Donetsk and Lugansk regions

In the Donetsk and Luhansk regions, election commissions faced significant difficulties, which did not allow holding elections in most of these regions. Serious problems in these areas included blocking and closure of the premises by groups of armed men, sequestration of the equipment of the DECs and election materials, intimidation of members of DECs and PECs. This caused a mass refusal of citizens to serve as members of electoral commissions and ultimately disrupted the elections in most of the polling stations.

At the stage of preparation for the Polling day, there was information that not all of the DECs formed PECs. Many PECs held their initial meetings with massive violations due to lack of quorum, while others were unable to hold a first meeting.

In both regions, only a small part of PECs received preliminary voter lists. The absolute majority of the PECs could not provide voters the opportunity to check voter lists. Only in a few cases, voters in these regions received nominal invitations.

As a result, partial elections were held only in 2 of the 12 territorial districts of Luhansk region and in 8 of 22 territorial districts of Donetsk region. In other districts, the actions of armed separatist groups before and on the Polling day, including threats to life and intimidation of members of election commissions, seizure and destruction of election materials, as well as the inability to transfer ballots to polling stations as a result of threatening actions of these groups, led to a complete breakdown of the election.

In those districts where voting started, only a part of the polling stations worked, moreover, some of them were captured by terrorists after their opening. Thus, according to the KVVU, by 11 a.m., all the polling stations in Dokuchaevsk (13 PECs) stopped their work. Polling station 140030 in town Metallist was devastated by several unidentified individuals who stole all the ballots. In village



Novovayder, terrorists hijacked 4 polling stations, which lead to a standoff between Ukrainian soldiers and criminals.

According to the Ukrainian CEC, there are registered 3,289,616 voters in Donetsk region, where 2432 polling stations were established; Luhansk region registered 1,771,873 voters, having created 1476 polling stations. Voting was conducted in 601 polling stations (the total number of voters in them 760,114, - 23.1% of all voters registered in the region) in Donetsk Region, and 284 stations (the total number of voters - 212,799, 12.0% of all voters registered for the region) in the Luhansk region. In the Donetsk region, the turnout was 115,823 voters (15.2% of the voters in the opened stations, 3.5% of the number of voters for the region), and in the Luhansk region - 52,239 voters (24.5% of the voters in the opened stations, 2.9% of the number of voters area).

Thus, the majority of Ukrainian citizens living in these regions were deprived of the right to vote and express their will.

## **8. Work of law enforcement during the 2014 presidential campaign in Ukraine**

Law enforcement worked in normal mode during the campaign, without any complaints towards their work, in all regions except Donetsk and Luhansk. One notable exception was Odessa, where law enforcement could not prevent mass clashes on May 2, 2014, which took several dozens of lives.

In the Donetsk and Luhansk regions, the work of the law enforcement agencies at the extraordinary presidential elections was not effective. As seen in the previous section, the police could not ensure the carrying out of elections in these regions.

Under an order of the Acting President of Ukraine, DEC premises were to be defended by law enforcement bodies. In practice, in the Donetsk and Luhansk regions, security agents did not ensure the safety of the members of the commissions and did not interfere with the seizure of the premises of the commissions by militias of separatist groups.

According to the Civil Network OPORA, in most cases, police in these areas ignored the illegal actions of the militias. In many cities and regions, local authorities openly demonstrated support for the separatists.

According to OPORA experts, the Ukrainian law enforcement system needs to be immediately reformed and its personnel re-certified.

## **9. Recommendations to improve Ukrainian election law**

1. Codify election legislation, and look into the opportunity to unify regulations and procedures for different (presidential, parliamentary, local) elections.
2. Prohibit amendments in election laws during the campaign, and amendments affecting the electoral system later than one year before the election.

3. Ensure official translation of election laws and regulations into Russian and other regional languages.
4. Clarify the rules for voting and vote counting in the elections, combining different levels of elections.
5. Specify the order of formation of election commissions. In particular, to provide priority rights of inclusion in the commissions to representatives of parties that received the biggest share of voter support at the respective polling station. Admit drawing lot selection of self-nominated citizens as PEC commission members in the case of an excess of candidates.
6. Restrict the possibility of replacing members of election commissions during the election campaign.
7. Provide refund of the election deposits to candidates who received the support of voters above a certain threshold (for example 5% of the number of voters). In this case, the amount of the electoral deposit may be increased.
8. Ban the use of official position for officials who are not running for office as well as for candidates who hold leadership positions in private enterprises or institutions.
9. Specify the signs/elements of voter bribery.
10. Provide flexible procedures for TV debates, allowing candidates and parties to inform voters about the main provisions of their programs and to answer questions of interest to voters.
11. Specify requirements for election-related social advertising, namely by prohibiting the use of advertising slogans and images used in the campaign.
12. Eliminate the requirement for removal of all campaign materials at midnight on the last Friday prior to the Election Day, keeping this requirement only for materials placed on outdoor advertising boards.
13. Reduce the amount of information materials about the candidates posted inside voting premises; exclude candidates' manifestos from these materials.
14. Reduce the maximum number of voters at one polling station. Increase the space requirements for the polling stations premises.
15. Regulate more in depth in the law the order of temporary change of the location of voting. Provide official publication of the data on the number of voters who temporarily changed their place of voting, by territorial breakdown.
16. Avoid including voters in the list for mobile ballot voting without their consent.
17. Extend (at least until the middle of the day last Saturday before Election Day) the period when the voter may apply for mobile voting.
18. Provide for the use of a larger demo tabulation protocol for the count of votes where all data should be recorded as they are received. In this case, one can admit the filling of the protocol after finishing the count.

19. Provide that the ballots for candidates and invalid ballot papers are counted only by shifting; ballots for different candidates should not be counted simultaneously.
20. Allow for a recount of the voter list signatures, ballots and/or control coupons in case of mismatches in the tabulation results.
21. Provide official publication of all emergencies for which the law requires the issue of official acts, reflecting the number of ballots in these acts.
22. Clarify the rules of recognition of the ballot papers invalid or unaccountable during the count.
23. Eliminate the possibility of invalidating the results of voting at a polling station.
24. Provide for the invalidation of the election results if the violations make it impossible to reveal the real will of the voters.

# Mass Media Reporting

by Piotr Andrusieczko

Given the situation in the East of the country, the election campaign was overshadowed by the events in those territories. On the other hand, candidates used the events in the east to raise awareness. A good example of such usage of the situation in the Crimea and in the East was the election campaign held by Oleg Lyashko. This candidate was presented as a defender of Ukrainian territories from the enemy.

Almost all institutions involved in monitoring the media in Ukraine came to the conclusion that the last election campaign was not characterized by increasing the negative phenomena in the media, as it used to be during the previous elections. First of all, this was due to the fact that the whole campaign was seen as one of the most unruffled, influenced by the situation in the country.

If we talk about the negative moments, the number of Ukrainian publications and television channels printed and broadcasted some custom-made materials. As pointed out by the Institute of Mass Information, most of these materials in print media were devoted to the person of Yulia Tymoshenko.

The Committee of Voters of Ukraine registered several cases of black PR - special editions of newspapers against candidate Poroshenko. However, the total number of custom-made materials as compared to previous campaigns had decreased.

The situation in the East of Ukraine before the presidential elections

The situation has worsened in the Donbas region between May and June. Significant amounts of mercenaries and weapons, including heavy equipment from Russia, were transferred to the areas controlled by the so-called Donetsk and Lugansk Republics.

There are coordinators in Russia who recruit volunteers offering them compensations. They mostly seek for those with proper military experience and training. Among the mercenaries are militants from the North Caucasus, originally Chechens, later joined by the natives from the South Ossetia.

Apparently, the number of Chechens had significantly decreased during the military operation on May 26 which was aimed on freeing the Donetsk airport. Many of them were killed and the rest left the area. At the moment, the so-called Vostock Battalion, which included a lot of mercenaries from the Caucasus, now mainly consists of local residents.

The situation has dramatically changed after the so-called referendum on May 11 in the Donbas. The separatists' authorities claimed that the results of this voting confirmed the desire of local residents to separate the Donetsk and Lugansk regions from Ukraine.

In fact, there is no way to verify the results of the referendum as all procedures they violated any procedures provided for such a vote. Nevertheless, the new government of the Republic of Donetsk was declared on May 16 on the basis of the so-called referendum on independence.

The greatest surprise was the "nomination" of Alexander Boroday the Prime Minister of the republic. It was a surprise for many of the separatists' supporters, because until that very moment Boroday was not widely known in the Donbas.

Nevertheless this person is perhaps the most interesting figure of Donetsk republic. Being a Russian citizen specializing in political PR, Boroday was immediately perceived by Ukrainian authorities as the evidence of direct involvement of the Kremlin in creating the structures of Donetsk republic.

Just like another Russian citizen, the defense minister of the republic of Donetsk Strelkov, he first appeared in the Crimea in the group of so-called Muscovites surrounding the self-proclaimed Prime Minister Sergei Aksenov.

But why it was Boroday who had headed the government of the Donetsk republic? Perhaps the decisive factor was the acquaintance with Strelkov and the relationship with the Russian businessman Malofeev whose company Marshall Capital once employed Boroday. This Russian businessman may play an important role in what is now happening in the East of Ukraine. Previously, he provided financial support for the Crimean separatists. Malofeev brought to Crimea the so-called group of Muscovites, which, among others, included Strelkov and Boroday.

In an interview for the Russian newspaper RBC Daily Boroday reported that he arrived in Donetsk because he was interested in the events that took place there especially that his friend Strelkov was already in Slavyansk.

"Before coming to Donetsk I first visited Strelkov in Slavyansk" – told Boroday himself. He also added another interesting detail of his trip. On his journey to Slavyansk and later to Lugansk he was accompanied by Mikhail Leontiev, the Vice President of Rosneft. As it turned out, Leontiev appeared to be good friends with Boroday as well as with Strelkov.

There are several players behind the separatism movement in the East of Ukraine: Russia has long been creating separatist sentiments in Ukraine using media loyal to the Kremlin leaders and supporting pro-Russian organizations; Russian security services; local pro-Russian activists, politicians - especially the representatives of the Party of Regions and Communist Party of Ukraine, as well as criminals.

### **Presidential elections in the East**

As Donetsk and Lugansk regions were actually in a state of war, it was clear that the holding of presidential elections in these territories would be problematic. Separatists vowed they would not allow the elections in the territories controlled by them. The campaign in that area was almost put on hold.

Ukrainian authorities had to open at least some of the precincts in Donetsk and Lugansk regions, to show that the election was taking place.

On the one hand, the holding of the election in these 2 regions had no effect on the legitimacy of the election itself. On the other it could be an argument for the opponents of the Kiev authorities in the context of non-recognition the results.

For example, there was only one territorial commission opened in Donetsk, but it had been quickly shut down by mercenaries.

According to Central Election Commission of Ukraine the election in Donetsk region took place only in 7 of the 22 electoral districts, and only in 2 out of 12 in Lugansk. People gathered in groups in order to make their votes if the precincts were open for voting.

As a result, the voter turnout was generally below the projected because the East did not take part in the voting. According to the Ukrainian political analyst Vladimir Fesenko, this had a decisive influence on the results gained by Poroshenko and his victory in the first round.

Besides the residents of the eastern regions, the right to vote was taken away from the majority of those people in the Crimea, which still remain loyal citizens of Ukraine. Mustafa Gemilyov, one of the leaders of the Crimean Tatars, took part in the voting in Kiev. Tens of cars with the Tatars from the Crimea drove to the Kherson region. Their goal was Novoalekseevka village where they could vote.

## **Truce**

The newly elected president, on the one hand strengthened military actions against separatists, on the other hand provided a peace plan for situation settlement.

The plan assumes a week-long ceasefire - period of a truce expires on June 28. Amnesty and corridor for the Russian mercenaries who will be able to return to Russia is provided. Nevertheless, the main points belong to reformation of local government and premature parliamentary and local elections.

The problem is that separatists aren't going to stop the fire and attack the Ukrainian checkpoints.

## **Problems with freedom of speech in Ukraine during the presidency of Yanukovich**

In the last years (since presidential election 2010 when Victor Yanukovich became the President of Ukraine) monitoring of a freedom of speech in the country testified a graceful degradation of a situation. It was especially visible during parliamentary election campaign in 2012. The phenomenon "jeans", that is the custom to use paid materials in media became pervasive. In an editorial policy editorial censorship became an everyday occurrence in an editorial policy that in great measure was connected with changes in the Ukrainian media market. Mass media were subordinated to the people connected with so-called "family" (media holding Kurchenko), or the editorial policy adapted to the recommendations arriving from a surrounding of Yanukovich. It was spoken even about new "temniks" from Presidential Administration (in the previous time about "temniks" it was recalled at the end of Leonid Kuchma's presidency when Victor Medvedchuk was the head of his administration).

The specific media policy was tracked during the Maidan when the part of TV channels accented and recognized - by falsifying reality- nationalist or even a fascist component of a protest in Kiev, frightening the audience of Banderovites, the Right Sector etc. Such media picture advertized by some Ukrainian mass media, in combination with its promotion on the Russian channels led to the corresponding – negative - effect of influence on a certain part of recipients - especially in the east of Ukraine.

Many citizens supporting the separatists in the East, in the conversation claimed that initially they supported Evromaidan until they saw on TV triumphant fascists who wanted to take power in the country. As a result, later it was very easy for Russian mass media to manipulate in a way "fascist hunta in Kiev" which seized to the power, and to frighten with Right Sector which allegedly surrounded Slovyansk with the purpose to arrange slaughter of residents.

### **Freedom of speech and situation with journalists working in the East**

During January question about safety of journalists in Ukraine becomes a serious problem. This question became actual since Maidan, when on the 1 of December as the result of Berkut attack on protesters in Bankovaya Street near the Administration of the President about 40 journalists were beaten. It was the first time when in Ukraine the question about the supplement of the journalists with the minimum amount of safety means – masks, safety glasses, helmets, and marks "Press" arose on the serious level.

In January 2014 during the clashes between demonstrators and Berkut in Hrushevskogo Street in Kiev, journalists despite bright markings became the targets of the rubber bullets of the militiamen.

On the night of February 18-19 so called "titushki" pulled out of the car the journalist of newspaper "Vesti" and shot him. After the events in January and February the profession of the journalist became so dangerous the question about supplement of journalists with the safety means with are used during war actions, for example bulletproof vests and helmets of the 3 and 4 level of safety arose. Unfortunately, not all editorial staffs afforded to buy such safety means.

Problem of safety of journalists work was actualized by the conflict in Crimea. Very often Ukrainian journalists were arrested by non identified armed men. Journalists were intimidated. Photographers and video operators were forced to delete the information from the memory card or their equipment was confiscated.

Very dangerous for the journalists who travelled from Crimea was crossing Armyansk, which connects peninsular with continental Ukraine.

The escalation of current situation became highly revealed in the East of Ukraine – in Donetska and Luhanska oblasts. Since April till May the work of the journalists in this region reminded war actions. The journalists of Ukrainian Mass media in the regions of self-proclaimed Donetska or Luhanska Peoples Republic appeared in the worst situation. Eventually the work of journalists in the territories controlled by gunmen became impossible. Indications of the level of danger are

arrests of journalists in Slovyansk - in the period since mid-April till mid-May, several journalists were detained. In Slavyansk an American journalist - Simon Ostrovsky was also arrested and imprisoned.

The work of western journalist in the areas controlled by gunmen, was completely dependent on their degree of activity and visibility. Representatives of the separatist authorities in Slavyansk constantly threatened journalists working there by punishment for "the transmission of false information." More frequent than in Crimea, there were cases of detention at checkpoints photographers and video operators, who were suspected of photographing positions of separatists. In such cases, journalists were often forced to erase the recorded material, but cases of destruction and confiscation of the working equipment were also documented.

A few days before the election, when it comes about the work of journalists in these regions, the situation has not changed. It is absolutely clear that the election campaign in the East was determined by the actions of militants on the one hand and the antiterrorist operation on the other. In the situation when the Kiev government can not fully ensure the electoral process and the work of election commissions in those areas, the reporters covering elections in the press are at risk, as the elections are not recognized by the separatists.

Security in the region has deteriorated significantly, and, of course, this applies to working journalists in the area. In the area controlled by the so-called Donetsk People Republic, accreditation for journalists was granted by the press service of the separatist authorities. Accreditation does not guarantee safe work, but without it the work is virtually impossible, and includes a direct threat - a journalist can be detained as a suspect in cooperation with the "Hunta of Kiev" and arrested.

Accreditation is sometimes checked on checkpoints, as well as in cities such as Slavyansk and Kramatorsk. The work even with accreditation depends on local commanders of gunmen. In principle, filming and photographing are prohibited. Accredited journalists are also tested by militants, who call their superiors. At checkpoints militants might already have photographs of searching persons in mobile phones and seek them among the bus passengers.

In this context, the question of hunt for "inappropriate" online journalists, organized in Russia, is very dangerous. Journalist (Ukrainian, western, but also Russian) can be claimed by "Russian" patriots in incorrect presentation of the information. Such situation occurred with the author, he was accused of broadcasting false information from Slavyansk. His picture along with the name appeared in the social networks of communities "Classmates" and "VKontakte" calling "to catch and throw from the city or throw in the cellar." Even more alarming were the comments that called for the physical elimination of the journalist. Also there was stated that this information had already been submitted to the checkpoints of separatists in Slovyansk. This is a very dangerous phenomenon, when someone sits in a remote location, sometimes up to several thousand kilometers, and his message is a threat to the lives of journalists. This threat is also real for Russian journalists, so some of them (who work for news agencies), do not sign their publications.

Unfortunately, in the Ukrainian forums and social networks one can meet with the records that demonstrate a lack of understanding the essence of journalist's work. However, it should be noted that this is due to the way of work of some Russian media - especially television channels,



which often work in favor of the official propaganda and falsify the reality. It is primarily about the channels: Life News and «Russia 24».

One of the main problems in the East of Ukraine, is the fact that this area is mainly influenced by the Russian media space. Thus, we are dealing with a one-sided propaganda, often false media reports, which for many residents of Donetsk and Lugansk are the only source of information about what is happening around them. In Donetsk and Lugansk oblasts - 6 objects belonging to Ukrainian Broadcasting, radio and television - in terms of infrastructure for radio and TV broadcasts - were captured by the separatists. As a result, channels in the Ukrainian language were switched off and in Russian were included. It should be noted that these objects were employed in the first place, which confirms the fact that the gunmen arrived well prepared and operated according to plan.

Besides, Donetsk People Republic already has its own television channel where the authorities often speak, although most of the ether takes retranslation of channel "Russia 24".

If we talk about the Ukrainian media, especially television, the appearance of dangerous trends should be noted. They take on inappropriate for democratic news reporting propagandistic functions and begin to preach pro-Ukrainian ideas instead of broadcasting news - wrote in his monitoring of the Ukrainian TV channels edition "Telekriika" (dedicated to the functioning of media).

The problem, which should be noted, of Ukrainian media covering the situation in the east of the country, especially in areas controlled by the separatists is the virtual absence of correspondents. The work of journalists there is associated with increased risk and even life-threatening. Therefore, Ukrainian media often use unverified information that appears in the net.

As in its monitoring "Telekrytyka" writes: As the consequence we have unevenness, lack of integrity, a low level of reliability and accuracy of information about the most important events that take place in Ukraine. War-journalists-heroes who work in the area of ATO and areas controlled by the terrorists, risk their lives to extract exclusive information, which, however, also lacks completeness (eg, sources of information are the same terrorists who deliberately lie or are cheated by Russian media or are locals loyal to terrorists).

How dangerous is the work of journalists in recent months in Ukraine say the statistics provided by Institute of Mass Information:

For the period since March 1 till June 10, 2014, in Ukraine 368 facts of violation of human rights have been registered, of them almost 80% are related to the actions of terrorists and to Russian aggression, which has been taking place in the East and in Crimea.

The main challenges for the freedom of press in Ukraine were:

- Disconnection of Ukrainian channels on the occupied territories, censorship – 88 cases
- Beatings and attacks against journalists – 87 cases
- Capture and attacks against offices of local media outlets – 43 cases
- Kidnapping and abduction of journalists – 46.

In May, for the first time in Ukraine an employee of a foreign media outlet covering the events in the East of Ukraine was killed – the Italian journalist Andrea Rocchelli and his interpreter Andriy Myronov, who were caught in the area of mortar bombardment near Slovyansk.

The worst regions for journalists were Crimea (118 cases of violations), Donetsk oblast (95), Luhanska oblast (50), and on the fourth place – Kyiv city (22 violations). The situation is alarming in Odeska (12), Kharkivska (13) and Mykolaivska (15) oblasts, as well.

At the same time, the Institute of Mass Information registered 4 oblasts of Ukraine, where no freedom of press violations were registered in the period mentioned above, these are Zaporizka, Kirovohradska, Khmelnytska, and Zhytomyrska oblasts. Ternopilska, Chernivetska, and Ivano-Frankivska oblasts had one violation each.

In May, there also were 7 cases of illegal arrests of journalists, of them five took place in Crimea, and were conducted by Russian enforcers. In particular, in Simferopol, a journalist Osman Pashaev and his Turkish cameraman Dzhengiz Kyzgyn were arrested, they were beaten, and their equipment was all taken, after this the journalists had to leave Crimea.

Since the beginning of the year, IMI registered 2 cases of journalist homicide, 239 beatings and attacks against journalists, 95 cases of obstruction to lawful professional activities of journalists, and 98 cases of censorship.

In June one more case of foreign journalist's death was registered, Russian journalist particularly. The investigation is held. The experts however say about his neglecting of safety rules. In any case this fact proves that the work of the journalists is very dangerous in this region.

## **Conclusion**

In a today's situation it is probable that there will be the second round of elections and, at the same time, in the East of the country anti-terrorist operation will last further. To all other, in Ukraine, especially in the eastern regions, a lot of weapon appeared in hands of different people. It is also necessary to mark, that probably, this year there will be also parliamentary elections.

From the point of view of journalist's operation it seems advisable to attract attention of both Ukrainian, and the international organizations that deal with media, to issue about safety of operation of the Ukrainian journalists. On the one hand it is a question of physical supply of working in hot points with appropriate ammunition – flak jackets, helmets (many journalists aren't able to provide it independently). On the other hand it is necessary to provide the special trainings connected with safety during the work time of journalists. Such trainings, for example, are carried out for some years by military experts for the Polish journalists.

It is necessary to mark that the Ukrainian NGOs are guided in the matter. The institute of Mass Information in April and May provided trainings for journalists of regional mass media in the east and the south of country. Trainings concerned specifics of operation during the election campaign and the safety issues connected to it. The institute placed the appropriate materials on the page in a network. If to speak about specifics of work of journalists during elections, the Committee of Voters of Ukraine prepared certain materials about the rights of journalists during elections.

Now the Independent labor union of journalists carries out a cycle of seminars ("Journalists in crisis situations") and trainings in different regions of Ukraine, devoted to safety of work of journalists in a conflict zone.

# Security Situation

by María Amparo Tortosa-Garrigos

## 1.- PRE-ELECTION PERIOD

1.1.- BACKGROUND

1.2.- IMPACT IN THE CAMPAIGN and IN THE ELECTORAL PROCESS

1.3.- ROLE OF THE SECURITY FORCES IN THE ELECTIONS

1.4.- NEED OF IMPROVEMENTS

1.5.- THE LACK OF “MODEL OF STATE” AFFECTS THE SITUATION

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## 2.- ELECTION AND POSTELECTION DAY

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## 1.- PRE-ELECTION PERIOD

1.1.- BACKGROUND:

The elections will be held under the state of war in the south-east regions, and with the absence of the State control among them, but in particular on the electoral process in the area. Two million people could be prevented from voting on May 25 because of this rebellion. And with two million voters Krym is under the Russian occupation, and those voters only can vote in other regions. The elections will take place under the self-proclaimed local and regional authorities in an illegal referendum in Donetsk and Luhansk, and under the environment of anti-terrorist operations. The Ukrainian military lost the control of the main industrial regions of Donetsk and Luhansk, where rebels have now declared their own independent republics in defiance of Kiev and the West. In Donetsk the rebels have been able to create their own armed forces in one weekend, actually are around 1500 in the city that are well equipped with Russian guns. Also have been reported Ural military trucks and some Cossacks circulating in the area. Some local Oligarchs organized popular patrols, as Rinat Ajmétov in Maiupol (500000 inhabitants), who has created the so called “civil protection teams” which are composed by 2 police men and 9 workers. This has a

positive impact in Mariupol. Most of the rebels are paid, but also is some local population supporting them. They are well trained and equipped, and some information supports the idea that they are from the Russian Special Forces. UN estimates that 127 people overall had been killed in the southeast and alerts over the deteriorating human rights situation there. A series of "targeted killings, torture and beatings, abductions, intimidation and some cases of sexual harassment" of the separatists' rebels have been reported. But also harassment and intimidation of the ethnic Tatars in the Crimean peninsula, who are becoming internally displaced inside Ukraine. UN also has documented persecutions and threats to journalists, activists and politicians (which includes Presidential candidates). At least 23 journalists have been illegally retained in Slaviansk.

#### 1.2.- IMPACT IN THE CAMPAIGN and IN THE ELECTORAL PROCESS:

The electoral campaign is being obstructed by the effects of this situation in the area, and the rebels entering with guns and taking the administrative buildings (which include the electoral) are impelling the election staff to do their job in Eastern regions, and some of them are afraid. Actually any campaign activity is taking place in Donetsk, Luhans and in Kharkov, and some candidates' offices are being destroyed. In Slaviansk many electoral commissions couldn't be created due to the security problems. In several hundreds precincts there are no conditions to celebrate elections. Kramatorsk is one of the most deteriorated places and for sure elections will not take place there. Also the non occupied administrative buildings will not open for elections. In Donetsk more than half part of the voters haven't access to the Voters List - VLs - and commissions are not working. The Governor of Dnipropetrovsk, who has enough resources, has been supporting a counter-referendum that was created to invalidate the one of the 11th, in order to attach to his Oblast the Rayons of Oleksandrivka, Dobropillya and Krasnoarmiysk, even this has a symbolic effect. Future tensions may be happening in Odessa and in the border of Kherson with Krym in the upcoming weeks. Thing may change rapidly and constantly. In general in the southeast regions there are no minimum guarantees for the distribution, custody, transfer and protection of the electoral materials and protocols. There is also a potential high risk of the separatist's boycott of the elections. The CEC has not received any security training or neither instructions on how to behavior to face security problems. At the same time, they haven't any security and evacuation plan; it is very obvious that they have a lack of support from the security perspective and are working alone in the affected regions.

#### 1.3.- ROLE OF THE SECURITY FORCES IN THE ELECTIONS:

The authorities are going to divide Ukraine in different type of risk areas depending of the situation, under the following categories: normal, increasing risk, high risk. One of the major problems for the central government is that the Ukrainian security forces are full of Russian agents, and on the other hand many police men are abandoning and passing to the rebels' side, or in some cases adopting a passive role. The police have, anyway, a very limited mandate and resources to face this type of situation, which requires special interventions and preparation. By other hand, the government didn't plan properly the anti-terrorist operations. The interim Prime President, Alexandr Turchinov, also has declared that he does not trust the loyalty of some

military units. But the most important factor to face this extreme situation is that they require Special Forces and non regular forces. If the government hasn't the full control of the situation in Donetsk and Luhanks, and police cannot use force their role is not clear. From some sides it is asked to be armed but some of them are being prosecuted due to Maidan incidents with Yanukovich. The recently created National Guard is about 15000 with limited resources and they cannot protect the citizens and elections in the area (over 2400 electoral centers). There are no provisions in the law if military means can be used for elections, and at the same time they could not be accepted by the population in the area. By the way, according to the Constitution they should be used for martial or emergency situations, which are at the same time situations that should cancel the elections.

#### 1.4.- NEED OF IMPROVEMENTS:

It is necessary to legislate the possibility of using internal security forces to protect polling stations, as the police are being passive and deserting in some areas, but particularly because they don't have enough resources and training for these situations (1 police man x Polling Station is not enough for this situation). And the military equipment could be used to organize the voting process and the transportation of the electoral documents and materials. In order to allow military means or resources to protect the elections there should be a provision in the law which does not include the martial and emergency situations. The government should create special provisions in the law to address this situation, and need to regulate the security and protection of the elections and to integrate security experts in the managerial staff of the elections. And the government should promote a closer cooperation between the security forces and the CEC.

#### 1.5.- THE LACK OF "MODEL OF STATE" AFFECTS THE SITUATION

While the separatists are creating new institutional structures by themselves, very fast and in a unilateral way (which include using violent means), the central government is reacting late and sometimes being accused of not having plan or don't know what to do. The government already had a previous pending debate/approval of the "constitutional reform" and the so called "decentralization", which is not clear at the moment and this is a handicap for the government. But neither this decentralization has consensus at this moment because some positions want to give more power to the governors and mayors, or a regional assembly that elects the Governor, others support the idea of a regional chamber (for some this may obstruct the law approval processes), and the 32% of the population prefer to give more decision-maker influence of the governors to the central government. There is an important break of the rule of law in the south-east regions and there are no conditions to conduct free, fair and transparent elections. Human rights and the electoral law are being systematically violated in this part of the country; despite these elections are being very well organized in the rest of the country, according to the law and in a peaceful environment, in general the results will be accepted anyway. And elections will be accepted also because after the Maidan events an interim government needs legitimacy, but especially to address the separatist problem and the extreme security situation in these regions.

## 1.6.- SECURITY RECOMMENDATIONS FOR STOs:

Avoid demonstrations and political gatherings. Stay away from politics.

Avoid disputes, disturbances, and demonstrations.

Do not dress provocatively or partisan colors.

Be careful whom or what you photograph. Never photograph someone without their permission. This is especially true of soldiers and police, and never photograph military or police facilities.

Stay out of the local papers, and out of the news.

Stay in touch. Ensure that someone always knows where you are, and when you are due to return. If you have to modify your plans, let someone know.

Keep a low profile. Keep necessary emergency numbers (medical and police) with you.

Be ready to leave on a moment's notice.

Keep all personal documents. Carry identification at all times that clearly describes your blood type and any allergies.

If involved in an accident or dispute, summon the local police immediately. Stay in the car until they arrive. If a hostile crowd starts to form, then drive immediately to the nearest police station and report the incident.

Never, ever accept unsolicited packages. It could be a setup to have you charged with espionage or smuggling, or it could be an explosive device.

If you are approached by an armed assailant who wants you to go with him, try to refuse. If the assailant has an accomplice and they try to drag you away, drop to the ground and start screaming for help. You will be difficult to carry, and will attract the attention of a lot of potential witnesses.

Some people advise that you keep your money in a pocket, not in a wallet with ID and credit cards. If an unarmed assailant tries to rob you, pull out the money, say "This is all the money I have", then throw it as far as you can. (Do not do this with an armed assailant. The surprise of your action might lead to his pulling the trigger.) Then run as fast as you can in the opposite direction.

Keep your vehicle in good repair and the tank full of fuel. Keep enough water and food, and also a torch.

Never travel alone unless absolutely necessary.

Park your vehicle on the street or in a guarded lot, not in a public parking garage.

Never pick up hitchhikers, including young women. N

ever agree to take hitchhikers or passengers through checkpoints. If you have hitchhikers with you, have them get out of the vehicle at the checkpoint and cross on foot. You never know what a

stranger's status is, and if he is on the wrong side of the authorities, you do not want to be involved.

Always drive with doors locked and windows closed.

Drive carefully, and don't speed.

Try to use approved or well-used routes. Tell someone what your destination is, and the route you intend to follow to get there. If you must deviate from it, inform them.

If a paved alternative exists, use it.

Cooperate if in case you have to face an illegal checkpoint. Be polite, patient, and courteous - no matter what the provocation.

Acquaint yourself with the security situation when you arrive, and ask if there are any local security or safety instructions.

#### 1.7.- QUESTIONS FOR E-FORMS:

##### OPENING

1.- Was the building accessible to all voters? YES/NO/NA

2.- Was the environment outside the PS peaceful? YES/NO/NA

3.- Was the PS and surrounding free from obstructions to allow free movement of voters and polling officials? YES/NO/NA

4.- Where the security forces present outside the PS? YES/NO/NA

5.- Where the polling materials delivered to the PS safely? YES/NO/NA

6.- If the PS didn't open in time, what was the reason? Disturbances / Insufficient materials / Insufficient number of polling staff / Polling staff lack of understanding of the procedures / Other:  
.....

7.- Was the opening process free from interference? (Including by security forces and party members) YES/NO/NA

##### POLLING

1.- Was the environment outside the PS peaceful ? YES/NO/NA

2.- Were the security forces present in the PS and according to the regulations? YES/NO/NA

3.- Was the PS and surrenders free from obstructions to allow free movement of voters and polling officials? YES/NO/NA



4.- Any of the polling staff have been intimidated? YES/NO/NA

5.- Any of the proxies or observers have been intimidated? YES/NO/NA

6.- Was the process free from interference? YES/NO/NA

7.- Was the environment inside the PS peaceful? YES/NO/NA

#### CLOSING

1.- Was the closing of the PS peaceful? YES/NO/NA

2.- Were observers and proxies allowed to observe the process? YES/NO/NA

3.- Was the counting environment peaceful? YES/NO/NA

#### TABULATION

1.- Was the environment outside the Tabulation Center peaceful? YES/NO/NA

2.- Were the security forces present outside or according to the regulations? YES/NO/NA

3.- Were the security forces generally escorting the results protocols from the PS to the TC? If not, explain. YES/NO/NA

#### 2.- ELECTION AND POSTELECTION DAY

The OSCE decided to withdraw their observers due to the deterioration of the security situation and the violence. And ENEMO sent mobile LTO teams to Krasnoarmiisk, Dpbropillia in Donetsk and followed the work of the DEC and some PECs.

In this sense, the most relevant groups who could be observing the elections were the domestic observers OPORA and Committee of Voters.

##### 2.1.- EDAY

In **Donetsk** from the 2430 existing polling stations only 514 could open (any in the city of Donetsk), the 21%, and just in the areas under the army control, which means that the security reinforcement has a positive impact. Mariupol could open 203 PSs thanks to the citizens-patrol groups organized by Rinat Ajmétov.

In **Luhansk** only 2 districts opened from the total number of 12, and 7 were mined. In this day one person was killed as a consequence of open fire. The electoral participation was between 10 and 15%. In these two regions the participation of voters was between 11 and 17%. This situation was due to intimidation, threats, pressure, attacks, destruction or obstruction of the materials by the separatists, and also due to fear of some election officials who presented their resignation. There

were also specific death threats, capture and destruction of election materials, and it was impossible the distribution of many ballots.

Some PSs were formed with fewer members than the stipulated in the law, in others many voters couldn't vote because they are war displaced or because the separatists control their areas.

The war environment also affected to the campaign, as some candidates faced obstructions and difficulties, and others has to limit their campaign or couldn't campaign in person due to the security situation. Intense combats and open fire between the rebels and the antiterrorist operations took place after the E-Day in the Donetsk airport and this caused dozens casualties, and four new OSCE observes were kidnapped.

In **Crimea** the voters had to move to other regions in order to accomplish with their right to vote, and they did it mainly in Kherson. The Tartars organized their voting together like a community. They departure forming a long column of cars from Medzhlis (their own self-government community) in Simferopol, that's why they had to wait hours in the border control checkpoint, but all of them could finally vote.

## 2.2.- INTERNATIONAL STANDARDS

Following the OSCE (the existing commitments for democratic elections, approved in 2013 and "The international standards and commitments of the right to democratic elections" 2002), IFES, NDI, and the Carter Centre standards, and in accordance of the United Nations Electoral Assistance Division (UNEAD), such as equality, impartiality, universality, non discrimination among voters and candidates and to preserve minority rights and pluralism, all these standards couldn't be guarantee in the south east regions as a consequence of the war environment, but were enough guaranteed in the rest of the country. As we could observe in the Donbas regions and in Crimea there was a general environment of voters who couldn't access to the election process due to the intimidation, discrimination (for those who are non separatist), and the candidates couldn't campaign as consequence of serious violations. This was as a consequence of the hostile security environment carry out by the armed separatists groups and the subsequent anti-terrorist operations.

The authority of the government couldn't serve to the will of people due to this external interference in the process, to the violence and threats of the separatists. Despite the government efforts individuals were not permitted to vote without any distinction of political belief if against the separatist process. For Crimea it was the same as the voters were discriminated by the new illegal integration into the Russian federation, and this didn't allow them to vote in the Crimean territory, obliging them to move to other regions.

According to the Compendium of International Standards for Elections, EU, 2<sup>nd</sup> edition, "the State is responsible to take all necessary measures and precautions to prevent the perpetration of fraud and any other illegal practices throughout the whole electoral process, and to ensure that adequate security is provided to all parties participating in elections".

Type of violations according to the international standards due to the hostile security environment:

The voters couldn't check the accuracy of their registration and ensure if errors are corrected.

No public information (voters list, composition of the electoral commissions).

The political parties couldn't compete with each other on the basis of equal treatment.

The Ukrainian candidates suffered of hate apology and political violence.

But in regarding the right of freedom of expression and communication "without interference of public authority" the OSCE is limiting this violation to the State but does not mention the possibility of being conducted by alternative or terrorist forces, and that's the case in Donbas. That's why we can advise to correct it and ask to include this possibility.

Peaceful assembly and demonstration.

Absence of free atmosphere, campaign candidates couldn't present freely their views and qualifications and prevented voters to discuss and learn with them. Many voters couldn't cast their vote. No access to media. The State couldn't give free access for public facilities. Voter education and information was disrupted also. The same for the training of the election officials and workers responsible for the election administration. The voters couldn't check the information for places of voting and voting procedures, and the voters list were not accessible in most of the cases. That's why according to these international standards "the State has a particular obligation to prevent and respond to any recourse to violence or intimidation against election participants", and that's why under these circumstances the State is legitimated to reinforce the security measures as protecting the election places with more security guards and if necessary with armed guards in outside the polling centers premises. But the same structure could be valid for the transportation and escort of the election materials and protocols.

As the election administration was not in place, such as ballots, polling stations opened and properly staffed and operated, we can consider due to the lack of a safe environment and to the open fire atmosphere all these international standards were violated in these regions. Indeed, as the legal system was violated there was impossible to deal with dispute resolutions and complaints. That why we can consider that the Copenhagen document as violated for all major international human rights instruments. But in particular because the OSCE observers couldn't observe the process because the host State couldn't guarantee their safety and couldn't facilitate their work (paragraph 24). In some way this may be applied for the national observers, even in some cases they had a better chance than the international observers to access to the process.

Despite all these problems we can consider as a general trend that elections were well conducted in the rest of the country, without major problems. Thanks to the NGOs role and to the international observers it was possible to build public confidence (according to the OSCE Istanbul Summit Declaration principles). In the Donbas regions the government couldn't guarantee the paragraph 7,4 of the Declaration of Copenhagen (elections must be protected from arbitrary removal).

In general all the international standards do not cover specific situations of security problems; it is mentioned only in very few cases. But in particular the OSCE only consider cases of State violations and do not includes other type of situations, like in Ukraine, when the State is violated by external or alternative forces. The clearest provision regarding this matter is established by the EU. In this sense, the conventions should allow security reinforcement for the necessary protection of the electoral commissions (as this worked well in the few cases already mentioned above) and the right to vote of the citizens. Even the SBU (the Internal Security Service) decided to not interfere since Saturday up to the day after of the E-Day, this means that other security bodies as military or guards could carry out with these functions: protection of electoral commissions and voters. So, the government can reinforce this part.

The authority of the CEC was violated at all in these regions, as they couldn't ensure the implementation and protection of citizens' electoral rights, which, according to the international standards, in practice can only be achieve with the full co-operation of other State institutions at all levels. In this particular case there was a notable absence of the central government reinforcement in its relationship with the CEC: security training, professional instructions on how to behavior, protocols for extreme situations, and the most important, the lack of security bodies supporting them. As the OSCE considered in their assessment, "the situation in the east of Ukraine seriously challenged the election Administration's ability to fulfill this responsibility". On the 15 April the Parliament approved the Law on Ensuring the Rights and Freedoms of Citizens and the Legal Order on the Temporary Occupied Territory of Ukraine. On the 20<sup>th</sup> some amendments prescribed the destruction of ballots which were not yet delivered, and then permitted to send additional military personnel to the Donbas regions. But this provision was sent only for the voter list protection on the Election Day, which is not enough and they should consider the whole part of the process under threat (election staff, other materials, PSs locations and buildings, transportations, etc.).

The right to Security of the Person is established in international and regional treaties and is applicable throughout the electoral process. It requires that individuals be free from physical and mental violence at all times. And the State is obliged to guarantee the right to security of a person without arbitrary arrest or detention (this is included in all international and regional organizations treaties and its applicable for electoral processes).

The role of security forces during the Election Day is critical to the proper functioning of the electoral process. The State practice indicated that voters have the right to security provided by police and security forces in PECs, but without interference from them.

### 2.3.- CHALLENGES FOR PEACE

The popular battalions are being multiply in both sides of the conflict (separatists and unionists) and this may provoke a "**guerrilla**" war. The separatist battalions are trying to become official in some way, and the main groups have been nominated as Vostok (with Chechnya militaries), Oplast and the Russian-Ortodox. The Ukrainian battalion of Donbas is being formed by army veterans, bank workers and students.

The guerrilla forces are operating in populated areas, where it is very difficult to assert full military control without risking civilian casualties. And, of course, the more the Ukrainian government tries to respond militarily, the more enemies it creates on the ground. So, it is not advisable to stay longer with the military operations.

There is also a big concern about the proliferation of **paramilitary groups** that may complicate the situation as they are increasing. Neither the self-proclaimed Prime Minister of the Republic of Donetsk can control them. These paramilitary groups are using the name of the new army of Donetsk and are perpetrating robberies, neither Borodai can control them. There is another paramilitary group being organized by local oligarchs and with the aim of the ministries for defense and interior (as they cannot provide enough resources).

The oligarch Kolomoisky is pressing to change the law in order to prohibit paying mercenaries, but at the same time he is investing 10 million euro per month in them. In Dnipropetrovsk he is organizing battalions against the separatists, he is mainly providing logistic support and military material. At the beginning of the conflict he offered 10000 dollar per separatist delivered to him. This provoked the rebels boycott to his bank premises in Donbas and Crimea.

So, this means that the new government should include the **disarmament** of all type of groups once a peace process could be conducted. But a peace process shouldn't forget the **refugees'** problem and to organize their provisional situation and the right to return. That's why disarmament and refugees should be included in the peace agenda.

The risk of a no clear **military victory** on the Ukrainian side is that we can see these local entities creating their own governing structure. This was the pattern more than two decades ago when Abkhazia and South Ossetia split from Georgia, Transnistria separated from Moldova, and Nagorno-Karabakh seceded from Azerbaijan. In most instances the secessionists managed to win their wars with the Russian assistance though they remain unrecognized as independent states by most countries. In this case this will remain as a frozen conflict.

But the most important path for peace is the **political way**, that's why the new President has declared his intention to open a dialogue in the area and with Russia. But this dialogue should be inclusive and shall face a negotiation of a political status for these regions. As in previous cases it was essentially the victory of a different kind of state builder: the Abkhaz or the Trans-Dnestrans, who created their own governing structures that rivaled those of the central government, that's why this time Ukraine should consider lessons learnt from previous similar experiences. In that sense the so called "decentralization" is a key element for peace and stability, as decentralization is quite demanded in Ukraine. But "**decentralization**" needs to be negotiated, clarified, and more specifically should be decided under the consensus. "Decentralization" is not yet a concrete proposal and that's why the time for political solutions is crucial.

The new President is saying he wants dialogue and he's offering an agenda of conciliatory measures, Russian language, and local autonomy related to budgets and taxation. This is a good beginning for him and this may affect to the well conducting of the conflict in to a more peaceful resolution.

But for the disarmament the future status of these so-called secessionist groups in southeastern Ukraine, Russia has to play a role, and that's why a possible dialogue of the new Prime Minister with Putin is important.

Obama said in the last meeting in **Normandia**, together with the Prime Minister Cameron and others, that Putin needs to do three things: he needs to respect Poroshenko as the legitimate president of Ukraine (and that's why was so important the Ukrainian government provision to accept these elections), he needs to stop support for the separatists, and he needs to stop material and militias going across the border. And if not, there will be further consequences.

The meeting in Normandia can be a good challenge to start a new relationship, or at least to normalize relations, between the new President of Ukraine and Russia. The strongest message given to Putin in Normandia was to go back and make peace with Kiev.

As in the **U.N. Security Council** China abstained, Russia has found perhaps less support for its intervention in the east of Ukraine than it might have thought. There was unity in the West that perhaps we hung together more than Russia calculated. Maybe the sanctions have had some effect in terms of capital flight and those around Putin who have been targeted, not just personally, but also their businesses. So, there should be a combination of different measures.

Taking in consideration the **NATO and EU enlargements** in process Russia may consider cooperating with western countries is more in its interests than engaging in open conflict.

The **economy** is another threat for the stability as is suffering quite dramatically, because now is over on top of its political crisis. Growth will probably fall something on the order of 5 percent to 10 percent this year. The fiscal revenue will be a lot worse, the growth is lower. But more specifically in some parts of the country for the fiscal policy the government is not really functioning, this is another reason to urge on the constitutional reform and the state model. This may create another type of instability in the country. The country seem to be slightly better on the political side than on the economic or security, that's why we can consider the economy and security progress in the country can be crucial and its is urgent to work on it and more specifically in the line to get agreements. And the other part of the policy is very important to try to influence Russian behavior, largely through pressures and sanctions.

Following with the economic issue the unrest taking place in Donetsk and Luhansk, which are very important regions in terms of heavy manufacturing, so the longer that unrest continues, the more of a hit the Ukrainian economy takes, so these things are definitely connected.

Stabilizing the Ukrainian economy is crucial for their survival as a state, as a viable state, and that's why their participation in the Western economy is critically important. Ukraine needs to build an economic future with the Western aid.