



# MISSION CANADA

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Ukraine Repeat Parliamentary Elections 2013

## FINAL REPORT

February, 2014

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# Table of Contents

Executive Summary.....	1
Introduction .....	6
Acknowledgements.....	7
Background and Political Context.....	7
Legal Framework.....	9
Election Administration .....	12
Voter Registration.....	16
Candidate Registration .....	16
Election Campaign .....	18
Complaints and Appeals .....	18
Participation of Women.....	20
Participation of Young People .....	22
Domestic and International Observers.....	23
Immediate Pre-Election Period.....	24
Election Day .....	26
The Opening Procedure .....	26
The Voting Period .....	26
Closing and Count .....	27
Post-Election Developments.....	28
Tabulation of Results .....	28
Anomalous Results.....	29
Transfer of Results .....	29
Conclusion.....	29
Recommendations .....	30
Annex 1 - About <i>Mission Canada</i> and CANADEM.....	33
Annex 2 - Stakeholder Meetings.....	35
Annex 3 – Map of Repeat Elections.....	36
Annex 4 – Anomalous Results.....	37
Annex 5 – Statistic Results of <i>Mission Canada</i> Observations.....	38
POLLING STATIONS VISITED PRIOR TO ELECTION DAY .....	38
PEC OPENING .....	40
VOTING PERIOD .....	43
CLOSING AND COUNTING .....	47
TABULATION AND TRANSMISSION OF RESULTS.....	54



## Executive Summary

Following the invitation from the Ministry of Foreign Affairs of Ukraine, the Government of Canada sponsored the deployment of a team of 26 short-term Canadian election observers for the repeat parliamentary elections held in five districts on December 15, 2013. As follow-up to its observation of the 2012 parliamentary elections, *Mission Canada*<sup>1</sup> deployed an advance team of six observers to monitor the pre-election preparations in the five districts the week of November 26. They were joined by an additional 20 observers, including three members of parliament, the week of December 10. The scope of the mission was limited to the district and precinct level observation of the immediate pre-election, Election Day and count and tabulation processes. Within this limited scope, this report provides an assessment of the conduct of the elections in these five districts in comparison to what was observed in 2012 and provides recommendations to help improve the technical administration of the electoral process as Ukraine prepares for the Presidential Elections scheduled for March 29, 2015. This report should be read in conjunction with *Mission Canada's* 2012 report for Ukraine Parliamentary Elections for a more comprehensive assessment of the electoral process.<sup>2</sup>

*Mission Canada* was one of the largest groups of international observers present for the December 15 repeat parliamentary elections. An interim report was issued December 12<sup>th</sup>, followed by preliminary findings announced December 16<sup>th</sup>.<sup>3</sup> *Mission Canada* noted that most of the irregularities observed in the 15 December 2013 repeat elections were similar to the ones reported in the 2012 parliamentary elections, raising concerns that a lack of prosecutions for violations in 2012 may have created an environment that supports violations of the *Law on Elections*.<sup>4</sup>

The repeat elections took place in the context of a highly-charged political atmosphere marked by the continued imprisonment of former Prime Minister Yulia Tymoshenko on alleged political grounds, and the largest mobilization of demonstrations in Ukraine since the Orange Revolution – the “Euromaidan” movement – in response to the government’s decision to withdraw from the Association Agreement with the European Union which resulted in several instances of altercations with authorities, (including several deaths, albeit after the repeat election day). While some of the significant events of the Euromaidan protests and response occurred following the repeat elections of December 15<sup>th</sup>, *Mission Canada* considers it relevant and important to note that the Parliament of Ukraine adopted a law on January 16<sup>th</sup>, severely curbing a number of civil liberties, including freedoms of speech, assembly and media. While the law was repealed several weeks later in response to massive public outcry, it is significant to highlight this episode, given the importance of legal protections of civil liberties to public confidence in the electoral system. With a presidential election scheduled in thirteen months, any tampering with either electoral law or in civil or human rights protections become significant – and hurts the foundation of future free and fair elections.

*This report should be read in conjunction with the Mission Canada Report for the 2012 Ukraine Parliamentary Elections. Mission Canada 2013 was an extension of that mission*

<sup>1</sup> *Mission Canada* is managed by CANADEM, a Canadian non-profit democracy promotion agency [www.canadem.ca](http://www.canadem.ca)

<sup>2</sup> *Mission Canada's* 2012 report is available online at [www.canademissions.ca](http://www.canademissions.ca)

<sup>3</sup> All 2013 repeat parliamentary election reports and press releases can be found at [www.canademissions.ca](http://www.canademissions.ca)

<sup>4</sup> *Mission Canada* noted that a number of District Electoral Commission (DEC) officials who participated in the 2012 elections who may have contributed to irregularities held executive positions in the 2013 repeat elections

The legal framework for the repeat elections was largely unchanged from 2012. On balance, as noted in 2012, it provides a reasonably sound basis for the conduct of democratic elections. It is in its inconsistent application that *Mission Canada* observed continued irregularities. Problems were noted in the formation of election commissions, the perpetuation of an overly formulaistic approach to candidate registration, indications of vote-buying, and the lack of transparency and consistency in decision making at both the election administration and judicial levels, undermining trust in the effectiveness and impartiality of the complaints and appeals process.

As with the 2012 elections, *Mission Canada* noted that the operation of polling stations during the voting period was generally competent. However the handover of material from PECs (Precinct Election Commissions – or polling station governing authorities) to DECs (District Election Commissions – or constituency-level election governing authorities) and the transparency of the process at the DEC level continue to be problematic. DEC premises were often too small, delays to process PEC protocols were long, tensions ran high, and procedural irregularities were noted. Unlike 2012 there was no evidence of manipulation of results as PEC protocols were transferred to the DECs, and as results were tabulated and transferred to the Central Election Commission (CEC).<sup>5</sup>

*Mission Canada* noted anomalous results in several precincts, where winning candidates received a disproportionate amount of the votes.<sup>6</sup> As these were mainly in "special" precincts (prisons and medical facilities), *Mission Canada* is concerned about the potential use of administrative pressure and/or coercion against Ukraine's most vulnerable voters – common explanations of highly anomalous results in special polls.

Furthermore, *Mission Canada* noted with concern the continued presence of “technical parties”, “technical candidates”, and “clone candidates”, used as tactical fronts for political parties to either confuse voters, split an opposing vote, or to gain additional representation on an electoral commission. The presence of large groups of “observers” – both political party representatives and journalists – in and around polling stations, for what appeared to be tactics to intimidate and cause confusion, also cause concern. Such phenomena serve to undermine the spirit and intent of the law to ensure an open and transparent election process where Ukrainian voters can freely choose their political representation, and continue to undermine the public confidence in the integrity of the election process.

On a positive note, *Mission Canada* is encouraged by the continued growth of civil society groups, such as *OPORA* and the *Committee for Voters of Ukraine*, which have been able to organize effectively and mobilize significant domestic scrutiny of the election process – a promising trend to strengthen domestic oversight for Ukrainian democratic institutions. The inclusion of additional rights for both international and domestic election observers in the *Law for the Repeat Elections* was a positive change. *Mission Canada* strongly encourages Ukrainian authorities to ensure the rights for domestic election observers are properly codified for the upcoming presidential elections.<sup>7</sup>

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<sup>5</sup> Significant irregularities following the closing of the polls, in particular dealing with tabulation and transfer of results, contributed to the CEC decision to declare it impossible to establish results in these five districts following the 2012 elections.

<sup>6</sup> See Annex 4 for table showing vote distribution.

<sup>7</sup> The current *Law on Presidential Elections* does not include provisions for domestic observers.

In 2012, *Mission Canada* concluded that Ukraine’s general parliamentary elections fell short of meeting international standards and that the elections marked a regression in Ukraine’s democratic development. Without addressing many of the same shortcomings in these repeat elections, *Mission Canada* does not feel that notable progress has been made to amend its 2012 finding.

*Mission Canada* makes the following recommendations for consideration by Ukrainian authorities, political stakeholders and civil society to ensure an election process that genuinely and fully reflects the will of the people.

## RECOMMENDATIONS

### Election Administration

1. Ukraine should continue to have Election Commission members that are representatives of electoral participants, be they parties or independent candidates.
2. The CEC lotteries for PECs and DEC candidates prescribed by Ukrainian electoral law should ensure balanced representation of national and local electoral participants. It is advisable to strengthen legislation to ensure that parties be permitted to nominate representatives for DEC candidates and PEC candidates only in districts where they have a candidate running, or if they have a slate of party list candidates for the proportional system. Conversely, parties or candidates should be denied representation on a DEC or PEC if they cease to have a duly registered candidate.
3. *Mission Canada* recommends a return to the practice of a separate lottery for *each* DEC and PEC (rather than a single lottery to determine proportional representation of management of *all* DEC candidates and PEC candidates) as separate lotteries create considerable additional guarantees for representative balance among the political parties in DEC candidates and PEC candidates, while also helping to hinder schemes to deliberately abuse and manipulate the system.
4. While *Mission Canada* does not recommend creating barriers to legitimate political party participation, the Mission recommends that the CEC look to international best practices to implement measures that would reduce the formation of “technical parties”, such as possibly prescribing a minimum level of party activity between elections.
5. To improve its transparency in the administration of elections, *Mission Canada* recommends that the CEC hold its discussions in public sessions. Agendas, draft documents on resolutions, and decisions should be made available to electoral participants and observers on a timely basis.
6. In order to improve transparency, the decisions of the DEC candidates should be posted immediately on the CEC website.
7. CEC should establish a centralized, regularly updated and publicly accessible registry of complaints to allow monitoring/transparency.
8. In keeping with the *Law of Parliamentary Elections in Ukraine*, *Mission Canada* recommends that video cameras should not be present in polling stations, except as allowed for the use of election observers and journalists.

9. *Mission Canada* recommends that online training modules for election commissioners should continue to be developed by the CEC as a resource that reinforces but does not replace applied training in districts.

## Voter Registration

10. Voters, political parties and non- governmental organizations should be granted ongoing access to the *State Voter Registry* to verify its accuracy. The reporting/ investigation process for inaccuracies should be strengthened by increasing transparency and accountability.

## Candidate Registration

11. *Mission Canada* recommends that the Constitutional Court provide a clear definition of what precisely constitutes "residency" in Ukraine. *Mission Canada* welcomes the January 2014 CEC application to the Constitutional Court for an official interpretation of "residency."
12. *Mission Canada* recommends that the CEC take a less formalistic approach, in keeping with the spirit of legislation and international democratic standards, to candidate registration, especially in the case of correcting errors and omissions in nomination documents.

## Complaints and Appeals Process

13. Transparency in the election dispute resolution process could be enhanced by election commissions' fully presenting and discussing complaints in its public sessions with active participation of all interested parties. The practice of holding private sessions to decide on complaints prior to public sessions should cease.
14. Election commissions and administrative courts should fully adhere to the principles of impartiality, due process, rule of law, and transparency in handling complaints. All complaints should be considered on their merits. The letter and spirit of the law should be respected and consistently applied. Decisions should provide comprehensive and clear factual and legal reasoning.
15. To enhance consistency in the election dispute resolution process, the CEC and higher courts should collaborate to establish and publish, on a timely basis, interpretations of key issues in the electoral law that are in need of clarification.

## Legal Framework

16. The legislation guaranteeing freedom of assembly, freedom of expression, and freedom of the press should be strengthened, in keeping with both international best practices and Ukraine's constitution, to help protect democratic rights and further strengthen the legal framework for the conduct of free and fair elections.

## Women and Youth

17. *Mission Canada* recommends that where the CEC collects voter registration and turnout data, it should be tabulated in such a way as to allow for disaggregation by gender and age. This data should be openly shared to improve monitoring of electoral participation amongst women and young people, and the development of more targeted and effective voter-education programming.
18. Domestic observation and/or civil society groups should be assisted with programmes to build political literacy among youth sub-groups that are vulnerable to vote buying and/or other schemes that obstruct electoral processes.

## Election Observation

19. *Mission Canada* encourages continued funding and support to strengthen domestic election monitoring groups, in the interest of building public confidence and transparency of democratic processes.
20. Election observers should be permitted to observe all aspects of the electoral process including the computer transfer of results from the PECs to the DEC, and from the DEC to the CEC. In order to increase transparency and public confidence, access to all components of the electoral process should be provided to all accredited election observers, including the computer vote tabulation room at the DEC.
21. Domestic observers should be given the right to observe all elections in Ukraine, including the 2015 presidential elections. This could be done through the development of separate legislation rather than making changes to the current *Law on the Presidential Elections*<sup>8</sup>.

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<sup>8</sup> International best practice holds that, except in extraordinary cases in which serious deficiencies have been revealed in legislation, changes to the legal framework should not be made less than one year prior to an election.

## Introduction

*Mission Canada 2013* was mounted to observe and report on five repeat elections held in Ukraine on December 15. It consisted of 26 Canadian expert observers – supported by a core team of three analysts and a logistics expert– and a timeframe that allowed for observation of the immediate pre-election period, voting day, post-election tabulation and complaints and appeals processes. Six observers arrived on the week of November 30th to monitor and prepare briefings on immediate pre-election activities in the five districts. They were joined by the other 20 observers, including three Members of Parliament, on the week of December 10th and were able to observe voting in 120 precincts and tabulation processes across the five districts on Election Day. Four observers remained in Ukraine until December 24th to monitor complaints and appeals, and the official announcement of results by the CEC.

Canada has been sending independent bilateral election observation missions to Ukraine for almost a decade with the first full-scale short term Canadian observation mission being deployed for the 2004 repeat second round of the Presidential elections following the so-called Orange Revolution. *Mission Canada*, the independent Canadian observer mission mounted by the non-governmental organization CANADEM, was first deployed as a short-term observation mission for the second round of the Presidential Election in February 2010. In 2012, *Mission Canada* became the largest ever Canadian bilateral observation initiative with 422 observers, including 65 long-term observers who were based across all regions of Ukraine for 10 weeks to monitor preparations and campaign activities leading up to parliamentary elections.

For the parliamentary elections in 2012, *Mission Canada* presented two interim reports covering the pre-election period, a preliminary report immediately following the elections, and a Final Report that was presented to the Government of Canada in March 2013. Its analysis concluded that **Ukraine's 2012 parliamentary elections fell short of meeting international standards, and marked a regression in Ukraine's democratic development.**<sup>9</sup>

Irregularities and violations observed by *Mission Canada* and other international and domestic observation groups were of such magnitude in single-mandate districts (SMDs) 94 (Obukhiv), 132 (Pervomaisk), 194 (Cherkasy), 197 (Kaniv), and 223 (Kyiv City) that the CEC was unable to establish results. The five districts in question represent more than 700,000 voters who had been deprived of parliamentary representation for over a year.

This mission, *Mission Canada Ukraine 2013*, is an extension of the 2012 observation, providing an opportunity for *Mission Canada* to observe if the conduct of the elections in these five districts has improved since 2012 and to provide recommendations to help improve the technical administration of the electoral process as Ukraine prepares for the presidential elections scheduled for March 29, 2015.

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<sup>9</sup> For the full findings of *Mission Canada 2012*, see the interim reports and Final Report, available at <http://www.canadem.ca/home/en/deployment/election-observation/mission-canada-2012.html>

## Acknowledgements

*Mission Canada 2013* was mounted by CANADEM with the financial support of the Department of Foreign Affairs, Trade and Development (DFATD) of the Government of Canada. *Mission Canada* wishes to thank the Ministry of Foreign Affairs of Ukraine for its invitation to observe the repeat elections and the Central Election Commission (CEC) of Ukraine for providing accreditation to *Mission Canada* observers. *Mission Canada* also wishes to acknowledge cooperation received from other national and local state institutions, election authorities, candidates, political parties and civil society organizations in Ukraine, as well as other international organizations and the Canadian Embassy in Ukraine for their support.

## Background and Political Context

The repeat elections that were held in five districts across Ukraine on December 15th 2013 represented a unique opportunity to monitor progress on the application of recommendations advanced by *Mission Canada* and other international and domestic organizations that observed the country's parliamentary elections in October 2012. Irregularities observed in those parliamentary elections – particularly in the five districts whose election outcomes could not be determined – were considered by *Mission Canada 2012* to fall short of international standards and mark a regression in Ukraine's democratic experience.

In 2012, *Mission Canada* deployed 65 long-term observers (LTOs) to Ukraine for a period of 10 weeks to observe and report on changes to election laws, the preparedness of election administration bodies, the handling of election related complaints, the registration of voters, the campaign activities of political parties and individual candidates, the media environment, and the participation of women.<sup>10</sup> During this pre-election period, *Mission Canada* observed and raised concerns relating to the:

- **Amendments of electoral laws** that were enacted less than a year before elections; reinstated a mixed electoral system with a majoritarian component that lacked criteria for electoral boundary district delineation; maintained overly restrictive conditions on candidate registration; and remained ambiguous on issues relating to campaign finance;
- **Establishment and functioning of election administration bodies** that applied a “winner-takes-all” lottery system resulting in domination by minor parties; and encountered frequent membership changes leading to delays and dysfunction;
- **Misuse of administrative resources** by government officials to support or obstruct campaigns.
- **Encroachments on media freedoms** through harassment of journalists, access barriers to free airtime for candidates; and an overall concentration of ownership of media;
- **Adjudication of election related complaints and appeals** that were routinely denied substantive and transparent consideration resulting in dismissal or decisions lacking evidence or explanation
- **Underrepresentation of women** amongst candidates and senior election administration bodies.

*Mission Canada* deployed 357 additional short-term observers (STOs) to polling stations across Ukraine on Election Day. They generally assessed the administration of voting processes to be competent, but reported serious breaches of process, law, and international best practices in the:

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<sup>10</sup> For the complete findings of *Mission Canada 2012*, see the interim reports and Final Report, available at: <http://www.canadem.ca/home/en/deployment/election-observation/mission-canada-2012.html>

- **Tabulation of results:** that was assessed as bad or very bad in 38.2% of observed districts owing to falsifications allowed by unfilled, pre-signed protocols; manipulation of electronic data entry; obstruction of observer access to tabulation rooms; intimidation of administrators by candidates or their representatives; and intentional delays in tabulation;
- **Transmission of results of voting from polling stations to the district level:** one-third of observed transfers were assessed as bad or very bad owing to delays in tabulation that required precinct commission members to wait for several days in crowded, tense and often inhumane conditions.

As noted in the *Mission Canada 2012 report*, in five single-mandate districts (SMDs), irregularities and violations were of such magnitude that the CEC declared itself unable to establish results. On 5 September 2013, the Law of Ukraine N 457-VII "On Repeat Elections of Peoples' Deputies in the Single-Mandate Districts No. 94, 132, 194, 197, 223" was signed by Ukraine's President.

In 2012, the results of other majoritarian contests and proportional seats allocated on the basis of party lists provided a governing plurality to the Party of Regions faction in the Verkhovna Rada (Ukraine's unicameral parliament). This is relevant to the extent that balance of power was not at play for repeat elections in the five districts that remained vacant after the 2012 parliamentary elections. Preparations for the repeat elections nonetheless still occurred in a highly-charged political atmosphere marked by the continued imprisonment of former Prime Minister Yulia Tymoshenko on alleged political grounds, a growing economic crisis and a corresponding debate over the ratification of an Association Agreement with the European Union that led to threats of economic sanctions by Russia. A suspension of negotiations for the signing of this agreement on November 21, 2013 and violent dispersal of related demonstrations in Central Kyiv on November 30, 2013 provoked the largest mobilization of demonstrations in Ukraine since the 2004 Orange Revolution. The position taken by Ukraine's authorities, limiting freedom of speech and assembly, the use of violence against demonstrators and journalists, and the inability or unwillingness to investigate the disappearance of several activists, has been condemned by Western governments. The "Euromaidan" movement, as it came to be known, in reference to European Square where the demonstrations started, dominated media coverage and public discourse over the two weeks that preceded the repeat elections.

As a result, the economic consequences of regional trade negotiations and issues relating to freedom of expression and assembly featured in election campaigns. The Euromaidan demonstrations also placed a renewed spotlight on the political aspirations of young people, and their corresponding under-representation in political decision-making.

*Mission Canada* observers were charged with observing, recording and reporting on the administration of the repeat elections according to established international standards and best practices. *Mission Canada* paid particular attention on assessing efforts to prevent the sorts of irregularities that prevented the CEC from declaring results for the five districts in 2012.

## Legal Framework

The December 15, 2013 repeat parliamentary elections were principally governed by the Ukrainian Constitution, the *Law on Repeat Elections of Peoples' Deputies in the Single-Mandate Districts No. 94, 132, 194, 197, 223*; the *Law On Election of Peoples' Deputies*; the *Law On the Central Election Commission*; the *Law On the State Voter Register*; the *Code on Administrative Adjudication*; the *Criminal Code*; the *Administrative Offences Code*; and resolutions of the Central Election Commission. The Constitution guarantees all fundamental rights and freedoms necessary for the conduct of democratic elections.

The *Law on Repeat Elections of People's Deputies in Single-Mandate Districts No. 94, 132, 194, 197, and 223* was enacted September 5, 2013, but apart from granting additional rights for International Election Observers<sup>11</sup>, made no significant substantive changes to the legal framework that had governed the 2012 parliamentary elections.

In 2012, *Mission Canada* assessed Ukraine's new election law – which was enacted in November 2011 – to generally provide a sound basis for the conduct of democratic elections<sup>12</sup> but noted that "the implementation of the law was inconsistent and fell short in both letter and spirit of various fundamental respects, including, among other areas, candidate registration, election administration, campaign freedoms and limitations, media access, counting and tabulation of results, and the adjudication of election disputes."<sup>13</sup>

While *Mission Canada* believes the Legal Framework continues to generally provide a sound basis for democratic elections, it is in its inconsistent application that *Mission Canada* observed potential for irregularities.

### Domestic and International Election Observers

*The Law of Ukraine on Election of Peoples' Deputies and the Law of Ukraine on Repeat Elections of Peoples' Deputies in the Single-Mandate Districts no. 94, 132, 194, 197, 223* governs domestic and international observation of elections and generally provides all guarantees necessary for effective monitoring of elections to both domestic and international observers.

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<sup>11</sup> Paragraph 4 of the Law of Ukraine on Repeat Elections of Peoples' Deputies in the Single-Mandate Districts no. 94, 132, 194, 197, 223 outlined a new right given to international observers to obtain copies of "protocols on the obtainment by the District Election Commissions of ballots, the distribution to the Precinct Election Commissions of ballots, the vote count, and the establishment of the results of voting and the repeat count of ballots."

<sup>12</sup> *Mission Canada* noted that the law included substantive shortcomings that were inconsistent with international standards and best practice, including the lack of criteria for electoral district boundary delimitation, overly restrictive candidate registration requirements, and lack of regulation and transparency in campaign finance. An amendment to the election law has since been adopted (passed by Parliament in November and signed by the President December 20, 2013) however this was after the administration of these repeat elections.

<sup>13</sup> See the 2012 *Mission Canada* Final Report at <http://www.canadem.ca/home/en/deployment/election-observation/mission-canada-2012.html>

*Mission Canada* commends the new right given to international observers to obtain copies of "protocols on the obtainment by the District Election Commissions of ballots, the distribution to the Precinct Election Commissions of ballots, the vote count, and the establishment of the results of voting and the repeat count of ballots."<sup>14</sup>

However, *Mission Canada* notes that CEC Resolution 1074<sup>15</sup>, which defines the transfer of results as an *operational task* and not a part of the *electoral process*, contradicts the spirit of the law and international best practice. According to the spirit of the law, observers should have the right to observe the entire electoral process and should therefore have the right to access the DEC room where the data from Precinct Election Commission result protocols is being entered electronically for the transfer of the results to the CEC.

## Recommendations

- ✓ Election observers should be permitted to observe all aspects of the electoral process including the computer transfer of results from the PECs to the DEC, and from the DEC to the CEC. In order to increase transparency and public confidence, access to all components of the electoral process should be provided to all accredited election observers, including the computer vote tabulation room at the DEC.
- ✓ Domestic observers should be given the right to observe all elections in Ukraine including the 2015 presidential elections. This could be done through the development of separate legislation rather than making changes to the current *Law on Presidential Elections*.

## Freedom of Assembly

Throughout the observation of these repeat elections, *Mission Canada* has continued to stress its concern with the practice of prohibiting peaceful assemblies in Ukraine and in particular the excessive use of force by authorities in response to the mass protests in Kyiv.<sup>16</sup>

Freedom of assembly is enshrined in Ukraine's Constitution, however, as noted by *Mission Canada* in its 2012 report, there continues to be no modern legislation on freedom of assembly in Ukraine. A bill on the *Freedom for Peaceful Assembly* is currently in committee in the Verkhovna Rada.<sup>17</sup>

The general prohibition of peaceful assemblies – as was seen in a number of cases throughout the country – undermines the spirit of the constitution with regard to this fundamental democratic right.

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<sup>14</sup> Unofficial translation - Paragraph 4 of the Law of Ukraine on Repeat Elections of Peoples' Deputies in the Single-Mandate Districts no. 94, 132, 194, 197, 223.

<sup>15</sup> September 25, 2012

<sup>16</sup> November 30, Berkut security forces violent disperse protesters at Independence Square; December 1 – clashes between security forces and demonstrators; December 10 - security forces used force to try to storm and take down barricades surrounding Independence Square.

<sup>17</sup> Draft Law 2508a. Available at [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=47751](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=47751); It was noted in *Mission Canada's* 2012 report, civil society organizations were concerned with the previous draft legislation on Freedom of Assembly being debated in parliament that it would unduly limit the right to assemble, the draft law currently tabled has not been assessed by the mission.

Moreover, without legislation, the interpretation of what constitutes the constitutional obligation to provide “advance” notification to state authorities and local governments about mass events is inconsistent making it impossible for citizens to fully understand their rights under law.<sup>18</sup>

*Mission Canada* considers it relevant and important to note that the Parliament of Ukraine adopted a law on January 16<sup>th</sup>, severely curbing a number of civil liberties, including freedoms of speech, assembly and media. While the law was repealed several weeks later in response to massive public outcry, it is significant to highlight this episode, given the importance of legal protections of civil liberties to public confidence in the electoral system. With a presidential election scheduled in thirteen months, any tampering with either electoral law or in civil or human rights protections become significant – and hurts the foundation of future free and fair elections.

### Recommendation

- ✓ The legislation guaranteeing freedom of assembly, freedom of expression, and freedom of the press should be strengthened, in keeping with both international best practices and Ukraine’s constitution, to help protect democratic rights and further strengthen the legal framework for the conduct of free and fair elections.

### Video Cameras

For the 2012 parliamentary elections, video cameras were installed in polling stations according to a separate law adopted by Parliament, *On the Particularities of Ensuring Openness, Transparency and Democracy in the Election of Peoples’ Deputies of Ukraine of 28 October 2012*. The law applied only to the 2012 election. On balance, as noted by *Mission Canada* in 2012, the official use of video cameras had mixed reviews. There were widespread concerns about potential voter intimidation, especially of older voters, and perceived potential violations of privacy of the vote. Moreover, their overall usefulness for promoting transparency was questionable. The video feed for closing and count periods were not made available publicly; nor was any of the video evidence collected used to initiate prosecutions of violations that occurred in the 2012 election. All videos were destroyed one year after the 2012 elections.

For the 2013 repeat elections, Ukrainian authorities chose not to re-introduce the official use of video cameras; as such, the *Law of Ukraine on Repeat Elections of Peoples’ Deputies in the Single-Mandate Districts no. 94, 132, 194, 197, 223* had no provision for the use of video cameras by the electoral administration. Yet during the vote, *Mission Canada* observers noted the presence of video cameras installed, at times facing the ballot boxes, in a number of PECs, particularly in District 94. Upon inquiry about who provided these cameras, observers were given a variety of answers, including the DEC, the PEC, a candidate or an observer.

Formally, the presence of cameras in polling stations is legal. The *Law on Election of Peoples’ Deputies* provides for the use of video cameras by press, as well as international and domestic observers. Observers are permitted to film any aspect of the election process provided they do not interfere with

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<sup>18</sup> For instance, despite the fact that the Constitution mentions only the obligation to make such a notification “in advance” and it has direct effect, the District Administrative Court of Kyiv City in its judgment of November 30, 2013 relied on the Decision of Kyiv City Council of June 24, 1999 which provided for the term of 10 days.

the secrecy of the vote. It is unclear however, if there was perhaps confusion among some officials as to the permissibility of official video cameras in polling stations, as had been allowed for in 2012, accounting for the cameras observed that were attributed to PEC and DEC officials.

**Recommendation:**

- ✓ In keeping with the *Law of Parliamentary Elections*, *Mission Canada* recommends that video cameras should not be present in polling stations, except as allowed for the use of election observers and journalists.

## Election Administration

### The Central Election Commission (CEC)

The CEC is the highest and only permanent body responsible for administering elections in Ukraine. Its current membership was appointed to a seven-year term in 2007 by the Verkhkhovna Rada on the recommendation of the president.<sup>19</sup>

The conduct and performance of the CEC in preparing for repeat election was similar to that observed in 2012. It met timeframes established by law and opened meetings to observers, media, and candidate representatives. Its decisions were nonetheless rendered behind closed doors and seldom discussed, but simply voted upon in public meetings. This decreased the transparency of the CEC.

**Recommendation**

- ✓ To improve its transparency in the administration of elections, *Mission Canada* recommends that the CEC hold its discussions in public sessions. Agendas and draft documents on resolutions and decisions should be made available to electoral participants and observers on a timely basis.
- ✓ CEC should establish a centralized, regularly updated and publicly accessible registry of complaints to allow monitoring/transparency.

### District and Precinct Election Commissions (DECs & PECs)

The formation of district and precinct electoral commissions is governed by Articles 27 and 28, respectively, of the *Law on Election of Peoples' Deputies* and is intended to ensure balanced and diverse political representation to promote impartiality in the election administration.<sup>20</sup> *Mission*

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<sup>19</sup> Since the 2012 parliamentary election, the head of the CEC has changed; Volodymyr Shapoval has retired and been replaced by Mykhailo Okhendovsky.

<sup>20</sup> The law states that the DECs' representation must be established through a lottery held by the CEC, with one position automatically reserved for each parliamentary party or faction represented in Parliament prior to the election. Precinct election commissions are established in a similar way, with the additional stipulation that

*Canada* notes that this political representation model provides, on balance, a reasonable opportunity to ensure impartial administration of the election in line with international best practices.

District Election Commissions (DECs) are administrative authorities that preside over election processes in each district. They are responsible for establishing Precinct Election Commissions (PECs), hearing and ruling on complaints within their purview as prescribed by law and tabulating results of votes received from PECs. DECs are composed of 18 members. Seats on each DEC are reserved for all party factions that currently hold seats in parliament – for the repeat elections, there were five such members - one for each party faction recognized in Parliament. The remaining 13 members were determined through a lottery held by the CEC, and applied uniformly to all DECs.

While DECs govern the election administration at a district level, Precinct Election Commissions (PECs) are established to govern the administration of individual polling stations. PECs are comprised of representatives of independent candidates and of parties fielding candidates in the district. PECs had between 10 and 24 members depending on each precinct's number of registered voters. Their compositions were established by lottery held by the respective DECs, according to a procedure established by the CEC.

In 2012, the lotteries held by the CEC to establish the membership of the DECs, and by the DECs to establish the membership of the PECs, were conducted on a single, "winner-take-all" principle. That is, parties either gained representation on all DECs and PECs, respectively, or on none. This lottery system resulted in a representational imbalance on electoral commissions at both the district and precinct levels.<sup>21</sup> For the 2013 repeat elections, the CEC instituted an improved model for the lotteries for selection of membership to the DECs and PECs. While there was still a single DEC lottery (as opposed to a separate lottery for each of the five DECs in question), and a single lottery held at the DECs for their respective PECs, the new procedure considerably raised the likelihood of a broader range of political parties and candidate representatives receiving membership electoral commission.<sup>22</sup> The improvement lay in the fact that the list of prospective members were composed in alphabetical order (as opposed to each party or candidate having the same related number across all prospective commission lists - based on the date and time of the relevant submission). Thus, when the numerical lots were drawn, under the drawn number, there were candidacies from different political parties.

*Mission Canada* noted this technical improvement to try to ensure better balance in the political representation of the election administration.

Unfortunately the continued participation in large numbers of “technical” parties and candidates during these repeat elections had an undermining effect on the overall transparency and effectiveness of these electoral bodies.

“Technical Parties” and “technical” and/or “clone” candidates are terms used to describe parties and candidates which, while fulfilling minimum filing requirements, are often little-known, inactive

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independent candidates have the right to submit proposals for membership on the PEC. The procedure for lotteries on membership to the DECs and PECs is established by the CEC.

<sup>21</sup> See the 2012 *Mission Canada* Final Report at <http://www.canadem.ca/home/en/deployment/election-observation/mission-canada-2012.html>

<sup>22</sup> Attributed to amendments № 87 and № 88 of regulations governing the CEC (April 25, 2013).

between election cycles, and at times used as tactical fronts for other parties – either to confuse voters, split an opposing vote, or to gain additional representation on an electoral commission.

Candidates from “technical” parties frequently withdrew their names from election ballots following the selection of their representatives to DEC and PECs. Thirty-nine (39) parties (including the five parliamentary factions) gained representation on the DEC. Of the 34 parties who won seats on the DEC through lotteries, 21 did not run a candidate in any of the five districts.<sup>23</sup> It is unclear what motivation a political party who is not running a candidate in a particular district would have to be a part of the administration of the election and *Mission Canada* questions if this undermines the spirit and intent of the electoral law that governs the composition of DEC and PECs; which are meant to ensure balanced representation of national and local electoral participants to help preserve the impartiality of the electoral administration.

Moreover, as in 2012, the large number of “technical” parties and candidates represented on electoral commissions was observed to be a significant contributing factor to the numerous changes to membership on DEC and PECs in the lead-up to Election Day. By Election Day, there had been 62 changes to 90 DEC member positions representing a 68.8% changeover in overall DEC membership. This changeover rate was particularly high in DEC 94, DEC 132 and DEC 223<sup>24</sup> and led to obstacles in DEC establishing quorum to hold meetings and to function properly, thus negatively impacting the effectiveness of the election administration.

*Mission Canada* also noted with concern, given that it was predominantly irregularities at the DEC level that prompted the CEC not to establish results in these five districts during the 2012 elections, that some of the DEC commission members who served in 2012 on the DEC in these five districts were again serving in the 2013 elections, albeit in new districts and for different parties.<sup>25</sup>

The pattern of frequent changes to memberships was also observed at the PEC level. A similar percentage of PECs visited by *Mission Canada* observers prior to Election Day (108 out of 160, or 67.5%) likewise changed members. In DEC 223, observers were shown application forms for these changes. They noted that penmanship on these forms were all identical, suggesting that they originated from the same source. As in 2012, during these repeat elections, observers also noted cases where PEC members were unaware of which party the ostensibly represented.

It is worrisome that this pattern of high turnover in PEC and DEC members has been repeated from 2012 when it was identified by *Mission Canada* as a key problem leading to dysfunctional administration of the parliamentary elections.

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<sup>23</sup> This meant that 38 of 90 members (42%) of the DEC were representatives of parties without candidates in the election.

<sup>24</sup> Upon review of the relevant CEC Resolutions, there were 10 changes in DEC 94; 1 in DEC 132; 14 in DEC 194; 4 in DEC 197, and 12 in DEC 223.

<sup>25</sup> For example, 4 of the 18 members of DEC 223 were members of DEC 94 in 2012; all have switched political allegiances to different parties.

The overall capacity to administer the elections on Election Day was observed to be generally competent. As noted in the overview of *Mission Canada's* observations for Election Day (pp.26-28), contraventions of legally prescribed voting procedures were isolated and appeared to reflect uneven training and experience administering elections rather than attempts to manipulate outcomes or undermine transparency. The relative inexperience of PEC members compounded by high rates of turnover was frequently conveyed as concerns by PEC Chairs when questioned by observers in the immediate pre-election period. Since 2012, the CEC has begun posting training videos to its website to help mitigate gaps in capacity among election commissioners. While commendable, *Mission Canada* observers noted that exposure to such online training resources was much greater amongst PECs in Kyiv City (DEC 223) than other districts, which would suggest that online training is a valuable tool but should not replace more comprehensive training with PECs in their districts.

The overall conduct of the tabulation of votes at the DEC's and the transfer of results from the DEC's to the CEC were noted to have fewer irregularities in terms of results manipulation during these repeat elections than had been observed in 2012; however an overall impression of dysfunction persisted. DEC premises were often too small, delays to process PEC protocols were long, tensions ran high and procedural irregularities were observed. *Mission Canada* noted that results were posted to the CEC website as they were sent by the DEC's which did provide some additional transparency to the process.

## Recommendations

- ✓ Ukraine should continue to have Election Commission members that are representatives of electoral participants, be they parties or independent candidates.
- ✓ The CEC lotteries for PECs and DEC's prescribed by Ukrainian electoral law should ensure balanced representation of national and local electoral participants. It is advisable to strengthen legislation to ensure that parties be permitted to nominate representatives for DEC's and PEC's only in districts where they have a candidate running, or if they have a slate of party list candidates for the proportional system. Conversely, parties or candidates should be denied representation on a DEC or PEC if they cease to have a duly registered candidate.
- ✓ *Mission Canada* recommends a return to the practice of a separate lottery for *each* DEC and PEC (rather than a single lottery to determine proportional representation of management of *all* DEC's and PEC's) as separate lotteries create considerable additional guarantees for representative balance among the political parties in DEC's and PEC's, while also helping to hinder schemes to deliberately abuse and manipulate the system.
- ✓ While *Mission Canada* does not recommend creating barriers to legitimate political party participation, the Mission recommends that the CEC look to international best practices to implement measures to reduce the formation of "technical parties", such as possibly prescribing a minimum level of party activity between elections.
- ✓ In order to improve transparency, the decisions of the DEC's should be posted immediately on the CEC website.
- ✓ *Mission Canada* recommends that online training modules for election commissioners should continue to be developed by the CEC as a resource that reinforces but does not replace applied training in districts.

## Voter Registration

As was seen in 2012, voter registration again proceeded relatively smoothly. Ukraine has a centralized voter registration system. The *State Voter Registry* (SVR) is managed centrally, and by over 700 SVR maintenance bodies throughout the country. Voters' lists are to be made available at the PECs for citizens to review before Election Day. On Election Day, changes to the voters' lists (most important, the inclusion of voters who were not registered) can be done only by court order. *Mission Canada* noted that some PECs were closed in the days leading up to the election, which may have hindered the ability of some voters to check if they were indeed registered.

### Recommendation:

- ✓ Voters, political parties and non-governmental organizations should be granted ongoing access to the *State Voter Registry* to verify its accuracy. The reporting/investigation process for inaccuracies should be strengthened by increasing transparency and accountability.

## Candidate Registration

*Mission Canada* observed that the candidate registration process continued to be conducted in an overly formalistic manner, applying a strict interpretation to the omission of technical data in nomination documents as grounds for rejecting candidates, in contravention of the electoral law.<sup>26</sup> This was a continuation of the practice observed in 2012. During these repeat elections, the CEC denied the registration of 57 potential candidates, a number on technical grounds. According to the electoral law, prospective candidates should be granted the opportunity to remedy technical errors in their nomination documents.

A much higher number of candidates registered to contest the repeat elections across the five districts in comparison to 2012. The number of registered candidates peaked at 210 just before lotteries were conducted to determine the composition of DEC and PECs. Fifty-nine (59) candidates subsequently deregistered. This shift was particularly dramatic in District 94, which saw 47 out of 85 candidates withdrawn from the election ballot shortly after the lotteries establishing membership in the PECs – representing 80% of deregistered candidates across the five districts.

As noted above and in its 2012 Final Report, ***Mission Canada* recommends that parties and candidates be denied representation on a DEC or PEC if they cease to have a duly registered candidate in the corresponding district.**

The high number of candidates who registered for repeat elections also raised concerns about the length of election ballots. This was compounded by the noted presence of so-called "clone" candidates – who had identical or similar names to other candidates that could prove confusing to voters, a peculiarity also noted in several districts during the 2012 elections. To illustrate, for the 2013

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<sup>26</sup> According to Part 3 of Article 60 of the electoral law, errors and inaccuracies detected in nomination documents are subject to correction and are not grounds for refusing to register a candidate.

elections, in District 223, there were three candidates with the last name "Levchenko," one of whom was one of the primary contenders for this district; in District 94, three "Victor Mykolayovych Romaniuks" were registered, one of whom was deregistered by court order, and one of whom withdrew his own candidacy. While *Mission Canada* does not advocate for creating barriers to legitimate participation in the electoral process, it does note this apparent political tactic to register "clone" candidates to confuse voters is a troubling trend for Ukraine's electoral democracy.

As noted in 2012, Ukraine's election law has a five-year residency requirement for citizens wishing to stand for elected office but does not provide a precise definition of the five-year residency requirement<sup>27</sup>, creating an opening for conflicting interpretations of what constitutes residency.

During the 2012 parliamentary elections, *Mission Canada* noted concern over the inconsistency in the interpretation and application of the law with regards to the definition of residency. In two conflicting cases, the High Administrative Court found in favor of one prospective candidate by referencing a European Court of Human Rights decision, comparing the residency situation to that of a political refugee who is forced to flee his country (see *Melnychenko v. Ukraine 2004*)<sup>28</sup>; while finding against the second prospective candidate by applying a stricter interpretation of residency as prescribed by Ukrainian law.<sup>29</sup>

This potential for contradiction in interpretation as to what constitutes residency re-emerged during the 2013 repeat elections.

A candidate who ran in the 2012 parliamentary elections in District 94, sought to run in the repeat elections for that same district. Nomination papers were duly filed and the candidate was registered by the CEC. The registration was subsequently challenged on the grounds of the residency requirement<sup>30</sup> and on December 5, the High Administrative Court annulled the registration with a finding that the registrant did not meet the residency requirements. In this instance, the prospective candidate was found not to have met the residency requirements because he was residing in Italy, claiming to have left Ukraine after the 2012 parliamentary elections for fear of political persecution. The courts chose to apply the stricter interpretation of residency as prescribed by Ukrainian law, and not the ECHR decision, as may have been expected given the precedent set during the 2012 elections.

Without clear legislation to clarify how residency is to be established, the potential for conflicting interpretations will persist.

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<sup>27</sup> It should be noted that any length of residency requirement for candidates in national elections is not in accordance with international best practices.

<sup>28</sup> The ECHR found no violation of the election legislation in a relevant case of *Melnychenko v. Ukraine* stating that "no distinction was made in the law between "official" and "habitual" residence" and "the only proof of official registration of residence at the material time was in the ordinary citizen's internal passport".

<sup>29</sup> The laws of Ukraine determine that the residence of a person is considered to be "continuous", if his/her one-time trip abroad on private business didn't exceed 90 days, and in total - no more than 180 days per year.

<sup>30</sup> Mr. Romaniuk was one of the two leading candidates in district 94 for the 2012 elections before the CEC declared it impossible to establish results in that district. Mr. Romaniuk left Ukraine in February 2013 for fear, he has claimed, of political persecution, after a criminal case was filed against him. The Milan Court of Appeal refused Ukraine's request for extradition.

## Recommendation:

- ✓ *Mission Canada* recommends that the Constitutional Court provide a clear definition of what precisely constitutes "residency" in Ukraine. *Mission Canada* welcomes the January 2014 CEC application to the Constitutional Court for an official interpretation of "residency."
- ✓ *Mission Canada* recommends that the CEC take a less formalistic approach, in keeping with the spirit of legislation and international democratic standards, to candidate registration, especially in the case of correcting errors and omissions in nomination documents.

## Election Campaign

In general the election campaign was relatively quiet, generally overshadowed by the Euromaidan protests in Kiyv. There were no reported instances of violence connected to the campaign. However as reported in its interim report, *Mission Canada* noted widespread allegations of vote buying and instances of abuse of administrative resources which undermine the democratic standard for a level playing field for all contestants in the campaign.

As detailed in the December 12<sup>th</sup> interim report, *Mission Canada* noted incidents of abuse of administrative resources, including use of administrative websites for campaign purposes in Districts 94 and 132.<sup>31</sup> *Mission Canada* also received credible reports from *OPORA* and the *Committee of Voters of Ukraine* (CVU) of public officials appearing at campaign events, and city administration officials pressuring public employees to attend events.

Widespread allegations of vote-buying were reported throughout the pre-election period. The domestic observer group *OPORA* provided several examples of video evidence of what appeared to be vote-buying operations on their website, and reported that this evidence was handed over to law enforcement authorities. According to *OPORA*, vote-buying was a particular problem in Districts 194 and 223. As noted in the overview of *Mission Canada's* observations for Pre-Election Day (pp.24-25), *Mission Canada* observers were present when *OPORA* uncovered one of these vote-buying operations in District 194.

*Mission Canada* is unaware of any successful investigations or prosecutions pending for vote-buying or the administrative resource abuse, which may indicate a continued unwillingness or disinterest, as was seen in 2012, to investigate potential violations of law as it affects the election process.

## Complaints and Appeals

As noted in 2012, the legal framework has established an overly complex and formalistic process for adjudication of election-related complaints and appeals. The electoral laws, the *Law on Administrative Court Procedures* and the *Criminal Code* each regulate different parts of the electoral dispute process. Claimants have the legal right to bring the same complaint through multiple bodies, including PECs,

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<sup>31</sup> <http://www.canademissions.ca/ukraine/media-news/46-mission-canada-interim-report> p.8

DECs and the CEC and then appeal decisions before the courts. Moreover the lack of enforcement tools and the apparent inconsistency of some court rulings continue to undermine the effectiveness of the complaints and appeals process.

*Mission Canada* is concerned that those District Electoral Commission (DEC) officials who participated in the 2012 election and who may have contributed to irregularities, participated in executive positions in the 2013 repeat elections. A lack of prosecutions for violations in 2012 may have created an environment that supports violations of the *Law on Elections*.

## Election Commissions

The number of complaints logged with the central and district election administrations during these repeat elections was reported to be considerably lower than the number of complaints brought in 2012 for the five districts in question.

Complaints registered with the election administration related to a wide range of electoral matters including: candidates' registration, campaign material violations, voter lists, vote recounting, restrictions on peaceful assemblies, and challenging the decisions, actions and inactions of the CEC, DECs and PECs and their members.

Although the number of complaints was comparatively low, as was seen in 2012, *Mission Canada* noted that the processing of complaints registered with the CEC and DECs continued to lack transparency and was executed in an overly formalistic manner. *Mission Canada* observed that both the CEC and the DECs routinely denied consideration of complaints on various technical grounds;<sup>32</sup> CEC decisions were often rendered behind closed doors and seldom discussed, but simply voted upon in public meetings, undermining the transparency of the process; and while CEC decisions were made public, in contravention to Part 10 of Article 113 of the Election Law which requires that DEC decisions be published on the official CEC website<sup>33</sup>; no DEC decisions related to registered complaints were posted.

<sup>32</sup> ~~Between 16 October and 14 December~~ – of the 26 complaints registered with the CEC, two were left without being considered, one was sent to the General Prosecutor, one was cancelled by the complainant, and 22 were returned to the complainant because of technical errors. All 17 complaints submitted to DEC № 223 were refused consideration since the main evidence in support of the applicants' arguments didn't fully comply with the requirements of the law, i.e. the acts on indication of the election legislation violations were signed by the persons not authorized to sign such acts or by an insufficient number of persons signing the act. The applicants were deprived of the opportunity to correct these mistakes and the subject of the applications weren't announced during the DEC meeting

<sup>33</sup> Part 10 of Article 113 of the Election Law requires that decisions of district election commissions based on consideration of complaints shall be published on the official website of the Central Election Commission no later than on the date following the adoption of the decision, or without delay if the decision is adopted on the day preceding the day of voting, on the day of voting, or on the day following it.

## Administrative Courts

*Mission Canada* observers noted that the information on when and where election-related court hearings were held was difficult to find, impacting the overall perception of the openness of the judicial process.

In total, over a hundred election-related complaints were filed with the administrative courts and courts of general jurisdiction with regard to the repeat elections. The vast majority of these complaints were either denied consideration or were dismissed in substance, especially when the applications were lodged against the decisions, actions or inactions of the state authorities. As in 2012, in handling these complaints, the courts on a number of occasions issued conflicted legal interpretations, put strict requirements of admissibility of evidence and generally high burdens of proof for applicants, and were inconsistent in implementing certain legal approaches.

### Recommendations

- ✓ Transparency in the election dispute resolution process could be enhanced by election commissions' fully presenting and discussing complaints in its public sessions with active participation of all interested parties. The practice of holding private sessions to decide on complaints prior to public sessions should cease.
- ✓ Election commissions and administrative courts should fully adhere to the principles of impartiality, due process, rule of law, and transparency in handling complaints. All complaints should be considered on their merits. The letter and spirit of the law should be respected and consistently applied. Decisions should provide comprehensive and clear factual and legal reasoning.
- ✓ To enhance consistency in the election dispute resolution process, the CEC and higher courts should collaborate to establish and publish, on a timely basis, interpretations of key issues in the electoral law that are in need of clarification.

## Participation of Women

Equal rights and opportunities for participation in political activities by men and women are formally enshrined in the Constitution of Ukraine and reinforced by an extensive number of subordinate laws and international commitments. Article 3.5.1 of the *Law on Elections of People's Deputies of Ukraine* specifically prohibits privileges or restrictions of candidates on the basis of gender. The *Law of Ukraine on Ensuring Equal Rights and Opportunities* also requires political parties to feature men and women on electoral lists for the multi-member constituency in national parliamentary elections. Recent amendments to the *Law of Ukraine on Political Parties* stipulate that neither gender group should represent less than 30% of candidates put forward by each party on electoral lists.<sup>34</sup> However, these amendments do not stipulate rules for alternation between gender groups in the ordering of

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<sup>34</sup> See *Law on Amendments to Certain Legislative Acts of Ukraine concerning Improvement of Legislation on the Election (3396)* which was signed by the president on 20 December 2013, shortly after the repeat elections.

candidates on electoral lists. As such, they do not provide incentives for compliance by political parties, whose record of integrating women in higher spheres of political decision making has proven uneven.<sup>35</sup>

The 2012 Ukraine parliamentary elections saw small improvements to the representation of women in the Verkhovna Rada – which climbed from seven to ten percent – and its Cabinet of Ministers to which 3 women were appointed.<sup>36</sup> Prior to these elections, women deputies also formed an "Equal Opportunities" caucus focused on the strengthening of gender equality in political life and pursuit of corresponding legislative initiatives. This caucus was credited with fostering cross-party consensus and improvements to laws addressing parental leave, domestic violence, and the rights of children, until members from governing faction parties withdrew to form a separate "Equality of Rights" caucus in April 2013.<sup>37</sup>

Women remained under-represented among registered candidates in the 5 districts holding repeat elections on December 15<sup>th</sup> – despite increases to the total number of those districts' candidates.<sup>38</sup> None of the political parties with current standing in the Verkhovna Rada nominated a woman candidate, with the exception of the Radical Party.<sup>39</sup> In these circumstances, it is not surprising that the highest margin of votes received by any woman candidate in the repeat elections was only 3%.<sup>40</sup> None of the districts' elected candidates issued platforms addressing gender equality issues.<sup>41</sup>

Women outnumbered men on most precinct electoral commissions— representing 66% of PEC Chairpersons, 63% of PEC Deputies, 80% of PEC Secretaries and 70% of total appointed PEC members in polling stations observed by *Mission Canada*. Analysts have interpreted this to be a function of low stipends paid to precinct officials and the clerical nature of their duties. They also noted that polling stations were often situated in schools and other community venues associated with professions in

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<sup>35</sup> Three draft bills (3411, 3441-1, 3441-2) proposing mechanisms to strengthen the enforcement of gender quotas in the selection of candidates for electoral lists in multi-member constituencies were under review but had not yet been added to the Verkhovna Rada's agenda at the time of this report's writing.

<sup>36</sup> According to data compiled by the Inter-Parliamentary Union, this proportion of women deputies still ranks Ukraine as 115<sup>th</sup> out of 188 countries, and a significant distance from its target of 30% of parliamentary seats for women by 2015 under the UN Millennium Development Goals (MDG3, 3A).

<sup>37</sup> *Member Deputies of Interfactional Equal Opportunities Caucus will Monitor All Bills that have a Gender Component* (March 23, 2012) Yurlyha News Agency. Retrieved from: <http://jurliga.ligazakon.ua/news/2012/3/23/60107.htm>; *Interfactional Deputies of Equal Opportunities Caucus held a Roundtable Presentation of the Research Project: Back to Work* (September 30, 2013) Information Department of the Verkhovna Rada. Retrieved from: <http://portal.rada.gov.ua/news/Novyny/Povidomlennya/82942.html>; *Inter-Factional Members of the Equal Opportunities Caucus to Work on Issues of Gender Equality, Increase the Presence of Women in Political Parties and Government* (July 12, 2013). Retrieved from: <http://portal.rada.gov.ua/news/Novyny/Povidomlennya/80644.html>

<sup>38</sup> According to the CEC website, 23 out of 151 candidates that appeared on ballots in the 5 districts were women. In 2012, these districts were contested by a combined 74 candidates, of which 8 were women.

<sup>39</sup> The Radical Party received 1.08% of the popular vote in the 2012 Ukraine parliamentary elections. It has one seat in Parliament; Party leader Oleh Lyashko won the SMD election in district 208 (Chernihiv oblast). Its candidate in 223 (Kyiv City) was Viktoriia Shylova who received 0.42% of the vote, representing the third highest vote margin of any female candidate in the December 15 repeat elections according to the Central Election Commission (CEC).

<sup>40</sup> Self-nominated candidate Tetiana Montian placed 3rd in District 197 (Kaniv) with 3.29% of the vote: <http://www.cvk.gov.ua/pls/vnd2012/WP040E?PT001F01=903&pf7331=223>.

<sup>41</sup> A separate page for each candidate containing platform commitments can be consulted on the CEC website.

which women dominate, and in which many precinct officials already worked.<sup>42</sup> By contrast, women held only four out of 15 positions on the CEC and were less represented on District Electoral Commissions (DECs) representing only 20% of DEC Chairpersons, 40% of DEC Deputies and 40% of DEC secretaries on average.<sup>43</sup> There remains concern that women continue to be less represented in senior positions in the higher level commissions.

The CEC does not disaggregate data on voter registration or turnout on the basis of gender, and this was not recorded in exit polls conducted by Ukrainian civil society organizations. Observers nonetheless observed men and women to vote in equal proportion.

## Participation of Young People

The CEC does not disaggregate data on voter registration or turnout on the basis of age. Sociological research and surveys applying proxy measures nevertheless consistently reveal a negative trend in the electoral participation of Ukrainians between the ages of 18 and 29.<sup>44</sup> Public opinion surveys conducted by the Democratic Initiative Foundation in 2010, revealed dissatisfaction ratings of 64% for political parties, 73% for the Verkhovna Rada and 73% for the Office of the Presidency amongst youth in Ukraine.<sup>45</sup>

High levels of dissatisfaction have not resulted in wholesale apathy. Surveys indicate that young Ukrainians are more likely to trust civic organizations than older generations.<sup>46</sup> Their membership in these organizations also outpaces that of counterparts in other post-Soviet societies.<sup>47</sup> Youth were noticeably active in election monitoring and exit polling activities by the *Committee of Voters* and *OPORA* – which draws its origins from the youth movement.<sup>48</sup> Most significantly, youth accounted for a plurality of demonstrators in the *Euromaidan*, as noted by observers in Kyiv City (DEC 223), and confirmed in survey research.<sup>49</sup>

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<sup>42</sup> Women represented 1955 out of 2767 PEC members appointed in 129 observed polling stations, and served as Chairpersons and Secretaries in 115 and 103 of those polling stations respectively. 93 Deputy Chairpersons in 128 observed polling stations were also women.

<sup>44</sup> Sociological Group Rating (2012). *Exit Poll Ukraine-2012: The Demographic Structure of the Voters*, 28 October 2012; Institute for Social Capital (2012). *Young Voice of Galicia Survey*, 27 September 2012.

<sup>45</sup> For an analysis of age-aggregated polling on political attitudes over the past decade, see: Diuk, Nadia (2013) Youth as an Agent for Change: The Next Generation in Ukraine. *Demokratizatsiya Journal of Post-Soviet Democratization*, 21(2), 179-196.

<sup>46</sup> Reshetova, Nataliya (2001) *The Reasons of Low Trust in Political Parties in Ukraine: How Does it Influence Satisfaction with Democracy in this State*. Paper presented at the 10th AECPA Conference, Murcia, Spain.

<sup>47</sup> Diuk, 194.

<sup>48</sup> Kaskiv, Vladislav, Iryna Chupryna, and Yevhen Zolotariov. (2007) It's time! Pora and the Orange Revolution in Ukraine. In Joerg Forbrig and Pavol Demeš (Eds.), *Reclaiming Democracy: Civil Society and Electoral Change in Central and Eastern Europe*. New York: German Marshall Fund of the United States (127-151). Washington DC, German Marshall Fund.

<sup>49</sup> Kyiv International Institute of Sociology and Ilko Kucheriv Democratic Initiatives Foundation (2013), *Maidan Square: Who is There, Why and For What?: 7-8 December 2013*.

Young people also tended to be well represented among precinct election commissions and as observers for political parties and independent candidates. This is nonetheless believed to be at least partly a function of under-employment.<sup>50</sup> Financial incentives likely also account for the large numbers of “young athletic-looking men with an intimidating presence” who were observed outside of polling stations in DEC 132, 223, and 197.<sup>51</sup>

To their credit, most of the leading candidates in the repeat elections specifically targeted young people and issues like youth unemployment in platform commitments.<sup>52</sup> Independent external assessments of youth legislation in Ukraine nonetheless point to greater breadth of declarative policies than actual accomplishments in addressing the needs of young people and the root causes of their challenges. This is attributed to insufficient financing, legislative fragmentation, political instability, and underdeveloped state capacity to design and deliver programming that is evaluated against indicators drawn from reliable data.<sup>53</sup>

### Recommendations:

- ✓ *Mission Canada* recommends that where the CEC collects voter registration and turnout data, it should be tabulated in such a way as to allow for disaggregation by gender and age. This data should be openly shared to improve monitoring of electoral participation amongst women and young people, and the development of more targeted and effective voter-education programming.
- ✓ Domestic observation and/or civil society groups should be assisted with programmes to build political literacy among youth sub-groups that are vulnerable to vote buying and/or other schemes that obstruct electoral processes.

## Domestic and International Observers

A large number of domestic and international observers were present during the repeat election. As of December 14<sup>th</sup>, 14 domestic organizations registered over 2900 observers. Individual countries registered 78 observers from 11 countries and 307 international election observers from 10 international organizations were registered. The registration of *Mission Canada* observers by the CEC was efficient and timely. In the election period, *Mission Canada* observers reported very few

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<sup>50</sup> Many of these individuals had difficulty identifying the party or independent candidate that they were meant to represent when questioned by observers in Kyiv (DEC 223) and Obukhiv (DEC 94).

<sup>51</sup> Young athletic men wearing black clothes that arrived in coordinated vans were reported to be loitering around access points to PEC 480392 in DEC 132, PECs 801025 and 800987, 801056 and 801057 in DEC 223, and PECs 711073 and 711068 in DEC 197.

<sup>52</sup> A separate profile page for each candidate with platform commitments can be consulted on the CEC website: [www.cvk.gov.ua](http://www.cvk.gov.ua)

<sup>53</sup> Rivett, David (2010). *Youth Policy Review* (UNICEF Ukraine Country Office). Retrieved from: [http://www.youthpolicy.org/national/Ukraine\\_2010\\_Youth\\_Policy\\_Review.pdf](http://www.youthpolicy.org/national/Ukraine_2010_Youth_Policy_Review.pdf); Yaryna Borenko (2010) *Reviews on Youth Policies and Youth Work in the Countries of South East Europe, Eastern Europe & Caucasus: Ukraine* (Council of Europe). Retrieved from: [http://www.youth-partnership-eu.coe.int/youthpartnership/documents/EECA/Reviews\\_on\\_youth\\_policies\\_SEE\\_EECA\\_Ukraine\\_2011.pdf](http://www.youth-partnership-eu.coe.int/youthpartnership/documents/EECA/Reviews_on_youth_policies_SEE_EECA_Ukraine_2011.pdf)

problems with access to relevant stakeholders, government and election administration bodies.

Ukraine boasts several significant civil society groups which act as domestic election observers during elections. Two of the most prominent are *OPORA (ОПОРА)* and the Committee of Voters of Ukraine (*Комітет Виборців України*). The former registered 720 domestic observers — and the latter registered 702 observers.

The domestic observer groups demonstrated significant expertise in the area of analysis, and were also able to garner a significant number of volunteers to act as observers on Election Day covering the majority of polling stations. International funding bodies also provided support on a longer term basis to enable further capacity building within these groups.

*Mission Canada* commends the robust activity of such organizations as a development that supports the enhancement of democracy which contributes to civil society and the protection of civil rights and recommends that the *Law on Presidential Elections* also include the ability of domestic civil society groups to monitor the presidential election.

#### **Recommendations:**

- ✓ *Mission Canada* encourages continued funding and support to strengthen domestic election monitoring groups in the interest of building public confidence and transparency of democratic processes.

### **Interaction with Stakeholders**

Throughout the election campaign, *Mission Canada* established working relationships with a variety of stakeholders including domestic and international observer missions, political parties and non-governmental organization (NGOs).

In the two weeks leading up to Election Day and the week following the vote, *Mission Canada* undertook a series of meetings with the leadership of other International and Domestic Election Observation Missions, Political Parties, NGOs, and the Central Electoral Commission Chairman Mykhailo Okhendovskiy. On December 9<sup>th</sup>, *Mission Canada* hosted a roundtable for international and domestic observation stakeholders to further promote ongoing cooperation, the coordination of activities and the sharing of information.

### **Immediate Pre-Election Period**

Six observers were deployed to the five districts on the week of November 26<sup>th</sup> to monitor and prepare briefings on immediate pre-election activities and the accessibility of polling stations. On December 12<sup>th</sup>, they were joined by 20 additional observers to monitor the delivery of ballots and other election materials to polling stations, arrangements for mobile voting, and the finalization of voter lists amongst other preparations. Observers visited 205 polling stations, representing 32% of precincts across the five districts during this immediate pre-election period.

Observers' overall assessment of preparations for the repeat elections was good. They were generally provided access to PEC members and election materials (including updated copies of preliminary voter lists), and reported few instances of campaign activities/materials inside or around visited polling stations. Some recurring deviations from prescribed procedures and concerns relating to the composition of PECs and accessibility of polling stations were nonetheless also identified.

As noted earlier in this report, *Mission Canada* observed a high rate of turnover in the membership of DEC members and PECs. Sixty-two (62) changes to 90 DEC members (representing a 69% turnover) occurred throughout the pre-election period. Of those PECs visited by *Mission Canada* observers where the information was made available, 68% (108 out of 160 PECs) likewise changed members in the week before Election Day. In DEC 223, observers were shown application forms for these changes. They noted that penmanship on these forms were all identical. This suggests that they originated from the same source, and gives credence to allegations of collusion between technical parties to advance the interests of a particular candidate. It is worrisome that this pattern of high turnover in PEC and DEC members has been repeated from 2012 when it was identified by *Mission Canada* as a key problem leading to dysfunctional administration of parliamentary elections.

Access and visibility issues that can obstruct voter participation were highlighted in one out of five polling stations visited by *Mission Canada* in the immediate pre-election period. Signs marking entrances or providing directions to 20% of visited PECs were not located by observers or considered visible. An equal proportion of polling stations were described as difficult to access owing to limited parking or an isolated venue without lighted pathways. Of greater concern, 22% of polling stations were closed when visited by *Mission Canada* observers. This problem was most acute in DEC 197 (Kaniv), where 32% of visited polling stations were closed. A key responsibility of PECs leading up to Election Day is to make Voter Lists available for review, so that eligible but unregistered voters could petition to be added. *Mission Canada* is concerned that this observed closure of many polling stations made it difficult for voters from those precincts to check their status on the voters list, which may have affected their ability to vote on Election Day.

*Mission Canada* observers were generally granted cooperation and access to election materials by PEC members. Exceptions were attributed to misunderstanding or misapplication of legally prescribed rules and procedures. For example, ballot transfer protocols were not shown on request to observers in 12% of instances but this was frequently due to their mistaken placement with ballots in locked safes. There was an overall impression amongst *Mission Canada* observers that observed inconsistencies were the result of inexperienced officials, lack of training and procedures that were also regarded as overly cumbersome.

*Mission Canada* observers experienced one isolated instance of intimidation in DEC 194, PEC 711098 on December 14<sup>th</sup> after attempting to take pictures of what they believed to be a meeting of election commissioners with party or candidate representatives at a regional government office building. Apart from this incident, *Mission Canada* was able to conduct its activities without encountering or observing any threats of violence.

## Potential Violations

As noted, during the election campaign wide-spread allegations of vote buying were reported, including what appeared to be video evidence of vote-buying which was posted by *OPORA* to its website. In District 194, *Mission Canada* observers were present when what was likely a vote-buying operation was discovered by *OPORA*. A woman with a list of names was handing out money in exchange for signatures on that list. According to witnesses this money was being paid in exchange for votes. The woman was taken for questioning by police. *Mission Canada* observers were unable to ascertain whether a full investigation was launched.

*Mission Canada* observers also noted reports of allegations that voter lists were being manipulated in some “special” precincts in DEC 194 – specifically in hospitals – where it was reported that individuals were being admitted to hospitals as patients in order to vote in a particular district. Upon investigation, *Mission Canada* observers found it peculiar that in PEC 711100, a cancer hospital, there were 451 voters registered for the repeat elections; when during the 2012 election there were only 204 voters registered at that same location. Moreover *Mission Canada* noted with concern that at PEC 711091, 144 ballots were delivered when only 25 voters were registered.

## Election Day

### The Opening Procedure

*Mission Canada* observed opening procedures in 16 precincts, most of which were described as calm and orderly. PECs had required materials present, ballots were pre-stamped, and ballot boxes were properly sealed. Some minor isolated contraventions of legal procedure were observed. For example, two polling stations opened early. More significantly, received ballots were not entered onto the Vote Count protocol in 5 out of 16 PECs, in contravention of procedure. The *Law on Elections* (Article 84) stipulates that the number of received ballots should be entered into the Vote Count protocol. This is done in order to prevent subsequent manipulation of the number of ballots received.

### The Voting Period

*Mission Canada* observers monitored voting processes in 120 polling stations on Election Day. These processes’ administration was generally assessed to be well conducted. PECs verified and processed voters in accordance with electoral regulations. Instances of unregistered voters being turned away were nonetheless observed in 8% of visited polling stations. This reinforces concerns that closures of polling stations in the immediate pre-election period might have prevented voters from verifying their registration and petitioning to be added on Voter Lists. The non-entry of received ballots on Vote Count Protocols also continued to be a problem in 26% of visited polling stations.

Preparations for ensuring transparency and secret voting were less consistent. No campaign materials or activities were observed in any polling station. Most were equipped with required election materials although 7% did not have properly sealed ballot boxes. 12% were considered too small to allow for adequate spacing between voting booths and physical access issues continued to be reported in 9% of

visited polling stations. Overcrowding was generally avoided due to efficient management of voting—with the notable exception of polling stations in hospital wards. Observers described a chaotic scene at PEC 711100 in DEC 194 (Cherkasy) where patients were brought to vote in a small room at the same time, and in PEC 801057 in DEC223 (Kyiv City) where voting booths did not have writing desks, causing for ballots to be marked in plain view.

Secrecy of voting was also undermined by the installation of mounted voting cameras facing ballots boxes in 14 out of 29 PECs visited on Election Day in District 94. *Mission Canada* observers received conflicting answers from PECs about the origins of these cameras, which were variously attributed to CEC, DEC, candidates, parties and observer groups. The use of video cameras by observers and press in polling stations is technically legal provided that they not intimidate or violate the secrecy of ballots.

*Mission Canada* observers generally assessed PEC members to be cooperative and professional, but drew attention to periodic obstruction of transparent and accessible voting by unauthorized and/or questionable actors in and around polling stations. A 400-person crowd gathered outside of DEC 132 throughout Election Day and refused to identify its cause or association when questioned by *Mission Canada*. In DEC 223, separate teams of observers noted the presence of vans transporting a recurring group of athletic-looking young men between PECs. In DEC 197, observers questioned a similar group of athletic looking young men at PECs 711070 and 711071 who self-identified as "persons assisting regional police." The presence and number of these individuals created an intimidating environment that could undermine voter participation.

Another frequent and widespread concern of *Mission Canada* observers related to the presence of unauthorized or questionable actors in polling stations that obstructed the visibility of voting processes and contributed to an overall environment of dysfunction. Observers across the five districts frequently encountered journalists who admitted to working for a candidate when asked to identify their media outlet. *Mission Canada* observers in District 132 reported similar exchanges with domestic observers accredited through an organization called "Kontinent" who could neither describe that organization or their own functions as observers.

*Mission Canada* observers also continued to note cases of PEC members who could not identify which party or candidate they represented, and of confusion amongst voters relating to the inclusion of *clone candidates* (with near identical names to other candidates) on ballots. In District 223, observers reported several electors were refused a second ballot after mistakenly marking their support for a *clone candidate*. All of these patterns reinforce concerns about organized manipulation of voting processes to further political ends of particular candidates and parties through intimidation and confusion.

In DEC 94, over 30 complaints were submitted to the Ministry of Internal Affairs regarding illegal actions during Election Day. The Ministry of Internal Affairs has said they have opened an investigation, but as of this writing, no charges have been brought.

## Closing and Count

*Mission Canada* observed closing and counting processes in 14 precincts. The overall transparency of these processes was positively assessed. PECs followed legally prescribed procedures in 13 out of 14 precincts where members agreed on figures entered into protocols, and observers were granted full

access and cooperation.

PEC 800971 in District 223 was an exception to the transparent and efficient administration of closing and tabulation processes that were observed elsewhere by *Mission Canada*. Observers overheard three members of this PEC expressing concern that they would be discovered for involvement in fraud. They were also stalled for two hours by the chair, vice-chair and secretary of the PEC upon requesting a copy of the vote count. The PEC chair subsequently attempted to leave the polling station without providing stamped copies of the protocols but was informed by police that this would be an infraction of the law.

## Post-Election Developments

### Tabulation of Results

*Mission Canada* observed eight handovers of voting results from PECs to their respective DEC. Half of these transfers were negatively assessed in terms of procedures' administration, overall transparency and understanding by DEC members. Amongst other irregularities, observers pointed out the presence of unauthorized police and military actors in DEC 94 and 194, the deliveries of non-validated results from PECs 710881 and 710896 in DEC 197; the reporting of figures in protocols that did not add up by PEC 480386 in DEC 132 and PEC 710896 in DEC 197; and restrictions on access to observe the entry of PEC protocols into computer systems in DEC 97, 132 and 197. *Mission Canada* observers were granted access to the computer room in DEC 194 and 223.

*Mission Canada* also observed tabulation of PEC voting results at all five DECs. In 2012, *Mission Canada* noted that this stage of the electoral process was marred by dysfunction and violations of procedure. This included use of unfilled, pre-signed protocols; manipulation of electronic data; obstruction of access by observers to tabulation rooms; intimidation of administrators by candidates or their representatives; and intentional delays of tabulation in crowded, tense and often inhumane conditions. *Mission Canada* positively notes that the most serious of these problems were not repeated during tabulation of results for the repeat elections.

Tabulation of results at DEC 132 was nonetheless described as chaotic. This DEC did not begin meeting until midnight, and accepted protocols and ballots from five PECs without assessing the accuracy of the protocols. It was observed that at least 20 PECs were then sent back to precincts for recounting on the basis of minor errors like missing signatures from a PEC member or an insufficient number of copies of transmitted protocols. The small size of this DEC meeting room and large presence of domestic observers and candidate representatives also blocked lines of vision and access for observation by *Mission Canada*. This over-crowding provoked frequent arguments between DEC members and candidate representatives.

Meeting conditions were tense in DEC 197, where PEC members were required to stand outside in cold winter weather for several hours to handover voting results without access to bathroom facilities. During this time observers reported that numerous recounts were ordered on what appeared to be baseless considerations. On December 16 (the day after the election), DEC 197 wanted to suspend the session for the evening, to reconvene the next day, which was a stalling tactic used often in the 2012

elections. However, some observers (domestic and political) complained - at one point, blocking the DEC's meeting room doors to prevent the Chairperson of the DEC from leaving. Eventually the tense situation calmed and protocols were duly completed.

## Anomalous Results

*Mission Canada* identified eighteen precincts where voter turnout was abnormally high as compared to the overall trend in the respective district, and the number of votes cast for the winning candidate was disproportionately high.<sup>54</sup> Thirteen (13) of the 18 PECs where these anomalous results were noted were "special precincts;" PECs located either in hospitals, clinics or prisons.<sup>55</sup>

While turnout in these precincts is to be expected to be higher than would be seen in a regular precinct as voters have no requirement to travel to vote, what raises concern is the disproportionately large margins for the winning candidate. While not proof of fraud, these results do raise questions about the integrity of the results in those specific precincts -- particularly as prisoners and patients can be especially vulnerable to administrative pressure and/or coercion.

## Transfer of Results

*Mission Canada* observers were granted access to the computer room where results are transferred from the DEC to the CEC electronically in DECs 194 and 223. No access was granted to observers for the remaining three DECs, which is consistent with experience in 2012. Granting observer access for the transfer of results would increase transparency and promote greater public confidence in this part of the process.

The transfer of results process appeared nonetheless to be sound. Subsequent checks of PEC vote count protocols obtained where *Mission Canada* observers were present for the count, against the numbers that were published on the CEC website for the respective polling stations, found no irregularities.

The CEC established results for Districts 94, 132, 194 and 197 on 25 December 2013, and for District 223 on 26 December.

## Conclusion

In 2012 *Mission Canada* concluded that Ukraine's parliamentary elections fell short of meeting international standards and that the elections marked a regression in Ukraine's democratic development. Without addressing many of the same shortcomings in these repeat elections *Mission Canada* does not feel that sufficiently notable progress has been made to amend its 2012 findings.

The legal framework provides a reasonable foundation for elections to genuinely reflect the will of the people. However the lack of transparency and inconsistency in its application undermines the spirit and

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<sup>54</sup> See Anomalous results table in annex.

<sup>55</sup> As noted, during these repeat elections there were 44 special precincts; 29.5% show anomalous results.

intent of the law to ensure an open and transparent election process where Ukrainian voters can freely and consciously choose their political representation. Such trends can be reasonably expected to undermine public confidence in the integrity of the election process.

As noted in 2012 and seen again in 2013, while there has been a regression in Ukraine's democratic experience with this combined cycle of parliamentary elections, Ukrainian society has demonstrated growth in its social consciousness and determination to stand up for Ukrainian rights and the democratic future of Ukraine. Canada and the rest of the international community should continue to support Ukrainians to build a strong and prosperous democracy in Ukraine.

*Mission Canada* makes the following recommendations for consideration by Ukraine's authorities, political stakeholders and civil society to ensure an election process that genuinely and fully reflects the will of the people.<sup>56</sup>

## Recommendations

### Election Administration

1. Ukraine should continue to have Election Commission members that are representatives of electoral participants, be they parties or independent candidates.
2. The CEC lotteries for PECs and DEC's prescribed by Ukrainian electoral law should ensure balanced representation of national and local electoral participants. It is advisable to strengthen legislation to ensure that parties be permitted to nominate representatives for DEC's and PEC's only in districts where they have a candidate running, or if they have a slate of party list candidates for the proportional system. Conversely, parties or candidates should be denied representation on a DEC or PEC if they cease to have a duly registered candidate.
3. *Mission Canada* recommends a return to the practice of a separate lottery for *each* DEC and PEC (rather than a single lottery to determine proportional representation of management of *all* DEC's and PEC's) as separate lotteries create considerable additional guarantees for representative balance among the political parties in DEC's and PEC's, while also helping to hinder schemes to deliberately abuse and manipulate the system.
4. While *Mission Canada* does not recommend creating barriers to legitimate political party participation, the Mission recommends that the CEC look to international best practices to implement measures that would reduce the formation of "technical parties", such as possibly prescribing a minimum level of party activity between elections.
5. To improve its transparency in the administration of elections, *Mission Canada* recommends that the CEC hold its discussions in public sessions. Agendas, draft documents on resolutions

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<sup>56</sup> These recommendations should be read in conjunction with the recommendations found in *Mission Canada's* Final Report for the 2012 Parliamentary Elections.

and decisions should be made available to electoral participants and observers on a timely basis.

6. In order to improve transparency, the decisions of the DEC's should be posted immediately on the CEC website.
7. CEC should establish a centralized, regularly updated and publicly accessible registry of complaints to allow monitoring/transparency.
8. In keeping with the *Law of Parliamentary Elections* in Ukraine, *Mission Canada* recommends that video cameras should not be present in polling stations, except as allowed for the use of election observers and journalists.
9. *Mission Canada* recommends that online training modules for election commissioners should continue to be developed by the CEC as a resource that reinforces but does not replace applied training in districts.

## Voter Registration

10. Voters, political parties and non-governmental organizations should be granted ongoing access to the *State Voter Registry* to verify its accuracy. The reporting/ investigation process for inaccuracies should be strengthened by increasing transparency and accountability.

## Candidate Registration

11. *Mission Canada* recommends that the Constitutional Court provide a clear definition of what precisely constitutes "residency" in Ukraine. *Mission Canada* welcomes the January 2014 CEC application to the Constitutional Court for an official interpretation of "residency."
12. *Mission Canada* recommends that the CEC take a less formalistic approach, in keeping with the spirit of legislation and international democratic standards, to candidate registration, especially in the case of correcting errors and omissions in nomination documents.

## Complaints and Appeals Process

13. Transparency in the election dispute resolution process could be enhanced by election commissions' fully presenting and discussing complaints in its public sessions with active participation of all interested parties. The practice of holding private sessions to decide on complaints prior to public sessions should cease.
14. Election commissions and administrative courts should fully adhere to the principles of impartiality, due process, rule of law, and transparency in handling complaints. All complaints should be considered on their merits. The letter and spirit of the law should be respected and consistently applied. Decisions should provide comprehensive and clear factual and legal reasoning.
15. To enhance consistency in the election dispute resolution process, the CEC and higher courts should collaborate to establish and publish, on a timely basis, interpretations of key issues in the electoral law that are in need of clarification.

## Legal Framework

16. The legislation guaranteeing freedom of assembly, freedom of expression, and freedom of the press should be strengthened, in keeping with both international best practices and Ukraine's constitution, to help protect democratic rights and further strengthen the legal framework for the conduct of free and fair elections.

## Women and Youth

17. *Mission Canada* recommends that where the CEC collects voter registration and turnout data, it should be tabulated in such a way as to allow for disaggregation by gender and age. This data should be openly shared to improve monitoring of electoral participation amongst women and young people, and the development of more targeted and effective voter-education programming.
18. Domestic observation and/or civil society groups should be assisted with programmes to build political literacy amongst youth sub-groups that are vulnerable to vote buying and/or other schemes that obstruct electoral processes.

## Election Observation

19. *Mission Canada* encourages continued funding and support to strengthen domestic election monitoring groups, in the interest of building public confidence and transparency of democratic processes.
20. Election observers should be permitted to observe all aspects of the electoral process including the computer transfer of results from the PECs to the DEC, and from the DEC to the CEC. In order to increase transparency and public confidence, access to all components of the electoral process should be provided to all accredited election observers, including the computer vote tabulation room at the DEC.
21. Domestic observers should be given the right to observe all elections in Ukraine including the 2015 presidential elections. This could be done through the development of separate legislation rather than making changes to the current *Law on Presidential Elections*<sup>57</sup>.

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<sup>57</sup> International best practice holds that, except in extraordinary cases in which serious deficiencies have been revealed in legislation, changes to the legal framework should not be made less than one year prior to an election.

## Annex 1 - About *Mission Canada* and CANADEM

*Mission Canada* is an independent Canadian observer mission sponsored by the Government of Canada and mounted by the non-government organization CANADEM.

The first *Mission Canada* was deployed as a short-term observation mission for the second round of the Presidential Election in February 2010. In 2012, *Mission Canada* became the largest ever Canadian bilateral initiative with 422 observers, including 65 Long-Term Observers to monitor preparations and campaign activities leading up to parliamentary elections.

Established in 1996, CANADEM is a not-for-profit, non-governmental organization committed to advancing international peace, human rights and democracy. It serves as a convener for knowledge exchanges, innovation and cooperation in the international democratic assistance sector through its roster of civilian experts, multilateral partnerships, capacity development projects and administration of election observation missions (EOMs). Since 2002, CANADEM has emerged as a key facilitator of Canadian support for election assistance, deploying thousands of observers to EOMs with the OSCE, EU, OAS, Commonwealth Secretariat and Carter Centre. CANADEM also organizes standalone observation missions, maintains an online election observation training program and resource database, and executes technical assistance projects to build capacity and share Canadian experience with election management bodies, government agencies, as well as political and civil society stakeholders.

For the December 15, 2013 Repeat Elections, *Mission Canada* deployed a core team of 4 to support 26 Canadian observers, including three Members of Parliament. *Mission Canada* was headquartered in Kiyv with observation teams deployed to each of the five districts. A total of 355 visits were made to PECs and all five DECAs were visited by *Mission Canada* observers over the course of the mission.

The mandate of *Mission Canada* is to observe record and report on whether the election genuinely reflects the democratic expression of the voters in the five districts according to established international standards and best practices, while in no way interfering with or intervening in the electoral process.

For elections to genuinely and fully reflect the will of the people, a number of key international standards must be met. *Mission Canada* uses these standards to assess the election process.

- ✓ A sound and fair legislative framework;
- ✓ Universal and equal suffrage;
- ✓ Impartial and transparent election administration;
- ✓ A level playing field for all contestants in the campaign;
- ✓ An election process free of pressure and coercion;
- ✓ An independent media and balanced coverage;
- ✓ Access to effective remedies for violations of electoral rights;
- ✓ A secret ballot;
- ✓ A voting and counting process free of manipulation that accurately reflects voters' intent.

## **Mission Canada 2013**

Mission Coordinator: Ann Szyptur

Analyst: Orest Zakydalsky

Gender & Youth Focal Point/Logistics: Mateusz Trybowski

Observer Coordinator/Logistics: Dusan Jovanovic

### **District 94 - Obykhiv**

Steven Lapchak (Team Leader)

Khrystyna Lazar

Dennis Kowalsky

Pierre Mychaltchouk

Russ Hiebert, MP

Hon. Stéphane Dion, MP

### **District 223 - Kyiv**

Danylo Korbabicz (Team Leader)

Alexandra Nikitchina

Anne Sochan

Olena Baran

### **District 194 – Cherkasy**

Stéphanie Plante (Team Leader)

Andrij Teliszewsky

Lara Zaluski

Andrew Iwasykiw-Poticnij

### **District 197 – Kaniv**

Brygida Cross (Team Leader)

Alexander Dashko

Emil Yereniuk

Parveen Nijar

Ada Chan

Ted Opitz, MP

### **District 132 – Pervomaysk**

Andriy Sawchuk (Team Leader)

Aimée Lavoie

Peter Czurylowicz

Kalyna Kardash

Natalie Wilson

Myron Lahola

## Annex 2 - Stakeholder Meetings

Organization	Person(s)
Democratic Initiatives Foundation	Iryna Bekeshkina
Center for Political and Legal Reforms	Yaryna Zhurba
OPORA	Olya Aivazovskaya (Chair of <i>OPORA</i> )
Observation Mission in Ukraine “ENEMO”	Dinara Oshuharunova (Head of Mission) Maja Milikic
OSCE/ODIHR	Jonathan Stonestreet (Head of Technical Team)
All Ukrainian Union “Svoboda” Party	Yurij Levchenko (candidate)
Committee of Voters of Ukraine	Oleksandr Chernenko (Chairman of the Board)
Independent Candidate	Victor Pylypshyn
International Foundation for Electoral Systems (IFES)	David Ennis
USAID	Jeffrey Meyers
Central Election Commission (CEC) of Ukraine	Mykhailo Okhendovskyi (Chairman)
National Democratic Institute (NDI)	Catherine Cecil
International Republican Institute (IRI)	Michael Druckman
Institut Respublika	Oleksandra Skyba
Communist Party of Ukraine	Hrehorhiy Buyko
Embassy of Canada to Ukraine	His Excellency Troy Lulashnyk (Ambassador)
Ukrainian World Congress International Observer Mission	Paul M. Grod (Head of Mission) Peter Sochan (Chief Observer)
All Ukrainian Union Batkivshchyna	Lesia Orobets (Member of Parliament)
Kyiv International Institute of Sociology	Valeriy Khmelko (President)
Razumkov Centre	Anatoliy Rachok (General Director)

### Annex 3 – Map of Repeat Elections



## Annex 4 – Anomalous Results

	Total Registered Voters	Voter Turnout	Percent of Vote Winning Candidate	Percent of Vote Main Oponent
<b>District 94</b>		<b>62%</b>	<b>Badayev (58.25%)</b>	<b>Lozovyi (21.91%)</b>
320283	340	86%	92%	7%
320306	1141	84%	84%	3%
320314	191	87%	88%	4%
320326	901	81%	88%	5%
**320340	638	96%	92%	1%
<b>District 132</b>		<b>48%</b>	<b>Kruglov (47.85%)</b>	<b>Kornatsky (45.31%)</b>
**480406	75	99%	85%	9%
480148	426	84%	81%	15%
**480027	1044	95%	82%	5%
<b>District 194</b>		<b>47%</b>	<b>Poplavsky (53.54%)</b>	<b>Bulatetsky (35.87%)</b>
**000001	554	97%	82%	4%
**711027	34	100%	82%	6%
**711029	1377	88%	93%	2%
**711092	41	80%	76%	9%
**711093	330	95%	87%	6%
**711098	736	84%	77%	15%
**711099	132	89%	80%	14%
**711100	451	87%	77%	18%
<b>District 223</b>		<b>46%</b>	<b>Pylypshyn (44.89%)</b>	<b>Levchenko (40.58%)</b>
**000002	2297	85%	63%	10%
**801061	293	81%	74%	8%

\*\*Special PECs: Precinct Electoral Commissions located in prisons or medical facilities.

## Annex 5 – Statistic Results of *Mission Canada* Observations

### POLLING STATIONS VISITED PRIOR TO ELECTION DAY

TOTAL PECS VISITED: 205

POLLING STATION	Urban	Rural	
	55%	45%	
TYPE	Regular	Special	
	96%	4%	
SIZE	Small	Medium	Large
	21%	35%	44%

### GENDER

PEC Role	Male	Female	Not Known
Chairperson	26%	57%	17%
Deputy	25%	57%	18%
Secretary	5%	75%	20%

### POLLING STATION (PS) VICINITY

Question	Yes	No
Was physical access into the station difficult	20%	80%
Is the signage for location of PS clearly visible	79%	21%
Was the PS open when you arrived	78%	21%

### CIRCUMSTANCES OUTSIDE THE POLLING STATION (PS)

Question	Yes	No	Not Known
Are campaign activities taking place in the vicinity of the PS	1%	64%	35%
Are campaign materials around the vicinity of the PS	7%	58%	35%
Other problems in the vicinity of the PS	2%	94%	4%

### *CIRCUMSTANCES INSIDE THE POLLING STATION (PS)*

Question	Yes	No	Not Know
Any Campaign material inside PS	3%	83%	14%
Other problems	2%	85%	13%

### *READINESS OF THE PEC*

Question	Yes	No	Not Known
Were any PEC members present in the PEC	81%	8%	11%
Were all necessary election materials received	64%	16%	20%
Was the ballot transfer protocol (from the DEC) shown to you upon request?	33%	12%	54%
Is the safe where ballots are stored guarded by a representative of the police	46%	3%	51%
Was the sealed tape on the safe/metal strong box with ballots intact	44%	11%	45%
If NO, Were the ballots recounted?	4%	7%	89%
If NO, Was the Ministry of Interior plus DEC contacted and an Act/'Akt' prepared?	1%	5%	94%
Did the PEC receive a copy of an updated preliminary voter list on paper (regular polling stations)	74%	2%	23%
Changes to the PEC membership in last week	53%	25%	22%
Were video cameras installed in the polling station?	4%	76%	20%

### *OFFICIALS AND (UN) AUTHORIZED PERSONS IN THE PREMISES*

Question	Yes	No	Not Known
Were there person(s) present who are not PEC members who appeared to be directing work of PEC	2%	80%	18%
Did any observers, candidate/party representative or anyone present inform you of problems or potential problems, at this PS	3%	76%	21%
Were any official complaints filed at this PS	1%	80%	19%

### TRANSPARENCY AT THE POLLING STATION

Question	Yes	No	Not Known
Were you in any way restricted in your observation of this PEC?	9%	81%	10%
Were you granted full co-operation from the PEC during your stay?	79%	9%	12%

### OVERALL ASSESSMENT OF THE POLLING STATION

Question	Very Bad	Bad	Good	Very Good	Not Known
In general, your overall impression at this PS is:	2%	17%	60%	14%	7%

### PEC OPENING

TOTAL PECS VISITED: 16

<b>Polling Stations</b>	<b>Urban</b>	<b>Rural</b>	
	81%	19%	
<b>Type</b>	<b>Regular</b>	<b>Special</b>	
	81%	19%	
<b>Size</b>	<b>Small</b>	<b>Medium</b>	<b>Large</b>
	25%	50%	25%

### GENDER

PEC Role	Male	Female
<b>Chairperson</b>	31%	69%
<b>Deputy</b>	25%	75%
<b>Secretary</b>	6%	94%

### *OPENING PROCEDURES*

Question	Yes	No	Not Known
Were all necessary election materials present	100%	0%	0%
Was the sealed tape on the safe/metal strong box with ballots intact	100%	0%	0%
Have all the ballots been pre-stamped	100%	0%	0%
Were the ballot boxes properly sealed	100%	0%	0%
Was the control sheet inserted in every ballot box (including mobile box)	94%	6%	0%
Was the ballot transfer protocol (from the DEC) shown to you upon request	88%	6%	6%
Did the PEC enter the number of ballots received in Vote Count protocol yet	63%	31%	6%
Did the Polling Station (PS) open for voting at 08:00 hrs.	88%	12%	0%

### *VIDEO CAMERAS*

Question	Yes	No	Not Known
Were video cameras installed in the polling station			
1) DEC 132	0%	100%	0%
2) DEC 94	50%	50%	0%
3) DEC 223	0%	100%	0%
4) DEC 197	0%	67%	33%
5) DEC 194	0%	100%	0%

### *OFFICIALS AND (UN) AUTHORIZED PERSONS IN THE PREMISE*

Question	Yes	No	Not Known
Were party observers present at the opening of this PS	94%	6%	0%
Were independent candidate observers present at the opening of this PS	81%	19%	0%
Were other international election observers present	44%	56%	0%
Were domestic non-partisan organizations observers present at the opening of this PS	75%	25%	0%

Were any unauthorized persons present in the PS during opening	0%	100%	0%
If YES, Were they directing/interfering in the work of the PEC	0%	31%	69%
Did any observers or candidate/party representative inform you of problems at this PS	6%	94%	0%
Were any official complaints filed at this PS	0%	100%	0%

### *TRANSPARENCY*

Question	Yes	No	Not Known
Did all persons present have a clear view of the opening procedures	88%	13%	0%
Were you in any way restricted in your observation of the opening procedures	0%	100%	0%
Were you granted full co-operation from the PEC during your stay	100%	0%	0%

### *OVERALL ASSESSMENT OF PEC OPENING*

Question	Very Bad	Bad	Neutral	Good	Very Good
The overall conduct of the opening of this PS was:	0%	13%	0%	56%	31%
General environment/circumstances	0%	13%	19%	38%	31%
Procedures followed	0%	6%	13%	50%	31%
PEC's understanding of procedures	0%	6%	6%	50%	38%
Performance of PEC	0%	6%	13%	50%	31%
Transparency of the opening process	0%	6%	0%	50%	44%

## VOTING PERIOD

*TOTAL PEC VISITED: 120*

<b>Polling Stations</b>	<b>Urban</b>	<b>Rural</b>	
	78%	22%	
<b>Type</b>	<b>Regular</b>	<b>Special</b>	
	89%	11%	
<b>Size</b>	<b>Small</b>	<b>Medium</b>	<b>Large</b>
	15%	28%	57%

## GENDER

<b>PEC Role</b>	<b>Male</b>	<b>Female</b>	<b>Not Known</b>
<b>Chairperson</b>	21%	78%	1%
<b>Deputy</b>	31%	69%	0%
<b>Secretary</b>	12%	88%	0%

## OPENING PROCEDURES

<b>Question</b>	<b>Yes</b>	<b>No</b>	<b>Not Known</b>
Are campaign activities taking place in the vicinity of the PS	0%	100%	0%
Are campaign materials around the vicinity of the PS	3%	97%	0%
Is there a large crowd waiting to vote	2%	98%	0%
A-4. Is there tension or unrest in the vicinity of the PS	2%	98%	1%
Was physical access into the station difficult	9%	90%	1%
Other problems in the vicinity of the PS	1%	98%	1%

### *CIRCUMSTANCES INSIDE THE POLLING STATION (PS)*

Question	Yes	No	Not Known
Overcrowding	4%	94%	2%
Any Campaign material inside PS	0%	100%	0%
Anyone attempting to influence voters whom to vote for	0%	98%	2%
Any pressure/Intimidation of voters	2%	98%	1%
Any Tension/Unrest inside PS	4%	94%	2%
Other problems	2%	98%	0%

### *ARRANGEMENTS AND TRANSPARENCY INSIDE THE POLLING STATION (PS)*

Question	Yes	No	Not Known
Was the PS lay out adequate to conduct polling	88%	12%	0%
Were the ballot box(es) sealed properly	93%	7%	0%
Were the number of ballots received entered on the Vote Count protocols yet	63%	26%	12%
Were all necessary election materials present	97%	2%	2%

	Voter List	Ballot Boxes	Polling Booth/s	Ballots Protocol	Other
If NO, What was missing	0%	0%	0%	0%	100%

### *REGISTERED VOTERS AND TURNOUT*

Question	Yes	No	Not Known
Were Voters added to the VL on election day	100%	0%	0%
If YES, Were they added strictly by court order	7%	9%	84%

## VOTING PROCEDURES

Question	Never	Sometimes	Mostly	Always	Not Known
Did the PEC check the voters' IDs	0%	0%	1%	95%	4%
Did the PEC sign the ballot counterfoil	0%	0%	0%	97%	3%
Did the voters sign voter list	1%	0%	0%	94%	5%
Did the voters sign the ballot counterfoils	0%	0%	3%	93%	4%
Did voters mark their ballots in secrecy	1%	0%	3%	90%	7%
Have all the ballots been pre-stamped	0%	0%	0%	97%	3%

Question	Yes	No	Not Known
Did the PEC send out the mobile box yet	69%	25%	6%
If YES, Did at least 3 PEC members representing different parties/candidates accompany the mobile voting box	64%	3%	33%
If you observed mobile voting, were there any irregularities	3%	18%	80%
Were video cameras installed and operating in the polling station			
1) DEC 132	0%	100%	0%
2) DEC 94	48%	45%	7%
3) DEC 223	0%	95%	5%
4) DEC 197	0%	57%	43%
5) DEC 194	0%	94%	6%
If YES, Did the placement of the cameras in any way undermine the secrecy of vote?			
1) DEC 132	0%	19%	81%
2) DEC 94	7%	45%	48%
3) DEC 223	0%	10%	90%
4) DEC 197	0%	4%	96%
5) DEC 194	0%	38%	63%

## PROBLEMS OR IRREGULARITIES INSIDE THE POLLING STATION

Question	Yes	No	Not Known
Were voters turned away because their names were not on the voters list	8%	87%	6%
Were any voters who were not on the voter's list allowed to vote without a court order	3%	85%	13%
Voters denied the right to vote for inappropriate reasons	0%	91%	9%
Voters without proper ID allowed to vote	1%	91%	8%
Series of seemingly identical signatures on the voter list	0%	93%	7%
Voters voting in groups ('family' or 'group' voting)	0%	94%	6%
Anyone voting more than once (multiple voting)	0%	93%	7%
Anyone attempting to vote more than once (multiple voting)	0%	94%	6%
Cases of proxy voting (voting on behalf of someone else, absent or present)	0%	93%	8%
Same person "assisting" numerous voters	1%	93%	7%
Any unauthorized person assisting the voters	3%	91%	7%
Anyone voting with a pre-marked ballot paper (carousel voting)	0%	92%	8%
Indications of ballot box stuffing (e.g. ballots in stacks inside box or several ballots folded together)	0%	95%	5%
Any PEC member or observer being ejected or dismissed	1%	0%	99%
Other procedural problems	3%	96%	2%

## TRANSPARENCY AT POLLING STATION

Question	Yes	No	Not Known
Were you restricted in your observation in any way	4%	95%	1%
Were you granted full co-operation from the PEC during your stay	93%	7%	0%
Were all phases of the voting process and ballot boxes visible to the PEC and observers	93%	7%	1%

## NUMBER OF VOTERS DURING VOTING PERIOD OBSERVED

Question	Fewer than 5	5 - 10	11 - 50	More than 50	Not Known
How many persons voted while you were observing the voting at this PS	14%	18%	48%	18%	2%

## OVERALL ASSESSMENT OF THE VOTING PERIOD

Question	Very Bad	Bad	Good	Very Good	Not Known
In general, the overall conduct of the voting at this PS	0%	8%	59%	29%	3%

Question	Very Bad	Bad	Neutral	Good	Very Good	Not Know
General environment/circumstances	0%	8%	13%	48%	30%	1%
Procedures followed	1%	3%	8%	58%	29%	2%
PEC's understanding of voting procedures	0%	5%	7%	53%	31%	4%
Voters' understanding of voting procedures	0%	0%	8%	59%	29%	3%
Performance of PEC	1%	1%	10%	54%	30%	4%
Transparency of the voting process	2%	0%	10%	56%	32%	1%

## CLOSING AND COUNTING

*TOTAL PEC CLOSINGS OBSERVED: 14*

Polling Stations	Urban	Rural	
	71%	29%	
Type	Regular	Special	
	86%	14%	
Size	Small	Medium	Large
	29%	36%	36%

## GENDER

PEC Role	Male	Female
Chairperson	14%	86%
Deputy	29%	71%
Secretary	14%	86%

### *CLOSING OF THE POLLING STATION (PS)*

Question	Yes	No	Not Known
Were voters waiting to vote inside the PS at 20:00 hours	0%	100%	0%
Did the PS close on time	93%	7%	0%

### *OFFICIALS AND (UN) AUTHORIZED PERSONS IN THE PREMISES*

Question	Yes	No	Not Known
Were party observers present at the closing of this PS	71%	29%	0%
Were independent candidate observers present at the closing of this PS	100%	0%	0%
Were other international election observers present	7%	93%	0%
Were domestic non-partisan organizations observers present at the closing of this PS	79%	14%	7%
Were any unauthorized persons present in the PS during closing	7%	86%	7%

### *STEPS TO BE COMPLETED BEFORE THE BALLOT BOXES ARE OPENED*

Question	Yes	No	Not Known
Were any official complaints filed at this PS during the vote	0%	93%	7%
Was the VL amended on election day	14%	57%	29%
If YES, Was the VL signed by the PEC Chair or Deputy and Secretary for each amendment?	7%	7%	86%
Was the number of registered voters on the VL announced	86%	7%	7%
Was the number of registered voters entered in the Vote Count protocol	100%	0%	0%
Did the PEC count and invalidate unused ballots according to procedure	93%	7%	0%
Was the number of signatures on the VL announced	79%	14%	7%
Was the number of used ballot counterfoils	93%	0%	7%
On the protocol, did the number of signatures match the number of counterfoils	93%	0%	7%
Was the sum of the number of voters who received ballots (pt.7) + the number of unused ballots (pt.2) equal to the number of ballots received by PEC (pt. 1), i.e. pt.7+pt.2 = pt.1	86%	7%	7%
Were all documents packed into separate packages according to the Law, e.g.: V L+ extract; unused ballots; counterfoils etc.	100%	0%	0%

### *OPENING OF THE BALLOT BOXES (MOBILE AND STATIONARY)*

Question	Yes	No	Not Known
Were the seals of all the ballot boxes intact/undamaged	93%	7%	0%
Was one control sheet found in every regular ballot box and two control sheets for every mobile box	100%	0%	0%

### *COUNTING OF VOTES*

Question	Yes	No	Not Known
Were all ballots pre-stamped with the PEC stamp	100%	0%	0%
Was the choice on every ballot announced aloud	100%	0%	0%
Were the valid/invalid ballots determined in a reasonable manner	93%	7%	0%
Were the valid/invalid ballots determined in a consistent manner	100%	0%	0%
Were all PEC members free to examine the ballot	100%	0%	0%
Did the appointed PEC members announce the number of invalid ballots	100%	0%	0%
Was the number of invalid ballots entered in the protocol (pt.12)	100%	0%	0%
Did the PEC pack and seal the ballots for each candidate separately	100%	0%	0%

### *COMPLETION OF THE PEC PROTOCOL/ PROCEDURAL ERRORS*

Question	Yes	No	N/A
Was the sequence of steps prescribed strictly followed (described in section C, D, and E)	93%	7%	0%
Did the PEC complete any "Act" on counting discrepancies or irregularities	21%	64%	14%
Did all PEC members agree on the figures entered in the protocol	100%	0%	0%
Did the PEC members have difficulties filling in the protocol	21%	79%	0%
Did the PEC revise figures established earlier in the process	7%	93%	0%
Was any dissenting opinion of PEC members on the count attached to the protocol	0%	100%	0%
Did any present PEC member refuse to sign the protocol	7%	93%	0%
Was a copy of the protocol posted for public information	57%	29%	14%
Did all entitled persons who requested receive copies of the protocol	79%	14%	7%
Did you receive a copy of the protocol	86%	7%	7%

*DID YOU OBSERVE ANY OF THE FOLLOWING PROBLEMS OR IRREGULARITIES?*

Question	Yes	No	Not Known
Observer/s or PEC member/s being expelled from the PS	0%	100%	0%
PS overcrowded	7%	93%	0%
Non-PEC member/s participating in the count	0%	100%	0%
Were figures already entered in the protocols changed after opening the ballot boxes	0%	100%	0%
Observers or PEC members not allowed to examine the ballots upon request	7%	86%	7%
Official protocol forms pre-signed by PEC members	7%	86%	7%
Any falsification of VL entries, results or protocols	0%	100%	0%
Any significant procedural errors or omissions	7%	93%	0%
Any consistently anomalous marks on ballots (triangles, stars, etc.)	7%	93%	0%
Indications of ballot box stuffing (e.g. ballots in stacks inside box or multiples folded together)	0%	100%	0%
Were video cameras installed and operating in the polling station			
1) DEC # 132	0%	100%	0%
2) DEC # 94	25%	75%	0%
3) DEC # 223	0%	100%	0%
4) DEC # 197	0%	67%	33%
5) DEC # 194	0%	100%	0%
If YES, Did the placement of the cameras have a clear view of the closing and counting procedures			
1) DEC # 132	0%	33%	67%
2) DEC # 94	25%	50%	25%
3) DEC # 223	0%	67%	33%
4) DEC # 197	0%	0%	100%
5) DEC # 194	0%	0%	100%

## TRANSPARENCY

Question	Yes	No
Did all persons present have a clear view of the counting procedures	100%	0%
Were you in any way restricted in your observation of the counting procedures	7%	93%

## OVERALL ASSESSMENT OF THE COUNTING PROCESS

Question	Very Bad	Bad	Neutral	Good	Very Good	Not Known
In general, the overall conduct of the counting process at this PS is:	0%	7%	0%	71%	14%	7%
General environment/circumstances	7%	0%	7%	64%	21%	0%
Procedures followed	7%	0%	14%	50%	29%	0%
PEC's understanding of counting procedures	0%	0%	14%	50%	36%	0%
Performance of PEC	7%	0%	7%	64%	21%	0%
Transparency of the counting process	0%	0%	7%	43%	43%	7%

## BALLOT TRANSFERS WITNESSED

*TOTAL TRANSFERS WITNESSED: 8*

Polling Stations	Urban	Rural	
	75%	25%	
Type	Regular	Special	
	88%	13%	
Size	Small	Medium	Large
	25%	50%	25%

## GENDER

PEC Role	Male	Female	Not Known
Chairperson	25%	50%	25%
Deputy	25%	75%	0%

<b>Secretary</b>	25%	75%	0%
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*PROTOCOL AND ELECTION MATERIAL TRANSPORT*

Question	Yes	No	Not Known
Did two PEC members accompany the Chair and Deputy with the election material to the DEC	50%	13%	38%
Did police escort the PEC members and the election material	75%	0%	25%
Were the packed documents directly transferred to the DEC	75%	0%	25%

*PERSONS IN THE DEC PREMISES*

Question	Yes	No	Not Known
Were party observers present	88%	13%	0%
Were independent candidate observers present	88%	13%	0%
Were other international election observers present	63%	38%	0%
Were domestic non-partisan organizations present	88%	13%	0%
Were any unauthorized persons present inside the DEC premises	25%	75%	0%
Did any observers or candidate/party representative inform you of problems at this DEC	0%	100%	0%
Any official complaints filed with the DEC	0%	75%	25%

*PROBLEMS AND IRREGULARITIES*

Question	Yes	No	Not Known
Observers being expelled from the DEC	0%	100%	0%
Observers not allowed to familiarize themselves with all aspects of the process	13%	88%	0%
PEC correcting or filling in protocol without a formal DEC decision	0%	100%	0%
Were you in any way restricted in your observation of the PEC handover to the DEC	25%	75%	0%

## *TRANSFER/SUBMISSION OF RESULTS PROTOCOLS AND ELECTION MATERIAL TO DEC*

Question	Yes	No	Not Known
Were the seals on the PEC materials intact upon arrival	75%	0%	25%
Did the PEC deliver all required documentation to the DEC	0%	0%	100%

## *PEC PROTOCOL CHECK*

Question	Yes	No	Not Known
Did the PEC deliver invalidated results to the DEC	25%	75%	0%
Did the PEC submit two copies of the Protocol to the DEC	88%	13%	0%
Did figures in the protocol display any obvious signs of having been altered	0%	100%	0%
Did the figures in the PEC protocol add up	75%	25%	0%
Did the DEC request the PEC to provide any "Amended" protocol	25%	75%	0%
Did the DEC decide to recount the PEC ballots	13%	88%	0%

## *PROCESSING THE PEC DATA*

Question	Yes	No	Not Known
Were you granted access to observe the entry of the PEC protocol into the computer system at the DEC	25%	75%	0%
Did the computer indicate any inconsistencies in the PEC figures	0%	25%	75%

## *OVERALL ASSESSMENT OF CONDUCT AT DECS*

Question	Very Bad	Bad	Neutral	Good	Very Good
In general, your overall impression at this PS is:	0%	38%	0%	50%	13%
General environment/circumstances	13%	25%	0%	50%	13%
DEC's organization of the process	0%	25%	13%	63%	0%
DEC's understanding of procedures	0%	25%	13%	63%	0%
Your confidence in the accuracy of computerized results	0%	0%	75%	25%	0%
Transparency of the process at the DEC	0%	38%	25%	38%	0%

## TABULATION AND TRANSMISSION OF RESULTS

*TOTAL DEC'S VISITED: 5 – 17 observer reports filed*

### *GENDER*

DEC ROLE	Male	Female
Chairperson	80%	20%
Deputy	60%	40%
Secretary	60%	40%

\*\* Average observed at DEC's over different time periods Dec 15, Dec 16 & Dec 17

### *PERSONS IN THE DEC PREMISES*

Question	Yes	No	Not Known
Were party observers present	88%	6%	6%
Were independent candidate observers present	100%	0%	0%
Were other international election observers present	65%	35%	0%
Were domestic non-partisan organizations present	94%	0%	6%
Were any unauthorized persons present inside the DEC premises	6%	76%	18%
Did any observers or candidate/party representative inform you of problems at this DEC	35%	53%	12%
Any official complaints filed with the DEC?	0%	76%	24%

### *DID YOU OBSERVE ANY OF THE FOLLOWING PROBLEMS OR IRREGULARITIES?*

Question	Yes	No	Not Known
Observers being expelled from the DEC	0%	100%	0%
Observers not allowed to familiarize themselves with all aspects of the process	35%	65%	0%
PEC correcting or filling in protocols without a formal PEC decision	6%	88%	6%
Were you in any way restricted in your observation at the DEC	29%	71%	0%

## TRANSFER/SUBMISSION OF RESULTS PROTOCOLS AND ELECTION MATERIAL

Question	Never	Sometimes	Mostly	Always	Not Known
Were the seals on the PEC material intact upon arrival	6%	0%	29%	65%	0%
Did the PECs deliver all required documentation to the DEC	0%	0%	18%	65%	18%

## PEC PROTOCOL CHECK

Question	Never	Sometimes	Mostly	Always	Not Known
Did the PEC submit two copies of the Protocol to the DEC	0%	0%	12%	12%	26%
Did figures in the protocols display any obvious signs of having been altered	29%	0%	0%	29%	6%
Did the figures in the PEC protocols add up	0%	6%	41%	6%	47

## PROCESSING THE DEC DATA

Question	Never	Sometimes	Mostly	Always	Not Known
Were you granted access to observe the DEC data entry from the PEC protocols	65%	6%	6%	6%	18%
Was the data entered in to the computer accurately	0%	0%	0%	6%	94%

## OVERALL ASSESSMENT OF CONDUCT AT DECS

Question	Very Bad	Bad	Neutral	Good	Very Good	Not Known
In general, the overall conduct of the handover and tabulation procedures at this DEC is	0%	47%	0%	47%	0%	12%
General environment/circumstances	12%	35%	35%	82%	0%	0%
DEC's organization of the process	0%	41%	29%	71%	0%	0%
DEC's understanding of procedures	0%	6%	18%	24%	6%	6%
Your confidence in the accuracy of computerized results	6%	29%	41%	76%	6%	6%
Transparency of the process at the DEC	12%	18%	35%	65%	6%	6%