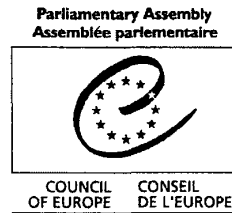


# Parliamentary Assembly Assemblée parlementaire



Doc. 10878  
8 April 2006

## Observation of the parliamentary elections in Ukraine (26 March 2006)

Report

Ad hoc Committee of the Bureau of the Assembly

Rapporteur: Mrs Renate Wohlwend, Liechtenstein, Group of the European People's Party

The 2006 Parliamentary Elections were generally in line with Council of Europe standards and commitments for democratic elections. These elections further consolidated the breakthrough in the conduct of democratic elections that started with the re-run of the second round of the Presidential elections in 2004. Despite technical shortcomings, in a clear break with the past, Ukraine demonstrated its commitment to the democratic process and voters could express their will freely on Election Day. The ad hoc Committee calls upon the Ukrainian authorities, including the incoming Verkhovna Rada, to address the remaining shortcomings and implement the recommendations contained in this report.

### I. Introduction

1. Following invitations by the President of Ukraine and the Speaker of the Verkhovna Rada the Bureau of the Assembly decided to set up an ad hoc Committee to observe the Parliamentary Elections in Ukraine to be held on 26 March 2006, and appointed me as the Chairperson and rapporteur of this Ad Hoc Committee.

2. In conformity with article 15 of the cooperation agreement between the Assembly and the European Commission for Democracy through Law ( "Venice Commission" ) which provides that *"When the Bureau of the Assembly decides to observe an election in a country in which electoral legislation was previously examined by the Venice Commission, one of the rapporteurs of the Venice Commission on this issue may be invited to join the Assembly's election observation mission as legal adviser"*, the Bureau of the Assembly invited an expert from the Venice Commission to join the ad hoc Committee as advisor.

3. Based on proposals by the political groups in the Assembly, the ad hoc Committee was composed as follows:

**Socialist Group (SOC)**

Mr Abdülkadir ATEŞ	Turkey
M. Jaime BLANCO	Spain
Mrs Anna ČURDOVÁ	Czech Republic
M. Andreas GROSS	Switzerland
M. Jean-Pol HENRY	Belgium
Mrs Sinikka HURSKAINEN	Finland
Mr Tadeusz IWINSKI	Poland
Mr Tony LLOYD	United Kingdom
Mr Rainder STEENBLOCK	Germany
Mrs Biruté VĖSAITĖ	Lithania

**Group of the European People's Party (EPP/CD)**

M. Pedro AGRAMUNT	Spain
M. Jean-Guy BRANGER	France
Ms Åse Gunhild Woie DUESUND	Norway
Mrs Urszula GACEK	Poland
Mr Andres HERKEL	Estonia
Mr Oskars KASTĒNS	Latvia
Mr Kimmo SASI	Finland
Mrs Renate WOHLWEND	Liechtenstein

**Alliance of Liberals and Democrats for Europe (ALDE)**

Mr Gurgen ARSENYAN	Armenia
Mr Stef GORIS	Belgium
Mr Mike HANCOCK	United Kingdom
Mr Johannes RANDEGGER	Switzerland
M. François ROCHEBLOINE	France
Mrs Hanne SEVERINSEN	Denmark
Mr Gabor SZALAY	Hungary
Mrs Jelleke VEENENDAAL	Netherlands

**European Democrat Group (EDG)**

Mr Toomas ALATALU	Estonia
Mr Mevlüt ÇAVUŞOĞLU	Turkey
Mr Nigel EVANS	United Kingdom
Mr Morten MESSERSCHMIDT	Denmark
Ms Ganira PASHAYEVA	Azerbaijan
Mr Yuri SOLONIN	Russia
Mr Emanuelis ZINGERIS	Lithuania

**Group of the Unified European Left (UEL)**

Mr Doros CHRISTOUDOULIDES	Cyprus
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**Venice Commission**

Mr Angel SANCHEZ NAVARRO.	Spain
Mr Sergey KOUZNETSOV	Legal officer- Council of Europe

**Secretariat**

Mr Vladimir DRONOV, Head of Secretariat, Interparliamentary Co-operation and Election Observation Unit, Senior Advisor to the President of the Assembly  
Mr Bas KLEIN, Deputy to the Head of Secretariat  
Mr Angus MACDONALD, Press Officer  
Ms Farida JAMAL, Principal Administrative Assistant  
Mme Danièle GASTL, Assistant

4. The ad hoc Committee acted as part of the International Election Observation Mission (IEOM) which also included the election observation missions of the parliamentary assemblies of the OSCE and NATO, the European Parliament and the election observation mission of the Organisation for Co-operation and Security in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR). Regrettably, the co-operation between the partners in the IEOM was at times difficult. To a large part this was the result of an internal conflict and competition between the two members of the OSCE family. As a result the final statement of the IEOM did not fully reflect the position of all partners in the IEOM, including that of the ad hoc Committee. For future observation missions the equality of all partners in the IEOM should be ensured. If this can not be achieved the Assembly could consider issuing a separate statement outside the framework of the IEOM.

5. Local elections were being held simultaneously with the Parliamentary Elections. The ad hoc Committee, as well as the other members of the IEOM, did not observe these elections. A delegation of the Congress of Local and Regional Authorities of the Council of Europe did observe the local elections in Ukraine. The members of the Congress delegation participated in the IEOM briefings and issued their findings immediately following the joint IEOM press conference.

6. The ad hoc Committee met in Kyiv from 24 to 27 March 2006 and held, *inter alia*, meetings with representatives of the main parties participating in these elections, the Chairman of the CEC, the Head of the election observation mission of the OSCE/ODIHR and his staff as well as representatives of the civil society and mass media. The programme of the meetings of the ad hoc Committee appears in Appendix 1.

7. On Election Day the ad hoc Committee was split into 21 teams which observed the elections in and around Kyiv, Odessa, Donetsk, Simferopol and Dnipropetrovsk.

8. In order to draw up an assessment of the electoral campaign, as well as the political climate in the run-up to the elections, the Bureau sent a pre-electoral mission to Ukraine from 28 February to 2 March 2006. The cross-party pre-electoral delegation consisted of Ms Renate Wohlwend (Liechtenstein, EPP/CD), Ms Hanne Severinsen (Denmark, ALDE) Mevlüt Çavuşoğlu (Turkey, EDG) and Mr Doros Christodoulides (Cyprus, UEL). Regrettably, the Socialist Group's representative was unable to participate in the pre-election mission. In Kyiv the pre-electoral delegation met with, *inter alia*, representatives of political parties participating in these elections, the Chairman of the Central Election Commission (CEC), The Minister of Justice, the Chairman of the Supreme Court of Ukraine, the deputy ministers for Foreign Affairs and for the Interior, the Deputy Head of the Presidential Administration, the Head of the OSCE/ODIHR Election Observation Mission, representatives of the mass media and NGO community, as well as ambassadors from Council of Europe member-states accredited in Ukraine. The statement issued by the pre-electoral delegation at the end of their stay appears in Appendix 2.

9. The IEOM concluded that the Parliamentary Elections in Ukraine on 26 March 2006 were in general inline with OSCE and council of Europe commitments as well as other international standards for democratic elections. These elections consolidated the democratic breakthrough that started with the repeat second round of the Presidential elections in 2004. Overall, fundamental civil and political rights were respected. This enabled voters to make an informed choice between distinct alternatives and to freely express their will on Election Day. The joint statement appears in Appendix 3.

10. The ad hoc Committee wishes to thank the Verkhovna Rada, the OSCE/ODIHR Election Observation Mission and the Director of the Information Office of the Council of Europe in Ukraine for their co-operation and support provided to the ad hoc Committee and its pre-election mission.

## **II. Political and legal context**

11. The Parliamentary elections on 26 March 2006 were the first national elections in Ukraine after the Presidential Elections and Orange revolution of 2004 which brought the government of President Yushchenko to power on a platform that promised far going changes in the power structures and a rapid democratisation of the Ukrainian society. These parliamentary elections were therefore a crucial test for the political will and commitment of Ukraine to implement democratic reform and hold elections in line with Council of Europe standards and commitments that Ukraine subscribed to when joining the Council of Europe.

12. These elections took place in the context of a standoff between the President and Verkhovna Rada about the pace and extent of constitutional reform, especially with regard to the balance of power between the executive and legislative branches of power, as agreed upon in the context of the resolution of the conflict during the Presidential elections in 2004. In addition the "orange coalition" that came into power after the Presidential elections came under considerable strain after a series of internal differences that eventually lead to the dismissal of government headed by Prime Minister Yulia Tymoshenko.

13. As a result of the standoff between President and Verkhovna Rada, Ukraine is currently without a functioning Constitutional Court due to the refusal of the Verkhovna Rada to swear in the members already appointed by the President and Congress of Judges, effectively preventing the Constitutional Court from having the quorum as prescribed by law. The ad hoc Committee regrets that these elections took place without a functioning Constitutional Court as highest constitutional authority, and that, as a result, the constitutionality of a series of amendments to the laws that governed these elections could not be verified if needed.

14. Local and regional elections were held simultaneously with the Parliamentary elections on 26 March. These elections were observed by a delegation from the Council of Europe's Congress of Local and Regional Authorities. Their findings are attached as Appendix 4. The simultaneous holding of local and parliamentary elections put considerable strain on the election administration. In addition, on Election Day this contributed to overcrowding and a degree of voter confusion in the polling stations, at times compromising the secrecy of the vote. The ad hoc Committee regrets that the concerns expressed to the authorities by the pre-electoral mission regarding the possibilities for overcrowding of polling stations on Election Day were not heeded.

15. Ukraine does not have a Unified Election Code. The Parliamentary elections were governed by the Constitution of Ukraine, the Law on Elections of People's Deputies of Ukraine (PAEL), the Law on Political Parties, the Law on the CEC, the Code of Administrative Procedures as well as provisions in other laws. In addition, aspects of the local elections were governed by a different set of laws. The Venice Commission of the Council of Europe concluded that the legal framework for these elections could provide a sufficient basis for the conduct of democratic elections.

16. The corpus of laws that governed these elections was substantially amended following the political agreement reached on 8 December 2004, which transferred powers from the President to Parliament and provided for a new election system for the Verkhovna Rada. The amended Law on the Elections of People's Deputies of Ukraine (PAEL) changed the election system for the Verkhovna Rada from a mixed proportional-majoritarian system to a proportional system with a single nation-wide constituency and a 3% threshold for parties and blocs to enter parliament.

17. A level of incoherency and inconsistency exists between the laws that governed these elections. The authorities took a practical and pragmatic approach to possible incoherencies and inconsistencies encountered. This however left considerable discretion to the polling station election commissions to an extent undermining the uniformity of implementation of the law.

18. The corpus of laws that governed these elections is unnecessarily complex and detailed. Many technical and administrative issues that are normally regulated in by-laws and CEC regulations are prescribed in the law. This level of detail and complexity considerably reduced the flexibility of the CEC to address technical issues in the administration of these elections. As a result the Verkhovna Rada had to adopt, close to Election Day, a series of amendments, of a mostly technical nature, to the laws that governed these elections. While understandable in this context, it runs counter to the principle of a stable election law during elections. In addition, the complexity of the procedures during Election Day as prescribed by these laws created a level of confusion in election commissions regarding the administration of the election procedures.

19. In a welcome development, the PAEL now provides for non-partisan domestic observers to observe the parliamentary elections, in line with long standing recommendations by the Parliamentary Assembly. A similar provision was not made to the laws that govern the local elections, highlighting the incoherencies between the different laws that govern these elections.

### III. Election Administration

20. The Parliamentary Elections were administered by a three-tiered election administration consisting of the Central Election Commission (CEC), 225 District Election Commissions (DECs) and over 34,078 Precinct Election Commissions (PECs).

21. The CEC is a permanent body consisting of 15 members, appointed by parliament for a seven year term. As a result of the experiences from the 2004 Presidential elections an amendment to the law on 7 July 2005 changed the manner in which DECs and PECs are composed. DECs were reduced to a maximum of 18 members. Of these members 15 are appointed by the parties and blocs that were represented in Parliament on 15 September 2005 and the remaining 3 through a lottery at the CEC between the other parties and blocs that were registered for these elections. The PECs are composed following the same principles as the DECs.

22. The constitution of the DECs and PECs was of concern during these elections. While the DECs were constituted within the legal deadlines, their functioning was hampered by frequent withdrawals and replacements of commission members. In total 15% of the DEC members were substituted before these elections. A considerable number of PECs were not functioning during the pre-electoral period as a result of a lack of commissioners nominated by the political parties. On the eve of the elections a number of PECs had not yet been formed while a significant number only functioned with the minimum legal quorum. The late constitution of the PECs affected the legal publication and possibility for voters to check the voters' lists and hampered the training of commission members in the already complex election procedures.

23. The amendments for the law now provide for individual legal liability for election officials. Although this principle is welcomed by the ad hoc Committee it may have contributed to the significant number of withdrawals from the elections commissions before Election Day.

24. The CEC administered these elections in an unbiased and transparent manner with its decisions in general taken in line with, and within the timeframes prescribed by, the law.

25. A significant number of commissioners served on polling stations other than where they were registered to vote. In order not to disfranchise a potentially considerable number of citizens the Verkhovna Rada adopted on 16 March 2006 an amendment that allowed these members to vote in the polling stations where they served on Election Day.

### IV. Candidate and Voter Registration

26. In total 45 parties and blocs, with a total of 7,747 candidates were registered for these elections by the CEC. The parties and blocs registered for these elections reflected the entire political spectrum of Ukraine and provided voters with a genuine choice on Election Day.

27. The applications of 8 parties and blocs for registration were rejected by the CEC. This decision was appealed in four cases to the Court, which upheld the CEC decisions.

28. The accuracy of the voters' lists continued to be problematic during these elections. Ukraine has no centralised register of voters and the compilation of the voters' lists is the responsibility of the local and regional executive powers. Following widespread problems with the voters' lists during previous elections a special structure to compile update the lists were put in place for these elections. As a result 716 special working groups consisting of representatives of state and local administration, as well as 27 regional working groups and one central working group were created to compile a country wide voter's database. The resulting draft voters' lists were displayed for public inspection and update by the regional working groups from 1 November to 31 December 2005.

29. The quality of the data used to compile the centralised database varied considerably throughout the country. In addition a significant problem turned out to be the errors made with the translation and transliteration of voters' and locality names from Russian into Ukrainian. The PAEL provides for the voters list to be made available for public inspection at the PECs from 22 February to 23 March 2006. Regrettably, the problems in constituting the PECs made that this deadline could not be met in a number of cases. The PAEL allows voters to be added to the voters list, or to update the information pertaining to them, till the day before the elections. The Verkhovna Rada passed an

amendment on 14 March 2006 that would allow voters to be added to the voters list on Election Day by court order. However, on 25 March 2006 the President of Ukraine, citing concerns about the possibility for multiple voting, declined to sign this amendment into law and returned it to Parliament.

30. A new framework for the handling of election related complaints and appeals was created with the adoption of the new Code of Administrative Procedures on 6 July 2006. As a result the High Administrative Court is the last and final instance for possible complaints against CEC decisions and the final election results.

#### **V. Pre-election period and media**

31. The election campaign showed a marked improvement in comparison to the 2004 Presidential Elections. The campaign was highly competitive and legal provisions to provide a level playing field for all contestants were respected.

32. Regrettably, a few isolated violent incidents and attempts to intimidate voters and campaign workers were reported, but they were highly localised with no indication of a pattern of central orchestration. Similarly, the few reported cases of abuse of administrative resources were isolated events that were addressed by the election administration within the scope of the law.

33. The ad hoc Committee welcomes the positive role played by the police forces during the campaign. The police forces retained a high degree of professionalism and neutrality throughout the campaign and generally maintained a low profile.

34. The degree of the freedom of the mass media, as well as the manner in which they covered the election campaign showed a significant and marked improvement of previous elections. The use of "temnyky" – semi-official guidelines to control the editorial line of the media - , as well as intimidation of journalists and media outlets, main points of concern during previous elections, were no longer an issue during these elections.

35. The state-funded media complied with their legal obligation to provide free airtime to all contestants. While real plurality existed in the media for the voters to receive extensive information about the election campaign, media coverage tended to give most attention to the President and the executive branch, especially later in the campaign. While a number of media showed preference to the parties that originally made up the "Orange Coalition", others showed bias to the opposition forces.

36. The print media expressed a wide range of views, while individually often favouring one candidate or the other in their coverage and editorial policy.

#### **VI. Election day - Vote count and tabulation**

37. On Election Day the vote took place in a calm and peaceful manner. As a result of the simultaneous holding of the Parliamentary Elections voters could cast up to 6 ballots on Election Day. This, together with the overly complex voting procedures, as well as inadequate sized polling stations, resulted in serious overcrowding in a significant number of polling stations. Long queues of voters were generally observed with waiting times of up to 5 hours for voters to cast their ballots. In a significant number of cases this led to voters voting outside the voting booths, undermining the principle of secrecy of the vote. Despite these shortcomings voters appeared to be able to cast their ballots freely without intimidation or outside pressure.

38. While in the majority of cases the voting was conducted in a well organised manner and voting procedures were implemented according to the law, in a number of cases bad organisation and poor understanding of the voting procedures were noted by observers. This may have been largely the result of inexperienced election commissioners and the overly complex voting procedures.

39. The vote count generally took place in an orderly manner but, again as a result of the simultaneous holding of Parliamentary and local elections, took a considerable amount of time to conclude. As a result, the vote count was in general still taking place at the time the IEOM presented its preliminary findings the day after the elections. In general the vote count was reported to have been conducted in line with legal provisions and without significant incidents.

40. The tabulation process at the DEC's was reported to be more problematic with instances of protocol rewriting and procedural violations being observed. This seems to be mostly the result of poor understanding of procedures by election commissions at both DEC and PEC level.

41. The ad hoc Committee welcomed the presence of considerable numbers of both partisan and non-partisan domestic observers on Election Day which positively enhanced the transparency of the conduct of the vote and vote count.

42. The preliminary results were announced by the CEC after the vote count finished on Thursday evening 30 March. The Party of Regions gained 32,12% of the vote, the Yulia Tymoshenko Bloc 22,27%, Our Ukraine 13,94%, the Socialist Party of Ukraine 5,67% and the Communist Party of Ukraine 3,66% of the vote. All other parties and blocs failed to overcome the 3% threshold to enter parliament.

## **VII. Conclusions and recommendations**

43. The 2006 Parliamentary Elections generally were in line with Council of Europe standards and commitments for democratic elections. These elections further consolidated the breakthrough in the conduct of democratic elections that started with the re-run of the second round of the Presidential elections in 2004. Despite technical shortcomings, in a clear break with the past, Ukraine demonstrated its commitment to the democratic process and voters could express their will freely on Election Day. However "free and fair" elections demand a level of perfection that was not yet seen at these elections. The ad hoc Committee therefore calls upon the Ukrainian authorities, including the incoming Verkhovna Rada, to address the remaining shortcomings and implement the recommendations contained in this report.

44. The corpus of laws that governed these elections is at times inconsistent and unnecessarily complex. Many detailed technical provisions for the conduct of the elections would be better left to by-laws and CEC regulations. The ad hoc Committee therefore recommends that the Ukrainian authorities should pursue co-operation with the Venice Commission of the Council of Europe in reviewing existing election administration with a view to elaborate and adopt a unified electoral code.

45. The simultaneous holding of parliamentary and local elections did have a negative impact on the election process. The election administration should be commended on organising these elections in a democratic manner despite the heavy strain of organising multiple elections on the same day. The ad hoc Committee would like to reiterate the long standing Assembly recommendation to hold parliamentary and local elections on different dates in Ukraine (Doc 9415 (2002) - Addendum II).

46. The accuracy of the voters list continued to be an issue during these elections. The ad hoc Committee therefore calls upon the Ukrainian authorities to establish without further delay the foreseen centralised State Register of Voters.

47. The ad hoc Committee strongly regrets that these elections took place in the context of a non functioning Constitutional Court, as highest constitutional authority, due to which the constitutionality of amendments to the laws that governed these elections could not be verified if needed.

48. The ad hoc Committee welcomes the genuine pluralism demonstrated in the Media during these elections. However this pluralism could have been further enhanced if a Public Broadcaster had been functioning in time for these elections. Regrettably recommendations by the Assembly in this regard were not implemented in time by the Ukrainian authorities.

**Parliamentary Election Observation  
Ukraine  
26 March 2006**

**INTERNATIONAL ELECTION OBSERVATION MISSION**

**DELEGATIONS OF THE OSCE PA, PACE, NATO PA AND EP  
PROGRAMME  
Kyiv, 24 - 27 March 2006**

**Friday, 24 March**

Arrival to Kiev. Hotel accommodation

11:00	<b>Ad Hoc Committee meeting</b>	President Hotel Kyivsky
12:45	<b>Deployment packs available</b>	European Hall President Hotel Kyivsky
13:00 – 13:15	<b>Welcome by the Heads of Delegations</b> Mr. Alcee L. Hastings, OSCE PA Ms. Renate Wohlwend, PACE Mr. Charles Tannock, EP Mr. Pawel Gras, NATO PA	European Hall President Hotel Kyivsky
13:15 – 15:00	<b>Briefing by OSCE/ODIHR EOM</b> <u>13:15-13:25</u> Welcome and Introduction Amb. Lubomir Kopaj, Head of ODIHR EOM <u>13:25-13:40</u> Campaign Issues Ms. Beata Martin-Rozumilowicz, Political Analyst <u>13:40-14:00</u> Media Environment Mr. Ivan Godarsky, Media Analyst <u>14:00-14:10</u> Observer Code of Conduct Mr. Riccardo Chelleri, Deputy Head <u>14:10-14:20</u> The Legal Framework Mr. Hans Birchler, Legal Analyst <u>14:20-14:40</u> The Election Environment Mr. Kamen Ivanov, Election Analyst <u>14:40-15:00</u> Q&A	
15:00 – 16:00	<b>Meeting with the Central Election Commission</b> Mr. Yaroslav Davydovych, Chairman	European Hall President Hotel Kyivsky
16:00 – 17:00	<b>Media panel</b> <ul style="list-style-type: none"> <li>• Institute of Mass Information – Ms. Vyktoria Sumar,</li> <li>• Channel Five – Mr. Roman Skrypin, Editor in Chief</li> <li>• UT One – Mr Yury Oliynyk, Head of International Relations Board</li> </ul>	European Hall President Hotel Kyivsky
17:00 – 18:00	<b>NGO panel</b> <ul style="list-style-type: none"> <li>• Committee of Ukrainian voters – Mr. Igor Popov, Chairman</li> <li>• Institute of Statehood and Democracy – Mr. Ivan Lozovyi</li> <li>• Ukrainian Center for Independent Political Research – Ms. Yulia Tyshchenko, Election Campaign Expert</li> </ul>	European Hall President Hotel Kyivsky
Evening	<b>Private arrangements</b>	



**Saturday, 25 March**

09:00 – 12:30	<b>Meetings with political parties</b> <u>09-09:30</u> <ul style="list-style-type: none"> <li>• Our Ukraine – Mr. Zvarych Roman Mihaylovych, Deputy Campaign Manager</li> </ul> <u>09:30-10</u> <ul style="list-style-type: none"> <li>• Party of the Regions - Kushnariov Yevgeniy Petrovych, campaign manager</li> </ul> <u>10-10:30</u> <ul style="list-style-type: none"> <li>• Tymoshenko Bloc – Ms. Olga Bodnar</li> </ul> <u>10:30-11</u> <ul style="list-style-type: none"> <li>• Socialist Party of Ukraine – Ms Galina Garmash</li> </ul> <u>11-11:30</u> <ul style="list-style-type: none"> <li>• Pora – Mr. Vladyslav Kaskiv and Mr. Viktor Pynzenyk</li> </ul> <u>11:30-12</u> <ul style="list-style-type: none"> <li>• Communist Party of Ukraine - Cancelled</li> </ul> <u>12-12:30</u> <ul style="list-style-type: none"> <li>• Lytvyn bloc – Mr Oleg Zarubinsky</li> </ul>	European Hall President Hotel Kyivsky
12:30 – 13:00	<b>Regional briefing by OSCE/ODIHR LTOs for Kyiv/Kyiv region</b> (conducted in English)	European Hall President Hotel Kyivsky
13:00	<b>Meetings with drivers and interpreters</b> (to make arrangements for election day)	Lobby President Hotel Kyivsky
Afternoon/ Evening	<b>Private arrangements</b>	

**Sunday, 26 March**

All Day	<b>Observation of Opening, Voting and Vote Count</b>	Various Polling Stations
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**Monday, 27 March**

08:30 – 9:30	<b>Ad Hoc Committee meeting</b>	President Hotel Kyivsky
9:30 – 10:30	<b>Joint Debriefing</b>	European Hall President Hotel Kyivsky
13:30	<b>Press Conference</b>	Teachers' House
Afternoon Evening	<b>Departures</b>	

## Appendix 2

### **Marked improvements in Ukrainian pre-election atmosphere, PACE pre-electoral mission says**

Kyiv, 02.03.2006 - The Council of Europe Parliamentary Assembly (PACE) pre-electoral mission that visited Ukraine from 28 February to 2 March 2006 today welcomed the vastly improved atmosphere in which the electoral campaign and the preparations for the upcoming Parliamentary elections are taking place. Almost all interlocutors met by the delegation expressed their confidence in the election process until now and their expectation that these elections would be conducted in accordance with universally accepted democratic standards. This is a marked improvement in comparison to the last Presidential elections.

Despite the overall improvements in the election process, some areas of concern, mainly technical in nature, remain. The fact that a significant number of election commissions have not yet been constituted due to a lack of candidates nominated by the political parties, which hampers the timely preparation for these elections, is of great concern. The delegation calls upon all political parties concerned to fulfill their responsibility and to nominate their representatives on the election commissions. In the absence of sufficient nominations by the parties, the delegation would support the proposal by the Central Election Commission (CEC) for an amendment to the election law that would allow the appointment of local civil servants on the election commissions.

The delegation expresses its concern over the possibility of overcrowding in polling stations on election day, particularly given the simultaneous holding of Parliamentary and local elections. In this respect the delegation hopes that the CEC will take all steps necessary to address this, including considering the need for increasing the number of ballot boxes available in each polling station.

The right to vote is a fundamental right of all Ukrainian citizens, including the members of the election commissions. Taking into account the large number of Ukrainian citizens who will serve on these commissions, the delegation supports the proposal of the CEC to allow these members to vote in the polling station where they will be working on election day.

The delegation expresses its hope that the authorities, including the *Verkhovna Rada*, will take all measures necessary to address the remaining issues that could undermine the democratic conducting of these elections. As a last resort, the *Verkhovna Rada* should be ready to adopt the necessary legislation to address issues of a technical nature.

The freedom of the media, and the manner in which they cover these elections, has been greatly improved in comparison to previous elections. This welcome pluralism would have been improved even more if a public broadcaster could have been functioning in time for these elections. In this respect, the delegation regrets that PACE recommendations to this effect have not been implemented by the Ukrainian authorities.

The delegation is alarmed by the possibility that these elections take place without a functioning Constitutional Court. It therefore calls upon the authorities and the *Verkhovna Rada* to ensure that the members already appointed on the Constitutional Court be sworn in without any further delay.

The conditions are there for the upcoming Parliamentary elections to take place in line with Council Europe standards for democratic elections. All actors should abide by the rules that democratic elections demand. In this respect any abuse of administrative resources by one party or the other would be unacceptable to this delegation. It is now time for all actors to focus on the issues that are of importance to the Ukrainian voters.

The PACE pre-electoral delegation was composed of four members representing the different political groups in the Assembly. The members of the delegation were: Renate Wohlwend (Liechtenstein, EPP/CD), Head of Delegation; Hanne Severinsen (Denmark, ALDE); Mevlüt Çavuşoğlu (Turkey, EDG) and Doros Christodoulides (Cyprus, UEL). PACE will return to Ukraine with a 50 member delegation to observe the Parliamentary elections on 26 March, alongside delegations from the Parliamentary Assemblies of the OSCE and NATO, the European Parliament and the OSCE/ODIHR.

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## Appendix 3

**INTERNATIONAL ELECTION OBSERVATION MISSION**  
**PRESS RELEASE***Ukrainian election free and fair, consolidating democratic breakthrough*

KYIV, 27.03.2006 - The 26 March parliamentary elections in Ukraine further consolidated the breakthrough in the conduct of a democratic election process that began less than a year and a half ago. Overall, fundamental civil and political rights were respected. This enabled voters to make informed choices between distinct alternatives and to freely and fairly express their will, concludes the International Election Observation Mission in a statement released in Kyiv today.

The mission deployed over 900 observers, including 200 members of parliaments, from 45 countries to observe the elections.

"These elections can only be described as free and fair, and so it is the Ukrainian people who are the real winners," said OSCE PA President Alcee Hastings, appointed by the OSCE Chairman-in-Office as the Special Co-ordinator for the short-term observers.

Renate Wohlwend, Head of the delegation of the Parliamentary Assembly of the Council of Europe (PACE) and co-rapporteur for PACE's monitoring of Ukraine, said: "Despite serious technical failings, in a clear break with the past, all Ukrainians have demonstrated their commitment to the democratic process."

"The media coverage was generally balanced, even though in the last days of the campaign, political views of the owners became more evident. All in all, the parties and candidates were able to get their different messages across through a vibrant media, giving the people of Ukraine the possibility to freely make a political choice and express it", said Marek Siwec, leader of the delegation of the European Parliament.

Pierre Lellouche, President of the NATO Parliamentary Assembly and head of its delegation, said: "The fairness and transparency of these elections confirms the irreversible changes in Ukraine's democratic transformation. The door to Euro-Atlantic integration remains open to Ukraine and it is up to its people to decide when is the appropriate time to take the next steps."

Lubomir Kopaj, Head of the OSCE ODIHR long-term Observation Mission, stressed the need for continued overhaul of voter lists and electoral legislation. "Ukraine has come a long way in just over one year. I urge the authorities not to lose momentum, now that we have seen what can be achieved. I hope that a serious case, described by our observers as deliberate fraud in Kirovograd, where local militia was observed directing the vote count, will remain an isolated incident."

The campaign was competitive and dynamic and was covered comprehensively by media. This enabled parties and blocks to communicate their messages to the voters. The election was administered in a transparent manner and the presence of a large number of both partisan and non-partisan observers further enhanced the transparency.

Problems in staffing polling station commissions, and an excessive number of voters in some polling stations, caused a degree of disorder on election day. There was a political will to overhaul and update voter lists, but a limited number of errors still remains.

Election day was peaceful, despite overcrowding observed in 30% of the polling stations. These delays were largely due to the simultaneous holding of general and local elections and further compounded by the large size of the ballot. Because of the delays, voting outside the polling booth was observed in 12% of cases, possibly compromising the secrecy of the vote. In spite of these sometimes stressful conditions, a vast majority of the polling station commissions conducted their work in a credible manner, with virtually no incidents recorded.

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## Appendix 4

### Free local and regional elections in Ukraine, though overshadowed by parliamentary voting

Kyiv, 27.03.2006 – The elections held on Sunday 26 March in Ukraine are, no doubt, the most free and fair elections of the lower tiers of Government held in the country since independence, according to the observers of the Congress of Local and Regional Authorities of the Council of Europe. The Congress observers pointed out the high voter turnout, the peaceful and calm environment, the highly improved conduct of the scrutiny and the absence of significant irregularities on Election Day. They reported that, in the polling stations they monitored, no violations regarding the legal procedures concerning voters' lists and the use of mobile voting could be found.

The Congress observers emphasized that the predominant focus of the electoral campaign on parliamentary elections had prevented political parties devoting the attention due to local and regional elections.

Referring to the many operational problems in polling stations, the Congress observers noted that the organisation of the local and regional elections on the same day as parliamentary elections had regrettably undermined the progress made to conduct elections in an efficient manner. Overcrowding was prevalent in the vast majority of polling stations mainly due to the length of the ballot papers, the inconsistency in the numbers assigned to political parties/candidates on the ballot papers, the complex burden of delivering ballot papers to the voters and, in some cases, the inadequacy of polling stations. The overcrowding often gave rise to voting outside the voting booths and to family voting, thus compromising the secrecy of the vote. Elderly persons faced special problems in this regard. Election commission members were not always fully aware of the procedures, particularly at the closing of polling stations. The use of the same boxes for all ballot papers unnecessarily added to the time for the counting process.

The Congress observers reiterated the proposal that local and regional elections be organised separately from parliamentary elections. They underlined the need to provide all electoral commission members with professional, timely and adequate training.

Finally, the Congress underlined the need to remove the recent amendment to the Law on the status of members of local councils, granting them a large immunity against criminal and administrative investigations, which represents a clear threat to local democracy and seriously compromises the trust of citizens in local self-government bodies.

*The Congress of Local and Regional Authorities of the Council of Europe deployed 20 observers in eight Ukrainian regions on election day (Kiev, Chernigov, Crimea, Lviv, Dnepropetrovsk, Charkiv, Odessa and Chernivsti).*

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**Composition of the Congress delegation**

**Socialist group: 5 members**

Sean O'Brien (Ireland, L)  
Fabio Pellegrini (Italy, L)  
Ludmila Sfirloaga (Romania, R)  
Anatoly Saltykov (Russian Federation, R)  
Alain Chénard (France)

**EPP/CD group: 7 members**

Pascal Mangin (France, L)  
Giorgi Mosidze (Georgia, R)  
Ian Micallef (Malta, L)  
Marja Van der Tas (Netherlands, L)  
Omur Aybar (Turkey, R)  
Susan Bolam (United Kingdom, R)  
Wim Van Gelder (Netherlands, R)

**Liberal group ILDG: 2 members**

Giuseppe Magni (Italy, L)  
David Lloyd-Williams (United Kingdom, R)

**Not Registered : 3 members**

Michael Neureiter (Austria, R)  
Zeljko Ozegovic (Serbia and Montenegro, L)

**Congress Secretariat :**

Antonella Cagnolati  
Deputy Chief Executive of the Congress / Directrice exécutive adjointe du Congrès

Pilar Morales  
Head of the Co-ordination and Management Division, Co-ordination of election observation / Chef de la Division de Coordination et Management, Coordination de l'observation des élections

Irina Blonina  
Institutional Committee of the Chamber of Regions of the Congress /  
Commission institutionnelle de la Chambre des Régions du Congrès

*The Parliamentary Assembly of the Council of Europe observed the parliamentary elections of 26 March as part of the International Election Observation Mission (IEOM) consisting of the Parliamentary Assemblies of the Council of Europe, the OSCE and NATO, the European Parliament and the OSCE/ODHIR.*