



**European Parliament**  
**Delegation to the EU-Ukraine PCC**

**Mission to Ukraine**  
**on the occasion of the local and regional**  
**elections of 31 October 2010**

Report by Mr Paweł Kowal  
Chairman of the Delegation to the  
EU-Ukraine Parliamentary Cooperation Committee  
and Mr Jan Kozłowski  
Member of the Delegation

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Version B

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1. Letter of President Jerzy BUZEK to Mr Paweł KOWAL (5 November 2010) authorising Members of the EU-Ukraine PCC to follow the local and regional elections of 31 October 2010 in Ukraine.
2. Letter of President Jerzy BUZEK to Mr Volodymyr SHAPOVAL, Chairman of the Central Election Committee of Ukraine, (20 October 2010) replying to the invitation of Speaker Volodymyr LYTVYN to observe the local and regional elections in Ukraine.
3. Letter of Mr Paweł KOWAL to Prime Minister of Ukraine Mr Mykola AZAROV (28 October 2010) on questions related to the local elections in Ukraine.
4. Reply letter of Prime Minister of Ukraine Mr Mykola AZAROV to Mr Paweł KOWAL (30 October 2010); (in Ukrainian with a courtesy translation into English).
5. Letter of Ambassador of Ukraine to the EU, Mr Kostiantyn YELISEIEV to the Chairman of the EP Committee on Foreign Affairs, Mr Gabriele ALBERTINI (2 November 2010) on the conduct of local and regional elections in Ukraine.
6. Background paper on local elections in Ukraine - prepared by the Mission of Ukraine to the EU in Brussels.
7. Central Election Commission Resolution no. 327 of 26 August 2010 on the conduct of the elections.
8. Joint Statement by Ukraine's Opposition Parties.
9. Statement by the National Democratic Institute (Kyiv, 2 November 2010).
10. Report of the Committee of Voters of Ukraine (Kyiv, 10 September 2010).
11. OPORA Findings of Local Elections Observation – 31 October–1 November 2010.
12. Non-paper on disappearance of the journalist Mr Vasyl KLYMENTIEV.
13. Mayors of regional centres elected on 31 October 2010 (table transmitted by the EU Delegation to Ukraine).
14. Unofficial results of the elections to regional councils (tables transmitted by the EU Delegation to Ukraine).

## **1. Introduction**

On 27 September 2010, the European Parliament received the invitation by the Speaker of the Verkhovna Rada of Ukraine, Mr Volodymyr LYTVYN, to observe the local and regional elections in Ukraine which were scheduled for 31 October 2010. Although the European Parliament usually does not observe this kind of elections, the Conference of Presidents decided on 19 October 2010 by a written procedure that Members of the European Parliament taking part in the 15th EU-Ukraine Parliamentary Cooperation Committee in Kyiv could travel to Ukraine earlier to be present during the Election Day and report back to the European Parliament after the elections.

Two Members of the European Parliament Delegation to the EU-Ukraine Parliamentary Cooperation Committee decided to travel to Ukraine to follow the elections: the Chairman Mr Paweł KOWAL (ECR, PL) and Mr Jan KOZŁOWSKI (EPP, PL). Apart from many interviews and meetings with politicians and experts, they visited polling stations in the Kyiv and Chernihiv oblasts. They were accompanied by Mr Michał CZAPLICKI from the EP Secretariat and Mr Aleksander GRĄBCZEWSKI from the ECR Group. The mission started on 30 October and was immediately followed by the 15th EU-Ukraine Parliamentary Cooperation Committee in Kyiv and Odessa on 3-5 November 2010.

The International Election Observation Mission, consisting of the representatives of the OSCE Parliamentary Assembly, the Council of Europe and the OSCE Office for Democratic Institutions and Human Rights, had not been constituted. Therefore the MEPs did not have any specific technical support available on the spot. Nevertheless representatives of OSCE/ODIHR Expert Mission and of the Congress of Local and Regional Authorities of the Council of Europe were present during the Election Day and after.

The Delegation had working contact with both the Ukrainian and international media. The day after the elections the Chair organised a press conference in the premises of

the EU Delegation. The Chair also participated in media meetings organised by UNIAN (Ukrainian Press Agency) and by the Institute of World Policy.

The EP Delegation also took part in a debriefing organised by the EU ambassadors accredited in Kyiv.

The Delegation worked closely with the EU Delegation in Kyiv, headed by H.E. Ambassador Jose Manuel PINTO TEIXEIRA, who also attended many of the meetings organized for the EP Delegation.

One week after the publication of the preliminary report of the EP Delegation on 10 November 2010, which had to be made available urgently for the preparation of the works of the plenary session of the European Parliament of 10-11 November, this updated version includes minor linguistic changes and the unofficial results of the local and regional elections, as compiled by the EU Delegation in Kyiv.

### 1.1 Meetings with Ukrainian politicians

The EP delegation had the opportunity to meet with the Prime Minister Mr Mykola AZAROV, Deputy Prime Minister Andriy KLYUEV and Minister of Foreign Affairs Kostiantyn GRYSHCHENKO, chiefs of staff of three major political parties: Party of Regions (Mr Leonid KOZHARA), Batkivshchyna (Mr Hryhoriy NEMYRIA) and Strong Ukraine (Mr Kost BONDARENKO) and leaders of two opposition parties: Batkivshchyna (Ms Yulia TYMOSHENKO) and Front Zmin (Mr Arseniy YATSENYUK). On the initiative of the Chief of the Ukrainian Security Service, Mr Valery KHOROSHKOVSKY, the delegation also met him.

### 1.2 Meetings with international observers

Special meetings were organised with members of other delegations who were observing the elections: the OSCE/ODIHR Expert Mission (Mr Jonathan STONESTREET and Ms Luisine BADALYAN), and the Congress of Local and Regional Authorities of the Council of Europe (H.E. Ambassador Ake PETERSON, Mr Nigel MERMAGEN, Mrs Hande Özsan BOZATLI and Mr Henry FERAL).

### 1.3 Meetings with experts

The Delegation met with independent NGOs and watchdogs, which followed the elections: the Committee of Voters of Ukraine (Mr Oleksandr CHERNENKO), OPORA (Ms Olga AYZOVSKA), the Gorshenin Institute (Mr Vadim OMELCHENKO and Mr Vladimir FESENKO), the Razumkov Center (Mr Valeryi CHALY) and the Polissa Foundation for International and Regional Studies (Mr Hennadiy MAKSAK).

### 1.4 Election Day

On Election Day, the EP Members observed polling stations around Kyiv and Chernikhiv oblasts. In the Chernikhiv region they cooperated with the regional watchdog Polissa Foundation for International and Regional Studies which monitored the elections in cooperation with the OPORA election monitoring organisation.

The present report has been prepared on the basis of interviews with the election monitoring organizations and NGO representatives, meetings with politicians, reports from international observers and monitoring of press as well as the direct observation of the electoral process. Few conclusions were drawn also from the meetings organized on the occasion of the 15th EU-Ukraine Parliamentary Cooperation Committee in Kyiv.

## **2. Legal framework of the elections**

The Presidential elections in January/February 2010, won by Mr Victor YANUKOVYCH (Party of Regions) "met most OSCE commitments and other international standards for democratic elections", according to the OSCE/ODIHR Election Observation Mission Final Report on the Presidential Election in Ukraine on 17 January and 7 February 2010. Nevertheless the OSCE/ODIHR criticized the 2009 amendments to the election law, which "constituted a step backward compared to previous legislation". The European Parliament Election Observation Mission led by Mr Paweł KOWAL endorsed the conclusions of the OSCE/ODIHR in its final report.

These elections resulted in a significant change on the Ukrainian political scene. The Party of Regions became the strongest political party in the majority coalition in the Verkhovna Rada and formed a new government chaired by Mr Mykola AZAROV. Since Mr YANUKOVYCH's victory in the presidential elections the Party of Regions constantly strove to consolidate the divided political scene in Ukraine. One of the most important steps was made on 1 October 2010 by the Constitutional Court, which cancelled the constitutional reform dating from the end of 2004, thus returning to the Constitution adopted in 1996. This strengthened the President's power and turned the Ukrainian political system back to a presidential republic.

It is worth noting that the consolidation of power raised international concerns about the freedom of speech and the situation of mass media. The detention of the director of the Kyiv Office of the Konrad Adenauer Foundation Mr Niko LANGE in Kyiv-Boryspil Airport in April 2010 and the disappearance of Mr Vladimir KLYMENTEV, editor-in-chief of the Kharkiv "New style" newspaper (which probably has a local, criminal character rather than a political one) are only two best-known cases. What caused even more concerns was the deprivation of some frequencies of two independent TV stations: TVi and TV5.

The local elections of 31 October 2010 were conducted according to the new election law, adopted by the Verkhovna Rada on 10 July 2010 and signed by President Viktor YANUKOVYCH on 27 July 2010. It foresaw a mixed proportional-majority system of voting, with one half of the local council deputies elected under proportional (party list) system, and the other half under majority system. Deputies to the Crimean Supreme Council and regional, district and city councils were elected according to the mixed system and village councils under the majority system. Candidates for city mayors were nominated by the local party-branches, whereas candidates for heads of villages were nominated by parties or self-nominated. Under the Constitution of Ukraine, the term of office of the heads of villages and towns is four years.

According to the local election law, deputies of Kyiv City Council and the city mayor, as well as the deputies of Ternopil Regional Council, were not elected on 31 October, because they had been elected in the extraordinary elections held in May 2008 and in March 2009 respectively.

Ukraine is subdivided into twenty-four provinces (*oblasti*) and one autonomous republic of Crimea. The capital city Kyiv and the Crimean city of Sevastopol both have a special legal status.

The Central Election Commission of Ukraine formed 670 territorial election commissions of various levels: 24 regional, two city (Kyiv and Sevastopol), 474 district, 166 municipal and four Sevastopol district commissions. According to the law, territorial commissions consisted of 9 to 18 members with up to 15 of them representing parliamentary parties, and three from other parties chosen by the Central Election Commission by drawing of lots. The Central Election Commission also set up over 11,000 election commissions of lower level, which in turn organized the work of more than 32,000 polling stations. Polling stations opened at 8:00, and remained open until 22:00 on October 31, 2010.

According to the Central Election Commission, 490 official foreign observers and 1,913 observers from national non-governmental organizations were registered for the observation of elections.

### **3. Shortcomings before the elections**

Before the day of elections, a few shortcomings which had a direct impact on the conduct and the result of the elections and which raised concerns on the voting process can be pointed at.

#### **3.1 The date of elections**

On 16 February 2010, a majority of members of the Verkhovna Rada of Ukraine from the Party of Regions, Lytvyn's Bloc and the Communist Party of Ukraine, repealed the law scheduling the local elections for 30 May 2010. A new law on local elections was adopted on 10 July 2010. On 22 July it was signed by the Speaker and on 27 July by the President. The act came into force on 31 July 2010 and set up the date for holding local elections on 31 October 2010. As the law has been adopted late and needed further improvements (see below), the time for preparations of the elections

has been significantly reduced, which had a direct impact on the quality of conduct of the elections.

### 3.2 Principles of the electoral law

Party blocs were deprived of the right to present candidates which eliminated the opposition BYuT (Yulia Tymoshenko Bloc) and the coalition Lytvyn Bloc from the elections. The groups were forced to register under their party (not parliamentary) names: BYuT as “Batkivschyna” and Lytvyn bloc as „Narodnaya Partya”.

### 3.3 List number one

Under the electoral law, the party names on the election lists were arranged according to the order of submission of the registration requests to the local commissions. The fact that the documents of the opposition parties were not accepted by election commissions before the submission of the list of the Party of Regions<sup>1</sup> contributed to the situation that the ruling party gained first places on the lists in 85% of the constituencies.

### 3.4 Problems with registration of opposition parties

In Kyiv and Lviv oblasts the party „Batkivschyna” was registered on the election lists by people who were not formal members of the party. As a result, Ms Yulia TYMOSHENKO decided to boycott the elections in the Lviv oblast.

### 3.5 Other shortcomings

During the election campaign the media reported on some other shortcomings which could not be fully verified by the EP Delegation.

The departure from the rule of the absolute majority in favor of the overall majority in territorial electoral commissions could have created a situation where members of only one party were able to decide on the whole of the commission works. Infact, the

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<sup>1</sup> Such cases were recorded in the circuits of Volyn, Lugansk, Lviv, Kherson and Dnipropetrovsk oblasts.

quorum of the territorial electoral commission foreseen by the law is very low (3 members out of 18).

Two printing houses which printed ballots without appropriate permits were discovered in Kharkiv. A few thousand of illegally printed ballots were found also in Khmelnytsky and Ivano-Frankivsk *oblasts*. Moreover, the local election commission in Odessa requested to print an excessive amount of voting cards.

The local election committees in Crimea refused to register opposition candidates (mainly from the „Svoboda” party), as well as the pro-government factions (Communist Party of Ukraine and Strong Ukraine). Although these parties had reported it to the court and the election committees had received the order from the relevant authorities to register the candidates in question, these candidates were still not registered. In response, leaders of the CPU and the “Strong Ukraine” announced a boycott of elections in Crimea.

On 9 September 2010 the city council of Kyiv, on the basis of a new electoral law, abolished the district councils in the city. They ceased to exist on 31 October. This means that the administration will be subordinated to the head of the city government, appointed directly by the President of the country.

Some of the candidates have been arrested during the electoral campaign, but still they could take part in the elections.

Other major shortcomings and allegations of frauds were reported by Batkivshchyna party. A detailed documentation dossier was handed to the EP Delegation by the Batkivshchyna party leaders and is available in the Secretariat of the Delegation to the EU-Ukraine PCC.

#### **4. Observation of the elections**

Overall, the elections were conducted in a well organized manner. The MEPs noticed a significant presence of the local police around the polling stations. They also took

note of overcrowding inside some polling stations. This may have deprived some voters of the time necessary to make a reasoned decision on whom to vote, especially because of the complicated system of voting, which included from 5 to 8 ballots. The MEPs noted a high amount of national observers, mainly of political party origin.

In the polling stations visited, the MEPs did not witness any significant problems.

## **5. Official results**

Although the election results have been collected by the Central Election Commission (according to the law, territorial election commissions are obliged to report to the CEC) they were not published in a centralised way.

The Party of Regions won 11 mayor posts out of 24 possible. Batkivshchyna in turn gained only 2 mayor seats.

The partial results of the elections (to regional councils and for mayors), as they have been transmitted by the EU Delegation in Kyiv, are attached to this report.

## **6. Recommendations**

- A comprehensive review of the Election Code should be carried out in order to eliminate shortcomings after the amendments of 30 August 2010. The new Election Code should take into account the recommendations by the European Parliament, OSCE/ODIHR, and European Commission for Democracy through Law (Venice Commission). The new Code should be based on the draft which has been submitted to the Verkhovna Rada in May 2009;
- All political forces should unite in the effort of reforming the legal framework for elections and demonstrate the political will to adopt a Unified Election Code and a new electoral system, in line with the recommendations of the Venice Commission, and in cooperation with the European Parliament, well before the next parliamentary elections;

- It seems that the reform of the Election Code will not be truly successful without substantial reform of the local government according to the principle of subsidiarity;
- Equal opportunities for candidates in the elections are crucial for the democratic system. Independent contenders should be granted the right to contest in municipal elections;
- Political parties should be encouraged to take further steps to increase women's participation in parties' activities and as candidates;
- The Verkhovna Rada should adopt the Law on Peaceful Assemblies, on the basis of recommendations and comments made by the Venice Commission;
- The decision of the Constitutional Court of Ukraine of 1 October 2010 that cancels the constitutional reform of 2004 should prompt the Verkhovna Rada to initiate a comprehensive and inclusive constitutional reform process with the aim of bringing Ukraine's Constitution fully in line with European standards and values, including a clear separation of powers and a system of checks and balances;
- The successful implementation of a new constitutional reform should be based on wide political consensus and public support;
- Wider respect for democratic freedoms is one of the main achievements in Ukraine's democratic development in recent years. Any regression in this respect is undesirable;
- The increasing number of allegations that democratic freedoms, such as freedom of assembly, freedom of expression and freedom of the media, came under pressure in recent months are a cause for concern. Interference of state administration, such as security services, in the work of journalists and media organisations creates a discrepancy within the democratic society. The Ukrainian authorities should fully investigate all violations of rights and freedoms. In addition, the authorities should

ensure that no legal proceeding ever result in concrete limitations of media freedoms, take all necessary measures to protect media freedom and pluralism in Ukraine and cease any attempts to control, directly or indirectly, the mass media;

- Amending existing media regulations in order to create a transparent legal framework for the ownership of the media would have a positive impact on democracy in Ukraine;
- The relatively low voters' turnout before 3 p.m. (28,8%), announced during the Election Day by the Central Election Commission of Ukraine and the significant rate of people voting "against all" suggest that people in the country are tired with the permanent controversies on the political scene. The largest parties, either of the majority coalition or of the opposition, should elaborate at least a common strategy towards European integration. This could be done through an institutional body tasked to coordinate the political position of Ukraine towards the European Union. This body should consist of coalition as well as opposition representatives;
- It seems desirable to establish a common European Union agency for the observation of all types of elections in the European Neighbourhood states. This body should have all necessary instruments to effectively assess the electoral process and provide European Parliament future observers with sufficient information to perform their work.

## **7. Conclusions**

The local elections which took place on 31 October 2010 in Ukraine were the first which were not conducted alongside with the parliamentary elections. This and the fact that the elections were not observed by an International Election Observation Mission contributed to the fact that it was not possible to effectively compare them with previous local elections. They attracted a great deal of attention of international organizations, politicians and experts, disproportionately to the actual importance of the local government in Ukraine. The election campaign was conducted in an

atmosphere of political controversy between the Party of Regions and the opposition forces.

A general assessment of the elections is hard to be made because of the lack of instruments available to the MEPs to fully evaluate the electoral process. According to the monitoring of press, direct observation of the EP Delegation Members and meetings with politicians, observers and NGOs, it seems that the 2010 municipal elections in Ukraine were conducted in general in an orderly manner. It is important to point out that during the elections some incidents did occur; it is, however, difficult to assess their impact on the final results. One should notice the willingness of the governmental authorities as well as of the representatives of the opposition to cooperate with the Members of the European Parliament. The declaration of readiness of the Government to amend the existing Election Code should be taken seriously and with hope.

Nevertheless one should stress that the 31 October 2010 local and regional elections in Ukraine did not create a new positive standard. Although there were only minor shortcomings during the vote, the elections caused many concerns at international level because of the late adoption of the Election Code which seems to favour the ruling party. Most of the irregularities were noted during the preparatory phase of the elections. The most disturbing fact is that the opposition parties like, for example, *Batkivshchyna* could not effectively take part in the elections in three oblasts. But also the fact that the results of the elections were still not published in a centralised way creates a not entirely positive atmosphere around the electoral process.

Although the local and regional elections in Ukraine had a significant international publicity one needs to stress that the local government in Ukraine does not have any substantial power. Therefore it is recommended to adopt not only a new Election Code but also to conduct the local government reform in order to strengthen it according to the principle of subsidiarity.