

**Monitoring Delegation of Former Members and  
Parliamentarians Report  
September 19-25, 2004**

Program provided by the U.S. Association of the Former Members  
of Congress in partnership with the U.S.-Ukraine Foundation

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## **I. Program Overview**

From September 19-25, 2004, a delegation of five former Members of the U.S. Congress and a former Member of the German Bundestag traveled to Ukraine to observe the presidential election and to report on Ukraine's adherence to international election standards.

As officially registered election observers, delegates do not support any candidate, party or election block. Observers seek to support Ukraine's commitment to OSCE standards for free and fair elections that accurately reflect the will of the people. The new president of Ukraine must be recognized throughout the world as the legitimate leader of the Ukrainian people, freely and fairly chosen in a democratic process. Anything less will only serve to isolate Ukraine economically and politically and further postpone the day when Ukraine becomes a full partner in the community of free and democratic societies.

This was the third delegation of former Members to be hosted by the U.S. Association of Former Members of Congress (USAFMC) in partnership with the U.S.-Ukraine Foundation (USUF). Funding is provided by the United States Agency for International Development (USAID).

## **II. September Delegation**

The delegation consisted of the following former Members:

Robin Beard (R-TN)  
Larry DeNardis (R-CT)  
Louis Frey (R-FL)  
Dr. Helga Otto (Germany)  
Don Ritter (R-PA)  
Peter Torkildsen (R-MA)

The delegation of six former legislators was based in Kherson and traveled in teams of two to various locations in the Kherson and Mykolaiv oblasts. The teams met with local and oblast officials, election officials, NGO and political party representatives, members of the mass media and the local citizenry.

The delegation visited the following communities:

- Kherson, Kherson oblast
- Hola Prystan, Kherson oblast
- Tsyurypynsk, Kherson oblast
- Kakhovka, Kherson oblast
- Skadovsk, Kherson oblast
- Nova Kakhovka, Kherson oblast
- Beryslava, Kherson oblast
- Mykolaiv, Mykolaiv oblast
- Voznesensk, Mykolaiv oblast

In addition to meeting with people in the local communities, the delegation met and reported to campaign representatives of Mr. Yanukovich, Mr. Yushchenko, the U.S. Embassy, the Organization for Security and Cooperation in Europe (OSCE), and the Committee of Voters of Ukraine.

### **III. Findings**

The interest and focus of the Ukrainian citizens in the election consistently impressed this delegation. The Ukrainian people desire the opportunity to freely and fairly select their leaders and to know that their choice will not be violated. However, an overwhelming number of them expressed the opinion that the outcome of the election has already been determined by the circle of oligarchs and politicians currently in power. Too many believe that their votes will not count.

The delegation repeatedly heard the complaints listed below, which can be grouped into two broad categories: 1) lack of a free and independent media, and 2) misuse of administrative resources.

- Opposition candidates do not have equal access to the mass media and in many cases no access at all.
- Opposition candidates are harassed by the authorities and those associated with the authorities.
- Citizens are threatened with the loss of their jobs unless they sign petitions for Mr. Yanukovich.
- Oblast, city and village officials are actively campaigning for Mr. Yanukovich, contrary to Ukrainian law.
- People lack confidence in the local election commissions to resolve complaints according to the law.
- They note that all the billboards are controlled by Mr. Yanukovich and that the opposition candidates are unable to place signs without having the authorities remove them for specious reasons.
- Opposition candidates could not find headquarters because authorities, especially tax police, harass businessmen who rent space to opposition candidates.
- Authorities would not give opposition candidates meeting facilities in government buildings as required by law.

#### **A. Lack of a free and independent media**

##### *- Local media*

It appeared to the delegation that most, if not all, the media that attended our meetings were either partially or solely funded or controlled by the oblast or city councils or were owned or controlled by individuals or organizations that were allied with the government authorities.

It was noted several times to the delegation that the authorities use the poor economy as a tool to manipulate and control the political scene. It is understandable that media outlets

are struggling to survive due to a poor economic climate, which contributes to a lack of adequate advertising revenue. As a result, they are dependent upon subsidies and assistance from the oblast and city councils. Such an environment is a significant hindrance to independent and objective reporting.

- *National media*

The delegation is also concerned that the objectivity of the national media is cast into doubt by the ownership and control of the major national television stations, which rest almost exclusively with President Kuchma's circle of friends and appointees of his administration, including his son-in-law, Mr. Pinchuk, and his Chief of the Presidential Administration, Mr. Medvedchuk. The delegation observed that only one station, Channel 5, provides adequate coverage of the opposition. Channel 5, however, only reaches about 1/3 of the territory of Ukraine. Stations owned or controlled by the government, Mr. Medvedchuk, Mr. Pinchuk, or Mr. Akhmetov, a Donetsk businessman and leading supporter of Mr. Yanukovich, have national audiences. It should also be noted that most of Ukraine's citizens get their news and information from television, and are therefore limited to the news provided on these government owned and controlled television stations.

As reported and researched by international organizations and Ukrainian NGOs, ownership and control are indicative of the way in which the news is slanted to favor one candidate or another. The delegation again states that the sweeping government ownership and control of the media casts grave doubt on the freedom of the media to objectively report on the news.

The delegation is also compelled to express its deep concern with the taking off the air of Radio Liberty by associates of President Kuchma and the apparent harassment of Channel 5 and its reported removal from the airwaves in several regions. These actions further reinforce the delegation's concerns and provide validation to the findings stated in this report, which call into question Ukraine's commitment to a free press.

- *Print media*

The print media is slightly more balanced than the broadcast media. However, much is also owned by the government or by government-friendly oligarchs. There remain several prominent opposition newspapers that present alternate views, albeit to a much smaller audience.

- *"Temnyky"*

Perhaps the most offensive and egregious violation of international norms of a free press is the daily issuance of guidance, or "temnyky," to the government owned media and the media controlled by "friends" of the government. As described to the delegation by the media representatives and citizens in these regions, the guidance comes without a letterhead, signature or other indications of origin. It is known, however, to come from the presidential administration and is reportedly drafted by Russian spin-doctors under

the supervision of Mr. Medvedchuk. It advises the media how and what news to cover. If true, the issuance of the daily “temnyky” is an unacceptable violation of international norms.

## **B. Misuse of administrative resources**

The misuse of administrative resources probably is more widely abused at the local level by oblast and local officials.

The delegation received frequent comments from political party representatives claiming that local officials were impeding their ability to effectively campaign for candidates.

### *- Kherson governor campaigns for Yanukovych*

The delegation heard testimony that Kherson Oblast Governor Serhiy Dovhan was actively campaigning for Mr. Yanukovych.

**\*\*Note:** The visiting delegation met with the students of Kherson State University on September 21 to encourage them to stand free and fair elections. Many students expressed the willingness to do so. After the departure of the delegation, on September 28, 2004, two students from the university filed a complaint with the District Court against Governor Serhiy Dovhan for campaigning on behalf of Mr. Yanukovych at Kherson State University. The two students were threatened with expulsion from the university the following day by Iryna Shaposhnykova, Chancellor of the Institute of Psychology, History and Sociology.

The court dismissed the complaint after a week review on the grounds that a citizen could not file such a complaint. However, President Kuchma dismissed Mr. Dovhan as oblast governor shortly after the court decision. Because of the courage of two students, this administrative resource abuse was brought to the attention of the public.

The delegation is encouraged by this action and extends its praise to the students who stood for free and fair elections in the face of threats and intimidation.

### *- Meeting with Kherson Oblast Governor Serhiy Dovhan*

The delegation was very discouraged by its meeting with Governor Dovhan. Mr. Dovhan did not give the delegation confidence that oblast authorities would fairly and objectively follow the law and raised more concerns by his unsympathetic, offensive demeanor and response to questions. He was specifically asked about news reports of the beating of an election worker in the Kherson oblast, the car of Mr. Yushchenko being run off the road - also in the Kherson oblast, and the alleged poisoning of Mr. Yushchenko. Mr. Dovhan replied that Yushchenko’s traffic incident did not occur. He then backtracked and said that it was due to reckless driving by Yushchenko’s driver. Mr. Dovhan stated that the beating of the campaign worker by thugs also did not happen. To further diminish his credibility, the governor made the astonishing claim that Yushchenko probably tried to commit suicide by poisoning himself. When given a chance to clarify that claim, he restated it in the same crude manner.

The delegation left the meeting with a much deeper concern about the way the election will be handled in the Kherson oblast. Indeed, Mr. Dovhan's response and demeanor reinforced the claims made by the citizens, media, and party representatives in other meetings.

*- Meetings with local officials and students*

In contrast, Mr. Beard and Mr. DeNardis visited election districts numbers 185 and 186 and were very impressed by the organization and professionalism of the election officials there. They answered questions directly and with detail. The election officials were clearly knowledgeable and capable, but the delegation questions whether they will they be allowed to conduct the elections without interference.

In Kherson, the delegation met with students at the Kherson State University Euro Club. Most of the students in attendance had participated in U.S. or European funded programs and spoke fluent English. It was heartening to find several who were actively working in the election process on local election commissions, with NGOs, or with political parties.

One young lady had her own "student news" program on a local television station. She said that she is free to cover the news as she pleases and that her station covers all the presidential candidates fairly.

### **C. Opinions of the people**

Since many of the communities visited are small to medium sized, a visit by a group of foreigners is not a common sight and attracts the attention of the population. People seemed to be genuinely interested in the delegation and its comments about the importance of holding free and fair elections. The delegation stressed that all citizens need to vote for the candidate of their choice and not be influenced by threats or intimidation.

Below is a sampling of comments directed to the delegation by local citizens:

- Many students believe that the results of the election have already been determined.
- It was often stated by officials and citizens that the use of administrative resources will backfire. Those that hold that view say that the Ukrainian people will not be forced into voting for a particular candidate.
- Generally, citizens have less confidence in oblast or Kyiv officials and more confidence in local city or village officials in protecting the fairness of the election.
- Citizens expressed confidence in local election commissions, but not in territorial commissions or the Central Election Commission. They also expressed a lack of confidence in the court system to fairly and objectively decide cases.

- People in the villages are less aware of their rights under the election law than people in cities. Villagers are therefore more susceptible to threats and intimidation and other nefarious and inappropriate methods which attempt to influence voters.

#### **D. Voting abroad**

One opposition campaign expressed concern regarding the sanctity of the election process abroad, particularly in Russia where Mr. Yanukovich's campaign is reportedly expecting to receive 3,000,000 votes from Ukrainians living in Russia. The delegation was informed that, according to current election law, the Ukrainians abroad are entitled to vote whether or not they are registered on the voter lists. A citizen of Ukraine need only produce a passport to receive a ballot. According to the Ministry of Foreign Affairs, only approximately 280,000 Ukrainians are registered on voters list abroad. Yet the same Ministry reports that there are approximately 7,000,000 Ukrainians living and working abroad. The potential for fraud under these conditions is enormous.

#### **IV. Summary**

The political campaign in Ukraine is both spirited and vigorous. The outcome is in doubt even though it seems the full might of an entrenched powerful clique of oligarchs and politicians is using every resource at its disposal to retain power.

The delegation notes that government officials appear to be using administrative resources at every opportunity and in every conceivable way to influence the outcome of the election. However, the delegation is less concerned with the effectiveness of the much-vaunted administrative resources than with the lack of a free and fair press. The latter is very alarming both for this election and the mid and long term prospects for Ukraine.

The delegation strongly recommends that western and international news organizations begin vigorous reporting from Ukraine on this election and its importance to the future of this critical European state.