

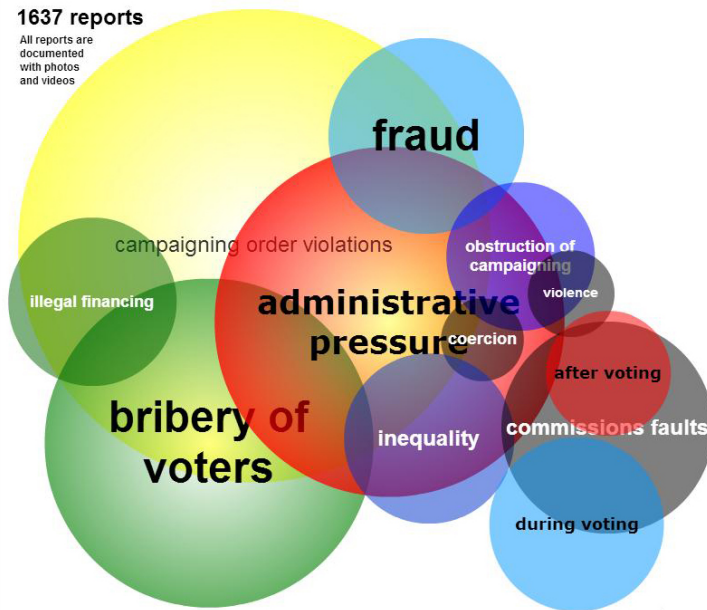
# MAIDAN MONITORING: ELECTION 2012

For the first time in world practice during the parliamentary election in Ukraine in 2012 an interactive map of violations of election law has been created with strictly verified information crowd sourced by volunteers with mandatory documented evidence and legal commentary.

## Parliamentary Election 2012 in Ukraine: Violations Overview

### 1637 reports

All reports are  
documented  
with photos  
and videos



NGO “Maidan Monitoring” Information center,  
Kharkiv, Ukraine, 2013

During the parliamentary election in Ukraine in 2012 an [interactive map](#)<sup>i</sup> of violations of election law has been created with strictly verified information crowd sourced by volunteers. The information was published with mandatory documented evidence (photos, videos, court verdicts, other official papers) and legal commentary.

For the first time in world practice the method of monitoring of election laws only was used. Monitoring differs from [observation](#)<sup>ii</sup> by the level of intrusion into the monitored processes with a goal to improve it.

The Constitution of Ukraine, International Covenant on Civil and Political Rights, Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, the law “On elections of people’s deputies of Ukraine” guarantee the Ukrainian citizens the free elections. The idea of “free election” based on these laws contains not only the process of free casting of the vote, but, in our opinion, first and foremost the creation of appropriate conditions for formation of a free electoral choice, strict adherence to legal procedures; and compliance with the legal norms to principles of law.

This book tells about how the legal principles are implemented or not implemented in Ukrainian reality in 2012. The book describes both the results of monitoring (quantitative, qualitative, communicative and legal) and the methodology of its implementation.

We hope our work could be useful not only in Ukraine.

**Authors:** Viktor Garbar, Natalka Zubar, Olekiy Kuzmenko, Yury Lukanov, Viktor Pushkar, Olexander Severyn.

NGO “Maidan Monitoring” Information center,  
Kharkiv, Ukraine, 2013

# Table of Contents

Parliamentary Election 2012 Background .....	4
Monitoring Results Summary .....	5
Stats .....	5
Legal valuation.....	9
Social and psychological valuation .....	12
Violations in Details .....	16
Before the official start of campaign .....	17
During the election campaign .....	22
The voting day – October 28 .....	36
Tabulation of results.....	42
Project Proceedings.....	47
Election Monitoring Background.....	47
The Use of Map Data .....	48
Interaction with government bodies.....	48
International cooperation .....	52
Volunteers involvement .....	53
Conclusions and recommendations .....	61
Project Methodology.....	65
Partners, Contributors and the Team.....	71

# Parliamentary Election 2012 Background

The parliamentary election of October 28, 2012 in Ukraine were held for the first time according to new laws: “On elections of people’s deputies of Ukraine”<sup>iii</sup>, adopted on November 17, 2011 (hereafter – “election law”) and “On peculiarities of openness, transparency and the democracy of elections of people’s deputies of Ukraine on October 28, 2012”<sup>iv</sup>, adopted in July 5, 2012.

Previously the election laws in Ukraine were changed before any new election, however this time the changes were most fundamental. The law had returned the society to years 1998 and 2002 when the elections were conducted according to mixed system: 225 deputies were elected by party lists and 225 in constituencies (districts). Parties had to acquire 5% of votes to enter the Parliament and the individual candidates – simple majority of those who voted (hence is the widely used term “majority candidate”).

22 party lists were competing during the election. Majority candidates were nominated by 87 parties.

There were 2653 candidates competing in 225 districts, more than 11 per mandate average. 1502 of them were nominated by parties and 1151 were officially listed as independent.

As a result of election<sup>v</sup> 5 parties had entered the Parliament of Ukraine (Verkhovna Rada). There were 220 candidates elected in districts, 43 of them were listed as independent candidates, the rest present 9 parties.

In 5 districts the Central Election Commission could not establish the results of election and appealed to the Parliament with request to hold new election in these districts. As of moment the book is published the decision had not been passed yet.

# Monitoring Results Summary

## Stats

During the parliamentary election in Ukraine in 2012 we have been first to create and publicize the interactive map of violations of election law; created focused monitoring group in Facebook that involved 330 active citizens from all regions of Ukraine into monitoring of election law. Total number of volunteers who took part in our election monitoring project is 467.

The interactive map lists 1637 reports. The workgroup received and studied 7062 reports total. We did not publish the reports that did not meet the requirements of Article 112 (titled “Evidence”) of the election law. The map contains 2621 photos and 749 videos.

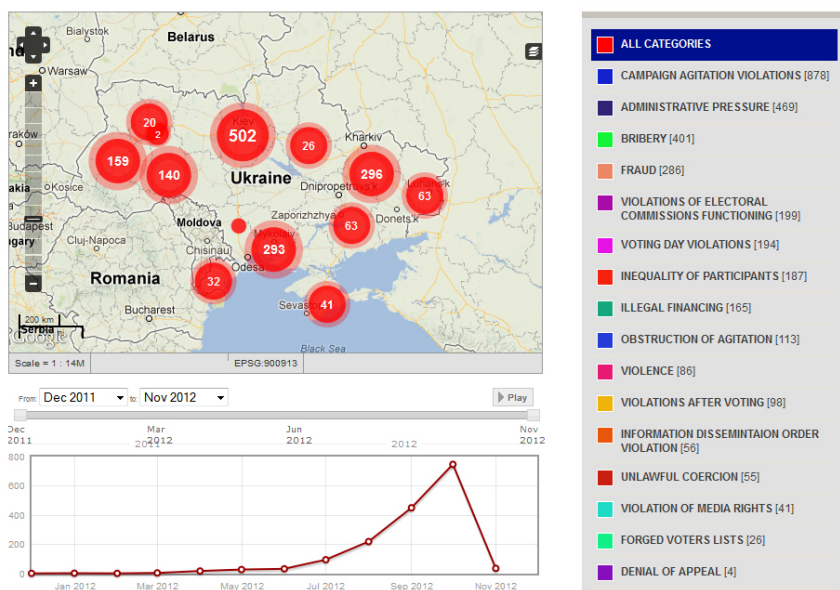


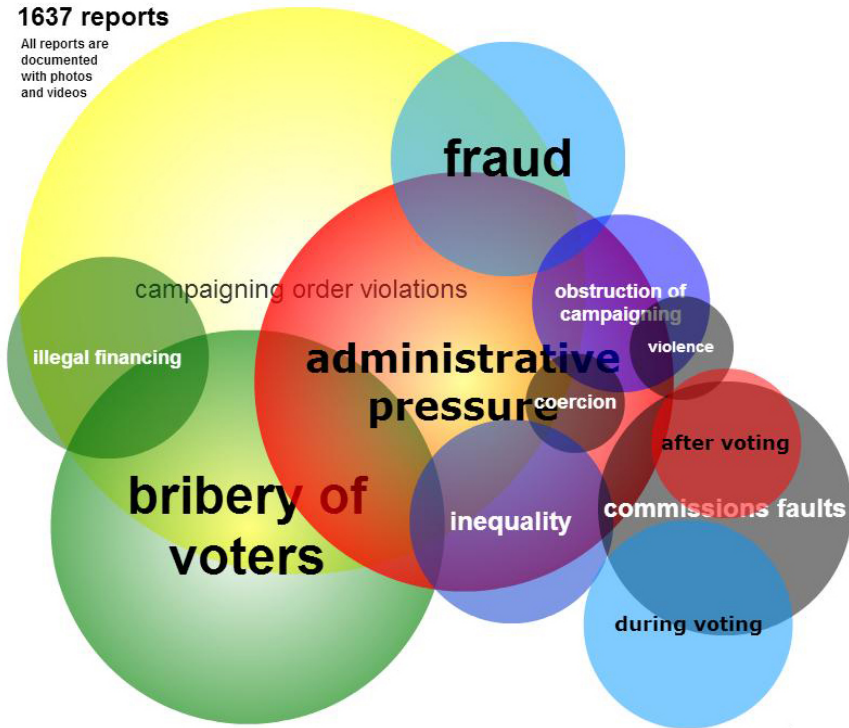
FIGURE 1: FIRST PAGE OF INTERACTIVE MAP

Most reports documented the agitation order violations (878), usage of administrative pressure (468), and bribery of voters (401), fraud (284) and faults in election commissions' functioning (198).

## Parliamentary Election 2012 in Ukraine: Violations Overview

**1637 reports**

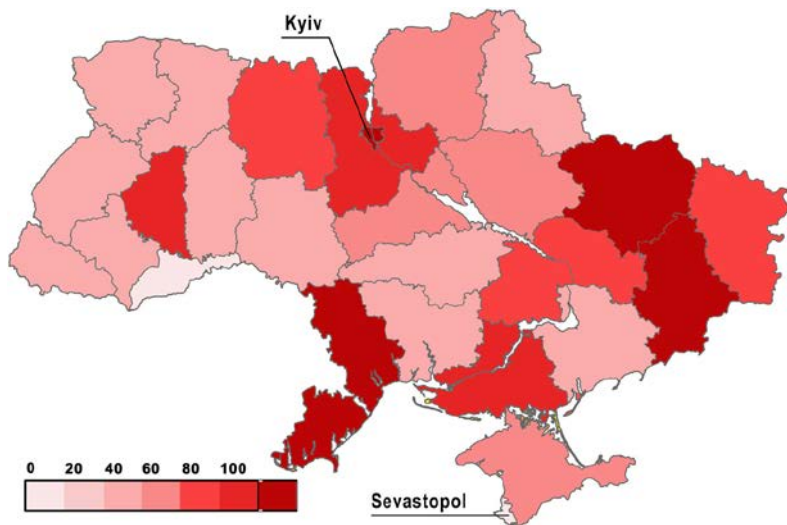
All reports are  
documented  
with photos  
and videos



**FIGURE 2: RELATIONS BETWEEN THE VIOLATIONS. THE SIZE OF CIRCLES AND INTERSECTIONS CORRESPOND TO NUMBER VIOLATIONS ON THE INTERACTIVE MAP.**

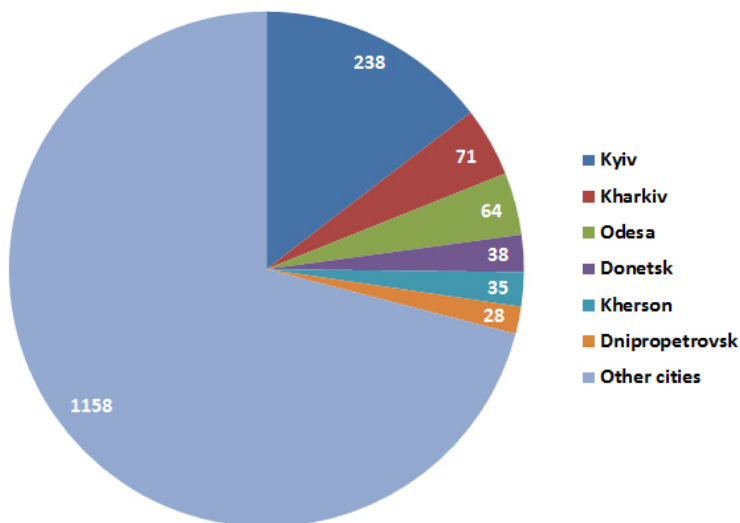
Most reports of violations were sent from Kyiv city; and Odesa, Donetsk, Kharkiv, Kherson, Kyiv, Ternopil, Luhansk, Dnipropetrovsk and Zhytomyr regions (oblast).

The lowest numbers of reports were sent from Sevastopol city; and Rivne, Sumy and Chernivtsy regions.



**FIGURE 3: NUMBER OF VIOLATION REPORTS FROM DIFFERENT REGIONS OF UKRAINE**

Most reports were submitted to us from smaller towns. Big cities input amounts only to 28% of total reports. Most violations of all regional centers were documented in Kyiv, Kharkiv, Odesa, Donetsk, Dnipropetrovsk and Kherson. The map accumulated reports from 421 unique locations of Ukraine.



**FIGURE 4: NUMBER OF VIOLATION REPORTS FROM BIG CITIES.**

Information about the facts of election law violations we also collected from open sources – media, sites of NGOs that observed election, social networks. However most reports were added to our map by the volunteers, concerned active citizens who had documented the violations, sent them to our team and even tried to terminate the violations themselves. We consider this as the biggest achievement of our project.

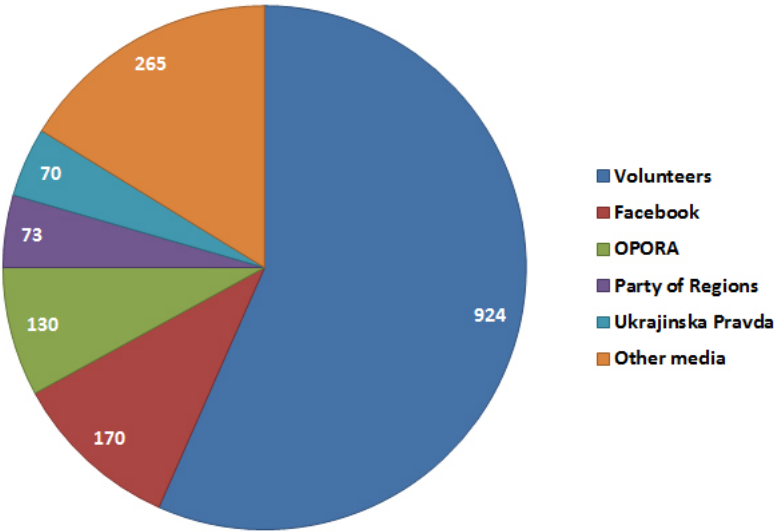


FIGURE 5: SOURCES OF INFORMATION ON INTERACTIVE MAP

Our project had not enough resources to collect all violation reports even theoretically. 1637 published reports are the proven hard evidence. We can only guess how many more violations there were.

*Based on number of violations, its geography and timeline we state that the violations of election law were systematic.*



## Legal valuation

Right to elect and be elected is a fundamental political right protected by domestic law and international treaties ratified by Ukraine.

According to Article 25 of International Covenant on Civil and Political Rights<sup>vi</sup> “Every citizen shall have the right and the opportunity... to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors”.

According to Article 3 of Protocol to the Convention for the Protection of Human Rights<sup>vii</sup> Ukraine undertook to “hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature”.

Freedom of election, freedom of expression of the opinion is the fundamental imperative compliance or non-compliance with which is an indicator of free democracy in the country, unlike managed democracy or pseudo democracy. This freedom has three components.

1. Free formation of elector’s will.
2. Free vote.
3. Honest and transparent account of the elector’s will.

Article 6 of election law declares that “the election of deputies shall be free” and states that “Ukrainian citizens shall be provided with conditions for free formation of their will and its free expression when voting. Violence, threats, fraud, bribery or any other actions interfering with the free formation and expression of a voter’s will shall be prohibited”.

Let us find out whether it was so during the parliamentary election in Ukraine in 2012.

**Bribery of voters.** We have documented 401 verified reports about “indirect bribery”. In poor country with rudiments of Soviet mentality it is a direct and mostly efficient pressure on voters.

**Fraud.** 284 reports detailing on the widest range of violations - from a with widespread practice of attributing budget financed accomplishments to a

certain candidate to clinical cases of agitation stating “vote for me, otherwise your ballot is invalid”.



FIGURE 6: BILLBOARD NEAR CHERNIGIV SAYING “THE BALLOT FILLED OTHER WAY IS NOT VALID”. THE DESIGN WAS USED BY OTHER CANDIDATES ELSEWHERE.

Fraud was a significant factor of deformation of elector’s will since they could get mostly non balanced and not complete information from the TV and actually could not learn it is a fraud. Of course it was illegal too.

However the law does not have efficient mechanisms of combating fraud and punishment for fraud.

**Unlawful coercion.** Biggest threat of that election is the introduction of surveillance cameras on polling stations. Less than a year before the election, despite the recommendation of Venice Commission and against the common sense, there was a law on surveillance cameras adopted that contributed with the powerful factor of intimidation of poorly informed and largely injured by Soviet past electorate.

The surveillance cameras were installed on polling stations. Until late there were no clarification published that the surveillance covers only the hall and not the voting booth. Poorly informed electors not too familiar with the legal procedure could imagine that his vote is being recorded and vote the way to avoid the potential punishment for “incorrect” choice.

Only 4 days before the election due to our efforts and persistence of the Ombudsman's office the Central Election Commission issued a resolution on mandatory placement on information about the secrecy of voting in every polling station. This decree was not even implemented in full.

Could we state the free vote was ensured in these conditions? It is hardly so.

**Violence.** We have many verified reports on forceful obstruction of campaigning and in particular obstruction of counter agitation<sup>viii</sup>. The tabulation process in many commissions was interfered by special police forces and unidentified "young athletes".

Violent obstruction of legal actions of observers, journalists, candidates, members of election commissions is the criminal offence. The presence of "young athletes" at the polling stations and around is a very disturbing sign that the state lost the monopoly for violence, was unable to enforce the law and indicates the systemic crisis of the state institutions.

We consider the significant amount of complaints to faults in election commissions functioning to be the result of "weird" resolutions of Central Election Commission that defined the order of formation of district and precinct election commissions that did not provide the equal presentation of parties. The tabulation of results was marred by Bacchanalia of violations "built in" by the composition of the commissions.

The police had been collecting the facts of violations during the election campaign, however was in no hurry to investigate them. At the same time the police was efficient when fighting the civic activists who were distributing agitation against the Party of Regions and its candidates.

Police was unable to enforce the law and order during the tabulation; it stormed the district election commissions, confiscated the commissions' documents, and ignored the "young athletes" clearly affiliated with some candidates.

The illegal methods of campaigning prohibited by the law were spreading with impunity and interfered both with free will and free voting. Post-soviet society with masses of poor, poorly informed, easily manipulated electorate, proved to be extremely vulnerable to systemic bribery, fraud and administrative pressure. Therefore due to the conditions created or

tolerated by the State, the voters' will was subjected to deforming influence during the different stages of campaign – from agitation to tabulation.

Article 3 of Constitution of Ukraine declares that “affirming and ensuring human rights and freedoms shall be the main duty of the State” and “the State shall be responsible to the individual for its activities”; therefore the principal offender of the election law is the one that bears the most responsibility – the State.

1. The State did not provide the stability, transparency and unambiguity of election law thus not following the principle of legal certainty. The Venice Commission recommends not to change election law at least a year before the election date.
2. The State has not provided the transparent and legitimate formation of election commissions.
3. The State did not provide the defense of the citizens from the manipulations and unlawful coercion, which becomes the biggest threat to society in Ukraine, next to corruption.

*Conclusion: facts provide the evidence of general trend of deformation of free will of electors and free vote, of manipulations and unlawful coercion.*

Whether these facts had seriously affected the results of the election should be decided by observers, courts and the society.

However the tangible discontent of voters and candidates by the process of tabulation of results did not result in mass protests or other systemic counteraction. Despite the generally negative evaluation of the election by the international observers it did not lead to any political consequences so far.

## **Social and psychological valuation**

During the election campaign we have stated that “the general overview of violations evidences inequality of participants of elections. Administrative pressure creates advantages for pro government candidates like it hap-

pened in 2002. Significant amount of voters was subjected to *psychological* and *economical* pressure that could seriously affect their choice.” Prediction came true partially.

### **Factors that significantly influenced the electoral choice:**

1. **Coercion, economic and psychological pressure** to vote “correctly”. Administrative pressure was used to tell the managers of state and municipal organizations which results of election are desirable. They influenced their employees and the dependent people like patients of state hospitals or imprisoned. Ruling Party of Regions had advantage in access to such administrative pressure, however in few cases it was used by other parties as well. At least 10-15% of voters were experiencing such administrative pressure.

*Outcome:* increase of electoral support of administrative resource managers.

**Bribery of voters**, including the “agreements” to support candidates. According to the poll by “Democratic Initiatives” Fund 17% of voters openly confessed their agreement to sell their voice. According to our monitoring the price of bribery of one voter varied from 50 to 500 hryvnas (\$6-60) which reflected the voters’ expectations. Some candidates are also offered voters legally invalid “agreements of support”, exchanging the papers later to food, money or other goods. Sometimes part of money was given before the voting, and the rest was promised after the candidate is elected.

*Outcome:* increase of electoral support due to bribery.

2. **Obstruction of agitation** for the opposition candidates and parties. In some constituencies the visual agitation for one candidate and party was dominating; agitations of others could be seen occasionally, mostly in leaflets; balanced information was hard to find. All of that violated the right of citizens to objective and impartial information about the candidates and the parties.

*Outcome:* the lack of information about the candidates and the parties was evident. That led to lower turnout, last moment selection of random candidates, voting for any known name or party brand.

3. **Surveillance cameras at polling stations.** Some people got afraid their voting would not be secret. At the polling station #800965 in Kyiv, where one of authors of this book had voted, there were 5 signs about the surveillance cameras observing the station and not a single one about voting booth not being surveyed. The quality of transmission at many stations was not good enough to see what is happening there. There were isolated reports of violations observed via surveillance web cameras; however practically none got reaction from government authorities. The tabulation process had not been broadcast online.

*Outcome:* we evaluate the turnout rate decrease due to surveillance web cameras in 5% at least. The billion hryvnas spent on webcams were not only spent inefficiently but led to serious loss.

4. **Specific tabulation of results,** mostly in majority districts. Specific was manifested in counting process prolonged for a week instead of a few hours; interference by authorized persons; physical violence.

*Outcome:* election results in five majority districts were invalidated.

The Central Election Commission decision on invalidation of election results was substantiated as “inability to determine the results”. However it sounds very indefinite, since there was a possibility to prove that ballots were systematically falsified and who benefited from the falsifications. The Criminal Code allows determining who the beneficiary of violations is and who is guilty of violations (Article 158 “Obstruction of realization of right to elect” and 158 “Illegal usage of ballots”). However in practice these norms were negated by the election law and the absence of any determination of the State to terminate these election violations.

*Election 2012 in Ukraine deserved to be labeled very relatively free and very conditionally honest.*

With the existing election law and mostly the same participants of election we could hardly hope for anything else. However one interesting factor came into effect as well.

## **“Responsibility and wisdom of Ukrainian people”**

(This is a quote from President Victor Yanukovych on results of election.)

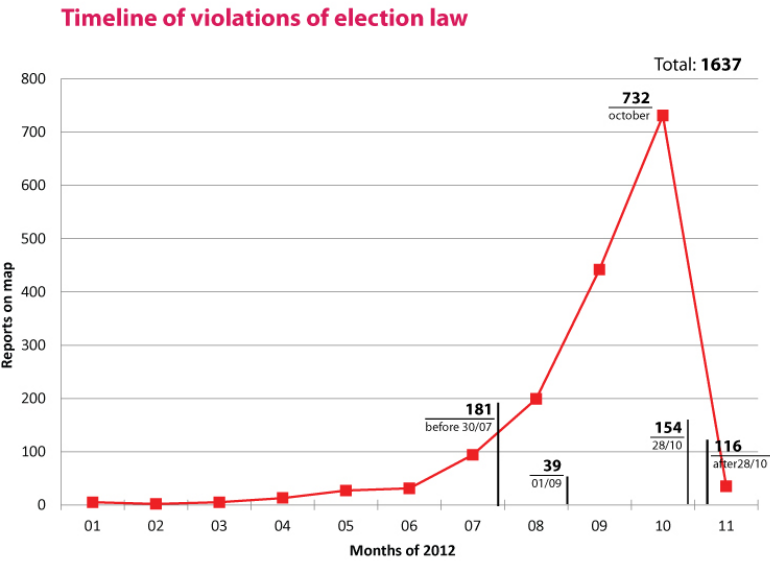
For the first time since the technology of mass bribery was used in elections it started malfunctioning. In 2012 the candidates that relied mostly on bribery were the subject of social condemn.

The bribery achieved its objective partially. According to sociology number of people who accepted the “presents” from candidate 50-75% voted for these candidates. Bribery could provide up to 25.000 votes at one district.

Years ago the capital city Kyiv had become the first electoral testing ground where the candidate who bribed voters won. However this time Kyiv demonstrated the reversal trend. All candidates who practiced bribery have lost. A well-known majority candidate who tried to buy the votes lost to nearly a stranger for residents of the district.

As a result the “responsible and wise” Ukrainian people voted for preservation of political diversity in Ukraine and against the transmission of monopoly to power to one political party or group of people that suspiciously looks like a family of one government official.

# Violations in Details



**FIGURE 7: TIMELINE OF VIOLATION REPORTS**

There were discussions in society how to classify the violations that occurred before the official start of election campaign. We have published legal position on the question whether these violations could be considered criminal or administrative offence before the official start of election campaign and registration of candidates.

*Pre-election history is relevant for evaluation of the way the voters' will was formed.*

Monitoring confirmed that all types of violations documented before the official start of campaign were continuing afterwards.



## **Before the official start of campaign**

Parliamentary election campaign in Ukraine officially started on July 30th 2012. Before that date our monitoring map had accumulated 179 citizens' complaints about violations of the election law.

Most violations reported were localized in Kharkiv region (29), Dnipropetrovsk region (19) and Kyiv city (18). Lviv region was the only one we had no complaints from.

## **Bribery of voters**

The most widespread violation is "Bribery of voters" (prohibited by the Article 74-13 of the election law, a criminal offense, which is defined as giving away free or discounted goods or services on behalf of named candidates), the map had 128 reports listed before July 30th. Bribery of voters was implemented in different ways and always was accompanied by dissemination of information about candidates via leaflets and postcards.

## **Free food packages handouts**

Food was given away mostly before some holidays (Easter, Victory Day, and Constitution Day). The first handout was performed mostly personally and food packages were delivered to recipients' homes. Later these recipients were invited to fetch their further packages from state hospitals, schools or even local administrations. The cost of food packages varied from 20 to 50 hryvnas (\$3.5-\$6).

In all occasions the food packages were given in return of personal data of electors which is a dubious interaction from the point of view of the Law "On Protection of Personal Data".

## **Free medicine and medical equipment handouts**

Medications, first aid toolkits, tooth paste, glasses, equipment for measuring blood pressure, gift certificates for medicine were given away for free by the candidates. It's illegal not only from the point of view of electoral law but also violates the order of distribution of such products.

## **Direct money handouts**

Electors were offered to get “material aid” (starting 50 hryvnas or \$6 and up) by visiting a certain office, presenting their passport, tax ID and sometimes other documents.

In all occasions the money was given in exchange for surrendering personal data of electors which is a dubious interaction from the point of view of the Law “On Protection of Personal Data”.

### **Gifts for children handouts**

The candidates were giving away the hygienic supplies for toddlers, school bags packed with stationery, sportswear and gear, and even money (calling them stipends). All gifts as usual were supplemented with information about the candidate.

### **Gifts for staff of government institution**

Schools, hospitals, post offices and police precincts were presented with medical equipment and supplies; computers, multimedia centers and similar stuff; cars and bikes; phones and prepaid phone cards. All gifts were either handed out by candidates themselves or by their official representatives.

*The bribery was targeted both individually (poor old people, parents) and collectively (workers of government institutions)*

There were also reports of bribery of certain territories within the limits of a targeted constituency. Most common type of such bribery is mass construction of playgrounds (for example 31 playgrounds were setup by one candidate in Zhytomyr region), reconstruction of the roads, etc.

Bribery of voters was performed not only by future candidates from ruling party but from opposition politicians as well.

The bribery of voters was mostly funded from the charitable funds set up by candidates.

## Administrative pressure

Second most common violation – 63 reports - was the use of administrative powers or **pressure of government**.

This term is absent from election law however it is implied as the violation of mandated norms and principles of equal and equitable treatment of participants of elections by the government authorities in form of providing preferences and direct support of some and discriminating the others.

Examples of administrative pressure:

- Participation of government officials in agitation directly or via advertising;
- Attributing the budget financed government obligations to a certain candidate or a party;
- Use of government or municipal buildings for agitation;
- Use of government resources that are managed by the candidate for agitation; the most prominent example of which was the transformation of official site of Ukrainian parliament into the news-feed of agitation travels of the speaker within his district.

The local government executives were actively using their administrative powers to assist their party fellows in agitation and to stop the propaganda of opponents.

Quite often the administrative powers were used in free food package handouts. State schools and hospitals were used as distribution centers, and teachers and doctors were forced to hand out the goods both inside their institutions and also were visiting people at home with the gifts. Even older school children were forced to visit people at home to give the gifts. Most cases like this are registered in Kharkiv area.

Administrative powers were used when candidates were giving away free goods to government institutions as described above. All these events were published on official websites of local governments. Government official often were accompanying the campaigning candidates in their working hours.

Administrative powers were used to convert reconstruction works into electoral propaganda. In Kharkiv city in many cases the reconstruction workers were dressed in t-shirts with names of candidates.

Administrative powers were used in other occasions, see “fraud” section below.

Administrative powers were used only by one political party – ruling Party of Regions.

## **Fraud**

Third most common violation is fraud - 31 cases total. In legal terms fraud is defined in Article 6 of election law as “violation of conditions of free formation of electoral will”.

There were cases of blatant lies in propaganda like in case of a member of parliament Volodymyr Vechirko in Donetsk region who informed from a bill board about the millions given to a local hospital while the hospital never got such money from anyone.

However, most often the electoral fraud was in form of **manipulation**.

- In 3 regions (Donetsk, Dnipropetrovsk, Zaporizhzhya) free digital TV tuners bought with the state budget money within a framework of a state program of help to poor old people were presented to final recipients by Party of Regions activists along with party leaflets and other propaganda prints. These acts were publicized on official websites of regional party organizations. The recipients of the tuners old people were tricked into believing the gift was provided by Party of Regions.
- In many regions road, streets and square reconstruction works planned long before and funded by city budgets had acquired adjacent signs and boards stating “these works are performed thanks to candidate X”.
- In Dnipropetrovsk region mass construction of new playgrounds funded by regional budget ended with these playground acquiring signs “supported by candidate X” or even “supported by Party of Regions”.
- There were cases when free medical service (evaluation, tests, probes) were provided as “supported by candidate X” and the fact of that support was advertised on bill boards and print media.

Local governments in many regions were trying to persuade the citizens that the (totally unclear) support of a certain candidate of ruling party produces a rapid increase in the quality of life. Any usual and planned communal work like reconstruction of a road or of an apartment building

hall, garbage cleanup, park improvement, new playground setup acquires signs “supported by candidate X”. Electors had no efficient tools to check up what this “support” means in practice. It is worth mention that this practice started in May 2012 when the candidates from the ruling party were defined.

Most common practice described was documented in Kharkiv city where the major together with “candidate X” were excusing themselves for temporary inconvenience caused by reconstruction on road signs.

## During the election campaign

### Faults of election commissions

For the first time in 20 years when drawing of the party representation in county election commissions had been done simultaneously for all 225 country election commissions and not for each one separately as always before. The Article 27 of the election law presumes the drawing of representation of parties for each separate commission and not for all together as Central Election Commission performed. It had been legally incorrect and by doing this Central Election Commission had already planted a bomb under the electoral process.

The decision of Central Election Commission led to consequences that influenced the results of election very seriously.

- Two parties – UDAR and Svoboda - that had chances to be elected according to sociology (and were elected) were left without any representation in all 225 district election commissions.
- All 225 county election commissions had representation of parties that were not really working before and could be called simulacrum. The places assigned to these parties occupied real members of Party of regions.
- At least in 10% of county election commissions the heads assigned appeared to be living in other parts of a country, mostly in Crimea and Donbas. They did not appear on commission meetings. 10% is a lowest estimate and refers to facts we have documented.
- There were [numerous reports](#)<sup>ix</sup> that some members of district election commissions had no idea they were included and did not agree to that inclusion although the formal agreement is required.
- There were reports of serious violations of procedure of county election commissions functioning – decisions were adopted without quorum, meetings were convened and held by unauthorized persons.

The Central Election Commission did not detail the procedure of drawing and the district election commissions decided how to perform the actual drawing themselves. The drawing was done from garbage cans, big and heavy wooden boxes, banana packs, etc. We have documented complaints about the drawing process from 31 district election commission all over the country. The cases of outright fraud when drawing are documented as well.

A CEC member Vladislav Zabarsky<sup>x</sup> explained single drawing by the long time spent for each round. However each DEC is equipped is equipped with a computer where a simple open source random number generator could be installed.

The quality of PEC membership also cast doubts on the entire organization of election. All over the country applications for DEC membership contained:

1. Multiple applications of one person from several parties of candidates.
2. Applications filled later than a deadline.
3. Applications not dated
4. Applications without a signature
5. Application signatures differ from ones in copies of passports.
6. Different birthdates in application and passports.
7. Passport copies without photos.

Random phone calls to people who supposedly applied for PEC membership in Ternopil region revealed large amount of people who had no clue of any application filed; some dead persons were found who “applied to be PEC members” as well.

In areas where the applications were not checked as seriously as in Ternopil after the commissions were formed, numerous complaints were filed about the members not attending the precincts at all, including even heads of commissions.

There were many reports when district and precinct election commission members submitted from other parties openly declare their membership in Party of Region and state that they are working in commission of party

errand. There were cases of direct agitation for Party of Regions and its candidates in election commissions. Even the invitations to vote are distributed along with Party of Regions leaflets.

In October there were reports of mass replacement of precinct election commission members from several parties (Ukrainian People's Party, Our Ukraine, Anarchists, and Ukrainian National Assembly). The replacement of members creates problems in commission functioning since the newly arrived need time to adapt and learn how it works.

There were numerous reports from all over the country about precincts physically closed for voters' access; mandatory invitations to precincts were not received by voters. Commission members complained about inactive phones e.g. cancelled for non-payment.

## **Unlawful coercion**

### ***Forcing employees of state owned institutions to participate in agitation***

We documented incidents when teachers, doctors, librarians and other employees of state or city owned institutions were participating in agitation for candidates from Party of Regions. Project participants and volunteers witnessed these themselves.

In Kharkiv teachers forced teenagers to deliver agitation materials and food packages "branded" by candidate names to voters' homes.

In Teplodar near Odesa our volunteer videotaped how teachers were gathering kids for propaganda event of Party of Regions.

There were reports that teachers were forced to become members of Party of Regions, incidents were reported from Odesa, Ternopol and Lviv regions.

Such unlawful coercion contradicts Article 19 of Constitution of Ukraine which reads "The legal order in Ukraine shall be based on the principles according to which no one shall be forced to do what is not stipulated by law."



## ***Blackmail of students***

We got 4 reports when students were threatened by not allowing living in hostel, bad exam results or even expelling for the college. Instead students were required to vote for “correct candidate” and to make a photo of a ballot; to change official address temporarily in order to be able to vote in required precincts; to talk the family into changing the address and vote away from home as well. We got such reports from Luhansk, Kyiv and Kyiv region.

That practice contradicts the article 19 of Constitution of Ukraine and could be prosecuted according to the article 157 of Criminal Code.

Information of these violations had been widely published. It was the only violation type that managed to engage politicians in active counteraction. As a result the Central Election Commission adopted a decision that banned “electoral tourism”.

## **Administrative pressure**

### ***“Social workers” aka agitators for party of Regions***

At the beginning of August a report from Odesa region was submitted informing of the social workers financed from state budget visiting homes and questioning people about their attitude towards Party of Regions, tell people about party achievements, etc. We had reports from all regions of Ukraine about the activities of such agitators. Later TVi channel interviewed one social worker in Kyiv region and filmed three others in Odesa region.

12000 of such social workers were hired and paid from state budget as vice premier minister of Ukraine Sergiy Tigipko announced in May. Some of them said they were hired for 6 months only.

This practice contradicts the principles of equal treatment by authorities of all participants of elections (Article 11 of election law).

### ***Agitation in state and municipal institutions***

That is a really widespread violation in Odesa and Kharkiv regions and Crimea; however it is documented in other regions as well. Agitation materials are displayed inside and outside the buildings of local (mostly village)

councils, schools, hospitals, libraries, post offices; state institutions that register wedding and death, real estate property rights; provide the communal services. That practice is directly prohibited by Article 74 of electoral law.

In schools pupils were presented with souvenirs with Party of Regions logos including bags and raincoats thus converting them to live advertising carriers. These attempts to use kids to gain advantage in election seem to us most outrageous violations that were happening on September 1st the day school year began and later on. It is forbidden by the law. We have 40+ incidents documented from all over the country.

The most outstanding is the report from Kyiv region when on September 1st in many schools of district #94 the audiotaped speech of a candidate Tetyana Zasukha was presented to kids as a greeting. The speech had elements of political agitation. It would be impossible to make all these school to run the audiotape without the use of administrative pressure.

In Odesa region the flags of Party of Regions were raised over the buildings of lots of village councils. Based on our crowdsourced reports Ukrainian Ombudsman Valeria Lutkovska reacted<sup>xi</sup>, after her intervention the flags were removed but not too far, they were hung on electric poles right near these buildings; which cannot be considered the formal violation but in terms of psychology it was the “act of symbolic violence”.

### *Direct agitation for candidates by government executives*

There were numerous reports of agitation by government executives during their work hours, mostly heads of regional or county administrations. Such agitation often included blackmail like “in case you do not vote for candidate there would be no gas supplies to your village” (Mykola Papiev, head of Chernivtsi region administration).

Government executives participated in propaganda events like opening of playgrounds, meetings with voters, shows, etc.

This practice contradicts the principle of equal treatment by authorities of all participants of elections and is directly forbidden by Article 74 of the election law.

### *Preferences to selected candidates in state and communal media*

Despite the direct provisions of the election law that require media to provide equal and unbiased treatment of all candidates and parties there are numerous reports of unmarked advertising of some candidates on state owned TV stations and local municipal newspapers. There were also numerous reports when same media refuse the other candidates in placement of their advertising materials. This violation is country wide.

Most outrageous violation of a kind is the live broadcast of a parade under flags of Party of regions in Kharkiv on August 23rd on country wide state TV channel UT-1 not marked by a required sign “political advertising”.

### *Municipal reconstruction used for agitation*

It was wide spread practice to use the signs about the municipal reconstruction works for advertising of candidates from Party of Region and the party itself. The road signs, warning boards, billboards provide the information not only about the works themselves but directly connect these works to a certain candidate and/or party as someone who “has to be given thanks for that” (direct quote from one). All these reconstruction works are paid from state or municipal budget, by all taxpayers and not by a candidate or a party. This was a very widespread violation in Kharkiv, Dnipropetrovsk, Odesa, Zaporizhzhya regions; reports from other regions are present too. In Kharkiv in addition the municipal workers performing that reconstruction were wearing t-shirts with candidate name (Valery Pysarenko).

That advertising on municipal construction sets was a direct fraud, manipulation, interference with free forming of an electoral choice and was impossible to place without the use of an administrative pressure.

### *Use of budget program for agitation*

There is a budget program which foresees the free delivery of free digital TV tuners to old people. These tuners were sent to regional post offices and then somehow got into hands of offices of Party of Regions who started to deliver them to homes of old people wrapped into party advertising. Of course old people who had mostly never heard of a state program could easily decide they should thank the Party of Regions for the gift. This violation was wide spread in Dnipropetrovsk, Donetsk and Zaporizhzhya re-

gions. Regional party office websites proudly write about that achievement.

To get tuners from the government owned post offices without the use of administrative resource was not possible.

The Tender News program of TVi channel published an investigation<sup>xii</sup> of budget subventions spent on districts, where current members of parliament from ruling party or affiliated persons like the son of prime minister were running as candidates. The budget subventions were used to buy cars for hospitals and post offices, computers for schools, road improvements, etc. The candidates used these state programs in their agitation and outline their role in getting the budget subventions for these constituencies.

*We documented 468 reports of administrative pressure however we do not know of a single criminal or administrative case opened based on such reports let alone court decisions.*

### *Obstruction of agitation*

In all regions of Ukraine except the West the candidates are complaining about the administrative obstacles during their campaign. There are documents of court orders prohibiting their public meetings that equate the public meetings during campaign to implementation of the right to peaceful assembly which is a very dubious connection from a legal point of view. Schools and municipal clubs are refusing candidates referring to the orders and “desires” of local authorities.

The local government authorities are organizing and involve employees into the “counter meetings” during the public meetings of candidates. These are loud and hooligan actions that interfere either by sound or even direct force with meetings of candidates and they are conducted using the same scenario all over the country.

Local governments were trying to illegally restrict the places of agitation based on local unconstitutional rulings.

The website of Party of Regions frequently reported as violation and also passed the reports to law enforcement as “placement of agitation in places that were not officially declared by the local government as such”. This is groundless and illegal as the violation according to the law is the placement of agitation in places expressly forbidden by the law (e.g. in public transportation, state and municipal buildings, etc.) which implies the administrative responsibility according to the article 212-14 of Administrative Code.

In all regions the police and the representatives of candidates were interfering with the efforts of activists to agitate against Party of Regions and their candidates. The police detained people who distributed leaflets, trying to confiscate them, and not interfering with violent actions against activists.

Most idiotic was the case of an 80-year old village woman near Kherson, who was interrogated by the police, who demanded to know where she got the leaflet against the Party of Regions from. The police officially confirmed the fact of interrogation as they obviously see nothing wrong with it.

At the beginning of August a letter<sup>xiii</sup> from a Lutsk district (rajon) administration to village majors was published where they were instructed that the dissemination of deliberately false and defamatory information about Party of Regions is a violation of election law. Later an official of this administration called the letter “a mistake”.

At September when the election violation monitoring chapter on the Party of Regions website started functioning they published the reports of violations in form of “dissemination of deliberately false information about Party of Regions”, and stated that they submitted complaints to the police about that. Later they stopped using such language.

However, ordinary policemen speaking the activists, when attempting to detain them or to confiscate the leaflets, insisted that the agitation against Party of Regions is a violation of election law<sup>xiv</sup>. These statements are false since the election law provides the right of a citizen to agitate for or against anybody.

There were numerous lawsuits against activists; however none of them were related to defamation. They were sued for not providing mandatory data in leaflets (who printed them, circulation, etc.), for agitating against candidate before he was registered by CEC, for interfering with city improvements.

Since the very beginning of the campaign the participants of election submitted complaints to the police about the mass distribution of defamatory production and fake newspapers. First reports of police seizing such production started to arrive only since the beginning of October.

## **Bribery of voters**

Article 74-13 of electoral law the bribery of voters is labeled “indirect” and defined as giving away free or discounted services or goods.<sup>xv</sup>

### *Gifts for kids*

Pens, pencils, stationery and other school stuff, school uniforms, sportswear, sport gear and even pampers for toddlers were given away by candidates during the campaign. The gifts were complemented by agitation leaflets, branded packets, etc. That was happening in addition to the abovementioned mass giveaway of party propaganda on September 1st.

The really systemic were the construction of playgrounds branded by names of candidates of Party of regions. Some were setup before the official start of campaign but they still are the signposts for their “creators”. There is official information that some of such playgrounds in Dnipropetrovsk proudly presented by the official site of local organization Party of regions as their achievements were in fact paid from local budget, e.g. by taxpayers.

### *Food packages*

Food packages with worth 30-70 hryvnas (\$4-9) in a package branded with a candidate name with agitation materials included had become a distinctive feature of this election campaign. Mass and repeated giveaway had been documented in Kyiv city and region, in Kharkiv city, In Vinnytsya, Chernigiv, Donetsk regions, practically everywhere except Lviv region. The giveaway started at the beginning of the year 2012 and lasted till the voting day.

## *Equipment for schools and hospitals*

All over the country the candidates were making PR events with giving away presents to schools, hospitals and kindergartens. They were advertising these charitable gestures on their websites and in media. It's very dubious those people could afford such charity adoring to their tax statements.

At least in Odesa and Khmelnytsky region and in Lisichansk computers the Party of Regions had presented the schools appeared to be from China governmental aid to the Ukraine.

## *Transportation for postmen, policemen and doctors*

There are reports of candidates giving away free bicycles to postal workers, cars to police precincts and ambulances. They proudly report about it on their websites. That charity does not fit their tax statements.

Investigations found that in Dnipropetrovsk region the ambulances were bought within a budget program several months before they were "presented".

## **Fraud**

### *"Vote for me otherwise the ballot would be invalidated"*

The billboards and leaflets with such wording emerged in October all over the country (for example in Kherson, Chernigiv and Luhansk region). Advertising explained how and who to vote for; and claimed that the vote would not be counted otherwise. Billboards of identical design for different candidates were separated by hundreds of kilometers. This form of fraud was the direct violation of election law as it interfered with free voter's will and could produce a very serious impact on the final decision of the voter.

### *"Black PR"*

Last weeks of election campaign were the real Bacchanalia of black PR or the dissemination of deliberate lies about the candidates and parties all over the country. These activities made sense considering the results of opinion polls that revealed up to 25% of voters who did not decide on their vote a month before the Election Day.

The worst case of dissemination of black PR was the broadcasting via TV channels UT1, Inter and ICTV on October 24-25 of the apparent fakes from the internet named “How much it costs to make a revolution in Ukraine?”, where the leaders of opposition supposedly agreed to make a revolution with American money. These TV programs could be seen by 25 million people in Ukraine. Experts note the similarity in the setup of these fakes with the infamous “Anatomy of protest” in Russia.

Second mass spread of black PR was the delivery to mailboxes of voters in Eastern and Southern Ukraine of a newspaper “Slavic News” informing people that Vitaly Klichko was “orange” (allusion to the Orange Revolution in 2004). The newspaper listed circulation of 700.000, used expensive paper and print, was delivered by the state postal service. We got reports from 10 regions about people getting it to their mailboxes and it is safe to presume the real circulation was even bigger. The newspaper was not distributed in the West where such information could be considered as favorable for Klichko.

The newspaper with this name exists, however it is printed in black and white irregularly and definitely with very modest circulation. It is not known whose money is behind that operation.

The typical examples of black PR were forged leaflets; the usage of party symbols and logos by unrelated candidates; dissemination of libel and outright fakes like “Tatyana Chornovol the She-Devil” leaflets in Lviv region. It’s worth mentioning that almost always these products are of high print quality.

Fake billboards were installed in Brovary, stating “Batkivshchina” does not support any candidate there (which is a lie). The police ignored the complaints.

## **Agitation order violations**

### ***Political advertising in public transportation***

Political advertising in public transportation was widespread despite the directly prohibition by the election law (Article 74-8). Most reports about this violation were submitted from Kyiv, Crimea, Donetsk, Sumy and Odesa regions.



Advertising was placed both in outer surfaced of a vehicle and inside on glass panes which is also prohibited by another law “On advertising”. The drivers were usually unresponsive to citizens’ objections and say “we were all given these ads”.

In Kyiv most violations like this were related to Communist party advertising, in other localities to the individual candidates and Party of Regions. In Kyiv the attempts to involve the police into removing that violation were not successful.

### *Courts closing down media outlets*

We have documented four cases when courts postponed state licenses for newspapers accusing them of violation of election law. Practically it means shutting down the newspaper until election campaign ends. There were the newspapers “Zmiyivsky kurier” in Zmiyv, Kharkiv region; “Osobysty pohlyad” in Irpin, Kyiv region; “Nash vybir” in Luhansk and “Visit” TV station in Kremenchuk.

We know of more attempts to close the media via courts which have failed.

It’s not enough data to say about the systemic violation but we should call for attention to a serious and evident flaw of a law that allows shutting down media in very ambiguous circumstances. We refer to a term “single brutal violation” used in an election law which is not defined either in this law or elsewhere.

### *Agitation order details not provided*

The most widespread violation of this campaign as the absence of required details on agitation materials (e.g. who ordered it, where it was printed or produced, circulation, etc.). This violation could not seriously affect the forming of voters’ choice; however it did not ensure the proper information of citizens and limited the possibilities of control of campaign financing.

### **Fake sociology**

Reports of this violation were registered mostly in October there (36 of 38 total). A serious violation of the law is the publication of poll results without the mandatory information provided – about the client who ordered

the poll, the company who performed it, method of polling, timeframe, number of people questioned, etc. Publication of fake sociology seriously violates the legal provisions about the prohibition of fraud during the election.

Most violations were related to “Our Ukraine” party and individual candidates. Disinformation was distributed via TV, newspapers, websites, billboards and leaflets. For example in fake sociology reports “Our Ukraine” party was attributed poll results around 5% while real sociology published 1% of support which they actually got in fact.

The number of these violations was considerably higher. Monitoring revealed that even the candidates mostly had no idea that the publication of fake sociology violates the law and did not notice or register the problem.

## **Controversial court rulings**

Preliminary analysis of court cases on election violations reveals the existence of contradictory rulings on identical cases in different regions. The most prominent example was the indirect bribery of voters in form of expensive gifts to school kids. The court in the Odesa ruled it as a violation in the case of candidate D.Zhvania; in Donetsk, the court left identical litigation without a ruling in the case of the son or Prime Minister Oleksiy Azarov.

Controversial court rulings are passed in cases related to agitation materials without the mandatory data about the producer, circulation, etc. (violations of articles 69-7 and 74-22 of election law) and the dissemination of false information. There were court rulings that directly limit the Constitutional right to free expression and information. There were rulings<sup>xvi</sup> of courts in Mykolayiv region that fined citizens a 510 hryvnas (\$63) penalty for their public appeals not to vote for Party of Regions and its candidates.

There was an absurd court ruling<sup>xvii</sup> in Kirovograd, which decided the candidate had illegally financed his leaflets where he is pictured together with his UDAR party leader V.Klichko. The court ruled that this agitation was not paid from party election fund and thus this is a case of illegal financing since the candidate paid from his own fund. In fact the candidate was acting according to the law.

We recorded four cases of courts banning the meetings of candidates with voters. In Kharkiv the text of the court ruling<sup>xviii</sup> had the exact phrase *“the action against the government bodies is not permitted”*. The absurdity of these rulings is compensated only by their not implementation in reality.

The court decisions that had any practical outcome ordered the closure of media outlets and dismantling of several billboards.

## The voting day – October 28

This day we documented 154 violations which amount to almost 10% of total reports. There were 524 more reports submitted this day which were not compliant to our publication terms (did not contain enough evidence). The analysis of these 524 reports shown that in 70% the information was reliable, so the number of violations this day was evidently more than 154. However most our volunteers despite their active position and dedication were not prepared to document the violations they witnessed.

### Surveillance video cameras at the polling stations

After we studied the law “On peculiarities of openness, transparency and the democracy of elections of people’s deputies of Ukraine on October 28, 2012” and learnt of complexly non transparent way the organization who was in charge of installation of these cameras was selected, [we appealed](#)<sup>xix</sup> to Parliament of Ukraine, Cabinet of Ministers, Central Election Commission and the President with request to provide the **live broadcast of tabulation of results** via the surveillance cameras. In our opinion that would have saved Ukraine from the shame that really happened later during the tabulation of results. However our request was ignored.

The parliament responded by the amendment to abovementioned law removing the terms “society” and “civic” from it completely, and allowed not to broadcast the voting process from precincts where there is no “technical conditions”. Also it allowed to provide or NOT to provide the records from surveillance cameras on requests of candidates or parties. The tabulation process remained not publicly available.

We had also requested to place the warning signs on every polling station that “you are not observed when you vote” and advertise this fact.

Instead the Central Election Commission at the beginning of October [decided](#)<sup>xx</sup> to place the signs at the polling stations saying: “*This place is under video surveillance*”.

International election observers expressed their concern about the effect of surveillance cameras on election outcome. [Erik Herron](#)<sup>xxi</sup>, professor of

Kansas University, USA, attracted our attention to his research<sup>1</sup>, which revealed that in Azerbaijan during the election of President in 2008 and referendum in 2009 the turnout at the polling stations equipped with surveillance cameras was 8-12% lower than at the stations without the cameras.

At the beginning of October we predicted: *“The surveillance cameras at this election will be used as a tool of intimidation of voters and members of election commissions and not as a tool providing transparency and openness of election”*.

Together with the Ombudsman’s office we persuaded the Central Election Commission to issue a [resolution](#)<sup>xxii</sup> of October 24 that required placing the signs at the polling stations: *“you are not observed when you vote”*.

However, at least 20% of precinct election commissions ignored this resolution. The heads of such commissions state that they were not informed about it at all. On October 27 the website of Central Election Commission had suddenly “lost” all resolutions adopted after October 20 including the abovementioned.

The fact that voters are not observed in voting booth was not advertised in media as we requested. On the contrary the TV repeatedly broadcast promo video alluding to full transparency of polling stations.

According to opinion poll<sup>xxiii</sup> by “Democratic Initiatives” Fund with Kyiv International Institute of Sociology since September 18 till October 4, 2012 77% of respondents said they will vote, 57% said they will vote “definitely” and 21% “most likely”.

According to official numbers of Central Election Commission only 58% of citizens who have right to vote actually cast their votes. 20% of those who said they will “most likely” vote changed their minds.

---

<sup>1</sup> Erik S. Herron. The effect of passive observation methods on Azerbaijan’s 2008 presidential election and 2009 referendum. Electoral Studies, 29 (2010) 417-424.

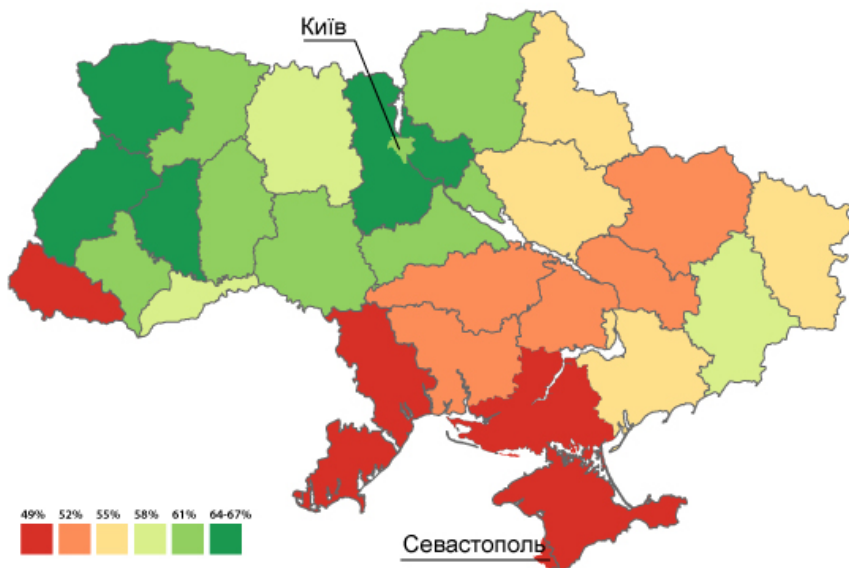


FIGURE 8: TURNOUT BY REGIONS.

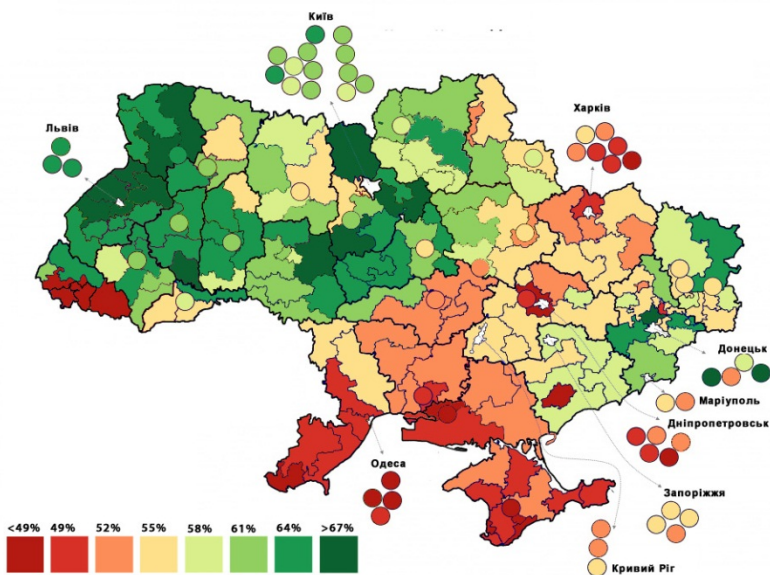


FIGURE 9: TURNOUT BY DISTRICTS.

It is impossible to calculate the percentage of people who got scared of surveillance cameras among those who did not vote. However, it is safe to

suppose that we had saved some votes because of warning signs about secrecy of voting. Volunteers reported from polling stations where such signs were not present that some voters saw the sign “This place is under surveillance” and went away without casting a vote.

As scientist and international observers warned, the surveillance cameras at the polling stations resulted in lower turnout. The turnout at that election was lowest ever in Ukraine.

The way these cameras were used caused a lasting impression that 1 billion hryvnas (\$125.000.000) were spent not to provide the transparency and openness of election.

*Conclusion: Video surveillance at this election proved to be trivial dressing and waste of money. it did not stop the violations, did not provide transparency of tabulation process; it scared lots of citizens who refused to vote.*

## Violations related to surveillance cameras

Попри постанову ЦВК про обов'язкове розміщення на виборчих дільницях оголошення про те, що камери не фіксують процес голосування в кабінках, як мінімум в 20% дільниць такі оголошення вивішені не були.

Despite the Central Election Commission resolution about the warning sign “you are not observed when you vote” was not present at 20% polling stations our volunteer monitors were voting at. On the contrary there were numerous signs “This place is under surveillance” at the stations which were impossible not to notice. Our volunteer shot 4 signs at one station.

Surveillance cameras were often reported placed right above the voting booth thus creating the impression they “look into” the booth. We have reports like this from all over Ukraine, mostly small towns and villages. Our volunteers noted the dismay of people who saw these cameras.

In Yalta the election was truly “transparent”: the voting booth had no curtains at all. In Berdyansk the curtains were transparent and anyone could see how you vote from the street window.

Introduction of video surveillance without the proper information provided to citizens and specific placement of cameras at polling stations had been the factor of psychological pressure on voters without any doubt, hinting the voter that their voting is not secret and therefore not free.

The secrecy of voting including the perception of secrecy by the voter is a constitutional imperative. The State not providing the secrecy for whatever reason it clearly casts doubt on the goodwill of State to hold free elections, not just imitation.

## **Agitation order violation**

There were 71 reports of agitation in public places on the day of voting which is prohibited by the law. Most outrageous reports came from Luhansk where the agitation tents for party of Regions and its candidates were setup right before the polling stations. Free food was distributed from these tents. One tent was located right near the police station which did not react to violation at all.

With respect to sociology data that revealed the huge number of people who did not decide who to vote for until the last day, this agitation could influence the decision indeed.

## **Violence**

Cases of violence are recorded in districts # 21, 42, 46, 97, 99, 104, 109, 139, 141. Some of reports were related to attempts of observers to stop the election violations, including repeated vote by same people, improper election documents, etc.

Most violent reports deal with LEC #141686 in Donetsk, where observers documented multiple violations. The LEC was blocked from the outside for 8 hours until the members “produce” the necessary results. The reason for the blockade was the attempt to stop distribution of information about falsifications at this station. Unidentified “young athletes” without any legal authority were holding people hostage. Nobody got persecuted for that.



## **Faults in election commissions functioning**

57 of total 199 reports of violations in functioning of election commissions deal with events of voting day. Mostly these are reports of violations of ballots handouts and filling of ballots outside of polling stations. There were facts of obstruction of observers and journalists' work.

We documented cases of illegal intervention of members of election commission into the voting process, for example the vote count protocols were filled long before the time of voting is due. Many people complained about inability to vote due to their absence in voters' lists and impossibility to get into the list even via the court order.

Most reports of Election Day violations were submitted from Kyiv and Donetsk region.

## Tabulation of results

Our interactive map lists 116 reports of violations after the voting day. Most reports contain several photos and videos.

Most reports originated from Kyiv city and region, and Donetsk region.

We have violations documented at 47 district election commissions - #9, 10, 11, 14, 20, 21, 42, 44, 47, 48, 49, 52, 71, 76, 93, 94, 95, 99, 107, 109, 132, 133, 136, 139, 141, 143, 154, 155, 166, 168, 173, 175, 182, 184, 185, 188, 190, 194, 197, 208, 211, 214, 215, 216, 217, 220, 222, 223.

## Citizens' access to tabulation results

At the huge amount of polling stations the citizens were not provided the copies of tabulation results. This fact allowed questioning what they were actually hiding.

According to election law the copy of tabulation results at the polling station should be accessible for general public. We managed to conduct considerably big study of accessibility of tabulation results with the help of our volunteers and discovered that in 20% of surveyed stations the tabulation results were not displayed publicly neither after the tabulation was finished, nor any later. At most districts were we got such reports from later there were problems with the tabulation at district commissions.

For example in Obukhiv<sup>xxiv</sup>, which is a part of election district #94 where the Central Election Commission failed to establish the results of election, the tabulation results were displayed only at 1 polling station of 13 checked.

In many cases the members of precinct election commission were not informed about the fact they should provide the citizens' access to protocols, refused to believe that it is required by the law. Volunteers had to phone Central Election Commission to get clarification on this issue.

We consider the absence of transparency in this case to be at least the brutal violation of election law, or more likely the direct evidence of falsification at certain polling stations, since information is usually is hidden where there is something to hide.

## **Delays in reception of vote count protocols by district election commissions**

Nearly at all the districts where there was close competition and one of candidate had access to administrative resource, the district election commissions delayed the admission of tabulation results from local election commissions for several days. People slept and lived in some district election commission for 4-6 days; during that enforced they were subjected to inhuman treatment. No reasons for delays were provided. This is a brutal violation of informational provision of elections. These facts shade doubts at the honesty and quality of election results.

In other districts the tabulation was performed in few hours without problems.

## **Violations of rights of journalists**

During the tabulation process in district election commissions the journalists were obstructed from observing the process without much explanation. At the district election commission #11 journalists from TVi channel and “Levy bereg” website were not admitted inside.

## **Tabulation of results in district election commissions**

The officially published results of election include the declaration by Central Election Commission about inability to establish the results at majority districts #94, 132, 194, 197, 223. The tabulation process at these districts had really crossed all legal boundaries; included the use of police force, presence of “athletic youth”; numerous accusation of falsification, etc.

At the district #94 the court invalidated almost 30.000 ballots both for parties and for a majority candidate. However the voting for party lists at this precinct (and other 4 as well) was not invalidated and the Central Election Commission was able to establish the results.

Strange things were happening in other districts as well.

At the district #71 in Transcarpathia the results of voting at two polling stations were cancelled based on fake resolution of Central Election Commission.

At many districts brutal violations of the law were observed: the tabulation results from local election commissions were edited, ballots were openly

spoiled during the counting, candidates were giving orders to members of district election commissions, decisions were passed without the quorum.

At district election commissions #11, 132, 197, 225 special police forces interfered into the process of tabulation. We consider that every case of police interference into the work of election commission should become the subject of public investigation.

## Violation stats by articles of the laws

Most common violations were related to these legal norms.

Article name	The law	reports
"Violation of restrictions of agitation, agitation during the day of referendum"	Administrative Code of Ukraine, Article 212-10	320
"Production or distribution of printed agitation materials that have no information about the organization that printed it, the number of copies, people responsible for the production".	Administrative Code of Ukraine, Article 212-13	219
"Financing of elections of deputies"	Law "On elections of people's deputies of Ukraine", Article 45	185
"Restrictions of agitation" (no data about the manufacturing)	Law "On elections of people's deputies of Ukraine", Article 74-22	184
"Restrictions of agitation" (indirect bribery of voters)	Law "On elections of people's deputies of Ukraine", Article 74-13	184
"Violation of order of agitation or political advertising placement or their placement in forbidden spots"	Administrative Code of Ukraine, Article 212-14	180
"Information posters and agitation materials" (information about production)	Law "On elections of people's deputies of Ukraine", Article 69-7	173
"Obstruction of realization of election rights"	Criminal Code of Ukraine, Article 157	141
"Freedom of agitation, equal access of candidates to media."	Law "On elections of people's deputies of Ukraine", Article 11-2, paragraph 6	110

"Restrictions of agitation" (agitation inside and outside the government and municipal buildings)	Law "On elections of people's deputies of Ukraine", Article 74-4	110
"Forms and tools of agitation" (sources of financing of agitation)	Law "On elections of people's deputies of Ukraine", Article 68	58
"Restrictions of agitation" (obstruction of agitation)	Law "On elections of people's deputies of Ukraine", Article 74-24	58
"Restrictions of agitation" (agitation on public transportation)	Law "On elections of people's deputies of Ukraine", Article 74-8	57
"General order of usage of media"	Law "On elections of people's deputies of Ukraine", Article 70	53

## Violations of other laws related to election

Although we restricted the subject of our monitoring only be election law we were getting the reports that described violations of other laws related to election.

**The law "On protection of personal data"** forbids transferring the personal data without the permission of its owner. People reported from all regions of Ukraine that their personal data was used in agitation. Candidates were using addresses, birthdates, information about special status and state benefits, etc. This data is not available publicly and could be obtained only from different state registrars.

We got about 300 reports of such violations. We had also got several very disturbing reports about the use of medical records for agitation, for example of kids with heart diseases. In any case the owners of this data had not given their permission to use it for distribution of election agitation.

**The law "On freedom of conscience"** prohibits the clergy to participate in political activities. However we got lots of documents about the agitation in churches or by the priests. Most of such violations were reported from Central and Western Ukraine unlike the presidential election of 2004 when most of such violations were reported from the East.

**The law "On education"** prohibits political activities in educational institutions during the studies. However there was widespread agitation in

schools during the campaign. We have documented 40 reports of it on September 1, the day the school starts. Such widespread cases of agitation at schools were not observed at any other election in Ukraine. There were reports of agitation in universities; one case of Nataliya Korolevska agitation before the huge audience of students was shown in most TV news.

**The law “On transport”** prohibits placement of political advertising on windows and doors of vehicles. This law is violated routinely without regards of any election; however the election added more ads that obstruct the outlook of passengers. Communication with drivers revealed that most have no clue about such norms of the law.

# Project Proceedings

## Election Monitoring Background

The team of “Maidan” has 10 years of experience of election monitoring, since parliamentary election of 2002.

In 2004 [site “Maidan”](#)<sup>xxv</sup> was the major information hub of Orange revolution, however in addition to that we accumulated the copies of tabulation results from 80% of voting stations abroad and designed and implemented the system of monitoring of election precincts “Night patrol”, which was later adopted by the Ministry of Interior for the “mobile groups” responding to reports of violations.

During the parliamentary election in 2006 we implemented big project which was finalized by the popular science book: “Rationalization of the Choice 2006: An Interactive comparison of voter expectations and the promises of political factions”<sup>xxvi</sup>. We carried out an interregional study in 10 regions of Ukraine that revealed substantial difference between the priorities of voters and politicians. We were able to accurately correct predictions about the infamous future of 5<sup>th</sup> convocation of Ukrainian parliament.

During the president’s election in 2010 we carried out the study: “Electoral tender 2010: rationalization of the choice, transparency of participants, and responsibility of a winner”. The results confirmed that none of these factors were really present at the election.

Election monitoring project was a spinoff of our long term project “Monitoring of observance of constitutional rights and freedoms in Ukraine”, started in 2011. Within this project in 2012 our team had received, verified and published 233 reports of violations of fundamental political rights and freedoms such as freedom of expression, freedom of information, freedom of conscience, and freedom of assembly. The idea of mapping the violations of civic and political rights in Ukraine was expressed in March 2011 by our team member Oleksiy Kuzmenko.

After the election we continue monitoring of political rights in Ukraine and plan to expand the number of rights monitored. The software, methodolo-

gy and technologies we created within monitoring projects will be used at the next elections of all levels.

## The Use of Map Data

One of frequently asked questions to project team was: “Do you appeal to prosecutor or courts about the violations?” Even the member of Central Election Commission [Mykhaylo Okhendovsky](#)<sup>xxvii</sup> answering the question with our project was mentioned voiced his resent of the fact that civic organizations are only reporting on violations and do not counteract to them legally.

However according to the legislation which was valid until 2013 the civic organizations could act online on behalf of their members and could not present public interest. Therefore we were limited in use of legal tools. We could appeal only in cases the rights of our members were violated (which did not happen) or use the mechanism of requests for information of citizens’ appeals.

All appeals we sent to government bodies were answered with formal blank replies (from Central Election Commissions, President’s Administration, Ministry of Interior) or much later than the legally required timeframe 30 days. One parliamentary committee sent us their interpretation of election law we requested on September the day after voting October 29.

All our requests for information were answered; some contained very interesting data like the one from Odesa regional administration where they confessed in systemic election fraud.

## Interaction with government bodies

### The Police

4 October, 2012 the Ministry of Interior launched an empty map of election violations<sup>xxviii</sup>, mimicking our map title (interactive map of election violations) and using the same open source software as we did. However that map did not list anything but date and location of incident. Not text, not even a title.

We had been corresponding with Ministry of interior since August trying to involve this institution into public counteraction to election violation. Until the President’s council on September 18 ministry was officially informing



us that they do not collect separate stats on election violations. After this event something had changed and the ministry started sending some infographics of violations stats where the percentage of agitation order violations was nearly identical to our data, but all other categories of violations did not match.

According to the official information of Ministry of interior during the election campaign the police issued 361 administrative protocols on election violations<sup>xxix</sup>, while only our map listed more than 1000 reports that required police reaction at least in form of administrative protocol.

Once the police reacted to our report on the map with an official objection to the part where the actions of policemen were mentioned related to election. However their objection had actually confirmed our information.

We do not know of a single case when the police initiated any actions based on information we published on the map.

## The Ombudsman

*Office of Ombudsman (Parliament Commissioner for Human Rights) offered us to join efforts at the very beginning of the project and this cooperation proven to be efficient.*

Widespread and outrageous use of administrative pressure in Odesa region had attracted attention of Ombudsman Valeria Lutkovska. On August 29 she met with the head of Odesa regional administration and based on our monitoring results voiced her concern<sup>xxx</sup> about the widespread facts of placement of flags of Party of Regions on administrative buildings. Before her visit the flags had been removed and did not appear again on administrative buildings at most locations.

The representative of the Ombudsman responsible for observation of electoral rights Mykhaylo Chaplyga actively reacted to reports of violations in our Facebook group, mostly those related to the use of administrative pressure. On the Election Day he promptly reacted to video evidence of violations published [on our Youtube channel](#)<sup>xxxi</sup>.

The major outcome of our cooperation was the introduction of warning signs at the polling stations stating that the surveillance cameras do not observe the voting booth.

## **The timeline**

September 23: “Maidan Monitoring” team and volunteers [sent an appeal](#)<sup>xxxii</sup> to the Ukrainian Parliament, Cabinet of Ministers and Central Election Commission demanding to provide transparency of upcoming parliamentary election.

We noted that according to polls 35% of Ukrainians consider cameras filming the district precincts a threatening measure, “big brother” that observes how people actually vote. Therefore we demanded placement of public and visible notices in district precincts explaining that cameras do not film the actual process of casting a vote.

October 9: We got the response from Central Election Commission that confirmed that there will be no warning sign that the voting booths are not being watched by the cameras.

October 15: During our press conference at the UNIAN agency in Kyiv the representative of the Ombudsman responsible for observation of electoral rights [Mykhaylo Chaplyga had supported the our concern](#)<sup>xxxiii</sup> about the surveillance webcams in polling stations as a possible tool of voters’ intimidation. He announced the intention to prepare and to submit an official appeal of the Ombudsman requesting placement of mandatory notices at all polling stations “you are not observed when you vote”.

October 19: We sent an appeal to the President requesting to put up this warning sign.

October 22: The Ombudsman Valeria Lutkovska sent a public recommendation to the head of Central Election Commission to require placement of such warning sign.

October 24: The Central Election Commission [issued a resolution](#) to place very visible text in every polling station “*there is no video surveillance in the voting booth*”.



**FIGURE 10: PHOTO OF SUCH NOTICE ON THE VOTING DAY**

After the election the office of Ombudsman has sent us the official acknowledgement about our fruitful cooperation. We will continue our cooperation.

## **Other government bodies**

We sent appeals and requests for information to other government bodies about the surveillance cameras and norms of election law. We got formal blank responses often not within the timeframe required by the law. The record was set by Ministry of Infrastructure that on December 5 sent us the response to request about the cameras we submitted on September 25 (the law requires the response in 5 days).

## **Interaction with participants of election**

Using the citizens' appeal mechanism we sent invitations to participate in the project to all 22 parties who registered their lists for elections. Nobody answered. Informal communication with staff of Party of Regions revealed that they created the election violations newsfeed on their site after learning about our project. Later the site dedicated to election violations was created by the party "Ukraine - Vpered", however it was just a simulation. No other party published regular newsfeed about the election violations

and reverse analysis confirms that they did not even collect such data systematically.

We were getting regular reports from local organizations of some parties (UDAR in Zaporizhzhya and Donetsk, Svoboda in Zhytomyr, Communist Party in Luhansk) and 20 individual candidates, mostly independent.

Our attempt to obtain tabulation results from local election commissions via the parties and candidates in Odesa, Kharkiv, Lviv, Kyiv regions and Kyiv city had failed. We got promises and no data. Only the group of volunteers from Ternopil managed to get all tabulation results (vote count protocols) for their region. No serious discrepancies were found in these protocols.

## International cooperation

During the project we:

- Distributed 11 original digests and 3 analytical reports in English,
- Presented the project to the managers and long term observers of international missions of CANADEM, OCSE, European Exchange, representatives of embassies of USA and Japan; we have been exchanging information about the election violation with all of them,
- Established informational partnership with the “Voice of America” that resulted in 3 news episodes in “Chas Time” TV program about our project. The website of Ukrainian version of the “Voice of America” had promoted our interactive map, the special blog was created where the results of monitoring were published<sup>xxxiv</sup> regularly (7 blogs total)
- Our project was featured in 3 publications of France24 TV channel including one big [news episode](#)<sup>xxxv</sup>; in prime time 2 days before the Election Day.
- Big interview about our project was broadcast before the Election Day on US Public Radio.

Our project was presented in:

- European Parliament<sup>xxxvi</sup> at the special debates<sup>xxxvii</sup> dedicated to election in Ukraine and civic society. 7 members of Europe-

an parliament participated, and [raised the question](#)<sup>xxxviii</sup> about the systemic character of election violations,

- At the National Endowment for Democracy in Washington, DC,
- At journalists' congresses in Moscow and Washington.

## Volunteers involvement

“The criminals are most afraid of publicity” – explains his participation in the project 42 year old psychiatrist from Donetsk region **Oleksander Melanchenko**.

Same feelings reveal the words of representative of other generation of activists. **Oksana**, the student from Ternopil, said that she decided to film the violations because of her indignation of “disregard of rights of citizens”.

Almost half a thousand Ukrainians spent their time to film with their cameras and phones the violations they witnessed. The demand for their efforts cannot be overstated.

Our objective was to “arm” our volunteers with skills and knowledge about the subject of monitoring. We have prepared methodology materials, accumulated in the “Election violation hunter’s handbook”<sup>xxxix</sup>. It contained full list of election violations that are persecuted according to Criminal Code and Administrative Code.

The knowledge was planted to fruitful land.

Our map lists reports from 467 volunteers, and 753 more have sent us the information that was not published on the map; however some were published in “Maidan” website newsfeed.

Once published on the map the thousands of photos and videos did not end as “dead weight” and only started their life, were distributed by the internet media, became the foundation of internet memes, demotivators, etc.

We have prepared several “motivators” – photo and video compositions that aimed at involving wide circle of people into monitoring process. The motivational pictures like the one below were seen by almost 100.000

users of Facebook (it is very high number of Ukraine) and Youtube. They invoked the legal disputes (for example, on the definition of “public transportation”) and attracted new volunteers into the project. It happened with the father of a boy on this photo:

**НА ВИБОРАХ 2012**  
подарунки кандидатів дітям  
це непрямий підкуп дорослих



**ПОБАЧИВ ТАКЕ?**  
1.Сфоткай 2.Перешли на  
<http://maidan.org.ua>

FIGURE 11: “DURING THE ELECTION 2012 THE GIFTS (OF CANDIDATES) FOR KIDS IS INDIRECT BRIBERY OF ADULTS. SEE THIS? MAKE A PHOTO AND SEND TO US!

The father had no idea of the picture taken, however he did not object to such use of the image of his son, but also joined the project and later submitted a detailed photo report about the violation in his own town near Kyiv published on our map.

Most of violation reports were coming from volunteers in Odesa region, Kyiv, Kharkiv and Donetsk region.

Peak of traffic to the map was on the Election Day October 28 when it was visited by 75.000 unique hosts.

The activity of volunteers varied greatly – from 1 to 156 reports from one person. Not all volunteers documented the violations themselves, some had just were sending information about the violation and others went to make photos or videos, sometimes it got travelling to other town.

Some reports on the map are the results of rare courage and reporter art. We are very proud that we could involve into our project talented journalists from distant towns whose reports could have been solid evidence in the courts... if the participants of elections needed it.

There were lawyers among the project volunteers that helped to classify the violations and discussed the ways to termination the violations. These public discussions encouraged other volunteers to try to terminate the violations themselves.

**Lubov Polishchuk** from Kyiv after consulting our lawyer tried to terminate the widespread violation in her city related to political advertising of Communist Party in metro and trolleybuses. Unexpectedly for herself she achieved her goal<sup>xl</sup>. She put the progress of her actions into a table.

#	Action	Outcome
1	Phone call to the manager of trolley line.	Efficient temporarily. Advertising was removed but appeared again later.
2	Phone call to management of municipal transportation service.	Not efficient. Manager was unreachable.
3	Letter to the Central Election Commission	Efficient. The CEC 3 days after receiving the letter contacted the Minister of Interior. Advertising disappeared completely.
4	Letter to the Prosecutor of Kyiv city	Efficient. A week after receiving the letter the prosecutor's office contacted Ministry of Interior. Advertising disappeared completely.
5	Copy of letter to	Partially efficient. Responded with letter inform-

Prosecutor sent to the management of municipal transportation service.	ing they were not granting permission of advertising placement. Advertising was removed partially.
--	--

6 Phone call to hotline of municipal transportation service.	Not efficient. Responded with formal blank letter about the responsibility of advertiser.
--	---

7 Phone call to hotline of Kyiv city administration.	Not efficient. Relied responsibility to advertising agencies.
--	---

8 Complaint to the police department.	Hard to evaluate. Responded with letter with promises to check the complaint when the advertising was removed completely.
---------------------------------------	---

Other volunteers shared their experience in terminating the violations without involving the government authorities. Sometimes it as enough just to ask to remove the party flag from a library of a bus and it was done without much debates. We collected such cases<sup>xli</sup>.

Photos of advertisement that announced violation beforehand (bribery of voters) made by a volunteer later, after the event, were used in court that confirmed the guilt of a candidate.

The volunteers of our internet centered project were not the legendary “office hamsters” the mythic group of people capable only of sharing content in social networks. Our project’s contributors were mostly experienced civic activists, activists of human rights, civic and political organizations.

The use of internet is the organic media for these people; it is one of channels of their social influence. This relates to the importance of the interactive map. It’s not just the internet tool; it is the real indicator of ability of civic society to influence the political situation in Ukraine.

The desire to make a difference was the main motive volunteers.



A 39 year old journalist from Odesa **Oleksa Yaroslavtsev** by participating in our project sought to protect the real will of people, “to punish thieves, to hold them accountable for administrative offence!”.

Oleksa involved friends into the project as well. They were reporting on violations, provided copies of documents.

Many volunteers coordinated their efforts via the specialized voluntary group in Facebook – the satellite of the project. There were 330 participants in the group during the election.

Group members often picked up on an issue reported by fellow members. A witness told about the violation in location and other people living nearby tried to look for similar violations around.

The efficient self-organization was facilitated by the fact that many volunteers knew the work of site “Maidan”, trusted its team, and regarded “Maidan” as the more transparent and convenient media to deliver the information about the violation that outraged them.

High and long standing reputation of “Maidan” team and the project managers ensured efficient online cooperation of experienced civic activists and targeted focused delivery of project results.

Trust in “Maidan” allowed to counteract the powerful factor that influenced many Ukrainians in autumn of 2012 – the fear.

The election campaign of 2012 differed from others by numerous attacks on opposition activists, pressure from law enforcement, attacks of unidentified “athletic youth”.

There are only few examples of many dozens.

August 25 “Ukrainska Pravda” informed: “The activists from Vidsich in Novograd Volynsky were beaten by unidentified persons because they distributed the leaflets against the speaker Volodymyr Lytvyn”.

September 10 “Ukrainska Pravda” wrote: “On Sunday in Kyiv the unidentified persons attacked the activists handling out the leaflets against Party of Regions”.

September 29 “Gazeta po-ukrainski” wrote: “The goons of a “regional” Ihor Lysov attacked activists... The police observed silently and did not react to appeal to stop the attack”.

This is background of decision making process of activists from different regions of Ukraine when enrolling into our monitoring project as volunteers. Apparently they did not allow being scared.

**Artem Fisunov**, a lawyer from Dnipropetrovsk, member of “Front zmin” party is straightforward; he said that he saw the threats from “representative of Party of Regions, the police, government officials, school managers”.

Collecting the violation evidence he “did count on media or international observers”, but saw as a major task to achieve the legal response of government authorities.

**Natalya Lyashenko**, an economist from Kyiv, member of “We are Europeans” civic movement, counted on attention of international community too. She said that the desire to inform the world about the violations were stronger than the fear.

“I did not care about informing our society since they know about the violations already and most do not care much”, she said.

“The only way to stop the possibility of violations is the close monitoring of the voters. The voters are the target of the violations, they are defrauded. In democratic countries the voter deception is a shame; it means the end of a career, voters do not accept the lie and resent it”, this is how Natalya explains the necessity of documenting the violations.

**Laura A. Dean**, a scientist from the USA, working on her research in Ukraine during the election campaign, is one of the international observers whose attention the volunteers planned to attract.

She thinks that the fears of volunteers about personal safety seemed to be well grounded.

On Election Day October 28 Laura A. Dean was in Kharkiv and volunteered to broadcast our news about election violations via “Maidan” [twitter account in English language](#)<sup>xlii</sup>. She learned about the “Maidan Monitoring”

project from her scientific advisor Erik Herron, Professor and Associate Chair in the Department of Political Science at the University of Kansas.

“According to news we were getting the volunteers and civic journalists that photographed the violation of election law and reported on it were in danger. We got many evidence and saw the video of attacks at reporters” – Laura recounts.

“It looks like someone hired people just to intimidate others right in polling stations; the threats always came from goons in black leather jackets. I have no evidence who those people were hired by, however most violations were in favor of Party of regions, so some connection might have been possible”, says the researcher.

The danger was not just the hypothetical situation for 46 year old civic leader **Volodymyr Khanas** from Ternopil. He said that he planned safety measures for volunteers beforehand based on previous experience.

“Long before the election we have established contacts with representatives of parties, candidates, media, and international observers. We informed the police officials and district election commission head of our activities. We had a permanent information exchange between the project team and the volunteers. The monitoring process confirmed our suspicions, the danger was coming from some parties, inadequate candidates and their teams, some members of election commissions and local government officials”, shares his experience Volodymyr.

Those who violated the law obviously did not like the publications on the map. During whole project’s timeframe there were attempts to publish disinformation on the map this discrediting it.

Once someone even posted a report signed by a secretary of US Embassy in Kyiv absolutely unrelated to project. All reports on map were premoderated and nobody but the editor saw it.

However on Election Day the attempts to obstruct the functioning of the map were not laughable any more. October 20 at 14:30 Kyiv time there was a DDoS attack at our servers launched that lasted for 40 hours. Attack involved the botnet of medium capacity for worldwide scale and big for Ukraine using about 40.000 infected computers. Other NGOs observing the election reported of attacks as well, however according to their reports the

signatures and number of attacking computers differed from our case. On this day the websites of opposition parties and politicians were attacked as well. In our case the botnet operator originated from Indian IP, but anyone could be using it from any location in the world.

We managed to partially localize the attack in two hours and the map started functioning again since 16:30. During these two hours the twitter translation was our only public news service.

“Maidan” website was safeguarded from the botnet at 20:00 and despite the lasting DDoS it was not affecting the access to our servers any more.

In the morning of October 28 our site was ranked 9 in “Media and periodicals” rating of Bigmir Top service. By the end of the day despite the lasting downtime it ranked 36. There were 75.000 hosts visiting that day.

The attack on site and record attention to it manifest the same phenomena – the recognition of high quality work.

The attacks on website could be considered the final accord in intimidation campaign against the civic and political activists of opposition parties and independent journalists during this election.

Evident strengthening of authoritarian style of Ukrainian government, the laws targeted at restricting the activity of citizens, leads to determination of activists to influence the domestic politics more actively.

Transparent internet platforms facilitating the organization of joint efforts around that goal will be more and more attractive to wide circle of civic and political activists. “Maidan” is still a unique example of such platform.

Most accurately our philosophy and future aspirations was described by 19 year old **Ihor Bilyk** from Ternopil. He described his experience of participation in “Maidan Monitoring” project: “I felt myself a part of a big process of establishing the justice”.

# Conclusions and recommendations

## **The election laws must be completely revised**

The results of our monitoring prove that the law “On elections of people’s deputies” should be cancelled.

Instead of this law and the laws on election of president and deputies of local councils as well as referendum law there should be a unified Election Code adopted with direct prohibition to change it over a long period.

The Election Code should contain in particular the real responsibility for election violations without the possibility to punish the competitors for their political activity.

There should be a severe responsibility foreseen for physical interference into the elections by people who have no legal rights to interfere.

Civic society should start organizing the lobbying campaign for new Election Code. The quality law should make it unnecessary for activists to spend time and nerves in election commissions over and over.

## **The website of the Central Election Commission should acquire a status of a document**

The important problem highlighted by that election is the absence of official status of website of the Central Election Commission. This applies to any other site of the government bodies in Ukraine; however unlike other sites the CEC site publishes information that calls for official status by its nature.

During two weeks after voting day the voting results published on CEC site were changed several times. The CEC members explained it to us by “refinements of protocols” while the local election commissions in questions knew nothing about these “refinements”. The nature of these changes is unknown; the order of input of the data into CEC site is not transparent and is hidden from civic control. Therefore many voters who have seen the changes themselves have no trust for published official results of election.

We consider it is critically important to introduce the legal responsibility of government officials for the validity and completeness of CEC site data, not

limited to voting results, because there were problems with validity of other information as well. Such responsibility should be mandated by the law.

### **Citizens should not rely on politicians and government to fight the election violations**

Our monitoring revealed (again) that the politicians do not document and fight against the election violations as a rule. The cases of terminations of violations by the politicians are rather exceptions than the rule. The only successful example during this election was the termination of electoral tourism by the CEC which was lobbied actively by the politicians.

Despite the public statements the systemic monitoring of violations of electoral law was performed by the Party of Regions. All other parties ignored this activity. Some majority candidates closely monitored the violations of their competitors and tried to terminate the violations using legal tools, however these candidates were really few.

In reality the statements of the media was the only way to fight the violations the candidates used.

Our monitoring confirmed that the citizens cannot rely on government bodies to fight the election violations. The police had officially reported of 4 times less violations than our interactive map had documented. It is important to remember that the “Maidan” team had no resources to document all violations.

Citizens who care about justice and fairness and transparency of the electoral process should cooperate to fight the violations.

Our experience shows that the citizens could terminate some election violations themselves if they have necessary knowledge and experience of communicating with authorities. However, the most citizens of Ukraine do not believe in such possibility and do not even try to do anything.

In our opinion the promotion of success stories about the termination of violations of political rights including the right to elect and to be elected should become the priority for civic society and the Ombudsman’s office.

### **Training of observers should be started long before the election**

The observers for the next elections should be start trained right now and the most vital thing they should be trained on is the basics journalists reporting skills. Simultaneously the journalists should be trained how to comment on legal issues correctly.

This election had shown that the observers were mostly prepared for “past war”, were oriented to document the violations that were happening before the parliamentary election 2012 based on old legislation. Being not prepared for new reality and rules even the experienced observers did not document some serious violations mostly because they did not realize you see a violation instantly.

Some violations especially related to tabulation of results were extended in time and required special equipment that could record video for long period of time. Logs of violations required repeated photos of the same object in different periods of time.

Some violations, especially related to fraud, were impossible to prove without in depth investigations that revealed the budget money flow. There were some very serious investigations like this, most notable by “TenderNews” show of TVi channel however due to information asymmetry they were not delivered to most voters at all.

“The Money” show of 1+1 channel produced several investigations (some based on our data) where they managed not to mention any name of a candidate or a party. Such type of information did not endorse conscious choice of voters in any way.

### **The system of information about the violations must be prepared now**

There is a vital necessity to develop the system of information of citizens about the violations for next elections. Due to catastrophic state with independence of the media in Ukraine the main carrier of such information may be only the Internet. So far only 8% of Internet users<sup>xliii</sup> in Ukraine consider Internet as a source of news and political information. We consider it critically important for this number to grow significantly.

The system should include all possible means of communicating of unbiased information about the election campaign, the violations and those who violate the law. The system should include independent media and

their internet resources, freelancers, civic journalists, and media resources of NGOs.

It is a very important task to build the system the way it works efficiently and consistently, served the public interest and would not be politically engaged.

Without such system it is not realistic to expect really free election and quality representation in all elected bodies.



# Project Methodology

## Project Objective

*"Violation found? Tell all about it!" An interactive internet-hub of documentary audio-visual information acquired by crowdsourcing about the violations during the elections of Parliament of Ukraine* – that was the official name of the project supported by the [International Renaissance Foundation](#)<sup>xliv</sup>, which we promoted under the name of “Maidan Monitoring: Election 2012”.

The project lasted since May 2012 until the official finish of election process in November 2012. Project budget was 340.000 hryvnas, 280.000 hryvnas were granted by the International Renaissance Foundation and 60.000 were the contributions of NGO members in form of volunteer work, services and equipment used. The formal NGO behind the project was the Civic Information and Methodology Center “Vsesvit”; it was implemented by the “Maidan” website<sup>xlv</sup> <http://maidanua.org> team that worked on three big election projects together before.

The main goal of the project was the collection, publication, distribution and attracting the public attention to documented and legally verified facts of violations of election law.

Achieving this goal required meeting another objective – to involve the significant amount of concerned citizens into the monitoring, documentation and distribution of these facts.

The project intended:

1. **To create the system** of collection, storage, classification, visualization, publication and distribution of documentary photo and video information created by active voters via crowdsourcing. The goal of the system was to discover the facts containing evidence of violation of electoral law during the Parliamentary election in Ukraine in 2012.

- *We created the system that could be and will be used at the next elections of different kinds.*

2. **To collect the real evidence for lawsuits on election violations**, involving monitoring efforts of active citizens – volunteers. 10 years of experience of “Maidan” of monitoring the election confirmed there is no hope that politicians would seriously aggregate the violation evidence. During the presidential election 2004 the vast portion of evidence of violations used by the Supreme Court was provided by the citizens who were sending news to “Maidan” and not by the party staff.
  - *The interactive map of violations contains 1637 verified reports of violations of election law with legal commentary.*
3. **To show the world how the election are held in Ukraine.** We knew that the international community will be observing the election with great attention, especially EU, USA and Canada. However the political culture of these nations excludes common Ukrainian discourse like “They stole our victory!” Instead they value the properly collected evidence within the legal framework.
  - *We established direct and fruitful contacts with all major foreign observation missions and presented our project in the European Parliament.*
4. To relieve the politicians of any **party affiliation** at least partially of **feeling of impunity**; to make them to explain their actions and engage into communication with voters.
  - *This task proved to be the hardest. Most progress has been made in cooperation with Ombudsman’s office.*

The results of the project exceeded the expectations of the team, as one of the outcomes we decided to add “Maidan Monitoring” to the name of our NGO. Our official name since the November 2012 is the Civic organization [“Maidan Monitoring” Information center](#)<sup>xlvi</sup>.

## The object of monitoring

“Maidan” monitored only the violations of laws “On elections of people’s deputies of Ukraine” and “On peculiarities of openness, transparency and the democracy of elections of people’s deputies of Ukraine on October 28, 2012”. We did not publish reports of violations of other laws during the

election campaign. Other NGOs that observed election used wider monitoring base, however it was our project that accumulated the biggest number of documented election violations.

We had focused our monitoring this way intentionally since the election law includes the built in control tools in Article 112 titled “Evidence”. We had no need to invent the metrics and tools for monitoring. Our activity was based methodologically on a law we monitored.

## Software and planning

We started our project with creating the website for visualization of violations attached to time and locations. We have used open source software [Ushahidi](#)<sup>xlvii</sup> as a core; however we had to expand its capabilities seriously to meet the objectives of the project. We have studied all 20+ projects of election monitoring maps of last 5 years, created with Ushahidi and other software, and corresponded with webmasters of these resources about the peculiarities of software usage.

We added software modules showing last photos and videos on a front page, regional classification of reports, added the list of Ukrainian locations, created dynamic stats that displayed digital data in real time.

We had carefully designed the site’s categorization based on election law. We were able to foresee most common violations; however few categories had to be added as a result of monitoring. We could not foresee great number of faults in election commission functioning and cases of obstruction of agitation. This is the first time in history of elections in Ukraine when these violations were widespread.

## Information verification

Serious researchers and international observers were asking us how we verify the information acquired via the crowdsourcing. At the start of the project we declared “12 principles of Maidan Monitoring”:

1. “Maidan Monitoring” acts based on the Constitution of Ukraine, Convention for the Protection of Human Rights and Fundamental Freedoms, Ukrainian laws.

2. “Maidan Monitoring” guarantees that its activities are nonpartisan and impartial. No commercial or political advertising could be published on our website.

3. “Maidan Monitoring” considers the reports of violation of civil rights and freedoms only accompanied by documented evidence of facts of violations (photos, videos, scans of documents) or by hyperlinks to an official document the existence of which we could confirm via the request for information.

4. “Maidan Monitoring” does not consider reports:

- anonymous;
- without documented evidence;
- about corruption activities that are not related to violations of constitutional rights and freedoms;
- about the private life of individuals (activities unrelated to work of government officials);
- about violations of constitutional rights and freedoms by individuals who are not the government officials and have legal no access to government authority;
- other information that is not related to violations of constitutional rights and freedoms.

5. “Maidan Monitoring” considers information of violation of constitutional rights and freedoms by government authorities as the report of violations by the appropriate authority as institution.

6. “Maidan Monitoring” guarantees every person or institution mentioned on our website the right to publish their unedited commentary. Every report of violation implies that we could request official commentary from the government institution or authority.

6. “Maidan Monitoring” verifies all reports of violations this way:

- check if the report is not anonymous (by contacting the author) and contains evidence,
- check whether it relates to violation of rights and freedoms,
- request to appropriate government authority asking for official commentary by email,

- if not response is provided by email, the request is repeated by recommended snail mail with delivery confirmation,
- official comment is published on our website.

7. “Maidan Monitoring”, in accordance with Article 24 of Constitution of Ukraine, presumes that “Citizens shall have equal constitutional rights and freedoms and shall be equal before the law”. We do not discriminate anyone based on race, skin color, political, religious, and other beliefs, gender, ethnic and social origin, property status, place of residence, linguistic or other characteristics.

8. “Maidan Monitoring” pre-moderates comments on our website preventing publication of texts that violate the Constitution of Ukraine, the laws, offend the honor and dignity of people.

9. “Maidan Monitoring” avoids conflict of interest of its team and the partners and publishes the information about violation of rights and freedoms of these individuals only if consensus of the board is reached and the person had signed that information personally with his real name.

10. “Maidan Monitoring” warns that no information published on our website could be considered as the statement of crime, establishing of crime is the prerogative of a court only.

11. “Maidan Monitoring” accepts donations from organizations and individuals based on principles of its transparent use and full reporting.

12. “Maidan Monitoring” declares that in case of changes of our policy these rules could be only expanded and not narrowed.

*As a result of this policy implementation we got only 7 objections to 1673 reports. All comments were published unedited.*

One objection was related to legal collision and we agreed with author. Second comment was informing us of a violation terminated. Third was a public dispute between the candidate and the editor of a newspaper about the publication of agitation. The dispute was settled in comments.

Three objections were related to publication of sociology data published without the required background information in one newspaper from Chernigiv; the editor debated the fact of violation. All his comments were published.

One objection was sent by the Ministry of Interior.

# Partners, Contributors and the Team

## Acknowledgements

*First and foremost the project team wants to thank the International Renaissance Foundation! Our project was implemented in full scale as planned exclusively due to their financial and consulting support.*

We are thankful to **Erik Herron**, Professor and Associate Chair in the Department of Political Science at the University of Kansas for providing his research on election video surveillance and advertising our activities in his blog and among the members of Central Election Commission.

Special thanks go to the member of European Parliament Pawel Zalewski for his invitation to debates in European Parliament and organization of our presentation in Brussels.

We want to emphasize the contribution of the representative of the Ombudsman responsible for observation of electoral rights Mykhaylo Chaplyga to our project.

We are thankful to all citizens of Ukraine who participated in monitoring of election law and our partners. Without their help we would not achieve such goals as:

- To deliver the voters the truth about different violations of election law, their geographical distribution and quantity,
- To share the success stories how to fight for their rights and freedoms and counteract the lawlessness,
- To arm the voters with knowledge how to control the election results in conditions of non-transparency,
- To tell voters that the process of casting the vote in voting both is not being surveyed.

## Volunteers who contributed most

**Volodymyr Khanas**, Ternopil, the organizer of the largest scale monitoring team of all participants of the project; who summed up and analyzed the violations in formation of local election commissions.

**Roman Bilyk**, Odesa region – greatest number of original photo and video reports of violations.

**Denys Saburkin**, Symferopol – most active monitoring of media and agitation in municipal facilities.

**Artem Fisunov**, Dnipropetrovsk, Civic Movement “Spilna Sprava” - detection and legal classification of systematic fraud.

**Viktor Ostafiychuk**, Kyiv – biggest number (129) of violation reports added to the map.

**Oleksa Yaroslavtsev**, Odesa, Information Agency “Poryad z vamy” – most number of reports from Odesa, efficient communication with the government authorities on the violations and substantial problems in access to information revealed during this communication.

**Yury Gradovsky**, Zhytomyr region, Svoboda party – biggest number of election related lawsuits per project participant, most interesting court rulings, and most reports from Zhytomyr region.

**Volodymyr Fedotov**, Khmelnytsky region – most convincing combination of journalism and monitoring.

**German Litvinov**, Odesa region - most persistent implementation reports of violations in legal practice.

**Laura A. Dean**, USA-Kharkiv – [election day monitoring tweets](#)<sup>xlviii</sup> who helped to keep our newsfeed alive during DDoS attack.

**Olha Solodushko**, Dnipropetrovsk, Civic Network OPORA – most detailed documented complicated violations.

**Lubov Polishchuk**, Kyiv – greatest persistence in removing electoral violations.

Also we want to mention the contribution of:



**Vitaly Ovcharenko** from Donetsk; **Ihor Isaenko** from Kharkiv; **Demetyj Belyj** from Kherson, Committee of Electors of Ukraine; **Natalya Lyashenko** from Kyiv, Civic movement “We are Europeans”; **Andrij Volchenko** from Kyiv; **Liudmyla Korolova** from Feodosia; **Oleksander Kobzar** from Lisichansk; **Pavlo Pushchenko** from Chernigiv, “Initiative” education center; **Oleksander Melanchenko** from Donetsk region; and **George V. Pinchuk**, USA.

## Official partners

[Office of Parliament Commissioner for Human Rights](#)

[«The Voice of America»](#)

[«Telekrytyka». Special project “Election and media”](#)

[Media Group Sumy News](#)

[Election: Chernigivshchina. Events and comments](#)

## Project team

**[Natalie Zubar](#)**, project manager. Analysis, planning, programming, communication with partners, volunteers, original English language texts, infographics.

**[Olexander Severyn](#)**, doctor of law, legal advisor. Legal evaluation of reports, legal analysis, communication with government authorities.

**[Viktor Garbar](#)**, system administrator. Project coordination, communication with partners and observation missions, management of servers, verification and edition of reports.

**[Oleksiy Kuzmenko](#)**, social media expert. Creation of motivational multimedia products of the project, project promotion in social networks.

**[Yury Lukanov](#)**, PR expert. Authoring of textual products of the project, presentation of its products (in particular, in European Parliament).

**[Viktor Pushkar](#)**, Ph.D., scientific consultant. Social and psychological analysis and final report.

**[Liudmyla Yamshchikova](#)**, content manager. Work with volunteers, reports processing, authoring of digests on progress of the project.

**Oksana Nesterenko**, doctor of law, legal expert. Legal evaluation of reports.

**Hennady Tokarev**, lawyer. Legal evaluation of reports.

**Yulia Bylyna**, senior editor. Verification and edition of reports.

**Borys Zakharov**, editor. Archiving of the project materials.

**Serge Danylov**, scientific consultant. Creation of methodology materials of the project.

**Andriy Romanov**, Ph.D., scientific consultant. Optimization of database processing.

**Vitaly Novikov**, software engineer. Website and services programming.

**Oleh Miroshnichenko**, interpreter. Translations into English.

**Serhiy Kapusta**, designer. Website design.

---

<sup>i</sup> Maidan's Interactive map of violations of election law

[http://maidanua.org/vybory2012/main?l=en\\_US](http://maidanua.org/vybory2012/main?l=en_US)

<sup>ii</sup> Observation, monitoring or supervision <http://aceproject.org/electoral-advice/election-observation/observation-monitoring-or-supervision>

<sup>iii</sup> Law "On election of people's deputies" (in Ukrainian)

<http://zakon2.rada.gov.ua/laws/show/4061-17>

<sup>iv</sup> Law "On peculiarities of openness, transparency and the democracy of elections of people's deputies of Ukraine on October 28, 2012" (in Ukrainian)

<http://zakon2.rada.gov.ua/laws/show/5175-17>

<sup>v</sup> Website of the Central Election Commission "Elections of people's deputies of Ukraine 2012" (in Ukrainian) <http://www.cvk.gov.ua/pls/vnd2012/wp001>

<sup>vi</sup> International Covenant on Civil and Political Rights

<http://www2.ohchr.org/english/law/ccpr.htm>

<sup>vii</sup> Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms

<http://conventions.coe.int/Treaty/en/Treaties/Html/009.htm>

<sup>viii</sup> Police attempts to detain opponents of Party of regions considering their thought unlawful (in Ukrainian)

<http://maidanua.org/vybory2012/reports/view/1533>

<sup>ix</sup> Fourth Fortnight of Parliamentary Election in Ukraine: Ballots thrown into Trash Can? <http://world.maidanua.org/2012/fourth-fortnight-of-parliamentary-election-in-ukraine-ballots-thrown-into-trash-can>

<sup>x</sup> Separate drawing of representation of election commissions would last for two weeks for each – Zabarsky (in Ukrainian)

<http://www.rbc.ua/ukr/vyboru/show/otdelnaya-zherebevka-po-kazhdoy-ui-k-zanyala-by-2-nedeli---14092012161700>

<sup>xi</sup> Working visit to Odesa oblast of the Commissioner of Parliament of Ukraine on Human rights Valeria Lutkovska (in Ukrainian)

[http://www.ombudsman.gov.ua/index.php?option=com\\_content&view=article](http://www.ombudsman.gov.ua/index.php?option=com_content&view=article)

---

[e&id=1984%3A2012-08-28-06-50-37&catid=14%3A2010-12-07-14-44-26&Itemid=75](http://www.youtube.com/watch?v=mKrePB3g7WQ)

<sup>xii</sup> Tender News: Most state budget sponsored election districts (in Ukrainian) <http://www.youtube.com/watch?v=mKrePB3g7WQ>

<sup>xiii</sup> In Lutsk rajon administration the Party of Regions is treated differently (in Ukrainian) <http://oporaua.org/news/2286-u-luckij-rda-partiju-regioniv-vvazhajut-osoblyvoju>

<sup>xiv</sup> Kyiv police considers the agitation against Party of Regions illegal be definition? (in Ukrainian) <http://maidan.org.ua/2012/09/kyjivska-militsiya-vvazhaje-scho-ahitatsiya-proty-pru-je-za-vyznachennjam-nezakonnou/>

<sup>xv</sup> “Indirect bribery”. Legal positions (in Ukrainian) <http://maidan.org.ua/2012/08/oleksandr-severyn-nepryamyj-pidkup-pravovi-pozytsiji/>

<sup>xvi</sup> The court in Novy Bug imposes fines for critique of Party of Regions (in Ukrainian) <http://maidanua.org/vybory2012/reports/view/1556>

<sup>xvii</sup> The court in Kirovograd region supported the lawsuit of Party of Regions. The Central Election Commission issued a warning (in Ukrainian) <http://maidanua.org/vybory2012/reports/view/1638>

<sup>xviii</sup> Court bans public meetings of Arseniy Yatsenyuk on local government’s request in Kharkiv (in Ukrainian) <http://maidanua.org/monitor/reports/view/298>

<sup>xix</sup> Ukrainians Demand Votes Counted Online <http://world.maidanua.org/2012/ukrainians-demand-votes-counted-online>

<sup>xx</sup> Big Brother Will Be Watching Voters at the Polling Stations on October 28th <http://world.maidanua.org/2012/big-brother-will-be-watching-voters-an-the-polling-station-on-october-28th>

<sup>xxi</sup> Analyzing Elections In Post-Soviet Eastern Europe And Eurasia <http://vse-na-vybory.blogspot.com/>

---

<sup>xxii</sup> Big Brother Surrenders! Voters will be Informed They are not Watched when Casting a Vote <http://world.maidanua.org/2012/big-brother-surrenders-voters-will-be-informed-they-are-not-watched-when-casting-a-vote>

<sup>xxiii</sup> “Election 2012: who and why the voters are going to vote?” National opinion poll by “Democratic Initiatives” Fund and Kyiv International Institute of Sociology September 12 – October 4 2012. (in Ukrainian) [http://dif.org.ua/modules/pages/files/1349695658\\_2042.doc](http://dif.org.ua/modules/pages/files/1349695658_2042.doc)

<sup>xxiv</sup> Only 1 of 13 polling stations of Obukhiv displayed tabulation results (in Ukrainian) <http://maidan.org.ua/2012/10/z-13-ty-obuhivskyh-dilnyts-lyshe-na-odnij-vyvisyly-protokoly/>

<sup>xxv</sup> Site “Maidan” <http://maidanua.org>

<sup>xxvi</sup> “Rationalization of the Choice 2006: An Interactive comparison of voter expectations and the promises of political factions” ISBN 966-7893-76-6 (in Ukrainian) <http://maidan.org.ua/files/vybory2006/MB4.pdf>

<sup>xxvii</sup> Observations about Ukraine's Upcoming Election, Part 2 [http://vse-na-vybory.blogspot.com/2012/09/observations-about-ukraines-upcoming\\_18.html](http://vse-na-vybory.blogspot.com/2012/09/observations-about-ukraines-upcoming_18.html)

<sup>xxviii</sup> The police launched an empty election violation map. (in Ukrainian) <http://maidan.org.ua/2012/10/militsiya-zapustyla-kartu-vyborchyyh-porushen-porozhnyu-u-kosmos/>

<sup>xxix</sup> During election campaign the police issued 361 protocols about the violations. (in Ukrainian) <http://maidan.org.ua/2012/11/pid-chas-vyborchoji-kampaniji-militsiya-sklala-361-adminprotokol-pro-vyborchi-pravoporushennya/>

<sup>xxx</sup> Lutkovska checked the reports of election violations (in Ukrainian) <http://maidan.org.ua/2012/08/lutkovska-pereviryla-povidomlennya-pro-porushennya-vyborchoho-zakonodavstva/>

<sup>xxxi</sup> Ukraine Report – Maidan’s channel on YouTube <http://www.youtube.com/user/ukrainianreport>

- 
- |  | Ukrainians | Demand | Votes | Counted | Online |
|--|------------|--------|-------|---------|--------|
|--|------------|--------|-------|---------|--------|
- xxxii <http://world.maidan.org.ua/2012/ukrainians-demand-votes-counted-online>
- xxxiii Ukrainian Ombudsman's Office Advertises Civic Central Election Commission Initiative <http://world.maidanua.org/2012/ukrainian-ombudsmans-office-advertises-civic-central-election-commission-initiative>
- xxxiv Блог «Майдан Моніторинг» на Голосі Америки <http://blogs.voanews.com/ukrainian/election-monitor/>
- xxxv A free and fair vote in Ukraine's parliamentary elections? <http://www.france24.com/en/20121026-a-free-and-fair-vote-in-Ukraine%3F#comments>
- xxxvi "Maidan Monitoring: Election 2012" project was presented in European Parliament. <http://world.maidanua.org/2012/maidan-monitoring-election-2012-was-presented-in-european-parliament>
- xxxvii Debates on Civil Society Role in Ukrainian Election at the European Parliament <http://world.maidanua.org/2012/debates-on-civil-society-role-in-ukrainian-election-at-the-european-parliament-video>
- xxxviii Ukraine: are the observed irregularities of the election campaign the reason to cancel the elections? <http://www.pawelzalewski.eu/en/ukraine/799,ukraine-are-the-observed-irregularities-of-the-election-campaign-the-reason-to-cancel-the-elections.html>
- xxxix Election violation hunter's handbook (in Ukrainian) <http://maidan.org.ua/posibnyka-myslyvtsya-za-vyborchymy-porushennyamy/>
- xl Lubov Polishchuk. Sometimes it is worth to check if that works. (in Ukrainian) <http://maidan.org.ua/2012/10/lyubov-polischuk-inodi-krasche-pereviraty/>
- xli Just say "no!" The elections are not restricted to a voting day. (in Ukrainian) <http://maidan.org.ua/2012/10/prosto-skazhy-ni-volevyavleniya-robytsya-ne-lyshe-u-den-vyboriv/>
-

---

<sup>xlii</sup> Election monitoring tweets <http://world.maidanua.org/2012/election-monitoring-tweets>

<sup>xliii</sup> Election 2012: opinion polls and media monitoring. Post release. <http://prostir-monitor.org/index2.php?PGID=150>

<sup>xliv</sup> International Renaissance Foundation <http://www.irf.ua/>

<sup>xlvi</sup> History of Maidan <http://world.maidanua.org/history-of-maidan>

<sup>xlvi</sup> About Maidan Monitoring Information Center <http://world.maidanua.org/about/maidan-monitoring-information-center>

<sup>xlvi</sup> Ushahidi Platform <http://ushahidi.com/>