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NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

Before the

**COMMISSION ON SECURITY AND COOPERATION IN EUROPE
OF THE UNITED STATES CONGRESS**

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**PUBLIC HEARING ON
UKRAINE'S UPCOMING ELECTIONS: A PIVOTAL MOMENT"**

Mr. Chairman and Distinguished Members of the Commission:

Thank you for this opportunity to comment on next October's Ukrainian parliamentary elections. NDI applauds the Commission's decision to hold this hearing at this juncture. Although election day is several months off, important decisions are being made now. Ukraine's Constitutional Court recently invalidated portions of the parliamentary election law. Territorial and precinct election commissions will soon be chosen. Opora, the major domestic nonpartisan election monitoring group, is beginning to issue reports, and the parties with which NDI and IRI work are drawing up their plans for protecting electoral integrity.

Moreover, it is established international practice to evaluate all parts of the election cycle as well as the broader political context that affects the character and quality of elections, as called for in both the Declaration of Principles for International Election Observation and the Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizens' Organizations, which are supported by the UN Secretariat, OSCE-ODIHR, NDI and other key international organizations. The Global Principles, which were launched on April 3 in a ceremony at the UN, are also endorsed by 165 citizen election monitoring organizations in 65 countries

In fact, the Ukrainian government and its critics agree that this election should be viewed in a broader political context. The government asserts that it is preparing to hold a fully democratic election, one that will demonstrate its ability to balance strong centralized governance with democratic values sufficient to justify European Union membership.

Unfortunately, this notion of balance remains wishful thinking, despite the efforts of some well-intentioned people in the current government. In the electoral arena, there was a promising start with a democratic election in 2010 when President Yanukovich came to power. Since then the only nationwide elections under Ukraine's current administration, local elections in fall 2010, were flawed in the view of credible domestic and international observers, including NDI. That

tainted performance undermined confidence among the opposition that this government would uphold international and domestic standards for fair elections. Long and opaque deliberations over a new parliamentary election law fueled further mistrust in the electoral process. And, in a troubling development, international observers were not allowed to monitor critical aspects of the vote count in the March local election in the Kyiv suburb of Obukhiv.

The last two years have also seen a general deterioration of political pluralism in Ukraine. The ruling party has gradually taken control over most institutions of government. In addition to the new parliamentary election law, the last two years have seen the jailing of the most popular opposition politician, former Prime Minister Yulia Tymoshenko; constitutional changes to strengthen the presidency relative to parliament; and greatly expanded control by the Party of Regions over local governments as well as law enforcement and regulatory authorities. Ukraine's courts, including the Constitutional Court, have rebuffed challenges to all of these changes. In Freedom House's Freedom in the World index, Ukraine dropped from 'free' to "partly free" under the current government.

At the same time, Ukraine still benefits from strong democratic voices and alternative points of view. In the election law debate, for example, opposition parties marshaled media and public attention, and were able to negotiate significant changes to the law. The presence of viable opposition sets Ukraine apart from most of its ex-Soviet neighbors.

The international community can use both words and deeds to guard against the erosion of democratic rights in Ukraine. The primary driver of positive change, however, will be the Ukrainians themselves. And, there should be no mistaking Ukrainians' desires. A common refrain among certain commentators is that Ukrainians are either apathetic about political life or ready to sacrifice democratic institutions and principles for a 'strong hand' in governance.

Neither is true, and both do disservice to Ukrainians' aspirations. While citizens express disappointment with their political leaders, they do care about the direction of their country, as evidenced by the growing numbers participating in peaceful protests. Recent increases in demonstrations and in the "protest mood" have been documented by pollsters and by civil society, including an NDI partner, the Center for Society Research.

The all too common wisdom that Ukrainians will sacrifice democracy for progress on bread and butter issues is also false. Ukrainian civic groups have successfully married the two concerns in an advocacy campaign on freedom of assembly. Thousands of Ukrainians have signed petitions that call upon the government to allow freedom of assembly as a means of protecting their economic rights. Polling supported by NDI along with Lake Research Associates prior to the petition campaign showed that Ukrainians are well aware of threats to democracy and individual civil liberties, notably political influence over the judiciary.

As the election approaches, Ukrainian civil society will become more active, particularly in monitoring and reporting on threats to electoral integrity.

Five key issues are most important to restoring some measure of credibility to the Ukraine's electoral process.

1. Government impartiality in the administration of the elections. This means no misuse of governmental resources and authority in support of a candidate or party, including abuse of the taxing or licensing and regulatory powers of government, or governmental pressure on courts involved in such things as candidate registration.
2. A campaign environment in which candidates, campaign activists and observers can operate free of harassment and intimidation.
3. Transparent and equitable formation of territorial and precinct election commissions.
4. Respect for, and adherence to the legal framework for elections, and for the compromise that was negotiated between government and opposition when the law was ultimately passed.
5. A post-election environment free from pressure or incentives to induce deputies to switch allegiances. This was a major problem following the 2002 parliamentary elections, the last time Ukraine used a single mandate system. The opposition party won the greatest number of seats but because of post-election defections, the pro-governmental bloc eventually formed a parliamentary majority.

Observers from Opora have been monitoring in every oblast since early April. In July, the group will deploy additional observers to the 225 electoral districts. On election day it will field up to 3,500 observers. With NDI's technical support, Opora will be able to draw accurate conclusions about the fairness of the election nationwide, based on its observation in a statistically representative sample of polling places.

Opora will report on electoral processes and incidents not only in monthly press conferences, but as they happen. It will employ sophisticated data visualization techniques to display maps of electoral violations online. It will circulate reports using email and social networks as well as traditional methods. These efforts will enable Ukrainian citizens and international groups to react immediately to electoral events.

Opora will also work with other groups to post verified reports from ordinary citizens, using the "crowdsourcing" techniques that played an important role in recent Russian elections. In all of these efforts, the organization will also cooperate with the OSCE, and other nonpartisan domestic and international election monitoring groups.

In addition to Opora, NDI hopes to support a monitoring effort by the European Network of Election Monitoring Organizations (ENEMO), a network of the leading nonpartisan monitoring groups from the former Soviet Union and Central and Eastern Europe. Its members, who have observed previous Ukrainian polls, are well versed in the country's electoral process.

Opora, ENEMO and other monitors can give Ukrainians the crucial information they need to demand from their government clean elections as part of a genuine, long-term commitment to democracy. We hope that all of those here who care about Ukraine will help to amplify the findings of these credible monitoring efforts.

Again, thank you, Mr. Chairman and Members of the Commission for holding this hearing and for the opportunity to speak today. For those who are interested, I have put copies of Opora's reporting schedule on the table in the hearing room.