

An Independent Integrity Assessment of the CHESNO Movement, Ukraine

Executive summary

The objective of the "Filter the Rada!" CHESNO campaign was to monitor the political integrity of the parliamentary candidates running in the 2012 elections. Similar campaigns have taken place in South Korea, Romania, Czech Republic, Bulgaria, Albania, Kosovo, Moldova and Slovakia, with mixed results. This campaign is assessed by the following factors: representativeness of the assessors for the broader civil society (representative mandate); autonomy of the assessors from any party control (independence from political interest); availability of sufficient quality information from reliable sources to document the criteria for every candidate (information accessibility and accuracy); impartiality of information treatment so that no candidates are discriminated against and the exercise enjoys public credibility (due process).

1. Representative mandate

Under **representative mandate**, the assessment found that the CHESNO methodology ensured that a significant coalition of NGOs and individual volunteers assembled under the banner of the campaign. The CHESNO Movement was initiated by the 12 organizations in the "New Citizen" partnership and more than 150 public organisations from over 35 cities of Ukraine. A horizontal network was set up with one central and 25 regional coordination councils to coordinate the Movement's operations. CHESNO also trained civic volunteers who helped with the activities.

Furthermore, the integrity criteria¹ were checked by a sociological survey after being produced through large civil society consultation. According to a sociological study conducted by Democratic Initiatives Foundation in December 2011 the vast majority of Ukrainians endorse CHESNO integrity criteria with support to different criteria ranging from 66% to 81% of Ukrainians.² We therefore consider that the campaign was representative for the aspiration to integrity in politics of the broader Ukrainian civil society.

2. Independence from political interest

Following detailed interviews, including with critics of the campaign, examination of results, the coverage of media and the public responses of political parties we assess that no single political or interest group managed to control the campaign, which remained largely autonomous and reflecting civil society values. The best indicator of its success is the equal criticism leveled from all political parties towards the civic activism following the result that nobody featured significantly better in the CHESNOmeter integrity evaluation. The attempts to influence results existed, but seem to have been the result of individual dishonesty and the organization was sufficient to check on them in an early stage, eliminating activists who attempted to use the campaign for their own interest or other parties.

3. Information accessibility

The CHESNO Movement used only information from open and publicly accessible sources. This was done in compliance with Article 5 of the Law "On Protection of Personal Data" according to which personal data on any person who occupies, or claims to occupy, an elected office are not regarded as classified information. Primary data was collected and verified by analysts, but also there was a mechanism for each citizen to provide data, which was afterwards checked. There were around 200 files sent to CHESNO from journalists and concerned citizens. 70 media were used as sources: they had to have transparent ownership,

¹ The following integrity criteria were used:

- I. the absence of facts on human rights and freedoms violation;
- II. invariability of political position according to the voters' will;
- III. non-participation in the actions of corruption;
- IV. transparency of declared incomes and property and consistency related to their lifestyle;
- V. personal voting in the parliament;
- VI. participation in the sessions of the parliament and the work of the committees.

² http://dif.org.ua/en/polls/2011-year/usi-kriterii_-vidileni-gromadskih-ruhom-chesno-dlja-ocinki-deputativ-ta-kandidativ-u-deputati_-viznani-gromadskoyu-dumkoyu-vazhlivimi.htm

a clear editorial board and to mention the author of the publication to have been considered trustworthy. Also many official open sources were used: these included governmental websites, court decisions and official archives. All the materials and links were posted under each candidate's profile, which allowed users of the website to check on the information. Except for young candidates entering politics for the first time, information seems to have been sufficient to allow analysts to create profiles of the candidates.

4. Due process

73 analysts worked in the monitoring. Reviewing information for accuracy is one of the most sensitive parts of CHESNO's work and the right controls seem to have been in place to ensure that an impartial process existed where no single person could have profiled a candidate unchecked by others. After verification by analytical team, these profiles were sent to the legal team which checked all the facts and when there was not enough convincing evidence presented, didn't allow to proceed with the file. After that the profile was presented to the Coordination Council that should decide on each profile and this decision should be made by consensus. The process described here has enough checks and balances: compared to other campaigns in South Korea and the Balkans the legal checking seems to have been very thorough, which is reflected in the insignificant number of threats of libel law suits.

The completed individual profiles were sent prior to the publication to the party of the candidate or the candidate himself. Candidates were offered three days to react and challenge their profile. If sufficient counter-evidence was presented the Coordination Council could decide to change the profile of the candidate. The assessment team believes that in the future it will be useful to openly publish on the website all the communications (emails, letters) between the team and the candidates or parties. It would also be better to allow more time to candidates to respond and make sure they are informed.

Overall assessment

Political integrity is a public good, and information campaigns of this type stimulate civic activism, citizen participation and finally enlightened voting. This assessment found that process of the campaign was organised effectively. The CHESNO campaign had the right

objectives and employed in good faith a sound methodology: inherent errors were corrected during the process.

Impact assessment of the campaign shows that it was successful. The perception of the independent media and observers interviewed by us was that the CHESNO campaign seemed to be non-partisan (indicator of this can serve the fact that all parties in parliament had low scores on the CHESNOmeter – accordingly, the chances are low that one of the parties received a preferential treatment by CHESNO). On the other hand it addressed touchstone issues of corruption and good government at the top of ordinary voters' list of concerns³, around which even the governing parties had to build their (PR) campaigns. In October and earlier, for example, the media made great play of the CHESNOmeter's sixth criterion to list the laziest or most absentee MPs. CHESNO's record in this respect was evaluated by media analysts as superior to many political parties, who failed to run newsworthy campaigns.⁴ The success on placing integrity high on the political agenda seems beyond doubt. The 'CHESNOmeter' was newsworthy and it provided a good centrepiece for a wide range of stories for the media. The resulting debate influenced reporting on mainstream TV. The campaign was also successful in involving more people than ever before, particularly in the deep country, in the effort to assess candidates and inform voters. While impact on participation and on agenda-setting was high, it will need more time and research to estimate the effect on voters. The main problem is that a poor electoral offer (candidates with integrity problems from all main parties) limits severely the choice of voters and the potential direct electoral impact of such a campaign. This suggests that while monitoring of integrity during elections is highly visible and quite impactful for the agenda, permanent civil society work is needed between elections to encourage parties, for electoral advantage if not deep belief, to set up permanent internal monitoring of integrity and ethical committees to screen their own representatives.

³ Tadeusz Iwański, 'Public feeling in Ukraine ahead of the parliamentary election', 14 September 2012, <http://www.osw.waw.pl/en/publikacje/osw-commentary/2012-09-14/public-feeling-ukraine-ahead-parliamentary-election>

⁴ Conversations with the team, 31 October 2012.

Main Report

Background

A research team from the European Research Centre for Anti-Corruption and State-Building (ERCAS) in Berlin was contracted by Pact's USAID-supported UNITER project for conducting an independent assessment into the political integrity campaign of CHESNO in Ukraine (2012). The aim of this assessment was to verify whether members of this campaign themselves adhered to the highest international standards of information collection and treatment. The assessment team was formed by Professor Dr. Alina Mungiu-Pippidi, director of ERCAS, Aram Khaghaghordyan, Principal Researcher and Professor Dr. Andrew Wilson (University College London). The results of the independent assessment are presented in this report.

The CHESNO Movement⁵ is an initiative of civic activists and members of the New Citizen civic platform, a coalition of the leading Ukrainian NGOs incubated and sponsored by Pact's USAID-supported UNITER project, and co-sponsored by the Swedish International Development Agency (SIDA), Canadian International Development Agency (CIDA), International Renaissance Foundation and other donors. CHESNO campaign aimed to enhance transparency and fairness of the parliamentary election in Ukraine, which took place in October 2012, and to promote accountability of the political parties and candidates.

ERCAS assessed the CHESNO methodology for candidates' integrity assessment by examining design, implementation, data collection, data management, data verification, data analysis, communication of results, etc. In addition, the management of stakeholders, such as political parties, were reviewed. The fieldwork took place in October and November 2012. The ERCAS team conducted site visits to Kyiv, Donetsk, Luhansk and Lviv where more than 30 interviews and meetings took place. The interviewees were representatives of different political parties, civil society, donors, media and CHESNO founders and activists.

⁵ From Ukrainian to mean 'honestly'

More than 150 NGOs from over 35 cities of Ukraine united into a horizontal network of regional CHESNO sites.⁶ The campaign began on 29 October 2011, when Kyiv Coordination Council for CHESNO was formed and civic activists developed main principles for the campaign.⁷ The CHESNO initiators' goal was to 'cleanse' the future parliament of unworthy deputies. The Movement participants launched the *Filter the Rada!*⁸ campaign, developing six criteria of integrity to be met by People's Deputies of Ukraine. Additionally, current members and 2012 parliamentary candidates were to be examined for compliance with these criteria. The campaign consisted of three stages: i) examination of People's Deputies to the Verkhovna Rada of the sixth convocation; ii) examination of candidates for People's Deputies to the Verkhovna Rada of the seventh convocation; iii) informing voters about the examination results.⁹

Similar campaigns have taken place in South Korea, Romania, Czech Republic, Bulgaria, Albania, Kosovo, Moldova and Slovakia, with mixed results. The need for more political integrity is everywhere clear (as expressed in the country scores of Corruption Perception Index of Transparency International, the Freedom House Nations in Transit and the Global Integrity Index—and nowhere clearer than in Ukraine, whose score on corruption in all these indicators is inferior to the countries cited¹⁰). The Figures 1a and 1b show the aggregate score for Control of Corruption from World Bank (which includes all these measurements). Between 1998 and 2011, Ukraine did not manage to evolve from the lower bottom quarter of the 0-100 ranking, despite some temporary improvement after the Orange Revolution. Its performance against other countries from the former Soviet Union or the Warsaw Pact, like Romania and Bulgaria, remains dismal. Ukraine is only comparable with Russia and is left

⁶ <http://www.chesno.org/background/>

⁷ It consists of 12 organisations, including Internews Ukraine, Institute of Mass Information, Committee of Voters of Ukraine, Center for Political Studies and Analytics, Media Law Institute, Democratic Initiative Foundation, Suspilnist Foundation, Anti-raider Union of Ukraine, Narodna Solidarnist, Ukrainska Sprava, and Kholodnoyarska Initiative, with Center-UA being the leading coordinating NGO.

⁸ From Ukrainian to mean 'cleaning up' the Parliament

⁹ http://www.chesno.org/media/files/08_2012_CHESNO_Methodology_updated.pdf

¹⁰ According to the Transparency International Corruption Perception 2012 Index, Ukraine ranked 144 from 174 countries, and its overall rank is 64 out of 100, according to the Global Integrity 2011 Index (available at <http://www.globalintegrity.org/report/Ukraine/2011>).

behind not only by the Baltics and Georgia, older performers, but also by Moldova, an extremely poor country stalled by ethnic conflict. The discretionary use of the judiciary in the sentencing of former PM Yulia Tymoshenko was also criticised by OSCE and has contributed to the distrust in the impartiality of official anticorruption.

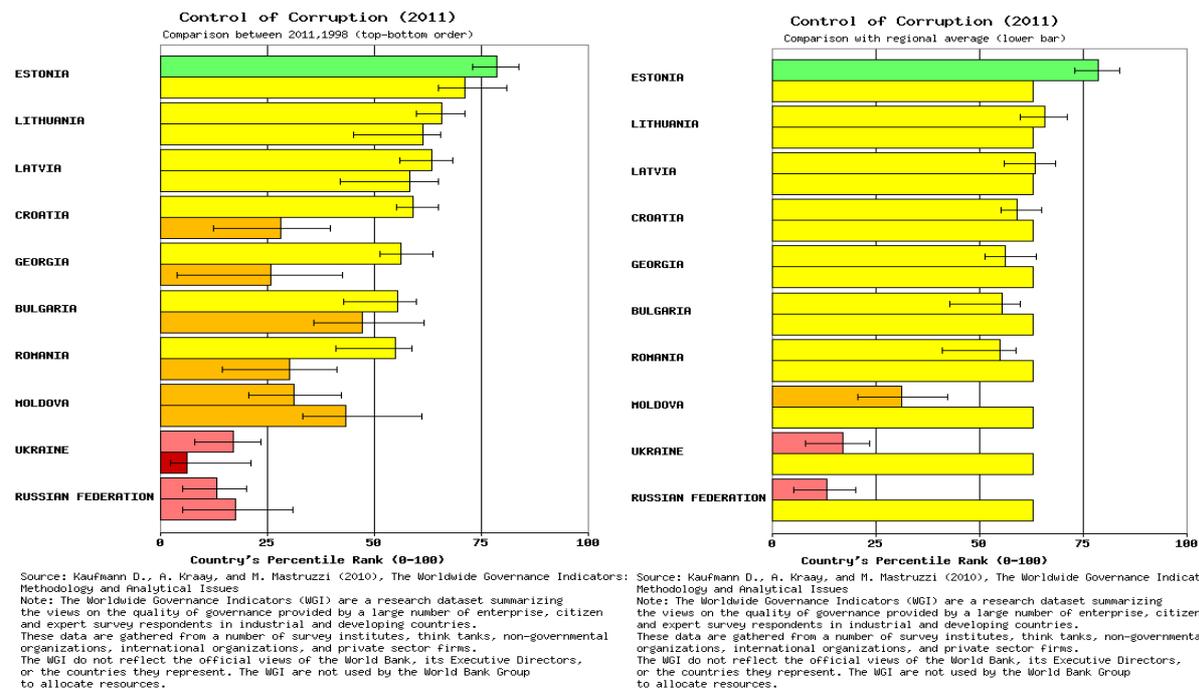


Figure 1a and 1b. Evolution of Ukraine between 1998 (bottom) and 2011 (top); Comparison of Ukraine against average of Control of Corruption indicator (bottom line); horizontal black lines overlap indicates change is within confidence error.

The experience of other countries with grassroots campaigns using electoral competition as a vehicle for creating incentives for integrity for candidates and empowering voters through unbiased information shows that success depends however on a number of factors that will be used as main criteria in this assessment. These include the degree of:

- **the representativeness** of the assessors for the broader civil society (representative mandate);
- autonomy of the assessors from any party control (independence from political interest);
- availability of sufficient information from reliable sources to document the criteria for every candidate (information accessibility);

- impartiality of information treatment so that no candidates are discriminated against and the exercise enjoys public credibility (due process).

It should be underlined that the overall environment of the election campaign, although less violent than in Kosovo, was however more challenging than in other comparable countries.

As the ODIHR-OSCE elections observations report puts it:

The [election] campaign was visible and active overall, in particular in urban areas, and was competitive in most of the country. However, the ability of candidates to get their messages to voters and to compete under equal conditions, in accordance with paragraphs 7.6 and 7.7 of the 1990 OSCE Copenhagen Document, was negatively affected in a significant number of electoral districts due to harassment, intimidation and misuse of administrative resources. This misuse demonstrated the absence of a clear distinction between the State and the ruling party in some regions, contrary to paragraph 5.4 of the 1990 OSCE Copenhagen Document¹¹.

¹¹ <http://www.osce.org/odihr/elections/96675>

1. Representative Mandate

Under representative mandate, the assessment found that the CHESNO methodology ensured that a significant coalition of NGOs and individual volunteers assembled together and consulted with the objectives of the campaign and therefore representative of the broader Ukrainian civil society.

In the end of 2011, members of the Kyiv coordination council presented the Movement in 25 oblasts of Ukraine, establishing regional coordination councils in each oblast to ensure nation-wide participation. Each CHESNO regional coordination council consisted of up to 30 local activists, journalists and representatives from local NGOs and the private sector. On average, 80% of the regional platform members were represented by NGOs, 15% by independent activists and 5% by small and medium enterprises.¹²

A horizontal network, with one central and 25 regional coordination councils, has been set up to control the Movement's operations as carried out by the CHESNO Movement representatives according to established responsibilities for various activities.¹³ Among the Movement's ambitious goals were the creation of a regional network of coordination centres, the collection and analysis of information about candidates and the implementation of advocacy campaigns. CHESNO also trained civic volunteers who helped with the activities.¹⁴ Those volunteers were not paid, but were committed, motivated and interested to participate in the Movement.¹⁵ For transparency reasons, CHESNO Movement published on their website the names and in many instances pictures of volunteers and coordinators from each region with their contact details, if available.¹⁶ Through direct communication,

¹² Modification of assistance agreement between Pact Inc. and USAID, which provides rights and costs to support the election activities, specifically CHESNO campaign (July 2012), p. 9.

¹³ Interview with the CHESNO organisers (14 November 2012).

¹⁴ Interview with donors (15 November 2012).

¹⁵ Interviews with local activists from Lviv, Donetsk and Luhansk (13 and 16 November 2012).

¹⁶ <http://www.chesno.org/regions/>

websites and a social networks campaign, CHESNO has mobilized over 1,500 activists all over Ukraine.¹⁷

To enhance CHESNO regional network, Centre UA engaged more students and youth organizations in the CHESNO Movement.¹⁸ In partnership with Molodizhna Varta, a coalition of more than 30 youth active organizations acting on the territory of the whole of Ukraine, Centre UA conducted seven big Youth Forums. The events took place in October 2012, gathering young activists in macro-regions from all oblasts.¹⁹ Each Forum gathered from 100 up to 250 young people, representing different areas and communities. These half-a-day forums included a discussion with public leaders, CHESNO representatives and Molodizhna Varta leaders and were followed by a direct action event in the city (flash-mob) and some informal activity in the evening. Further on, attendees of these Forums joined CHESNO regional communication and awareness campaign to disseminate CHESNO messages among young citizens all around Ukraine.²⁰

The activities of the CHESNO Movement aimed to provide voters with opportunities to access comprehensive and unbiased data needed to make an informed, conscious and free choice.²¹ The Ilko Kucheriv Democratic Initiatives Fund administered the charitable account of the CHESNO Movement, making it possible for any voter to support the campaign and make donations on the www.chesno.org website.²² CHESNO sought to combine a strong and media-friendly online presence with real-world activism. Whereas many NGOs exist only to fill in forms, with their face permanently turned towards big corporate or international

¹⁷ Interview with the CHESNO organisers (14 November 2012).

¹⁸ Grant Award to the Centre UA by Pact, Inc., UNITER project (1 October 2012).

¹⁹ <http://cmi.crimea.ua/novosti/164-%D1%84%D0%BE%D1%80%D1%83%D0%BC-%D0%B1%D1%83%D0%B4%D1%83%D1%89%D0%B5%D0%B3%D0%BE-2012.html>

²⁰ Interviews with local activists from Kyiv and Lviv (12 and 16 November 2012).

²¹ Article 63 of the Law 'On Elections of People's Deputies of Ukraine'

²² <http://2008.dif.org.ua/privatform.php>

donors, CHESNO sought to raise small donations online based on concerns shared by the population²³:

- I. the absence of facts on human rights and freedoms violation;²⁴
- II. invariability of political position according to the voters' will;²⁵
- III. non-participation in the actions of corruption;²⁶
- IV. transparency of declared incomes and property and consistency related to their lifestyle;²⁷
- V. personal voting in the parliament;²⁸
- VI. participation in the sessions of the parliament and the work of the committees.

These six integrity criteria were checked by a sociological survey after being produced through large civil society consultation.²⁹ According to a sociological study conducted by

²³ <http://www.chesno.org/criteria/>

²⁴ In accordance with the nation-wide poll of the population of Ukraine conducted by Ilko Kucheriv Democratic Initiatives Foundation and the Ukrainian Sociology Service company in August 2012: 89.6% would never support candidates, whose actions resulted in the death or grave injury, or rape; 81.7% would never support candidates who rigged elections; 81.2% would never vote in favour of candidates who raided the property owned by others; 79.1% would never vote in favour of candidates who hampered the administration of justice; 69.4% of Ukrainians would never vote in favour of candidates who regularly offend various groups of people, for example, on an ethnic basis; 66.9% would never support a candidate who interfered with the work of journalists (by snatching cameras, filing excessive claims against mass media at court, etc.).

²⁵ The exact point is to discourage 'political tourism', or frequent changes of party faction. It would be worth mentioning that this is what the 'Imperative Mandate' was supposed to prevent from 2006-10—and the shockingly supine way in which the Constitutional Court acquiesced in its abolition in 2010, to pave the way to a return to mass bribery.

²⁶ In accordance with the nation-wide poll of the population of Ukraine conducted by Ilko Kucheriv Democratic Initiatives Foundation and the Ukrainian Sociology Service company in August 2012: 82.1% would never support candidates who abused their office to obtain large quantities of land or assets, or to seek favours for their own business; 81.8% of the Ukrainians would never vote in favour of candidates implicated into the embezzlement of public funds (such as the overstatement of transport expenses by a factor of 3).

²⁷ In accordance with the nation-wide poll of the population of Ukraine conducted by Ilko Kucheriv Democratic Initiatives Foundation and the Ukrainian Sociology Service company in August 2012: 77% of the Ukrainians would never vote in favour of candidates, whose declared income and assets differ from the actual ones by more than a factor of 5.

²⁸ From 'piano playing' (one MP pressing others' voting buttons) to voting card theft (violation of Article 84 of Ukrainian Constitution, which requires that at the meetings of the Verkhovna Rada of Ukraine voting by a people's deputy of Ukraine shall be performed in person).

Democratic Initiatives Foundation in December 2011, the vast majority of Ukrainians endorse CHESNO integrity criteria with support to different criteria ranging from 66% to 81% of Ukrainians.³⁰ The decision by CHESNO Movement to focus on very specific issues that resonated with the people was very important.³¹ According to another sociological study conducted by Democratic Initiatives Foundation in August 2012, 25.3% of Ukrainians heard and 10.3% knew about the CHESNO Movement, in a media environment which was seen by OSCE as partly captured by government and vested financial interests.³² We therefore consider that the campaign was representative for the aspiration to integrity in politics of the broader Ukrainian civil society.

²⁹ Telephone interview with Iryna Bekeshkina, director of the Democratic Initiatives Foundation (15 November 2012).

³⁰ http://dif.org.ua/en/polls/2011-year/usi-kriterii_-vidileni-gromadskih-ruhom-chesno-dlja-ocinki-deputativ-ta-kandidativ-u-deputati_-viznani-gromadskoyu-dumkoyu-vazhlivimi.htm

³¹ Interviews with donors (14 November 2012).

³² http://dif.org.ua/en/polls/2012-year/stavlennja-naselenikiv_-htm

2. Independence from political interest

In accordance with Article 63 of the Law of Ukraine 'On Elections of People's Deputies of Ukraine' the activities of the CHESNO Movement were aimed in providing voters with opportunities to access comprehensive and unbiased data needed to make an informed, conscious and free choice. The CHESNO Movement observed the Law 'On Elections of People's Deputies of Ukraine' regarding pre-election campaigning. CHESNO was not affiliated with any politician or political faction, and its representatives did not take part in the election. To our knowledge the CHESNO Movement was not involved in campaigning and specifically did not encourage voters to vote for or against a particular candidate (party).

The first stage of the integrity assessment was carried out by the Committee of Voters of Ukraine, jointly with the CHESNO Movement activists, experts and journalists. Their findings were made public at the 'Honest Conversation with the Future Parliament Forum on 23rd of July 2012.³³

The examination results were published in the CHESNOmeter on the Movement's website.³⁴ According to these results only 4 deputies out of 448 did not violate any CHESNO criteria. The highest amount of violations was related to the personal voting criterion—423 deputies had other people voting in their stead, a direct violation of Article 84 of Ukrainian Constitution, which requires that at the meetings of the Verkhovna Rada of Ukraine voting by a people's deputy of Ukraine shall be performed in person. There were 350 deputies who violated the criterion on transparency of declared incomes and property and consistency related to their lifestyle. In third place, 282 deputies were associated with corruption scandals. 230 deputies violated the criterion on participation in the sessions of the parliament and the work of the committees. 101 were involved in human rights and freedoms violations, and 80 changed their political affiliation (faction or party).

Based on the results of this preliminary analysis, CHESNO's representatives have also contacted political parties, demanding that politicians already identified as infringing the

³³ Interviews with CHESNO organisers and analytics who carried out the first examination (12 and 14 November 2012).

³⁴ <http://www.chesno.org/deputies/>

CHESNO criteria should not be included in the upcoming elections.³⁵ Information exists that some parties used this request to settle internal competition between candidates.

Two parties, namely the United Opposition³⁶ and UDAR,³⁷ signed an agreement on cooperation with CHESNO to screen their candidates; the offer was, however, made to all parties. According to these agreements, parties promised to share the names of the candidates on their lists with the Kyiv Coordination Council for the civic audit by the activists of CHESNO before the official registration, and not strike the candidates who did not meet CHESNO's integrity criteria once documentation existed. The All-Ukrainian Union 'Svoboda' held a meeting with CHESNO members in July 2012 and announced their decision during the party's political convention on 28 April 2012 to abide by the CHESNO criteria.³⁸ The other parties, such as the Party of Regions or the Communist Party of Ukraine, ignored CHESNO's proposal to sign such agreement.³⁹

The second stage of the campaign began in late July 2012. The CHESNO analytical team led by the Centre for Political Studies and Analyses screened candidates for People's Deputies in party lists and in single unit constituencies.⁴⁰ During this stage out of six integrity criteria only the first four were used in relation to the candidates who were not in the previous parliament and all six criteria in relation to those candidates who were in the previous parliament.⁴¹

³⁵ Interview with CHESNO organisers (14 November 2012).

³⁶ Agreement on Cooperation between CHESNO and the United Opposition was signed on 24 April 2012

³⁷ Agreement on Cooperation between CHESNO and UDAR was signed 3 May 2012.

³⁸ <http://www.chesno.org/events/277/>

³⁹ <http://zik.ua/en/news/2012/07/30/361263>

⁴⁰ From interviews with the team of analytics who carried out the second examination (12 and 15 November 2012).

⁴¹ Two additional criteria that were used in relation to the candidates who were in the previous parliament were:

Criterion V: on personal voting in the parliament;

Criterion VI: participation in the sessions of the parliament and the work of the committee.

CHESNO screened 2309 candidates; 935 of them were found to have infringed at least one of the CHESNO criteria.⁴² The most widespread violation was highly relevant for corruption and consisted in the lack of transparency of declared incomes and property and consistency related to their lifestyle. Simply put, an impressive number of candidates own and spend resources that cannot be explained by their official sources of income. We found the second most frequent criterion violation to be 490 cases of involvement in corruption scandals. In third place was the personal voting criterion with 299 candidates. Human rights and freedoms violations were found in relation to 237 candidates. 162 candidates broke some rules on attendance in the sessions of the parliament and the work of the committees, and 84 switched from the faction or party under whose banner they won their seats to another one.

In the newly elected Parliament, 331 out of 450 members violated at least one of the CHESNO criteria, and the highest number of cases of violation (233) has to do with corruption.⁴³ In second place are 185 cases of violation of the criterion on transparency of declared incomes and property and consistency related to their lifestyle.

⁴² <http://www.chesno.org/elections/>

⁴³ <http://www.chesno.org/>

3. Information accessibility

The CHESNO Movement used information from open and publicly accessible sources.

According to the CHESNO methodology, the sources of information about violations of human rights and freedoms included the following:

- reports by international organisations and authorities of foreign countries (reports of the Office of the UN High Commissioner for Human Rights, findings by UN Committees, reports the U.S. State Department, etc.);
- reports by international human rights organisations (Freedom House, Amnesty International, Human Rights Watch, Article 19, IFJ, Reporters without Borders, etc.) and national human rights organisations;
- annual and special reports of the Verkhovna Rada Commissioner for Human Rights;
- information in media and from news agencies (e.g. UNIAN, Interfax, Ukrainian News, Ukrainska Pravda, Telekritika, Dzerkalo Tyzhnya, TV channels, foreign and local media);
- decisions by official sources (e.g. decisions by the High Council of Justice or the parliament on issues related to responsibility of judges, conclusions by the Accounting Chamber, reports of parliamentary investigation commissions, etc.).

Particular attention was given to activities by candidates who hold or held legal positions, such as judges, prosecutors or officers of law enforcement agencies. Specifically, grounds for their dismissal from their posts were examined. Information on the decisions taken by judges is obtained from the website of the Single State Register of Court Decisions (contextual search by keywords and a judge's name). That same database can be used to find individual decisions on lawsuits against media.

Interference with the work of journalists, another criterion for monitoring was defined as pressure of any kind, threats, physical coercion (battery, damage to equipment, etc.) and other actions aimed at preventing journalists or media from performing their professional functions. Claims against media or journalists demanding compensation of moral damages in

excessive amounts—as well as appeals to law enforcement bodies demanding to initiate proceedings against journalists or media professionals if those actions contained signs of pressure on the media—were also taken into account. Claims of moral damages with demands of only the minimum monetary compensation (e.g. one hryvnia) were not taken into account.

Violation of the right to property includes the so-called ‘raider takeovers’ of enterprises or other assets by initiative, with involvement or assistance of a candidate.

According to the CHESNO methodology ‘corrupt actions are interpreted broadly as use of the position of power to acquire any improper benefits (bribes, favouritism in allocating public jobs or contracts, violations of requirement on non-combining of multiple offices, misuse or abuse of power, etc.), as well as decision-making in a situation of conflict of interest. In that respect, such actions do not necessarily have to meet the definition of corruption and related offences as defined in the legislation.

Information about possible involvement in corruption must be made public in the media or Internet and have a sufficient level of reliability, namely, be published in periodicals that adhere to generally accepted professional standards, be prepared by a professional journalist or a media outlet; be non-anonymous, be based on documents, etc. Information about suspicions may not be politically motivated (i.e. be published by representatives of a political force in order to discredit their opponents).

The screening and treatment of information was done in compliance with Article 5 of the Law ‘On Personal Data Protection’⁴⁴ according to which personal data on any person who occupies, or claims to occupy, an elected office are not regarded as classified information. There are numerous overlapping pieces of legislation in Ukraine relating to data protection.⁴⁵ Law ‘On Access to Public Information’⁴⁶ is a general ‘right to information’ that

⁴⁴ Law No 2297-VI, ‘On Personal Data Protection’, was adopted on 1 June 2010 and went into force on 1 January 2011. Its provisions are further supplemented by Article 32 of the Constitution of Ukraine, Law No 2657-XII ‘On Information’, and the Civil Code.

⁴⁵ Detailed legal analysis of Ukraine’s Data Protection Act (July 2012) conducted by the ARTICLE 19 Law Program can be found here <http://www.article19.org/data/files/medialibrary/3391/12-07-26-LA-ukraine.pdf>

⁴⁶ Law No 2939-VI, ‘On Access to Public Information’, adopted on 13 January 2011.

creates a framework for facilitating access to information held by public bodies.⁴⁷ There is also Law ‘On Information’⁴⁸ that sets out the broad information framework for Ukraine. Its provisions strongly overlap with both the Data Protection Act and the Law on Access to Public Information. It defines its purpose as ‘regulat[ing] the relations regarding the creation, obtaining, storage, use, dissemination, security, and protection of information’ with provisions on rights to information, freedom of expression and protection of privacy. It also sets out journalists’ rights and those of the mass media. According to the Legal Analysis by the ARTICLE 19 Law Program, there is a need to amend the Data Protection Act and other laws to ensure the independence of the data protection body from the state—as currently it is not independent as the designated authority is the Ministry of Justice—and to create or appoint an independent body for oversight and appeals for the Law on Access to Public Information.

CHESNO also acted in compliance with Article 21 of the Law ‘On information’ according to which the information about cases of violations of human rights and freedoms, any illegal actions by state agencies, bodies of local self-government and their officials and officers (including confidential personal information) cannot be attributed to restricted-access information. The results of monitoring on vetting the candidates was published on the CHESNO website and also broadly disseminated through the press conferences in regions.

The selection of media sources was a challenge, as few media publish stories on corruption and even fewer can be trusted to be impartial. Global Integrity Report rates the performance of Ukraine at just 25 out of 100 on the item ‘In practice, journalists and editors adhere to strict, professional practices in their reporting’. Bias is attributed to direct intervention by media owners: ‘Since the owners of media usually have other business and do not regard their media entities as the main source of income, the selection of content is

⁴⁷ The framework consists of a right for persons to be able to demand information from public bodies; procedures for access; exemptions to the right; appeal mechanisms for denials; structures in bodies for the release of information both in response to requests and on a routine basis; partial protection of whistleblowers who release information of public interest; the creation of registers of documents; and penalties for non-compliance with the law.

⁴⁸ Law No 2658-XII ‘On Information’, adopted in 1992 and amended in 2011.

usually based on political basis'.⁴⁹ Furthermore, Global Integrity ranks at just 50 the capacity of the media to report on corruption without infringement from authorities.

About 70 media sources were selected, at regional and national levels, considered to be trustworthy.⁵⁰ Publications used were exclusively those who had transparent ownership, a clear editorial board and where the author of the publication was mentioned.⁵¹ Also many official open sources were used, including governmental websites, court decisions and official archives. Primary data was collected and verified by analysts, but there was also a mechanism for each citizen to submit their data through the CHESNO web-site form. There were around 200 files sent to CHESNO from journalists and concerned citizens. The compiled information including citizens' reports was verified through cross-referencing with court decisions, public documents, and journalist investigations.⁵²

A group of analysts, researchers and lawyers in Kyiv approved the candidates' profiles for the CHESNOmeter, with a final consensus-based decision made by the Kyiv Co-ordination Council. According to the Ilko Kucheriv Democratic Initiatives Foundation, 'immediately after the rating of CHESNO was made public it showed that many MPs are prepared to meet with civil activists and provide them with additional personal information. Irrespective of such interaction, the revival of communication between politicians and the civil sector is indisputably valuable.'⁵³

CHESNO was probably helped (and also arguably helped contribute to) a slight opening up of the media during the campaign. One independent monitoring project found that, having improved from a very low level, roughly a quarter of news stories showed a balance of points of view in the last week of the campaign.⁵⁴ This trend was clearer on some

⁴⁹ <http://www.globalintegrity.org/report/Ukraine/2011/scorecard>

⁵⁰ Interview with analytics (12 November 2012).

⁵¹ Interview with the team of analytics (15 November 2012).

⁵² Interview with CHESNO lawyer (14 November 2012)

⁵³ Ilko Kucheriv Democratic Initiatives Foundation, 'Focus on Ukraine, July 23–29 2012', p. 5.

⁵⁴ See 'Civic monitoring makes TV news more balanced before the elections', 1 November 2012 www.irf.ua/index.php?option=com_content&view=article&catid=81&id=38263&Itemid=43; and Katya Gorchinskaya, 'Media monitoring shows possible rift between oligarchs, administration', 1 November 2012

channels more than others. First National TV and the Ukraïna channel covered mostly pro-governmental parties. Channel 5 and TVi were closer to the opposition in the first place. The biggest improvement was on Inter. On 15 July ZIK, the most influential West-Ukrainian TV-Channel jointly with CHESNO launched the weekly social TV show ‘CHESNO—Filter the Rada’.⁵⁵ During the live broadcast discussion, the local candidates striving for a deputy's mandate underwent very thorough questioning by the TV presenters based on the information gathered by the CHESNOmeter.⁵⁶

Interviewees highlighted that the CHESNO ‘brand’ was regarded as valuable property, and the term itself was constantly taken up and used by all parties and in media reports of the campaign.⁵⁷ There were also several occasions of fake election leaflets issued under the CHESNO label, to try and exploit ‘honest’ proxy criticism of opponents.⁵⁸ According to the civil network OPORA In district 154 cities of Dubno and Zdolbuniv, Rivne oblast, leaflets had been distributed with negative content about candidates Sergiy Kostuchok and Danil Korilkevych, running as self-nominated candidate. Leaflets were distributed on behalf of civic Movement “CHESNO”.⁵⁹

According to an independent journalist this campaign really managed to get the attention from the society and start to change the discourse.⁶⁰ Politicians started to react to the criticism brought by CHESNO and the Movement managed to put on the agenda the importance of the candidate’s quality. All the materials and links were posted under each candidate’s profile, which allowed users of the website to check on the information. Except

www.kyivpost.com/content/politics/media-monitoring-shows-possible-rift-between-oligarchs-administration-315438.html

⁵⁵ http://irex.ua/en/media/umpp/program_highlights/183

⁵⁶ Interviews with independent journalists and experts in Kyiv and Lviv (14-16 November 2012).

⁵⁷ *Idem*

⁵⁸ ‘Pre-election Black PR leads to accusations of vampirism’, 5 October 2012, <http://delo.ua/ukraine/chernyj-predvybornyj-piar-dohodit-do-obvinenij-v-vampirizme-186596/>

⁵⁹ <http://oporaua.org/en/news/2710-shostyj-zvit-za-rezultatamy-zagalnonacionalnogo-sposterezhennja-parlamentski-vybory-2012-veresen>

⁶⁰ Interview with an independent journalist (14 November 2012).

for young candidates entering politics for the first time, information seems to have been sufficient to allow analysts to create profiles of the candidates.

4. Due process

The Movement was based on a complex decentralised structure and division of tasks among the participating organisations that offered sufficient checks and balances. As one of the donors mentioned, there is always a trade-off whether a civil society movement is designed as an inclusive horizontal network or as a vertical organisation with clear structure, reporting and hierarchy. In the CHESNO case, the decision was made to have a loose coalition so to encourage broad participation.⁶¹ Conflicts of interest rules were clear, excluding candidates or their associates. The main issues of the operation and development of CHESNO Movement were decided by the national meeting of authorised representatives of regional co-ordination councils, which was not under the control of any particular group⁶².

Members of Kyiv Co-ordination Council provided methodological, informational, advisory and technological support to regional co-ordination councils as necessary.⁶³ Resources required for reaching goals of the campaign were raised by co-ordination councils as aid from legal entities and individuals, as well as in the form of the non-repayable financial aid (voluntary grants) from individuals and legal entities to civic organizations specified by the appropriate co-ordination council.⁶⁴

The first stage of the integrity assessment was carried out by the Committee of Voters of Ukraine, jointly with the CHESNO Movement activists, experts and journalists. According to the donors the Movement had insufficient funding at this stage. After the first stage, there were some changes made in the methodology, and there were explicitly added indicators for each candidate's profile, which allowed voters to have more detailed overview on each criteria violation.⁶⁵ As it was mentioned above, during the second stage out of six

⁶¹ Interviews with donors (14 November 2012)

⁶² Interviews with CHESNO organisers and local activists (13-16 November 2012).

⁶³ Interviews with local activists (13 and 16 November 2012).

⁶⁴ Interviews with CHESNO organisers and local activists (13-16 November, 2012).

⁶⁵ http://www.chesno.org/media/files/08_2012_CHESNO_Methodology_updated.pdf

For criterion 1 (absence of violations of human rights and freedoms), the following violations were added as indicators (the list is not exhaustive): encroachment on human life and health; restrictions on freedom of speech and the right to information; corporate raiding and other violations of property rights; violation of

integrity criteria only the first four were used in relation to the candidates who were not in the previous parliament and all six criteria in relation to those candidates who were in the previous parliament.⁶⁶

During the second stage of the campaign there were 73 analysts involved in the process.⁶⁷ They were selected on competitive basis and were paid for their work. Ten of them were excluded from the analytical team if they didn't perform or presented subjective and biased results. The names of analysts were not made public for security and safety reasons. The work of each analyst was cross-checked by others. Reviewing information for accuracy is one of the most sensitive parts of CHESNO's work, and the right controls seem to have been in place to ensure that an impartial process existed where no single person could have profiled a candidate unchecked by others.⁶⁸

After verification by analytical team, these profiles were sent to the legal team which checked all the facts and when there was not enough convincing evidence presented, did

voting rights; violation of environmental rights violation of the right to a fair trial; violation of the right to peaceful assembly; violations of labour rights; hate language; attacks on honour and dignity and other violations of the right to privacy; initiation of draft laws that may entail violations of human rights.

For criterion 2 (steadiness of political position in accordance with the will of the voters), the following violations were added as indicators: secession or expulsion from the faction; joining a coalition or a pro-government group; sync voting with the majority factions.

For criterion 3 (non-involvement in corruption actions), the following violations were added as indicators (the list is not exhaustive): bribery; conflict of interest; combination of the Deputy mandate and a different office; misuse of land resources; plundering of state or public property, their misuse; bribing voters and use of "administrative resources"; political corruption; nepotism; use of office to gain undue advantages.

For criterion 4 (transparency of declared incomes and property and consistency related to their lifestyle) the following violations were added as indicators: failure to provide a declaration; inconsistency of lifestyle with official incomes; non-transparency of property.

For criterion 5 (personal voting in the Parliament), the following violations were added as indicators: non-personal voting; voting for another People's Deputy; acknowledgment of violating the personal voting requirement vote.

For criterion 6 (participation in the meetings of the Parliament and Committees), the following violations were added as indicators: absence in 75 to 90% of the plenary sessions of the Parliament; absence in 90 to 98% of plenary sessions of the Parliament; absence in 98 to 100% of the plenary sessions of the Parliament; absence in 75 to 100% of a parliamentary committee meetings.

⁶⁶ Two additional criteria that were used in relation to the candidates who were in the previous parliament were:

Criterion V: on personal voting in the parliament;

Criterion VI: participation in the sessions of the parliament and the work of the committee

⁶⁷ Interview with the head of the analytics team (12 November 2012).

⁶⁸ Interview with 6 CHESNO analytics (15 November, 2012).

not allow to proceed with the file.⁶⁹ The profile was next presented to the Coordination Council that should decide on each profile and this decision should be made by consensus.⁷⁰ The process described here has enough checks and balances; in fact, during our interviews we heard complaints from observers that due to their legal advice team campaigners were excessively cautious, thus allowing a number of problematic candidates to have a better profile than the reality. The advantage of such caution in checking the data and not publishing what cannot be verified is great when public trust is concerned; also compared to other campaigns in South Korea and the Balkans the legal checking seems to have been very thorough, which is reflected in the insignificant number of threats of libel law suits.

The completed individual profiles were sent prior to the publication to the party of the candidate or the candidate himself.⁷¹ Candidates were offered three days to react and present facts. If sufficient counter-evidence was presented the Coordination Council could decide to change the profile of the candidate. The assessment team believes that in the future it will be useful to openly publish on the website all the communications (e.g. emails and letters) between the team and the candidates or parties. It would also be better to allow more time for candidates to respond and ensure that they are informed.

A Deputy from the Party of Regions told evaluators in an interview that there were mixed feelings about CHESNO—while the idea of the campaign is really excellent, its implementation and organisation had many flaws. According to the interviewee in the Movement there were people who clearly represented the opposition, and hence, the Movement didn't manage to show that it is objective and balanced. There were also problems with the notification of the results. The interviewee received the information on CHESNO criteria violation only from public sources and didn't receive any information or requests to clarify beforehand on a bilateral basis.

The candidates appeal to correct the information about themselves seem to have been processed efficiently and fairly. As of September 25, there were 16 candidates from party

⁶⁹ Interview with CHESNO lawyer (14 November, 2012).

⁷⁰ Interview with CHESNO organisers (14 November, 2012).

⁷¹ Some journalists were telling that they were accompanying CHESNO team to record the fact of handing in the profiles to the parties and candidates.

'SVOBODA' who made appeals related to 19 instances of possible criteria violation (eleven instances were related to the criterion on transparency of declared income and seven were related to the criterion on human rights violations). As a result, appeals from seven candidates were fully satisfied (five appeals were related to the criterion on transparency of declared income and two were related to the criterion on human rights violations), and appeals from two candidates were partially satisfied (in those cases, there were two criteria in question, and in both cases, the appeal related to the criterion on transparency of declared income was satisfied).

Also as of September 25, there were 27 candidates from the party 'UDAR' who made appeals related to 33 instances of possible criteria violation (fifteen instances were related to the criterion on transparency of declared income, ten instances were related to the criterion on corruption, four instances were related to the criterion on changing party/faction and three instances were related to the criterion on human rights violations). As a result, appeals from twelve candidates were fully satisfied (nine appeals were related to the criterion on transparency of declared income, four appeals were related to the criterion on corruption and three appeals were related to the criterion on changing party/faction and one appeal was related to the criterion on human rights violations) and appeals from five candidates were partially satisfied.

There were also appeals from individual candidates. These were from 25 candidates and were related to 34 instances of possible criteria violation (twelve instances were related to the criterion on transparency of declared income, eleven instances were related to the criterion on corruption, eight instances were related to the criterion on human rights violations and two instances were related to the criterion on changing party/faction). As a result appeals from eight candidates were fully satisfied (four appeals were related to the criterion on transparency of declared income, two related to the criterion on human rights violations and two related to the criterion on corruption) and appeals from six candidates were partially satisfied.

Overall assessment

Political integrity is a public good, and information campaigns of this type stimulate civic activism, citizen participation and informed voting. The CHESNO campaign had the right objectives and employed in good faith a sound methodology where inherent errors were corrected during the process. The perception of the independent media and observers interviewed by ERCAS was that the campaign seemed to be non-partisan. Unfortunately, this was in part because all parties in parliament had low scores on the CHESNOmeter. On the other hand, it addressed touchtone issues of corruption and good government at the top of ordinary voters' list of concerns⁷², around which even the governing parties had to build their (PR) campaigns. Leading up to the October elections, for example, the media made great play of the CHESNOmeter's sixth criterion to list the laziest or most absentee MPs. CHESNO's record in this respect was evaluated by media analysts as superior to many political parties, who failed to run newsworthy campaigns.⁷³ The success of placing integrity high on the political agenda seems beyond doubt. The CHESNOmeter was newsworthy, and it provided a good centrepiece for a wide range of stories for the media. The resulting debate influenced reporting on mainstream TV. The campaign was also successful in involving more people than ever before, particularly in the rural areas, in the effort to assess candidates and inform voters. While impact on participation and on agenda-setting was high, it will need more time and research to estimate the effect on voters. Most problematic candidates entered Parliament once parties decided to support them. The main problem is that a poor electoral offer (candidates with integrity problems from all main parties) severely limits voter choice and the potential direct electoral impact of such a campaign. A complicated electoral system does not make voters' informed choice easier, also. This suggests that while the monitoring of integrity during elections is highly visible and quite impactful for the electoral agenda, permanent civil society work is needed between elections.

⁷² Tadeusz Iwański, 'Public feeling in Ukraine ahead of the parliamentary election', 14 September 2012, <http://www.osw.waw.pl/en/publikacje/osw-commentary/2012-09-14/public-feeling-ukraine-ahead-parliamentary-election>

⁷³ Conversations with the team on 31 October 2012.

The CHESNO campaign was one of the most extensive of its kind. Its most serious limitation was in the limited cooperation of political parties: such campaigns need to be able to make all important actors agree to the rule of the game and ‘compete’ for integrity’ if the mechanism of incentivizing politicians is to work. Its other component, informing voters, is definitely worthwhile, but far less impactful. As one politician explained to ERCAS, parties’ constituencies vary greatly in Ukraine when identity and regional interests are concerned: ideology matters less. Addressing all constituencies, more or less sophisticated, with same set of criteria and a similar message was bound to be a challenge.

The greatest achievement of this political integrity campaign was to involve so many regions known for low civic involvement and political participation and to push integrity so high on the agenda. As one independent journalist put it, only a year before MPs bragged publicly about letting others vote in their stead. This is no longer the case: the norms of integrity have now become more accepted and candidates try, at least formally, to comply. This is a first step in the good direction.

Some follow-up options

Evolution needs to follow in three major areas if this is to be more than a successful civil society development project and produce a sizable impact on integrity in politics.

The first is to **institutionalize grassroots monitoring of political integrity** and turn an ad-hoc campaign into a permanent watchdog network feeding the media and the Internet with results of the monitoring as well as a more general blueprint of civic activity. While electoral campaigns are likely to get more attention from the public, it is between the campaigns that most of the predation occurs. Henceforth, it is between campaigns that tender awards from public funds and enrichment of politicians has to be monitored on a regular basis. To keep the attention high, various forms of mock awards, hierarchies and tops can be invented, but the end goal is the same: that politicians feel that they and their families and cronies are under public scrutiny and thus to increase the cost of corrupt behaviour. **This means that considerable effort needs to be invested not to allow the civic army to demobilize after these disappointing elections.** CHESNO had attracted some donations, and, by our count, tenths of volunteers. This volunteer basis needs to be stabilized and increased.

The second is to **better the instruments of monitoring, in particular the sources of information.** Monitoring should thus start by evaluating the quality of the sources, the extent to which official agencies comply with disclosure and information laws so to close the gaps between legislation and practice reported by Global Integrity. There seems to be wide infringement and lack of enforcement, for instance, of the Law "On the Principles of Corruption Prevention and Counteraction" concerning the publishing of the statements on property, incomes, expenses and financial liabilities of People's Deputies of Ukraine, members of the government, judges of higher courts, heads of other bodies of state power and local self-government. The overreliance on media sources of the CHESNO campaign was due to the absence of sufficient official disclosure, despite its being required by law. We see considerable room for action here, with the goal of **improving transparency, the main institutional civil weapon for integrity.** Actions should include naming and shaming of compliance with existing transparency legislation, strategic litigations and so forth.

The third is to **encourage political parties, for electoral advantage if not deep belief in the value of integrity, to set up permanent internal monitoring of integrity and ethics**

committees to monitor their own representatives. This will provide electoral advantage for smaller new parties with urban constituencies. Also these parties may take up the issues of institutional weapons (for instance, a national online public expense tracking portal) to their advantage, as this would allow themselves to position as defenders of public funds against predators. It would be useful to restart discussion with political parties to separate the monitoring in two distinct parts. One is the monitoring of disciplinary issues, such as absences to sessions of the Rada, voting through an intermediate, etc., and the other the issues of corruption and political integrity *per se*. It is our advice that the two should be separated and not aggregated in one measure, as they are conceptually different. Deviation from integrity has a more universal and permanent character and as such it weights far more than adherence to formal rules which can evolve or be changed. It is not in the best interest of the campaigners to have widespread violation, because then it becomes very difficult to promote integrity. In a situation where a formal rule is broken by many one should reflect if it is not the rule which needs to be changed (for instance, adopting voting by email). On integrity, such compromises do not work, so it is our recommendation that issues of corruption and undue profit from conflict of interest are monitored separately and given more weight than disciplinary issues.

The offer to assist in setting up ethics committees or to draft a bill bettering transparency and integrity legislation should be addressed to all parties in the Parliament by the civic alliance. If some refuse, continuing the work with those who are willing to take up this cause and offering them public credit becomes absolutely legitimate.