

**URGING THE GOVERNMENT OF UKRAINE TO
ENSURE A DEMOCRATIC, TRANSPARENT, AND
FAIR ELECTION PROCESS LEADING UP TO
THE MARCH 31, 2002, PARLIAMENTARY
ELECTIONS**

MARKUP
BEFORE THE
SUBCOMMITTEE ON EUROPE
OF THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

ON

H. Res. 339

FEBRUARY 27, 2002

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CONTENTS

	Page
Markup of H. Res. 339, Urging the Government of Ukraine to ensure a democratic, transparent, and fair election process leading up to the March 31, 2002, parliamentary elections	1
Text of H. Res. 339	2
Amendment in the Nature of a Substitute to H. Res. 339 as Reported by the Subcommittee on Europe	11

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ENSURE A DEMOCRATIC, TRANSPARENT,
AND FAIR ELECTION PROCESS LEADING UP
TO THE MARCH 31, 2002, PARLIAMENTARY
ELECTIONS**

WEDNESDAY, FEBRUARY 27, 2002

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EUROPE,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Committee met, pursuant to call, at 1:55 p.m. in Room 2172, Rayburn House Office Building, Hon. Elton Gallegly [Chairman of the Subcommittee] presiding.

Mr. GALLEGLY. The meeting will come to order. Pursuant to notice, I call up the resolution, H. Res. 339 for the purposes of markup. Without objection the resolution will be considered as read and open for amendments at any time.

[The text of H. Res. 339 follows:]

107TH CONGRESS
2D SESSION

H. RES. 339

Urging the Government of Ukraine to ensure a democratic, transparent, and fair election process leading up to the March 31, 2002, parliamentary elections.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2002

Ms. SLAUGHTER (for herself, Mr. HOFFEL, and Mr. SMITH of New Jersey) submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Urging the Government of Ukraine to ensure a democratic, transparent, and fair election process leading up to the March 31, 2002, parliamentary elections.

Whereas Ukraine stands at a critical point in its development to a fully democratic society, and the parliamentary elections on March 31, 2002, its third parliamentary elections since becoming independent more than 10 years ago, will play a significant role in demonstrating whether Ukraine continues to proceed on the path to democracy or experiences further setbacks in its democratic development;

Whereas the Government of Ukraine can demonstrate its commitment to democracy by conducting a genuinely free and fair parliamentary election process, in which all can-

didates have access to news outlets in the print, radio, television, and Internet media, and nationally televised debates are held, thus enabling the various political parties and election blocs to compete on a level playing field and the voters to acquire objective information about the candidates;

Whereas a flawed election process, which contravenes commitments of the Organization for Security and Cooperation in Europe (OSCE) on democracy and the conduct of elections, could potentially slow Ukraine's efforts to integrate into western institutions;

Whereas in recent years, government corruption and harassment of the media have raised concerns about the commitment of the Government of Ukraine to democracy, human rights, and the rule of law, while calling into question the ability of that government to conduct free and fair elections;

Whereas Ukraine, since its independence in 1991, has been one of the largest recipients of United States foreign assistance;

Whereas \$154,000,000 in technical assistance to Ukraine was provided under Public Law 107–115 (the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002), a \$16,000,000 reduction in funding from the previous fiscal year due to concerns about continuing setbacks to needed reform and the unresolved deaths of prominent dissidents and journalists;

Whereas Public Law 107–115 requires a report by the Department of State on the progress by the Government of

Ukraine in investigating and bringing to justice individuals responsible for the murders of Ukrainian journalists;

Whereas the disappearance and murder of journalist Heorhiy Gongadze on September 16, 2000, remains unresolved;

Whereas the presidential election of 1999, according to the final report of the Office of Democratic Institutions and Human Rights (ODIHR) of OSCE on that election, was marred by violations of Ukrainian election law and failed to meet a significant number of commitments on democracy and the conduct of elections included in the OSCE 1990 Copenhagen Document;

Whereas during the 1999 presidential election campaign, a heavy proincumbent bias was prevalent among the state-owned media outlets, members of the media viewed as not in support of the president were subject to harassment by government authorities, and proincumbent campaigning by state administration and public officials was widespread and systematic;

Whereas the Law on Elections of People's Deputies of Ukraine, signed by President Leonid Kuchma on October 30, 2001, was cited in a report of the ODIHR dated November 26, 2001, as making improvements in Ukraine's electoral code and providing safeguards to meet Ukraine's commitments on democratic elections, although the Law on Elections remains flawed in a number of important respects, notably by not including a role for domestic nongovernmental organizations to monitor elections;

Whereas according to international media experts, the Law on Elections defines the conduct of an election campaign

in an ambiguous manner and could lead to arbitrary sanctions against media operating in Ukraine;

Whereas the Ukrainian Parliament (Verkhovna Rada) on December 13, 2001, rejected a draft Law on Political Advertising and Agitation, which would have limited free speech in the campaign period by giving too many discretionary powers to government bodies, and posed a serious threat to the independent media;

Whereas the Department of State has dedicated \$4,700,000 in support of monitoring and assistance programs for the 2002 parliamentary elections;

Whereas the process for the 2002 parliamentary elections has reportedly been affected by apparent violations during the period prior to the official start of the election campaign on January 1, 2002;

Whereas monthly reports for November and December of 2001 released by the Committee on Voters of Ukraine (CVU), an indigenous, nonpartisan, nongovernment organization that was established in 1994 to monitor the conduct of national election campaigns and balloting in Ukraine, cited five major types of violations of political rights and freedoms during the precampaign phase of the parliamentary elections, including—

- (1) use of government position to support particular political groups;
- (2) government pressure on the opposition and on the independent media;
- (3) free goods and services given in order to sway voters;
- (4) coercion to join political parties and pressure to contribute to election campaigns; and

(5) distribution of anonymous and compromising information about political opponents:

Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) acknowledges the strong relationship be-
3 tween the United States and Ukraine since
4 Ukraine's independence more than 10 years ago,
5 while understanding that Ukraine can only become
6 a full partner in western institutions when it fully
7 embraces democratic principles;

8 (2) expresses its support for the efforts of the
9 Ukrainian people to promote democracy, the rule of
10 law, and respect for human rights in Ukraine;

11 (3) urges the Government of Ukraine to enforce
12 impartially the new election law, including provisions
13 calling for—

14 (A) the transparency of election proce-
15 dures;

16 (B) access for international election ob-
17 servers;

18 (C) multiparty representation on election
19 commissions;

20 (D) equal access to the media for all elec-
21 tion participants;

22 (E) an appeals process for electoral com-
23 missions and within the court system; and

1 (F) administrative penalties for election
2 violations;

3 (4) urges the Government of Ukraine to meet
4 its commitments on democratic elections, as delin-
5 eated in the 1990 Copenhagen Document of the Or-
6 ganization for Security and Cooperation in Europe
7 (OSCE), with respect to the campaign period and
8 election day, and to address issues identified by the
9 Office of Democratic Institutions and Human Rights
10 (ODIHR) of OSCE in its final report on the 1999
11 presidential election, such as state interference in
12 the campaign and pressure on the media; and

13 (5) calls upon the Government of Ukraine to
14 allow election monitors from the ODIHR, other par-
15 ticipating states of OSCE, and private institutions
16 and organizations, both foreign and domestic, full
17 access to all aspects of the parliamentary election
18 process, including—

19 (A) access to political events attended by
20 the public during the campaign period;

21 (B) access to voting and counting proce-
22 dures at polling stations and electoral commis-
23 sion meetings on election day, including proce-
24 dures to release election results on a precinct by
25 precinct basis as they become available; and

8

7

1 (C) access to postelection tabulation of re-
2 sults and processing of election challenges and
3 complaints.

○

Mr. GALLEGLY. On March 31st, Ukraine will hold elections for its parliament. This will be the third such election since the country became independent in 1991 and will be a critical test of the strength of its evolving democracy. Given the importance of our relations with Ukraine and our keen interest in Ukraine's continued emergence as a responsible democratic member of the international community, we are naturally interested in the electoral process and what progress the country has made in the areas of human rights, rule of law, freedom of expression, and the strength of its democratic institutions.

In this context, it would only be natural that the U.S. Congress would express its interest in and concerns for a genuinely free and fair parliamentary election process which enables all of the various political parties and election blocs to compete on a level playing field. This would allow the voters to acquire objective information about the political candidates and expects all parties to the election to observe their own laws.

In this respect we have received reports from Ukraine that the current election period has been beset by allegations of various levels of manipulation, intimidation, harassment, and other pressures to influence the outcome of the elections. This is not to say that in considering this legislation the Committee feels the overall electoral process is seriously flawed. As we know from our own recent election experiences, problems and flaws can develop no matter how mature the democracy. However, the resolution we are considering today does reflect a genuine concern that the reported activities of some cast a negative cloud over these elections and the entire democratic process in Ukraine.

I want to thank the authors of the resolution for bringing these problems to our attention. We hope the resolution is seen in a positive, constructive way and not viewed by some as interference in the internal affairs of Ukraine. By addressing these concerns it will be easier to judge these elections as having been free, fair, and transparent. With this, Ukraine can only be better off and its democracy stronger, and I urge the passage of this resolution.

Before I go further, I would defer to my colleague and good friend, the Ranking Member, Mr. Hilliard.

Mr. HILLIARD. Thank you very much, Mr. Chairman. Mr. Chairman, I join you in support of H.R. 339 because I, too, am interested in the people expressing their support for the efforts of the Ukrainian people to promote democracy, the rule of law, and respect for human rights.

This election is very important for the Ukrainian people. It is very important for Russia; it is very important for the United States; and it is very important for the stability and peace in the world. So with a transparent election, with a safe election, and with a fair election, it nails one more nail in the coffin of terrorism, in the coffin of disorder, and it promotes democracy. So, Mr. Chairman, I am very happy to join you in the support of this resolution.

Mr. GALLEGLY. I thank the Ranking Member. At this time, I would yield to the gentleman from Pennsylvania, the sponsor of this legislation, Mr. Hoeffel.

Mr. HOEFFEL. Thank you, Chairman. Thank you for allowing me to take part in this Subcommittee's work. I can add very little to

what the Chair has said and what the Ranking Member has said, and I compliment the Chair and his staff for bringing this forward and the hard work they have committed to this effort. I am not the sponsor. I wish I was. I am a cosponsor. I am proud of this bill.

We are very excited about the emerging democracy in Ukraine, but there are problems that are popping up in the parliamentary election campaign, as the Chairman indicated. There are very real reports and instances of media harassment, and there are problems with government corruption, a lack of transparency, and the like. It is a very good thing for this Congress to be saying how important it is for these elections in Ukraine to be free and fair and transparent and democratic, and I am delighted that this Subcommittee is moving forward with this important resolution, so I thank the Chair.

Mr. GALLEGLY. I thank the gentleman from Pennsylvania. We have no other statements, so at this time I have a series of amendments at the desk which I would ask unanimous consent to be considered en bloc. If there is no objection, I would ask the clerk to report the amendments en bloc.

Ms. McDONALD. Amendments offered en bloc by Mr. Gallegly.

Mr. GALLEGLY. Without objection the amendments will be considered en bloc and will be considered as read.

[The information referred to follows:]

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H. RES. 339
AS REPORTED BY THE SUBCOMMITTEE ON
EUROPE**

Strike the preamble and text of the resolution and
insert the following:

Whereas Ukraine stands at a critical point in its development to a fully democratic society, and the parliamentary elections on March 31, 2002, its third parliamentary elections since becoming independent more than 10 years ago, will play a significant role in demonstrating whether Ukraine continues to proceed on the path to democracy or experiences setbacks in its democratic development;

Whereas the Government of Ukraine can demonstrate its commitment to democracy by conducting a genuinely free and fair parliamentary election process, in which all candidates have access to news outlets in the print, radio, television, and Internet media, and nationally televised debates are held, thus enabling the various political parties and election blocs to compete on a level playing field and the voters to acquire objective information about the candidates;

Whereas a flawed election process, which contravenes commitments of the Organization for Security and Cooperation in Europe (OSCE) on democracy and the conduct of elections, could potentially slow Ukraine's efforts to integrate into western institutions;

Whereas in recent years, incidents of government corruption and harassment of the media have raised concerns about

the commitment of the Government of Ukraine to democracy, human rights, and the rule of law;

Whereas Ukraine, since its independence in 1991, has been one of the largest recipients of United States foreign assistance;

Whereas \$154,000,000 in technical assistance to Ukraine was provided under Public Law 107–115 (the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002), a \$16,000,000 reduction in funding from the previous fiscal year due to concerns about continuing setbacks to needed reform and the unresolved deaths of prominent dissidents and journalists;

Whereas the presidential election of 1999, according to the final report of the Office of Democratic Institutions and Human Rights (ODIHR) of OSCE on that election, was marred by violations of Ukrainian election law and failed to meet a number of commitments on democracy and the conduct of elections included in the OSCE 1990 Copenhagen Document;

Whereas during the 1999 presidential election campaign, a heavy proincumbent bias was prevalent among the state-owned media outlets, members of the media viewed as not in support of the president were subject to harassment by government authorities, and proincumbent campaigning by state administration and public officials was widespread;

Whereas the Law on Elections of People's Deputies of Ukraine, signed by President Leonid Kuchma on October 30, 2001, which was cited in a report of the ODIHR dated November 26, 2001, as making improvements in

Ukraine's electoral code and providing safeguards to meet Ukraine's commitments on democratic elections, does not include a role for domestic nongovernmental organizations to monitor elections;

Whereas according to international media experts, the Law on Elections defines the conduct of an election campaign in an imprecise manner which could lead to arbitrary sanctions against media operating in Ukraine;

Whereas the Ukrainian Parliament (Verkhovna Rada) on December 13, 2001, rejected a draft Law on Political Advertising and Agitation, which would have limited free speech in the campaign period by giving too many discretionary powers to government bodies, and posed a serious threat to the independent media;

Whereas the Department of State has dedicated \$4,700,000 in support of monitoring and assistance programs for the 2002 parliamentary elections;

Whereas the process for the 2002 parliamentary elections has reportedly been affected by violations by many parties during the period prior to the official start of the election campaign on January 1, 2002; and

Whereas monthly reports for November and December of 2001 released by the Committee on Voters of Ukraine (CVU), an indigenous, nonpartisan, nongovernment organization that was established in 1994 to monitor the conduct of national election campaigns and balloting in Ukraine, cited five major types of violations of political rights and freedoms during the precampaign phase of the parliamentary elections, including—

(1) use of government position to support particular political groups;

(2) government pressure on the opposition and on the independent media;

(3) free goods and services given by many political groups in order to sway voters;

(4) coercion to join political parties and pressure to contribute to election campaigns; and

(5) distribution of anonymous and compromising information about political opponents:

Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) acknowledges the strong relationship be-
3 tween the United States and Ukraine since
4 Ukraine's independence more than 10 years ago,
5 while understanding that Ukraine can only become
6 a full partner in western institutions when it fully
7 embraces democratic principles;

8 (2) expresses its support for the efforts of the
9 Ukrainian people to promote democracy, the rule of
10 law, and respect for human rights in Ukraine;

11 (3) urges the Government of Ukraine to enforce
12 impartially its newly adopted election law, including
13 provisions calling for—

14 (A) the transparency of election proce-
15 dures;

16 (B) access for international election ob-
17 servers;

1 (C) multiparty representation on election
2 commissions;

3 (D) equal access to the media for all elec-
4 tion participants;

5 (E) an appeals process for electoral com-
6 missions and within the court system; and

7 (F) administrative penalties for election
8 violations;

9 (4) urges the Government of Ukraine to meet
10 its commitments on democratic elections, as delin-
11 eated in the 1990 Copenhagen Document of the Or-
12 ganization for Security and Cooperation in Europe
13 (OSCE), with respect to the campaign period and
14 election day, and to address issues identified by the
15 Office of Democratic Institutions and Human Rights
16 (ODIHR) of OSCE in its final report on the 1999
17 presidential election, such as state interference in
18 the campaign and pressure on the media; and

19 (5) calls upon the Government of Ukraine to
20 allow election monitors from the ODIHR, other par-
21 ticipating states of OSCE, and private institutions
22 and organizations, both foreign and domestic, access
23 to all aspects of the parliamentary election process
24 according to international practices, including—

1 (A) access to political events attended by
2 the public during the campaign period;

3 (B) access to observe voting and counting
4 procedures at polling stations and electoral
5 commission meetings on election day, including
6 procedures to release election results on a dis-
7 trict-by-district basis as they become available;
8 and

9 (C) access to observe postelection tabula-
10 tion of results and processing of election chal-
11 lenges and complaints.

Mr. GALLEGLY. The amendment I am offering makes several technical and word changes by dropping and substituting some wording and adds additional words or phrases where appropriate. The amendment also drops two whereas clauses relating to an issue unrelated to the election process and which has already been addressed by the Subcommittee in other legislation, and I would urge adoption of this amendment.

I would call for the question, all in favor, signify by saying aye.

[A chorus of ayes.]

Mr. GALLEGLY. Any opposed?

[No response.]

Mr. GALLEGLY. The ayes have it. Are there any further amendments?

[No response.]

Mr. GALLEGLY. The question occurs on the motion to report H. Res. 339 favorably as amended. All in favor say aye.

[A chorus of ayes.]

Mr. GALLEGLY. Any opposed?

[No response.]

Mr. GALLEGLY. The motion is approved, and the bill will be reported favorably. Without objection the bill will be reported favorably to the Full Committee in the form of a single amendment in the nature of a substitute incorporating the amendments adopted here today. Without objection the staff is directed to make any technical and conforming amendments.

The Subcommittee stands adjourned.

[Whereupon, at 2:05 p.m., the Subcommittee was adjourned.]

