

**Final report
on observation findings
on the 2020 local elections
by the Civil Network OPORA**



The publication was made possible due to the support of the American people, administered through the United States Agency for International Development (USAID). Any opinions or statements expressed herein may not necessarily coincide with the positions of USAID and the US Government.

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ISBN 978-617-7142-77-4

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Scope of non-partisan observation and acknowledgements

The Civil Network OPORA provided non-partisan observation over all stages of the election process during 2020's first local elections under Ukraine's new territorial administration system. This report is the result of the work of 164 long-term and 1,300 short-term observers of the organization who had received prior training and knowledge testing on Ukrainian electoral law and independent monitoring standards.

OPORA offers its thanks and acknowledgment to all its long-term and short-term observers, and to the members of its central and regional teams for their outstanding performance while performing their non-partisan monitoring tasks during the 2020 local elections. The elections were accompanied by the unprecedented challenge of containing the COVID-19 pandemic and required extra effort from observers to ensure high quality and safe observation.

Furthermore, the organization offers its gratitude to the Central Electoral Commission (CEC), to the professional and honest electoral commissioners at all levels, to the candidates, and to the staff of the National Police of Ukraine for their continuous interaction and support of our efforts during the elections and for respecting the rights of our non-partisan observers. We hope that the experience of the 2020 first local elections and its comprehensive analysis will help improve legislative and practical conditions for conducting elections in Ukraine in the future.

Key findings of the report

The 2020 local elections were conducted under a new legal framework. This posed a number of new issues to be tackled in the process of ensuring full compliance of the Ukrainian election process with the best democratic standards. The shortcomings identified in the law and the extent of bad practices were serious. However, they do not diminish Ukraine's progress in the area of ensuring suffrage for its citizens and improving many of its election procedures. Any final judgement as to whether Ukraine has progressed or regressed in the quality of its electoral practices can only be rendered based upon the results of the investigations of all electoral fraud undertaken by the law enforcement. Before the 2020 local elections, the Verkhovna Rada introduced changes to the Criminal Code and to the Code on Administrative Offenses, thereby showing their intention to ensure punishment for electoral fraud. Moreover, the findings of investigations for offenses indicate the efficiency of new legal capacity.

One of the key innovations of the 2020 local election campaign was the introduction of a new system of electing representatives. In the elections for local councils, in *hromadas* (territorial communities) with 10,000 voters or more, a proportional election system with open lists was used. In the new electoral system, candidates needed to earn at least 25% of the electoral quota to earn their way onto the upper part of the electoral list. However, even with these restrictions, voters could still impact the election of certain candidates to local councils, such as the candidates from party organizations, which speaks well of the new election system. 35% of all elected candidates gained their deputy mandate due to direct votes in their territorial constituencies rather than due to their positions on party lists set by their parties. We at OPORA find that there is a need to reduce excessive restrictions on voters impacting the distribution of seats within the quota won by parties, and to have a real discussion about securing candidates' right to self-nominate in all local elections.

Ukraine's progress in ensuring voting rights for citizens, especially in terms of voting rights for internally displaced persons and the introduction of a gender quota into voting lists, needs to be continued both in electoral legislation and in practice. The government needs to focus effort on ensuring that people with disabilities retain access to the ballot. The government and local self-government bodies need to make a breakthrough in bringing

polling stations in compliance with the accessibility standards. Specifically, it would be reasonable to mandate the gradual increase in the number of accessible polling stations (100% by 2025) through the Electoral Code, and to entrust the Ministry for Communities and Territories Development of Ukraine with responsibility for implementation. Moreover, election administration bodies and political parties need to show greater dedication to making information about elections and election campaigning more accessible to those with disabilities.

The CEC decision not to hold local elections in 18 communities within the government-controlled areas of Donetsk and Luhansk Oblasts, which was made based upon vague opinions of civil and military administrations, contradicts the government's commitments to ensure its citizens' right to vote. This *de facto* restriction of suffrage for almost 500,000 Ukrainian citizens must not be accepted, as there is no basis upon which to guarantee an unbiased, substantiated grounding for the decision.

The failure to hold elections in certain communities also caused some distortions in the representation of territories in district councils in Donetsk and Luhansk Oblasts. Specifically, voters in territorial *hromadas* that did not hold elections did not elect new district councils, and the candidates nominated for their constituencies could not gain the mandates with no vote to support them.

In order to avoid further such situations, the parliament needs to introduce legislation with de-politicized and objective procedures that account for the security situation during the organization and conduct of elections in Donetsk and Luhansk Oblasts. In addition to implementing a system of situational assessment criteria, it is important to check that the body in charge of the decision does not have conflicts of interest and is capable of objectively assessing security risks for the election process. Along with legislative changes, the right of territorial communities in Donetsk and Luhansk Oblasts to local self-governance must be ensured for local self-governance so long as there are safe conditions to conduct voting.

There needs to be a special focus in the next stage of election reform on improving the procedures for ensuring gender quotas on voting lists of local political party branches during list registration, while cancelling candidates from these lists, and for keeping gender balance in elected authorities as seats are awarded. The ambiguous judicial practices and TEC decisions showed many cases of possible breaches of legal requirements to provide

for gender equality in the election process. It is obvious that all shortcomings in the law for that aspect must be eliminated without undue delay.

The uneven experience of implementing pandemic control measures during the election process needs to be comprehensively studied by the central government and local self-governments. On the one hand, the Cabinet of Ministers of Ukraine, the CEC, local self-government bodies, TECs, and PECs invested huge efforts to enhance safety during the vote. On the other hand, these decisions and measures would often be implemented with delays or improper enforcement on-site (such as compliance with pandemic restrictions by members of election commissions). In addition, OPORA observers noticed a lack of communication between the government and voters on implementing pandemic control measures, which may have had a negative effect on election turnout. An analysis of the experience from running elections during the pandemic and rectifying shortcomings will improve the level of election administration in the future.

During the registration of candidates and cancellation of registrations deemed ineligible, OPORA observers found inconsistent practices for resolving electoral disputes among courts and TECs. Different interpretations of provisions of the Electoral Code by election commissions, by other subjects of the election process, and by judges indicate a need to further improve procedures for the nomination and registration of candidates. There needs to be particular focus on improving Ukraine's Law on Political Parties to create uniform procedures for holding party congresses for candidate nomination, to establish clear campaign contribution rules, and to provide clear remedies for correcting mistakes and inaccuracies in documents submitted by candidates and party chapters. Legislative and practical solutions are needed for when TECs do not have the capacity to verify whether candidates have followed the rules prohibiting simultaneous candidacy in several constituencies. In our view, Ukraine needs to create a unified database of registered candidates to help identify violators.

Our observers found that the state of affairs in ensuring the transparency and accountability of election finances during the 2020 local elections was extremely unsatisfactory and requires decisive steps from the government. Voters *de facto* did not have access to candidates' interim and final financial statements, while assessments of their compliance were usually *pro forma* at best and often not conducted at all. After the conclusion of the campaign, the public had virtually no access to data on the expenditures of candidates or party organizations. In order for Ukrainian legislation to fully comply with

the recommendations of GRECO, the Council of Europe's anti-corruption monitoring body, Ukraine needs to significantly strengthen campaign finance disclosure requirements, as well as the institutional capacity of the National Agency for the Prevention of Corruption (NAPC) as an election campaign finance monitoring and enforcement body. Another important step would be the introduction of an online mechanism for the immediate disclosure of all contributions and expenditures for all candidates and political parties, which would allow the public to effectively compare declared and actual expenditures.

In a broad sense, the transparency of the election process should be increased with the opening of access to electoral data, which needs to be a priority for the state. Open electoral data can be an efficient tool for authorities, voters, and observers to prevent and identify any violations or issues in the election process. In particular, it is important to bring procedures and accessibility standards for the promulgation of local election results in line with those for national elections, and to broaden as much as possible the scope of statistical data published by the State Voter Registry. During and after the election process, the Ukrainian government invested much effort into expanding the public authorities' obligations to publish the open data. However, these steps must be taken in accordance with corresponding obligations in the Electoral Code.

OPORA's randomized analysis of protocols of local election results showed high and sometimes extremely high numbers of invalid ballots used in proportional elections (in some communities reaching as high as 13% or even 16%). Some regions and *hromadas* saw their number of invalid ballots double from the previous local elections in 2015. Although the lack of digitized data does not allow for the verification of data from all over the country, the numbers of invalid ballots proves that it is simply not practicable or acceptable to introduce new forms of ballots shortly before the elections, and also underscores the importance of a full information campaign to help voters understand how to make their selections.

Although the Criminal Code and the Code on Administrative Offenses were improved in the leadup to the elections, candidates and party organizations kept using unfair methods during the campaign. Voter bribery, illegal campaigning, and the abuse of administrative resources for electoral interests were key challenges for the election process, as usual. The National Police of Ukraine and other law-enforcement agencies were proactive in responding to observer reports of such incidents. Moreover, they provided train-

ing for officers before they were deployed on election duty. However, as of this writing, the final results of election crime investigations have not yet been made public, and interim data on the prosecution of offenders is quite sparse. It is already clear that the process of improving the legislation in the field of criminal and civil penalties needs to continue and take the experience of the 2020 elections into account. According to OPORA's preliminary analysis, given the incompleteness of the process, law enforcement agencies were more effective in penalizing citizens who hid or destroyed their ballots. However, there is a lack of effective investigations into violations of the law in the field of election campaign financing, among other things. At the same time, special attention should be paid to the study of the final results of investigations into voter bribery, taking into account the impact of violations on elections, and amendments to the Criminal Code. In general, OPORA calls on the National Police to continue and intensify their work on the prevention, detection, and investigation of electoral fraud, especially concerning voter bribery.

The prevalence of incidents of illegal campaigning demonstrates the need to further improve the provisions of the Electoral Code dealing with this aspect of elections. The 2020 local elections took place as the internet was reaching its most developed stage as an electioneering tool in Ukraine, drawing massive expenditures. In particular, 81 political parties used political advertising on Facebook, spending a total of UAH 37.8 million, but it was virtually impossible to fully establish or monitor such expenditures during the local elections. The non-transparency of online campaign financing and the challenges of disinformation campaigns testify to the appropriateness of the decision to give the National Council on Television and Radio Broadcasting the right to enter into agreements with owners of shared access platforms (namely social networks) to ensure that candidates comply with Ukrainian law. The process is not easy, but it can introduce new standards of transparency and accountability for campaigning on shared access platforms. OPORA's monitoring showed the need to strengthen the capacity of The National Council on Television and Radio Broadcasting and the State Committee on Television and Radio Broadcasting for monitoring the media's compliance with election law requirements (or requirements set by a single regulator). The 2020 local elections, unfortunately, showed only a few examples of existing regulators responding to violations by the media, which did not at all correspond to the scale and intensity of incidents. In addition, it is expedient to reform Ukrainian legislation after elections to synchronize the provisions of the Electoral Code with the regulations on advertising, print, and audiovisual media. Given the massive violations of media standards for

unbiased coverage of the election process, it is worth considering the possibility of a legislative definition of the term “covert campaigning” and introducing transparent mechanisms for its detection. In addition, the practical application of the Electoral Code revealed a number of shortcomings and ambiguous interpretations that need to be addressed.

The 2020 local elections, despite the situation with the pandemic, ran without any major disruptions in the work of election commissions, which organized the electoral process with generally qualified and authorized membership. However, the administration of elections at the local level once again demonstrated the negative consequences of excessive politicization in the work of election commissions, especially regarding how they are formed. The current condition of the electoral system in Ukraine precludes the possibility of seriously limiting the influence of political parties and candidates on the formation of election commissions, as there are risks of abuse of administrative resources and government influence. In the next stages of electoral reform, the state should consider the gradual professionalization of election commissions, especially through the introduction of mandatory certification of knowledge for persons applying for certain categories of positions. In addition to the conceptual issue of approaches to the formation of election commissions, the Verkhovna Rada needs to address a number of operational issues. In particular, it is worth setting clear deadlines for re-voting in mayoral elections, as the current provisions of the Electoral Code allowed TECs to organize it on different days over a span of three weeks. Such features of the legislation undermine the principle of legal certainty and the principle of ensuring equal conditions for candidates in different territorial communities.

The lack of a legal requirement to apply proportionality in the formation of the management of TECs has been a highly publicized issue. In fact, in some cases, it led to an unbalanced representation of electoral subjects. Resuming the practice of re-forming PECs during the second round of voting is also worth discussing, as it would allow mutual control between the two candidates and prevent the losing candidates from corruptly allocating their share of representation on the commissions to one of the top two finishers. Incidents in which members of election commissions were re-appointed after they had been expelled due to gross violations of the law undermined the integrity of the election process. Legislation should prohibit this from happening unless a member of the expelling commission submits a dissenting opinion objecting to the commission’s decision. In order to strengthen non-partisan election observation in Ukraine, the state needs to ensure the

right of NGOs to observe the formation of the TECs by the CEC and at the stage of constituency formation.

As in previous national and local elections, members of election commissions received paltry pay while facing an extraordinary workload. In addition to this recurrent problem, the 2020 local elections saw TEC members and involved specialists beginning their work before the official start of the election process, without pay. Separate attention should be paid to the illegal practice of signing PEC counting protocols with false dates and times, which is tied to low wages (this is done to entitle precinct workers to an extra day's pay). To avoid this problem, OPORA proposes providing all members of precinct election commissions with pay for 2 working days. Moreover, commissioners who transport the election documents should receive an additional payment for each day before the day election documents are submitted to DEC and TECs.

The serious incidents of misallocation of seats in local council elections in some communities which were identified by our observers highlight the need to strengthen control and partially automate the promulgation of election results. Some cases of misallocation of seats have not been challenged in court; nor have they received any official response from election commissions, which violates the voting rights of citizens. To avoid these incidents in the future, we consider it necessary to verify the process of distributing mandates using an automated information and telecommunications system. At the same time, verifying the accuracy of the apportionment of seats should be one of the stages that precede the official promulgation of election results by TECs. Gaps in the regulation of the distribution of seats in local elections need to be promptly addressed. In particular, it is necessary to determine how residual mandates are to be distributed among party organizations that received an identical number of votes.

The process of determining election results, which often involved conflicts, indicates the need for systematic improvement of requirements for the protection of TEC premises, for the actions of commissions during a long lack of quorum while receiving documents, for the grounds under which TECs can order a recount of votes at the polling station, and the basis for sending results protocols back to PECs in order to clarify their results protocols.

The experience and conclusions of the 2020 local elections highlighted many challenges for the next stage of electoral reform in Ukraine. OPORA welcomes the previous efforts of the Committee of the Verkhovna Rada on

the Organization of State Power, Regional Development, Local Self-Government, and Urban Planning regarding the inclusive process of drafting changes to the election legislation. These good practices should be used effectively and enhanced when the lessons learned from the local elections to improve the Electoral Code.

Electoral systems and legal framework for local elections

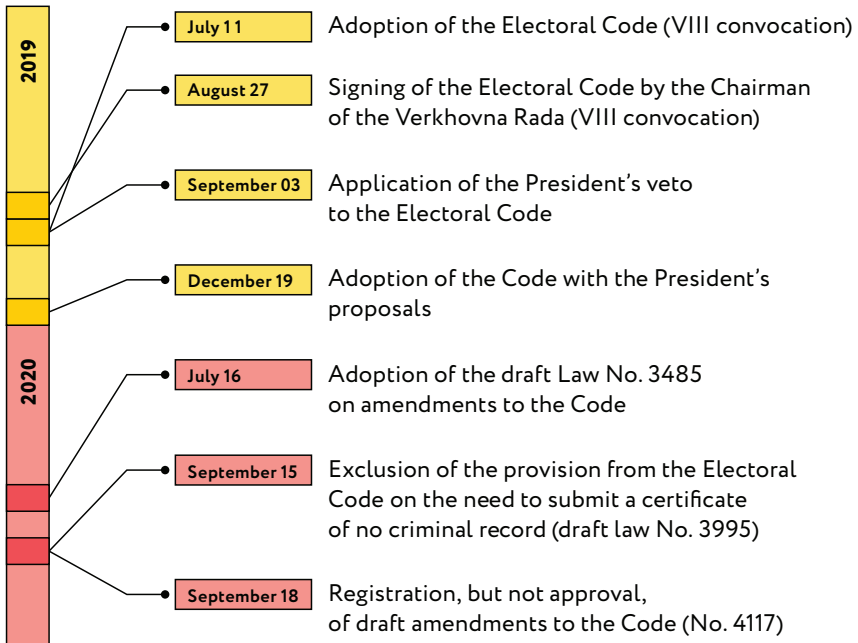
The legal framework for the 2020 local elections was finalized by the Verkhovna Rada on July 16, 2020 by amending the Electoral Code (itself adopted in December 2019) with proposals from President Volodymyr Zelensky. The incorporation of the President's remarks did not eliminate all problems in regulating local elections, and parliamentary debate on the matter resumed in 2020. Unfortunately, this course of parliamentary actions did not ensure the stability of electoral legislation, which was adopted immediately before the local elections. The latest changes to the Electoral Code were made in September 2020. They abolished the need for candidates to submit a certificate of no criminal record to election commissions. Despite the late adoption of the legislation, OPORA commends the Committee of the Verkhovna Rada's productive interactions with the national expert community and with international organizations during the development of amendments to the Electoral Code.

The technical errors and inaccuracies identified after the amendments to the Electoral Code, as well as the need to regulate voting during the pandemic, resulted in the registration of a new draft law by Rada deputies. It was offered to the parliament after the start of the local election process (No. 4117). These changes to the Electoral Code were not approved, which negatively affected the regulatory framework for the conduct of elections during the pandemic and forced the CEC to independently regulate certain election procedures on an *ad hoc* basis. A significant challenge for 2020 local elections came from the incomplete legislative regulation of the new administrative-territorial system, as well as the failure to amend the Constitution of Ukraine on relevant matters of decentralization.

At all stages of the preparation of the Electoral Code, OPORA provided independent commentary of the legislative regulation of the election process in Ukraine and published detailed analysis. Non-partisan monitoring of the election process itself, on the other hand, revealed key practical problems in implementing the legislation.

The Electoral Code, which was amended on the eve of the election campaign, provided for 4 types of electoral systems in local elections, whereas most discussions focused on the need to apply a proportional electoral system at the level of small territorial communities.

Stages of building a new election legislation of Ukraine



- A proportional electoral system with voting for open lists of local chapters of political parties was used in elections of deputies of oblast, rayon, and city district councils, as well as in elections of deputies of village, township, and city councils (in communities with 10,000 voters or above).
- A majoritarian electoral system of multi-member constituencies in elections for deputies of village, township, and city councils, in communities with under 10,000 voters.
- A majoritarian electoral system of absolute majority in elections of mayors in communities with 75,000 voters or above.
- Majoritarian electoral system of plurality in elections for mayors in communities of under 75,000 voters.

The application of a proportional electoral system in communities with at least 10,000 voters has provoked controversy among local governments, national experts, and political parties. On the one hand, the introduction of a proportional electoral system with open lists has been a long-standing promise of Ukraine's political elite. The introduction of a new electoral system in national and local elections would help to overcome the chronic shortcomings of the majority electoral system (voter bribery and the abuse of administrative resources). A proportional electoral system with open lists also allows voters to cast their ballot for a particular candidate from the party and enhances the influence of voters on the final distribution of seats.

On the other hand, the decision of the parliament to hold local self-government elections in small communities precluded candidates from self-nominating, which went against international standards of democratic elections. Local elites saw the new electoral system as a tool for parliamentary parties to draw in popular local leaders who could not take advantage of self-nomination. In addition, the weak level of development of local political party chapters stood in stark contrast to their dominance in local elections and created risks for centralized control over local political process by party leaders. These and other comments on the new electoral system should also be considered in conjunction with the introduction of the procedure for revoking local council deputies. After the extension of the proportional electoral system to relatively small communities, political parties received a powerful mechanism for influencing elected officials in the system of local self-government.

In the amendments to the Electoral Code, OPORA drew the attention of the people's deputies of Ukraine to the need to ensure self-nomination in local elections and the inexpediency of spreading the proportional electoral system in small or relatively small communities. This reasoning shall be taken into account at the next stage of electoral reform in Ukraine.

Features of the proportional electoral system with open lists in the 2020 local elections

- Candidates were nominated only by local organizations of political parties; self-nominees could not stand for these elections.
- To earn any seats, political parties had to win at least 5 percent of the vote within a city, region, or district.
- The election of deputies took place in territorial constituencies based on territorial subdivisions, whose number determined the number of deputies.

- Party organizations formed two types of candidate lists: a general list for the whole city/district/oblast) and separate lists for territorial constituencies, with the latter offering 5 to 12 candidates.
- The top person on the general list of the party organization for the *hromada*/rayon/oblast) was not included on any territorial list, while all other candidates had to be included on one of the territorial lists. The order of sequence of candidates in the two types of lists was determined by the party organization itself.
- On the ballot, the voter marked the party they voted for, and could also enter the number of the candidate from the list proposed in a specific territorial list. In this case, the voter had the opportunity not to vote for an individual candidate on the electoral list, and then their vote was counted in favor of the general electoral list of the party organization.

The legal regulation of the distribution of seats in local elections under the proportional electoral system with open lists has provoked robust political and expert discussion. First of all, there is debate about having a guaranteed mandate for the top person on the electoral list of a party. As noted above, the first person on the list was not assigned to any of the territorial lists of the party organization. Second, the Electoral Code set a requirement for candidates to overcome the 25% internal threshold for candidates on territorial lists, as a share from the electoral quota, to advance to the top of the territorial list. Those candidates who did not overcome the relevant barrier were placed on those lists in accordance with the order determined by the parties. Thus, the new electoral system limited the influence of voting (as opposed to party decisions) on the promotion of candidates on the electoral rolls. In particular, the effect of closed lists could be exacerbated if voters chose not to vote for specific candidates or if votes were scattered among many candidates on the territorial list. In this report, we analyze in detail the effects of electoral systems, and the study partially confirmed the relevance of previous objections made during the adoption of the Electoral Code.

During the consideration and final approval of the Electoral Code, the Verkhovna Rada made a progressive decision to introduce a requirement to include at least two members of each sex among every five people on the unified party list and in territorial lists (the so-called “gender quota”). Despite the procedural shortcomings of securing this quota, the parliament’s decision demonstrated Ukraine’s progress in ensuring the gender balance of the election process, which has been long-awaited.

In territorial communities with under 10,000 voters, local council elections were held under a majority-based electoral system with voting in multi-member constituencies. Both party organizations and self-nominees could exercise the right to nominate candidates in these communities.

The features of the majority electoral system with voting in multi-member constituencies were:

- The territory of each *hromada* was divided into multi-member constituencies, with 2 to 4 deputies to be elected in each.
- A voter had the right to vote for one candidate only, and political parties could nominate more than one candidate in one constituency at a time, but not more than the total number of seats allocated for that constituency.
- A “soft” gender quota was set for party organizations and they were required to nominate at least 30% of the same sex candidates from the total number of candidates nominated in the community.

Therefore, in *hromadas* with under 10,000 voters, voters had a voting method they were accustomed to, and the electoral system provided for the possibility of self-nomination.

We note that the issue of the electoral system is political and is under the exclusive jurisdiction of the Ukrainian parliament. But new electoral systems which provide for new voting approaches must be introduced well in advance of the election process. Unfortunately, for the 2020 local elections, the Verkhovna Rada continued its habit of changing the system shortly before the election process, which created obstacles to properly informing citizens and to preparing for the campaigns of political parties and candidates. A key shortcoming was the lack of self-nomination of candidates in territorial communities where elections were held on a proportional basis.

The 2020 local elections ran in the midst of legal uncertainty over procedures to schedule the elections, which was within the jurisdiction of the CEC. The key issues that needed further clarification concerned the formal calling of the first district council elections. On August 8, 2020, the CEC requested clarification from the Verkhovna Rada Committee on the Organization of State Power, Regional Development and Local Self-Government on which body was supposed to file an application to the Commission to request the appointment of the first elections of district councils. The CEC

also asked the Committee to clarify the legal fact of the establishment of district councils as a result of the adoption by Parliament of the Resolution *On the Formation and Liquidation of Rayons*. The need for this clarification came from the fact that as of August 8, 2020, there was no request from any authorized body regarding the scheduling of the first local elections. At the same time, the law makes such a request a mandatory precondition for calling the first local elections. The decision of the CEC to call the first local elections in all territorial communities without exception, even in those that already held the first elections during the decentralization process within the same boundaries, provoked controversy. The CEC justified its decision by the fact that all territorial communities were formally new, established pursuant to the order of the Cabinet of Ministers on identifying administrative centers and on the approval of territorial boundaries for *hromadas*.

Another novelty of the Electoral Code was the granting to the parliamentary groups of the Verkhovna Rada the right to take seats on TECs in local elections by concluding an agreement with one of the country's political parties. Previously, only political parties represented in parliament were granted this right. In order to apply for representation in TECs, deputy groups had to be formed by January 1, 2020. Thus, the right to participate in the formation of TECs was given to the deputy groups *Dovira* and *For the Future*. They exercised that right. The *Dovira* parliamentary group signed an agreement with the party *Solidarity of Women of Ukraine*, while the *For the Future* group was represented in election commissions through the affiliated *For the Future* party. At the same time, the deputy groups had to inform the Staff of the Verkhovna Rada of such agreements within 95 days of election day. At the same time, they were required to inform the CEC within 91 days of election day. OPORA disapproves of the parliament's decision on the actual participation of parliamentary groups in the formation of TECs, as they are not subjects of electoral and party processes. With the work of election commissions being so unstable, and with no transparency in the distribution of political influence in their structure, this innovation only aggravates chronic problems of election administration in Ukraine.

The 2020 local elections were held in unprecedented conditions associated with the spread of COVID-19. The specifics of anti-pandemic measures during the election process were not at all regulated by election legislation, but were established using by-laws. Prior to the election process, we called upon the parliament to regulate the framework requirements for elections under pandemic conditions through changes to the Electoral Code, which would facilitate the effective implementation of anti-pandemic measures

by the state, local governments, and election administrators. Legislative regulation of the specifics of holding elections during a pandemic would also have boosted the public legitimacy of the measures taken. Unfortunately, the necessary legislative changes were not adopted, which had a negative impact on the administration of the election process.

Another negative element in preparing for elections was the lack of payment for members of oblast, district, city district, and city TECs established by the CEC before the official start of the election process. The Electoral Code provided for the establishment of these commissions by August 10, 2020, while the election process began on September 5. Prior to the official start of the elections, the newly-formed TECs were required to register themselves as legal entities; district TECs had to form village and township commissions, and city TECs were supposed to form city district TECs in cities (except for the city of Kyiv), as well as carry out preparatory work on the formation of constituencies. Although TEC operations were launched in August, local budgets received the money they were allocated for local elections as late as September – November 2020. The lack of funding for payrolls also affected TEC employees, who had to perform their duties and prepare draft TEC decisions before the election process started. Our observers noted that the lack of funding for TECs before the official start of the election process undermined their work. The fact that commissions had to request pay for their work from the government negatively affected the overall election administration process.

Recurrent changes to the Electoral Code and other laws resulted in a number of inconsistencies and inaccuracies that undermined the legal certainty of electoral procedures. One such instance entailed a technical and legal error in the Electoral Code regarding the determination of the amount of allowed expenses for election campaign materials provided to voters. As a result, the cost of such materials should not exceed 6 percent of the tax-free minimum, which amounted to .012 hryvnias. This obviously did not correspond to the realities of financing campaign expenses. Despite the serious implications of the situation, the parliament could not fix it, and the CEC had to tackle the issue with their own explanation. This and other shortcomings in the election law must be promptly remedied by the parliament in order to avoid risks to the legal certainty of the election process in the future.

The situation of the party system and internal party democracy on the eve of the 2020 local elections

(based on OPORA survey from april, 2020)

In order to assess the readiness of Ukraine's political forces to play the key role assigned to them by the Electoral Code, OPORA ran a comprehensive study of regional party organizations. The study was based on a series of extensive individual interviews with leaders of local organizations of the most electorally influential political parties in Ukraine. The survey covered 98 heads of local branches of political parties (or their authorized representatives) in all regions of Ukraine, except for the territories of the Autonomous Republic of Crimea and the city of Sevastopol annexed by the Russian Federation.

In general, OPORA regional experts interviewed representatives of 18 political parties, focusing on party organizations which earned at least 2% of the vote in the 2014 parliamentary elections, as well as regional political parties that at the time of monitoring were widely represented in the largest local councils. The study involved leaders of regional and district organizations, as well as city organizations of political parties (in cities with over 90,000 voters). In the vast majority of cases (91.8%), the survey covered regional / oblast branches of political parties, while only 8.2% covered city branches.

In general, during the survey, OPORA experts contacted representatives of 335 branches of political parties in all regions of Ukraine, of which 98 persons (or almost 30%) expressed their interest and desire to participate in the study.

The survey included representatives of the following political parties: *European Solidarity* – 20 people (20.4%); *Radical Party* – 15 (15.3%); *Holos and Batkivshchyna* – 12 each (12.2%); *Svoboda and Self-Reliance* – 8 each (8.2%); *Nash Kray* (lit. – Our Land) – 4 (4,1%); *Groysman Ukrainian Strategy* and *UKROP* – 3 each (3,1%); *Opposition Platform – For Life, Servant of the People*,

Opposition Bloc, and *Syla i Chest* (Strength and Honor) – 2 each (2%); *Civic Position*, *Democratic Axe*, *New Politics*, *Volia* (Will), and *the Ukrainian Maritime Party of Serhiy Kivalov* – 1 each (1%).

The study was conducted through individual semi-structured interviews (based on interview guides), through face-to-face meetings, and online communication.

It was qualitative in nature and was not aimed at obtaining statistically representative information. At the same time, the survey findings contain generalized, quantifiable conclusions in order to identify general trends and key problems of party development at the local level.

The main objective of the study was to identify established party practices in the regions of Ukraine and analyze the attitude of local party leaders towards issues of intra-party democracy, government funding of parties, the legislative promotion of gender equality, cooperation with the media, election administration, party building, and other key aspects for the development of party institutions.

Some parts of the study were published on our website¹. The consolidated material is being made available for the first time in this report.

Party Finances

Our findings show a defining role of the government financing of parties in their ability to maintain a functioning network of local party centers and to ensure a high level of public activity in the period between elections. Without that source of funding, local party organizations do not actually conduct systematic work to mobilize voters and expand the organizational structure.

All representatives we interviewed from parties which receive (or have received) government funding said that this state support is an irreplaceable and dominant source of funding for their party structures. Moreover, those local party organizations which have received (or continue to receive) gov-

1 The “Partization” of Local Elections and the Capacity of Parties: Do Political Desires Coincide with Reality? Available at: <https://cutt.ly/aQC45R9>

ernment funding for statutory activities, actually see it as their main safeguard of financial independence and their ability to operate effectively in the inter-election period.

In addition to this, local party organizations have to deal with their inability to directly receive money allocated to their central party organizations from the state budget, or to influence how that money is spent. Regional party leaders, for the most part, were not able to clearly explain the criteria for allocating funds and the appropriateness of targeting existing expenditures. Some respondents reported that they did not actually use these funds, and the mechanism for accessing them is not fully understood or transparent.

Local party organizations which do not receive any government funding (29% of respondents) heavily rely on membership fees as a source of funding. At the same time, party leaders acknowledge that this funding is irregular and that their membership accounting and collection systems do not function properly. The second major source of income comes from the contributions of individuals – 25% of respondents considered this source as key. In addition, 20% of party leaders reported that they had no sources of funding for their party organization at the time of the poll. 11% of respondents said they were not aware of where their funds were actually coming from. 7% of local organizations reported being entirely dependent on revenues from the central party office, and 5% reported that they were financially supported by the party chairman.

In terms of financial support for local party centers, 26% of respondents said that their available revenues were critically low in relation to their needs for operational activities. 8% responded that their party did not have any financial resources.

On the other hand, 55% of respondents reported that their organization's current financial support was sufficient and could cover basic needs, although with certain limitations. At the same time, over a half of respondents who were satisfied with the level of financial support come from the parties that do not receive government funding.

This attitude comes from the nature of costs and the features of party activities during the inter-election period, when, according to the leaders of local party organizations, they are not called upon to conduct media activities, mobilize voters, or deploy organizational structures. 59% of respondents stated that their party's largest current expense was paying for rent and ad-

ministration at their offices. However, the scale and intensity of this activity significantly decreased compared to election periods. 25% of respondents said that their party did not have any expenses or they did not have any information about them. Only 4% of surveyed party officials said that their leading expense during the inter-election period was media promotion costs, and they said that they could afford it. Our respondents' answers indicated that outside of election periods, their parties did not conduct any active public activities, and that they did not consider this state of affairs to be a critical problem.

According to 26% of our local party officials, their current activities would be much more efficient if they had the financial resources that allowed them to maintain and staff a network of administrative offices and reception offices. 20% reported that their main need for developing their local party was a means to finance the party in the media. Another 9% of respondents believed their main need for resources was to be able to provide charitable and social support to voters. 7% said their main need for funds was to finance the costs of party publications. 6% said they needed to finance training for party members.

Our respondents had a generally positive attitude towards the system of government funding for parties. 80% of party leaders believed that the system of public funding was effective and necessary, although they also pointed out shortcomings. In particular, 42% believe that the system of government control over the activities of parties (their revenues and expenditures) is complex and excessive. They think it is the main problem in the realm of public political party financing that needs legislative regulation. The majority of respondents (53%) supported the idea of government funding not only for parties with seats in parliament, but also those without, which received a certain share of the vote. At the same time, they emphasized it was unacceptable to change procedures while they were being applied, as was the case with the abolition of government funding for parties that did not pass the 5% threshold in the parliamentary elections. About a third of respondents (29%) believed that only parties that pass the electoral threshold should receive government financing. Only 4% of respondents agreed that government funding should go only to parties not in parliament with a certain share of votes. They reasoned that there need to be incentives for newly-formed parties to actually develop (instead of being abandoned after each election cycle) and for real competition between parties.

On the other hand, 12% of respondents claimed that the current system of public funding was generally inefficient and did not meet the initially declared goals for its implementation.

Parties and election administration

The parties participating in the election process play a key role in building and ensuring the proper functioning of election administration in Ukraine. A common issue with this aspect of the election process is the technical nature of party representation in election commissions and mass replacement of members of election commissions initiated by the parties themselves. A comparison of the composition of election commissions within different elections shows a well-established practice of assigning people to the election commissions who had represented different parties in different elections. At the same time, 67% of our respondents did not consider it a problem to frequently have commission members from their party who had worked for other political parties and candidates in previous elections. Conversely, 27% of respondents agreed that parties should demonstrate consistency and have a systematic approach to selecting, training, and maintaining their own active members as potential election commissioners.

66% of respondents supported the idea that PECs, DEC, and TECs ought only include persons who have previously passed tests and received certificates of knowledge of election procedures from the CEC. However, our respondents repeatedly expressed skepticism about the possibility of implementing this approach, given the large number of members of election commissions (especially at the PEC level) and the ongoing turnover of staff during the election process. 28% of respondents did not support the proposal of testing and certification as an eligibility criterion for election commissioners. Party officials are wary of possible manipulations and abuse during such certification processes, and see the practice as an additional barrier to becoming part of election commissions. Similar reasoning was used when discussing the idea of including individual members (such as secretaries) in election commissions by referral of future territorial offices of the CEC. 56% of respondents were against this practice, even if the persons included by the territorial offices of the CEC would not have the right to vote on the election commission. According to our respondents, this is because they anticipate abuse of administrative resources and a lack of guarantees of neutrality and independence of people assigned to elec-

tion commissions on a non-party basis. On the other hand, 36% welcomed a proposal to strengthen the professional capacity of election commissions by including specially trained and selected individuals, but with transparent and clear selection criteria.

In the absence of legally-prescribed compensation for members of election commissions by political parties or candidates, Ukraine has a de facto shadow market for paying members of election commissions, which coexists with the legal practice of performing election commission duties on a paid basis, at the cost of central or local budgets. Experts and policymakers continue to discuss solutions to this problem. Key suggestions focus on legislating the practices of relations between parties (candidates) and members of election commissions, or on implementing more effective mechanisms to enforce the law. Our respondents' opinions also varied in this regard. 53% of respondents believed that only the government should finance the work of election commissioners. At the same time, the practice of having parties and candidates finance this work, although unavoidable today, is unacceptable and contraindicated by democratic election standards. Respondents see the main threat to further preservation and legal formalization of this practice in the deepening of inequality in the search for and recruitment of election commissions and the monopolization of influence on the formation of election commissions by only the most financially capable political players. Our respondents' key recommendations were to review existing approaches to compensating members of election commissions, in particular by increasing their pay. 41% of respondents believe that parties should be able to pay for their representatives on election commissions. Their key reasoning is that this approach follows long-established practice and the expectations of potential members of election commissions. In addition, the government is not ready to fully meet the financial demands of members of election commissions at the same level as parties can.

Impact of consolidated interest groups on party development

In the course of our interviews, we attempted to assess the impact of consolidated business interest groups on the political situation and on party development in the regions. 86% of respondents acknowledged the existence of regional groups that have sufficient resources to actively influence the

political, economic, media, and social environment of the region. Only 10% of leaders of local organizations of political parties believed there were no groups in the region that dominated or monopolized political life and party building in the regions. Instead, it is more appropriate to talk about pluralistic political processes in the regions, electoral competitiveness, and the situational impact of various business environments. It is noteworthy that all our respondents who recognized clearly dominating interest groups in their areas rejected the idea that any of these groups substantively affected their party organizations. However, they recognized direct influence on other political parties. 42% of respondents reported that the influence of consolidated business groups had a negative impact on party structuring and the democratic political process in their region. 24% of respondents believed that such interest groups varied in their motivations and intentions. Therefore, along with the clearly negative impact that these regional influence groups have, there are also quite a number of examples of these groups contributing to the building of democratically-oriented party organizations. Finally, respondents pointed out that although the influence of these groups may be extremely negative in itself, the competition between them allows for the development of political parties and ensures the competitiveness of the political process at the local level. 14% of party members surveyed said that the presence of local business groups that are interested in influencing the political life of the region actually has a positive effect on the development of party life in the region.

Cooperation with mass media

During our interviews, we tried to understand how local party organizations worked with local media. After all, free and equal access to the media is a prerequisite for fair political competition and a sign of a healthy democratic process. 52% of our respondents reported that their parties did not face significant obstacles in working with the media, and that their access to regional media was free and unhindered. At the same time, 40% believed that their access to the media was limited primarily by high financial barriers that prevented parties from regularly publishing their materials and sharing information in the mainstream media. Another problem is that the conditions for such cooperation are not always transparent, given the political affiliation of media owners. Only 52% of respondents said that the conditions for cooperation with local media were transparent and clear.

Attitudes to civil society organizations

For the most part, our respondents felt positively towards the activities of civil society organizations (CSOs) and recognized their contribution to the promotion of reforms and mobilization of civil society on the ground (67% of respondents). On the other hand, 23% of respondents believed that the activities of CSOs were not effective enough and that they had some hidden (financial, political, etc.) agenda.

65% of respondents felt positively about the practice of creating non-party NGOs. They explain this by the fact that these organizations are more efficient in mobilizing supporters and conducting awareness activities than political parties. Furthermore, they serve as a tool to raise additional financial resources through internationally-supported projects and programs. 19% of respondents believed that civil society activity was completely autonomous from party work, with its own goals and requirements, and that the creation of party-linked NGOs was therefore not a function of political parties.

Internal organization of political parties

A key finding from our questions on internal party procedures was that our respondents typically maintained a centralized approach towards general party governance, setting policy, decision-making, and chapter oversight. They found this management approach to be the most effective. When done with the involvement of members in discussions and decision-making processes, this is fully consistent with democratic principles.

Regional leaders show complete loyalty to their parties' central leadership. They claim there is no problem with monopolistic influences on the activities of their chapters or on administrative and personnel decisions, including in the nomination of candidates for elections. Thus, 89% of respondents reported that their local organization had a real influence on their party's policy and the decisions of its governing bodies. 74% of respondents said that their local organization had the opportunity to freely influence final decisions on the nomination of candidates in the recent national elections.

Moreover, 56% of respondents agreed that national governing party bodies should have the right to veto candidates nominated by regional party orga-

nizations in local elections. 65% of local party members also agreed that national party organizations should have the right to veto the appointment of heads of local party chapters.

The majority of respondents (77.5%) agreed that there is a need to build a wide network of local party chapters, including also at the *hromada* level. An extensive network of party chapters, along with ongoing expansion of membership, is seen as a key indicator of parties' institutional development and organizational capacity. In particular, relevant incentives are laid down in relevant legislation with requirements for registration and operation of political parties. However, the experience of election campaigns has demonstrated a lack of direct link between parties' organizational capacity and their success in earning support during elections. It is noteworthy that 17.3% of our respondents avoided answering whether these things were linked.

Our respondents recognized that their parties had problems maintaining membership. This manifests in citizens' low interest in gaining official status as a member / supporter of a political party, in inefficient or absent membership systems, and in the inconsistency of formal data on the number of party members actively involved in supporting the party. 43% of respondents reported that the actual number of members in their regional party branches was under 500 people. 17% reported that their chapters numbered between 500 and 1,000 members; and 20% said they had between 1,000 and 5,000 party members. Only 11% of respondents stated more than 5,000 members in their local branches.

Our respondents were somewhat split on the matter of requiring candidates to be members of parties that nominate them to stand in elections. 59% of respondents believed that a clear identification with the nominating party was important, and that membership ought to be used as a criterion when considering candidates for nominations to run. 34% thought that party affiliation was not important for this purpose.

The findings of this survey must be taken into account in further discussions on the choice of election systems at local elections, and in building new regulations on the activities of political parties in Ukraine.

Ukraine's progress in the area of ensuring citizens' voting rights and issues identified

Before the 2020 local elections, the Verkhovna Rada passed legislation to solve the long-standing issue of ensuring voting access for in the local elections for internally displaced persons and internal labor migrants. Amendments to the Law On the State Register of Voters allowed voters to change their electoral address by applying to the administration authority of the State Register of Voters. The procedure has been instituted on a permanent basis, and is intended to be applied mostly between elections. It ensures that internally-mobile Ukrainians are fully enfranchised where they actually reside. In order to ensure these citizens' participation in the election process, the law allows Ukrainians to submit an application for a change of voting address up to five days after the start of the official election process. After this point, voters are not permitted to apply, as it would open up too many risks for the manipulation of the election process (particularly with the formation of constituencies) if they were allowed to change their voting addresses too soon before election day. Thus, for the first time in the 2020 local elections, Ukrainians had the right to change their voting address between July 1 and September 9, 2020, and the right was exercised by almost 100,000 voters. Given the short period in which voters had to file their requests, the number of changes in electoral addresses was not significant, but the government now has every opportunity to properly inform voters about the implemented procedure.

Given the lack of reliable punishment for electoral crimes, any electoral procedure is liable to experience some level of tampering by unscrupulous individuals and organizations. While address changes proceeded overwhelmingly legitimately, there were several incidents recorded in which people tried to change the address change procedure illegally. On August 4, 2020, the CEC appealed to the National Police regarding a significant number of changes in the electoral addresses in the village *hromadas* of Karolino-Bugaz, Tairove, and Fontanka in Odesa Oblast. Given that citizens are required to actually live in the places which they request to have recognized as their voting address, mass changes of voting addresses raised suspicions. We welcome the CEC's proactive stance on responding to law enforcement regarding possible illegal changes to voting addresses.

In addition, OPORA observers independently appealed to law enforcement agencies regarding possible attempts to illegally use the address change procedure by residents of the city of Zhytomyr. In this instance, unidentified individuals received copies of Ukrainian passports and tax ID codes from a group of citizens for a monetary reward. At the same time, the people who received these illegal benefits were informed about an upcoming organized trip to Kyiv to vote on election day. Given the combination of facts revealed by our observers, illegal attempts to falsify the procedures for changing the voting address, including through the use of the electronic services, seems likely. OPORA appealed to law enforcement agencies in this case, and we urge the authorities in charge to ensure a proper investigation into the circumstances of the incident.

The Ministry of Internal Affairs publicly stated that they were monitoring attempts to illegally use procedures for changing voting addresses. OPORA notes that the effective operation of law enforcement is an integral part of ensuring the legitimacy of elections. In these cases, current legislation allows for the effective countering of falsifications by providing reliable punishment for electoral fraud.

One key challenge for ensuring the voting rights of citizens was the decision of the CEC, adopted on the basis of conclusions of the Donetsk and Luhansk regional military-civil administrations, that it was impossible to organize elections in 10 territorial *hromadas* of Donetsk Oblast, and in 8 *hromadas* of Luhansk Oblast. According to OPORA's estimates, this decision affected 475,855 citizens whose voting addresses belonged to 18 communities in the two oblasts. These *hromadas* included large industrial and agricultural centers of the region: the cities of Lysychansk (almost 91,000 voters), Severodonetsk (84,612), Toretsk (50,351), Volnovakha city *hromada* (29,716), Mariinka (26,865), Avdiivka (25,751), Vuhledar (22,000), Popasna (21,000), and the town of Stanytsia Luhanska (20,686). These localities did vote in the 2019 presidential and parliamentary elections, except for some polling stations. This figure of nearly half a million voters unable to exercise their franchise is very high, since it represents almost a quarter of the number of votes cast in Donetsk and Luhansk Oblasts during the 2019 parliamentary elections.

During 2014-2020, OPORA consistently called the parliament's attention to the need to introduce legislation to create a transparent, public, clearly defined and inclusive procedure for declaring that holding elections in certain frontline communities is not possible. In addition, we insisted on the introduction of a procedure to review this in the event of positive changes

in the security situation. Unfortunately, the Verkhovna Rada did not resolve the problem, and voters in 18 municipalities were unable to exercise their rights because of the adoption of a decision based on imperfect legislation.

Our main criticisms on the process of declaring that elections cannot be safely held in frontline municipalities are as follows:

- Civil-military administrations (CMAs) have a conflict of interest in determining whether voting can be allowed to go forward due to the power they exercise over *hromadas* in their zones. This conflict proves the need to issue official opinions on the impossibility to have elections on the national level, rather than regionally. Bringing the authority to assess the security situation for voting to a higher level of government will help avoid any influence from local and regional interests on ensuring the constitutional rights of citizens.
- Current legislation does not require CMAs to treat local community authorities as equals or consult with them when assessing the prospects for voting.
- The law does not require CMAs to consider *hromadas'* previous experience in conducting elections, and the successful and safe conduct of previous national and local elections is not considered a favorable indicator for permitting the vote to go ahead.
- The security situation in the region and its changes were not assessed by any measurable criteria or a scale that would be understandable to the public and inspire confidence, but the law did not require any justification of the decision. For example, the criterion of distance from the contact line was certainly applied unevenly. The lack of basic requirements and criteria for the conclusions of the CMAs was often replaced by an appeal to the “difficult socio-political situation in the region,” which is not a convincing argument for the actual restriction of citizens’ constitutional rights.

Another serious issue was the lack of answers to questions about the prospects and conditions for restoring the rights of territorial *hromadas* in Donetsk and Luhansk Oblasts. The legal uncertainty of the timelines for restoration of the right of territorial *hromadas* to local self-government hinders the consistent development of territorial *hromadas*. Instead, local elites have the opportunity to govern territories without a democratic mandate, which poses serious potential for abuse.

These problems have been reflected in the reports of international observer organizations, which repeatedly expressed a consensus position that there was a lack of clear and transparent criteria for making decisions on the impossibility of holding local elections in 18 communities of Donetsk and Luhansk Oblasts.

The decisions on not holding elections in the 18 communities of Donetsk and Luhansk Oblasts also led to **distortion of representation of territories in some district councils of the two oblasts**. In particular, residents of non-voting territorial *hromadas* did not elect new district councils, and nominated candidates in their constituencies were able to win seats without earning a single vote. On a national scale, 38 of the 69 deputies who did not receive a single personal vote were elected to the Severodonetsk (20) and Shchastya District Councils (9) of Luhansk Oblast, and the Volnovakha (7) and Mariupol District Councils (2) of Donetsk Oblast. The elected deputies were candidates in territorial constituencies where voting did not take place due to the CEC's decision. At the same time, the elections of district councils that included those *hromadas* were not postponed, and party organizations had the right to nominate candidates in constituencies where elections were not held. Thus, candidates from non-voting constituencies received seats in a single multi-member constituency. It should be noted that the election of a number of district councils of Donetsk and Luhansk oblasts without the participation of individual *hromadas* demonstrated a different approach by the government to solving problems of the election process related to the conflict. The decision of the parliament not to hold elections of deputies of Donetsk and Luhansk Oblast Councils was justified by the impossibility of ensuring the representation of the temporarily occupied territories, while some district councils were formed in violation of this standard.

Therefore, the introduction of depoliticized and objective procedures for assessing the security situation for the conduct of elections in conflict-affected areas needs to become an active priority of the Rada's work on voting legislation. The priorities are to establish criteria, requirements, and methodology for decisions on not holding voting in individual communities, to strengthen the openness of this process, and to involve experts and the public. All these steps should pave the way for the election of local governments throughout the government-controlled territory of Donetsk and Luhansk Oblasts. Exceptions should be based on convincing and public evidence that voting cannot be held safely and reliably. Instead, the current legislation deprived almost half a million Ukrainian citizens of their voting rights on the basis of non-transparent procedures and amidst a conflict of interest with local communities in the CMA.

There were also issues with voting access for voters in pre-trial detention centers and inpatient health care facilities. Part 6 of Article 30 of the Electoral Code sets forth that only special polling stations which function on a permanent basis (for all elections) may be used for the preparation and conduct of voting and vote count at inpatient health care facilities in local elections in. Thus, the Code does not provide for the organization of voting in local elections in pre-trial detention centers, while Ukrainian citizens serving sentences interned in prison facilities (and only those citizens) do not have the right to cast ballots in local elections. .

The Electoral Code does not clearly regulate the procedure for compiling lists and issuing ballots to voters on voter lists at the special polling stations in inpatient health care facilities. Accordingly, the Electoral Code needs to be amended to include a clear rule on the inclusion in the “Note” of information on the number and type of ballots received by an inpatient voter, based on whether their electoral address is within the particular constituency of the city, district or regional council elections hosting the inpatient facility.

The government also faces the complex task of making the election process more inclusive for citizens with disabilities. The Electoral Code requires that all regular polling stations be accessible for voters with disabilities by January, 1, 2025. However, our monitoring found that only 15 of the 500 polling stations in our sample met the accessibility requirements for low mobility groups. 281 polling stations were under-accessible, and 204 were totally inaccessible for disabled voters. The Code should provide for a gradual increase in the number of accessible polling stations (10% of accessible polling stations by the end of 2021, 20% by 2022, 40% by 2023, 70% by 2024, and 100% by 2025). The government should assign responsibility for implementing this rule to the Ministry of Communities and Territories.

It is also worth reconsidering the practice of automatically adding voters with disabilities to mobile voter lists (voters on these lists have poll workers come to their residence with a ballot and ballot box so they can cast their votes in their homes), as it can stigmatize people with disabilities. There is another problem in equipping polling stations with smart devices to enable voters with disabilities to access key electoral information and read their ballots. In particular, a transitional period should be defined to allow voters with disabilities to submit applications (including online) to the State Registry during the inter-election period to vote at their polling station or at their place of residence, or to request the use of a better-adapted polling station. The data contained in the application will be stored in the official part of the

register, will be analyzed during the election process for the need to provide specific polling stations with reasonable accommodations, which will then be transmitted to the polling station election commissions.

It would also be advisable to consider allowing select groups to temporarily change their polling place without changing their electoral address in the local elections. During the local elections, we asked the CEC for clarification on 1) whether members of polling station election commissions in inpatient healthcare facility polling stations are to be on polling stations' lists during local elections; 2) whether police deployed at those special polling stations could be similarly included. In their letter on October 24, 2020, the CEC replied that part 45 of Article 45 of the Electoral Code stipulates that members of a precinct election commission at special polling stations who have the right to vote in that election shall be included in the polling station's voter list upon the decision to form that polling station's committee. On the other hand, the CEC said the Code does not provide for the inclusion of police officers stationed at those polling stations. In this regard, one way to ensure the voting rights of persons involved in the election process is to review the approach to allowing temporary polling station changes without changing one's voting address in local elections. In addition, changing polling stations would also be useful for voters in large cities, especially to voters with disabilities, who could switch from an inaccessible to an accessible polling station.

Assessment of the 2020 local election administration process

The Electoral Code grants the power to administer local elections to three entities: CEC, TECs, and PECs.

The powers of the CEC for the 2020 local elections included the authority to formally call them, the creation of election documents, the approval of the form and color of ballots, adjudicating whether elections could not be held in certain territories, and the formation of territory, district, city district election commissions in Kyiv. TECs were also empowered to establish the results and returns of local elections, and to register election winners. During local elections, the main authority to organize and conduct voting belongs to the TECs. They are charged with registering candidates, creating territorial and multi-member constituencies, forming PECs, and producing ballots. However, the CEC has the power to independently overturn TEC decisions or to approve them in place of TECs, in the event that the territorial commission makes an illegal decision or were inactive. Similarly, the CEC had the right to promulgate the results of local elections in lieu of TECs. PECs were empowered to receive voter lists from the State Register of Voters and issue voting reminders to voters, to prepare polling station premises for voting, to count the votes at polling stations, to draft vote count protocols, and to transport election documents to their TEC.

In the 2020 local elections, the CEC, TECs, and PECs were, in addition to their main responsibilities, forced to plan and implement anti-pandemic measures that were unprecedented for the election process in Ukraine.

CEC activity in the 2020 local elections

According to *the Law On the Central Election Commission*, the Commission is a permanent state body with 17 members who are appointed by the President and confirmed by the Verkhovna Rada for a term of 7 years. The CEC that organized the 2020 local elections was put together by the Rada on October 4, 2019 as a result of complex consultations between the President, parliamentary factions and groups.

The re-formation of the CEC after the 2019 national elections was carried out by the newly elected parliament on the basis of legal provisions that allow for the early termination not only of an individual member of the Commission, but also of the Commission as a whole. The ability of the Rada to completely replace the CEC before the end of its term is inconsistent with the need for the country's highest body for electoral administration to be politically independent. Although Ukrainian law requires a two-thirds majority vote by the Rada to dismiss the CEC, Rada deputies have the ability to review the composition of the Commission for political reasons. In the process of electoral reform on the eve of the local campaign, we insisted that the Rada strike the provision on early full dismissal of the CEC, but the parliament did not show any willingness to abandon this mechanism of political influence on election administration.

The risks of political influence on the activities of the CEC made themselves evident the eve of the 2020 local elections. Shortly before the official start of the election process, there were reports that the chairperson, a deputy chairperson, a secretary, and two members of the commission had been pressured to resign. CEC chair Oleh Didenko partially confirmed this in remarks to journalists. In August 2020, Mr. Didenko stated that people close to the Presidential Administration had pushed him to resign voluntarily, and that they had hinted at initiating criminal proceedings against him. This incident did not receive further official or public comment or investigation, but it once again demonstrated the need for effective guarantees of the CEC's independence and to prevent it from facing political or administrative pressure. These guarantees need to be codified in law, at the very least by abolishing the provision allowing for the whole commission to be terminated early.

The CEC organized and conducted local elections while itself being in need of internal reform to enhance its openness and cooperation with a wide range of stakeholders. In the run-up to the local elections, the CEC made significant efforts to build dialogue with NGOs and expert organizations, including on voting address changes and temporary polling station changes, ensuring voting rights for people with disabilities, and developing an internal strategy for 2020-2025 election administration. In addition, during the election process, the CEC decided to approve a new structure, staff members, and staffing for the Secretariat and the executive support service of the Commission, which ended the separate Office of the State Register of Voters and re-established it as a department within the CEC Secretariat.

In the period before the next election, the Commission should follow its previous practice of communicating with stakeholders and implement a comprehensive internal reform while taking into account the previous recommendations of CSOs. In particular, in 2018, OPORA and other NGOs proposed a roadmap of reforms for the CEC.

The CEC held local elections amidst incomplete administrative-territorial reform and a need to clarify the imperfections and gaps of the Electoral Code. The Commission was also charged with formulating and implementing unprecedented anti-pandemic measures during the elections. Prior to the election process, the CEC appealed to the Verkhovna Rada Committee on the Organization of State Power, Regional Development and Local Self-Government for clarification on the calling of the first district council elections. The commission justified the impossibility of calling the first elections to district councils with the lack of an appeal by the authorized body on the basis of a decision on the formation of regional and district councils. The problem was that the Electoral Code did not definitively designate which body was supposed to approach the CEC. The decision to establish districts was made by the parliament, rather than by the Cabinet of Ministers or the Ministry of Communities and Territorial Development, which should have appealed to the Election Commission. The decision to call the first district council elections was made only on the basis of letters from the Committee of the Verkhovna Rada on Organization of State Power, Local Self-Government, Regional Development and Urban Planning and the Ministry of Communities and Territories.

The legal uncertainty of the decentralization process and the formation of territorial communities led to the legally ambiguous decision of the CEC to call the first local elections in all newly-formed *hromadas*. This decision applied even to those communities in which the first elections had already been held in the same composition. The Central Election Commission justified this decision by the fact that, formally speaking, those *hromadas* were newly-formed administrative-territorial units. Because a number of the territories had not changed, some national experts believed that they should have been called regular local elections, rather than the first elections. In any case, the government should work to avoid any such legal ambiguity in the appointment of local elections.

The CEC also had to deal with the remuneration of TEC members and specialists who were working on a permanent basis in August 2021. TEC members and specialists had begun work before the start of the official election

process, while budget allocations were available only for September-November 2021, and payments for previous months were not possible. The Commission gave remuneration details to TECs prior to the start of the election process and faced fairly strong objections from election commissioners. We call upon the CEC to ensure proper remuneration for members of election commissions at all stages of their activities and proper logistical support for TECs during inter-election periods.

Despite the democratic nature of the discussion over changes to the Electoral Code, its final version contained a number of legal gaps and inconsistencies. These shortcomings led to the need for the CEC to issue *ad hoc* clarifications to election procedures, which is not a good practice in regulating the election process.

The resonant explanations of the CEC included the following:

- In response to an appeal to the Ministry of Justice of Ukraine, the CEC specified which local organizations of political parties had legal capacity and competence to participate in elections under the changed administrative-territorial structure. The clarification stated that oblast organizations of political parties have a priority right to submit nominations for membership in TECs, provided that the party had not registered its branches in the newly created administrative-territorial units (districts). If such cells had been established, they had a priority right to place members on TECs.
- The CEC clarified that in the Electoral Code, the non-taxable minimum income is equal to the amount of the non-taxable minimum set at the appropriate level of social tax benefit (as provided for in the Code of Administrative Offenses). This explanation permitted parties to distribute campaign materials whose cost did not exceed 6% of the amount of social tax benefits, or UAH 63.06. The need for this clarification came from the fact that during the adoption of the Electoral Code, the allowable value of campaign materials (souvenirs/merchandise) that may be provided to voters without constituting indirect bribery was erroneously and drastically reduced. According to the incorrectly-written provision of the Electoral Code, the cost of legal campaign materials could not exceed 6% of the non-taxable minimum income (UAH 1.02 of the amount of tax-free minimum income of UAH 17). Although it was obviously impossible to apply this limit, the CEC's decision appeared to constitute a change of law which was outside its legal powers. This practice, which arose as a result of poor work by the Rada, is not acceptable and should be prevented in the future.

- In order to properly form election commissions in Kyiv, the CEC decided that mandatory candidates for PECs may be submitted by city or city district chapters of political parties represented in parliament or parties that have entered into agreements with parliamentary groups. In case of simultaneous submission of candidacies to TECs by city and city district organizations under the “parliamentary” quota, the submissions of the relevant city organizations were to be taken into account. On the other hand, from local party chapters that nominated lists in the Kyiv City Council elections, only relevant city chapters could submit candidates to PECs (there is no provision for such nominations by the relevant district party organizations in the city). The need for this clarification came from the lack of specific provisions in the Electoral Code for the formation of election commissions in the capital.
- The CEC explained the peculiarities of holding elections of district councils in Bakhmut, Volnovakha, Mariupol, and Pokrovsk districts of Donetsk Oblast, and in Severodonetsk and Shchastia districts of Luhansk Oblast, in some parts of which elections were not organized or held. According to this explanation, separate district councils in Donetsk and Luhansk oblasts were to be formed without accounting for voters in territorial communities where the first local elections were not organized. At the same time, candidates from local party organizations were nominated in constituencies whose voters could not vote. This approach did not comply with the principle of ensuring the common interests of territorial communities within district councils.

The fact that the Electoral Code itself was insufficient to clarify these important aspects of the election process and that the had to issue decisions to do so means that the Rada must comprehensively analyze the shortcomings of the Electoral Code and eliminate them forthwith.

Given the somewhat belated response by the Cabinet of Ministers to the need to implement anti-pandemic measures during the elections, the CEC sought a systemic solution. A working group was set up through the CEC which developed recommendations for and local governments and state administrations on the implementation of anti-pandemic measures during voting. In addition to practical developments, the CEC recommended that the Verkhovna Rada adopt legislation to regulate the specifics of voting during the COVID-19 pandemic. During the election process, we noted the Commission’s proposal with approval, as the application of by-laws and recommendation documents had insufficient legal legitimacy. In addition, without changes to the Electoral Code, it was impossible to properly synchronize

anti-pandemic measures with current election procedures. The suggestions of the CEC working group were included in a draft law on the specifics of holding elections in a pandemic, but the Rada failed to approve it. Anti-pandemic measures during the elections were implemented through a Government decree, but in the future they should be regulated by legislation.

Under the Electoral Code, the CEC had the right, on its own initiative, to set aside an illegal TEC decision. If a TEC fails to establish election results, the CEC is entitled to take appropriate decisions in its place. During the election process, the CEC was forced to respond to high-profile denials of candidate registration. At the same time, our long-term recommendation to develop a unified approach to responding to dubious TEC decisions remained relevant in the 2020 local elections.

Formation of territorial election commissions in local elections by the CEC

One of the key powers of the CEC in local elections is the formation of regional, district, city district, and city electoral commissions. The formation of these TECs occurred before the official start of the election process. TECs began their work in August 2020. In total, the CEC established 22 oblast commissions (in all oblasts except Donetsk and Luhansk), 119 district commissions (except for some districts in Donetsk and Luhansk Oblasts and in occupied Crimea), and 381 city election commissions, as well as 10 district election commissions in Kyiv.

The CEC received an unprecedented number of candidates for TECs: over 28,000 applicants for 9,576 positions on commissions. The right to nominate candidates belonged to the following entities: 1) local party chapters which had representation in the current Verkhovna Rada (these had the right name two candidates to each commission); 2) local organizations of parties that had concluded a cooperation agreement with a parliamentary group of deputies (entitled to name one candidate each); and 3) local party organizations registered in the relevant administrative-territorial unit (entitled to name one candidate each). Candidates from the first two entities (parliamentary political forces) were included on commissions on a mandatory basis, while those from the other entities (non-parliamentary political forces) were allocated by the drawing of lots.

As a result of the mandatory allocation of TEC seats to representatives from parties in parliament, 12 seats on each 18-seat commission (67%) were allocated to five factions and two parliamentary groups. The remaining seats were distributed among local party organizations by drawing lots. At the same time, parliamentary parties could also apply for seats within this quota. Thus, in the local elections, parliamentary parties traditionally had the advantage during the formation of TECs, and this remained unchanged solely on the basis of the views of political forces. The issue of professionalization of election commissions or their individual positions was discussed on the eve of local elections, but representatives of parliamentary factions and groups were not ready to reconsider the pre-existing system. As before, the key concern was the risk of increasing administrative influence on election commissions and weakening mutual control between subjects of the election process.

A controversial innovation of the election legislation was the empowerment of parties that had concluded agreements with parliamentary parliamentary groups to submit proposals to election commissions. On the one hand, deputy groups are formally organizational entities that are not formed on the basis of party representation or electoral apportionment. On the other hand, the *For the Future* parliamentary group was set up in the Ukrainian parliament, which presents itself as a party association. Many national experts believe that the participation of parliamentary groups in the formation of election commissions through agreements with the parties will strengthen the shadow practice of redistributing quotas in election commissions and further destabilize the work of election commissions.

Based on the record-breaking number of submissions, the CEC filled almost all oblast, district, city district, and city TECs to their maximum size. Only 3 TECs were formed with a slightly smaller composition: Perechyn city TEC (Zakarpatska Oblast) with 16 members, as well as the Kitsman and Storozhynets city TECs (Chernivtsi Oblast) with 17 members.

We monitored the TEC formation process by the CEC and identified the following key trends:

- slightly over 28,000 candidates were submitted to oblast, district, city district, and city TECs by 256 local party organizations.
- 1,092 submitted candidates were rejected due to their submitted documents failing to comply with legislative requirements, of whom 842 were withdrawn by the submitting subjects.

- 5,774 TEC members were included in the commissions on a mandatory basis through the quota for parliamentary parties and parties with agreements with parliamentary groups), while 20,571 persons applied for 3,798 spots on TECs to be designated by drawing lots.
- In general, the local chapters of the parties *Servant of the People*, *Opposition Platform – For Life*, *Batkivshchyna*, *European Solidarity*, and *Holos*, as well as the parties *Solidarity of Women of Ukraine* and *For the Future* submitted a total of 5,774 out of the 6,384 persons who were nominated for mandatory inclusion under the parliamentary party quota.
- *European Solidarity*, *Servant of the People* and *Batkivshchyna* fully exercised their right to submit their two mandatory candidates to the 532 TECs formed by the CEC. *Opposition Platform for Life* used 96% of its quota in these TECs, while *Holos* used 67%.
- The *For the Future* party, which signed a cooperation agreement with the parliamentary group in the Verkhovna Rada of the same name, filled 100% of its mandatory quota. *Solidarity of Women of Ukraine*, which worked with the *Dovira* parliamentary group, filled 58% of its quota.
- 205 local party chapters delegated representatives to TECs based on the drawing of lots. At the same time, most of the TEC seats apportioned by lots were given to parliamentary parties, namely *Servant of the People* (received a single seat on 146 commissions), *New Politics* (139), *Batkivshchyna* (137), and *European Solidarity*(130).

In total, *Servant of the People*, *Batkivshchyna*, *European Solidarity*, *Opposition Platform – For Life*, *Holos*, *For the Future*, and *Solidarity of Women of Ukraine* received 68 % of seats on TECs. At the same time, in many TECs, parliamentary parties had three representatives. For example, *Servant of the People* received three members on 28% of TECs.

Parallel to the formation of TECs, the CEC was tasked with distributing management positions (chairperson, deputy chairperson, secretary of the commission). The Electoral Code does not require the proportional distribution of each category of seats in election commissions in local elections, although this requirement has been set for national elections.

The main conclusions on the distribution of management positions in the TECs are:

- The largest share of positions for chair, deputy chair, and secretary were won by candidates from local chapters of *Servant of the People*: 323 of the 1,211 (about 27%) of the people they nominated for TECs received executive positions. *European Solidarity* and *Batkivshchyna* nominated about the same number of TEC members (1,195 and 1,197, respectively), and each had about 19% of their nominees placed in executive positions (222 for *European Solidarity* and 229 for *Batkivshchyna*).
- *Servant of the People* not only dominated among all categories of executive positions, but also received significantly more TEC chairperson assignments. 139 *Servant of the People* nominees were appointed commission chairpersons, which significantly exceeded the number (and percentage) of similar positions held by other parties with similar general representation. In particular, *Batkivshchyna* received 86 commission chairperson assignments, *European Solidarity* received 76, and *Opposition Platform for Life* received 66.

This disparity in the distribution of executive positions in TECs indicates a need to apply regulations similar to parliamentary and presidential elections to local elections. The CEC used professional training as a criterion during the selection of TEC management staff, but this practice must be clearly regulated in the law and in the general approach to the professionalization of election commissions.

Our analysis showed that women were highly predominant in TECs formed by the CEC. In the total number of seats in TECs, the ratio of men to women was 29% to 71%, which matches that of the 2010 and 2015 local elections. The situation was similar with TEC executive positions, where women held 75% of spots (and 80% of secretaries were women). When considering gender balance in the Ukrainian election process, it is interesting to note that men dominate as heads of regional TECs (68%). We believe that the government should make efforts to ensure the inclusiveness of the election process at all stages.

Formation and activity of PECs in the 2020 local elections

The Electoral Code granted city, city district, village, and township territorial election commissions the authority to establish PECs. Previously, this authority belonged to district TECs, but due to the amalgamation of districts and changes in the country's administrative-territorial structure, these functions for the formation of PECs were decentralized. Given the lack of a centralized database on the formation and current compositions of PECs, our observers were able to only monitor samples of this stage of the election process.

According to the new election legislation, there were five entities with the right to nominate candidates to PECs: 1) chapters of local parties which had parliamentary representation (a maximum of 2 candidates could be included); 2) chapters of local parties which had concluded agreements on cooperation with a parliamentary group (a maximum of 1 candidate could be included); 3) local party organizations that have registered candidates for deputies (a maximum of 1 candidate could be included if selected in the drawing of lots); 4) candidates for the position of local chairperson (the maximum of 1 candidate; 5) candidates for deputies in *hromadas* of up to 10,000 voters (maximum of 1 candidate).

For the first round of local elections on October 25, 2020, TECs established 29,284 PECs. Voting was not organized at 2,581 polling stations because they were located in the temporarily-occupied areas of Donetsk and Luhansk Oblasts, the Autonomous Republic of Crimea, and the city of Sevastopol, or because the CEC decided that it was not possible to hold voting in those precincts.

A key challenge with forming PECs in the 2020 local elections was the situation with the spread of COVID-19, which affected Ukrainians' willingness to exercise their right to participate in voting administration. During the formation of PECs, we repeatedly pointed to a lack of government measures to prepare election infrastructure for the challenges of COVID-19 that could negatively affect the process of selecting PEC members.

To selectively monitor the PEC formation process, our observers monitored the activities of 107 TECs (in the centers of newly formed districts, including oblast centers). Our observation covered the formation of 4,468 PECs, which included 65,462 members.

Our monitoring showed the following results and issues from the PEC formation process:

- In general, TECs complied with the law and most PECs were established in accordance with the law. Cases of late submission by parties and candidates were found in 4% of TECs monitored. Of the total number of TEC candidacies submitted to the 107 PECs, 2% were rejected due to incomplete information on the nominees or a lack of required documents. At the same time, OPORA did not identify any intentional obstacles to the subjects of the election process posed by TECs to unreasonably reject PEC candidates.
- The main reason that candidates were rejected for nomination to PECs is that they were nominated by multiple different parties, which demonstrated an insufficiently responsible attitude of candidates and parties to the process of forming election commissions.
- The majority (53%) of PECs we observed were formed with a minimal or almost minimal composition. At the same time, TEC chairpersons were forced to independently seek candidates for PECs in order to comply with the minimum legal requirements. The draw for nominations was never even conducted at 62% of PECs, as the number of nominations submitted to such commissions was lower than the number of seats available in the commissions.
- As with TECs, PECs were dominated by parliamentary political parties or parties that had agreements with parliamentary groups (63% of PEC members in our observed group).
- The distribution of management positions in PECs (chairperson, deputy chairperson, secretary) covered by our observation was fairly balanced and proportionate. However, the lack of a direct requirement in the Electoral Code regarding the proportional distribution of each category of management positions in TECs represents a serious shortcoming.

Despite the difficult situation with Covid-19, our observers did not record any disruption of election procedures because of the lack of sufficient PEC members. Some PECs did not have a quorum on election day and during the vote count, but this problem was not widespread and was usually resolved promptly. It is worth noting that the lack of quorum at PEC meetings was more common during the second round of mayoral elections. At the same time, before election day, OPORA observers recorded quite massive turnover in PECs, which negatively affected the quality of their work and the effectiveness of prior training.

Second rounds of voting were organized and conducted by the same PECs for the first round. Commissioners nominated by local party chapters that were not standing in the second round often had low motivation to continue their election organization functions. At the same time, local party chapters were not motivated to provide the additional pay that their PEC members would be owed for their work in the second round when those parties' candidates didn't qualify for the second round. In some communities, the situation with maintaining the agency of PECs was extremely critical, but TECs managed to ensure their work continued as needed and to prevent the disruption of the second round.

The main issue in the activities of PEC members was with incidents involving attempts by voters to obtain ballots illegally (without proper documents or in place of other persons). Voters could only obtain ballots illegally with the involvement of PEC members, and therefore the government must make additional efforts to prevent such abuses. On the one hand, it is necessary to make sure that violators face the sanctions prescribed, both for members of election commissions and voters. On the other hand, it is also important to properly inform citizens about the consequences of these violations and the punishments provided by law.

As in previous elections, our observers noted a practice by PEC members of recording false dates and times for filling out vote count protocols. These violations were related to the attempt of members of election commissions to increase the number of days for which they received payment for their work. This unacceptable practice should be prevented by clearly defining a fixed number of paid working days for members of election commissions, taking into account the lengthy process of receiving election documents from PECs at the TEC level. At the same time, the government must find realistic opportunities to increase financial incentives for members of election commissions, without which it is impossible to ensure their proper motivation to perform the functions of organizing and conducting elections.

A separate area for improving election procedures should be an analysis of counting procedures used by PEC members at polling stations. Our observers noted that for many PEC members, the counting procedures were time consuming and difficult to manage. If it is possible to simplify the process without the risk of harming the measures controlling against falsification,, this needs to be done in order to provide better conditions for vote counting by PEC members who are working on a non-permanent basis and are not professional election administrators..

Nomination and registration of candidates

For the 2020 local elections, the process of nominating candidates for deputies and mayors began 40 days before election day and ended 30 days before election day (September 15-24). This stage took place during the de facto beginning of the pre-election campaign, when party organizations and candidates themselves were already reaching out to voters and placing political advertisements en masse. This situation, in which candidates were campaigning before the start of the campaign period, once again intensified discussions on the need for legislative regulation of early campaigning and for finding a means for regulating expenditures by candidates when carried out before they officially become candidates.

Local chapters of political parties held an exclusive right to nominate candidates for deputy to regional, district, city district, city, village, and township councils in *hromadas* with 10,000 voters or above. Restrictions on self-nominations in elections to these councils have been the subject of lengthy expert and political discussions, but the dominant position in the parliament is in favor of party monopoly in the electoral process. At the same time, the opportunity to nominate or run independently from party organizations was provided only in local council elections in *hromadas* with less than 10,000 voters, as well as in the elections of village, township, and city mayors.

The Electoral Code imposed a number of restrictions on parallel candidacies, which were difficult to control in the absence of TEC access to information on registered candidates in other communities. Candidates could be nominated in multi-member constituencies in no more than two levels of councils, and a candidate for the position of village, township, or city mayor was not allowed to run in any other single-mandate constituency. At the same time, candidates for village, township, and city mayors (cities with 75,000 or more voters) could be nominated in a multi-member constituency only to the council of the same *hromada* or to the oblast council. Instead, mayoral candidates in large cities (75,000) had the opportunity to run only for the council of the same *hromada* they planned to lead.

The Electoral Code favored oblast organizations in nominating candidates in all local elections without exception. If the oblast party organizations nom-

inated their candidates, other organizations (district, city) could not nominate candidates. In the case of city district party organizations, they did not have the right to nominate candidates if the city organization exercised this right in the election of city district council deputies. This consolidation of the process of nominating candidates under the control of party institutions was controversial for politicians and national experts, and some of them saw it as a restriction of intra-party democracy.

Ukrainian legislation does not establish a detailed procedure or requirements for the process of nominating candidates. The Electoral Code obliges party organizations only to notify TECs in writing of the nomination event no later than one day before the event, as well as to post this notice and the procedure for media accreditation on its official website no later than five days before. The lack of requirements for the organization of candidate conferences or meetings ensures the autonomy of political parties from the government, but it creates obstacles for TECs in resolving disputes over the registration of voter lists and candidates. In addition, current regulations for the nomination process do not adequately enable observers and journalists to receive relevant information.

Availability of information on conferences / meetings for the nomination of candidates in local elections

In order to assess the process of nominating candidates in local elections, we monitored 226 conferences (meetings) of regional organizations of 11 political parties (*Servant of the People, European Solidarity, Batkivshchyna, Opposition Platform – For Life, Holos, Palchevsky Victory, For the Future, Svoboda, Proposition, and Our Land*), as well as of some city organizations of these parties. OPORA representatives assessed these parties' compliance with the formal requirements of election legislation, as well as the conditions for real political discussion between their delegates of conferences / meetings about voter lists and candidates.

Our observation of 226 conferences for the nomination of candidates in local elections showed the following:

- **Violations of the law on the obligation of party organizations to notify TECs a day before the nomination conference were not common (3 conferences out of 226), but the information provided on the date, time and place often did not correspond to the actual details of the event (21 out of 226).**

The mismatch between the announced dates, times and places of the events with the real circumstances complicated the attendance of observers and journalists, and in some cases made it impossible. In addition, non-compliance by party organizations with the requirement to notify TECs aggravated the issue of whether there were grounds to reject the registration of candidates for violating the nomination procedure. An analysis of case law shows that the courts have approached this situation unevenly. Some court decisions stated that the violation of the candidate nomination procedure was grounds to reject the registration of candidates, while other courts came to the opposite conclusion. Our monitoring and the inconsistency of court decisions show a need to both clarify the provisions of the Electoral Code and ensure that parties observe current legal requirements on the transparency of nomination proceedings.

- **Organizations of political parties violated the requirement to post notifications on their websites about the date, time, place of conferences for the nomination of candidates, and media accreditation procedures (no later than 5 days before the day of the event).**

Of the 226 party conferences we observed, 15 did not post these required notices, or the notices could not be found on the parties' websites after a targeted study of all available information resources on them. These infractions by parties made it virtually impossible to cover and evaluate their candidate nomination activities.

- **During the organization of candidate conferences, party organizations had low interest in the presence of journalists and observers, which they justified with quarantine restrictions.**

In particular, we recorded that about 50% of all conferences covered were not announced in the media (except for formal reports on party websites). In 25 of the 226 cases, party organizations refused to announce the date, time, and venue of the nomination conferences prior to the nomination. These refusals were distributed among the parties as follows: *Opposition Platform – For Life* with seven cases, *Our Land* – with, *Proposition* with three, and *Servant of the People*, *European Solidarity*, and *For the Future* with two each. In 22 of the conferences, journalists and observers were refused access.

- **In the 2020 local elections, some political parties held conferences for local organizations from different oblasts in one venue at the same time.**

When these conferences took place outside the oblast they were supposed to, TECs, journalists, and observers were not able to visit them or record violations of nomination procedures.

Our monitoring demonstrates the need to significantly increase the transparency and publicity of the nomination process. This needs to create appropriate conditions for informing voters, for the activities of observers and journalists, as well as for TECs to exercise their authority to register candidates in local elections.

Assessment of the nomination process in the context of intra-party democracy

During our monitoring party nomination conferences, our observers also assessed the quality of intra-party democracy and the awareness of delegates about the lists of candidates.

Our analysis shows the importance of strengthening mechanisms of intra-party democracy during elections and of establishing minimum requirements for informing conference delegates about proposed candidates.

In particular, observers found that: 1) only 50% of conferences attended by our observers announced all nominated candidates; 2) in 9% of cases, delegates did not have lists of candidates and could not hear the list, (i.e. they did not know who they could support during the nomination); 3) at 8% of the conferences, no candidates were announced, but delegates had available full or partial lists of candidates; 3) conferences often used the selective discussion and partial announcement of candidates proposed for nomination. At the same time, 11% of our observers found that conference procedures did not allow them to obtain information about nominated candidates, and 35% of observers reported only partial awareness of who the party organization had nominated. A mere 49% of our conference observers were able to obtain information on all candidates nominated by the local party organization.

It should be noted that party organizations held nomination conferences in several stages. This created certain difficulties for journalists and observers

to cover the events. In a significant part of candidate conferences / meetings, there were no or only partial procedures for establishing the competence and capacity of conference delegates and counting votes on the agenda.

Given the problems with ensuring the transparency and democracy of the nomination process, we call on the Verkhovna Rada to reform legislation on political parties and to provide local organizations of political parties with incentives to strengthen internal party democracy procedures.

Evaluation of the candidate registration process

Our observers identified a number of problems in the process of candidate registration which need to be eliminated in the next stage of electoral reform. The shortcomings of the legislation and its implementation manifested both in TECs and during the hearing of election disputes in the courts. Different interpretations of TEC procedures and legal requirements led to many court appeals, which in some cases continued until election day.

Key problems in the process of nomination and registration of candidates in the 2020 local elections

Problem	Impact	Solution
Unequal application of the gender quota in election commissions and different judicial practices	<p>Courts often treated non-compliance with the gender quota as a technical error and allowed it to be corrected</p> <p>Party organizations could review voter lists without conference / meeting decisions</p> <p>Some party organizations encouraged candidates to withdraw</p> <p>Some TECs registered electoral lists of party organizations that did not comply with the gender quota</p>	<p>Reform the Electoral Code to, not allow for the correction of party lists without decisions by conferences of party organizations</p> <p>Develop a mechanism for replacing candidates on the voter lists with members of the same sex</p> <p>Expand the CEC's ability to respond to illegal decisions to register lists with rule violations</p> <p>Encourage parties to adhere to the gender quota by introducing additional incentives</p>

<p>Lack of a single electronic database of registered candidates</p>	<p>Poor access to information about candidates</p> <p>Inability to properly check for compliance of voter lists with restrictions on parallel voting and of candidate compliance with requirements for parallel voting</p> <p>Impediments for the CEC to respond to violations by TECs</p>	<p>Ensure the creation and prompt updating of a centralized database of registered candidates</p>
<p>Legal uncertainty of the requirements for making a cash deposit</p>	<p>Mass conflicts among TECs and courts over the ability of parties to deposit money for regional organizations without a legal entity</p> <p>Inconsistency of case law with the regulations of the CEC on the procedure for making a cash deposit</p> <p>Disputes concerning the payment of a pledge for a candidate by another person or by a legal entity founded by a candidate</p>	<p>Make changes to the Electoral Code to clarify the cash deposit procedure</p>
<p>No mechanisms available to prevent clone/"technical" candidates</p>	<p>Many cases of abuse of suffrage by the registration of technical candidates</p> <p>Lack of information for voters about the differences between similar personal information of candidates</p>	<p>Ensure that voters are informed about changes in candidates' personal information on ballot papers and in informational materials</p>
<p>Inconsistent application of procedures for correcting errors and inaccuracies in candidates' documents and voter lists</p>	<p>The practice of amending voter lists under the pretext of correcting mistakes, including the order of sequence of candidates</p> <p>Possibility of replacing voter lists without decisions by party organization conferences</p> <p>Inconsistent judicial practices on the correction of errors and clarifications</p>	<p>Detail Electoral Code procedures for correcting errors in voter lists</p> <p>Introduce, with the help of a single database of registered candidates, procedures for the automated verification of compliance with the Code's requirements in electoral lists and candidates' documents</p> <p>Enable party organizations to re-submit documents if they were previously refused registration</p>

<p>Insufficient legal certainty of the grounds for rejecting registration of candidates and party lists, and the cancellation of registration</p>	<p>The Electoral Code allows for ambiguous interpretations of the grounds for rejecting registration, including the failure of a party organization to disclose information about its nominating conferences</p> <p>There is no possibility to obtain sufficient information to cancel candidate registrations</p>	<p>Clearly delineate the grounds for rejecting a candidate registration</p> <p>Restore the right of TEC members to attend nomination conferences proper oversee the nomination process</p> <p>Give TECs the right to request information necessary to cancel candidate registrations</p>
<p>Insufficient requirements for party organizations to nominate candidates</p>	<p>Nomination procedures are not prescribed, even in party statutes</p> <p>No available procedure allows TECs or monitoring organizations to monitor the process, thus violating the rights of candidates, and restricting the work of journalists</p> <p>This lack of procedure did not allow TECs to properly address the issue of registration when party organizations made an "initial" and "updated" list of candidates</p>	<p>Establish the basic principles and procedures for holding conferences / meetings of party organizations for candidate nomination in law</p>
<p>Unbalanced deadlines for registration / cancellation of candidate registration, for court appeals, for the enforcement of court decisions by TECs, and for the production of ballot papers</p>	<p>Completion of trials and approval of final TEC decisions on candidate registration shortly before election day</p> <p>Risks of disrupting the process of producing ballots</p>	<p>Balance the deadlines for TEC' decisions on candidate registration and court appeals against the need for TEXs to abide by court decisions, and against deadlines for approval and printing of ballots</p>

One of the key issues in the candidate registration process has been the application of a gender quota in voter lists submitted by local party organizations. TECs have taken a variety of approaches to dealing with disputes, including cases where the parties have violated the rule requiring that two of every five candidates on the list had to be of the same gender.. Problems with the application of gender quotas included cases of electoral lists being registered while not complying with the quota, with disparate interpreta-

tions by TECs of whether party organizations could correct these violations post-submission, disparate responses by TECs when the gender quota was violated as a result of candidates withdrawing from party lists and not being replaced by candidates of the same gender. These problems have been considered by courts, but those courts' decisions have been inconsistent. Observers and lawyers from our organization systematically monitored 80 electoral disputes on gender quota compliance. The results of these disputes highlighted the practice of adjusting voter lists without the decision of local party conferences, as some courts interpreted violations of the gender quota as mere technical errors in the documents of nominees. In our view, this judicial approach to violations did not comply with the procedure for nominating candidates established by the Electoral Code. The Code does not provide for the possibility to make changes to the unified and territorial electoral lists or to form new lists with a different sequence of candidates.

The lack of a single electronic database of candidates in local elections, to which all TECs would have access, did not allow for TECs to effectively enforce restrictions on parallel candidacies or detect instances where candidates were included on the lists of several parties, along with other similar violations. It remained problematic to establish candidates' party affiliation, as candidates only have the right to run either only as members of a single party, or as non-party candidates. Ukraine does not have a national register of party members, and parties' internal membership policies are weak. Therefore, TECs have not been able to detect violations properly. We believe that in the next stages of electoral reform, the parliament needs to determine mechanisms for establishing candidate party affiliation.

In the matter of underdeveloped local branches of political parties, there were multiple electoral disputes over the right of political parties to deposit money in place of their local organizations. TECs had varying interpretations over whether it was acceptable for central party organizations to pay the security deposit for registration instead of a regional branch with no status as a legal entity, with some permitting candidates to register and some rejecting them. On the other hand, courts mostly took the position that placing a deposit in this way was lawful. At the same time, the procedure for depositing, returning and transferring security deposits in local elections², which was approved by the CEC Regulation No. 193 from 21 August 2020, does not include the central party organizations in the list of subjects entitled to make the deposit. The inconsistency of decisions by courts on the one hand

² <https://cutt.ly/Un4akHu>

and TECs on the other, and the adoption of practices not approved by CEC regulations, highlight the need to do systematic work to make the rules for placing security deposits unambiguous.

In order to ensure the stability of the process of organizing and conducting elections, it is necessary to synchronize the deadlines for the cancellation of candidate registrations by commissions, for appeals and final decisions by courts, of final election commission decisions executing of court rulings which refuse or cancel candidate registrations, and the terms for printing and transferring ballot papers to election commissions. The current regulation does not avoid the risks of untimely production of ballots and, accordingly, of undermining preparations for election day.

An important part of strengthening party institutions in Ukraine should be the establishment of minimum standards of democracy, transparency, and publicity of measures by parties and their local organizations to nominate candidates. The new requirements should ensure the rights of party conference delegates to nominate candidates, to create conditions for voters to receive information about their progress, and to prevent attempts to fiddle with voter lists. At the same time, in searching for efficient transparency mechanisms, it is important to avoid excessive government interference in the functioning of political parties.

The decisions of TECs and courts analyzed by OPORA demonstrate an urgent need to clarify procedures for correcting errors and shortcomings in candidates' documents. We found that about 40% of the total number of court cases concerned errors and inaccuracies in candidate registration documents. At the same time, court decisions varied among similar cases, which indicates a need to improve legislation and to build a unified judicial practice.

Special attention needs to be paid to the shortcomings of the Electoral Code provisions concerning candidate registration identified during the election process. For example, the Electoral Code contains differences in the use of constituency names. Part 4 of Article 216 contains the term "multi-member constituency" that is specific only to the majoritarian system, but it is mentioned in the context of the proportional electoral system.

Thus, the key problems in the candidate nomination and registration processes were the lack of transparency in party conferences, lack of democratic discussion of candidates by parties, violation of the gender quota on

electoral lists, and inconsistent resolution of electoral rule disputes among TECs and courts. The elections also revealed a lack of legal certainty in the procedures for the nomination and registration of candidates.

Profile of candidates in the 2020 local elections

Using data on all registered candidates for deputies and local mayors, we analyzed their age, social and professional characteristics, educational background, party affiliation, etc.³

In total, TECs registered 282,097 people as candidates for deputies, of whom 1,442 persons either withdrew from the election process or had their registration revoked.

230,564 candidates (82%) ran for councils in communities with over 10,000 voters and a proportional voting system, while 51,533 persons (18%) were nominated for councils using a majority voting system in multi-member constituencies.

In total, 146 political parties (through their local organizations) nominated candidates to councils at all levels. The largest share of candidates for local councils was registered by five parties: *Servant of the People* with 30,981 (11%), *Batkivshchyna* with 29,762 (10.6%), *For the Future* with 27,873 (9.9%), *European Solidarity* with 23,734 (8.4%), and *Opposition Platform – For Life* with 20,122 (7.1%). These parties nominated almost half (47%) of all candidates in local elections.

Slightly fewer candidates were registered by parties like *Nash Krai* with 15,620 (5.5%), *Svoboda* with 10,564 (3.7%), *the Radical Party of Oleh Lyashko* – 10,108 (3.6%), and *Strength and Honor* with 10,056 (3.6%). All other parties nominated under 3% of candidates, including *Holos* with 5,350 candidates (1.9%).

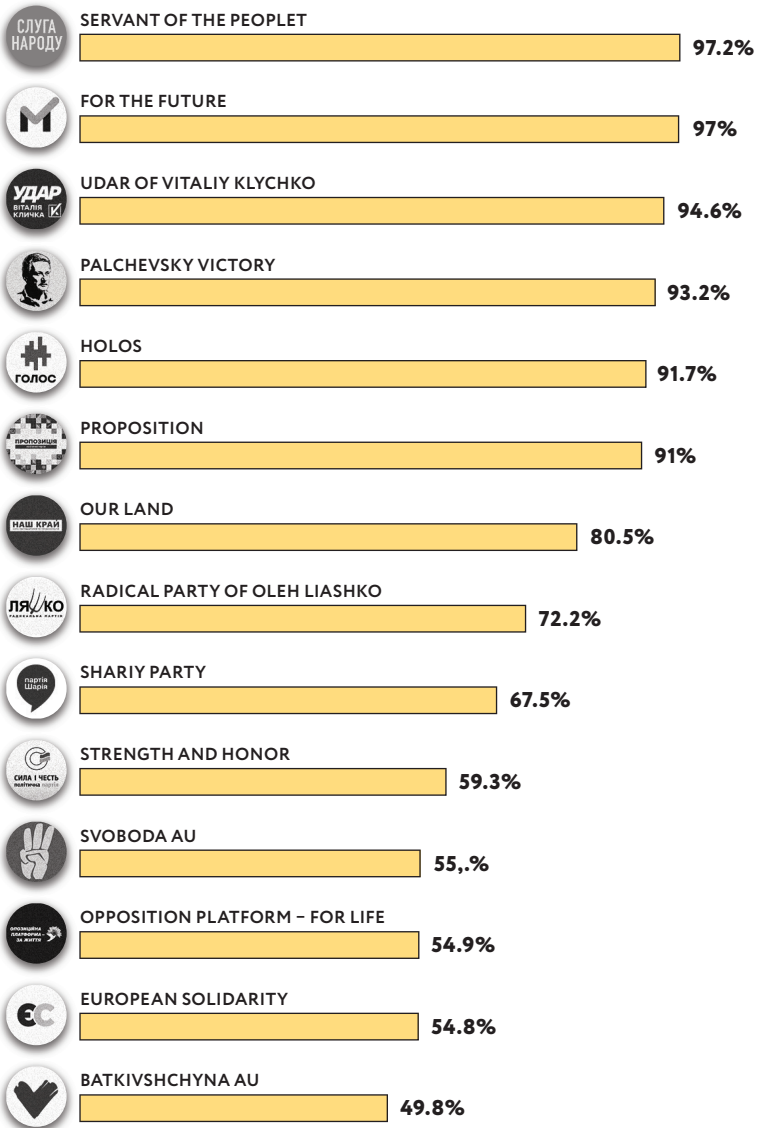
The number of independent candidates running for parliament in this election was 16,403, representing 6.2% of the total, or 32% of those running in multi-member constituencies where self-nomination was possible.

3 For this study, we used an open data set available on the CEC official website at the link: <https://www.cvk.gov.ua/pls/vm2020/pvm013pt001f01=695.html>

In the absence of formal requirements for party membership as a prerequisite for running in elections, the vast majority (76.4%) of candidates were non-partisan, while only 23.6% were members of political parties. As expected, the largest share (87.4%) of non-partisans ran for councils in communities with under 10,000 voters.

Party candidate lists, even for parties which had representation in the Rada and had received government funding for their development, were dominated not by members of these parties, but by people without formal party affiliation. The party with the largest share of non-member candidates registered on their party lists was Servant of the People with – 97.2%, whereas the smallest share was in Batkivshchyna with 49.8%.

Number of non-partisan candidates among individual parties



The situation is significantly different in terms of party affiliation of candidates who occupied the top positions (the “guaranteed” positions which would enter office if the party earned even one seat) in party lists nominated in *hromadas* with over 10,000 voters. Over a half of the top spots on party lists (53%) were occupied by members of these parties, while 47% were occupied by non-members.

Among parliamentary parties, the largest share of top candidates with membership in the party they were running with was in *Batkivshchyna* with 83.6% (with the rest as non-members) and *European Solidarity* with 78.4%. The smallest share was in *Servant of the People*, which had as few as 5% of its top positions occupied by party members, with all the rest being non-members.

When accounting for possible double voting for candidates in multi-member constituencies to two different levels of councils, the actual number of participants running for council seats in the local elections was 243,490 people. Thus, about 39,000 persons (or 14% of the total) ran for more than one local council.

A total of 2,966 candidates ran for *hromada* leader, of which 38 withdrew or were de-registered. Of all registered candidates, 37.3% ran as self-nominated, while all others were nominated by political parties. 124 parties nominated candidates to run for mayorships. By far the largest number of candidates was nominated by *Servant of the People* with 284 people, or 9.4%. They were followed by *For the Future* with 6.1% of mayoral candidates, *European Solidarity* and *Batkivshchyna* with 5.3% each, and *Opposition Platform for Life* with 4.2%.

Gender

In total, 55.3% of all candidates for deputies in local elections were men, and 44.7% were women. The gender split for regional councils was 56.9% to 43.1% for men, and 56% to 44% men for district councils. The ratio was similar for councils in *hromadas*; in *hromadas* with over 10,000 voters, 54.8% of candidates were men, and in sub-10,000 voter *hromadas*, 56.1% were men. However, the highest rate of male candidates was in mayoral races, at 83.7%.

Among the parties which participated most actively in the elections, the percentage of women on candidate lists almost the same, and ranged from

42% to 46%. At the same time, there were slightly fewer women in the top positions of party lists. Among parliamentary parties, the largest share of female candidates at the top of party lists for local councils was in *Batkivshchyna* with 31%, while the lowest share was with *Opposition Platform – For Life* at 19.5%.

Education

The vast majority (75%) of candidates for deputy had higher education, and another 8.9% had received general secondary education. 8.7% had vocational training, and 6.9% had a special secondary education. 0.3% of candidates stated that they had “other types of education” or “incomplete higher education”.

In many political parties, the share of candidates with higher education was over $\frac{2}{3}$. However, the highest rate was in *Holos* with 79.6%, and the lowest in the *Radical Party of Oleh Liashko* with 66.7%.

Age

The plurality of candidates (44.4%) were of the 35-50 age demographic – . Another 27.4% were 50-65 years old, and 21.1% were 25-35 years. Only 4.1% of candidates were 25 years old or younger,” 3% were above 65.

In general, the age distribution of candidates was almost the same across the different types of councils. However, mayors tended to be slightly older than other candidates, with an average age of almost 47. Candidates for *hromadas* were slightly younger, those from sub-10,000 voter communities being a bit under 44 years old on average. Among parliamentary parties, *Batkivshchyna* had the highest average candidate age with 46 years old, while *Holos* had the youngest at 39

Place of Work

OPORA also analyzed the employment spheres and the most common jobs of mayoral candidates and candidates for council deputy at all levels. The largest share of candidates worked in business (LLCs, PJSCs, agricultural enterprises, individual entrepreneurs, etc.) with 29.2%. Every seventh candidate (14.6%) reported themselves as unemployed. 10.9% of nominees worked in government, including local governments (oblast, city, township, and village councils), their executive bodies, local bodies of state executive power (RSA, DSA) and the Verkhovna Rada. More than 6.3% of candidates worked in education, and more than 3.3% worked in health care institutions. At the same time, 5.4% of candidates reported themselves as pensioners. In terms of the most active parties in the election, the party with the lowest percentage of unemployed candidates on its lists was Servant of the People with 12.2%, while the highest share was in the Party of Shariy with 35.4%. According to our estimates, 257 (70%) of the 362 current mayors were competing for re-election⁴.

4 The study used the open data set posted on the official website of the CEC at the link: <https://www.cvk.gov.ua/pls/vm2020/pvm013pt001f01=695.html>

Assessment of the election campaign process: main activities of parties and candidates, legislative issues, and the role of social media

Features of early campaigns

OPORA observers captured the actual start of the campaign long before the official start of the election process and registration of candidates. In August 2020, 70 of the political parties and their local organizations were de facto campaigning. The early campaigns were nationwide for *Servant of the People*, *For the Future*, *European Solidarity*, *Batkivshchyna*, and *Palchevsky Victory*. Two political parties (*Proposition* and *Opposition Platform – For Life*) covered over half the country's regions with their early campaigns. The campaigns of other political parties were more localized. 41 political parties campaigned before the official start in just one oblast, nine parties campaigned in three to five oblasts, including the *Radical Party of Oleh Liashko*, *UDAR*, *Party of Shariy*, *Democratic Ax*, the *Ukrainian Galician Party*, *National Corps*, *Power of the People*, the *People's Movement of Ukraine*, and *People's Control*. Four political parties campaigned in about a third of Ukraine's regions (*Svoboda*, *Holos*, *Our Land*, and *Strength and Honor*). Local parties managed great activity in the early stages campaigning in the race for mandates in just a single territorial community or oblast (including *Trust in Actions* in Odesa Oblast, *Community Platform* in Ivano-Frankivsk Oblast, *City Prospect* in Kirovohrad Oblast, *Cherkasy People* in Cherkasy Oblast, *Native Home* in Chernihiv Oblast, *Conscious* in Volyn Oblast, the *Unity Party of Volodymyr Buryak* in Zaporizhzhia Oblast, *Kernes Bloc – Successful Kharkiv* in Kharkiv Oblast, *Groysman Ukrainian Strategy* in Vinnytsia Oblast, *Ihor Kolykhayev's We are Here to Live!* party in Kherson Oblast, *For Real Action* in Khmelnytskyi Oblast, and others.). Yet in September, after the start of the election process, but before the official registration of candidates, early campaigning became even more active. Amidst the official start of the election process, the activity of potential candidates for the mayoral positions and deputies of local councils significantly increased.

During early campaigning, popular forms of outreach included the placement of outdoor political advertising, meetings with voters, and charitable events and initiatives. Prior to the official start of the election process, campaigning was not regulated by law and was not subject to campaign finance controls. Potential candidates were able to spend money with practically no accountability during early campaigning, including with the involvement of third parties (for example, NGOs). The non-transparency and accountability of campaign financing during the informal stage of the election process was not the only problem. In August 2020, OPORA observers noted the prevalence of charitable activity by potential candidates and political parties. Political leaders and local party chapters were quite active in using the COVID-19 pandemic as a basis to provide medical goods, equipment and services. As in previous local elections, potential candidates set up playgrounds in different places and initiated social campaigns for vulnerable groups. This “electoral” charity of potential candidates not only offered material incentives for voters, but also had non-transparent funding sources. Thus, the activity of political parties and candidates before their official registration and the official start of campaigning needs to be further regulated, primarily to prevent shadow funding of political activity. There also needs to be synchronization of the provisions of the Electoral Code and the Law On Charity and Charitable Organizations. This would need to strengthen guarantees of non-involvement of charitable foundations in political activities and campaigning.

A feature of the early campaign in the local elections was President Volodymyr Zelensky introducing potential candidates from local chapters of his Servant of the People. This often included Zelensky attending presentations of Regional Development Strategies. During these events, candidates from local Servant of the People chapters were presented for local elections. Each regional visit of Volodymyr Zelensky was covered on the official website of the Office of the President and included material on the presentation of regional strategies and presentation of candidates. Although the President is not formally obliged to adhere to the principle of political neutrality, his pre-election partisan activity using the stature and resources of his office undermined the effective separation of the government from party interests. Instead, the President’s participation in party-administered events went against the principle of political neutrality for civil servants and employees of local self-government bodies, which he was obliged to adhere to. For example, OPORA observers found indications in a number of oblasts (namely (Kirovohrad, Mykolayiv, and Dnipropetrovsk Oblasts) that employees of regional state administrations were involved in organizing Regional

Development Strategy presentations of during which potential candidates from Servant of the People party were presented region).

Campaigning efforts

The process of pre-election campaigning in local elections was characterized by the growing role of social media and the impact of anti-pandemic restrictions on candidate activity. Compared to the 2015 local elections, campaigning in the online media and social media became a much more meaningful area of activity for candidates, even those who did not use “conventional” forms of campaigning (meetings with voters, outdoor advertising, TV and radio, etc.). According to observers, activity on social media and the Internet was the second most common form of campaigning for candidates and political parties. OPORA’s monitoring recorded significant expenditures by political parties and candidates on campaigning on social media and online media, but its regulation was limited by imperfect legislation and the peculiarities of how global access platforms function.

Our observers noted problems in ensuring equal access for candidates and political parties to national and regional TV / radio organizations. Various media outlets repeatedly violated the principle of politically impartial coverage of the election process. In the print media, observers also recorded the placement of campaign materials without proper labeling, which misled voters and prevented them from identifying sources of funding. The planted articles and unmarked political ads in newspapers were an important factor in campaigning in small communities and areas where these papers remain a key source of information.

Indicators of campaign activity of political parties and candidates

During the official election process, OPORA observers systematically assessed the campaigning activity of local political party chapters and compiled rankings.

In September 2020, campaigning was conducted by the local organizations of 73 political parties. There were five parties with noticeable activity in all regions of Ukraine: *Servant of the People*, *For the Future*, *European Solidarity*, *Batkivshchyna*, and *Our Land*. Parties like *Proposition*, *Opposition Platform – For Life*, and *Palchevsky Victory* campaigned in most regions of Ukraine. Ten political parties campaigned in a substantial number of regions, but their campaigns were not nationwide. Over 50 parties campaigned in specific regions alone. In terms of campaigning activities by candidates for mayor in district and oblast centers, representatives from *Servant of the People* were most noticeable (active in 73 district centers and 15 oblast centers). Potential or registered candidates from *For the Future* and *Batkivshchyna* campaigned in a much smaller number of oblast (8) and district centers.

In the mayoral campaigns in district and oblast centers, *Servant of the People* put up mayoral candidates in 73 district and 15 oblast centers. *For the Future* and *Batkivshchyna* put up a relatively smaller but still significant number of mayoral candidates in district and oblast centers. *Batkivshchyna* had mayoral candidates in six oblast and 30 district centers, while *For the Future* put up candidates in 28 district centers.

In October 2020, there were 83 different parties with local chapters running campaigns. There was campaigning by *Servant of the People*, *For the Future*, *European Solidarity*, and *Batkivshchyna* in all oblasts. *Opposition Platform – For Life*, *Palchevsky Victory*, and *Proposition* ran campaigns in the vast majority of oblasts. Over 20 political parties campaigned within just one oblast or even one oblast center. These were really regional party projects. Examples included *Andriy Baloha Team* (Zakarpatska Oblast), *Party of Vinnytsia Citizens* (City of Vinnitsya), *Rivne Together* (City of Rivne), and *Mykhailyshyn Team* (City of Chernivtsi). *Servant of the People* fielded the most mayoral candidates with 73 in district and 19 in oblast centers.

Pre-election campaigning on social media

With each subsequent election, social media has played an increasingly important role, not only as a tool for public communication but also as a platform for campaigning. The regular 2020 local elections were no exception.

In total, political advertisements published on Facebook and Instagram during the election campaign from September 5 to October 26 were worth over USD 4.18 million (~ 113 million hryvnias). To compare, in the early par-

liamentary elections over the same period, more than \$ 1.8 million (~ UAH 48 million) was spent and about 59,000 ads were published. This data certainly shows that social media is gradually becoming an increasingly important platform for campaigning.

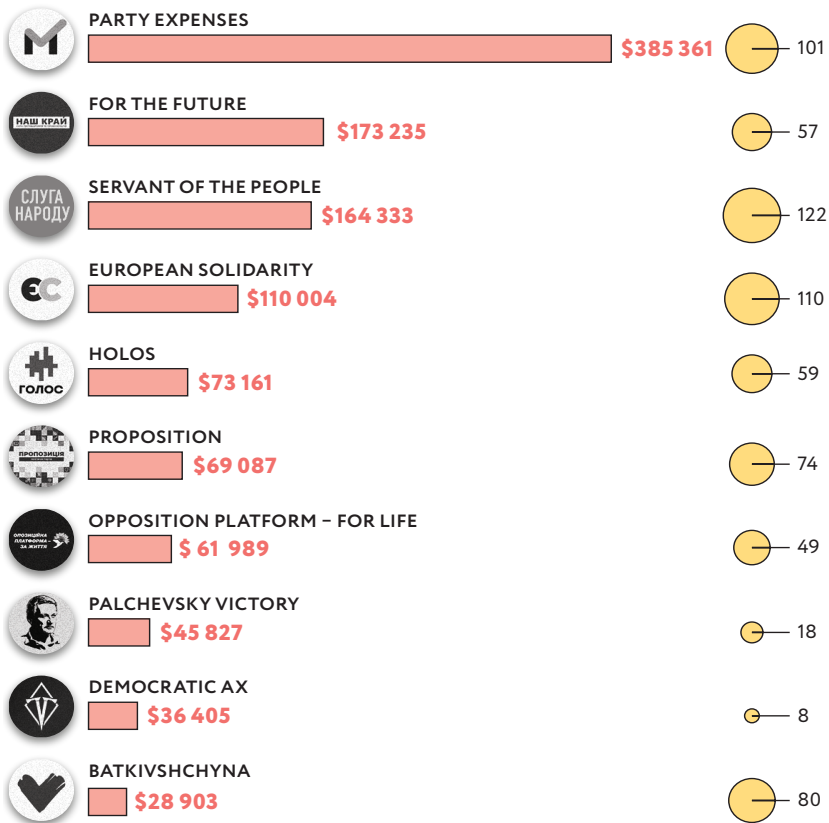
At the same time, the growing role of social media poses new challenges for transparent, equal, and fair elections. Ukrainian legislation on mass media and online election advertising and campaigning has not been updated for almost 10 years. The legal uncertainty regarding the functioning of social media, as well as regulations for electoral campaigning on social media and the Internet in general allow parties these platforms for non-transparent funding of their election campaigns, for campaigning on silence days, and for disseminating false information against their competitors.

The Electoral Code does not single out Internet advertising as a separate form of campaigning. Nevertheless, Central Election Commission Resolution No. 324 approved separate codes in candidate and party financial statements for online campaigning, which certainly increases the transparency of the election process by providing an additional mechanism for monitoring campaign finance. However, with no legal mechanisms for controlling campaigning on the Internet, it is impossible to prosecute violators, such as those who finance their campaigning with non-campaign funds, or who run online campaigning on election day and the day before the vote (when campaigning is not permitted). On the other hand, the law prohibits the use of parties' and candidates' own funds or other sources for financing campaigning, including contributions from voters, so paying third parties for advertising on social media is not an acceptable form of campaigning.

Political parties were very active in using social media advertising tools to run their campaigns. During the election campaign, OPORA recorded 81 political parties using Facebook advertising for campaigning. According to our estimates, in total, political parties published about 50,000 ads, spending more than USD 1.4 million (37.8 million hryvnias). *For the Future* spent the most money with ~ USD 385,000, followed by *Our Land* with ~ USD 173,000 and *Servant of the People* with ~ USD 164,000.

Political ads on Facebook

September, 5 – October, 20, 2020



Expenses Number of pages

According to Facebook Ad Library

During the local elections, there was also a problem with determining who had paid for advertisements, and, accordingly, with reporting on the funds spent on it. Thus, in contrast to the presidential and parliamentary elections, it was impossible to trace the transparency of political party and candidate campaign financing, in particular on social media.

Another problem during the local elections was the duration of the election process. According to the Electoral Code, the campaign is only supposed to last for 50 days. Pre-election campaigning is to begin only after the decision to register a party or a candidate, and it is only legal to campaign after registration on the electoral roll. Thus, electoral competitors have about 30 days to run their official campaigning activities. With this in mind, most of the political parties start their campaign on social media before registration, and funding for this occurs in a non-transparent way. Thus, during June-August 2020, about 50 parties spent more than USD 281,000 on campaigning. Not all political parties stopped sharing promoted ads on social media. Thus, on October 24 and 25, about \$ 90,000 was spent on political advertising on Facebook, a significant part of which was used for open campaigning by candidates and parties. In addition, many of these posts contained false and manipulative information about competitors. The inability to prosecute actors who violate the campaign silence, given the ability of social media to target relatively small groups of users, creates favorable conditions for illegitimately influencing voters in the last days of the election campaign and for violating equal voting rights.

The range of challenges that social media has created for fair and transparent elections cannot be solved by mere spot changes. It's clear that advertising and campaigning on social media need to be regulated by election and media law, and compliance with campaign rules needs to be monitored by an independent state regulator. In addition to monitoring social media for compliance with national legislation, this public body should regularly and in advance communicate with social media platforms on changes in legislation and build an inclusive dialogue. It is also important to draw a clear distinction between political advertising and campaigning, to review the duration of the election process, and to define who can campaign on behalf of the party as a whole.

It should be noted that this analysis concerns campaigning and political advertising in only one (albeit the largest) social network, Facebook. Because this platform has developed and implemented tools to better research the field of elections, the public has the opportunity to research and at least make general assessments of how important the Internet has become in elections. However, there are other important platforms which offer the opportunity to campaign in elections, but do not disclose any information about political activity. One example is Google, which owns the world's largest advertising banner network, as well as YouTube video hosting. Both of these products publish a large volume of political ads during elections.

However, with no proper state and public request from Ukraine, they do not publish any information about political advertising. In addition, in a globalized world, new social networks appear every year, opening up new opportunities for politicians to campaign. In this context, it is very important to develop common approaches to the definition of social networks as sites where paid campaigning takes place in order to be able to use these approaches with the emergence of new social networks.

Compliance by electoral subjects with legal requirements regarding transparency and accountability of election finances

Requirements for financing the election campaigns by party organizations and candidates were established by the Electoral Code, the final version of which was adopted shortly before the local elections. Despite previous expert discussions, the new legislation did not fundamentally revise the approaches to ensuring transparency and accountability of election finance in local elections. The lack of sufficient and effective mechanisms for controlling party candidate expenditures has manifested at various levels of elections and throughout the country. As soon as possible, the government needs to take on the ambitious task of improving the requirements for electoral finance and strengthening the tools of control over them.

The process of opening election funds for the 2020 local elections was regulated by the Electoral Code as follows:

- Organizations of political parties, candidates for deputies, and candidates for the mayorships of villages, townships, and cities could, but were not obliged to, establish their own election funds. This meant that if organizations and parties did not have campaign expenses, they had the right not to open fund accounts.
- Candidates running under the majority system, as well as candidates on party electoral lists, had the right to establish their own election funds.
- The forms of interim and final reports were established by the CEC, and the procedure for opening and closing election fund accounts was determined by the National Bank in agreement with the CEC.
- Banks were required to inform TECs no later than the next working day about opening of election fund accounts, as well as their details, while candidates and party organizations had the right to open their accounts in banking institutions of the territorial district or community in which they were campaigning.

□The right of electoral subjects not to open election fund accounts was widely discussed in the process of legislative reform. On the one hand, this possibility involved the risks of spreading the practice of unreported candidate expenses. On the other hand, in small *hromadas*, candidates and local party organizations may indeed not have the resources to fund campaigns, or even the need to do so.

The election funds of local party organizations that nominated candidate lists could be replenished by the funds of their own national party organization, contributions by candidates on the party list, as well as voluntary contributions by individuals. Party nominees for village, city, and township mayors, as well as candidates from electoral lists, had the opportunity to replenish their election funds with their own funds, contributions from individuals, and funds from party organizations. The same sources, except for the funds of party organizations, were available to self-nominated candidates.

The size of the election funds was not limited, which created conditions for the excessive funding of campaigns and did not meet democratic election standards. There were only restrictions on the amount of voluntary contributions by individuals to a single election fund, set at ten times the monthly minimum wage (thus a bit under 2000 USD at the time). At the same time, contributions by party organizations and candidates' own funds were not regulated in any way. Given the experience of the 2020 local elections and other campaigns, Ukraine still needs to take effective measures to prevent the excessive role of money in the election process.

The matter of ensuring effective verification and control over party and campaign expenditures in local elections has become a common topic of expert discussions in Ukrainian elections.

Under the Electoral Code, party fund managers and candidates were required to provide reports to TECs:

- Party organizations and candidates council deputy and mayor had to submit interim reports to TECs five days before election day, where they reported for the period from the moment of opening their accounts to ten days before election day.
- Final financial reports for party organizations and candidates had to be submitted within seven days after election day and had to cover all revenues and expenditures for the election campaign.

The law also established the specifics of how campaign money could be spent. Election funds could be used only in non-cash form, and they could no longer be used after 6 pm on the last Friday before election day, except for previously-issued invoices for goods and services. The final spending of election funds had to cease by the Wednesday after election day.

In matters of transparency and accountability, and the legality of the use of election funds, the most important thing was who checked reports from election fund managers and how, as well as the extent to which the responsible body was able to perform this task. The Electoral Code required TECs to analyze the interim and final reports of election fund managers. If they found any violations in the reports, TECs had to contact the authorities in charge of sanctions within five days. At the same time, the CEC was responsible for establishing the procedure for analyzing election fund manager reports, which it set on October 1, 2020 with Resolution No. 324.

The procedure for analyzing election fund manager reports was as follows:

- TECs are required to analyze each election fund separately and verify whether the information complied with the requirements of the Electoral Code. The commission can use the information obtained at the request of the account managers of election funds, candidates, organizations, and private individual donors.
- Based on their study of this information, TECs must prepare an analysis of the receipt and use of election funds by party organizations and candidates, which is to be approved by the decision of the election commission.

Prior to and during the local elections, national experts expressed serious doubts about TECs capacity to monitor election finances and conduct a professional analysis of election fund managers' reports. OPORA's selective observation of how TECs exercised their powers over electoral finance confirmed our previous doubts about the effectiveness of available procedures.

We concluded that TECs did not have a sufficient level of training to analyze election fund manager reports. TEC members also bore a significant workload during the elections and did not have the practical opportunity to focus on just one of their areas of responsibility. Our monitoring showed that a significant portion of TECs did not analyze any interim or final election fund within the legally prescribed timeframes. It was not uncommon for TECs to analyze only individual election fund reports while not having the

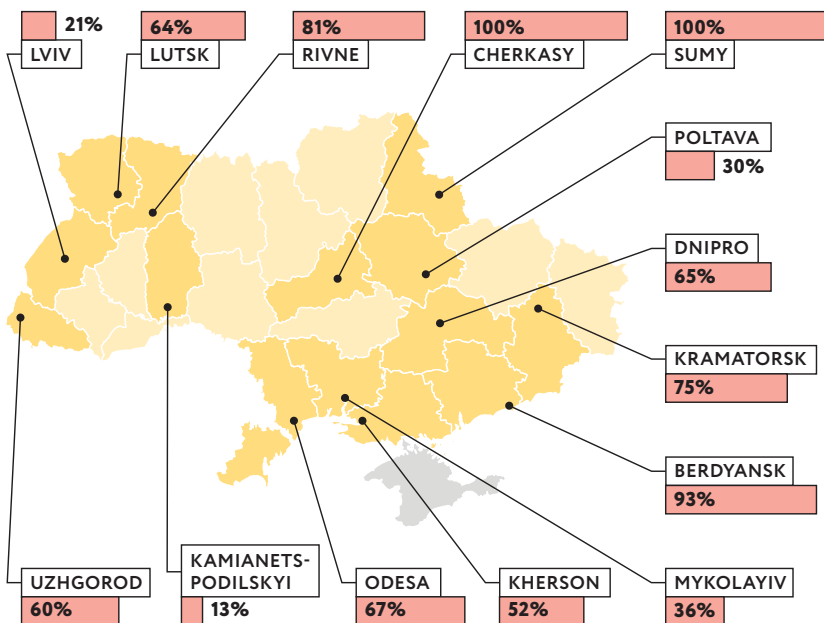
time to analyze others. However, these two practices typically combined a formalistic approach to report analysis that is not suitable for the real-time identification of and response to violations. The poor analysis of election fund reports confirms that TECs were not capable of managing it on their own, since they were established on the basis of nominations submitted by electoral subjects and are not professional election administration bodies.


Control over election finances was also undermined by the fact that oblast / regional party organizations interpreted the right to nominate candidates in all local elections as an opportunity to centrally fund their campaigns and report expenditures only to oblast territorial election commissions. This approach is not provided for under the Electoral Code, which is attested to by an attempt by Rada deputies to legalize it after the start of the local election process through Draft Law No. 4117, registered on September 18, 2020. Although not adopted, it would have allowed regional party organizations to form a single election fund for the regional party organization in all elections where it nominated candidates. On the one hand, this approach would have allowed party organizations to manage election finances more effectively and possibly reduce shadow campaign funding. On the other hand, combining the costs of different elections into a single report could significantly complicate the analysis of election finances. One way or another, even without the adoption of special changes in the legislation, these regional party organizations practiced centralized funding of candidates in different *hromadas*.

We previously spoke of candidates who choose not to open election fund accounts because they didn't intend to finance any campaigning. Given the lack of a full-fledged government system of financial control in local elections, we found that it was impossible to confirm the absence of spending by candidates who did not open election funds. This is especially relevant in the case of centralized funding of such campaigning by regional party organizations.

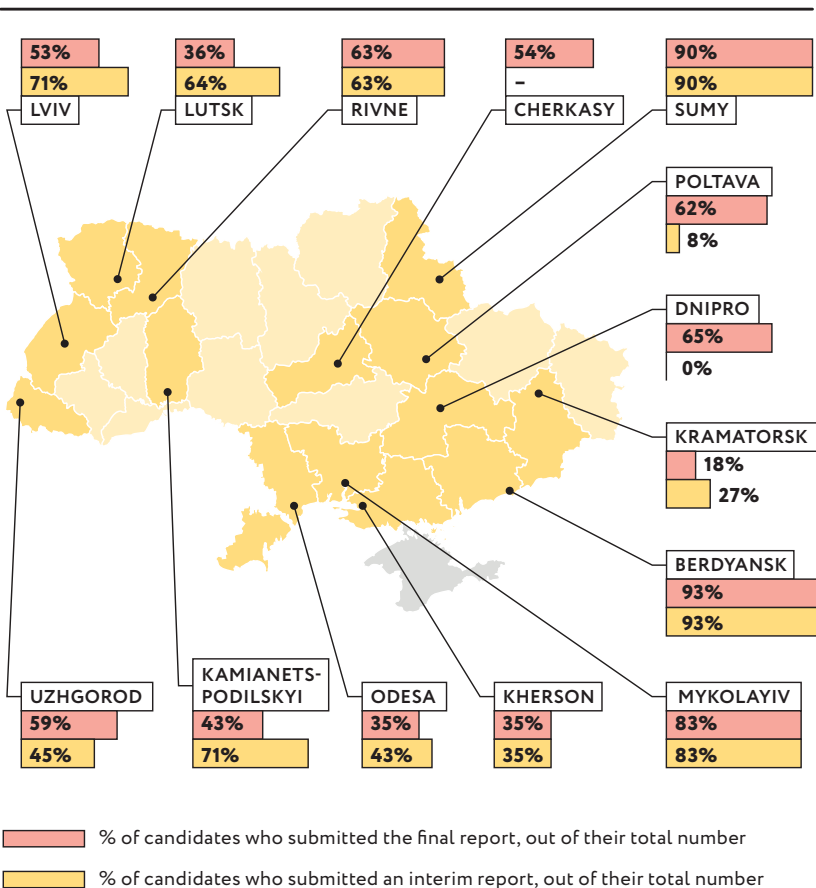
In regard to the lack of access to information on the opening or non-opening of fund accounts by election fund entities, OPORA observers compared the number of financial statements submitted to TECs with the number of registered electoral subjects. The information received from different cities shows the different situation there regarding the submission of statutory reports, but also demonstrates the impossibility of assessing the real scale of funding for campaigning in local elections in Ukraine.

Indicators of reporting on the election funds of local organizations of political parties, by individual cities



 % of local organizations that submitted the final report from the total number of registered voter lists

Indicators of reporting by mayoral candidates, by city



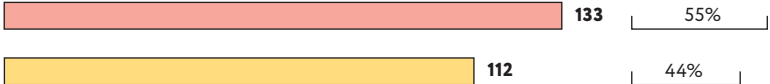
One of the tasks of reporting for election fund managers is to inform voters about the sources of their campaign finances and the expenses incurred by the parties and candidates they represent, as well as to ensure the transparency of election finances. The Electoral Code requires that TECs publish interim and final reports within two days of their receipt, on the commission's official website (if available), on the website of the relevant local council (if available) or in another way designated by TEC. Within the same time-frame, party chapters which nominated electoral lists and opened funds had

to post interim and final financial reports on their websites (if available) or in some other place online. If these requirements are not met, citizens and non-governmental organizations are deprived of the opportunity to study or scrutinize how campaigns financed themselves and paid for their activities.

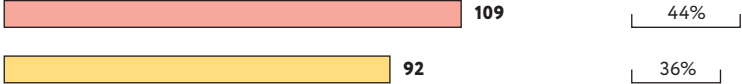
OPORA observers investigated the state of compliance among election fund managers with legislation on the publication of interim and final reports of in 15 cities (Mykolaiv, Odessa, Berdyansk, Lutsk, Uzhgorod, Sumy, Kramatorsk, Slovyansk, Kamyanets-Podilsky, Cherkasy, Rivne, Dnipro, Lviv, Kherson, and Poltava). Our random sample monitoring revealed the widespread non-fulfillment of reporting obligations by TECs and electoral subjects within the deadlines set by the Electoral Code.

Results of random monitoring of the publication of interim and final financial reports of party organizations and mayoral candidates

Reports of the funds of party organizations



Reports of funds of mayoral candidates



- Final reports
- Interim reports
- % Share of submitted reports not published in any manner

OPORA’s research showed that 44% of the interim and 55% of final reports submitted by election fund managers in our sample cities have not been made public in any way by either the party nor TECs. At the same time, observers referred to the requirements of the Electoral Code and considered the report to be published if it was placed on the notice bulletin of the TEC. Of course, this is not the easiest way for voters to get access to this informa-

tion. The availability of information on election finance was somewhat better in the case of the final financial statements from parties' election funds.

36% of the interim reports from mayoral candidates in this group submitted to TECs were not published anywhere. The share of candidates who submitted final reports was 44%. Thus, as in the case of party organizations, voters did not even have the provisional opportunity to scrutinize mayoral candidates' electoral finances.

After the completion of the election process, OPORA continued to study the issue of access to election finance data. We asked permanently operating TECs (those active through the next local elections) to provide copies of the interim reports submitted by candidates and parties. Three months after the end of the election process (February 2021), monitoring organizations were still not able to obtain copies of reports from a large share of TECs, as they had already been transferred to archives. In other words, access to information on election finance was difficult, both during the short-term election process and after it. In these circumstances, the right of citizens to information about candidates, as well as opportunities for systematic investigations of abuses by non-governmental organizations and journalists are greatly limited.

Therefore, the experience of the 2020 local elections once again demonstrated the need to strengthen the government's efforts to ensure the transparency of electoral finance. It needs to prioritize the creation or designation of an institutionally stable and professionally capable body responsible for monitoring and analyzing election fund manager reports. These powers are most aligned with the National Agency for the Prevention of Corruption (NAPC) or the CEC, whose regional and territorial offices may be assigned with these responsibilities. The transition to professional analysis and handling of election fund manager reports will require the government to provide additional funding and staffing, as the NAPC and the CEC do not currently have representative offices around the country. When introducing new approaches to election finance control, it is also necessary to ensure the synchronization of election and party finance control, which demonstrates the NAPC's key role in controlling campaign spending. It is extremely important to expand the functionality of the existing Unified State Register in handling parties' reporting on their property, income, expenses and financial liabilities. Inclusion of election fund managers in this register would build a single source of information on election finance, ensure voters' right to access this information, and significantly facilitate the administration of reporting to candidates and election commissions.

Poor election finance transparency and the still ripe opportunity for shadow funding of campaigning require decisive government action. One effective step could be to publish information received from banks on the receipt and expenditure of election funds on the website of the CEC or NAPC, or alternatively on the websites of the banks themselves. The availability and publicity of each election fund transaction will enable the public, voters and law enforcement to monitor transactions during the election process and respond to suspicious incidents. This would not only help to overcome the current deficient access to information on election fund reports, but would also provide new opportunities to expose abuses.

Along with the establishment of appropriate infrastructure for election finance control, it is important to strengthen the legal certainty of restrictions and procedures for campaign financing. In particular, it is necessary for legislation to respond to the practice of centralized financing of campaigns of local candidates from the funds of organizations of higher level parties. When regional party organizations choose to use single accounts for multiple candidates in different elections, their administrators must be required to report in detail on specifics of their spending in each election, even within the same report. In general, the Electoral Code, with consideration for the experience of its implementation, should be comprehensively analyzed to eliminate any regulatory gray areas, to find effective mechanisms to combat excessive election funding, and to take into account the specifics of candidates' spending on political advertising in social media.

Violation of legislation and democratic standards in the 2020 local elections

Our observers provided non-partisan monitoring of the full election process, and identified and documented violations of the law and standards for democratic elections. An integral part of our monitoring methodology was the practice of appealing to law enforcement agencies to ensure a formal investigation of the incidents our observers recorded.

During the entire election process, OPORA recorded 2,251 incidents, some of which may not have constituted a formal violation of the law, but nevertheless did not meet democratic election standards.

Voter bribery and other techniques for offering material incentives for voters

The Criminal Code of Ukraine (Article 160) establishes liability both for voters and for receivers, organizers and perpetrators of voter bribery. On the eve of the 2020 local elections, the Verkhovna Rada amended the Criminal Code to ensure effective punishment for election crimes. The amendments were advocated by civil society and the expert community, with the support for the proposal from the National Police and other law enforcement agencies. The 2020 local elections were the first campaign to implement the new legislation, and OPORA observers systematically monitored its implementation.

Potential candidates and local party organizations began offering material incentives for voters at the stage of early campaigning. Although such unscrupulous activity was not widespread, de facto voter bribery began long before the official start of the election process. As in previous national and local elections, observers noted a higher incidence of offering financial incentives by potential candidates than by party organizations. The intensification of the COVID-19 pandemic encouraged parties and political leaders

to distribute medical-related goods, equipment, and services to voters. For example, on the eve of the election, there were popular campaigns offering voters free COVID-19 antibody testing. At the stage of early campaigning, observers found some of the most prominent national parties offering such pandemic-linked voter inducements, including local chapters of European Solidarity, Batkivshchyna, and Opposition Platform – For Life. One such action involved the distribution of “insurance” cards for voluntary insurance in case of coronavirus infection. In Sumy Oblast, for example, the charity Our Future of Rada deputy Andriy Derkach implemented a campaign called “Our Land,” and Mr. Derkach himself was involved in the organization of the Our Land party. Thus, the spread of disease and quarantine restrictions created ripe preconditions for the use of material incentives for voters.

Violations of the law and democratic election standards at local elections – 2020



In addition to medical-oriented aid, other popular voter inducements included sports and entertainment activities for voters, the construction of playgrounds, and social events for vulnerable groups. In some oblasts, (particularly Kyiv Oblast) potential candidates commonly offered tourist and recreation events for voters. Even before the official start of the election campaign, educational events were held at schools commemorating the beginning of the school year, where potential candidates handed out gifts to schoolchildren. Providing goods and services to minors has long been a traditional technique for candidates to attract the attention of their voting parents. At the unofficial stage of the election campaign, events held by charitable foundations owned directly or indirectly by local political leaders were quite common. At the same time, we recorded the more “conventional” voter inducement of handing out food packages to voters, which is directly prohibited in the official election process by the Criminal Code. In particular, in the first half of September, the National Police reported investigating the handing out of sugar packages bearing the label Nash Krai (lit. meaning “Our Land,” and the name of a political party) by the Nash Krai Charitable Foundation in the Kreminna, Troitske, and Novoaidar of Luhansk Oblast. These packages were not accompanied by campaigning, but were instead offered as charity. However, by the time the National Police could arrive at the scene, the event was finished.

Even before the election process, OPORA observers drew attention to the practice of potential candidates providing financial promises to be implemented should they be elected (so-called social contracts with voters). For example, Odesa mayoral candidate Dmytro Holubov distributed “guarantee” documents for the repair of courtyards of certain apartment buildings in the event of his election. Such promises by candidates to provide voters with resources (goods and services) from the local budget once they are elected is highly problematic from the standpoint of democratic political and electoral standards, as it involves a candidate openly promising to directly use administrative budget resources in service of their own electoral interests.

Early campaigning by candidates before their registration has long been a topic for discussion among national experts, and the Rada is trying to find solutions for regulating this common practice. With material voter inducements, the key issue is both the non-transparency of their funding and their negative impact on voters’ making of free political decisions. The actual bribery of voters can significantly affect election results, regardless of the period in which it takes place. These circumstances should encourage the Verkhovna Rada to effectively complete discussions on providing condi-

tions for the democratic expression of citizens' will before and after the official start of the election process.

Material voter inducements remained a key issue during the official election process, as well, despite increasing penalties for such offenses. The most common practice among candidates was to provide voters and organizations with illegal benefits alongside election campaigning mentioning the name of the candidate, the name of the political party that nominated him or her, images of the candidate or party symbols. Registered candidates distributed food and gifts, provided free services, and provided for public outdoor spaces for voters. This activity was accompanied by covert campaigning or mentioning of the names of candidates or parties. It is worth noting that the incidence of material inducements dropped off markedly after the registration of candidates. This shows that legal restrictions have partially reduced candidates' and parties' willingness to resort to violations.

In the second round of mayoral elections (in cities with at least 75,000 voters), the negative impact of voter bribery in all its forms was even more critical, given the direct, personal nature of the vote. On the eve of the second ballot, OPORA observers recorded many instances of material voter inducement by individual candidates. Since before the October 25 vote, COVID-19 was a key public basis for charity. For example, in Rivne, candidate Viktor Shakyrzyan from the Rivne Together party repeatedly provided personal protective equipment for doctors and medical supplies and equipment to local medical facilities. On the other hand, in Poltava, after the first round, packages with medical face masks and candies were distributed among voters with a postcard thanking them for supporting mayoral candidate Oleksandr Mamai from For the Future. Other candidates provided voters with transport services (Andriy Vesely, Drohobych, Lviv Oblast) or goods to local educational institutions on behalf of parties with candidates running in the second round (Proposition in Mykolayiv). One high-profile voter inducement incident, which was based on the candidate's access to administrative resources, was the promise by Konstantin Pavlov (City of Krivyi Rih, Opposition Platform – For Life) to increase social benefits for certain groups from 500 to 1,500 UAH. Pavlov actually campaigned as an adviser to the incumbent mayor, taking an active part in official local government activities.

Thus, material voter inducements remain a problem that needs to be systematically addressed by the state. The key task is to effectively complete investigations of incidents of voter bribery. As of January 2021, the courts of Ukraine had passed three sentences under Article 160 of the Criminal Code,

while eight more cases were still pending. The current results of investigations are inconsistent with the scale and intensity of incidents of voter bribery, and may therefore be critical to the overall assessment of ensuring accountability for election crimes. We call upon law enforcement agencies to inform the public and the media about the interim and final results of their investigations.

Main manifestations of abuse of administrative resources in local elections

Our findings indicate that administrative resources remain a common (but not key) way of influencing the overall course of the election process. Along with material voter inducements, this phenomenon has the most significant negative impact on Ukraine's elections.

However, due to the lack of clear legal requirements for the activities of elected persons and public officials during the election process which would effectively reflect the established international practice of recognized democratic standards, participants in the election process resorted to actual abuse of administrative resources much more often than is shown by available statistical data.

Administrative resources from government budgets

The most systemic case of using administrative resources from government budgets was the implementation of the State Construction program and the implementation of projects with funds from the State Fund for Regional Development, such as allocations to support social and economic development of the regions. Public events within the government-initiated programs actively engage local officials who are also subjects of the election process.

The fact that the programs are election-oriented is supported by the growing intensity and scale of public events aimed at promoting the outcomes of their implementation shortly before the election process and throughout the campaign period.

According to best international practices to prevent the abuse of administrative resources, in particular from the Congress of Local and Regional Authorities of Europe, public promotion of national projects by political parties may constitute an abuse of financial (budgetary) resources for electoral

purposes. Moreover, there has been no indication to us of any legitimate and extraordinary circumstances that would require increased public awareness of the interim results of the state's Large Construction program, in particular during local elections.

Another problem is that local government officials have similarly used local budget funds to present implemented, ongoing, and the planned infrastructure projects as part of their own campaigns. Similar cases have been reported in most oblasts, and we specifically observed them being by the mayors of Cherkasy, Khmelnytskyi, Kropyvnytskyi, Uzhhorod, Lviv, Mykolayiv, Sumy, and Zaporizhia. In Kyiv, a number of city council deputies participated in the implementation of local infrastructure projects while directly or indirectly linking them with the UDAR party.

The state's Large Construction program was actively used in the campaigns of Servant of the People candidates in most oblasts, most notably in Mykolayiv, Sumy, Donetsk, Rivne, Chernivtsi, Kherson, and Chernihiv Oblasts. Budget allocations were most actively leveraged in Volyn, Poltava, Cherkasy, and Khmelnytskyi Oblasts, where MPs took part in elections by positioning themselves as lobbyists for attracting budget funds to their constituencies and running in local elections at the same time.

On the matter of this widespread practice of using the results of Large Construction projects and other central and municipal budget programs for electioneering purposes, we note:

- Making voters feel that a political party has contributed to the results of taxpayer-funded programs is an inappropriate exploitation of administrative resources.
- Officials of all levels of government who are personally members of political parties have the right and obligation to inform citizens about the results of their activities. However, such information should not relate to the activities of a political party or be used in its electoral interests.
- Preventing the abuse of administrative resources is not simply a matter for legislation, but also for parties, candidates, and their government allies, who need to avoid linking state and municipal programs with party achievements as a matter of adherence to good governance norms.

Another form of misuse of budgetary administrative resources during or shortly before the election campaign was the introduction of new and additional social discounts and other social payments and initiatives for underprivileged groups. For example, in Odesa, an additional UAH 13.3 mln were

allocated in September to procure PPE and medical supplies for underprivileged groups, and the distribution of these supplies informed recipients that they were provided at the initiative of Odesa's mayor.⁵ In Chernivtsi, the day before the second round of elections, one of candidates initiated 1,000 UAH payments to low-income citizens⁶. In Cherkasy, representatives of Batkivshchyna publicized that they contributed to the paying of 24.8 mln UAH in teacher bonuses in October (UAH 24.8 mln)⁷.

OPORA observers also repeatedly documented the use of official events with state or municipal funding for candidates or parties. For example, on the City Day of Chudniv in Zhytomyr Oblast, big banners were installed on the festival's central stage with party symbols of the Radical Party, and attendees received party-branded merchandise. There was a photo zone where anyone could take pictures with a cardboard cutout of party leader Oleh Lyashko and the party's iconic pitchforks.

Human and material administrative resources

This type of administrative resource was most active in the use of human resources and logistics in the interests of individual parties or politicians. In particular, we recorded cases in which candidates and parties used government employee subordinates and government premises for campaigning activities. Our observers repeatedly documented the regular presence of candidates and representatives of a particular political party during official working trips. There was no political advertising or de facto campaigning at such events, but there were signs of a selective approach to the attendance of party representatives at events engaging, among others, heads of regional state administrations or ministers.

In addition, there is a problem of insufficient separation between the current activity of local government officials and their political activity. Officials who registered as mayoral candidates not only continued to serve during the campaign, but were more conspicuously active in their public activities, using their status and reputation to mobilize voters.

Ukraine's civil service legislation obliges public officials to maintain political

5 <https://cutt.ly/OmLYppS>

6 <https://cutt.ly/tmLT4zu>

7 <https://cutt.ly/7mB7r7R>

independence and neutrality in the performance of their official duties. Our observation showed that elected officials seldom abide by this requirement in the workplace during the election process. Situations where candidates combine the active exercise of their powers (resorting to covert campaigning during working hours) with campaigning outside working hours show a conflict of interest and may undermine confidence in both the fairness of the election process and the activities of public administrations.

Abuses of human and material resources were recorded in almost all regions. In Kharkiv, for instance, the political advertising for Kernes Bloc – Successful Kharkiv was placed in most secondary schools⁸, and on September 1, pupils were given gifts with the symbols of this party. In Odesa, a survey on the electoral support for the mayor and evaluating his performance was administered by the municipal institution, the City Information and Analysis Center.⁹ In Rivne, mayoral candidate Yuriy Vozniuk, who ran from the departing incumbent’s party, held one of his campaign events in the city council chamber.¹⁰

President Zelensky visited many oblasts and participated in the presentation of future Servant of the People candidates in local elections. On the one hand, a head of state is not perpetually bound to the principle of political neutrality, which allows him to freely express his political position. On the other hand, the top leadership of Ukraine, first and foremost President Zelensky, has chosen a political strategy of demonstrating the synchronized activities of the head of state, the Government and the Servant of the People majority in the Verkhovna Rada. This strategy does not violate current legislation, but potentially risks violating the political neutrality of civil servants who do not hold political office and are subject to the Laws “On Civil Service” and “On the Prevention of Corruption.”

Media administrative resources

It was common practice during local elections for candidates and parties to use the websites and the social media pages of local governments, authorities and municipal companies to campaign for partisan campaigning pur-

8 <https://cutt.ly/3mB5K1r>

9 <https://cutt.ly/dmB6jWq>

10 <https://cutt.ly/YmB6JUA>

poses. Moreover, municipal television stations only covered in their stories the activities of individual candidates who were also mayors or local government officials in their stories. In general, such cases were found in Dnipropetrovsk, Vinnytsia, Zhytomyr, Zakarpattia, Ivano-Frankivsk, Zakarpattia, Mykolayiv, Luhansk, Lviv, Poltava and Kharkiv Oblasts, as well as in Kyiv.

For example, after the Mayor of Kryvyi Rih, Yuriy Vilkul, withdrew his candidacy shortly before the second round, in favour of the executive committee member Vilkul advisor Kostiantyn Pavlov, the city council website started to actively cover Pavlov's activities. From November 17 to 26, OPORA counted 14 posts about Pavlov activities¹¹, whereas in the previous several years the website only posted about him a few times.

In Zaporizhia, the TV Channel Z MC only broadcast speeches by the incumbent mayor and candidates from the Volodymyr Buryak Party – Unity¹². Candidates from other parties did not have access to air time. The online reporting platform of the Odesa mayor's office posted the election program of the incumbent mayor's "Trust in Actions" party¹³. The website of Vinnytsia district hospital posted a program from European Solidarity and campaign materials for district counselor candidate Oleksandr Kryvovyaz, the chief doctor of the hospital¹⁴. In Chernivtsi, a political advertisement for the party through which a municipal company's director was running for regional council was regularly published on the company's Facebook page.

Corporate resources

In the 2020 local elections, OPORA observers for the first time monitored the abuse of "corporate" administrative resources. This was when members of the private (business) sector involved their subordinates, company vehicles, communications, equipment, premises, and official or working meetings to conduct election activities. Tracking this type of administrative resource abuse is an important component of assessing compliance with the principle of equal opportunities for candidates and the transparency of their election finances.

11 <https://cutt.ly/TmNezAd>

12 <https://cutt.ly/xmNtADC>

13 <https://cutt.ly/BmNtMdp>

14 <https://cutt.ly/zmNt35S>

During the local elections, several incidents of corporate resource misuse were recorded. In Rivne, a political advertisement for Rivneoblvodokanal (the oblast water utility) director, Andriy Karaush, was placed in water supply bills.¹⁵ In Odessa, city council candidate Konstantin Gromovenko organized free computer literacy courses through the private higher educational institution “International Humanities University” where he was the rector¹⁶. In Dnipro, advertisements for city council candidate Vadim Hetman from For the Future were placed on the building of the city’s airport¹⁷.

Clone candidates in local elections and prospects for combatting them

In the 2020 local elections, a number of *hromadas* had cases of the registration of so-called overlapping candidates, with similar or identical names to leading candidates. The unfair tactic was aimed at misleading voters in order to reduce support for influential candidates. The practice of registering “twin” candidates was also widespread in Ukraine’s recent national campaigns. In particular, the 2019 parliamentary elections saw non-competitive candidates registered whose formal jobs were named to match the names of influential political parties. Given the negative experience of the 2019 parliamentary campaign, on the eve of the 2020 local elections, the Criminal Code of Ukraine established a penalty for bribing a candidate (Article 160), which allows for the investigation of attempts to illegally motivate a citizen to nominate themselves for candidacy in order to dishonestly split the support of actually competitive candidates. Article 212-24 of the Code of Ukraine on Administrative Offenses also makes it a crime to obstruct the exercise of the voting rights or the activities of electoral subjects.

During the election campaign, the National Police reported investigating attempts to bribe candidates who had similar personal data to competitive candidates. In particular, in September 2020, in Kirovohrad Oblast, law enforcement officers detained a deputy of the regional council, a candidate for mayor of Svitlovodsk, who was suspected of transferring 10,000 hryvnias

15 <https://cutt.ly/smNu4hd>

16 <https://cutt.ly/lmNiriB>

17 <https://cutt.ly/BmNiytt>

to a “clone” candidate. In Chuhuiv, Kharkiv Oblast, there was an investigation into the obstruction of the exercise of voting rights in connection with an attempt by a citizen with personal data similar to that of the incumbent mayor to register as a candidate.

As of this writing, OPORA has not learned the final outcomes of these investigations, but there is a clear need to strengthen the capacity of law enforcement agencies to counter attempts to obstruct the right to run for office and the will of citizens. In parallel with effectively imposing criminal and administrative penalties for bribing a candidate and obstructing citizens’ voting, it is important to raise voters’ awareness about candidates. In particular, one possible option for responding to manipulative tactics may be to indicate information about candidate name changes in information posters and on ballot papers.

Situation with ensuring accountability for electoral fraud

Investigations of criminal offenses in the 2020 local elections are based on the amended Criminal Code of Ukraine, and their final results will be an important guide for further steps by the state to ensure accountability for election-related crimes.

During the local elections, the police initiated 1,297 criminal proceedings, of which 863 were directly related to violations of election law (Art. 157-160 of the Criminal Code of Ukraine) and 434 cases had an indirect link to elections. Of this number, 475 criminal proceedings were registered after October 25, 2020.

As of this writing, police had decided to close 728 cases and send 116 cases to court, while pre-trial investigations were ongoing in another 416.

OPORA conducted an interim analysis of rulings in criminal proceedings for offenses committed during local elections, which allows us to draw preliminary conclusions on ensuring accountability for electoral fraud.

In total, for the period from September 5, 2020 to January 31, 2021, the Unified State Register of Court Decisions published **28 sentences** in cases involving electoral criminal offenses identified during the 2020 local elections. The register shows 58 cases pending before courts (scheduled for a preparatory hearing or trial), while seven cases have been closed by the police.

Preliminary results on the investigation of criminal proceedings have revealed mixed results on the application of the amended Criminal Code.

First, the small number of voter bribery convictions is noteworthy. The reasons for the disconnect between successful investigations and the real scope of bribery in local elections may be related to the difficulty of collecting and documenting evidence, but all the incidents which were documented need to be comprehensively investigated by law enforcement agencies. Secondly, repeated cases of people abusing electoral address change procedures resulted only in only a few sentences. According to the current version of Part 1 of Art. 158 of the Criminal Code of Ukraine, only people with official access to the State Voter Registry can be held responsible for the crime of fraudulent voting address changes, but the people who undertake the act

itself are mostly voters. This made it very problematic to hold voters responsible for this offense. Third, the absence of sentences under Art. 157 of the Criminal Code testifies to the problems that law enforcement agencies and courts have with qualifying certain illegitimate actions as constituting the obstruction of voters' free exercise of voting rights or the obstruction of the activity of another subject of the election process. Fourth, there has been a positive effect from the decriminalization of the act of voters damaging, concealing, or destroying their ballots in the 2020 local elections (currently it is Art. 212-23 of the Code of Administrative Offenses), as the police were properly prepared to draw up the relevant administrative citations. Fifth, the absence of sentences and pending trials under Art. 159 on the violation of ballot secrecy indicates the need to review the existing corpus delicti of the criminal offense.

OPORA calls upon the National Police to conduct a comprehensive analysis during the inter-election period of how they enforced election laws in the 2020 local election campaign. It is important to take further steps to improve the Code based solely on the objective study of the problems enforcing the laws, separated from political and organizational obstacles.

Interim results of criminal proceedings in the 2020 local elections

As of January 2021			
Article of the Criminal Code	Judgments	Pending in court	Proceedings are closed
157 Obstruction of suffrage	0	0	2 ●●
158 Providing false information to the SVR authority or other unauthorized interference in the work of the SVR	5 ●●●●●	2 ●●	0
158.1 Illegal use of the ballot	14 ●●●●●● ●●●●●●	7 ●●●●●●	0
158.2 Illegal destruction or damage of election document	0	-	0
158.3 Falsification, forgery, theft, damage or destruction of election documents	6 ●●●●●●	0	5 ●●●●●
159 Disclosure of secret ballot	0	-	0
159.1 Violation of the procedure for financing a political party, election campaigning or referendum campaigning	0	-	0
160 Bribery of a voter, referendum participant, member of an election commission or referendum commission	3 ●●●	-	0
Total	28 ●●●●●●●● ●●●●●●●●	8 ●●●●●●●	7 ●●●●●●●

Analysis of local election results and implications for election systems

Political results of local elections

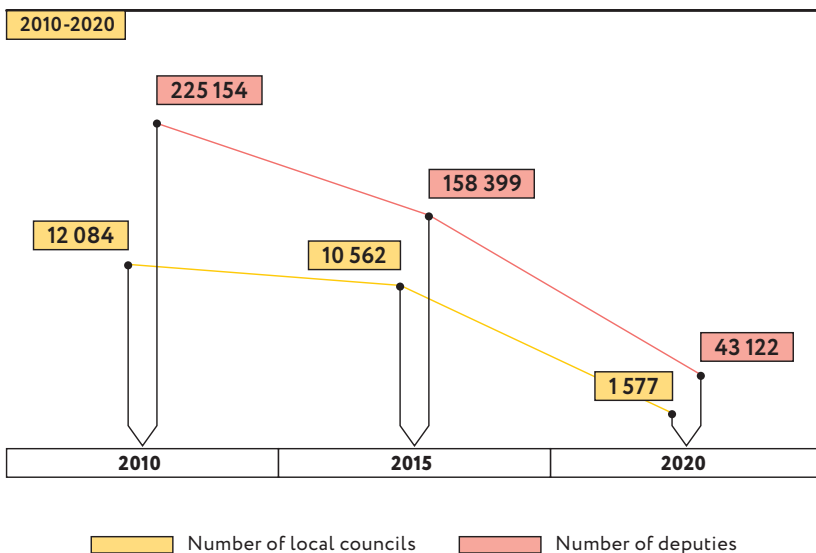
As a result of the decentralization reform and the completion of the process of amalgamation of territorial communities in Ukraine, the number of councils to which deputies were elected dramatically decreased compared to previous election campaigns. On October 25, 2020, the total number of representative local self-government bodies to which elections were held was 1,577¹⁸. To compare, in 2015, Ukrainians elected deputies to 10,562 local councils, and to 12,084 of them in 2010.

Compared to previous local elections, the total number of deputies elected to local councils at all levels in 2020 also decreased (by almost four times) – from 158,399 to 43,122. Thus, the decentralization reform has radically changed not only the territorial configuration of the lowest level of local self-government bodies, but also the total number of elected positions in the representative bodies of local self-government.

In voting for local deputies, the “Servant of the People” won more seats than all other parties, racking up 15.5% of seats in local councils at all levels. The top five were rounded out by *Batkivshchyna* (10.5% of seats), *For the Future* (9.6%), *Opposition Platform – For Life* (9.6%), and *European Solidarity* (9.0%). Together, these parties control more than half of the deputies in local councils (54%). Two more parties received fairly small representation on councils, but have more than 2% of parliamentary seats each, namely *Our Land* (4.5%) and *Svoboda* (2.1%). The remaining seats in newly elected councils (23%) were distributed among 106 parties.

18 Voting was not conducted in the temporarily occupied territories of Ukraine – in the Autonomous Republic of Crimea, Sevastopol, and some areas of Donetsk and Luhansk Oblasts

Dynamics of decreasing the number of local councils and councilors



Thus, representatives of 113 parties became local council deputies at various levels in the 2020 local elections, compared to 89 parties in 2015. Although there were certain expectations for the consolidation and structuring of the available party framework, the application of a proportional electoral system by party in communities with over 10,000 voters led in practice to political fragmentation of representative bodies and the dominance of regional political elites. Compared to 2015, national (parliamentary) parties did not receive a higher level of support in local councils, despite receiving indirect benefits from the electoral barriers established for small parties and the withdrawal of independent candidates from participation. In general, 54% of deputies in local councils belong to parliamentary parties, combining the national political process with local agendas.

In terms of oblast councils, the top five winners of seats were Servant of the People with 17.7%, European Solidarity with 15.1%, Opposition Platform – For Life with 13.1%, For the Future with 11%, and Batkivshchyna with 10.8%. In total, these five parties, all of them parliamentary, accounted for 67.7% of all deputies elected to oblast councils. The same parties led in representation on district councils, as well as territorial *hromadas* with over 10,000 voters, winning 65% and 61% of all seats, respectively. Only two parties won

spots on all oblast councils (except for the temporarily occupied Donetsk and Luhansk), namely Servant of the People and European Solidarity.

In communities with under 10,000 voters, where the majority voting system was used in multi-member constituencies, self-nominated leaders led, winning 39.2% of seats. The rest were distributed among political parties, which are also dominated by deputies from Servant of the People (12.9%), Batkivshchyna (10.7%), For the Future (10%), Our Land, and Opposition Platform – For Life (4.8% each).

A strong plurality of mayors elected ran by self-nomination – 47.4%. Among party-nominated mayors, the largest number of winners came from Servant of the People (16.3%). Significant numbers of mayorships were also claimed by For the Future (6.5% of *hromada* mayors), Batkivshchyna, and Opposition Platform – For Life (3.8% each). In total, 1,384 people were elected as mayors.

Local elections once again showed that the practice of voting for independent candidates remains the most popular in jurisdictions where candidates can self-nominate, namely in *hromadas* with under 10,000 voters. Among all elected mayors, almost 47% of winners were self-nominated. In territorial *hromadas* with under 10,000 voters, 39.2% council mandate winners were self-nominated.

The structure of party representation in oblast and oblast center councils, as well as the party affiliation of mayors, shows an increase in the number of oblasts (compared to previous local elections) which are clearly dominated by individual parties which themselves dominate in the oblast center.

Thus, in six oblasts, a single party holds a trifecta of the largest faction on the oblast council, the largest faction of the oblast center's city council, and the mayorship of the oblast center. The trifecta is held by Groysman Ukrainian Strategy in Vinnytsia, Kernes Bloc – Successful Kharkiv in Kharkiv, For the Future in Lutsk, Native Home in Chernihiv, European Solidarity in Rivne, and Svoboda in Ivano-Frankivsk. These trifectas were mostly achieved by non-parliamentary parties that are active within one oblast or macro-region. In contrast, in 2015, this “triple crown” was achieved by a local party only with the Kernes-backed Vidrodzhennia party in Kharkiv, as well as by the parliamentary parties Petro Poroshenko Bloc – Solidarity and Opposition Bloc in other cities.

Parties which won two of the three points of the trifecta include Symchyshyn Team in Khmelnytskyi (the largest factions in the oblast and and

oblast center city councils), along with Proposition in Zhytomyr, Dnipro, and Kropyvnytskyi, the We are Here to Live! party of Ihor Kolykhayev in Kherson, Trust in Actions in Odessa, the Unity Party of Volodymyr Buryak in Zaporizhia, Svoboda in Ternopil, and United Alternative in Chernivtsi (all of which won the largest factions in city council and the mayorship of the oblast center). In addition, European Solidarity took pluralities in the city and oblast councils of Lviv and Kyiv and their respective oblasts, as did Opposition Platform – For Life in Mykolayiv.

The list of parliamentary parties has European Solidarity in Lviv and Kyiv and Opposition Platform – For Life in Mykolayiv taking the largest factions in regional and city councils, while Batkivshchyna in Sumy and For the Future – in Poltava and Cherkasy took the largest factions in city councils and the mayorships.

Compared to the previous local elections, the number of parties which won more than 40% of seats in oblast center city councils increased, with some in fact forming majorities in their local councils. In particular, Svoboda won 67% of seats in the Ivano-Frankivsk City Council. In Vinnytsia, Khmelnytskyi, and Chernihiv, Groysman Ukrainian Strategy, Symchyshyn Team, and Native Home, respectively, won over 60% of seats on city councils.

Along with the change in electoral preferences, the introduction of a new electoral system and the holding of elections on a new territorial basis were seen as key factors that could influence the renewal of party and personal representation in local councils. However, in a great many oblast centers, the parties that dominated the councils in the 2015 local elections actually retained their influence after the 2020 elections. This was observed in Vinnytsia, Ivano-Frankivsk, Kyiv, Lutsk, Lviv, Odessa, Rivne, Sumy, Kharkiv, and Ternopil. It should be noted that some parties changed their names or shifted into new forms. For example, Vinnytsia European Strategy became Groysman Ukrainian Strategy, and UKROP transformed into For the Future. In addition, there was dramatic turnover in the composition of oblast councils. Of the deputies sworn in from the 2020 local elections in oblast councils, 71.25% were new. The Dnipropetrovsk Oblast Council saw the most new deputies (80%) sworn in, and the Ivano-Frankivsk Oblast Council saw the fewest (66%).

The turnover situation was similar in oblast center city councils, with 69.6% of deputies being new. The Mykolayiv City Council brought in the most new members (89%), while the Ivano-Frankivsk City Council had the fewest (52.4%).

Politically dominant parties in Oblast centers

	The largest faction in the city council	The largest faction in the regional council	Party affiliation of a chairperson
VINNYTSIA	Ukrainian Strategy of Groysman 63%	Ukrainian Strategy of Groysman 48%	Ukrainian Strategy of Groysman
LUTSK	For the future 31%	For the future 34%	For the future
DNIPRO	Proposition 34%	Servant of the People 25%	Proposition
ZHYTOMYR	Proposition 38%	Servant of the People 17%	Proposition
UZHHOROD	AU "Batkivshchyna" 21%	Native Transcarpathia 19%	self-nominated
ZAPORIZHIA	Volodymyr Buryak's Unity Party 25%	Opposition Platform – For Life 27%	Volodymyr Buryak's Unity Party
IVANO-FRANKIVSK	AU SVOBODA 67%	AU SVOBODA 21%	AU SVOBODA
KYIV	European Solidarity 26%	European Solidarity 30%	UDAR
KROPYVNYTSKYI	Proposition 21%	BO «Батьківщина» 23%	Proposition
LVIV	European Solidarity 41%	European Solidarity 33%	"Self-Reliance"
MYKOLAYIV	Opposition Platform – For Life 31%	Opposition Platform – For Life 28%	Proposition

Politically dominant parties in Oblast centers

	The largest faction in the city council	The largest faction in the regional council	Party affiliation of a chairperson
ODESA	Trust the Actions 31%	Opposition Platform – For life 29%	Trust the Actions
POLTAVA	For the Future 24%	Dovira 19%	For the Future
RIVNE	European Solidarity 24%	European Solidarity 22%	European Solidarity
SUMY	AU "Batkivshchyna" 31%	Servant of the People 25%	AU "Batkivshchyna"
TERNOPIIL	AU SVOBODA 43%	European Solidarity 27%	AU SVOBODA
KHARKIV	Kernes Bloc – Successful Kharkiv 40%	Kernes Bloc – Successful Kharkiv 38%	Kernes Bloc – Successful Kharkiv
KHMELNYTSKYI	Symchyshyn's Team 62%	Symchyshyn's Team 20%	AU SVOBODA
KHERSON	Ihor Kolykhaev's party "We are here to live!" 31%	Opposition Platform – For life 23%	Ihor Kolykhaev's party "We are here to live!"
CHERKASY	For the Future 19%	AU Cherkashchany 28%	For the Future
CHERNIVTSI	United Alternative 24%	Servant of the People 19%	United Alternative
CHERNIHIV	Native Home 62%	Native Home 30%	Native Home

Effects of electoral systems on the 2020 local elections

According to the new Electoral Code, deputies on local councils in communities with at least 10,000 voters were elected by a system of proportional representation with open party electoral lists. Only political parties (via their local organizations) had the right to nominate lists of candidates. In order to run for local council seats, parties had to receive at least 5% of all votes cast in a constituency that covered the entire jurisdiction .

Each party formed two types of candidate lists – one list for the whole jurisdiction, and a second list for the territorial constituencies into which the territory of the jurisdiction was divided. The party included all nominated candidates on a single list, making their own decisions about candidates' ranking on those lists, and at the same time consolidating all candidates from a single list (except for the top candidate) in the territorial electoral lists.

Voters cast ballots within one of the territorial constituencies, where they had to choose a party list , and also had the option to vote for a specific candidate from the territorial list of that same party. This ability to vote for a particular candidate in their territorial constituency enabled voters to influence the success of individual party candidates, rather than of just the party as a whole.

When the results were tabulated each winning party (those that received at least 5% of the jurisdiction's vote) received seats in proportion to the number of votes cast, and the distribution of these seats took place in two stages: first, winning candidates were determined from territorial lists (constituencies), and then all votes not yet distributed were used to determine which candidates from the party lists won seats.

The Electoral Code established two factors constraining voters' free influence on the election of specific candidates: the number and size of territorial constituencies, and the presence of an intra-party quota barrier for candidates. Due to the small number of voters in the territorial constituencies (caused by the proposed order of their formation), the small number of seats offered in each of them (on average 7 or 8), and the high electoral quota

for receiving a mandate, the parties often worked to give candidates mandates via party lists rather than through territorial constituencies, meaning that voters lost direct influence on who was elected into office. In the event that the party still won a seat in the territorial constituency, the second barrier came into effect, in the form of the minimum number of votes (25% of the electoral quota) that a candidate on the territorial list had to receive to qualify for this seat.

The results of this configuration of proportional election indicate that there are excessive barriers which unjustifiably narrow the opportunities for citizens to influence the election of candidates within party lists, mostly because of guaranteed seats and the requirement for candidates to receive 25% of the minimum vote under election quotas.

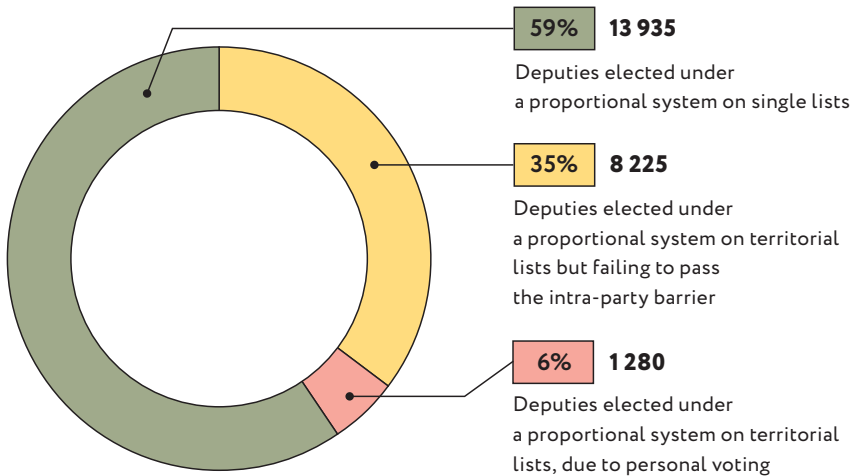
Among all candidates elected under the proportional electoral system (oblast, rayon and *hromada* councils with over 10,000 voters), the majority (59.9%) ran in single constituencies (single party lists), and only 40.1% stood in territorial constituencies. If we account for the type of council being run for, the greatest portion of those elected from territorial constituencies came on oblast council, with 53.1% of deputies coming from territorial constituencies. On *hromada* councils, only 37.3% of candidates came from territorial constituencies. In other words, the more voters in a constituency, the more likely one is to win a seat from the constituency rather than from the party list. However, the scale of election of candidates in territorial constituencies alone cannot be considered an accurate measure of the system's openness, since some candidates managed to be elected due to their positions on territorial lists, despite failing to get the necessary votes.

Despite the introduction of clear restrictions on the open competition of candidates for votes, the application of the proportional electoral system with preferential voting still paid off, given the progressive growth of voter influence on the conduct of nominated candidates.

The main result that allows us to assess the effect of the opening up of Ukraine's electoral system is the fact that 35% of candidates (8,225 deputies) won seats as a result of personal votes in territorial constituencies, rather than because of their predetermined position on a party list. Thus,

among all deputies elected via the proportional electoral system¹⁹, 9,505 (about 41% of the total) were elected in territorial constituencies. At the same time, some (1,280) of these winning deputies from constituencies did not receive the required quarter of the electoral quota and received seats due to their position in the party lists. Instead, the remaining constituency (8,225) successfully overcame the intra-party quota barrier, beat out the competition with their fellow party members on the list, and became deputies thanks to the rating results of personal voting.

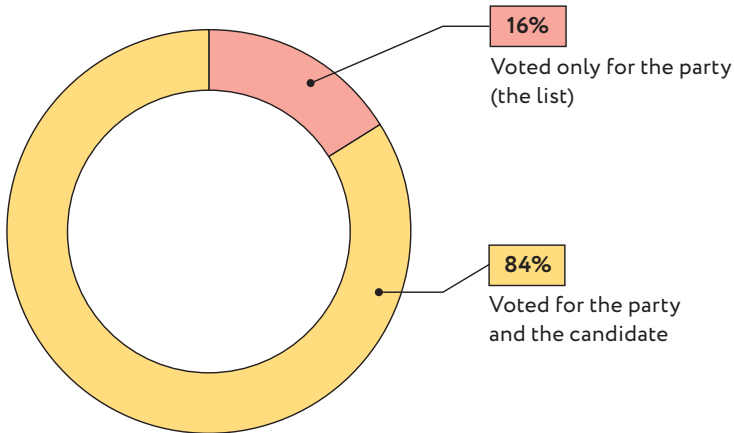
Impact of preferential voting (“open lists” effect)



The electoral system adopted for 2020 also proved to be effective in allowing voters to vote for specific candidates from political parties. Thus, 84% of voters opted to cast a vote for a specific candidate on the party lists. We can see that concerns that voters would not cast these votes on a merely voluntary basis proved unfounded, since only 16% of voters voted exclusively for party lists without showing any preferences for candidates represented on them.

¹⁹ The total number of seats in the councils where elections were held under a proportional electoral system is 25,852. As of this writing, we have obtained data on 23,440 elected deputies.

Support levels for specific candidates from parties (under a proportional system)



It is noteworthy that this candidate selection option was more often used by voters in urban, township and rural communities, as 87% of them voted for specific party candidates. In contrast, for oblast councils, only 75% of voters exercised this option, while the remaining 25% voted just for parties. Thus, when electing deputies to oblast and district councils, voters were somewhat more inclined to defer to political parties, while they were more inclined to make specific candidate selections in more local races.

In elections for oblast, district, and city district councils in *hromadas* with at least 10,000 voters, a proportional electoral system was used with two levels of distribution of seats: one through territorial districts, and another through single multi-member districts. At the same time, during the distribution of seats at the TEC, the first part of the territorial constituency included candidates who received at least 25% of the electoral quota. The second part of the territorial list included candidates which did not receive 25% of the quota in the order of succession determined by the party. Although this threshold for promoting candidates was too high, direct votes influenced the distribution of seats in territorial constituencies. Instead, the distribution of seats in the single multi-member constituency which were not won by the parties in the TECs, took place between the candidates only in accordance with the order on party lists. Thus, in the second stage of the

distribution of seats, direct votes for candidates did not move them higher on the party list.

In general, of the more than 229,000 candidates who ran under the proportional electoral system, 25% passed the intra-party election barrier. On the other hand, 93% of those candidates did not get the minimum required number of personal votes which would have allowed them to be promoted on the list and win a seat.

Among all the winners of the proportional system elections, 42% of candidates overcame the intra-party barrier. Another 39% of winners earned their seats from their spots on their party's list, rather than from the personal support of voters. Another 19% received seats automatically as top members on party lists.

This peculiarity of the electoral system drew special attention to the number of local council deputies who received critically few or zero personal votes. According to the official website of the CEC, in the local elections held under the proportional system, 69 candidates became deputies without having a single personal vote cast for them. All these deputies were elected from party lists in single multi-member constituencies. It is worth noting that 38 of these 69 deputies were elected to four district councils: Severodonetsk (20) and Shchastya district councils (9) in Luhansk Oblast, and Volnovakha (7) and Mariupol district councils (2) in Donetsk Oblast. They were candidates in territorial constituencies where voting did not take place due to the CEC's decision not to hold voting. At the same time, elections for these district councils were not postponed, and parties had the right to nominate candidates in constituencies where elections were not held. Thus, candidates from non-voting constituencies received seats in single multi-member constituencies.

The effects of the absolute majority system on mayoral elections

A two-round voting system was introduced in 2015 for mayoral elections in cities with more than 90,000 voters. Ukraine has 45 such cities (13 of which are either fully or partially located in the temporarily occupied territories of Donetsk and Luhansk Oblasts and the Autonomous Republic of Crimea). Amendments to the Electoral Code in 2020 extended this system to cities

with over 75,000 voters. At the time of the vote, there were 53 such cities (including 16 in the temporarily occupied territories). Thus, today in Ukraine, the two-round system of electing mayors of cities is used in almost 14% of urban communities, which include about 11,417,000 voters.

The main political reasoning for having this system in large cities was to increase the level of public trust and political authority of mayors in larger cities. This approach was shared by all participants of the public debate on reforming the election legislation. On the other hand, approaches differed on the scale and level of application of this system, given the significant financial costs involved in its widespread implementation. The decision to apply this system in cities with over 75,000 voters was the result of political compromise. Policymakers and experts tried to reach an optimal balance between the need to increase the legitimacy of elected mayors amidst voter dispersion and low turnout on the one hand, and the significant resources demanded by a second round of voting on the other.

The law sets out that a second round of voting is to be held between the top two vote-winners of the first round in the event that no single candidate receives an absolute majority of votes cast in the first round (50% plus 1 vote). Out of the 37 qualifying cities which held voting on October 25, 2020, 18 elected mayors in the first round, while 19 went to a second round.

It is worth recalling that while changes to the Electoral Code were being considered, there was a proposal not to hold a runoff in cases where the gap between the first- and second-place finishers was over 20%. However, this proposal was ultimately not included in the final version of the Code, even though it turned out that this rule would have avoided second rounds in another two cities. Voting in Dnipro and Sumy yielded first-place leads of 33% and 29%, respectively. In addition, the first-place lead for the Lutsk and Kryvyi Rih mayoral elections was over 19%. In Odesa and Cherkasy, the first-place lead was over 18%. In all cities (except for Kryvyi Rih) where the first-place lead was over 6%, the first-place round one finisher went on to win in the second round.

In five large cities, however, the first-place lead ranged from 1-5%, and in three of those cities (Slovyansk, Rivne, and Kamyranets-Podilsky), the second-place finisher managed to mobilize enough support to come back and win the second round. The case of Kryvyi Rih should be considered separately due to the exceptional circumstance of the first-place finisher withdrawing from the second round.

The gap between the first and second candidates in the mayoral election based on the results of the second ballot

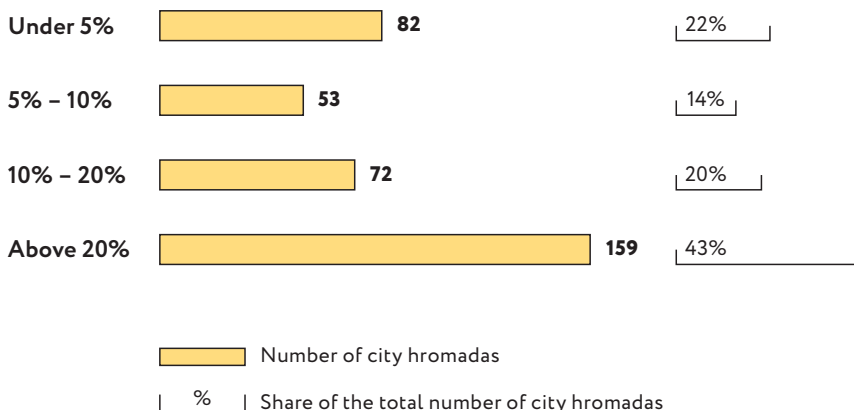
Hromada	Results for 1 cand. % (votes)	Results for 2 cand. % (votes)	Gap between the candidates	Number of voters	Turnout	Change of the first round winner
DNIPRO CITY	46% (101 617)	13% (28 804)	33%	739 544	30%	No
SUMY CITY	44% (28 877)	15% (9 609)	29%	231 127	28%	No
LUTSK CITY	32% (18 934)	13% (7 662)	19%	172 192	33%	No
KRYVY RIH CITY	45% (80 655)	26% (45 213)	19%	487 767	36%	Yes
ODESSA CITY	38% (77 518)	19% (39 351)	18%	692 057	29%	No
CHERKASY CITY	38% (24 179)	19% (12 311)	18%	212 945	30%	No
DROHOBYCH CITY	41% (12 906)	26% (8 106)	15%	86 168	36%	No
KHERSON CITY	31% (22 777)	17% (12 660)	14%	256 247	28%	No

POLTAVA CITY	30% (20 856)	18% (12 290)	<input type="checkbox"/> 12%	239 466	29%	No
KRAMATORSK CITY	49% (19 390)	38% (15 056)	<input type="checkbox"/> 11%	140 630	28%	No
MYKOLAYIV CITY	39% (38 654)	29% (29 095)	<input type="checkbox"/> 10%	350 928	27%	No
LVIV CITY	40% (91 131)	31% (70 682)	<input type="checkbox"/> 9%	592 204	38%	No
UZHGOROD CITY	25% (9 185)	18% (6 485)	<input type="checkbox"/> 7%	90 214	38%	No
CHERNIVTSI CITY	27% (15 350)	21% (11 998)	<input type="checkbox"/> 6%	185 727	29%	No
KAMYANETS- PODILSK CITY	40% (10 048)	35% (8 803)	<input type="checkbox"/> 5%	78 786	32%	Yes
BERDIANSK CITY	35% (12 762)	30% (11 088)	<input type="checkbox"/> 5%	88 091	41%	No
NIKOPOL CITY	22% (6 993)	18% (5 710)	<input type="checkbox"/> 4%	95 664	32%	No
RIVNE CITY	20% (12 411)	17% (10 591)	<input type="checkbox"/> 3%	181 619	34%	Yes
SLOVYANSK CITY	31% (8 542)	30% (8 300)	<input type="checkbox"/> 1%	85 684	32%	No

These results show that it may be expedient to revisit the proposed rule which would rule out a second round in the event of a significant (15-20%) gap between the top two first-round finishers. On the other hand, second rounds make particular sense when the round one first-place lead is minimal (5% -10%). In 22% of city *hromadas*, the winners of the election were candidates who were less than 5% ahead of their main competitors. Given the low voter turnout, these results negatively affect the level of trust in newly-elected heads and the public perception of representative institutions.

Distribution of city *hromadas* by the gap in votes gained by to candidates for positions of local heads

Gap between candidate I and II



The experience of applying this absolute majority system only in cities with over 75,000 voters does not indicate the need to account for the fact large cities (over 90,000) had the largest average first-place lead (median of 33%). In contrast, cities with between 30,000 and 75,000 voters had a smaller average gap between the top two finishers, but these cities did not have second rounds. Similarly, in large cities (over 90,000), mayoral candidates generally received more electoral support in the first round than candidates in smaller communities (30,000 to 75,000 voters), where the second round was not held.

The election results indicate that low voter turnout, and the resultant election of candidates actively supported by only a small minority of the community, is not just a problem for large cities. The average turnout was actually lowest in cities with over 90,000 voters. However, the situation was no better in cities with between 30,000 and 90,000 voters.

Voter turnout and results of leaders in mayoral elections

Number of voters in the hromada	Average voter turnout (median)	Gap between candidates 1 and 2 (median)	Average share of leader votes (median)	Number of city councils
under 10,000	42%	11%	38%	22
10,000 – 20,000	39%	19%	44%	113
20,000 – 30,000	37%	19%	44%	99
30,000 – 40,000	35%	13%	38%	49
40,000 – 50,000	32%	16%	42%	23
50,000 – 60,000	31%	10%	34%	12
60,000 – 75,000	35%	10%	38%	12
75,000 – 90,000	34%	10%	41%	6
Above 90,000	31%	33%	50%	30
Total – 366 city hromadas				

Features of candidates who won without receiving any personal votes (via proportional election system)

Elections for oblast, rayon, and city district councils in *hromadas* with at least 10,000 voters, used a proportional system with two levels of distribution of seats: one at the level of territorial districts, and another in single multi-member districts. When distributing seats for territorial constituencies, the first part of the territorial voting list included candidates who received 25% of the electoral quota or more. The second part of the territorial list included other candidates who did not receive 25% of the quota, in the order of succession determined by the party. Although this threshold was too high for the promotion of candidates, the votes influenced the distribution of territorial constituency seats. On the other hand, the distribution of seats in the single multi-member constituencies which were not received by the parties in the TECs, took place between candidates only according to list order determined by the parties. Thus, in the second stage of the distribution of seats, votes in personal support of candidates did not affect their promotion on party lists.

This peculiarity of the electoral system drew special attention to the numbers of local council deputies who received no or a critically small number of votes.

According to the official website of the CEC, in the local elections held under the proportional system, 69 candidates were elected as deputies despite receiving zero personal votes. All deputies were elected from local party organizations in single multi-member constituencies. 38 out of these 69 deputies were elected to Severodonetsk (20) and Shchastya district councils (9) of Luhansk region, and to Volnovakha (7) and Mariupol district councils (2) of Donetsk region. The elected deputies were candidates in territorial constituencies where voting did not take place due to the decision of the CEC on the impossibility of organizing voting. At the same time, the elections of district councils, which include the respective *hromadas*, were not postponed and party organizations had the right to nominate candidates in constituencies where elections were not held. Thus, candidates from non-voting constituencies received seats in a single multi-member constituency.

Local council deputies who did not receive a single vote: explaining the reasons



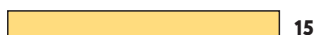
There was no voting in TECs in which candidates were nominated (Donetsk, Luhansk region)



The CEC website confirms the election of persons who did not receive a single vote in their support



Did not vote for any candidate from any party in the TEC (questionable protocol of one TEC)



Incorrect data on the CEC website











Total – 69 cases

The total number of elected deputies without a single supporting vote includes 15 seats on the Novohrodivka City Council. This *hromada* had a specific situation when voters in only one of four constituencies voted for specific candidates from party organizations, while the other three constituencies had votes only for party lists. Furthermore, the official website of the CEC stated that there were no votes in support of one deputy elected to a single multi-member constituency of the Kharkiv city council, although according to the protocols, he received 266 votes (thus indicating a data error). Data on the other 15 deputies who did not receive any supporting votes remains to be confirmed.

In general, according to OPORA's estimates, 7.3% of deputies elected to local councils under the proportional system managed this while earning less than 5% of the electoral quota.

Deputies of local councils elected in a single multi-member constituency without a single supporting vote, by councils

	20 SEVERODONETSK DISTRICT COUNCIL	There was no voting in the TEC	
	15 NOVOGRODOV CITY COUNCIL	No voter voted for any candidate in 3 of the 4 TECs	
	9 SHCHASTYA DISTRICT COUNCIL	There was no voting in the TEC	
	7 VOLNOVAKHA DISTRICT COUNCIL	There was no voting in the TEC	
	2 MARIUPOL DISTRICT COUNCIL	There was no voting in the TEC	
	2 BORATYN VILLAGE COUNCIL	TBC	
	BOYARKA CITY COUNCIL	}	
	VYZHNYTSIA CITY COUNCIL		
	VYSHNEVE CITY COUNCIL		
	DASHIV VILLAGE COUNCIL		
	KAGARLYK CITY COUNCIL		
	PISHCHANKA VILLAGE COUNCIL		
	1 RUDKY CITY COUNCIL		TBC
	SKALAT CITY COUNCIL		
	TAIROVE VILLAGE COUNCIL		
	UZHGOROD CITY COUNCIL		
	UKRAYINKA CITY COUNCIL		
	USATOVE VILLAGE COUNCIL		
	CHAPLYNKA VILLAGE COUNCIL		
	1 KHARKIV CITY COUNCIL МІСЬКА РАДА	Incorrect data on the CEC website	

 Number of candidates with 0 votes

The problem of invalid ballots in elections under the proportional system

In the run-up to the parliament's adoption of the Electoral Code with the new electoral systems, many experts expressed concern about a possible dramatic increase in the number of invalid ballots. These were justified by the complexity of the proportional system with open lists and the lack of sufficient time to properly inform voters. Analysis of our data samples from elections of deputies to oblast councils and local councils in oblast centers showed an increase in the number of invalid ballots. This testifies to the need for further efforts to improve the design of ballot papers and to ensure an effective campaign to explain the system to voters.

OPORA analyzed the number of invalid ballots in elections for oblast councils and local councils in regional centers (excluding Donetsk, Luhansk, and Kyiv Oblasts, where the sample included the largest cities). The official website of the CEC does not publish this data in machine-readable format, and it does not contain protocols on the election results of individual regional councils and territorial communities. As a result, the data is incomplete, though it may indeed show a change in the rate of invalid ballots since 2015.

The Electoral Code calls for a ballot to be counted as invalid if: 1) it does not bear the PEC seal; 2) no changes have been made or have been unreasonably made to the list of candidates or parties; 3) if the voter did not put any mark next to the full name of a political party; 4) marks are placed opposite the names of several political parties; 5) the control counterfoil is not detached from the ballot paper; 6) it is impossible to establish the meaning of the vote for other reasons.

According to the protocols on the results of the election of deputies to 21 oblast councils (with no information on Khmelnytskyi Oblast), the share of invalid ballots among the total number cast throughout the country was 7.99%. In 18 of the oblasts, the invalid ballots exceeded 7% of the total, while it was lower in only three oblasts (5.53% in Kharkiv, 6.79% in Vinnytsia, and 6.8% in Poltava). The highest rate of invalid ballots was recorded in the Chernivtsi (13.02%) and Zakarpattia (12.87%) oblast council elections. Some constituencies in these oblasts had an even higher rate. For example, among the six constituencies of the Transcarpathia region, the most invalid

ballots were found in TEC No. 4, with 14.33%. TEC No. 5 (16.66%), TEC No. 6 (15.69%), and TEC No. 3 (14.99%) led the way in Chernivtsi Oblast. Compared to the 2015 oblast council elections, the percentage of invalid ballots in Transcarpathia Oblast more than doubled.

Invalid ballots in Oblast council elections

2020 and 2015			
Regional councils	% of those who voted in 2020	% of those who voted in 2020	Increase in %
VINNYTSIA OBLAST	6.79%	4.33%	2.46%
VOLYN OBLAST	7.73%	4.03%	3.70%
DNIPROPETROVSK OBLAST	7.34%	Немає даних	Немає даних
ZHYTOMYR OBLAST	8.01%	Немає даних	Немає даних
TRANSCARPATHIA OBLAST	12.87%	5.80%	7.08%
ZAPORIZHIA OBLAST	7.54%	4.32%	3.22%
IVANO-FRANKIVSK OBLAST	8.87%	4.29%	4.58%
KYIV OBLAST	8.40%	Немає даних	Немає даних
KIROVOHRAD OBLAST	9.09%	Немає даних	Немає даних
LVIV OBLAST	7.37%	Немає даних	Немає даних
MYKOLAYIV OBLAST	8.17%	Немає даних	Немає даних
ODESA OBLAST	8.38%	4.58%	3.81%
POLTAVA OBLAST	6.80%	Немає даних	Немає даних
RIVNE OBLAST	8.67%	4.72%	3.95%
SUMY OBLAST	7.12%	Немає даних	Немає даних
TERNOPIL OBLAST	7.14%	4.21%	2.93%
KHARKIV OBLAST	5.53%	3.46%	2.07%
KHERSON OBLAST	8.42%	Немає даних	Немає даних
CHERNIVTSI OBLAST	13.02%	Немає даних	Немає даних
CHERKASY OBLAST	8.46%	4.59%	3.87%
CHERNIHIV OBLAST	7.31%	4.09%	3.22%
TOTAL OF THE OVERALL NUMBER OF VOTERS IN ALL COUNCILS	7.99%		

OPORA compared the numbers of invalid ballots in oblast council elections in 2015 and in 2020, in eleven oblasts (Transcarpathia, Ivano-Frankivsk, Rivne, Cherkasy, Odesa, Volyn, Zaporizhzhia, Chernihiv, Ternopil, Vinnytsia, and Kharkiv). In all oblasts for which data was available, there was an increase in the number of invalid ballots. In two oblasts (Zakarpattia and Ivano-Frankivsk) the share of invalid ballots more than doubled, in 6 oblasts – it has grown from 1.78 to 1.8 times, in three oblasts – there has been an increase from 1.59 to 1.69 times.

OPORA also analyzed data on the number of invalid ballots in the elections of city council deputies in 22 cities. The sample covered votes cast by 3,770,525 voters, and 5.54% of those ballots were ruled invalid. The lowest number of invalid ballots was found in Vinnytsia (3.7%), while the highest number was in Odesa (8.38%). In general, eight out of 22 cities in the sample had under 5% invalid ballots, of this group the indicator of invalid ballots was under 5%, twelve cities had rates between 5.16% and 5.77%, two cities had rates over 6%.

We compared the results of last year's campaign with results from 2015 in seven cities (Vinnytsia, Lutsk, Poltava, Rivne, Sumy, Ternopil, and Zhytomyr). Compared to 2015, the rate of invalid ballots decreased in Vinnytsia and Ternopil, and grew slightly in Zhytomyr. In four other cities, the percentage of invalid ballots increased substantially: the highest being in Lutsk (1.6 times higher), and in Sumy (1.5 times).

Thus, our sample showed an increase in the number of invalid ballots, but their numbers in different *hromadas* and in different elections varied significantly. These differences can be explained by low citizen awareness about the voting method, as there was not enough time or resources to sufficiently spread awareness. In some *hromadas*, it makes sense to study the high rates of invalid ballots in more detail for signs of possible falsification of voting results.

Assessment of the voting process and of the vote count

On election day on October 25, 2020, and on the days of second-round voting for mayor in 20 cities, OPORA observers conducted a comprehensive assessment of legal compliance by election commissions and other electoral subjects. This monitoring covered all stages of the voting process, including working sessions held by PECs on election day, the opening of polling stations, the issuing of ballots, the counting of votes, the drawing up of PEC protocols on voting results, and the transporting of election documentation from PECs to DEC. OPORA's observation was continuous on election day and was conducted in a representative sample of polling stations throughout the whole country, which allowed us to generalize the problems we observed and present to the public statistically-valid data on the typical challenges of the voting process. The results of our statistically-representative methodology allowed us to identify the key problems of the Ukrainian local election process and to recommend the necessary legislative and practical measures to prevent them in the future.

Assessment Of Voting And Tabulation

OPORA observers testified that in 89.7% of polling stations (+/- 2.71%), there were no violations of the voting process on October 25, 2020 that may have affected the voting results at . Significant violations with potential impact on voting results were recorded at 0.8% of polling stations. Insignificant non-compliance with legal requirements for the voting process was reported at 9.4% of polling stations. This lack of significant violations suggests that the voting process generally met the requirements of the law and was not accompanied by direct attempts to distort the will of the voters. This conclusion is confirmed by the very low number of incidents with elements of illegal depositing of ballots into ballot boxes, which were recorded only on 0.64% of polling stations (down from 1.5% in 2015).

Our comprehensive monitoring of the voting process showed that the most common violations were attempts to illegally issue and receive ballots. Such incidents were reported by observers at 10.04% of polling stations (+/-2.3%).

In 0.29% of polling stations, OPORA observers reported this type of violation repeatedly. Usually, voters tried to obtain ballots without presenting an ID document provided by law, or tried to do so in place of other persons, and members of election commissions agreed to issue the ballots illegally. Although this practice in the 2020 local elections was less frequent than in 2015 (17.7% of polling stations), the government needs to take measures to prevent these offenses by voters and members of election commissions. In particular, it is necessary to ensure a meaningful information campaign on the unacceptability of illegally issuing or receiving ballots, along with the appropriate sanctions.

Voting outside the secret ballot booths, direct and indirect attempts to violate the secrecy of the ballot, including the display of ballots, were recorded by OPORA observers at 7.52% of polling stations, which was identical to the 2015 local elections. Most often, OPORA observers reported voters attempting to photograph their ballots. This practice can be unintentional, but can also be deliberate on the part of organizers of voter bribery schemes trying to control the vote. On October 25, 2020, OPORA observers reported attempts to photograph ballots in 1.6% of polling stations. This figure was virtually unchanged from 2015.

In addition to violations of direct voting procedures, OPORA observers have traditionally assessed PECs' preparation for the opening of polling stations, their logistics, and their observance of the rights of official observers and other actors in the election process.

According to the Electoral Code, PECs were required to begin their preparatory meetings on election day no earlier than 45 minutes before the start of voting. OPORA's monitoring found that on October 25, 2020, 14.3% of PECs (+/-3.17%) started their preparatory meetings earlier than the legally established time, and thus did not comply with this requirement. Violation of the time requirements for PEC preparatory meetings impedes the right of electoral subjects to observe all election procedures. However, the share of polling stations which witnessed attempts to directly obstruct the activities of official observers decreased to 1.1% from 3.0% in 2015.

Observers reported a lack of quorum in 1.4% of PECs at preparatory meetings. However, despite the pandemic and the consequent decrease in people's willingness to participate in the election administration, the commissions still managed to avoid mass destabilization of their work.

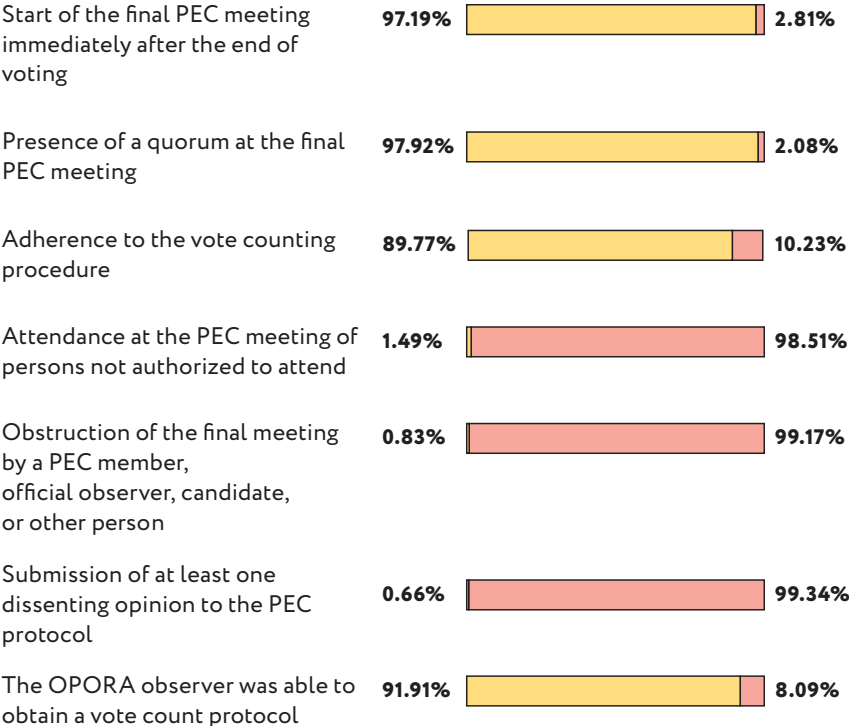
A key problem in the work of PECs after the closing of polling stations was non-compliance with counting procedures. This was recorded in 10.23% of polling stations (+/- 2.41%). Counting procedure violations did not necessarily indicate illegal intentions by PEC members, but were more likely the result of insufficient training of election commission members to implement the rather complex requirements of the law. The problems identified in implementing counting procedures indicate the need not only for proper training of PEC members, but also for a systematic analysis of the feasibility of simplifying the vote counting procedures while maintaining the necessary guarantees of process integrity. However, despite violations of vote counting procedures, PEC members offered official dissenting opinions at only 0.66% of polling stations.

Another important shortcoming of the voter counting process was the failure of PECs to provide official observers with copies of voter counting protocols at polling stations. Such incidents were recorded in 8.09% of polling stations. Violations of the rights of official observers to obtain copies of protocols were not widespread, but such incidents did not allow them to assess all stages of the election process.

Despite previous forecasts of the risks of PEC disruptions from pandemic, final PEC meetings on 25 October 2020 almost always had quorums. OPORA observers reported a lack of a quorum in final PEC meetings at only 2.08% of polling stations. This demonstrates that TECs and PECs functioned properly, which ensured the stable functioning of election commissions responsible for counting votes.

Statistical estimate of the process of vote count in the first local elections on October 25, 2020, on the basis of a representative number of polling stations

Survey error – 2.41%



Procedure was provided
 Procedure was not provided

Voter turnout in the first local elections and during the re-vote

COPORA observers counted turnout in the first round of voting in their sampled polling stations. They counted the number of voters who had turned out by 12:00, 16:00, and 20:00.

We observed a voter turnout on October 25, 2020 of 35.94% (+/-1.14%). Voter turnout in the 2020 local elections was significantly lower than in the 2015 (46.5%) and 2010 (48.7%) campaigns. It should be noted that Ukrainian law does not require any voter turnout threshold to recognize elections as having taken place. Despite this, voter turnout is traditionally a subject of political debate and debate in the media in Ukraine. These discussions often took place in the context of assessing citizens' interest in the institution of elections and the allegedly lesser "legitimacy" of the newly formed local governments. OPORA observers have repeatedly called on political actors to make not statements or offer opinions that are unreasonably aimed at reducing public confidence in the results of the vote. It should also be noted that the 2020 local campaign took place during the COVID-19 pandemic. Voter quarantine restrictions and fears about visiting polling stations in pandemic conditions may have had a significant impact on the turnout.

Another feature of the 2020 local campaign in 2020 was the lack of a single date for the second round of mayoral elections. The date of the second round was decided by the TEC within the period required by law (or in some cases outside the period when there was lengthy litigation over results). As with the October 25, 2020 vote, OPORA observers counted turnout at polling stations in re-voting cities. Our data allowed us to compare indicators of voter activity on different voting dates (accounting for the features of our methodology).

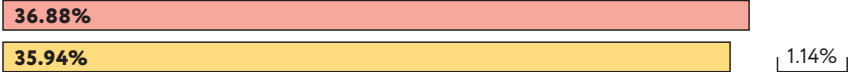
On November 15, 2020, the second round of mayoral elections took place in seven cities in different regions, namely the cities of Lutsk, Odesa, Sumy, Kherson, Kamyanets-Podilsky in Khmelnytskyi Oblast, Kramatorsk in Donetsk Oblast, and Ukrainka in Kyiv Oblast. Voter turnout was reported based on OPORA's statistically- representative sampling of polling stations. In the seven cities with voting on November 15, it was 23.9% (+/-1.14%). For the eleven cities which voted on November 22, turnout was slightly higher

at 29.23% (+/- 1.30%). After being completed in 18 cities, second-round voting continued in Chernivtsi and Kryvyi Rih. Voter turnout for Chernivtsi on November 29 was 23% (+/-2.17%). Turnout in Kriviy Rih on December 6 was significantly higher than elsewhere, and only slightly below the first election day, at 34.60% (+/-1.4%).

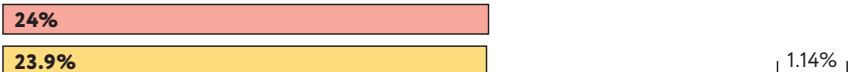
OPORA recommends that the state increase efforts to inform voters about how their electoral systems and voting procedures work. Voters' understanding of the organization and conduct of elections and the method of voting is an important part of increasing turnout. On the other hand, a lack of proper awareness of these things can seriously dampen willingness to vote. In addition, the government ought to comprehensively analyze its experience with informing voters how to vote during a pandemic. In our view, despite the measures taken by election commissions and authorities to ensure safe voting, voters did not always receive timely information. Lack of communication from the government contributed to the dissemination of unverified and, in some cases, panic-driving information about the risks of voting during the pandemic.

Voter turnout in the 2010, 2015, and 2020 local elections, during re-voting in mayoral elections (cities with 75,000 voters or above)

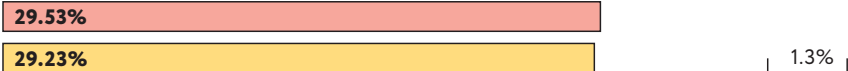
The first local elections – 2020 within Ukraine



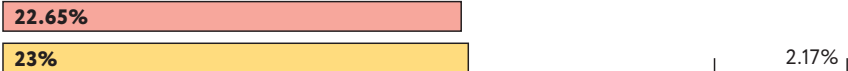
Voter turnout for re-voting on November 15 within Ukraine (7 cities of Ukraine)



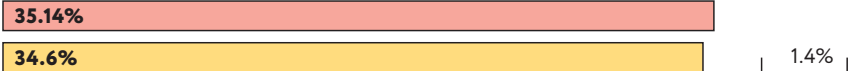
Voter turnout for the second ballot on November 22 within Ukraine (11 cities)



Voter turnout in Chernivtsi mayoral election on November 29



Voter turnout for re-election in Kryvyi Rih mayoral election on December 6



- Official turnout
- Turnout according to OPORA
- % The error of OPORA analysis

Priority recommendations

Based on the results of its monitoring, OPORA has formulated priority recommendations for improving legislation and practices to strengthen democratic standards in Ukraine. Taking into account previous positive experience, OPORA calls on the Committee of the Verkhovna Rada on Organization of State Power, Regional Development, Local Self-Government and Urban Planning to include amendments to the Electoral Code aimed at eliminating problems identified during the local elections.

To the Verkhovna Rada

Strengthening legislative guarantees of ensuring the voting rights of citizens

- Introduce a transparent and legally-defined procedure for establishing the impossibility / possibility of holding national and local elections in certain territorial communities and / or within certain polling stations of Donetsk and Luhansk Oblasts, which must be implemented by a politically responsible body based on collegial and substantiated conclusions and according to clear assessment criteria.
- Strengthen opportunities for people with disabilities to participate in the electoral process through a legal obligation to ensure their access to campaigning and voting by introducing reasonable accommodations, by allowing these voters to choose where they vote (at the polling station or at home), and to speed up the process of bringing polling stations up to accessibility standards.
- Ensure the effectiveness of the gender quota on electoral rolls by increasing the legal certainty of the process of candidate registration and registration cancellation, and introducing a legislative mechanism to replace candidates who withdraw with members of the same sex.
- To ensure observance of the voting rights of people being held in pre-trial detention centers, but who have the right to vote in local elections.

Legal framework for the election process in a pandemic or in case of similar circumstances

- Amend the Electoral Code to provide procedures for the implementation of anti-pandemic measures during the organization and conducting of elections, as well as to regulate the powers of the CEC to implement measures to combat the spread of infectious diseases

Strengthening the CEC's institutional independence

- Strike from the Law "On the Central Election Commission" the provision on the early termination of the total membership of the Commission, which may allow political interference in the activities of the highest election administration body and violate the law on the seven-year term of its members.
- Given the apparent use of political pressure on the CEC during the 2020 local elections, formulate and implement additional guarantees of independence of the members of the Commission, in particular by increasing the transparency of interaction between the CEC and other state authorities.

Improvement of legislative regulation of the nomination process and registration of candidates

- Ensure the openness of conferences / meetings of local party chapters by giving official observers the right to attend, without permission or invitation from the organizers (with a limited number of attendees from each observation organization).
- Amend the Electoral Code to strengthen the enforcement of the gender quota on electoral lists, which would prevent its violation by TEC decisions and disparate court rulings. This will require changes to the Code on procedures for candidate registration and the procedure for replacing candidates who withdraw.
- Create new legislative incentives to increase the motivation of political parties to independently and fully adhere to the gender quota in electoral lists, in particular through additional government funding for parliamentary parties which comply fully with gender balance standards in national and local elections.
- Strengthen the legal certainty of actions of TECs and electoral subjects

in case of inaccuracies and errors in the documents of candidates and electoral lists, which should prevent both the inconsistent application of legislation and cases in which electoral risks are revised without holding party chapter conferences.

- Synchronize the deadlines for revoking registration of candidates by TEC decision with the deadlines for appeals and decisions by courts, the final decisions of election commissions to implement court decisions, and the deadlines for printing and transmitting ballots to PECs.
- Adopt legislation to establish and operate a single database of registered candidates, through which the CEC and TECs would be able to fully monitor candidates' compliance with restrictions on simultaneous candidacies.
- Clearly regulate the right of political parties to post security deposits for their local organizations (or explicitly prohibit this practice), as well as clarify depositing procedures for other individuals or legal entities on behalf of candidates.
- In order to counteract the use of clone candidates, which violate the voting citizens' voting rights and mislead them, amend the law to provide for the inclusion of information about changes in the name and other personal information of candidates in the texts of ballots and on information posters. At the same time, this measure needs to be combined with the effective application of Criminal Code articles concerning bribery of candidates by other subjects of the election process.

Strengthening the efficiency and integrity of the election administration process and of the functioning of election commissions

- In order to professionalize the activities of TECs and PECs, consider appointing individual members only if there are documents confirming their participation in CEC-organized training, and set limits on the replacement of election commissions in the final days before election day and on election day.
- Introduce a ban on the inclusion on election commissions of commission members that have had their powers terminated for violating electoral law during the same election. The only exception from this rule should concern cases in which commissioners submit opinions dissenting from such disqualification decisions.
- In order to prevent the practice of indicating the wrong dates and times of compilation in PEC vote count protocols, ensure that all PEC members

are compensated for two working days, and provide additional payment to commission members responsible for transporting election documents for each day prior to the day of submission of election documentation to DEC and TECs.

- Clarify the provisions of the Electoral Code regarding the procedures for nominating candidates to PECs. The current version of the Electoral Code does not clearly define the level of local party chapters which have the right to submit nominations to ; neither does it regulate features of this process in the City of Kyiv.
- Amend the Electoral Code to define the requirements for TEC logistics in the inter-election period, which would ensure their proper functioning and funding during their entire period of operations. At the moment, this issue is regulated only by bylaws of the CEC.
- Use the Electoral Code to regulate compensation for TEC members and employees involved in the period between the formation of electoral commissions and the official start of the election process.
- Strengthen the efficiency of TEC mandates in the production of ballots by setting requirements in the Electoral Code for the activities of the control commission on the production of ballots (control criteria, the scope of the obligation to check the text

Strengthening legislative guarantees for effective work by national observers

- Provide opportunities for NGOs to observe all stages of local elections, including the formation of TECs and constituencies, with the right to register parallel to the first sessions of such commissions. These legislative changes should prevent the situation experienced in the 2020 local elections whereby TECs and constituencies were formed before the election process, and NGOs were allowed to obtain permission to observe the CEC only after the election process began.
- Provide for the right of official observers from non-governmental organizations to attend meetings / conferences to nominate candidates without permission or invitation, which will increase the transparency and openness of the activities of political parties and their local organizations during elections.
- Eliminate the need for a non-governmental organization to submit a notarized copy of their charter to obtain permission from the CEC to observe the election, which is an excessive bureaucratic obstacle to the activities of non-party observers.

Improving the procedures for establishing returns and results of local elections

- Simplify the process of vote counting and establishing results through partial automation, with the help of the creation and legislative consolidation of a Local Elections information analysis system, which would allow for the checking and clarification of vote count protocols.
- Strengthen mechanisms for verifying the correct distribution of seats based on the results of local elections conducted under the proportional electoral system. In particular, it is necessary to provide for automated verification of the distribution of seats and thus prevent the erroneous recognition of elected persons who were not entitled to mandates.

To the national police of Ukraine

- Conduct and publish a comprehensive analysis of the results of the investigation of election-related crimes in local elections, as well as of the advantages and disadvantages of the amended Criminal Code and Code of Administrative Offenses.
- Continue and strengthen the preliminary training of the National Police on the application of election legislation.

Signed to printing 18.10.2021. Format 60x84/16

Offset paper. Circe typeface. Offset printing.

Phys. print. sheet 9. Cond. print. sheet 8.37. Cond. impr. 2.5

Order № 0810-1. Copies 300

Published by:

Piatakov Yu. O. SP

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