



SERIES OF WEBINARS

LOCAL ELECTIONS 2020: ESSENTIALS PLAIN AND UNCOVERED

Key points

Kyiv 2020

Introduction

Elections are an integral part of a democratic state. Elections are a means for citizens to express their interests via representatives at local and national levels. Local elections are especially important, considering that citizens elect their representatives to local councils being authorized to solve the problems of a particular community without any state intervention.

The electoral process is lengthy and consists of a large number of different electoral procedures that require careful study not only by professionals and those involved in organisation of elections, but also by average voters. Understanding of how and why elections are held facilitates conscious choice and protection of the voting rights in case of their violations.

The Council of Europe supports its member States in implementation of the European standards and good practices in electoral matters. In particular, respective support is provided in Ukraine within the framework of the project “Supporting the transparency, inclusiveness and integrity of electoral practice in Ukraine,” implemented within the Council of Europe Action Plan for Ukraine 2018-2022. An important component of this project is aimed at enhancing the political and legal culture of various actors and participants in the electoral process, including voters, candidates, parties, election commissioners and observers.

A series of webinars “Local Elections 2020: Essentials Plain and Uncovered” was organised and conducted by the Council of Europe in cooperation with the Ukrainian NGO “Human Rights Platform” in order to inform different actors and participants in the electoral process about the main legislative novelties and specifics of this year’s local elections in Ukraine. In addition, during the webinars, considerable attention was paid to the issue of holding elections in the context of the COVID-19 pandemic.

Following the webinars, main points outlined during the webinars were summed up herein and cover the following thematic areas:



main stages of the electoral process, electoral calendar and deadlines



organisation of the electoral process and the system of election commissions at local elections, their hierarchy and powers



local self-government bodies to be elected



procedure of nomination and registration of candidates to local councils and to the positions of village, settlement and city mayors



electoral systems to be used at local elections and the way in which the winners of the local elections will be determined



media coverage of the electoral process



election campaigning, its financing and reporting on expenditures



election dispute resolution and protection of the voting rights during the electoral process

Different national election experts and representatives of the Council of Europe's national partner organisations became speakers and guests at the webinars, namely:



● **ANDRIY HEVKO**
Member of the Central Election Commission of Ukraine



● **PAVLO LYUBCHENKO**
Member of the Central Election Commission of Ukraine, Doctor of Law, Professor



● **VICTORIA HLUSHCHENKO**
Member of the Central Election Commission of Ukraine



● **NATALIA VADIMOVA**
Deputy Head of the Secretariat of the Central Election Commission of Ukraine



● **LEONTIY SHYPILOV**
PhD in Law, Member of the Central Election Commission of Ukraine (2018 – 2019)



● **VOLODYMYR VENHER**
PhD in Law, Associate Professor at the Department of General Theoretical Jurisprudence and Public Law of the National University “Kyiv-Mohyla Academy”



● **OLEKSANDR BURMAHIN**
Executive Director of the Ukrainian NGO “Human Rights Platform”, moderator of the discussions



● **LYUDMYLA OPRYSHKO**
Lawyer, Media Lawyer of the Ukrainian NGO “Human Rights Platform”



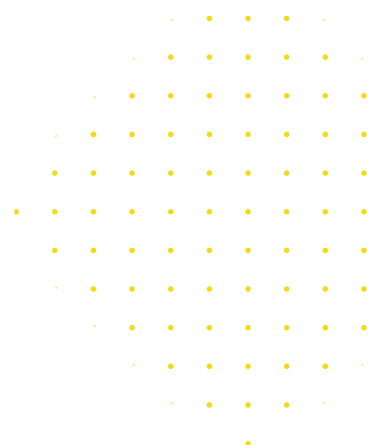
● **OLGA KOTSIURUBA**
Senior Legal Adviser of the Ukrainian NGO “Civil Network ‘OPORA’”




● **PAVLO ROMANIUK**
Legal Adviser of the Ukrainian NGO “Civil Network ‘OPORA’”




● **DIANA DUTSYK**
Media Expert, Executive Director of the Ukrainian Institute of Media and Communication, moderator of the discussions





Voters' awareness about electoral procedures and process is one of the essential conditions to ensure fair and transparent elections, as it contributes to more informed choice, improves the quality of the electoral process, and strengthens citizens' trust in elections and their results.



These key points from a series of webinars have been collected within the framework of the Council of Europe project “Supporting the transparency, inclusiveness and integrity of electoral practice in Ukraine,” and summarize statements and presentations made by speakers and experts during the webinars. Any statements contained herein does not reflect the official position of the Council of Europe.

TOPIC 1.

**ANATOMY OF THE
ELECTORAL PROCESS
OR WHAT TO EXPECT
ON THE EVE OF
LOCAL ELECTIONS?**

Local elections in Ukraine are scheduled for October 25th, 2020. Residents of territorial communities will elect representatives to local self-government bodies. This year's local elections will be significantly different from the previous ones, as they will be held according to the new rules set by the Electoral Code of Ukraine and in the context of the introduced adaptive quarantine.



WHAT ARE THE NOVELTIES OF THE ELECTION LEGISLATION AND SPECIFICS OF 2020 LOCAL ELECTIONS?

Here are some key points to look at.

In general, national electoral legislation and practice should comply with international electoral principles and standards included in a number of international documents.

INTERNATIONAL ELECTORAL STANDARDS

The basic principles and approaches to the conduct and organisation of elections are enshrined in a number of international documents that have been developed and adopted by various international organisations, in particular:

1. Universal Declaration of Human Rights (UN), Article 21.
2. First Protocol to the European Convention on Human Rights, 1952 (Council of Europe), Article 3.
3. International Covenant on Civil and Political Rights, 1966 (UN), Article 25.
4. Universal Declaration on Democracy 1997 (Inter-Parliamentary Union), paragraph 12.

European electoral heritage is based on the following five principles:

universal

equal

free

direct

secret

suffrage

In addition, elections shall be held regularly.

In addition to the guiding principles, the international documents provide for conditions for implementing the principles, namely, the respect of fundamental human rights, the stability of electoral law and its protection from party and political manipulation, and several procedural guarantees with regard to elections organisation.

NATIONAL LEGISLATION: ELECTORAL CODE AMENDED IN 2020

In Ukraine, the procedure for organising and conducting elections is regulated by the Constitution of Ukraine, the Electoral Code of Ukraine, as well as a number of other laws and bylaws. It should be noted that the Electoral Code was adopted by the Verkhovna Rada of Ukraine in December 2019 and, in July 2020, it was significantly amended in terms of provisions relating to local elections.



WHAT ARE THE LEGISLATIVE NOVELTIES INTRODUCED BY THE ELECTORAL CODE?

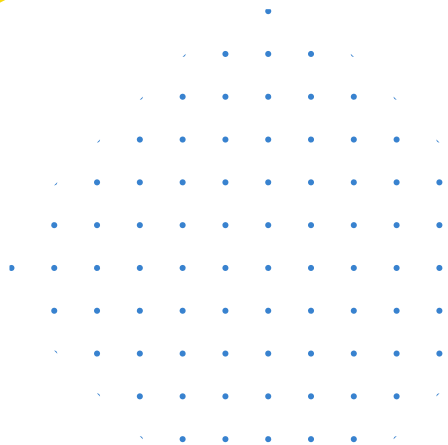
Strengthening the role of parties. In a territorial community of 10,000 and more voters, only a local party organisation can nominate a candidate for elections. A proportional system with open party lists will be used for elections of local councils in such communities. This means that a voter, in addition to voting for a party, will have the opportunity to vote and support a particular candidate nominated by that party on its list.

The parties nominating candidates shall keep the gender quota when compiling the lists of candidates in order to ensure a balanced representation of men and women thereon. There must be at least 2 representatives of each sex in each of the five candidates on the party list.

The election deposit was reduced 9 times in July 2020 in comparison to the amount foreseen in December 2019. The amount of the deposit varies depending on the number of voters living in respective community and ranges from UAH 1,000 to UAH 20,000 for every 90,000 voters living in the community, which does not exceed the amount of election deposit having been used before the adoption of the Electoral Code.

Enfranchisement of internally displaced persons' and other mobile groups of citizens' (labor migrants) has been ensured. In particular, the procedure for temporarily changing the voting address has been simplified.

Legislative amendments have been made to the Criminal Code of Ukraine and the Code of Ukraine on Administrative Offenses, providing the inevitability of punishment for electoral crimes and proportional sanctions for their perpetration.



COVID-19 AND LOCAL ELECTIONS IN THE CONTEXT OF QUARANTINE RESTRICTIONS

During the organisation and conduct of local elections on 25 October 2020, a number of anti-epidemic measures are to be upheld, in particular:



temperature screening



hand sanitizing with disinfectants at the entrance to a polling station



regular disinfection of all surfaces in the voting room (tables, chairs, door handles, etc.) at least every two hours, as well as wet cleaning of the room – at least once every 4 hours



marking indicators for the distance of 1 meter which must be followed



placement of containers for used protective items at the exit of the polling stations



final disinfection in the premises of the election commissions after the vote counting, transfer of protocols and ballots and other election documentation

TOPIC 2.

WHO IS RESPONSIBLE FOR ORGANISATION AND CONDUCT OF ELECTIONS?

Election commissions are independent bodies that organise and manage the electoral process in Ukraine. They are responsible for implementing and ensuring the basic principles of electoral law defined by the Constitution of Ukraine and the Electoral Code of Ukraine, the cornerstones of electoral process, preparation and conduct of elections, as well as ensuring electoral rights of Ukrainian citizens.

THE CENTRAL ELECTION COMMISSION (CEC)

is the central body in the hierarchy of election management bodies. The CEC heads the system of election commissions and is the highest-level commission for all election commissions at all local elections.

TERRITORIAL ELECTION COMMISSIONS (TECs)

are responsible for preparation and conduct of local elections. The powers of TECs cover the territory of a respective constituency or part of a constituency within an administrative-territorial unit during respective local elections.

Thus, TECs are formed at the level of oblasts, rayons, districts-in-the-city (in cities with district division), villages, settlements and cities, as well as in the Autonomous Republic of Crimea.

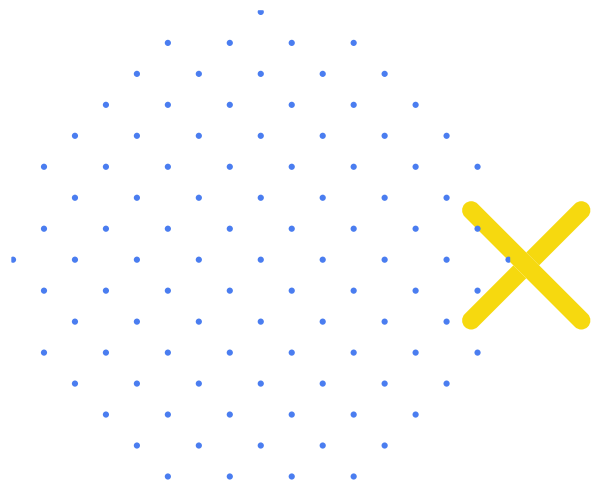


It is worth noting that territorial election commissions are the highest-level commissions for all precinct election commissions at respective local elections.

PRECINCT ELECTION COMMISSIONS (PECs)

belong to the lowest level bodies in the hierarchy of election management system, and exercise their powers only within their respective precincts. After the completion of voting, vote counting and tabulation, ballots together with other election documentation are transported and transferred from the precinct election commissions to the relevant territorial election commissions.

For example, ballots and other electoral documentation related to elections of a village mayor and village councillors, as well as to rayon and oblast councils elections, are transferred from the PEC established in the village to the relevant village TEC. And only then, the relevant territorial election commission establishes the voting results and the results of respective local elections, as well as carries out the official publication of the results of respective local elections.



In addition to election commissions of various levels, *other state authorities are also involved in the organisation and conduct of the electoral process, in particular:*

the central executive body, which implements the state policy in the areas of treasury maintenance of budget funds, book-keeping of budget execution

the central executive body that implements the state policy in the field of state registration of legal entities, public formations that do not have the status of a legal entity, and individual entrepreneurs

judiciary

State Register of Voters maintenance bodies

law enforcement agencies of Ukraine (Prosecutor's Office, National Police of Ukraine, Security Service of Ukraine)

as well as local governments, their executives and officials, state enterprises, institutions and organisations.

According to Article 24 of the Electoral Code of Ukraine, public authorities organise their work during the electoral process, including weekends and election day, in such a way as to ensure the protection of election commission premises, protection of ballots and other election documentation, submission and consideration of documents on the preparation and conduct of elections, lawsuits, complaints and appeals of election commissions, timely settlements, implementation of appropriate registration actions within the time and manner provided by the Electoral Code.

TOPIC 3.

**WHO WILL BE ELECTED AT
2020 LOCAL ELECTIONS?**

The background is a solid blue color with a pattern of small white dots. There are several large, semi-transparent geometric shapes: a curved line at the top left, a circle on the right, a long diagonal line, and a triangle with a grid pattern at the bottom left.

During 25th October local elections, Ukrainians will elect representatives to local self-government bodies:

local councillors, namely to:

- oblast councils
- rayon councils
- city councils
- district-in-the-city councils
(in cities with district division)
- village councils
- settlement councils

village, settlement and city mayors



The electoral system to be applied for the elections of local self-government bodies depends on the number of voters in the territorial community where elections will take place.

THE FOLLOWING ELECTORAL SYSTEMS ARE TO BE USED DURING 2020 LOCAL ELECTIONS:

the relative majority system in single-mandate constituencies (first-past-the-post system / one-round plurality system)



to be used for the elections of village, settlement and city mayors in communities with **less than 75 thousand voters**

the absolute majority single-mandate system (the two-round system)



to be used for the elections of mayors in communities with **75 thousand and more voters**

the relative majority system in multi-mandate constituencies



to be used for the elections of village, settlement and city councillors in communities with **less than 10 thousand voters**

the proportional representation system with open lists



to be used for the elections of village, settlement, city councillors in communities with 10 thousand and more voters, as well as for the elections of oblast, rayon and district-in-the-city councillors

WHO IS AN ELIGIBLE CANDIDATE FOR THE POSITION OF A LOCAL COUNCILLOR OR VILLAGE/ SETTLEMENT / CITY MAYOR?



A person who:

- is a citizen of Ukraine;
- has 18 years old;
- has legal competence;
- has no unexpunged conviction for committing a serious or grave crime, a criminal offense against citizens' electoral rights or a corruption criminal offence;

can be a candidate for the position of a local councillor or village/ settlement / city mayor.

NOMINATION PROCEDURE

$\geq 10\ 000$ 

In communities with 10,000 and more voters where the proportional representation system with open lists is applied,

only a local party organisation can nominate a candidate in its unified electoral list.

$< 10\ 000$ 

In communities with less than 10,000 voters where the relative majority system is applied,

a candidate can be self-nominated or nominated by a local party organisation.

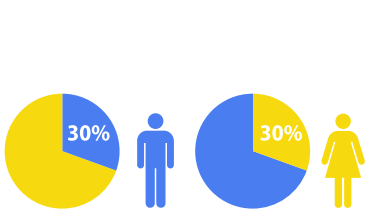
IS THE ELECTION DEPOSIT NECESSARY TO RUN THE ELECTIONS?



Yes, it is necessary. The amount of the deposit varies from UAH 1,000 to UAH 20,000 per 90,000 voters, depending on the number of voters in respective community.

GENDER QUOTA IN THE ELECTORAL LISTS OF LOCAL PARTY ORGANISATIONS

The gender quota is designed to ensure a balanced representation of men and women in political and public decision-making processes, including via balanced representation in local self-government bodies.



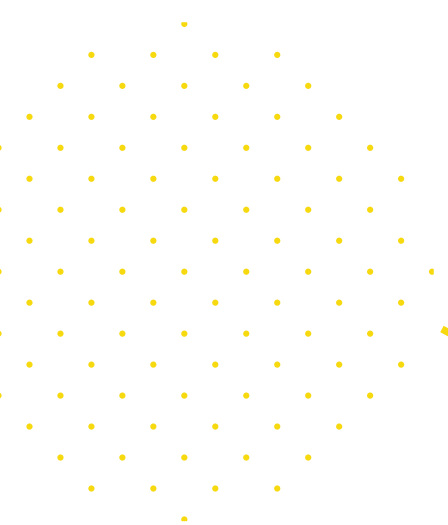
Under the majority system,

the electoral lists of candidates of local party organisations shall include at least 30% of candidates of each sex.



Under the proportional system,

each electoral list shall be compiled in a way that every 5 candidates shall include at least **two candidates of each sex** (positions from the first to the fifth, from the sixth to the tenth, and so on). If the number of candidates on the electoral list is not a multiple of five, the rule of rotation of candidates of different sex shall be applied for the last candidates on the list (from 1 to 4).



TOPIC 4.

**WHERE DO THE VOTES GO OR
HOW WILL THE VOTERS ELECT
AT 2020 LOCAL ELECTIONS?**

Elections of village, settlement, city councillors in communities with **10,000 and more voters**, as well as elections of oblast, rayon and district-in-the-city councillors (*under the proportional representation system with open lists*).

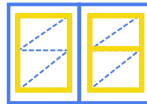
Elections shall be conducted in multi-mandate electoral constituencies, into which the unified multi-mandate electoral constituency shall be divided, which coincides with the territory of the Autonomous Republic of Crimea, oblast, rayon and district-in-the-city, city, village or settlement according to the administrative-territorial structure or territory of a city, village, settlement territorial community.

In these constituencies, a local party organisation submits two types of electoral lists: unified and territorial electoral lists. A guaranteed seat shall be reserved in the unified electoral list for the first candidate on the list, in case when a local party organisation overcomes the electoral threshold. Each territorial electoral list shall contain not less than 5 and not more than 12 candidates.

Under the proportional electoral system with open lists, a voter shall cast his/her ballot for a local organisation of a political party and may also vote for one of the candidates on that party's territorial electoral list. Thus, by supporting a particular candidate, a voter can increase his or her chances of being elected.

BALLOT PAPER.

PARTY



- | | |
|----------------|----------------|
| 1. CANDIDATE A | 6. CANDIDATE F |
| 2. CANDIDATE B | 7. CANDIDATE G |
| 3. CANDIDATE C | 8. CANDIDATE H |
| 4. CANDIDATE D | 9. CANDIDATE I |
| 5. CANDIDATE E | |

In the ballot paper, a voter shall put a mark (for example, \surd or +) in the box next to the name of the local organisation of the political party which he or she wants to support. On the right side, there will be a box with a printed stencil and a numbered list of candidates from the respective party. A voter may also vote for a specific candidate from the list of candidates of this party by indicating his or her serial number in the box with the printed stencil.

According to the results of the voting, the seats in the council shall be distributed proportionally to the percentage of voters' support received by the party in elections.

5 %

To participate in the distribution of seats, a local party organisation shall reach 5% threshold, meaning to get the support of 5% or more voters having taken part in the elections.

Elections of village, settlement and city councillors in communities with **less than 10,000 voters** (under the relative majority multi-mandate system)

Elections shall be conducted in multi-mandate constituencies which are formed in the territory of the respective territorial community. *Not less than two and not more than four seats* shall be distributed in each such constituency.

BALLOT PAPER.

NAME OF A CANDIDATE



A ballot paper shall consist of a list of candidates in a respective constituency. A voter should place a mark (for example, $\sqrt{\quad}$ or $+$) in the box next to the name of a candidate he or she wants to support.

Elected councillors in a multi-mandate constituency shall be the candidates (in the quantity equal to the number of seats distributed in a multi-mandate constituency) who, according to the results of voting in a respective multi-mandate constituency, receives the largest number of votes compared to other candidates running in the same constituency.

If a voting is conducted only for one candidate in a multi-mandate constituency, *the absolute majority formula* shall be applied. It means that a candidate shall be considered elected, if more than half of the votes of the voters having taken part in the elections are cast for him/her.

Elections of village, settlement and city mayors in communities with **less than 75,000 voters** (under the relative majority system in single-mandate constituency (first-past-the-post system or one-round plurality system))

Elections shall be held in a single-mandate village, settlement, city constituency, which coincides with the territory of respective village, settlement, city in accordance to the administrative-territorial structure or the territory of village, settlement, city territorial community, i.e. with a magnitude of 1 mandate.

BALLOT PAPER.

NAME OF A CANDIDATE



A ballot paper shall contain a list of candidates running in respective constituency. A voter shall place a mark (for example, \sqrt or $+$) in the box next to the name of a candidate he or she wants to support.

A candidate, who according to the voting results receives the largest number of votes in comparison to other candidates running for respective position in respective constituency, shall be considered elected.

For the elections of a village, settlement, or city mayor (regardless of the number of voters in a city), *the absolute majority formula* (the two-round system) shall be applied, if only one candidate is included into the ballot paper. It means that he / she shall be considered elected if the number of votes in his/her support exceeds 50 percent of the number of voters having taken part in the voting.



$> 50\%$ 



Elections of mayors in communities with **75,000 and more voters** (*under absolute majority system in single-mandate constituency*)

Elections shall be held in a single-mandate city constituency, which coincides with the territory of the city in accordance with the administrative-territorial structure or the territory of the city territorial community, i.e. with a magnitude of 1 mandate.

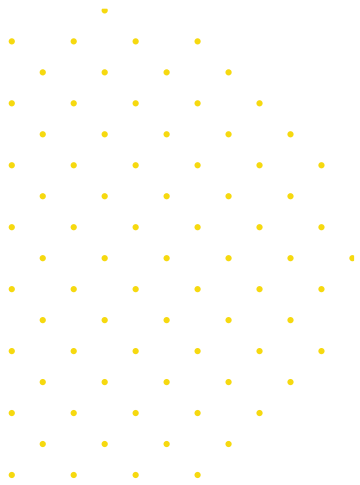
BALLOT PAPER.

NAME OF A CANDIDATE



A ballot paper consists of a list of candidates in a relevant constituency. A voter must place a mark (for example, \surd or +) in the box next to the name of the candidate he or she wants to support.

A candidate who is supported by more than half of the total number of voters who took part in the voting ($50\% + 1$) is considered elected. If, according to the results of voting on the election day, two or more candidates received the largest and, at the same time, the same number of votes, the territorial election commission shall decide on the appointment of a second vote for these candidates (second round).



CONSTITUENCIES

Under the relative majority system (in communities with **less than 10,000 voters**)

- The average approximate number of multi-mandate constituencies shall be determined as a quotient obtained as a result of the division of a number of members of respective council by 3.
- When establishing multi-mandate constituencies, the deviation from their approximate average number **may not be more than 1 constituency**.
- The deviation of the number of voters may not exceed 15% of the approximate average number of voters in a constituency (per 1 mandate).
- The approximate average number of voters per seat shall be determined as a quotient obtained as a result of the division of the total number of voters established in accordance with the data of the State Registry of Voters by the number of members of respective local council.
- From 2 to 4 councillors shall be elected in multi-member constituencies under the relative majority system.

Under the proportional representation system with open lists (in communities with **10,000 or more voters**)

- For these elections, a unified multi-mandate constituency shall be formed and divided into territorial electoral constituencies. A unified multi-mandate constituency includes the territory of oblast, rayon, district-in-the-city, city, village, settlement, respectively.
- The approximate number of territorial electoral constituencies shall be determined as a quotient obtained as a result of the division of the number of members of a respective council by 10.
- The formation of territorial electoral constituencies shall be carried out in compliance with the principle of contiguous boundaries (adjacency of territories) of such constituencies and, if possible, taking into account the system of administrative-territorial structure.

TOPIC 5.

**MEDIA DURING
2020 LOCAL ELECTIONS:
COVERAGE VS MANIPULATION**



Media plays a key role during elections. It is responsible for impartial, objective, full and accurate coverage of the electoral process, as well as for informing voters, candidates, parties and other subjects of the electoral process about elections and election related events.

HOW SHALL THE MEDIA COVER ELECTIONS AND WHAT PRINCIPLES SHALL IT FOLLOW?

During the electoral process, journalists provide information support which aims:

- to inform voters about the basic electoral rules;
- to raise public awareness about the stages of the electoral process;
- to inform citizens about the voting rights and mechanisms of their protection.



Media should not give any preference to a single candidate or party in their activities.

There are **clear principles** that media materials should follow:

- credibility;
- completeness of information;
- accuracy and objectivity;
- impartiality;
- balance.

HOW SHOULD MEDIA COVERAGE OF THE ELECTORAL PROCESS LOOK LIKE?

During the elections, there are two types of information support of the electoral process – general and special.

General reporting



about elections covers information about citizens' voting rights, electoral calendar and peculiarities of the electoral process, dates, specifics of filling in the ballot paper, voting procedures, voter registration, as well as coverage of electoral offenses.

Special reporting



about elections covers information about candidates and different subjects of the electoral process, about parties' electoral programmes, legal issues related to party registration and financing, and other election related facts and events.

HOW DOES THE INFORMATION SUPPORT DIFFER FROM ELECTION CAMPAIGNING?

Information support is an unbiased and non-political coverage of election-related events. Meanwhile, **election campaigning** encourages voting or not voting for a particular candidate or a party.



According to the Electoral Code of Ukraine, the media **has the right to carry out both activities**. However, there are clear rules regulating election campaigning in the media.

- Election campaigning in the media should only be financed from the candidate's or party's electoral fund.
- A formal agreement between the media and the current account administrator of the candidate's or party's electoral fund is required. If such an agreement is not concluded, the media does not have the right to place a campaign material, evaluate electoral programmes or give candidates or parties any advantage in their materials.

Election campaigning starts on the day after the election commission registers candidate(s) and ends at midnight on the last Friday before the election day – the campaigning is prohibited on the election day (Sunday) and on the eve of the election day (Saturday).

TOPIC 6.

**WHO AND HOW
CAN CAMPAIGN DURING
2020 LOCAL ELECTIONS?**



WHAT IS ELECTION CAMPAIGNING, HOW IS IT REGULATED AND WHAT FORMS CAN IT TAKE?

Election campaigning is the implementation of any activity aimed at encouraging voters to vote or not vote for a particular candidate or party – the subject of the electoral process.

The election campaigning rules and its implementation principles are set out in Section VIII, Articles 51 – 57 of the Electoral Code of Ukraine, as well as in the relevant articles of the Criminal Code and the Code of Administrative Offenses of Ukraine.

During the elections, candidates and parties may use any type of election campaigning that does not contradict the Constitution of Ukraine, the Electoral Code and other laws of Ukraine.

FORMS OF ELECTION CAMPAIGNING

During local elections, candidates and local party organisations, amongst other things, shall have the right to:

Conduct:



- assemblies with citizens, meetings with voters;
- rallies, marches, demonstrations, pickets;
- public debates and various types of discussions.

Publish and distribute:



- political advertising, speeches, interviews, audio and video clips in the media;
- electoral leaflets, posters and other printed campaign materials or printed publications containing campaigning materials.

Conduct and install:



- concerts, performances, sports competitions, film and TV screenings;
- public appeals to vote for or not to vote for the party;
- campaign tents.



BUT, election campaigning does not include political debates between candidates on television and radio (in the meaning of Article 49 of the Electoral Code of Ukraine), general and special reporting, as well as publications of opinion polls (exit polls).

WHAT ARE THE CAMPAIGNING RULES?

A local party organisation and candidates may campaign starting on the next day after the election commission decides to register respective party or candidate for respective elections. Campaigning must end at midnight of the last Friday before the election day.

Campaigning should be carried out only **at the expense of candidates' electoral funds or that of local party organisations.**



Election campaigning is prohibited to:

1. foreigners and stateless persons, including through journalistic activities or in the form of participation in concerts, performances, sports competitions, other public events held in or with the support of a candidate (candidates) or a subject of their nomination;
2. executive authorities, authorities of the Autonomous Republic of Crimea and local self-government bodies, law-enforcement agencies and courts, their officials and officials during working hours (unless such person is a candidate in the relevant elections);
3. members of election commissions while performing their duties as members of election commissions for their term of office.

Dissemination of false information, calls for the subversion of state authority, violation of the requirements for the use of the state language and the requirements for political advertising are punishable by law. The legislation also provides for restrictions on the location for campaigning, including the placement of printed campaign materials.

In case of violation of election campaigning rules, a party and a candidate shall bear criminal (fine, correctional labour, imprisonment depending on the severity) or administrative liability (fine) according to the Criminal Code of Ukraine and the Code of Administrative Offenses of Ukraine.



TOPIC 7.

WHERE DOES MONEY FOR ELECTIONS COME FROM AND HOW TO REPORT ON THE SPENDING?



The preparation and conduct of elections is a process requiring significant resources, as it implies careful planning and involvement of a large number of specialists in its organisation.

According to Part 1 of Article 209 of the Electoral Code of Ukraine, the costs for preparation to and conduct of local elections shall be made at the expense of:

- **State Budget funds** allocated to the Central Election Commission for providing guidance and managing elections and referenda;
- **funds of respective local budget** received as a targeted subvention from the State Budget of Ukraine, funds of relevant local budgets;
- **own electoral funds of party organisations** having nominated electoral lists of candidates for the positions of local councillors, and / or village, settlement and city mayors.

FUNDING FROM THE STATE AND LOCAL BUDGETS

The State Budget expenditures for the preparation and conduct of 2020 local elections are foreseen in the Law of Ukraine “On the State Budget of Ukraine for 2020” in the amount of

 **UAH 2,252,117,800.**

The Central Election Commission of Ukraine approves the average expenditure amounts of territorial and precinct election commissions to be allocated for the preparation and conduct of local elections. For 2020 local elections, such average amounts were approved by the Central Election Commission in its Resolution No. 178 as of 14 August 2020.

At the local level, in accordance with the average expenditure amounts set by the CEC, territorial election commissions shall within five days from the date of their formation prepare an estimate of expenditures for preparation and conduct of regular local elections, including their own expenditures and those of precinct election commissions.

FUNDING FROM CANDIDATES' AND PARTIES' OWN ELECTORAL FUNDS

For the purpose of election campaigning, there shall be electoral funds opened by:

- party organisations having nominated electoral lists of candidates for local councillors;
- candidates for local councillors;
- candidates for the positions of village, settlement, city mayor.

A party organisation, candidate for local councillor, candidate for the position of village, settlement, city mayor shall open an accumulation account and current account, respectively, of their electoral fund in the national currency only at a banking institution, which shall be chosen at their sole discretion, located within the respective electoral constituency or in the territory of the respective village, settlement, city or rayon.

ELECTORAL FUND OF LOCAL PARTY ORGANISATION HAVING NOMINATED THE ELECTORAL LIST (hereinafter – a party organisation's electoral fund)

- has one accumulation account to which the funds for financing the election campaign thereof shall be transferred, as well as current accounts from which the expenditures related to election campaigning shall be covered;
- resources shall be transferred to the current account of a party organisation's electoral fund exclusively from the accumulation account of its electoral fund;
- an accumulation account of a party organisation's electoral fund shall be opened on the basis of a copy of the decision of a territorial election commission on the registration of candidates for local councillors included into the electoral list of a party organisation;
- a current account of a party organisation's electoral fund shall be opened on the basis of a banking institution's certificate on the opening of accumulation account of a party organisation's electoral fund;

- a local party organisation having nominated its electoral list shall by decision of its governing body appoint:

(1) not more than two administrators of accumulation account

of a party organisation's electoral fund – from among the candidates included into its electoral list or authorised persons in a single multi-mandate constituency;

(2) one administrator of each current account

of a party organisation's electoral fund – party's authorised persons in territorial electoral constituencies.

ELECTORAL FUND OF A CANDIDATE FOR LOCAL COUNCILLOR, A CANDIDATE FOR THE POSITION OF VILLAGE, SETTLEMENT, CITY MAYOR

- has one current account to which the funds for financing the election campaign thereof shall be transferred;
- a current account of the electoral fund shall be opened on the basis of a copy of the decision of a territorial election commission on the registration of a respective candidate or candidates for local councillors being included into the electoral list of a party organisation;
- a candidate for local councillor, a candidate for the position of a village, settlement or city mayor may be the current account administrator of his / her own electoral fund or appoint no more than one current account administrator of his / her own electoral fund from **among his / her proxies**.

Parties and candidates shall report on the use of electoral funds. Five days before the election day and no later than on the seventh day after the election day, the administrators of accumulation / current accounts of a party organisation's / candidate's electoral fund shall submit interim and final financial reports on the use of the electoral fund. They are submitted to the respective TEC analyzing reports in accordance with the procedure established by the CEC by agreement with the National Agency on Corruption Prevention.

Should there in the course of the analysis of financial reports be revealed signs of violation of the law, a respective TEC shall within five days from the date of detection of respective signs notify in writing relevant authorities having the power to prosecute persons having violated the law and hold them liable under the law.



TOPIC 8.

HOW TO PROTECT ELECTORAL RIGHTS DURING 2020 LOCAL ELECTIONS?



The electoral legislation of Ukraine provides for the rules and procedures for organisation and conduct of electoral process, including not only voting process, but also many other issues related to financing of elections, registration of candidates and political parties, election campaigning and media coverage of electoral process. Given such an extensive scope of election legal framework, there is an equally wide range of possible violations of these rules.

WHAT ARE THE TYPES OF ELECTORAL VIOLATIONS?

- violations of the procedure and the restrictions on campaigning, as well as on its financing and restrictions on the procedures for participation in information support of elections;
- acceptance of proposals, promise or getting an illegal benefit by a voter / election commissioner for the commitment or non-commitment of certain actions directly linked to the exercise of his / her electoral rights;
- preclusion of the right to vote;
- violation of the secrecy of ballot;
- providing to or receiving a ballot by a person who does not have that right, or stealing, withholding a ballot and other violations;
- forgery of election documents;
- and others.



Administrative liability for illegal actions that infringe citizens' rights of expression of will and the established procedure for ensuring those rights are enshrined in **Articles 212-7 – 212-24 of the Code of Ukraine on Administrative Offenses.**

Criminal liability for illegal actions against the electoral rights and freedoms is enshrined in **Articles 157 – 160 of the Criminal Code of Ukraine.**

+ 5 years

of deprivation of the right to hold certain positions or engage in certain activities

Recent legislative changes **have enhanced accountability mechanisms for electoral rights violations**. In particular, respective legislative amendments were made to Article 55 of the Criminal Code of Ukraine, introducing the deprivation of the right to hold certain positions or engage in certain activities **for the period of 5 years as an additional punishment** for committing a criminal offence against the electoral rights and freedoms of a citizen laid down in Articles 157 – 160 of the Criminal Code of Ukraine.

Administratively or criminally liable offence shall be reported to the law enforcement authorities.

The subjects of the electoral process can protect their own electoral rights by filing a complaint to a relevant election commission or before a court.

FILING A COMPLAINT TO AN ELECTION COMMISSION

A complaint related to the electoral process can be filed to an election commission at local elections by:

- **a candidate for local councillor, candidate for the position of village, settlement, city mayor**, registered to run for respective local elections. A proxy of a candidate or a representative of a candidate in a territorial election commission can file such a complaint on behalf of the respective candidate;
- **a local party organisation being a subject of the local elections process**, represented by its leader, a representative of a local party organisation in election commission, an authorised person of a local party organisation in unified multi-mandate territorial constituency or other persons authorised by the management body of a local party organisation;

- **an official observer from a candidate for councillor at a village, settlement, city council** (territorial community with less than 10,000 voters) in a multi-mandate constituency, **from a candidate for the position of village, settlement, city mayor, a local party organisation** having nominated candidates for councillors at local elections, **from a civil society organisation** – to the territorial election commission within the territory of a relevant electoral constituency at the respective local elections;
- **a voter whose legislatively protected voting rights and interests have been violated** by a decision, act or inaction of the subject of appeal.

The inaction of a territorial election commission establishing the results of the relevant local elections may be appealed to **the Central Election Commission of Ukraine.**

The following matters may be appealed to **a territorial election commission** *establishing the results of the respective local elections:*

- decisions, actions or inaction of a lower level territorial election commission establishing the voting results of the respective local elections;
- decisions, actions or inaction of a precinct election commission organising and conducting respective local elections (in case the voting results of the respective local elections are not established).

The following matters may be appealed to **a territorial election commission** *establishing voting results of the respective local elections* (in case voting results of such elections are established by a higher-level territorial election commission):

- decisions, actions or inaction of a precinct election commission organising and conducting respective local elections.

The following matters may be appealed to **a territorial election commission** *having formed respective precinct election commission:*

- actions or inaction of a member of such a precinct election commission.



**within 2 days
after decision**

not later than 22:00 of the day
preceding the election day

A complaint to an election commission may be filed by a complainant within 2 days after decision, action or inaction is made by a subject of the complaint, but not later than 22:00 of the day preceding the election day.



not later than on the next day
after the day of a decision,
act or inaction

Complaints about decisions, actions or inaction of an election commission, members of an election commission having taken place on the election day, during the vote counting at a polling station, the establishment of voting results and / or during the transportation of election documents may be submitted to an election commission not later than on the next day after the day of a decision, act or inaction is made, but not later than a respective election commission receives election documentation from such an election commission in accordance with the Electoral Code of Ukraine.

A complaint filed without complying with Article 67 of the Electoral Code of Ukraine and the Procedure for consideration of complaints by election commissions at Presidential, Parliamentary and Local Elections (approved by the CEC Resolution No. 192 as of 21 August 2020) shall be returned to a complainant without its consideration not later than on the day following the day of a receipt of a complaint, and a complaint filed on the eve of the election day, on the election day or the following day – shall be returned immediately.



Decisions, actions or inaction of election commissions, their members may also be appealed to a court by means of filing a claim.

FILING A CLAIM BEFORE A COURT

The matters which may be appealed before a court shall include (according to Article 64 of the Electoral Code of Ukraine, Articles 273 – 276 of the Code of Administrative Proceedings of Ukraine):

- decisions, actions, inaction of the Central Election Commission, actions or inaction of a member of the Central Election Commission;
- decisions or actions of territorial election commission, precinct election commission;
- actions or inaction of a member of a territorial election commission, precinct election commission;
- actions or inaction of a candidate;
- decisions or actions of a local party organisation, civil association, their officials or authorised representatives concerning the electoral process, except for those decisions or actions that, in accordance with the law, statute (regulations), belong to their internal activities or exclusive competence;
- actions or inaction of a candidate's proxy, authorised person of a local party organisation;
- actions or inaction of an official observer from a candidate, local party organisation – subject of a relevant electoral process, civil society organisation;
- decisions, actions or inaction of executive authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, enterprises, institutions, establishments and organisations, their officials and public servants;
- decisions, actions or inaction of mass media, information agencies, their owners, their officials and staff, creative workers.



A claim shall be filed before a court **within 5 days from the date of the contested decision, action or inaction.**

FULL VIDEOS OF WEBINARS ARE AVAILABLE FOLLOWING LINKS:**Webinar 1**

"Anatomy of the electoral process or what to expect on the eve of local elections?" (available in Ukrainian only)

Webinar 2

"Who is responsible for organisation and conduct of elections?"

Webinar 3

"Who will be elected at 2020 local elections?"

Webinar 4

"Where do the votes go or how will the voters elect at 2020 local elections?"

Webinar 5

"Media during 2020 local elections: coverage vs manipulation"

Webinar 6

"Who and how can campaign during 2020 local elections?"

Webinar 7

"Where does money for elections come from and how to report on the spendings?"

Webinar 8

"How to protect electoral rights during 2020 local elections?"

