

CIVIC MONITORING  
OF 2015 REGULAR  
LOCAL ELECTION:  
**FINAL REPORT**

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## *Intro*

The 2015 regular local elections played an important role in completing the process of political renewal after the change of power in Ukraine at the beginning of 2014.

In contrast to the early Presidential and Parliamentary elections, the local elections in Ukraine were held within the statutory period, which potentially created conditions for the high quality of legislative regulation and preliminary preparation for the proper conduct of the election process. The coalition agreement concluded by the parliamentary factions of the Verkhovna Rada of Ukraine of the VIII convocation guaranteed the full reform of legislation on local elections in the first quarter of 2015.

The regular local election was the third election campaign in Ukraine, which was conducted under the conditions of foreign military aggression, annexation of the Autonomous Republic of Crimea, Sevastopol, and the loss of state control over some of the population centers in Donetsk and Luhansk oblasts. Thus, the local elections did not take place in the Autonomous Republic of Crimea, Sevastopol, and certain areas of Donetsk and Luhansk oblasts. The general context of the local elections also included a range of problems related to the large-scale internal displacement of citizens within the country, which was triggered by the armed confrontation in eastern Ukraine.

The election of local self-government authorities was held under the conditions of public debate on amending the Constitution of Ukraine in terms of decentralization of power, consolidation of territorial communities, and the reform of inter-budget relations. The first elections in the united territorial communities were conducted simultaneously with the regular local elections in Ukraine.

Political conflicts and difficulties in stable administering of election process led to the disruption of elections in Krasnoarmiisk and Mariupol (Donetsk oblast), which were eventually held after the end of a statutory period. Political and legal decision of the Verkhovna Rada of Ukraine on scheduling and conducting the early elections of city heads marked the end of the process of election of local self-government authorities.

The Civil Network OPORA organized an independent observation of local elections in Ukraine, which were held on October 25, November 15 (second round of voting), and November 29, 2015 (in Krasnoarmiisk and Mariupol), as well as monitored the progress of early election of the head of Kryvyi Rih on March 27, 2016.

Independent monitoring conducted by OPORA is aimed at assessing the process of preparation and conduct of elections objectively, as well as preventing violations of election legislation through effectively organized public control.

Starting from September 5, 2015, 144 long-term observers have monitored regular local elections in all regions of Ukraine. On Election Day, October 25, they were joined by more than 3,000 short-term observers. OPORA organized parallel (simultaneous) vote tabulation (PVT) at the regular elections of heads and city councils in Dnipropetrovsk, Kharkiv, and Odesa, as well as at the elections of local self-government authorities in the cities of Mariupol, Krasnoarmiisk, and Kryvyi Rih (city head elections). High quality and statistically grounded observation of voting process on Election Day was conducted throughout Ukraine, which made it possible to publish a representative break down of data on violations committed during the voting process and vote counting.

On November 15, 2015, during the second round of voting in the city head elections in 29 cities of Ukraine the OPORA's official observers monitored the election procedures according to the representative sample taken from the totality of these territorial communities. In Dnipropetrovsk, OPORA organized parallel vote tabulation in 100% of all polling stations in the city.

At the regular elections in Krasnoarmiisk and Mariupol (Donetsk oblast), OPORA's observers were present in 50% and 100% of all polling stations respectively, which were covered by efficient and high quality monitoring.

The 2015 local election was an important test for the state's ability to ensure proper electoral standards after early renewal of central authorities. This report reflects the results of OPORA's comprehensive independent election monitoring and also includes a stage-by-stage assessment of the electoral process.





#1

# SUMMARY

Non-public parliamentary and political debate on adoption of the Law of Ukraine on Local Elections on the eve of 2015 regular local elections prevented the parliamentary majority from duly fulfilling its obligation regarding completion of a full-fledged electoral reform and failed to provide a reasonable amount of time for the preparatory process for implementing new legislation.

On the one hand, failure to fully observe the principle of inclusiveness, openness and transparency of the legislative process created conditions for the general public's perception that the legislative reform is a political tool in the hands of dominant political groups, on the other hand, it led to a number of inconsistencies and inclusion of declarative provisions in the law.

Exclusion of non-governmental organizations from the preliminary discussion on the new law on local elections cannot be considered a good practice. In particular, the Explanatory report to the Guidelines on elections adopted by the Venice Commission states that suffrage must be protected from political and party manipulation.

According to the Civil Network OPORA, the Verkhovna Rada of Ukraine has shown inconsistency in terms of revision of the electoral systems applied in the local elections due to distinction between the obligations of deputy factions under coalition agreement and the final parliamentary decision.

Among insufficiently regulated issues in the new legislation was the issue of fixing the elections in certain population centers of Donetsk and Luhansk oblasts located in the territory of military actions. The absence of clear criteria for making decisions on the impossibility of conducting local elections in certain territorial communities of Donetsk and Luhansk oblasts controlled by the state stirred up sharp debates about the reasonableness and objectivity of corresponding decisions.

Limited parliamentary dialogue also made it impossible to conduct an effective search for guarantees of electoral rights of internally displaced persons in accordance with the UN Guiding Principles on Internal Displacement of Citizens and other international standards in this field.

Three types of electoral systems were applied in 2015 regular local elections, two of which can be classified as majority voting systems (election of village and township councils, election of heads of cities, townships, and villages) and the remaining one can be classified as a variation of the proportional representation voting system.

Relative majority voting system, which was applied in the elections of village and township councils, heads of villages, townships and cities (in cities having less than 90,000 registered

voters), seemed pretty straightforward to citizens, given the past experience of holding elections. Meanwhile, introduction of absolute majority voting system at the elections of heads of large cities (in cities having 90,000 registered voters or more) was a novelty in this election process. Nevertheless, peculiarities of city head elections of heads in large cities were communicated to the citizens in a proper manner. A legislative innovation concerning the introduction of two-round elections of heads of large cities helped to enhance the legitimacy of voting results.

The dates of adoption of the Law of Ukraine on Local Elections and the practical application of proportional representation voting system with assignment of candidates to particular territorial election constituencies (which is new to Ukraine) in the elections of oblast, raion, city, raion, and city raion councils made it difficult for the voters to properly understand peculiarities of this system and the results of its application. At the next elections, the state must do more to ensure proper explanation of different aspects of legislative changes and newly implemented electoral procedures to the voters.

Despite the rather straightforward voting method (voters could only vote simultaneously in favor of a local party cell and its candidate assigned to corresponding territorial election constituency), the specifics of this electoral system resulted in a mixed impact of its application. In particular, the legislation did not oblige the local party cells to nominate the same number of candidates, as there are territorial election constituencies. Consequently, during one and the same elections, but held in different territorial constituencies, there were voters who received ballots indicating both the name of the local party cell and the candidate assigned by it and there were also those who received ballots indicating only the name of the local party cell. In the latter case, the essence of personified voting was brought to nothing, not to mention that it was already questionable in terms of practical implementation, since voters were offered a non-alternative choice of a single candidate assigned to territorial constituency by the particular local party cell.

Due to abnormal deviations in terms of the actual number of registered voters in territorial election constituencies, which were formed for the election of deputies of oblast, raion, city, raion and city raion councils, the votes casted in small constituencies weighed significantly more than those casted in large constituencies. This fact directly influenced the allocation of council seats between candidates nominated by local party cells, which cleared the electoral threshold, since this procedure provided for determining the ratings of party nominees based on comparison of percentages of votes received in territorial constituencies with different numbers of registered voters. According to OPORA's calculations, more than two thirds of the total number of territorial election constituencies, which were formed for the elections of deputies of the oblast, raion, and city councils (21,584 out of 27,557 constitu-

encies), have a deviation of more than 15% from the average number of registered voters in territorial election constituencies. Meanwhile, the Guidelines on elections adopted by the Venice Commission envisage that the maximum permissible deviation from normal value should not exceed 10%, and in no case should it exceed 15%.

Allocation of council seats based on the results of application of proportional representation voting system with assignment of candidates to territorial election constituencies was accompanied by distortions in representation of territorial constituencies. At once, several candidates were elected in some of territorial constituencies, while there were no candidates elected in other territorial constituencies. This feature of the electoral system had the most controversial effect on allocation of seats at the level of oblast and raion councils, which according to the Constitution of Ukraine should represent the interests of territorial communities in their totality. Moreover, the electoral system made it possible for the candidates who did not achieve the highest results in their territorial constituencies to get into the local councils. To the contrary, those candidates who obtained the highest number of votes could be left without deputy's mandate, if their local party cell failed to clear the electoral threshold within the boundaries of oblast, city or raion.

The electoral threshold for local party cells was raised from 3% to 5% as compared to the previous local elections, which negatively affected the electoral positions of small and newly formed political forces. Prevention of excessive party fragmentation might be a strong argument in favor of raising the electoral threshold, but still the adoption of this decision by the Parliament without public discussion and broad political consensus cannot be considered a good practice.

For the first time ever, the law of Ukraine on local elections included a provision concerning the representation of persons of each gender in the electoral lists of candidates at the level no lower than 30% of the total number of candidates included in the electoral list. The absence of meaningful sanctions for non-compliance with gender quota requirement and recognition of declarative nature of the previously mentioned provisions of the law based on the court decisions had a negative effect on ensuring the equal rights and opportunities for the candidates of both genders in practice. The declarative nature of provisions of the law also manifested itself at the stage of filing interim and final financial reports by candidates and local party cells. This was due to the lack of concrete and effective sanctions for the violation of the law on financial reporting.

Non-compliance of new electoral legislation with democratic standards also manifested itself in the introduction of imperative mandate at the local level, since it violates the principle of free and independent deputy's mandate and contradicts a generally accepted doc-

trine of representative democracy. The legislative procedures, which are applied in the local elections in Ukraine, envisage that even in the case of recall of deputy of local council upon the local people's initiative the final decision on this matter rests with the political party.

The absence of legal obligation for the submission and publication of election programs of the candidates and local party cells at the stage of their registration in the territorial election commissions was a negative factor in the decision-making process of the voters. The above-mentioned legal gap in the electoral law also contradicts the current regulation of status of deputies of local councils, which provides for the recall of deputy of the local council in the event if his/her activities don't conform to the basic principles and provisions of his/her election program.

The number of deputies of local councils has decreased by 30% as compared to the previous local elections in Ukraine taking into account that statutory quantitative composition of local councils depends on the number of registered voters.

The process of the nomination of candidates was one of the shortcomings of the electoral process, which was due to the imperfection and unequal application of legislative provisions. In particular, at this stage we recorded a number of cases of the restriction of access of observers and journalists to the meetings on the nomination of candidates, which violates the principles of openness and transparency of the electoral process.

The number of denials of the registration of candidates contested in court was significant and led to the violation of a legally stipulated deadline for the registration of candidates in several territorial communities due to the long duration of legal conflicts. In many cases not only this resulted in breaching the time limits for the registration of candidates, but also led to the violation of the deadline for approval of the text of ballots and production thereof. The problem of excessive politicization of territorial election commissions also revealed itself at this stage of election process. Thus, some of the TECs refused to abide by the courts' decisions resulting from the consideration of electoral disputes related to the registration of candidates.

Furthermore, the problem of unequal application of legislative provisions manifested itself in settling the matters related to placement of money on deposit for the nomination list of local party cell by a private individual instead of money transfer directly from the account of the local party cell; interpretation of deficiencies and errors in the candidates' documents as self-sufficient grounds for denial of registration; identification of facts of violation of the procedure for the nomination of candidates; restrictions on simultaneous nomination or membership of a candidate in several political parties, etc. These problems were caused by the imperfection of legal regulation and lack of competence on the part of members

of TECs. In some cases, the Central Election Commission was forced to adopt its own decisions on the registration of candidates and review the decisions of TECs, responding to their inaction.

As a rule, the Central Election Commission responded promptly to the problems of electoral process within the scope of its authority. The CEC carried out control on compliance with electoral legislation and equal application of its provisions by early termination of office of the TECs, adoption of decisions on registration of candidates in the event of inaction or illegal decisions made by TECs, explanation of gaps in the new legislation. At the same time, the fact that 12 out of 15 members of the CEC have exceeded their terms of office at the time of holding the local elections resulted in low public legitimacy of the CEC activities, while the importance of building public confidence in the electoral process by the state is a recognized standard.

According to OPORA, the CEC adopted several decisions which had questionable legal basis and made a negative impact on the electoral process. These decisions were related to the clarification on the specifics of campaigning in the regular local elections scheduled for November 29, 2015, in Krasnoarmiisk and Mariupol (Donetsk oblast), determining the grounds for rejecting to call the second round of voting in the elections of heads (in large cities), recognition of non-binding nature of gender quota requirement in electoral lists of candidates at the stage of their registration. It should be noted that under the conditions of instability and the presence of significant loopholes in legislation, the CEC in fact assumed the duty of law-making, instead of only resorting to clarifications (on gender quotas and awarding the deputy mandates to the first-placed candidates in the nomination lists of the local party cells).

The most significant problems in the application of legislative provisions on the part of the TECs were recorded at the stage of registration of candidates, approval of the text of ballots and production thereof. These problems were accompanied by violation of statutory time limits for executing election procedures resulting from organizational difficulties and/or long-term electoral disputes.

The influence of political forces on TEC activities remains a pressing issue in administering elections in Ukraine. Furthermore, influential political parties continued benefiting from the use of TEC representation quotas of other political forces, which did not conduct a strong pre-election campaign. Relatively stable composition was a positive feature of TEC activity (TEC member turnover rate during the active phase of the electoral process amounted to 16%) and contributed to achieving the desired effect of training events organized for members of the relevant commissions.

Once again, OPORA recorded low level of motivation to take part in the activities of precinct election commissions among citizens and electoral subjects at the stage of PEC formation. PECs were most commonly formed with the inclusion of the minimum allowed number of members, while PECs with the maximum allowed number of members were mostly observed only in the administrative centers of oblasts or big cities. Due to the shortage of candidates for PEC members, TECs showed maximum loyalty to the subjects of electoral process when considering their applications. At the same time, the legislative requirement to approve as PEC members only those candidates who had the right to vote in the corresponding local elections complicated the process of the formation of PECs.

Based on the results of monitoring PEC activities in the 2015 regular local elections, OPORA did not reveal any large-scale or gross violations of the law.

Violations committed by members of PECs were typical for different regions and levels of local elections, but had no signs of pre-planned or centrally orchestrated intervention in the voting process and vote tabulation. At the same time, OPORA's representative observations showed the need to strengthen efforts aimed at ensuring the vote secrecy, since there were a few recorded attempts to violate the vote secrecy (including by means of photographing of ballot papers).

Lack of PEC member training resulted in incorrect drawing up of vote counting protocols. This problem forced TECs to send the vote counting protocols back to the polling stations for the purpose of revision, which caused delays in the process of vote tabulation. Multi-level electoral system and the procedure for establishing the election results often made it impossible to complete the corresponding procedures in a prompt manner in case of the need to recount the votes at one or more polling stations.

Despite the fact that illegal pre-election campaigning was the most widespread violation of the law (789 out of 1,559 recorded violations), it was the bribery of voters in its various forms which became a key problem of the regular local elections in Ukraine. OPORA recorded 388 facts having signs of vote buying, while the course of pre-election campaign showed that a considerable part of candidates was motivated to resort to provision of material incentives to the voters. The use of budget funds by candidates in public offices for financing their election campaigns became closely associated with the problem of bribery of voters. The run of the election process also emphasized the issue of the use of deputy funds generated from local budgets for the benefit of the candidates in the form of provision of financial aid to voters.

OPORA observers noted the increased efficiency of law enforcement agencies in terms of recording violations of the law and performing their activities in cooperation with electoral

subjects as compared to the early elections of People's Deputies of Ukraine. Meanwhile, the ability of law enforcement agencies to prevent and stop violations of electoral law remains at low level.

Large-scale cases of non-compliance with legal requirements in terms of pre-election campaigning demonstrate the need for substantially strengthening control over the sources of election campaigns financing in Ukraine. Rating of violations created by OPORA also gave evidence of widespread practice of pre-election campaigning on the part of candidates who were yet to be registered, which reduced the efficiency of reporting on electoral fund expenses and prevention of shadow electoral and political processes financing.

Meanwhile, a significant reduction of the influence of administrative resources was a positive factor in the electoral process. Although the abuse of administrative resources was not completely eliminated, it still was not centrally orchestrated or widespread.

The 2015 local elections demonstrated unequal capabilities of political parties in terms of participation in elections and performance of campaigning activities on a regular basis. In particular, only 8.45% of the total number of registered parties (as of September 2015) announced participation of their local cells in the elections and only about 4% of national political parties conducted nationwide election campaigns (in a large number of territorial communities). In some of the territorial communities the local party cells, which did not participate in elections in other territorial communities or regions, became influential electoral subjects. This demonstrates the existence of de facto local political parties in Ukraine, which have the formal status of national parties, but do not perform their activities throughout the country.

The general conclusion of Civil Network OPORA is that the 2015 regular local elections in Ukraine were held in violation of a number of international standards and the code of good practice in electoral matters. The instability and uncertainty of electoral legislation concerning important procedures, documented cases of bribery of voters, breach of the principles of equal conditions for candidates and equal weight of deputy's mandate in the context of the voting system, the lack of transparency in financing election campaigns, breach of time limits for registration of candidates in certain territorial communities – these are the signs that indicate the need for actualizing the issue of the reform of electoral legislation, review of approaches and practice for regulating the election campaign, organization and conduct of elections.







#2

**MAJOR  
RECOMMEN-  
DATIONS**

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Verkhovna Rada has to resume a wide-scale dialogue between both politicians and experts about the best voting system for local elections taking into account previous commitments to perform a full-fledged electoral reform meeting electoral law standards and ensuring stability.

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Revised voting systems for local elections – among other tasks – have to create conditions for fair distribution of deputies’ seats among election districts based on clearly defined criteria and meeting international standards on maximum allowed disproportions in the number of voters in various election districts. The legislation has to more efficiently reflect specifics of oblast and district councils’ powers as well as improve the candidate nomination procedure in accordance with the Paragraph 7.5 of the OSCE Copenhagen Document to remove discrimination of self-nominating candidates.

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Further electoral reform has to remove declarative or hardly implementable legal norms, thus promoting citizens’ general trust in the election institution in Ukraine. This recommendation can be implemented provided that the Ukrainian Parliament - while elaborating the new legislation – strictly follows the principle of inclusiveness and creates an appropriate environment for independent expert evaluation of draft legislation, including that by international organizations.

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It is important to effectively ensure gender equality, guaranteeing that both women and men have equal access to elected positions, it is important to stipulate that failure to meet legally defined quotas of gender representation in the candidate lists by political parties makes a sufficient ground for rejecting candidate registration.

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Based on international recommendations, the Parliament has to revise current procedures of recalling deputies of local councils, village, town and city heads as well as advisability of the institution of imperative mandate at local level following European principles of representative bodies including the principle of people’s sovereignty.

.....

In order to implement the principle of equal electoral rights, the legislation needs to define maximum allowed disproportions in the number of voters among electoral districts as well as strict criteria for exceptions related to administrative, geographic or other specifics. Additionally, it is advisable to strengthen the controlling power of the CEC over DEC responsibilities to form electoral districts, including the possibility of immediate revision of relevant decisions on request of the higher-level commission.

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Current legislation on candidate nomination and registration, including that on strengthening intra-party democracy at the stage of candidate nomination, has to be significantly revised. Improvement is needed for procedures of placing monetary deposits by party local cells or candidates, procedures of single party membership verification while registering candidates as well as taking into account changes in local party organization leadership. Additionally, the legislation has to remove shortcomings in discovering multiple nomination violations.

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In order to strengthen intra-party and local level democracy it is advisable to revise the legislation requiring party governing bodies' permission for local cells to participate in elections as well as candidate list approval.

.....

In order to raise legitimacy of the election process it is advisable to consider the implementation of two-round election system for all city head elections, not only in the cities with the population exceeding 90,000 voters.

.....

Taking into account the widespread use of material incentives for voters at local elections it is suggested introducing direct prohibition to use deputies' funds sponsored from local budgets during the election process and for a certain period prior to its start.

.....

Changes have to be made to the Article 160 of the Criminal Code of Ukraine in order to specify what qualifies as voter bribery and establish responsibility for campaigning by providing unlawful benefits or free goods (except for those containing visual images of party name, symbols, banners and whose cost does not exceed legally set limits), works and services to voters, not only enterprises, institutions and organizations.

.....

In order to ensure equal opportunities for candidates and prevent administrative resource violations during elections it is advisable to enhance further regulation of campaigning by candidates holding governmental positions at all levels. In particular, by making changes to the Law of Ukraine on Civil Service and election legislation it is suggested prohibiting candidates holding governmental positions to participate in any official public events initiated by the government during the election process except for those related to preventing or recovering after emergencies and ensuring public safety. That is one of the possible ways to avoid administrative resource violations during elections considering constitutionally set limitations on requiring candidates to take vacation for the period of the election process.

.....

In order to ensure candidates' equal opportunities and effective control over election process funding it is necessary to envisage legal instruments for preventing campaigning before candidate's official registration. In particular, a possible way to solve this problem can be through the official announcement of citizens of their intention to be nominated for the scheduled local election prior to the start of the election process and introducing sanctions for the activities that by their forms and ways qualify as campaigning performed prior to gaining an official status.

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In order to ensure a proper environment for interaction between voters and candidates, it is necessary to limit the amount of political advertisement in mass media or the amount of the relevant financial spending. Instead, in order to ensure citizens' free formation of will, it is necessary to legally envisage requirements for local party cells and candidates to submit their electoral programs at registration.

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It is necessary to legally envisage requirements for publishing intermediate and financial reports by parties' and local cells' election fund administrators in a format, suitable for automated analysis. Such requirements would significantly strengthen possibilities for independent monitoring and control over candidates and parties spending on the part of NGOs, voters and media.

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It is important to legally bound election commissions, where local political parties submit their intermediate and final financial reports, to not only publish those but make them available to official observers and other electoral subjects on request. In addition, it is necessary to legally envisage effective sanctions for not submitting a financial report, breaking deadlines or publishing false data.

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To improve election-administering process it is necessary to introduce permanently operational training system for territorial and precinct election commission members. It is advisable to consider the possibility of legal restrictions on multiple election commission member rotations requested by nominating subjects, caused by the poor quality of application lists and the process of candidate selection by nominating subjects.

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It is necessary to envisage prompt, full and transparent process of making election documents publicly available, in particular, publishing territorial election commissions' resolutions on the CEC web-site. Additionally, in order to ensure election process publicity, it is advisable to consider an option of creating local web-resources by oblast and city election commissions.

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Internally displaced persons' and internal labor migrants' rights to participate in local elections should be regulated based on the principle of alternative voting location opportunity using the State Electoral Register capabilities.

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Law enforcement authorities have to ensure more effective monitoring and prevention of electoral law violations, in particular through active cooperation with public observers and other election process subjects.

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#3

**ELECTION  
SYSTEM &  
ELECTION  
LEGISLATION**

## *Background and Political Context*

The need for the comprehensive reform of the legislation, which regulated the conduct of elections in 2010, was a key challenge for the newly elected Parliament in the context of preparation for the regular local elections held on October 25, 2010.

The previous regular local elections in Ukraine were held on October 31, 2010. Apart from the long-lasting debate over the date of election<sup>1</sup>, there was a usual major dispute over the content of the election law and, in particular, over the type of an electoral system. The law, which was adopted two months before the election, introduced a new mixed electoral system – majority-proportional system<sup>2</sup> (parallel system). As pointed out by local experts and international organizations, hasty adoption of the new law on local elections shortly before Election Day without holding a broad public discussion significantly worsened its quality. In effect, adoption of this law led to numerous manipulations and violations of the electoral process, which were recorded by civic observers<sup>3</sup>. In April 2014, after the Revolution of Dignity, we saw the introduction of amendments to the law, which particularly improved the legal status of official observers, changed the procedure for forming election commissions, simplified the registration procedure, and closed the door upon revocation of registration of electoral subjects<sup>4</sup>.

At the same time, there was a general consensus among experts and politicians about the need to develop a new electoral law and revise the existing electoral system used in local elections. This was reflected in the coalition agreement concluded at the end of November 2014 by five parliamentary factions that formed the majority in the Verkhovna Rada of Ukraine of the eighth convocation. The coalition agreement envisaged the preservation of the majority election system at the level of village and township councils as well as the introduction of the proportional representation election system with open lists of nominees at other levels of local elections. In addition, the agreement made provision for election of heads of large cities under the principle of an absolute majority of votes of citizens who took part in the election (two-round election system). Since the regular elections of deputies of local councils as well as elections of village, township, and city heads were to be held

<sup>1</sup> According to the Verkhovna Rada of Ukraine Resolution #1648-VI as of May 30, 2010. In February 2010, the previously mentioned Resolution was declared to be no longer in force by the Parliament. Instead, a draft law appointing the regular local elections for March 27, 2011, was registered in the Parliament. However, this draft law was declared invalid as violating the electoral rights of citizens by the Constitutional Court of Ukraine. Finally, on July 1, 2010, the Verkhovna Rada of Ukraine adopted a Resolution #2412-VI, which scheduled the local elections for Sunday, October 31.

<sup>2</sup> Before that, a majority voting system was initially used at the local elections in Ukraine – in 1994, 1998, and 2002, followed by a proportional representation voting system – in 2002 and 2006.

<sup>3</sup> Refer to: Civil Network OPORA's statement on the subject of holding local elections on October 31, 2010. [oporaua.org/news/867-2010-11-04](http://oporaua.org/news/867-2010-11-04)

<sup>4</sup> Refer to: Law of Ukraine on Amendments to the Law of Ukraine on Elections of Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, Local Councils, Heads of Villages, Townships, and Cities and some other laws of Ukraine concerning technical and legal improvement of election process. [zakon2.rada.gov.ua/laws/show/1184-18](http://zakon2.rada.gov.ua/laws/show/1184-18)

on October 25, 2015, according to the Constitution of Ukraine, the parliamentary factions that signed the Coalition agreement committed themselves to complete the reform of electoral legislation in the first half of 2015<sup>5</sup>. However, the expert group on development of the draft law on local elections, which consisted of Ukrainian and international experts in the field of election law, representatives of NGOs, and the People's Deputies, was formed only in February 2015 at the direction of the Chairman of the Verkhovna Rada of Ukraine Volodymyr Groisman. The task of the group was to develop proposals for improving the current election law and perform an expert analysis of the developed draft laws. The expert group held only one meeting, while the leadership of the Parliament did not make any significant progress in reforming the electoral law up until April 2015, except for the declaration of intention.

In April 2015, a smaller working group consisting of 11 experts and People's Deputies (headed by the chairperson of the Parliament's subcommittee on elections and referendum Oleksander Chernenko) was formed, the immediate task of which was to develop a new law on local elections.

The working group used the draft law that was developed by experts of the Association of Ukrainian Cities as a basis. Despite a very tight schedule, the working group developed a comprehensive draft law that was registered in the Verkhovna Rada of Ukraine under the reference number 2831-2. The authors of this document proposed to introduce the proportional representation voting system with open lists of nominees at the local elections in large cities (having 90,000 registered voters or more) and the elections of deputies of oblast councils. The multi-mandate majority voting system was proposed for the elections of village, township, and city councils (in cities having less than 90,000 registered voters), as well as raion and city raion councils.

The voters had to enter the number of a political party and the order number of a candidate in the nomination list of this party, to whom they gave preference, into the ordinary ballot paper. At the elections of city heads, in large cities (having 90,000 registered voters or more) the winner must receive an absolute majority of votes or edge the runner-up by at least 20% of valid votes. Otherwise, a second round of city head elections of city heads featuring two candidates who received the largest number of votes shall be called. The positive point of the draft law was the introduction of the ban on paid political advertising on television, radio and outdoor advertising media, transparency and accountability of nomination lists, as well as mandatory gender quota.

However, the draft law developed by the working group was just one of four draft laws registered in the Parliament. Three other legislative initiatives (Registration #2831, 2831-1, 2831-3) were not discussed in public, were developed in a private manner without any consulta-

<sup>5</sup> Refer to: *The Agreement on Coalition of deputy factions named "European Ukraine"*, [zakono.rada.gov.ua/laws/show/n0001001-15](http://zakono.rada.gov.ua/laws/show/n0001001-15)

tion with stakeholders, independent and public experts. The fact of registration of several draft laws, as well as the analysis and accommodation of their texts within short timeframes, jeopardized the adoption of qualitatively new election law and carried the risk of the use of parallel electoral system at the local elections in 2015, as embedded in the law which was widely criticized following the results of its application at the previous regular local elections held in 2010.. It would mean the application of the proportional representation voting system with closed lists of nominees and single-mandate plurality voting system, both applied on a 50/50 basis at the elections of local councils, except for village and township councils. Despite the fact that the most controversial provisions of the previous law were improved in 2014, in general there was a negative political perception and low level of public confidence in it.

On May 13, 2015, a draft law #2831 submitted by deputies of the Batkivshchyna party (co-authored by Yulia Tymoshenko and others) was registered in the Parliament. This document made provision for the introduction of proportional representation voting system with preferences at the local council elections of all levels (except for the village and township councils). This election system could not be considered as a system with open lists of nominees due to several factors. The first five candidates on the nomination list registered by the party were not ranked while the final distribution of the remaining seats among the party's candidates after Election Day was to be performed according to the decision of party congress<sup>6</sup>. Consequently, the voters did not have direct influence on allocation of council seats to particular candidates. On May 27, 2015, a deputy from People's Front party Mykola Fedoruk introduced a draft law #2831-1 for consideration by the Parliament. This draft law made provision for application of proportional representation voting system with open lists of nominees at the elections of deputies only in cities of oblast significance and cities with a population of more than 300 thousand people. Meanwhile, the elections of deputies of the remaining city councils (including both oblast and raion councils) were to be held under the first-past-the-post principle in single-mandate constituencies. Finally, on May 28, 2015, a group of People's Deputies (including Vadym Denysenko, Serhiy Alyexeyev, Ihor Popov and others) registered a draft law #2831-3. The authors of this document proposed to elect deputies of oblast, raion, and city councils using proportional representation voting system with preferences, while the elections of deputies of village and township councils were to be held under the first-past-the-post principle in single-mandate constituencies.

Despite the availability of the most consensual draft law On Local Elections #2831-2, which was jointly developed by the People's Deputies and election experts (including experts

<sup>6</sup> According to draft law #2831, a local party cell shall approve the final rankings of candidates for deputies in the nomination list at the party congress based on the election results for each polling district and with due regard to their pre-assignment to particular territorial constituency, starting from rank #6, within two days after receiving the official election results from the TEC concerning the number of votes casted in favor of candidates for deputies in multi-mandate constituency, who were included in the nomination list by the local party cell, separately for each polling district.

from Civil Network OPORA, Internews-Ukraine, IFES, the Committee of Voters of Ukraine, Election Law Institute, etc.) within the framework of the working group formed by the Chairman of the Verkhovna Rada of Ukraine, the Parliamentarians eventually voted in favor of the draft law #2831-3. In fact, the draft law of the working group was defeated by deputies representing the Petro Poroshenko Bloc faction, since only one third of this faction (48 out of 144 deputies) supported the draft #2831-2 which was initiated by Andriy Parubiy (the Petro Poroshenko Bloc" faction) and other People's Deputies.

Draft law #2831-3 was reviewed by the Parliament under the simplified procedure without holding a detailed discussion and adopted less than one month before Election Day. On July 14, the Law on Local Elections was passed by the Parliament and signed by the President on August 6. Parliamentarians ignored, as usual, the principles of legal certainty and stability of electoral law. Just one month before Election Day, political parties and candidates were yet to obtain reliable information about the configuration of the future electoral system and boundaries of territorial constituencies.

In general, the legal and regulatory framework, which regulates the local elections in Ukraine, consists of the Constitution of Ukraine, the Law on Local Elections adopted on July 14, 2015, and the Decisions of the Central Election Commission. Certain aspects of the election process are regulated by the following related laws: on the Central Election Commission, on State Register of Voters, on Political Parties in Ukraine, the Administrative Code, and the Criminal Code of Ukraine.

## *Special Aspects of Conducting Local Elections*

**Armed conflict in Eastern Ukraine.** The 2015 regular local elections in Ukraine, just like the previous two electoral cycles, were conducted under the conditions of armed aggression and temporary occupation of part of the territory of Ukraine by the Russian Federation. These circumstances have been constantly destabilizing the political situation in the country and, in particular, made it impossible to conduct the elections in certain areas of Donetsk and Luhansk oblasts controlled by Ukraine with observance of European democratic standards.

According to Section 5 of Article 8 of the Law On the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine, no elections were conducted in the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol, and certain areas of Donetsk and Luhansk oblasts. There was also no expression of will of citizens in some population centers of the Donbass region controlled by the Ukrainian government, but located in close proximity to the line of contact between the

armed forces and therefore posing potential life threat to citizens. The CEC adopted a decision on the impossibility of conducting regular elections in the territory of certain local councils upon the recommendations of Donetsk and Luhansk oblast civil-military administrations, which provided a list of raion, city, city raion, township, and village councils located on the very delimitation line or in close proximity to it<sup>7</sup>.

The biggest weakness of the decision on non-appointment of local elections in certain areas controlled by the Ukrainian government was the fact that it was adopted without a proper public debate and in the absence of clear and transparent criteria for the selection of population centers. This fact gives reason to believe that the CEC decision was politically motivated.

**Decentralization reform.** Local elections were held in the context of constitutional reform and the process of decentralization of power. Within the framework of this reform, the existing territorial communities can unite into larger communities and thus get more powers and resources. The law makes provision for conducting elections of relevant self-governing authorities in the event of formation of united community. On October 25, 2015, the first elections of deputies of local councils and elections of village, township, and city heads took place in 159 united communities. For the first time ever, the law also made provision for the election of the new local government officials in the united territorial communities (hereinafter referred to as starostas). The process of unionization of territorial communities and the conduct of local elections in the newly formed territorial communities is still going on and will be completed after the introduction of amendments to the Constitution of Ukraine, followed by simultaneous conduct of local elections in the united territorial communities across the country.

## *Election System*

The law On Local Elections introduced a totally new election system (to be applied at the elections of deputies of oblast, raion, and city councils), which has never been used in Ukraine before. The authors of the Law marketed it as a “proportional representation system with preferences” without using the term “open lists” in the explanatory note to the draft law for a good reason. Though, the law drafters themselves interpreted the proposed election system as a form of open list system in their public statements and speeches. Technically, the voters were offered a personified election system – voting in favor of a candidate assigned to a particular territorial constituency by the party, but without the opportunity to

<sup>7</sup> The CEC Decision #207 as of August 29, 2015, on the impossibility of conducting regular elections of deputies of certain raion, city, city raion, village, and township councils in Donetsk oblast, and the elections of corresponding village, township, and city heads on October 25, 2015.

freely choose the preferred candidates from the nomination list of the party. Due to the availability of personified voting option, some experts and voters mistakenly interpreted this system as a hidden majority election system. In practice, the voters had to vote in favor of both a closed party list and a single candidate, provided that such candidate was pre-assigned to each particular constituency. Thus, Parliamentarians rejected the idea of a proportional representation voting system with open lists contrary to the provisions of the Coalition Agreement, public expectations, and official recommendations of civil society organizations.

In general, the law made provision for application of three different types of electoral systems at the local elections, depending on the level of elections. Two of them are the types of majority election system, which is well known to the voters, and a totally new proportional representation system with preferences. Thus, the plurality voting system stayed in force at the elections of deputies of village and township councils in single-mandate constituencies. The same election system was used at the elections of village, township, city heads (in cities having less than 90,000 registered voters) and village starostas. Proportional representation voting system with preferences was introduced at the elections of deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, raion, city, and city raion councils. Absolute majority voting system was introduced at the elections of city heads (in cities having 90,000 registered voters or more) in the national single-mandate constituency.

The proportional representation voting system with preferences included a special procedure for the nomination of candidates and vote tabulation. Thus, the Law vested the exclusive right to nominate candidates in local party cells. Both party members and non-partisan candidates could be nominated. No provision existed for the self-nomination of candidates under the conditions of application of the proportional representation system. This fact does not fully comply with international electoral standards and, in particular, with Clause 7.5 of the OSCE Copenhagen Document. By signing this document, Ukraine committed itself to ensure the right of citizens to take public office both on an individual basis and as a representative of a political party without any discrimination. The right of self-nomination is reserved for candidates for deputies of village, township councils, of villages, townships, cities heads, and starostas.

The maximum permissible number of candidates who could be nominated by the local party cells at the elections of deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, raion, city, and city raion councils, was equal to the total number of deputies of the corresponding council plus one candidate (Section 3 of Article 37 of the Law). In other words, the local party cell could assign one candidate from its nomination list to each territorial constituency formed for the elections of the corresponding councils, while the first-placed candidate in the nomination list was not assigned to any territorial election

constituency. The Law did not oblige the local party cells to nominate the same number of candidates as the number of territorial election constituencies. In fact, this results in the presence of territorial constituencies in which there are no particular candidates who can be elected by the voters. Thus, the essence of personified voting which was marketed as one of the key benefits of the Law by its authors is brought to nothing.

The Law stipulated that a ballot paper should contain the names of local party cells and the last name of the candidate nominated by the corresponding local cell in this territorial constituency. In fact, the voters had to vote both for the local cell and the candidate assigned to the territorial constituency by this organization all at the same time, without the opportunity to differentiate their support of the party and candidate or choose between multiple candidates nominated by the same party. If the party failed to assign a candidate to a certain territorial constituency, in such a case the voter could only vote in favor of a party.

Candidates who were included in the nomination lists of the local party cells, which received at least 5% of the total number of votes casted in favor of the local party cells gained the right to participate in the distribution of council seats in the corresponding multi-mandate constituency (Section 2 of Article 86 of the Law). Therefore, the electoral threshold for political parties was raised from 3% to 5% as compared to the previous local elections. Law drafters failed to give a reasonable explanation for raising the electoral threshold. It can be assumed that this provision of the Law is intended to prevent the excessive party fragmentation and the instability of local self-government authorities. However, it is important to bear in mind that an excessively high electoral threshold generates a discriminatory impact on small/new political parties in their race for council seats.

The electoral system proposed by this Law makes it possible for the candidates who didn't finish first in their territorial constituencies to get into the local council, while candidates who obtained the highest number of votes will be left without deputy's mandate, if their party fails to clear the electoral threshold or receives insufficient voters' support within the boundaries of multi-mandate constituency.

The level of personal support of the candidate was determined on the basis of the number of votes obtained by the local party cell and its nominee in the corresponding territorial constituency. In turn, the level of personal support formed the basis for determining the rating of candidates included in the nomination list of a local party cell. The distribution of votes among candidates nominated by the local party cell was performed in accordance with their order in the nomination list determined by a decision of the territorial election commission based on their rating. In other words, candidates assigned to particular territorial constituencies by the party were compared to each other in terms of percentage of votes received by the party in different territorial constituencies. The percentage was calculated out



of the total number of votes casted in favor of all local party cells in this particular territorial constituency. Given the fact that it is the percentage which is taken into account, and not the absolute (total) number of casted votes, the Law could potentially create a situation where a deputy's mandate is awarded to a candidate whose party received the highest percentage of votes, while the elected candidate himself obtained a smaller number of votes than another candidate of the same party did in the other territorial constituency.

Experts have repeatedly drawn attention to the fact that the proposed election system leads to distortions in representation of territorial constituencies – when at once several candidates can be elected in one constituency and no candidates elected in the other constituency. The “insufficient” or “excessive” representation effect was especially dangerous for the local elections of deputies of oblast and raion councils.

Withdrawal from a deputy's mandate by a winning candidate after the official announcement of the results of elections was used by political parties as a mechanism for reviewing the results of preferential voting and restricting the influence of voters on the election of particular candidates in the party nomination list.

## *Major Legislative Changes and New Developments*

**Gender quotas.** For the first time ever, gender quotas for party lists were enshrined in the law on local elections. Thus, the Law makes provision for representation of persons of the same sex in the electoral lists of candidates for deputies of local councils in multi-mandate constituencies that it must be no less than 30% of the total number of candidates included in the electoral list. However, the Law did not envisage an effective mechanism for implementing the provision on gender quotas and monitoring their implementation, as well as applying sanctions in case of non-compliance with this provision. The CEC in its Clarification as of September 23 (the CEC Decision #362) stated that the refusal to register candidates in multi-mandate constituency at the elections of deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, raion, city, and city raion councils on the grounds of non-compliance with the provision of the Law on representation of persons of the same sex in the electoral lists of candidates for deputies of local councils is prohibited. However, on October 30, 2015, the Kyiv Administrative Court of Appeal adopted two polar opposite decisions on the CEC Clarification. The first judgment of the court, which invalidated the CEC Clarification, was based on the acknowledgement of the generally binding nature of provision of the law on gender quotas and the fact that it applies in respect of all legal re-

lations within the electoral process, including registration or refusal to register candidates. The second judgment of the same court stated that the provision of the election law on gender quotas is declarative, since it does not envisage the application of any sanctions against the local party cells for non-compliance with this provision in the process of compiling an electoral list of candidates.

Therefore, improper regulation of innovative provision on gender quotas proposed in the Law, in fact, made it impossible to implement in practice the principle of equal rights and opportunities for candidates. Before the elections, the society was informed in detail that adherence to gender quotas in the process of compiling nomination lists is one of the most progressive provisions of the new Law of Ukraine on Local Elections. Whereas, recognition of declarative or non-binding nature of certain provisions of the law partially downplays this achievement.

**Cutting the number of deputies.** The number of deputies enshrined in the law was cut by 30% as compared to the previous elections. The Law clearly defines the quantitative composition of the corresponding Local councils, which is determined by the CEC decision before the beginning of regular election process depending on the number of voters registered in the corresponding territorial community and residing within the territory of oblast, raion, or city raion. Thus, the minimum number of deputies of local council is 12 persons (for administrative territorial units having no more than 1,000 registered voters), while the maximum number of deputies is 120 persons (for administrative territorial units having more than 2 million registered voters). Whereas, according to the provisions of the previous Law On Elections of Deputies of the Autonomous Republic of Crimea, Local Councils, and Heads of Villages, Townships, and Cities the maximum number of deputies of local councils in the administrative territorial units having more than 2 million registered voters was 150 persons.

**Recall of deputies and local heads.** For the first time ever, the final and transitional provisions of the Law on Local Elections for the first time included a legal mechanism of early withdrawal of members of local councils and city, town and village heads. The detailed procedure for early termination of powers of deputies of local councils on the initiative of voters clearly is defined in the law of Ukraine on Status of Local Council (as amended by the Law on Local Elections on 07.14.2015).

In contrast to the Law on Elections of People's Deputies of Ukraine which makes a provision for recall of the people's representative only at the initiative of the political party that nominated this representative, the Law on Local Elections also grants this right to the voters. The decision on recall of deputy is adopted by the executive board of the party, which examines the request of the territorial election commission concerning the recall of deputy

of the local council upon the people's initiative and takes a decision either on recall of this deputy or refusal to satisfy this request. However, for deputies elected in a single-mandate constituency the initiative on recall of the deputy must be signed by no less than half of the total number of voters who casted a ballot at the elections in this particular territorial constituency. For deputy elected in a multi-mandate constituency it should be signed by the number of people no less than the number of voters who casted their votes in favor of the corresponding local party cell in this particular territorial constituency.

The decision on early termination of office, at the people's initiative, of village, township, or city heads who were elected through the self-nomination process is adopted at the request of the territorial election commission by relevant village, township, or city council by a majority vote of its members. The total number of signatures collected in support of proposal for recall of village, township, or city head should exceed the total number of votes casted in favor of this particular head at the local elections, based on the results of which he was elected as village, township, or city head.

Following the decision on recall of a deputy, who was elected to the relevant local council in multi-mandate constituency, this deputy is replaced by the next candidate on the list of nominees of the local party cell (in accordance with the inner-party rating). If a candidate was elected in a single-mandate constituency, either midterm or early elections are conducted for the re-election of village/township head.

Consequently, amendments to the electoral legislation resulted in the introduction of institution of imperative mandate in the political practice of Ukraine at the local level, while the application of imperative mandate is considered undemocratic in the political practice of Europe. The imperative mandate discords with the principle of people's sovereignty, since a deputy represents the interests of all residents of the territorial community or nation, rather than the interests of some individual voters.

The problem is that even in case of recall of a deputy upon the people's initiative the final decision on this matter rests with the political party. Furthermore, the law does not give an explanation about the possible legal consequences in the event if the party refuses to satisfy the TEC request for recall of the deputy of a local council at the people's initiative. Only in the case of election of a deputy through self-nomination to a township or village council, the TEC shall be authorized to make a decision on recall of this deputy on the grounds of sufficient number of collected signatures in support of recall of deputy.

**Elections of head of large cities.** The law envisages a new procedure for the election of heads of cities having more than 90,000 registered voters. In order to win, a candidate for head must obtain the support of an absolute majority of voters who casted a ballot at the

election. Otherwise, a second round of city head elections featuring two candidates who received the largest number of votes in the first round shall be called. In the second round, the candidate receiving the most votes wins the election. This election system enhances the legitimacy of the electoral process in the voters' perception. However, it is applied only at the elections of heads of large cities, even though the problem of election of candidates for heads with low level of support is a common trend. One of the obstacles to the implementation of two-round voting system in all cities is the significant increase in the cost of election process.

## *Unsolved Problems of Legislation*

**Suffrage rights of internally displaced persons.** The occupation of Crimea and military conflict in Eastern Ukraine forced nearly 1.5 million people to move to other regions of the country. The Law On Temporarily Displaced Persons, adopted in 2014, contains a provision on the need for ensuring the suffrage rights of citizens who were forced to move to other regions due to the war in the Donbass region and occupation of Crimea. In particular, Article 8 of the Law states that an internally displaced person "exercises his/her right to vote in local elections by means of changing the voting place without changing the voting address". However, the new Law on Local Elections does not make provision for a special voting procedure for internally displaced persons.

The equality of rights and freedoms of all citizens is guaranteed by the Constitution of Ukraine, and in the case of internally displaced persons it is also established by international standards (UN Guiding Principles on Internal Displacement of Citizens, Recommendations of the Committee of Ministers of the Council of Europe, PACE Recommendations). Nonetheless, the issue of ensuring the voting rights of internally displaced citizens of Ukraine in local elections has not been resolved by the Verkhovna Rada of Ukraine. Internally displaced persons could cast a vote at the local elections if they registered their new place of residence. In this case, they become the full-fledged members of the territorial community, but at the same time they lose the status of internally displaced persons.

A group of non-governmental organizations, including the Civil Network OPORA, and the People's Deputies of Ukraine quickly developed and publicly lobbied for adoption of draft law #2501a-1, which guaranteed the suffrage rights of internally displaced persons and established a mechanism for their participation in local elections in the territorial communities at their actual place of residence. However, the Verkhovna Rada of Ukraine failed to review this draft law in time, just like it did with the other alternative draft laws.

**Control on election finance and expenses.** The Law requires that candidates file interim financial reports prior to Election Day and submit final financial reports within five days after Election Day. However, due to the absence of specific sanctions for failure to file a financial report, failure to meet the time limit for filing a financial report, or provision of false information – a legislative provision on financial reporting of candidates is of declarative nature. Territorial election commissions, which are obliged to accept and process the financial reports, do not have sufficient powers and resources for proper verification and analysis of submitted reports. Due to the absence of obligation to publish the financial reports of candidates, the voters are deprived of the access to up-to-date information about the official expenses of candidates on their election campaigns. Furthermore, the law does not set the requirements for election campaign expenditures ceiling. This fact contributed to the excessive and uncontrolled use of monetary funds for election campaign financing. According to the Civil Network OPORA, political parties and candidates incurred excessive expenditures on pre-election campaigning, while making use of the most expensive means of advertising (outdoor and media advertising).

**Election programs of candidates.** The Law does not oblige the parties and candidates to submit their election programs at the stage of registration in the territorial election commission and publish them. The absence of election programs deprives the voters of one of the important criteria required for making an informed decision in the process of exercising their right to vote. Moreover, the availability of election program and its future fulfillment/non-fulfillment by deputies (parties) serves as a voters' tool for monitoring their activities. Indeed, failure of a deputy of a local council to comply with the basic principles and provisions of his/her election program is one of the grounds for the recall of the elected deputy by voters (Clause 1 of Article 37 of the Law on the Status of Deputies of Local Councils). The absence of provision of the Law on the publication of election programs of candidates for deputies under the conditions of application of proportional representation voting system encourages the irresponsibility of candidates and does not contribute to party structuring on the basis of election programs.

**Boundaries of territorial election constituencies.** According to the Law, territorial election commissions are under a legal obligation to create single-mandate and multi-mandate constituencies, following which the territorial election districts are formed within its boundaries. The number of registered voters in each territorial election district must be approximately equal. However, the Law does not set a requirement for maximum allowable deviation between territorial districts in terms of the total number of registered voters, which allows for manipulating the boundaries of territorial election districts and arbitrary interpretation of laws on elections.



#4

**TERRITORIAL  
ORGANIZATION  
OF ELECTIONS.**

FORMATION OF  
TERRITORIAL  
ELECTION  
CONSTITUENCIES

The lack of consistency and orderliness in legislation and the inability of the CEC to ensure adequate control on the process of formation of election constituencies for the elections of deputies of local councils resulted in systematic abnormal deviation from average number of voters in territorial constituencies. In practice, territorial election commissions found it difficult to adhere to the declarative approach in the process of formation of election constituencies for reaching the closest number to the average number of voters in each territorial constituency.

As a result, the vast majority of territorial election constituencies (1,391 out of 1,700), which were formed for the elections of deputies of oblast councils, have a deviation of more than 15% (allowable on the recommendations of the Venice Commission) from the average number of voters in one election constituency. At the elections of deputies of raion councils, the number of such anomalous constituencies reaches 85% of the total number of territorial election constituencies. The record-breaking maximum deviation from the average number of voters in territorial election constituencies within the boundaries of a multi-mandate election constituency amounts to 1,257% for the elections of deputies of raion councils and 240% for the elections of deputies of oblast councils.

Overall, more than two thirds of the total number of territorial election constituencies, which were formed for the elections of deputies of oblast, raion, and city councils (21,584 out of 27,557 constituencies), have a deviation of more than 15% in terms of the actual number of registered voters. In doing so, the election commissions have violated the principle of equality of votes, given that the votes casted in small election constituencies weigh significantly more than the votes casted in large election constituencies formed within one and the same multi-mandate constituency. This proved to be a crucial factor in allocation of council seats under the conditions of application of personalized proportional representation voting system.

## *Procedure for Formation of Territorial Election Constituencies*

The Law of Ukraine on Local Elections stipulates that the elections of deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, as well as the elections of deputies of oblast, raion, city, and city raion councils shall be held under proportional representation voting system in the multi-mandate constituency. The borders of the constituencies coincide with those of the Autonomous Republic of Crimea, oblast, raion, city raion, and city correspondingly in accordance with the existing administrative territorial structure or territory of the united municipal community formed under the Law of Ukraine On Voluntary Association of Territorial Communities.



Each multi-mandate election constituency shall be divided into territorial election constituencies, the total number of which should be equal to the overall composition (the total number of deputies) of the corresponding council. The size of each council shall be determined in accordance with Sections 3 and 4 of Article 16 of the Law of Ukraine on Local Elections, depending on the number of registered voters who belong to the corresponding territorial communities.

Meanwhile according to the Law, the elections of deputies of village and township councils shall be held under first-past-the-post principle in single-mandate election constituencies, the borders of which coincide with the borders of the corresponding village (several villages, residents of which voluntarily merged into one village community), township, or territory of the united village or township territorial community formed under the Law of Ukraine on Voluntary Association of Territorial Communities”.

On September 3, the CEC adopted a Resolution<sup>8</sup> on determining the number of territorial, single-mandate election constituencies on the grounds of information from the State Register of Voters. These territorial election constituencies were to be formed by the corresponding territorial election commissions within the boundaries of administrative territorial units for holding elections of the deputies of local councils of all levels.

The duty of formation of territorial and single-mandate election constituencies was assigned to the corresponding territorial election commissions, as provided by Law:

- oblast election commissions formed territorial election constituencies for holding elections of deputies of oblast councils;
- raion election commissions formed territorial election constituencies for holding elections of deputies of raion councils;
- city election commissions and city raion election commissions formed territorial election constituencies for holding elections of deputies of city councils and city raion councils;
- village and township election commissions formed single-mandate election constituencies for holding elections of deputies of village and township councils.

In the process of formation of territorial election constituencies, the election commission was obliged to comply with the principle for reaching the closest number to the average number of voters in the territorial election constituency of the corresponding multi-mandate constituency.

In addition, the election commission had to take into account the administrative boundaries of the respective territories when forming the election constituencies:

- at the elections of deputies of oblast councils – the administrative boundaries of each raion and city of oblast significance;

<sup>8</sup> The CEC Resolution #216 as of September 3<sup>rd</sup>, 2015, on the total number of territorial, single-mandate election constituencies, which are to be formed by oblast, raion, city, city raion (in cities with established city raion councils), village, and township election commission for the purpose of the organization of elections of deputies of local councils during regular and first elections of deputies of local councils and heads of villages, townships and cities on October 25, 2015.

- at the elections of deputies of raion councils – the administrative boundaries of each village, township, and city of raion significance;
- at the elections of deputies of city councils – the administrative boundaries of each village, township, and city raion which forms part of this city.

At least one or more territorial election constituencies should have been formed in the territory of each of the above-mentioned administrative territorial units. Such territorial election constituency could include the whole territory or part of the territory of only one administrative territorial unit within the boundaries of a multi-mandate election constituency. In other words, at the elections of deputies of oblast councils each separate election constituency could not cover the territory of two (or more) raions or cities of oblast significance.

## *Analysis of Procedure for Formation of Territorial Election Constituencies*

Civil Network OPORA has analyzed the results of formation of territorial election constituencies for holding elections of deputies of all oblast (1,700 constituencies), raion (15,135 constituencies), and city (10,722 constituencies) councils of Ukraine.

The compliance of the actual number of voters in each of the territorial election constituencies with the average number of voters in territorial election constituency of the corresponding multi-mandate constituency was the main criterion for conducting this analysis.

According to the recommendations of the Venice Commission set out in the Code of Good Practice in Electoral Matters, the maximum permissible deviation from acceptable criterion of division into election constituencies should not exceed 10%, and in no case should it exceed 15% except in special circumstances (for example, protection of interests of compactly settled minority, administrative territorial unit with low population density).

### ***Oblast councils: territorial election constituencies with maximum deviation from the average number of voters***

<b>OBLAST COUNCIL</b>	<b>TEC</b>	<b>ACTUAL NUMBER OF VOTERS in TEC</b>	<b>AVERAGE NUMBER OF VOTERS in a constituency</b>	<b>DEVIATION from the average number of voters</b>
Kharkiv	#9	60 852	17 957	239%
Zaporizhzhya	#68	48 490	16 832	188%
Mykolaiv	#49	36 741	14 132	160%
Odesa	#81	53 802	21 286	153%

OPORA discovered that in almost half of the territorial constituencies, which were formed for holding elections of deputies of oblast councils, the extent of deviation from average number of voters is much higher than the permissible rate of 15%. In more than 50 territorial constituencies, which were formed for holding elections of deputies of oblast councils the extent of deviation from the average number of voters is more than 100%. Territorial election constituency #9 (Kharkiv), which was formed for holding elections of deputies of Kharkiv oblast council, totals 60,852 voters which is 239% more than the average number of voters in territorial election constituency within the boundaries of corresponding multi-mandate constituency. The actual number of voters in the territorial election constituency #68 (Zaporizhzhya), which was formed for holding elections of deputies of Zaporizhzhya oblast council, is 188% more than the average number of voters.

In average, the size of the largest constituencies formed for holding elections of deputies of oblast councils exceed four times the size (in terms of the actual number of voters) of the smallest constituencies. However, there are some incidents when some districts are more than 12 times bigger than others are. For example, territorial election constituency #9, which was formed for holding elections of deputies of Kharkiv city council, totals more than 60,000 voters, while in territorial election constituency #78 there are only about 5,000 voters. Territorial constituency #1, which was formed for holding elections of deputies of Lviv city council, totals 45,000 voters, while in territorial election constituency #21 there are less than 4 thousand voters.

### ***Oblast councils: territorial election constituencies with the largest and the smallest number of voters***

<b>OBLAST COUNCIL</b>	<b>NUMBER OF VOTERS</b> in the largest TEC	<b>TEC</b>	<b>NUMBER OF VOTERS</b> in the smallest TEC	<b>TEC</b>	<b>SIZE DIFFERENCE</b> between TECs
Vinnitsia	24 370	#75	9 455	№ 10	× 3
Volyn	17 483	#19	9 186	№ 9	× 2
Dnipropetrovsk	42 379	#59	5 671	№ 3	× 7
Zhytomyr	22 836	#34	6 629	№ 22	× 3
Zakarpattia	20 525	#5	7 031	№ 64	× 3
Zaporizhzhya	48 490	#68	6 228	№ 8	× 8
Ivano-Frankivsk	17 105	#84	9 601	№ 37	× 2
Kyiv	27 214	#51	4 605	№ 44	× 6
Kirovohrad	18 172	#47	5 892	№ 64	× 3
Lviv	45 561	#1	3 821	№ 21	× 12

Mykolaiv	36 741	#49	7 477	#9	× 5
Odesa	53 802	#81	7 658	#83	× 7
Poltava	20 229	#1	9 921	#31	× 2
Rivne	19 229	#19	10 112	#52	× 2
Sumy	23 439	#48	9 829	#64	× 2
Ternopil	18 367	#47	9 487	#34	× 2
Kharkiv	60 852	#9	5 291	#78	× 12
Kherson	25 625	#62	6 859	#16	× 4
Khmelnysky	17 300	#58	7 940	#78	× 2
Cherkasy	19 176	#84	6 777	#63	× 3
Chernivtsi	23 036	#57	8 268	#8	× 3
Chernihiv	24 947	#57	7 972	#37	× 3

Size difference between territorial election constituencies, which were formed for holding elections of deputies of raion councils, is even more striking. 85% of them have a deviation of more than 15% from average number of voters in one territorial constituency. In more than 450 election constituencies the deviation rate exceeds 100%. For example, territorial election constituency #1, which was formed for holding elections of deputies of Krasyliv raion council (Khmelnysky oblast) totals 15,906 voters, which is 1,257% more than the average number of voters in the territorial election constituency of the corresponding multi-mandate constituency (equaling to 1,172 voters).

Similar abnormal deviations were recorded in territorial election constituency #2 formed for holding elections of deputies of Makariv raion council (Kyiv oblast) – 943%, territorial election constituency #1 formed for holding elections of deputies of Volnovakha raion council (Donetsk oblast) – 881%, territorial election constituency #1 formed for holding elections of deputies of Nemyriv raion council (Vinnytsya oblast) – 866%.

### ***Raion councils: territorial election constituencies with maximum deviation from the average number of voters***

OBLAST	RAION COUNCIL	TEC	ACTUAL NUMBER OF VOTERS in TEC	AVERAGE NUMBER OF VOTERS in TEC	DEVIATION from the average number of voters
Khmelnysky	Krasyliv	#1	15 906	1 172	1 257%
Kyiv	Makariv	#2	9 071	869	943%
Donetsk	Volnovakha	#1	18 333	1 869	881%
Vinnytsya	Nemyriv	#1	8 535	884	866%
Cherkasy	Lysyanka	#1	6 730	700	861%

Ternopil	Zbarazh	#1	10 360	1 163	790%
Zhytomyr	Yemilchynne	#1	6 396	728	778%
Kyiv	Bila Tserkva	#1	10 099	1 164	768%
Khmelnytsky	Derazhnya	#9	9 849	1 185	731%
Ivano-Frankivsk	Rogatyn	#1	6 416	776	727%
Lviv	Zolochiv	#3	9 047	1 096	726%
Lviv	Sokal	#1	15 426	1 916	705%
Lviv	Zolochiv	#2	8 746	1 096	698%
Ivano-Frankivsk	Kolomyia	#1	14 420	1 857	677%
Lviv	Yavoriv	#2	19 420	2 530	667%
Ternopil	Zalischyky	#13	7 773	1 014	666%
Kyiv	Vasylkiv	#1	7 868	1 030	664%
Kirovohrad	Bobrynets	#2	5 887	777	657%
Chernihiv	Pryluky	#1	5 518	730	656%
Ternopil	Zboriv	#1	5 724	808	609%

More than one third of the total number of territorial election constituencies, which were formed for holding elections of deputies of city councils in the administrative centers of oblasts, also exceeded the permissible deviation rate of 15%. For example, territorial election constituency #39, which was formed for holding elections of deputies of Ivano-Frankivsk city council, has 65% less voters than the average territorial election constituency in the multi-mandate constituency. Territorial election constituency #33, which was formed for holding elections of deputies of Uzhhorod city council, has 60% less voters. While the size of four territorial election constituencies (#6, #27, #14, #3), which were formed for holding elections of deputies of Ternopil city council, is about 50% smaller than the average size of a territorial election constituency in the multi-mandate constituency.

### ***City councils in the administrative centers of oblasts: TEC with maximum deviation from the average number of voters***

CITY COUNCIL	TEC	ACTUAL NUMBER OF VOTERS in TEC	AVERAGE NUMBER OF VOTERS in TEC	DEVIATION from the average number of voters
Ivano-Frankivsk	#39	1 491	4 258	-64,98%
Uzhhorod	#33	1 020	2 584	-60,53%
Sumy	#8	2 467	5 657	-56,39%
Vinnitsya	#7	2 451	5 356	-54,24%
Ternopil	#6	1 977	4 250	-53,48%



#5

**NOMINATION AND  
REGISTRATION OF  
CANDIDATES:**

THE MAIN PROBLEMS  
AND ACTIVITY OF  
POLITICAL PARTIES

Based on the results of the observation campaign, the Civil Network OPORA identified problems with nomination and registration of candidates as one of the key factors, which certifies the adequacy of the electoral process democratic standards.

Gaps in the Law of Ukraine on Local Elections, insofar as it refers to the process of nomination and registration of candidates, resulted in large-scale manifestations of unequal application of its provisions by different territorial election commissions.

Fairly large number of TEC decisions on denial of registration of candidates led to active judicial appeals and other legal actions on the part of potential participants in the election process. In turn, conflicts arising in the process of registration of candidates often resulted in the violation of legally stipulated deadline for registration of candidates. According to the Calendar plan of organizational measures on preparation and holding regular local elections on October 25, 2015, the process of registration of candidates should have been completed by October 1, 2015, inclusive. However, the corresponding time limits were substantially breached in several territorial communities.

In some territorial communities both court appeals and even the interventions of the CEC proved to be an inefficient way of resolving electoral disputes, which not only resulted in breaching the time limits for registration of candidates on the part of TECs, but also led to violation of the deadline for the approval of the text of ballots and production thereof.

According to OPORA, the following factors were the most common grounds for denial of registration of candidates by the TECs: 1) the money were placed on deposit for the nomination list of a local party cell by a private individual on behalf of a political party instead of being transferred directly from the account of the local party cells; 2) various cases of improper execution of documents that were submitted to a TEC by candidates or local party cells, in which case deficiencies and/or errors in the submitted documents were often interpreted by the election commissions as a fact of non-submission of documents; 3) violation of the procedure for the nomination of candidates, including simultaneous nomination of one candidate at different local elections and/or simultaneous nomination of a candidate by different political parties, nomination of members of one political party by other political party cells, failure to comply with requirements for holding party conferences (meetings) on the nomination of candidates.

In isolated, yet high profile cases the TECs made use of dubious reasons for adopting decisions on denial of registration of candidates, which carried indicia of interference with citizens' rights to be elected and created artificial barriers to gaining an official candidate status<sup>9</sup>. Some TECs ignored relevant court judgments obliging them to revise their decisions

<sup>9</sup> In particular, at the elections of Cherkassy city head, Cherkassy City Council, and Kharkiv oblast council the final list of nominees remained unknown as late as 5 days before the end of pre-election campaigning period. This was due to TEC's refusal to register the candidates nominated by the local cell of the Party of Free Democrats (Cherkassy city) and candidates included in the list of nominees of the local cell of the Opposition Bloc party (Kharkiv oblast). The previously mentioned TEC decisions remained the subject of pending election disputes even after the deadline for registration of candidates had passed.



on denial of registration of candidates. Given the above circumstances, the CEC was forced to register several candidates<sup>10</sup> at the local elections at its own and sole discretion.

Instead, the practice of solving problems with registration of candidates by way of judicial appeals was a positive aspect of the process of nomination and registration of candidates at the local elections. Meanwhile, court judgments often proved to be an efficient mechanism of restoration of electoral rights for both candidates and local party cells. By contrast with the 2010 regular local elections, OPORA did not record any indicia of political bias in court judgments that could be based on the use of centralized administrative resources.

## *Nomination of Candidates*

The Law of Ukraine on Local Elections sets out a number of requirements to the process of the nomination of candidates.

In particular, the legislative conditions of the nomination of candidates at the regular local elections included the following:

- the obligation of a local party cell to inform TECs about the date, time, and place of the party meeting (conference) on the nomination of candidates (in writing, no later than one day before the party meeting);
- the obligation of a local party cell to inform mass media about the date, time, and place of the nomination of candidates, while the organizer of the event shall determine the procedure for media accreditation;
- the meeting (conference) of a local party cell shall be held in accordance with the Law of Ukraine on Local Elections and the charter of the political party on the resolution of the highest governing body of the party on participation of local cells in the corresponding elections;
- the obligation to comply with requirements and restrictions for simultaneous participation in the local elections of different levels<sup>11</sup>;
- the obligation to comply with requirements concerning the level of local party cells, which nominate candidates for participation in certain local elections<sup>12</sup>;

<sup>10</sup> *It relates to the candidate for city head of Slovyansk Vadym Lyakh (Opposition Bloc), candidate for city head of Kherson and deputy of Kherson city council Volodymyr Saldo (Nash Krai), candidates for deputies of Kharkiv oblast council included in the nomination list of the local cell of the Opposition Bloc party. At the same time, the CEC adopted a decision on denial of registration of number one on the nomination list of the local cell of the Opposition Bloc party Mykhailo Dobkin along with two other candidates assigned to territorial election constituencies.*

<sup>11</sup> *A person could not be nominated as a candidate for deputy of more than one oblast, raion, city, or city raion council. Moreover, a person, who was already nominated as a candidate for deputy in a single mandate election constituency, or as a candidate for village, township, and city head, or as a candidate for head of village and township, could not be simultaneously nominated in any other single-mandate election constituencies at any other local elections. Furthermore, a person could be simultaneously nominated as a candidate for deputy of a local council, and as a candidate for village, township, or city head, and as a candidate for head of village or township through nomination by only one local party cell or through self-nomination.*

<sup>12</sup> *Sections 3-7 of Article 36 of the Law of Ukraine on Local Elections.*

- the obligation of a local party cell to abide by the rules of general procedure for the nomination of candidates together with the indication of appropriate information in the nomination list, the adoption of decision on the nomination of candidates, the signing of the resolution of the meeting the on nomination of candidates by the head of local party cell, and affixing the seal of a local cell or higher-level structure of political party to the nomination documents, etc.

During the time allocated for the nomination of candidates at the local elections, OPORA identified a number of problems with adhering to provisions of the law. Firstly, local party cells by no means always informed the TECs about the date, time and place of the party meeting (conference) on the nomination of candidates in a timely manner, which could give grounds for denial of registration of their nomination lists. Secondly, some local party cells restricted media access to their meetings (conferences) on the nomination of candidates.

In these cases media access restriction manifested itself in the violation of the legal requirement concerning the notification of the date, time, and place of the meetings or conferences of local party cells, and not allowing journalists to attend the corresponding events. Such incidents often happened at the meetings of the local cells of the Opposition Bloc party (Volyn, Kirovohrad, Dnipropetrovsk, Zaporizhzhya, Zhytomyr, Khmelnytskyi oblasts). Furthermore, in Mykolayiv oblast the journalist of the *Tochka Opor* newspaper was not allowed to attend the meeting of the the *Our Land* party local cells. In Ternopil oblast a journalist, who was present at the meeting of the local cell of the All-Ukrainian Union *Svoboda*, was asked to leave the premises of the party meeting after the nomination of candidates based on the argument that the party meeting was planning to discuss some confidential matters.

Cases of restriction of media access to the conferences or meetings of local party cells should not be considered an acceptable practice, since the Ukrainian legislation guarantees the right of journalists to unimpeded access to all public events related to local elections. Thus, in accordance with Section 1 of Article 13 of the Law of Ukraine on Local Elections, the process of organization and conduct of local elections shall be carried out in a transparent and open manner. This means that some local party cells did not adhere to the general principles of the election process, while abusing the right to determine the procedure for accreditation of media representatives at the party meetings on the nomination of candidates. However, it should be noted that the majority of local party cells did comply with the legal requirements in terms of ensuring publicity of events related to the nomination of candidates.

The loopholes in legislation and practical procedures for keeping record of members and leadership of party cells were causing problems in the process of the nomination of candidates, bearing in mind that the nomination of a certain party's member by another political party was prohibited. In some cases, facts of potential candidate's affiliation with another

political force were discovered at the meetings of local party cells or there were doubts over his/her party membership<sup>13</sup>.

The absence of large-scale intraparty conflicts was an important feature of the process of the nomination of candidates at the regular local elections. Isolated cases of discordant opinions in the process of the nomination of candidates led to splits in some local party cells, but this was not a common trend throughout the country. On the one hand, the absence of intraparty confrontations gives evidence of the efficiency of the process of alignment of political positions. On the other hand, the provisions of the new law of Ukraine On Local Elections concerning the authority of the governing body of a political party to grant local cells the permission to participate in elections and approve the list of nominated candidates limited intraparty competition.

The problem of compliance with gender quotas in the process of compiling the lists of candidates nominated by local party cells is the one that stirred public attention. Failure of some of the local party cells to comply with the requirement concerning the inclusion of at least 30% of candidates of the same sex in the nomination list and the imperfection of relevant legislative provisions forced the CEC to adopt a Clarification on the non-binding nature of gender quotas in the process of adoption of decisions on the registration of candidates. On the one hand, the CEC Clarification can be considered as a necessary step to solving the problems of legal regulation. On the other hand, it carries indicia of appropriation of legislative control by the CEC on the issue that was not effectively regulated by the Verkhovna Rada of Ukraine.

## *Registration of Candidates*

The Law of Ukraine on Local Elections sets out several grounds for denial of registration of candidates.

Article 46 of the Law stipulates that a candidate for deputy of local councils of all levels and a candidate for city, township, or village head can be denied registration in case of the following: 1) the absence of the statutorily required documents; 2) violation of the procedure for the nomination of candidates, including in terms of exceeding the permissible number of candidates that can be nominated or assigned to the corresponding election constituency; 3) termination of citizenship of a person; 4) a person is recognized as incapable by court, or entry into legal force of a court judgment of conviction with respect to a person for committing serious or extremely serious crimes, or offences against electoral rights of citizens or

<sup>13</sup> For example, at the conference of the local cell of the Nash Krai party in Troitske raion of Luhansk oblast it was discovered that one of the nominated candidates was still holding a position of head of a local cell of another party at that time. The Law of Ukraine on Local Elections allows local party cells to nominate as their candidates only members of the corresponding parties or non-partisans.

corruption offenses; 5) identification of circumstances that deprive the person of the right to be elected to the corresponding public office (under Article 9 of the Law, which sets out requirements for citizenship, eligibility to vote, absence of outstanding convictions for committing serious or extremely serious crimes, or other offences); 6) nomination of a candidate by a local party cell, which is subject to restrictions under the Law of Ukraine on the condemnation of Communist and National-Socialist (Nazi) totalitarian regimes in Ukraine and the prohibition of propaganda of their symbols.

Meanwhile, according to Section 6 of Article 42 of the Law of Ukraine on Local Elections, errors and inaccuracies that were found in the documents submitted for the registration of candidates shall be subject to correction and shall not be qualified as grounds for denial of registration of a candidate for deputy. According to Section 2 of Article 42 of the Law, TEC decisions shall include exhaustive grounds for denial of registration of candidates.

TEC decisions on denial of registration of candidates were quite widespread and contradictory. However, these decisions were not pre-planned or centrally orchestrated by contrast with the 2010 regular local elections. At this stage of the election process, the political bias of members of the election commissions was recorded at the level of certain TECs, but it was determined by the local context of competition between political parties and regional groups.

At the same time, the new Law on Local Elections was not studied properly by members of TECs due to its adoption shortly before the start of election process. Members of the election commissions were also faced with the ambiguity of legal provisions that regulated the process of registration of candidates. In particular, the procedure for placing a monetary deposit by candidates or local party cells was interpreted in different ways by territorial election commission. Some TECs refused to register candidates included in the nomination list due to the fact that the monetary deposit was made by a private individual on behalf of a local part cell, instead of being transferred directly from the account of the previously mentioned cell. Meanwhile, according to OPORA, the courts often did not declare such cases as violation of electoral legislation when considering electoral disputes. For example, the reason for refusal of registration of candidates for deputies nominated by the Dnepropetrovsk city cell of the Democratic Alliance party was the fact that the monetary deposit was not made by the party's local cell that nominated candidates for deputies, nor was it made by a higher-level structure of the political party, as provided by Article 44 of the Law of Ukraine on Local Elections, but it was made by a private individual instead<sup>14</sup>. According to the decision of the District Administrative Court of Dnipropetrovsk, the head of the city party cell had the right to represent the interests of the city party cell in all respects, including submission of cash to the banking institution for transferring the monetary deposit.

<sup>14</sup> [reyestr.court.gov.ua/Review/51888145](http://reyestr.court.gov.ua/Review/51888145)

Court decisions often included references to Clause 1.4 of the Resolution #22 of the National Bank of Ukraine on Approval of Regulations on non-cash payments in local currency in Ukraine as of January 21, 2004, according to which non-cash payment is a transfer of certain amount of funds from a billing account to a receiving account, or the bank transfer of funds, which were deposited through cash departments, to receiving accounts on behalf of legal entities and private individuals<sup>15</sup>. At the same time, the above-mentioned legal position did not help reach a consensus between electoral subjects. For example, the deputy head of the CEC Andriy Magera publicly commented that he considers the fact of placement of monetary deposit in cash by a private individual, instead of a bank transfer from the account of a local party cell, as a violation of Article 44 of the Law of Ukraine on Local Elections. Meanwhile, the head of the CEC Mykhailo Okhendovsky stated that the local party cell is the subject of election process at the local elections, but not the political party itself. Sometimes local cells may not have their own bank accounts, in which case the monetary deposit can be made on their behalf by private individuals<sup>16</sup>. As we have already mentioned, the latter approach was applied in the adoption of the CEC decision on registration of the nomination list of a local party cell at the election of deputies of Kharkiv oblast council.

In regions, OPORA observers recorded a significant number of refusals to register candidates on the grounds of improper execution of documents that were submitted to TECs by private individuals or local party cells. Often, deficiencies and/or errors in documents were interpreted by members of TECs as a fact of non-submission of documents. For example, Novomoskovsk city election commission in Dnipropetrovsk oblast refused to register certain candidates in multi-mandate election constituency, who were included in the nomination list of the local cell of the Nash Krai party, on the grounds of absence of written consents to stand for election. Meanwhile, in fact the only mistake was the misspelled full name of local party cell. The District Administrative Court of Dnipropetrovsk declared unlawful and invalidated the decision of Novomoskovsk city election commission and obliged the TEC to give the candidate an opportunity to correct the mistakes that were made in the letter of consent to stand for election<sup>17</sup>. Such cases were not isolated<sup>18</sup>. In general, observers

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<sup>15</sup> For example, the corresponding legal stance was taken by the District Administrative Court of Dnipropetrovsk in the case involving an action by the city cell of the Democratic Alliance party in Dnipropetrovsk against Dnipropetrovsk city election commission in Dnipropetrovsk oblast ([reyestr.court.gov.ua/Review/51888145](http://reyestr.court.gov.ua/Review/51888145)), as well as by the District Administrative Court of Kirovohrad in the case involving an action for refusal to register candidates of the All-Ukrainian Union Svoboda at the election of deputies of oblast council ([reyestr.court.gov.ua/Review/51888902](http://reyestr.court.gov.ua/Review/51888902)), and other cases. The corresponding legal stance was also taken by the Central Election Commission as a result of the examination of request filed by the local cell of the Opposition Bloc party in Kharkiv oblast following the TEC decision on denial of registration of candidates in multi-mandate constituency at the election of deputies of the oblast council.

<sup>16</sup> [theinsider.ua/politics/5615763390430d/](http://theinsider.ua/politics/5615763390430d/)

<sup>17</sup> [oporaua.org/novyny/9257-promizhnyj-zvit-za-rezultatamy-sposterezhenja-opory-na-miscevyyh-vyborah-25-zhovtnja-2015-r](http://oporaua.org/novyny/9257-promizhnyj-zvit-za-rezultatamy-sposterezhenja-opory-na-miscevyyh-vyborah-25-zhovtnja-2015-r)

<sup>18</sup> For example, Olexandriya city election commission in Kirovohrad oblast refused to register 29 candidates in a multi-mandate constituency nominated by the local cell of the Syls Narodu party due to errors in the submitted autobiographies of candidates (in most cases, there was no information about their public work). Furthermore, the local cell of the People's Movement of Ukraine succeeded in invalidating the decision of the TEC on denial of registration of candidates at the election of deputies of Bohorodchany raion council in Ivano-Frankivsk oblast by winning the court appeal. In this case, the TEC decision on denial of registration of candidates was motivated by the mismatch of signatures in the provided documents.

recorded both justified TEC decisions on denial of registration of candidates on the grounds of improperly executed documents and some dubious decisions on this matter.

Furthermore, information about person's simultaneous affiliation with different political parties also gave grounds for refusal to register candidates. The most famous decision was adopted by Kherson city election commission concerning denial of registration of the candidate for city head and the candidate for deputy of city council Volodymyr Saldo. Kherson city election commission, in its decision to deny Volodymyr Saldo registration as a candidate, proceeded from available information on his alleged membership in the Party of Regions, while being nominated by local cell of the Nash Krai party. Problems with determining the actual party identification of a person at the local elections in Ukraine were caused by inefficient accounting of party members, untimely updating of information about the leadership of local party cells, and excessive cross-party mobility of local political leaders.

In some cases, TECs refused to register candidates nominated by local party cells due to improper notification of election commission on the date, time, and place of party conference (meeting) on the nomination of candidates. One of the most disputable cases was the decision of Energodar city election commission in Zaporizhzhya oblast concerning the cancellation of registration of candidates for city head and candidates for deputy of city council, who were nominated by a local cell of the Opposition Bloc party<sup>19</sup>.

In isolated cases there was no action taken by TECs in the matters relating to registration or cancellation of registration of candidates. For example, on October 2, 2015, the CEC adopted a decision on early termination of powers of the whole composition of Slovyansk city election commission due to its failure to adopt a decision on registration or refusal to register city head candidate Vadym Lyakh, who was nominated by the local cell of the Opposition Bloc party. Later on, the CEC was forced to invalidate the TEC decisions twice following the denial of registration of candidate nominated by the local cell of the Opposition Bloc party. Moreover, Slovyansk city election commission did not specify the provisions of Article 46 of the Law of Ukraine on Local Elections (concerning the grounds for refusal to register a candidate), which formed the basis for adopting the aforesaid decision.

In the course of observation campaign, OPORA created a list of the most high-profile cases/issues related to the registration of candidates. They are listed in the table under the title "The most controversial TEC decisions on registration or refusal to register candidates at the regular local elections in Ukraine". Meanwhile, a detailed description of such

<sup>19</sup> This TEC decision was based on the complaint of the local cell of the Serhiy Tihipko's party Strong Ukraine, which filed a report on violations committed by the Opposition Bloc party in the procedure for nominating candidates with regard to the deadline for notification about the date, time and place of holding a party meeting (conference) for the purpose of the nomination of candidates. On October 8, 2015, the Central Election Commission adopted decision #404 on invalidation of the aforesaid decision of Energodar city election commission and emphasized the need for strict compliance with the electoral legislation, while ensuring the exercise of electoral rights by the citizens of Ukraine in the process of preparation and holding local elections.

cases can be found in one of OPORA's interim reports based on the results of observation at the 2015 regular local elections<sup>20</sup>.

## *The most controversial TEC decisions on registration or refusal to register candidates*

ELECTIONS	PROBLEM CONTENT	METHOD OF SOLUTION
Elections of deputies of Kharkiv oblast council	Candidates nominated by a local cell of the Opposition Bloc party were denied registration by a TEC.	CEC adopted its own decision on registration of candidates from the nomination list of local cell of the Opposition Bloc party, while refusing to register number one on the list of nominees Mykhailo Dobkin and two other candidates.
Election of city head of Slovyansk (Donetsk oblast)	Inaction of Slovyansk city election commission on registration of candidate for city head Vadym Lyakh (Opposition Bloc) with further adoption of TEC decision on denial of registration.	CEC adopted its own decision on registration of Vadym Lyakh (Opposition Bloc) as a candidate for city head.
Elections of deputies of Kherson city council and election of city head of Kherson	Kherson city election commission adopted a decision on denial of registration of Volodymyr Saldo (Nash Krai) as a candidate for city head and candidate for deputy at the same time. The election commission also ignored relevant court judgments on the matter.	CEC adopted its own decision on registration of Volodymyr Saldo as a candidate for city head of Kherson and candidate for deputy of Kherson city council.
Elections of deputies of Cherkasy city council	Cherkasy city election commission adopted a decision on denial of registration of 12 candidates nominated by the local cell of the Party of Free Democrats. Later on, the TEC cancelled registration of all candidates included in the nomination list of the local cell of the Party of Free Democrats. This included Serhiy Odarych, their candidate for head of Cherkasy city administration.	Cherkasy city election commission complied with the CEC decision and registered candidates for deputies of city council nominated by the local cell of the Party of Free Democrats as well as restored Serhiy Odarych's registration as a candidate for city head.
Elections of deputies of Dnipropetrovsk city council	Several local party cells (Democratic Alliance, Vidrodzhennya, Socialists and others) were denied registration of their candidates for deputies in a multi-mandate election constituency following the decision adopted by Dnipropetrovsk city election commission. The same election commission also refused to register candidates for city head nominated by the Vidrodzhennya and Socialists political parties.	The decisions of Dnipropetrovsk city election commission were invalidated by judicial means, which resulted in restoration of official registration of candidates nominated by the aforementioned local party cells.
Elections of deputies of Novy Rozdil city council (Lviv oblast)	Novy Rozdil city election commission adopted a decision on denial of registration of candidates included in the nomination list of the local cell of the Konkretnyh Sprav party. Furthermore, the TEC was inactive in terms of complying with the court judgments.	Candidates nominated by the local cell of the Konkretnyh Sprav party were officially registered following intervention by the CEC, including in the form of early termination of powers of TEC members.

<sup>20</sup> [oporaua.org/novynyj/9257-promizhnyj-zvit-za-rezultatamy-sposterezhennja-opory-na-miscevyh-uyborah-25-zhovtnja-2015-r#rezonans](http://oporaua.org/novynyj/9257-promizhnyj-zvit-za-rezultatamy-sposterezhennja-opory-na-miscevyh-uyborah-25-zhovtnja-2015-r#rezonans)

In some cases, legal conflicts and electoral disputes relating to the registration of candidates at the regular local elections resulted in violation of the term of production of ballot papers. The Law of Ukraine On Local Elections provides for the production of ballot papers for the elections of deputies of oblast, raion, and city councils and the elections of city heads no later than ten days before Election Day at the regular local elections (on or before October 14, 2015). Meanwhile, ballot papers for the elections of deputies of city, village, and township councils and the elections of city, township, and village heads were to be produced no later than five days before Election Day (on or before October 19, 2015). In several cases, these deadlines were not met<sup>21</sup>.

Legal uncertainty in the application of gender quotas in nomination lists and the corresponding appeals against TEC decisions on registration or cancellation of registration of candidates destabilized the process of approval of the text to be printed on ballot papers. In particular, such a situation occurred at the election of deputies of Ivano-Frankivsk oblast council, including appellate review of court decisions on non-compliance of local party cells with provisions of the Law on inclusion of at least 30% of candidates of the same sex in the nomination list.

## *Activity of Local Party Cells Concerning Nomination of Candidates*

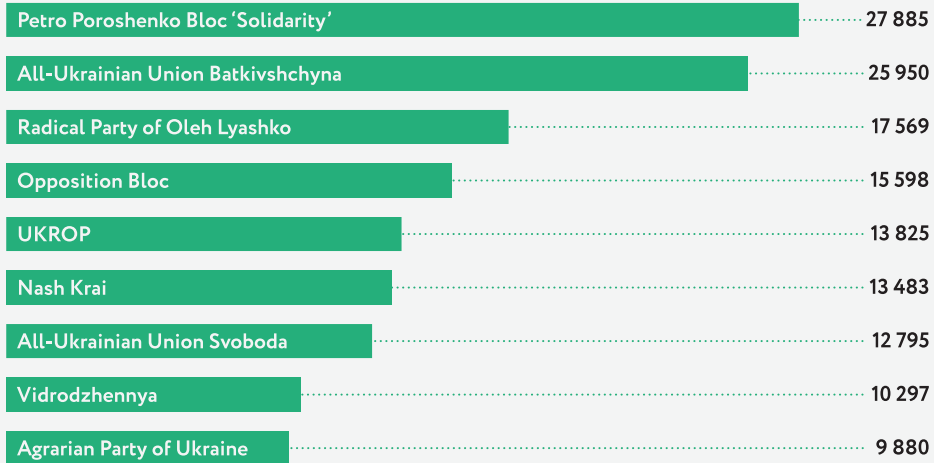
The Civil Network OPORA's research findings testify that the right to nominate candidates at the elections of deputies of oblast, raion, city, and city raion councils was exercised by 122 out of 142 political parties, which adopted a decision on participation of their local cells in the elections in compliance with the current statutory requirements.

In general, 122 political parties, whose local cells nominated candidates at the local elections, can be divided into four main groups. The first group is comprised of political parties that, in fact, conducted nationwide election campaigns (9 parties). The second group consists of political parties with limited regional representation or, in other words, parties that nominated their candidates not in all regions and macro regions (17 parties). The third group is made up of political parties that participated in the local elections only within the boundaries of certain regions or certain group of territorial communities (51 parties). Finally, the fourth group is comprised of local party cells that participated in the elections only within the boundaries of certain territorial communities (45 parties).

<sup>21</sup> In particular, problems with production of ballots were experienced by Kharkiv oblast election commission, Cherkasy city election commission, Odesa oblast election commission, Nova Vodolaha raion election commission in Kharkiv oblast, Baryshevska and Ivankiv raion election commissions in Kyiv oblast, Pervomaisk city election commission and several territorial election commissions, as a consequence of court appeals against the decisions on candidate registration.



## Political parties, which nominated the largest number of candidates



The following political parties are the leaders in terms of the total number of candidates for deputies that were nominated by their local cells at the elections of oblast, raion, city, and city raion councils: the Petro Poroshenko Bloc 'Solidarity', the All-Ukrainian Union Batkivshchyna, the Radical Party of Oleh Lyashko, the Opposition Bloc party, the Ukrainian Association of Patriots – UKROP, Nash Krai, the All-Ukrainian Union Svoboda, Vidrodzhennya, and the Agrarian Party of Ukraine.

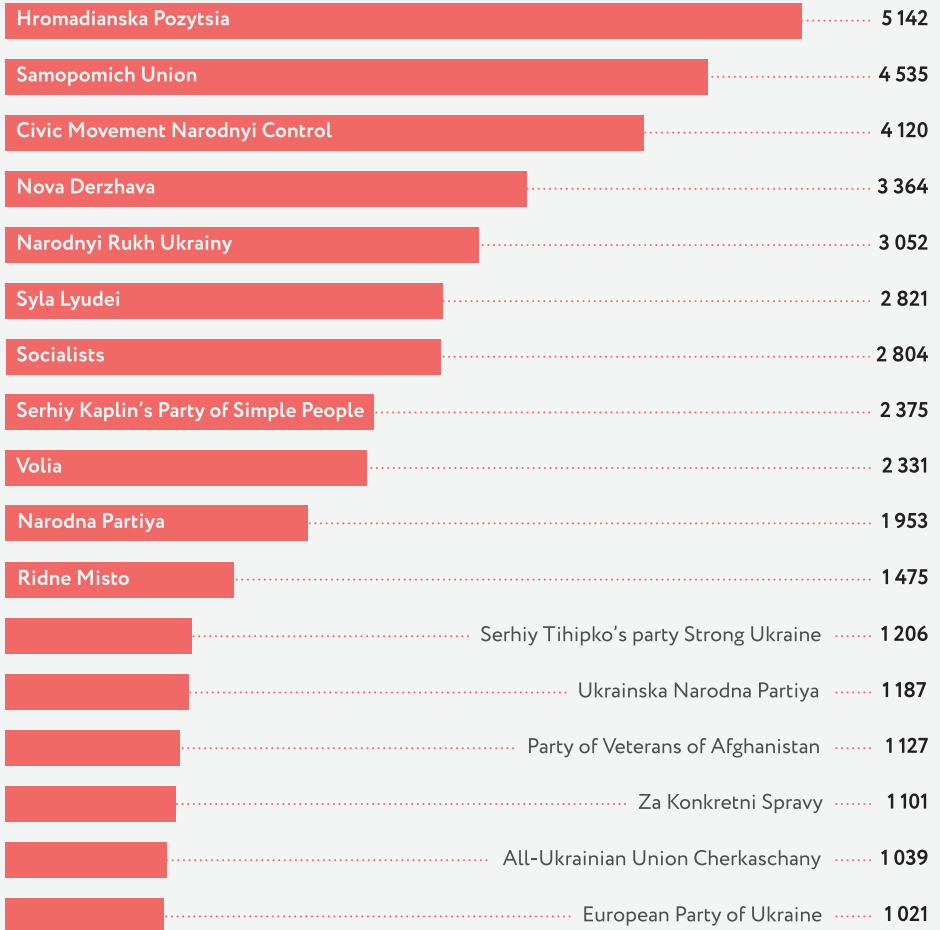
The total number of candidates included in the nomination lists of local cells of 9 most active political parties ranged from 10 thousand (Agrarian Party of Ukraine) to almost 28 thousand (Petro Poroshenko Bloc 'Solidarity') nominees.

17 more political parties nominated from 1 to 5 thousand candidates at the elections of deputies of oblast, raion, city, and city raion councils.

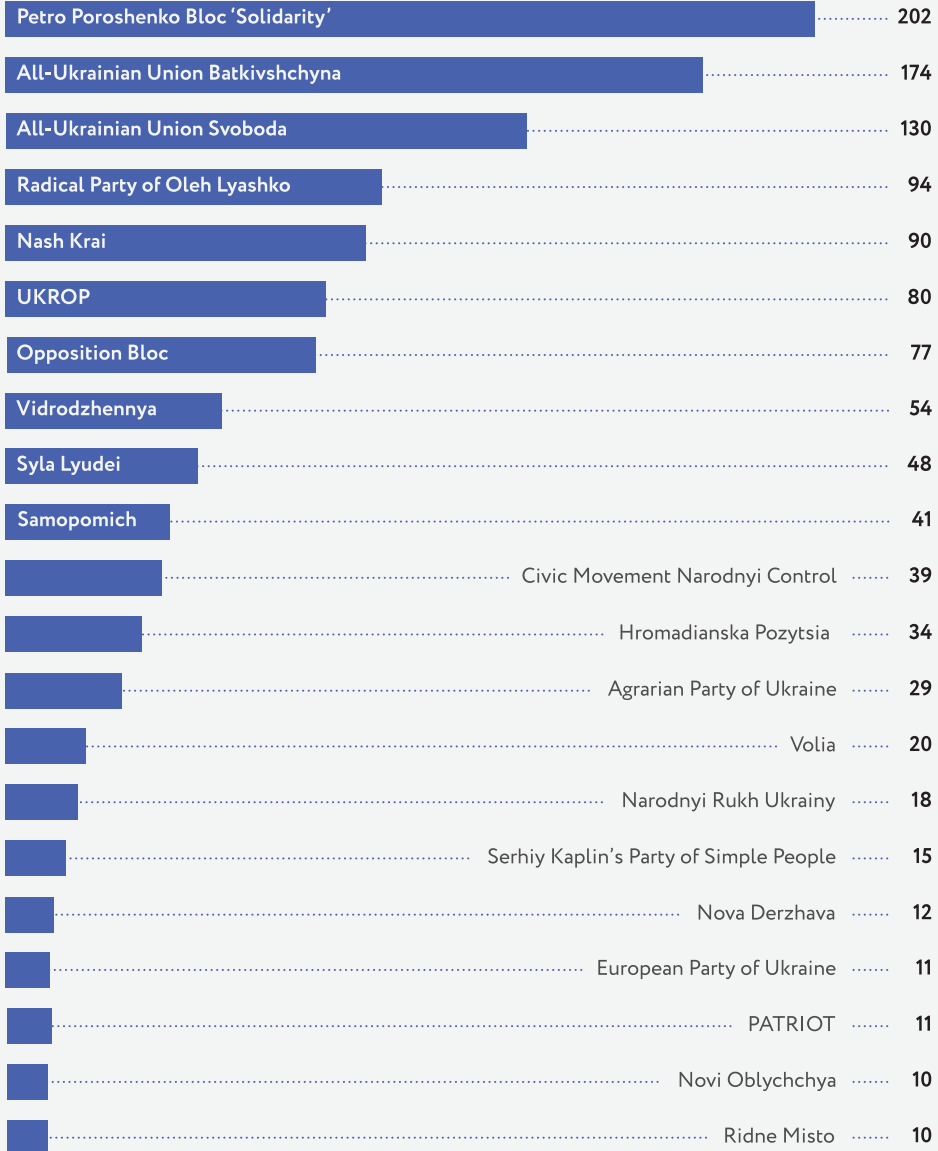
96 political parties (their local cells) nominated less than 1000 candidates at the elections of deputies of oblast, raion, city, and city raion councils. Furthermore, 45 of these parties nominated less than 100 candidates at the corresponding elections.

The largest number of candidates at the elections of city heads was nominated by local party cells of the Petro Poroshenko Bloc 'Solidarity', Batkivshchyna, and Svoboda. Nominees of these parties competed for the office of city head in more than 100 cities of Ukraine (overall, the city head elections were held in 358 cities of oblast and raion significance).

## Parties with the largest number of candidates nominated by their local cells



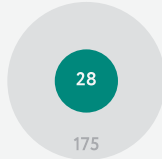
## Political parties, which nominated the largest number of candidates



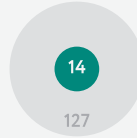
# Total number of unaffiliated candidates, nominated by parties\*



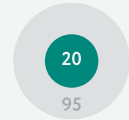
**PPB 'Solidarity'**  
48%



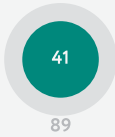
**Batkivshchyna**  
16%



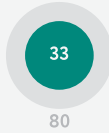
**Svoboda**  
11%



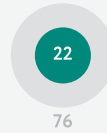
**Radical Party**  
21%



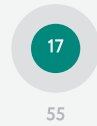
**Nash Krai**  
46%



**UKROP**  
41%



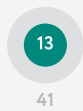
**Opposition Bloc**  
13%



**Vidrozhennya**  
31%



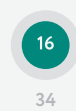
**Syla Lyudei**  
21%



**Samopomich**  
32%



**Narodnyi Control**  
33%



**Hromadianska Pozytisia**  
47%



**Agrarian Party**  
31%



**Volia**  
50%

\* parties that nominated the largest number of candidates for city heads

At the same time, the majority of candidates for city head (55%) did not belong to any political party. Meanwhile, 79% of self-nominated candidates at the city head elections were non-partisans.

Non-partisan candidates were actively nominated by local party cells. In particular, the largest portions of non-party candidates for city head were registered by the local cells of the Petro Poroshenko Bloc 'Solidarity' (48%), All-Ukrainian Union Batkivshchyna (16%), and All-Ukrainian Union Svoboda (11%).

Local party cells showed different level of interest in participating at the local elections within the boundaries of different regions. In particular, the Petro Poroshenko Bloc 'Solidarity' nominated the largest number of candidates among all parliamentary parties in multi-mandate election constituencies of all macro-regions of Ukraine, except the Donbas region, where the largest number of candidates was nominated by Opposition Bloc. Regional representation of other parliamentary parties has its own peculiarities. The information on distribution of political parties' nominees by macro-regions of Ukraine can be found in thematic material of the Civil Network OPORA<sup>22</sup>.

<sup>22</sup> [oporaua.org/novyny/8985-sered-parlamentskyh-partij-lbpp-solidarnistr-lidyruje-u-vsih-makroregionah-za-kilkistju-kandydativ-okrim-donbasu](https://oporaua.org/novyny/8985-sered-parlamentskyh-partij-lbpp-solidarnistr-lidyruje-u-vsih-makroregionah-za-kilkistju-kandydativ-okrim-donbasu)



#6

**ACTIVITY  
OF CENTRAL  
ELECTION  
COMMISSION**

## *Description of Powers and Authority*

At the 2015 local elections the CEC oversaw the observance and uniform application of the legislation, adopted decisions on clarification of application of the Law of Ukraine on Local Elections binding for all parties to the electoral process and government authorities, prescribed the forms of election documents, formed oblast, raion, city (in cities of oblast significance and Kyiv), and Kyiv city raion election commissions. The scope of authorities of the CEC also included registration of official observers representing foreign and international organizations, granting permissions to non-governmental organizations to have their official observers at the local elections. According to the Law of Ukraine on Local Elections and the Law of Ukraine on Central Election Commission, in the event of adoption of unlawful decisions by the territorial election commissions or their inaction the CEC had the authority to invalidate such a decision and/or approve the corresponding decision on its own initiative.

The new version of the Law of Ukraine on Local Elections stipulated the performance of several activities by the CEC within its scope of authority prior to the elections. In particular, the CEC was obliged to establish the procedure for placing, returning, and transferring the funds of the monetary deposit<sup>23</sup>, determine and publish on its official website the monetary deposit amounts for each of the multi-mandate constituencies and the nationwide single-mandate election constituency<sup>24</sup> based on the information from the State Register of Voters, receive a prior consent of the National Bank of Ukraine to the procedure for opening and closing the electoral fund accounts<sup>25</sup>, publish the information about the number of registered voters in each city and the electoral system under which the city head elections are conducted on the official website as well as in the national and local media. Furthermore, prior to the beginning of election process the CEC adopted a decision on determining the number of territorial single-mandate constituencies to be formed by TECs for the purpose of organization of the elections of deputies of local councils. In addition, before the official beginning of the election process the local party cells nominated their candidates for members of TECs the formation of which falls within the scope of authority of the CEC.

Given the impossibility of organizing the elections in certain areas of Donetsk and Luhansk oblasts, the CEC adopted decisions on impossibility of holding regular elections of deputies in specific raion, city, city raion, village, and settlement councils of Donetsk and Luhansk oblasts as well as city head elections in the corresponding villages, settlements and cit-

<sup>23</sup> The CEC Decision #171 as of August 10, 2015, on the procedure for placing, returning, and transferring the funds of monetary deposit at the local elections [cvk.gov.ua/pls/acts/ShowCard?id=41028](http://cvk.gov.ua/pls/acts/ShowCard?id=41028)

<sup>24</sup> The CEC Decision #170 as of August 10, 2015, on the monetary deposit amount at the regular local elections [cvk.gov.ua/pls/acts/ShowCard?id=41270](http://cvk.gov.ua/pls/acts/ShowCard?id=41270)

<sup>25</sup> The CEC Decision #183 on finalization and approval of amendments to the procedure for opening and closing the electoral fund accounts [cvk.gov.ua/pls/acts/ShowCard?id=41065](http://cvk.gov.ua/pls/acts/ShowCard?id=41065)



ies on October 25, 2015. These decisions concerned the state-controlled territories of the Donetsk and Luhansk regions, while according to the resolution of the Verkhovna Rada of Ukraine #645-VIII as of July 17, 2015, On appointment of the regular elections of deputies of local councils and the elections of city heads of villages, settlements, and cities in 2015 the regular local elections were not scheduled in certain raions, cities, settlements, and villages of Donetsk and Luhansk oblasts which are located in the areas with special procedure for local self-government and are recognized as temporarily occupied territories.

The final list of state-controlled population centers of Donetsk and Luhansk oblasts, in which the regular local elections were not held, was established by the CEC on the grounds of submissions made by Donetsk and Luhansk oblast civil-military administrations. The CEC, in order to carry out its function effectively, previously adopted a Clarification on determination of specific raion, city, city raion, settlement, and village councils of Donetsk and Luhansk oblasts for which there is no possibility of holding the regular elections<sup>26</sup>. It should be noted that the corresponding Clarification provided CEC members with no practical mechanisms for verification of submissions made by the civil-military administrations. Therefore, all submissions of civil-military administrations, without exception, were taken into account by the Central Election Commission.

## *Main Areas of Activity of the CEC at the Regular Local Elections in Ukraine*

Between August and December 2015 the CEC adopted 475 decisions, 433 of which are directly related to the organization and holding of local elections.

Most of the decisions concerned consideration of requests of non-governmental organizations for obtaining permission to have official observers at the local elections (96 decisions). 83 non-governmental organizations received authorization to have official observers, while the requests of 13 organizations were denied by the CEC.

The CEC adopted 50 decisions on replacements in the composition of TECs, and each of these decisions could concern an unlimited number of persons subject to the inclusion or exclusion from the relevant commission (quantitative data concerning rotation of the commission members can be found in the "Activities of territorial election commissions" section of this report). Decisions on registration of official observers representing foreign countries

<sup>26</sup> The CEC Decision #176 as of August 11, 2015 on Clarification concerning determination of specific raion, city, city raion, settlement, and village councils of Donetsk and Luhansk oblasts for which there is no possibility of holding the regular elections of deputies, heads of cities, settlements, and villages, as well as the first elections of deputies of village, settlement, and city councils of the united territorial communities and heads of the corresponding cities, settlements, and villages on October 25, 2015 [evk.gov.ua/pls/acts/ShowCard?id=41004](http://evk.gov.ua/pls/acts/ShowCard?id=41004)

and international organizations are ranked third in the general list of adopted decisions. A total of 141 observers representing foreign countries and 1,531 observers representing international organizations were registered by the CEC.

The CEC adopted 30 decisions following the examination of complaints filed by the local cells, candidates, and voters. At the same time, the CEC has left 28 complaints without consideration on the merits due to non-conforming subject which filed a complaint, filing a complaint for consideration by a non-conforming subject, or failure to comply with the deadlines for complaints. Only one complaint was upheld, while the other one was upheld only partially.

The mechanism of filing complaints with the CEC did not become a common way of resolving disputes in the local elections. It should be noted that the decision, act or inactivity of the territorial election commission, which establishes the results of the relevant local election, as well as the decision, act or inactivity of its members can be appealed in court. Moreover, a complaint about inactivity of the territorial election commission, which establishes the results of the relevant local election, can also be submitted to the Central Election Commission. Thus, complaints about the decisions and acts of the TECs and its members which were submitted to the CEC, for the most part, could not produce any results for the parties to the election process.

At the same time, local party cells and candidates made a practice of submitting requests to the CEC asking to contribute to the protection of voting rights. In accordance with Article 16 of the Law of Ukraine on Central Election Commission, the Commission may, on its own initiative, bring up an issue and adopt a corresponding decision if it becomes aware of any violation of the election law. Meanwhile, a request submitted to the CEC can contain an appeal asking to contribute to the exercise of voting rights, provide consultative and methodological assistance or recommendations for the preparation and conduct of elections and referenda, give explanations on application of the election law of Ukraine, etc. (Clause 1 of Section 3 of Article 14 of the Law of Ukraine on Central Election Commission).

According to the OPORA specialists' research, four requests were submitted to the CEC during the period of election process. Following the examination of request submitted by the regional organization of the Opposition Bloc party in Kharkiv oblast, the decision of Kharkiv oblast election commission on refusal to register candidates for deputies of oblast council nominated by this political force was invalidated. Meanwhile, as a result of the examination of request of the Kharkiv oblast organization of the Darth Vader Bloc party the CEC obliged the Kharkiv oblast election commission to execute the court judgment on registration of candidates nominated by this political force.

Following the examination of request of the local cell of the Opposition Bloc party, the CEC invalidated the decision of Energodar city election commission in Zaporizhzhya oblast

concerning registration of candidates for deputies of Energodar city council and a candidate for city head. Meanwhile, the CEC did not find any grounds for establishing a fact of single-event infringement of the Constitution of Ukraine and breach of legislation on the part of Odesa oblast election commission following the examination of request of the Vidrodzhennya party.

During the election process, the Central Election Commission adopted 28 decisions, which invalidated the decisions of TECs and/or laid TECs under an obligation to address certain issues and adopt decisions on the merits.

The CEC resolutions concerning revision of Slovyansk city election commission decision on refusal to register a candidate for city head Vadym Lyakh nominated by the Opposition Bloc party, Cherkasy city election commission decisions on refusal to register candidates for deputies nominated by the Party of Free Democrats, improper execution of court judgment and CEC decisions on this issue by Cherkasy city election commission, Mariupol city election commission decision on replacement of senior executives of the four city raion election commissions, Krasnoarmiisk city election commission decision on refusal to revoke the decision on registration of certain candidates nominated by the local cell of the Opposition Bloc party sparked a massive public outcry.

The CEC also invalidated several decisions of Kherson city election commission concerning the refusal to register Volodymyr Saldo as a candidate for city head and deputy of city council. The decisions of Kharkiv oblast election commission concerning refusal to register candidates for deputies of oblast council nominated by the local cell of the Opposition Bloc party also caused conflict situations and were invalidated by the CEC on multiple occasions.

Taking into consideration the fact that preparation for the voting process in Krasnoarmiisk and Mariupol was politicized at the regular local elections on October 25, 2015, the CEC revised a number of decisions of corresponding city election commissions and placed them under an obligation to perform certain actions on the organization of the electoral process. For example, on October 23, 2015, the CEC laid Mariupol city election commission under an obligation to assign at least three of its members for receiving the ballot papers and on October 23, 2015, it established the fact of unlawful inactivity of the Mariupol city election commission with regard to the case of failing to receive the ballots. Meanwhile, on the day of voting at the regular local elections on October 25, 2015, the CEC invalidated the decision of Krasnoarmiisk city election commission on the impossibility of using the already printed ballot papers and placed the TEC under an obligation to immediately deliver the ballots to the polling stations of the city. Despite the CEC intervention, the local elections in Krasnoarmiisk and Mariupol (Donetsk oblast) due on October 25 were undermined. After failing to enable voters of Krasnoarmiisk and Mariupol to exercise their voting rights, the CEC invalidated the decisions of TECs, which declared the local elections void.

## ***Distribution of CEC decisions by subject matter***

<b>#</b>	<b>SUBJECT MATTER OF THE DECISION</b>	<b>NUMBER OF DECISIONS</b>
1	Granting permissions to non-governmental organizations to have their official observers	96
2	Replacing members of the territorial election commissions	50
3	Registration of official observers representing foreign countries and international organizations	45
4	Decision based on the results of examination of complaints filed by electoral process subjects	30
5	Clarification of the legislation on local election	32
6	Invalidation of TEC decisions/placing TECs under an obligation to perform certain actions	28
7	Determining the procedure for the exercise of powers and the election procedures	24
8	Decisions relating to election financing	21
9	Approval of forms (templates) of election documents <sup>i</sup>	14
10	Introducing changes to the list of regular and special polling stations which were created on a permanent basis	13
11	Early termination of office of the whole TEC	13
12	Formation of a new TEC (due to early termination of office of the TEC)	10
13	Decision aimed at ensuring compliance with legislation on local elections (appeal to the law enforcement agencies and to the parties to the electoral process, informing them about the importance of fulfilling the requirements of the laws)	8
14	Setting regulatory requirements (equipment and material procurement, etc.)	6
15	Approval of local election schedule and other documents related to election process scheduling	6
16	Registration of candidates by the decision of the CEC	5
17	Determining the territorial communities of Donetsk and Luhansk oblasts in which it is impossible to organize the election process	4
18	Calling of the first election	4
19	Decision concerning territorial constituencies at the local elections	4
20	Decision based on the results of examination of requests (appeals) submitted by parties to the electoral process	4

21	Decision based on the results of examination of requests (appeals) submitted by TECs	5
22	Decision concerning organization and conduct of local elections in Krasnoarmiisk and Mariupol	4
23	Formation of TECs, adjustments to the text of corresponding decision	2
24	Decision on CEC appeal to the state government bodies	2
25	Recommendations to parties to the electoral process	1
26	Decision on the list of political parties and local cells which participate in the election	1
27	Registration of a representative of a local party cell in the TEC composition by the decision of the CEC	1

In connection with the establishment of the facts of gross violation of law, the CEC adopted 13 decisions on early termination of powers of the TECs (Slovyansk, Kherson, Mariupol, Krasnoarmiisk, Novy Rozdil (Lviv oblast), and Cherkasy city election commissions, Kharkiv oblast election commission, Vasytkiv raion election commission (Kyiv oblast), Vita Poshtova village election commission in Kyievo-Svyatoshynskiy raion (Kyiv oblast), Runivschyna village election commission in Poltava raion (Poltava oblast), Salyvonky village election commission in Vasytkiv raion (Kyiv oblast), Mizhhiria village election commission in Mizhhiria raion (Zakarpattya oblast).

Taking into consideration the inactivity of TECs or establishment of the fact of violation of the law on their part, the CEC adopted five decisions on registration of candidates at the local elections. This refers to the candidate for Slovyansk city head Vadym Lyakh (Opposition Bloc), candidate for city head of Kherson and candidate for deputy of Kherson city council Volodymyr Saldo (Nash Krai), candidates for deputies of Kharkiv oblast council included in the candidates list of the local cell of the Opposition Bloc party. At the same time, the CEC adopted a decision on refusal to register Mykhailo Dobkin who is ranked first in the list of candidates for deputies of Kharkiv oblast council nominated by the local cell of the Opposition Bloc party as well as two other candidates for deputies assigned to territorial election constituencies.

In the presence of significant loopholes in the legislative regulation of the electoral process, the CEC put a lot of effort into clarifying the provisions of the Law of Ukraine on Local Elections and established implementing rules for certain procedures. Between August and December 2015, the CEC adopted 32 Clarifications of provisions of the laws on local elections and established 24 implementing rules for electoral procedures (including introduction of amendments to these documents). In addition, the CEC adopted 14 special decisions on approval of forms (templates) of election documents.

In the context of adoption of the Law of Ukraine on special aspects of holding regular elections of deputies of Krasnoarmiisk city council, city head of Krasnoarmiisk (Donetsk oblast), deputies of Mariupol city council, and city head of Mariupol (Donetsk oblast) scheduled for October 25, 2015, the CEC adopted 4 decisions aimed at regulating the special considerations relating to organization and conduct of elections in these cities on November 29, 2015.

## *Key Problems in CEC Activity*

While giving credit to the CEC for its efforts regarding rapid response to the problems in TECs activity and elimination of legal loopholes in the Law of Ukraine on Local Elections, OPORA points out the following problems in CEC activity at the regular local elections:

### **1. Low-level legitimacy of the CEC decisions in the public perception due to expiration of the term of office of the CEC members.**

According to Section 8 of Article 6 of the Law of Ukraine on Central Election Commission, the CEC members hold office for a term of seven years. The resolution of the Verkhovna Rada of Ukraine On the appointment of members of the Central Election Commission, which concerned the majority of current members of the CEC, was adopted by the Parliament on June 1, 2007. Therefore, their term of office has expired on June 1, 2014. Consequently, 12 out of 15 current members of the CEC have exceeded their terms of office at the time of holding the local elections. At the same time, termination of powers of the CEC members results from the adoption of decision on their dismissal from office by the Verkhovna Rada of Ukraine, rather than on the grounds of expiration of their term of office, as provided by amendments to the Law of Ukraine on Central Election Commission as of March 13, 2014, which were adopted in order to ensure stable preparation for the early Presidential elections in Ukraine. Therefore, the extension of the term of office of the CEC members was a lawful process. However, this fact had a significant negative effect on the legitimacy of the CEC decisions in the public perception.

The law on Central Election Commission establishes a clear procedure for appointing its members. The Verkhovna Rada of Ukraine appoints and dismisses the CEC members from office upon the recommendation of the President of Ukraine with due consideration given to the proposals of parliamentary factions and groups formed in the current convocation of the Verkhovna Rada of Ukraine. Prolonged inactivity of the Verkhovna Rada of Ukraine and the President of Ukraine in relation to rotation of the CEC members resulted in the formation of questioning attitude toward the legal position of the Central Election Commission among the subjects to the electoral process and encouraged election participants to politicize and contest the activities of the CEC.

## **2. Questionable legal position of the CEC on regulation of special considerations for conducting a pre-election campaign in Krasnoarmiisk and Mariupol prior to Election Day at the regular local elections scheduled for November 29, 2015.**

On November 19, 2015, the CEC adopted a Clarification on certain issues of application of the Law of Ukraine on Local Elections in the process of preparation and organization of voting at the regular elections of deputies of city councils and city head elections in Krasnoarmiisk and Mariupol.

Clause 8 of this Clarification stipulates that election campaigning prior to Election Day on November 29, 2015, at the election of deputies and city heads shall not be conducted. The corresponding Clause of the Clarification was invalidated by decision of the Kyiv Administrative Court of Appeal following the complaint filed by a group of People's Deputies of Ukraine and candidates for deputies and city heads at the corresponding local elections.

The court declared unlawful and invalidated Clause 8 of the CEC Clarification on certain issues of application of the Law of Ukraine on Local Elections in the process of preparation and organization of voting at the regular elections in Krasnoarmiisk and Mariupol (legal case reference #875/69/15). The court decision stated that the Law of Ukraine on Local Elections establishes a unified approach concerning the beginning and the end of the pre-election campaign, which "fully conforms to the principle for conducting democratic elections in terms of equal suffrage enshrined in the Constitution". Furthermore, the court drew attention to the judgment of the European Court of Human Rights in the case of "Bowman against the United Kingdom" concerning the relationship between free elections and freedom of expression.

According to the OPORA specialists' research, the CEC decision on election campaigning restrictions prior to the Election Day at the regular local elections in Krasnoarmiisk and Mariupol had questionable legal status. As previously noted in the OPORA's special statement, the CEC decision was adopted in the context of de facto resumption of election campaigning in Mariupol and Krasnoarmiisk after October 25, 2015. Provision of Clarification concerning the prohibition on conducting the election campaign prior to Election Day on November 29th was adopted under the conditions of legal uncertainty that made its practical implementation unrealistic. Moreover, the CEC Clarification could defy the principle of equal opportunity for all candidates in a situation where only some of them would abide by the restrictions while the others would not do that, since there were no effective sanctions against Clarification violators provided for by the existing legislation<sup>27</sup>.

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<sup>27</sup> [oporaua.org/novyny/41789-promizhnyi-zvit-za-rezultaty-spостerezhennia-na-cherhovyykh-mistsevykh-vyborakh-u-mistakh-mariupol-ta-krasnoarmiisk-donetskoj-oblasti](http://oporaua.org/novyny/41789-promizhnyi-zvit-za-rezultaty-spостerezhennia-na-cherhovyykh-mistsevykh-vyborakh-u-mistakh-mariupol-ta-krasnoarmiisk-donetskoj-oblasti)

### **3. Questionable legitimacy of CEC Clarification on application of particular provisions of the Law of Ukraine on Local Elections adopted in the process of ascertaining the results of city head elections (Decision #515 as of October 27, 2015).**

In the corresponding Clarification, the CEC emphasized that the second round of elections of city heads will not be held in case of inclusion of less than 90,000 voters in the registers of voters at the polling stations, and this fact may be discovered even after Election Day. However, OPORA made a special statement in which it stressed that designating the information about the number of voters included in the registers of voters at the polling stations of the corresponding city as grounds for adoption of a TEC decision on holding second round of elections shows evidence for lawmaking, rather than legislative clarification of provisions of the Law of Ukraine on Local Elections. According to Section 7 of Article 2 of the Law of Ukraine on Local Elections, information about the number of voters having their registered voting address within the territory of each city, as well as the electoral system, under which the elections of city heads are held, must be published on the official website of the CEC as well as in the national and/or relevant local media no later than 5 days before the beginning of the election process as of August 1, 2015. Therefore, voters and other electoral subjects should have been informed about the application of absolute majority voting system at the elections of city heads in advance subject to the applicable laws. In fact, the CEC Clarification provided for possible change of electoral system applied at the elections of city heads even after Election Day and thus violated the principle of legal certainty, which is one of the basic elements of the rule of law and the key feature of the law-governed state. It is to be recalled that according to the Law of Ukraine on Local Elections, city head elections in cities with 90,000 registered voters or more are held on the basis of an absolute majority principle.

It should be noted that the CEC Clarification on the application of certain provisions of the Law of Ukraine on Local Elections in the process of tabulation of votes at the city head elections was invalidated by the decision of the Supreme Administrative Court of Ukraine.

**4. Under the conditions of instability of the electoral law the CEC not only had to interpret certain provisions of legislation using its Clarification, but, in fact, also accept the lawmaking responsibility of the Parliament, as was the case with ensuring the principle of gender quotas in the lists of candidates nominated by political parties or establishing the procedure for seat allocation with the inclusion of first-placed nominee in this process while there was no clear legal certainty on this issue.**

The CEC stated in its Clarification (Decision #362 as of September 23, 2015) that refusal to register candidates for deputies in multi-mandate constituency at the elections of deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, raion, city, and city raion councils on the grounds of non-compliance with the provision of the law concerning representation of persons of the same sex in the electoral lists of candidates for deputies



of local councils is unacceptable. This Clarification of the CEC was based on the fact that gender quotas weren't included in the list of reasons for refusal to register a candidate for deputy, candidate for head of village, settlement or city, a candidate for starosta of village or settlement nominated at the local elections, as provided by Section 1 of Article 46 of the Law. At the same time, Clause 3 of this Clarification emphasizes that Section 1 of Article 46 of the Law sets out an exhaustive list of grounds for refusal to register a candidate.

Meanwhile, on the day before the end of official registration of candidates at the local elections the Kyiv Administrative Court of Appeal adopted two polar opposite decisions on the CEC Clarification relating to impermissibility of refusal to register candidates in the event of violation of provision of the law on gender quotas committed by the local party cell in the process of compiling a list of candidates. However, the CEC Clarification remained unchanged and binding on all parties based on the results of judicial examination of appeals.

According to the OPORA specialists' research, ambiguity in the law as well as the presence of the CEC Clarification and two polar opposite court decisions on the day before the end of registration of candidates resulted in varying interpretations of the Law of Ukraine On Local Elections concerning gender quotas in nomination lists made by different territorial election commissions. In turn, the CEC Clarification and relevant court decisions on declarativity of gender quotas in the process of compiling the nomination lists and registration of candidates placed a question mark over the effectiveness of Ukrainian legislation and its binding character. On top of that, politicians informed the society in detail about the progressiveness of provision of the new Law of Ukraine on Local Elections concerning adherence to gender quotas in the process of drawing up a list of candidates. Meanwhile, recognition of declarative and non-binding nature of certain provisions of the Law by the CEC and the courts partially undermined voters' positive expectations of election process.

Furthermore, Clause 6 of the CEC Clarification concerning announcement of results of elections of deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, raion, city, city raion councils in multi-mandate constituencies (Decision #356 as of September 21, 2015) stipulates that the first deputy mandates are awarded to the first-placed candidates in the nomination lists of local parties cells which gained the right to participate in the allocation of council seats (candidates for deputies who are not assigned to particular territorial constituencies), followed by candidates for deputies assigned to territorial election constituencies. It should be noted that the Law of Ukraine on Local Elections does not contain a well-defined provision on awarding a deputy mandate to the first-placed candidates in the nomination lists of local party cells which cleared the electoral threshold in the multi-mandate constituency. Thus, the CEC prescribed a rule for awarding deputy mandates to the first-placed candidates in the nomination lists in an imperative manner. However, under the conditions of legal uncertainty it would make sense to settle this issue in TECs or on the basis of court appeals.



#7

**ACTIVITY OF  
TERRITORIAL  
ELECTION  
COMMISSIONS**

A total of 10,619 territorial election commissions were created at the regular local elections in Ukraine, 89% of which were village election commissions (9,126). The duties related to organization and conduct of local elections were performed by 22 oblast election commissions, 146 city election commissions (in cities of oblast significance), 462 raion and 83 city raion election commissions, 213 city election commissions (in cities of raion significance), 567 township election commissions, and 9,126 village election commissions. The election commission of the Autonomous Republic of Crimea, Donetsk and Luhansk oblast election commissions, Sevastopol city election commission, and territorial election commissions in certain areas of Donetsk and Luhansk oblasts were not created due to the fact of the temporary occupation of part of the territory of Ukraine.

The Law of Ukraine on Local Elections determined two subjects of formation of TECs. Firstly, the CEC had the duty to form oblast and raion election commissions (except for the raions of the Autonomous Republic of Crimea), city election commissions (in cities of oblast significance, in Kyiv and Sevastopol), and city raion election commissions in Kyiv no later than 48 days before Election Day. Secondly, raion and city election commissions were obliged to appoint the composition of other TECs no later than 42 days before Election Day. Among the powers of raion election commissions was the duty to appoint city (in cities of raion importance), village, and settlement election commissions. In the case of division of cities into raions, relevant city election commissions had the duty to form city raion election commissions<sup>28</sup>.

If the territory of the city included other city, township or village, city election commissions appointed corresponding city, township or village election commissions. Thus, formation of more than 10 thousand territorial election commissions was carried out in two stages. The CEC appointed nearly 6% of all TECs, while the remaining TECs were formed by raion and city election commissions. The law designates the issue of formation of TECs in the cities of national significance and raion election commissions in the Autonomous Republic of Crimea as the duty of the election commission of autonomy. However, these election commissions were not formed due to non-conduct of elections on the Crimean Peninsula.

According to the Law of Ukraine on Local Elections, the composition of TECs shall include the head, deputy head, secretary, and other members of the commission totaling no less than nine persons and no more than eighteen persons. The following subjects had the right to nominate their candidates for members of the election commissions: 1) local party cells, provided that the announcement of the formation of parliamentary faction of such political party was made at the first regular session of the Verkhovna Rada of Ukraine of current convocation (no more than two nominated candidates); 2) local party cells registered in the corresponding administrative territorial unit in accordance with the procedure established by law (no more than one nominated candidate). Furthermore, candidates nominated by local

<sup>28</sup> City raion election commissions in Kyiv were appointed by the CEC.

cells of those political parties, which have parliamentary factions in the Verkhovna Rada of Ukraine, were included in the composition of TECs in a mandatory manner, while nominees of local cells of other political parties were subject to a random procedure of drawing lots.

Consequently, local cells of 6 parliamentary political parties (Petro the Poroshenko Bloc 'Solidarity', the All-Ukrainian Union Batkivshchyna, the People's Front party, the Opposition Bloc party, the Samopomich Union, and the Radical Party of Oleh Lyashko) de jure gained additional benefits in the process of formation of TECs (each local cell of parliamentary political party was authorized to nominate a maximum of 3 candidates). These subjects of nomination could achieve representation in TECs within the mandatory "quota" and also had the opportunity to participate in the random procedure of drawing lots.

## *CEC Authority over the Formation of TECs*

According to the conclusions of Civil Network OPORA, the CEC appointed 640 election commissions, which were responsible for preparation and conduct of local elections on October 25, 2015, in full compliance with the legislative deadlines and procedures. The procedure for the formation of TECs included random drawing of candidates who were nominated by local party cells, but were not included in the composition of relevant TECs in a mandatory manner. The draw procedure, which was approved by the CEC Decision #163 as of August 10, 2015, included compiling alphabetical lists of candidates for each TEC (together with an indication of ranking number of each candidate)<sup>29</sup>.

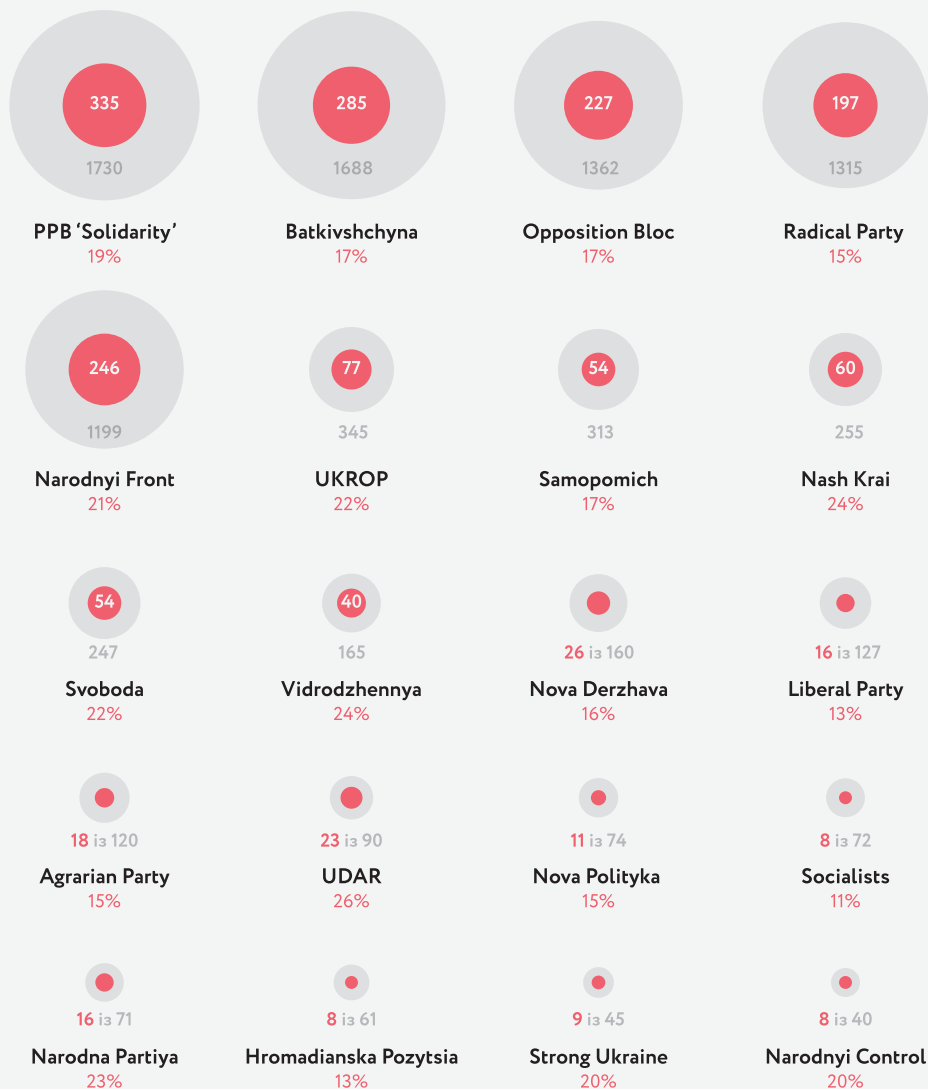
The draw procedure was conducted with the use of drum and lots with ranking numbers written on them in accordance to the list of candidates who could be included in the composition of TECs based on the results of the draw. The number of lots was equal to the largest number of candidates nominated for inclusion in the composition of TECs. The order of priority of inclusion of candidates in the composition of territorial election commissions was determined by the procedure of drawing lots.

Based on the results of the draw and consideration of candidates submitted by six parliamentary parties, the largest number of seats in the territorial election commissions was won by the Petro Poroshenko Bloc 'Solidarity' (1,730 members of TECs), the All-Ukrainian Union Batkivshchyna (1,688 members of TECs), the Opposition Bloc party (1,362 members of TECs), the Radical Party of Oleh Lyashko (1,315 members of TECs) and the People's Front party (1,199 members of TECs).

The law did not set out any requirements for proportional distribution of each category of executive positions in the composition of territorial election commissions. However, there

<sup>29</sup> [cuk.gov.ua/pls/acts/ShowCard?id=41125](http://cuk.gov.ua/pls/acts/ShowCard?id=41125)

# TEC members representing political parties, who hold executive positions\*



\* parties with the largest number of representatives in the composition of TECs

is an operative provision of law whereunder candidates appointed to the position of head, deputy head, and secretary of the territorial election commission shall represent different subjects of nomination. Furthermore, if two or three persons representing the local cell of one and the same political party were included in the composition of a TEC, they cannot be simultaneously appointed to the executive positions in such election commission.

In absolute terms, the largest number of executive positions in the territorial election commissions, formed by the CEC, was taken up by the representatives of the Petro Poroshenko Bloc 'Solidarity' (335 persons), the All-Ukrainian Union Batkivshchyna (285 persons), the People's Front party (246 persons), the Opposition Bloc party (227 persons), and the Radical Party of Oleh Lyashko (197 persons).

On average, the ratio of the number of executive positions taken up by representatives of political parties to the total number of their representatives in TECs is 23% (calculations were carried out for 20 parties that won the largest number of seats in TECs). Representatives of "UDAR" party achieved the highest ratio of executive positions to the overall representation in the composition of TECs – 34%. Vidrozhennya and Nash Krai have 32% and 31% ratios correspondingly.

Civil Network OPORA conducted a research of gender composition of TECs (formed by the CEC), which gave evidence of dominance of women in the election commissions of territorial level. The ratio of women to men was 74.5% to 25.5%, while at the previous local elections the women-to-men ratio was 68% to 32%. From a region-wise perspective, the highest women-to-men ratio was recorded in Kherson (82% to 18%) and Kirovohrad (80 % to 20%) oblasts, while the lowest ratio was recorded in Kyiv (55% to 45%) and Zakarpattya (58% to 42%) oblasts. Women also held a larger share of the executive positions in the composition of TECs: the majority of heads (71%), deputy heads (69%), and secretaries (87%) of the election commissions were women.

The average age of members of TECs was 47 years old. From a region-wise perspective, the lowest average age of TEC members was recorded in Kyiv (41 years old), the highest average age of TEC members was recorded in Kherson oblast (51 years old). In terms of political party representation, the youngest members of TECs were nominated by Civic Movement Narodnyi Control (average age – 40 years old), the oldest members of TECs were nominated by Nova Derzhava party (average age – 58 years old).

## *The Powers of TECs in Respect of Formation of Other Election Commissions*

Territorial election commissions, formed by the CEC, were obliged to appoint the composition of other election commissions of territorial level. Civil Network OPORA did not record a significant number of violations of election law in the process of formation of city (in

cities of raion significance), city raion (except Kyiv), township, and village election commissions. At the same time, low interest in formation of territorial election commissions of this level, shown by local party cells, became a serious problem. On the one hand, this can be explained by insufficient staffing of local offices of political parties, whose representatives could not fill a large number of election commission seats. On the other hand, local party cells showed greater interest in ensuring their representation at the level of oblast, raion, and city (in cities of oblast significance) election commissions.

If and to the extent that candidates for members of territorial election commission aren't nominated within the timeframe established by the legislation or in the event that less than 9 persons are proposed for inclusion in the territorial election commission, candidates for members of a TEC shall be nominated by the head of relevant election commission upon the proposals of its members (section 17 of article 22 of the Law of Ukraine on Local Elections). Lack of candidates for members of the territorial election commissions nominated by local party cells, forced the election commissions, which were responsible for appointing them, to search for appropriate candidates on their own. This problem was particularly apparent at the level of village and township TECs.

Due to personnel deficiency and other problems, some TECs failed to form city (in cities of raion significance), village, township, and city raion election commissions within the timeframe established by the legislation. In particular, the time limits for formation of corresponding TECs were breached by Novoselytsya raion election commission (Chernivtsi oblast), Shatsk raion election commission (Volyn oblast), and some other election commissions. There were also isolated violations in the process of submission of applications for the nomination of candidates for TEC members by local party cells. For example, Novomykolaivka raion TEC, which formed TECs in villages, townships, and cities (in the cities of raion significance), failed to comply with deadlines for granting an application submitted by a local cell of the Petro Poroshenko Bloc 'Solidarity' for the inclusion of its representatives in the composition of a TEC.

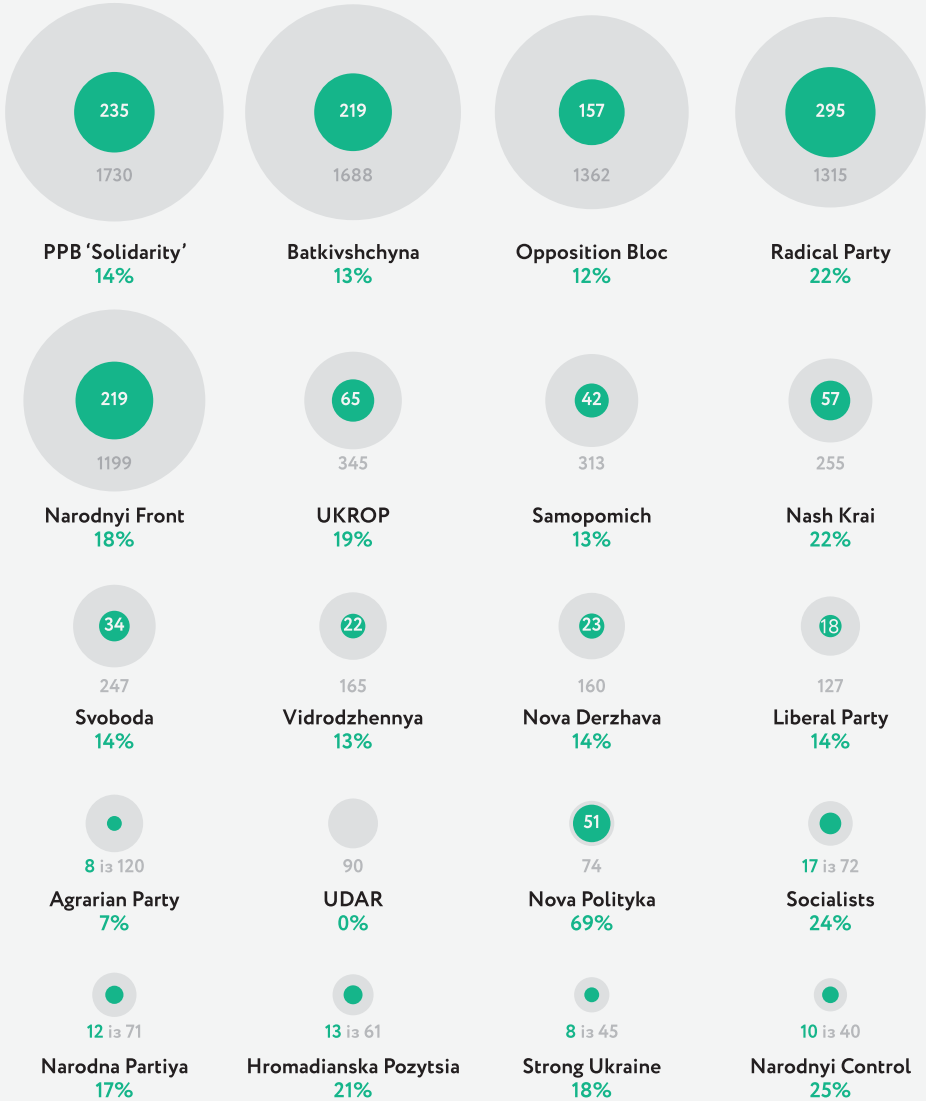
## *Turnover of Members of TECs*

During the period of election process Civil Network OPORA was monitoring replacements (rotations) of members of TECs that were formed by the decision of the CEC. According to the experience of previous elections at different levels, excessive turnover rate in the composition of election commission creates formidable difficulties in its activities. First of all, it refers to cancelling out the effect of centralized training of members of the election commission who are being replaced by untrained personnel. In addition, high turnover rate often leads to conflicts and ineffective actions in commission operations.

In contrast to the territorial election commissions that were formed for holding Parliamentary elections in 2014, TECs formed in 2015 regular local elections had a more stable composition.



# New faces in the total number of TEC members nominated by political parties\*



\*parties with the largest number of representatives in the composition of TECs

According to OPORA's estimates, about 50% of all members of TECs were replaced at the early elections of People's Deputies of Ukraine in 2014. Meanwhile, TEC member turnover rate in 2015 regular local elections (in oblast, raion, and Kyiv city raion election commissions, as well as city election commissions in the cities of oblast significance and Kyiv city election commission) was only about 16%. The total number of replacements in the respective territorial election commissions amounted to 1,657 out of 10,540 TEC members. A much more stable composition of TECs formed at the local elections, as compared to the territorial election commissions in Parliamentary elections, can be explained by higher level of motivation to select quality personnel for permanent (rather than temporary) election commissions.

Among 20 political parties with the largest number of representatives in TECs (which were formed), the highest turnover rates were recorded for those political forces, which had smaller representation in TECs. For example, local cells of Nova Polityka party replaced nearly 70% of its representatives in TECs. Furthermore, the highest turnover rate among parliamentary political parties was recorded for the Radical Party of Oleh Lyashko (22.43% of its TEC members were replaced), while the lowest turnover rate was recorded for All-Ukrainian Union Batkivshchyna (12.97% of its representatives in TECs were replaced).

Problems with recruitment of TEC personnel faced by local party cells were highlighted by the fact that nearly 10% of members of the newly formed TECs at the regular local elections were absent at the first meetings of relevant commissions. The continued practice of nomination of unmotivated persons was observed at the stage of formation of election commissions with further gradual replacement of its members. This fact gives evidence of the problem of insufficient management and training of potential members of the commissions conducted by political parties in the inter-election period, which often forces parties to search for candidates for members of the election commissions in an emergency order.

The time schedule of regular local elections stipulates that TECs shall perform the following core duties:

### **1. Creation of territorial and single-mandate election constituencies.**

Particularities of the Law of Ukraine on Local Elections and the inability of the CEC to ensure centralized control resulted in occurrence of widespread abnormal cases of deviation of the total number of voters in territorial election constituencies. In some situations, the TECs failed to create election constituencies within the timeframe established by the legislation (see section of the report under the title "Creation of election constituencies at the regular local elections").

### **2. Registration of candidates at the regular local elections.**

Unequal application of the law by different territorial election commissions, the political bias of members of the election commissions in the matters related to registration of candidates, failure to comply with the time limits established by law were the key challenges in the pro-

cess of nomination and registration of candidates (see section of the report under the title "Nomination and registration of candidates").

### **3. The powers of TECs in respect of formation of PECs.**

According to section 1 of article 23 of the Law of Ukraine on Local Elections, the precinct election commission shall be formed by raion, city (in cities of oblast, republican significance in the Autonomous Republic of Crimea without division into raions), and city raion territorial election commission no later than 15 days before Election Day (on or before October 9) and shall be composed of head, deputy head, secretary, and other members. Furthermore, section 2 of the same article stipulates that the precinct election commission shall consist of the following number of members: in the case of small-sized polling stations – 10-14 members; in the case of medium-sized polling stations – 12-16 members; in the case of large polling stations – 14-18 members. At the polling stations having no more than 50 registered voters the PECs can be composed of the head, secretary, and 2-4 other members of the commission.

According to the law, the following subjects are authorized to nominate candidates for members of precinct election commissions: a local party cell, provided that the announcement of the formation of parliamentary faction of such political party was made at the first regular session of the Verkhovna Rada of Ukraine of current convocation; local party cells, whose candidates for deputies were registered in multi-mandate election constituencies; candidates for deputies in single-mandate election constituencies; candidates for heads of village, township, or city. The above-mentioned subjects could exercise their right to nominate candidates no later than twenty days before Election Day (on or before October 4, 2015). Furthermore, they had the right to nominate no more than one candidate for member of each of the precinct election commissions.

Candidates for members of precinct election commissions should undergo the procedure of drawing lots no later than five days after the deadline for the nomination of candidates for membership in PECs. Furthermore, candidates nominated by the local cells of those political parties, which announced formation of Parliamentary factions at the first regular session of the Verkhovna Rada of Ukraine of current convocation, are not subject to the procedure of drawing lots. Candidates representing such subjects of nomination were automatically included in the composition of each of the precinct election commissions on the grounds of submitted applications and their compliance with the requirements of the Law of Ukraine on Local Elections.

The CEC Decision #291 as of September 14, 2015, established the Draw Procedure for inclusion of candidates in the composition of precinct election commissions at the elections of deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, raion, city, city raion, village, and township councils, elections of heads of cities, townships, villages, and

elections of heads of villages and townships. Under this Procedure, the number of seats in the election commissions, allocated by way of drawing lots, shall be determined by calculating the difference between the maximum allowable number of members of the relevant precinct election commission and the number of candidates included in the precinct election commission in a mandatory manner. The draw procedure shall be carried out, if the number of nominated candidates who meet the requirements of the Law and have the right to be included in the corresponding precinct election commission by way of drawing lots is larger than the number of vacant seats in a PEC, in respect of which this draw procedure is carried out. Furthermore, section 7 of article 23 of the Law of Ukraine on Local Elections stipulates that the head, deputy head, and secretary of the precinct election commission shall be representatives of different subjects of nomination.

Civil Network OPORA recorded the following special features of formation of PECs:

- Formidable difficulties in ensuring sufficient number of candidates for members of PECs nominated by local party cells or individual candidates. Precinct election commissions were most commonly formed with the inclusion of minimum allowed number of members, while PECs with maximum allowed number of members were observed only in the administrative centers of oblasts or big cities, for the most part. For example, all PECs in Rozhysche and Lokachi raions of Volyn oblast included minimum permissible number of members. In Ivano-Frankivsk oblast, each TEC encountered a problem when the number of nominated candidates for members of PECs was not enough for the formation of minimum allowed composition of precinct election commissions. There were quite widespread cases, in which the total number of nominated candidates for election commission members was below the minimum limit. In such cases, heads of TECs nominated candidates for members of PECs to arrange for appointment of minimum required composition of relevant commissions. Local organizations of political parties quite massively ignored the opportunity for the nomination of candidates for members of PECs.
- Isolated cases of breach of time limits for the nomination of candidates for members of precinct election commissions or non-compliance with deadlines for drawing of lots and formation of PECs.
- TECs showed maximum loyalty to local party cells when considering their applications for the nomination of candidates for PEC members with respect to compliance with laws, given the insufficient number of nominated candidates. At the same time, TECs were obliged to turn down those candidates for PEC members who had no right to vote in these local elections (article 21 of the Law of Ukraine on Local Elections). Such cases were recorded in Kominternivsky raion of Kharkiv, Beryslav raion of Kherson oblast, Mukachevo city of Zakarpattya oblast, as well as in other cities and raions.
- The standard problem with the so-called clones or, in other words, persons who gave their consents to be members of PECs, while simultaneously representing different subjects of

nomination, or persons who were nominated as candidates for membership in several PECs at one and the same time. The TECs either were adopting decisions on exclusion of clones from all nomination lists, or asked clones to withdraw one of several nominations. Such propositions, made by territorial election commissions, were motivated by the fact that it was difficult to appoint the majority of PECs even in the case of inclusion of minimum allowed number of PEC members.

As can be seen from the above, a large portion of political parties avoided taking responsibility for the formation of PECs in 2015 regular local elections, thus trying to save their financial and other resources. Waiver of right to form PECs on the part of some of the local party cells disorganized precinct election commissions' operations to some extent, since formation of PECs with the inclusion of minimum required number of members resulted in excessive workload for each member of the election commission. However, low level of motivation to take part in the activities of PECs was also observed among citizens due to the lack of systematic interaction between political parties and their supporters, insufficient financial incentives for PEC members on the part of the state, and public fears of possible prosecution for potential violations of electoral law.

Meanwhile, in cities with 90,000 registered voters or more, where second round of voting at the city head elections was to be held, TECs were obliged to form new compositions of precinct election commissions (on or before November 9). For this purpose the PECs were formed on the basis of applications submitted by candidates who participated in the second round of city head election, and in the case of absence of sufficient number of nominees – such application was submitted by the head of the TEC upon the proposals of its members. According to OPORA, the TECs, with some exceptions, complied with the time limits for formation of new composition of PECs. At the same time, in several cities candidates failed to nominate sufficient number of persons for inclusion in the composition of PECs, forcing members of TECs to resolve this problem by themselves.

In some cases, gaps and discrepancies in the electoral legislation created difficulties for TECs in the process of exercise of their powers in respect of formation of PECs in the second round of elections. In particular, the election legislation provides for the formation of PECs composed of the head, deputy head, secretary, and members of the election commission. At the same time, the election legislation does not establish a clear procedure for deployment of three executive positions in the composition of PECs in the second round of election usually involving only two candidates. In response to inconsistencies in election legislation the CEC adopted a Clarification on certain issues of preparation and conduct of second round of elections of deputies of village and township councils, heads of villages, townships, cities, and heads of villages and townships (Decision #524 as of November 3, 2015). Under Clause 6 of this Clarification each candidate for city head (in cities with 90,000 thousand registered voters or more), included in the ballot paper for voting in the second round of election, is entitled

to a proportionate share of each category of executive positions in the composition of PECs separately for small-, medium-, and large-sized polling stations created within the boundaries of one single-mandate election constituency<sup>30</sup>.

#### 4. Adoption of text and production of ballot papers.

Cases of court appeals resulted in material breach of legally stipulated time limits for registration of candidates, which, in its turn, led to non-compliance with the deadlines for adoption of text of ballot papers and production thereof<sup>31</sup>. At the same time, these problems were largely determined by organizational difficulties. A large portion of local companies failed to comply with the terms of production of ballot papers, and there were also quite widespread problems with delay of funding at the corresponding stage of the election process. For example, violation of contract by enterprises-producers in terms of ballot paper production time, their heavy workload, and government funding delays prevented nearly all of the territorial election commissions in Kyiv oblast from complying with statutory period. Due to improper interpretation of statutory period, Ochakiv and Yuzhnoukrainsk city election commissions in Mykolaiv oblast (cities of oblast significance) failed to ensure production of ballot papers within the established period. In Zhytomyr oblast, all territorial election commissions, except one, failed to arrange for timely production of ballot papers or were deliberately refusing to accept them from the enterprises-manufacturers due to absence of appropriate storage conditions.

Under the conditions of ignored public proposals on enhancing control procedures in the process of production of ballot papers, electoral subjects in different cities and regions expressed their concerns about conformity of total number of printed ballots with the law, proper invalidation of defective ballots and safe storage of ballot papers (for example, in Ternopil, Nizhyn (Chernihiv oblast), etc.).

In some cases, there was a requirement for production of new ballots instead of those with discrepancies due to mistakes made in the process of adoption of the text of ballot paper. For example, a mistake in the content of ballot papers was made at the election of Zakarpattia oblast council. The name of a local cell of the Samopomich party was indicated in the ballot instead of the name of a local cell of the Samopomich Union. The total number of printed bal-

<sup>30</sup> Activities of some TECs in this aspect of electoral procedures were accompanied by difficulties. For example, Lutsk city election commission in the process of deployment of executive positions initially did not take into account the existence of position of a deputy head of a PEC. However, the election commission rectified this mistake by itself later on. Furthermore, the PEC located in Kramatorsk (Donetsk oblast) failed to adhere to the principle of proportionality in the process of deployment of executive positions in the composition of PECs separately for each type of polling station small-, medium-, and large-sized. Following several complaints filed by electoral subjects and personal intervention from the CEC member the previously mentioned violation, committed by the TEC, was rectified and the executive positions in the composition of PECs were deployed in accordance to the CEC Clarification.

<sup>31</sup> Problems with adoption of the text of ballot papers and their further production occurred due to the judicial review of contested decisions on registration of candidates in Odesa oblast election commission, Nova Vodolaha raion election commission in Kharkiv oblast, Baryshivka and Ivankiv raion election commissions in Kyiv oblast, Pervomaisk city election commission, Krasnoarmiisk city election commission in Donetsk oblast, and several other territorial election commissions. A delay in production of ballot papers in Berdyansk (Zaporizhzhya oblast) occurred due to the court decision on repeat drawing of lots concerning assignment of ranking numbers to local party cells in the ballot paper. Time limits for adoption of the text of ballot papers were also breached in the election of the head of Korosten' (Zhytomyr oblast).

lots at the election of deputies of Zakarpattia oblast council amounted to 958,981 copies. On October 21, 2015, in response to this situation the CEC allocated additional funds of subvention received from the State Budget of Ukraine among local budgets for the purpose of preparation and conduct of elections of deputies of Zakarpattia oblast council (949,400 UAH).

In some cases, the process of production of ballots was accompanied by high-profile political standoffs and continuous legal battles that affected the overall level of credibility of electoral process. Proneness to conflict in the activity of TECs undermined the regular local elections due on October 25, 2015, in the cities of Mariupol and Krasnoarmiisk (Donetsk oblast).

In Mariupol, appointment of enterprise-manufacturer of ballot papers became a political, rather than organizational problem of the election. Some subjects of electoral process expressed their distrust of printing house of “Pryazovskiy Robochiy” newspaper, which was chosen for printing ballot papers, due to alleged conflict of interests faced by its actual owner during elections. The corresponding conflict between TEC members undermined the regular local elections due on October 25, 2015, and forced the Verkhovna Rada of Ukraine to adopt a special Law on conduct of regular local elections on November 29, 2015.

Meanwhile, territorial election commission in Krasnoarmiisk (Donetsk oblast) adopted a decision on acceptance of ballots printed by individual entrepreneur, but failed to adopt a decision on transfer of ballot papers to the precinct election commissions for the purpose of organization of voting process on October 25, 2015. The printed ballot papers were declared unsuitable for use in the voting process at the regular local elections<sup>32</sup>.

In addition to the above-mentioned problems, several territorial election commissions were characterized by excessive politicization of their activities, which prevented them from effectively performing assigned duties and responsibilities. In particular, a conflict between the head, secretary, and the majority of members of Dnipropetrovsk city election commission over replacement of members of city raion election commissions and precinct election commissions on Election Day in the second round of city head election posed a serious threat to the legality of the electoral process in general. On the eve of disruption of election due on October 25, 2015, and on the eve of Election Day due on November 29, 2015, the activity of Mariupol city election commission was conflict-prone and excessively politicized. It was discovered that representation quotas of some political parties were used for the benefit of other political parties in the majority of territorial election commissions.

<sup>32</sup> In its decision, Krasnoarmiisk city election commission referred to the judgment of the Donetsk district administrative court as of October 25, 2015, in a case #805/4737/15-a. In the corresponding judgment the Donetsk district administrative court invalidated the decision of Krasnoarmiisk city election commission concerning the appointment of an individual entrepreneur as a printer of ballot papers, but didn't uphold other claims of an electoral subject plaintiff concerning the placement of the city election commission under an obligation to refrain from transferring the ballot papers to precinct election commissions and ensure the production of new ballot papers. In its decision the Donetsk district administrative court ruled that the appointment of an individual entrepreneur as a printer of ballot papers was illegal, since according to the court opinion only a business entity created in the legal form of enterprise can be a printing establishment. On October 25, 2015, this court decision was affirmed by appeals instance.





#8

**ACTIVITY  
OF PRECINCT  
ELECTION  
COMMISSIONS**

The Law of Ukraine on Local Elections envisages the use of ordinary and special polling stations (only those that were formed in the territory of stationary health care institutions). These polling stations shall function on a regular basis in accordance with the Law “On Elections of People’s Deputies of Ukraine”.

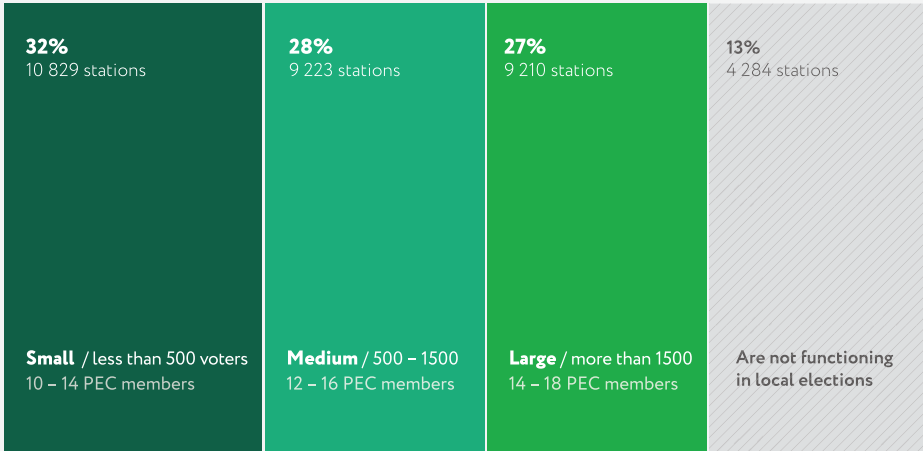
Given the impossibility of organizing elections in the Autonomous Republic of Crimea, Sevastopol, and certain areas of Donetsk and Luhansk oblasts, as well as non-participation of convicted individuals in the elections, a total of 29,262 polling stations were formed at the 2015 regular local elections.

There was a high turnover rate among members of precinct election commissions that were formed for holding regular local elections on October 25, 2015. Lack of motivation to carry out the duties among members of PECs, formation of significant number of PECs with the inclusion of minimum allowed number of members, and identification of facts of violation of legislative requirements concerning PEC members’ eligibility to vote at the relevant local elections resulted in large-scale turnover of PEC members and, consequently, destabilized the work of these collective bodies. The intensity of replacement of members in the composition of PECs varied between regions, but this problem manifested itself almost in every territorial community. For example, according to OPORA’s estimates, approximately 60% of original members of PECs were replaced as on the eve of Election Day at the regular local elections held on October 25, 2015, in the city of Berdyansk (Zaporizhzhya oblast). Furthermore, 25% of original members of PECs were replaced in Pechenihiy raion of Kharkiv oblast.

Major deficiencies in PEC staffing were also recorded on the eve of Election Day in the second round of city head elections held on November 15, 2015. This problem was exacerbated by the fact that all PECs were to be formed by only two city head candidates in the cities where second round of city head election was held. In several cities, city head candidates failed to submit sufficient number of representatives for their inclusion in the composition of PECs, which forced members of TECs to resolve this problem themselves. For example, candidate for city head of Chernivtsi Vitaly Mykhailishyn (nominated by the local cell of the Ridne Misto party) failed to submit more than 200 representatives for membership in the PECs. Furthermore, candidate for city head of Mykolayiv Olexandr Syenkevych (Samopomich Union) submitted 116 fewer representatives for membership in the PECs than his rival – self-nominated candidate Ihor Dyatlov did.

Despite some difficulties in the process of setting up authorized compositions of PECs, OPORA did not record any cases of large-scale disruption of activities of relevant election commissions. As a general matter, PECs failed to meet deadline for sending (or delivering by other means) personal invitations to the voters. Meanwhile, legislative requirement concerning the delivery of personal invitations to the voters was fulfilled in general. OPORA observers recorded isolated facts that give evidence of violation of law-stipulated ban on participation of PEC members in pre-election campaigning. At the same time, there were no major violations recorded in the activity of PECs on the eve of Election Day on October 25, 2015, and November 15, 2015.

## Regular polling stations, their size and quantity



### *Organization of Elections on October 25, 2015*

Comprehensive monitoring of PECs activity at the regular local elections, which was conducted on the basis of effective sample, revealed minor violations of the law in 24.1% of all polling stations (margin of error is 2.3%). Meanwhile, more serious violations were recorded in 2.3% of all polling stations located in the cities where second round of city head election was held.

Monitoring results broken down by cities, in which OPORA conducted election observation at all polling stations, show that minor violations were recorded in 40% of all polling stations located in Odesa and Dnipropetrovsk, and in 23% of all polling stations located in Kharkiv. More serious violations of the law were detected in 2.1% of all polling stations located in Dnipropetrovsk, in 1.9% of all polling stations located in Odesa, and in 1.7% of all polling stations located in Kharkiv.

Based on the results of election observation at the polling stations, Civil Network OPORA observers arrived at the conclusion that these scarce violations were neither systematic nor pre-planned. At the same time, the recorded violations were typical for different regions and

levels of local elections. Some of them resulted from the lack of organizational coordination in the activities of PECs, while the others were politically motivated.

On October 25, 2015, 17.7% of all precinct election commissions throughout Ukraine started their preparatory meetings before 07:15 AM. From a perspective of individual cities, in which OPORA conducted parallel vote counting, the share of PECs that started their preparatory meetings ahead of time is somewhat smaller than in Odesa (11.3%) and Dnipropetrovsk (11.5%), while in Kharkiv this value coincided with the national average. These cases gave evidence of violation of the Law of Ukraine on Local Elections which made it clear that the preparatory meetings of PECs shall start no earlier than 45 minutes before the beginning of voting process.

OPORA found no evidence of conduct of illegitimate preparatory meetings on October 25, 2015, which proves the ability of PECs to meet quorum requirements even under the conditions of severe personnel deficiency. At the same time, up to 6.5% of all precinct election commissions did not keep minutes of their preparatory meetings. Apart from very few exceptions, observers did not record any cases of disappearance or absence of official seals of PECs.

According to election observation results, more than 15.5% of all polling stations opened for voting before or after the prescribed time (October 25, 08:00 AM). 1% of all OPORA observers reported that election commission members did not provide them with an opportunity to conduct full-fledged observation of all election procedures during the morning meeting and at the beginning of voting process. Furthermore, 3% of OPORA observers pointed out some organizational problems and commission of acts on the part of election commission members, which closed the door on the presence of observers at the polling stations and made it impossible to conduct unobstructed election observation.

**The following problems in the activity of PECs were recorded during Election Day:**

- Attempts to issue (or receive) a ballot paper without a document which certifies the identity of a citizen (such cases were recorded in 17.7% of all polling stations throughout Ukraine). From a perspective of individual cities, in which OPORA conducted parallel vote counting process, attempts to issue/receive a ballot paper without presenting a valid passport were recorded far less frequently: such cases were recorded in 2.5% of all polling stations in Kharkiv, 2.2% of all polling stations in Odesa, and in 1.9% of all polling stations in Dnipropetrovsk;
- Cases of violation of the vote secrecy, which manifested itself in the disclosure of information about the result of expression of will by the voter and filling in the ballot papers outside the voting booths, were recorded in 7.5% of all polling stations throughout Ukraine. Such cases were most often recorded in Odesa (15.7% of all polling stations) and Dnipropetrovsk (13.8% of all polling stations), while in Kharkiv the share of such violations coincided with the national average (recorded in 7.5% of all polling stations).

- Cases of taking photos of ballot papers were recorded in 1.9% of all polling stations throughout Ukraine. However, in Odesa and Dnipropetrovsk such cases were recorded far more often: in 13.5% and 11.9% of all polling stations correspondingly. In Kharkiv, cases of ballot paper photographing were recorded in 3.2% of all polling stations.
- Attempts of ballot-box stuffing were recorded in 1.5% of all polling stations across Ukraine. Meanwhile, in Dnipropetrovsk and Odesa such incidents were recorded in 3.7% and 2.5% of all polling stations correspondingly. In Kharkiv, cases of ballot-box stuffing were recorded in only 1% of all polling stations<sup>33</sup>.
- Furthermore, OPORA representatives reported about obstructions and limitations on the part of the election commissions, which deprived them of the opportunity to monitor all of the election procedures. As of 20:00 PM on Election Day, such cases were recorded in 1.7% of all polling stations throughout Ukraine and in 2.3% of all polling stations in Dnipropetrovsk. In Odesa and Kharkiv, observers were unable to monitor all of the election procedures in only 0.8% of all polling stations. In addition, isolated cases of depriving voters of the opportunity to cast ballots were recorded.

OPORA observers recorded a number of significant organizational problems and serious violations that accompanied the process of vote tabulation at the polling stations and transportation of election documents from PECs to TECs.

Incorrect drawing up of vote counting protocols with large-scale errors (discrepancy in quantities, blank sections of protocols, incorrect rounding of numbers, inadmissible corrections, etc.) was a key problem for PECs. Furthermore, TECs were sending the vote counting protocols back to the polling stations for the purpose of revision due to improper drawing up or packaging of election documentation on numerous occasions. Multi-level electoral system and the procedure for establishing the election results, as prescribed by law, led to the fact that recounting of votes at one of the polling stations caused delay in vote tabulation within the entire election constituency.

## *Organization of Elections on November 15, 2015*

According to OPORA estimates, violations of the law on local elections were not large-scale, systematic or centrally orchestrated on Election Day of the second round of city head elections in 29 cities. OPORA observers recorded a reduction in the number of violations in activities of the election commissions and other electoral subjects on November 15, 2015, as compared with Election Day at the regular local elections held on October 25, 2015. PECs

<sup>33</sup> [oporaua.org/novymy/9864-zajava-shehodo-promizhnyh-rezultativ-sposterezhenija-za-chergovymy-miscevymy-vyboramy-2015-roku](http://oporaua.org/novymy/9864-zajava-shehodo-promizhnyh-rezultativ-sposterezhenija-za-chergovymy-miscevymy-vyboramy-2015-roku)

were mostly acting at an adequate organizational level, while the majority of voters were provided with necessary conditions for the practical implementation of the right to vote.

At the same time, a conflict between the head, secretary, and majority of members of Dnipropetrovsk city election commission over replacement of members of city raion and precinct election commissions in during Election Day in the second round of city head election created serious problems in terms of organization of voting process. In particular, Civil Network OPORA observers recorded cases of participation of persons in the activities of precinct election commissions, whose credentials were not duly confirmed as a result of the conflict at the level of city election commission.

The results of OPORA's representative observation showed that the number of violations recorded by OPORA's observers, in particular attempts to issue/receive ballot papers without presenting a valid passport decreased from 17.8% to 0.8% throughout Ukraine as compared with Election Day on October 25, 2015. Meanwhile, cases of violation of the vote secrecy in the second round of elections became somewhat more common as compared with Election Day at the regular local elections (such cases were recorded in 9.2% and 7.5% of all polling stations correspondingly).

Just like in the first round of elections, slightly more than 1% of all OPORA observers pointed out that PECs did not provide them with opportunities for full-fledged monitoring of all election procedures during the morning meeting and at the beginning of voting process.

Cases of violation of the vote secrecy, which manifested itself in the disclosure of information about the results of expression of will of citizens, were most often recorded by OPORA observers on November 15. Such cases were recorded in 9.2% of all polling stations throughout Ukraine. By comparison, in the first round of elections such incidents were observed in 7.5% of all polling stations.

## *Organization of Elections in Krasnoarmiisk and Mariupol (Donetsk Oblast)*

In Krasnoarmiisk and Mariupol (Donetsk oblast) PECs had to organize the voting process on November 29, 2015, due to disruption of elections on October 25, 2015. On the eve of Election Day scheduled on November 29, 2015, no new compositions of PECs were formed in Mariupol and Krasnoarmiisk, but instead the existing members of PECs continued to perform their duties on the grounds of a special law adopted by the Verkhovna Rada of Ukraine.

According to OPORA's estimates, PECs performed their activities in a peaceful atmosphere, in compliance with legal requirements, and without any systematic or centrally orchestrated

ed violations during Election Day scheduled on November 29, 2015, in Mariupol and Krasnoarmiisk. The vote tabulation process was estimated in the same way, except for some isolated, but high profile incidents. In particular, PEC members at the polling station #141088 in Krasnoarmiisk recorded a fact of disappearance of 329 ballot papers for city head election and 343 ballot papers for the election of city council.

During Election Day, which lasted from 08:00 AM until 20:00 PM, minor procedural violations were recorded in 24.8% of all polling stations in Mariupol and 8.3% of all polling stations in Krasnoarmiisk.

In addition, isolated cases of violation of the vote secrecy (primarily, in the form of filling in the ballot papers outside the voting booths) were recorded on Election Day in 2.8% of all polling stations in Krasnoarmiisk and 1.8% of all polling stations in Mariupol. Similar values were recorded for cases of ballot paper photographing: in 2.8% of all polling stations in Krasnoarmiisk and 1% of all polling stations in Mariupol.

Voting process in Mariupol and Krasnoarmiisk was not accompanied by issuance of ballot papers to persons without proper ID documents and problems related to absence of citizens in the voters' lists. Thus, the activities of precinct election commissions at the regular local elections in Mariupol and Krasnoarmiisk were performed in compliance with legislation at a proper organizational level.





#9

**PRE-ELECTION  
ACTIVITIES  
OF POLITICAL  
PARTIES**

The 2015 regular local elections did not stand out for unique campaigning techniques and methods. The content of campaign materials and pre-election promises mostly reflected the agenda of national party programs that are also relevant to Parliamentary or Presidential elections. Among 142 political parties, which adopted decisions on participation of their local cells in the regular elections of deputies of local councils, elections of heads of villages, townships and cities, and the first elections of deputies of councils of united territorial communities held on October 25, 2015, only 25 parties displayed an active attitude towards systematic campaigning activity. Current trends indicate that transition to proportional representation voting system stimulated political parties to participate in the elections, while only a minimum number of them are traditional national political forces.

In the course of pre-election campaign OPORA observers recorded 789 cases of illegal campaigning, most of which (302 cases) were related to funding of election campaigns using sources of financing other than the electoral funds, 242 cases concerned the distribution (placement) of campaign materials in prohibited areas, 98 cases were related to illegal campaigning at prohibited times (campaigning ahead of stipulated time or violation of pre-election silence), 79 cases included the use of black PR technologies and sleazy campaigning methods, 68 cases concerned violation of procedure for campaigning through mass media.

Rankings of violations suggest that the start of election campaign ahead of stipulated time, when political parties and candidates are yet to be registered as electoral subjects and do not bear de facto responsibility for violation of election law, remain the key problem of pre-election campaigning. In particular, the following political parties resorted to such kind of actions: Ridne Misto, the Ukrainian Association of Patriots – UKROP, Nash Krai, Syla Lyudei, the All-Ukrainian Union Batkivshchyna, the Petro Poroshenko Bloc ‘Solidarity’, the Opposition Bloc party, the Radical Party of Oleh Lyashko, the Civic Movement Narodnyi Control, the Serhiy Kaplin’s Party of Ordinary People, the All-Ukrainian Union Svoboda, the Samopomich Union, Vidrodzhennya, and Volia.

Based on the findings of comprehensive and regular monitoring, OPORA noted that only 12 political parties conducted their election campaigns on a systematic basis in more than two oblasts of Ukraine. The Petro Poroshenko Bloc ‘Solidarity’ is ranked first in the list of most active political parties in terms of campaigning at the local elections in Ukraine. The All-Ukrainian Union Batkivshchyna and the Ukrainian Association of Patriots – UKROP are also among the top 3 political parties that displayed the most active attitude towards pre-election campaigning. The list of the most active political forces also includes Nash Krai, the Opposition Bloc party, the Samopomich Union, Vidrodzhennya, the All-Ukrainian Union Svoboda, the Radical Party of Oleh Lyashko, the Agrarian Party of Ukraine, the Civic Movement Narodnyi Control, and Ridne Misto. These are the political parties that made use of different campaigning methods: external, media, outdoor and direct interaction with voters. Overall, high-profile

election campaigns were launched by 25 political parties, but most of them restricted their pre-election activity to specific regions or administrative centers (of oblasts or raions).

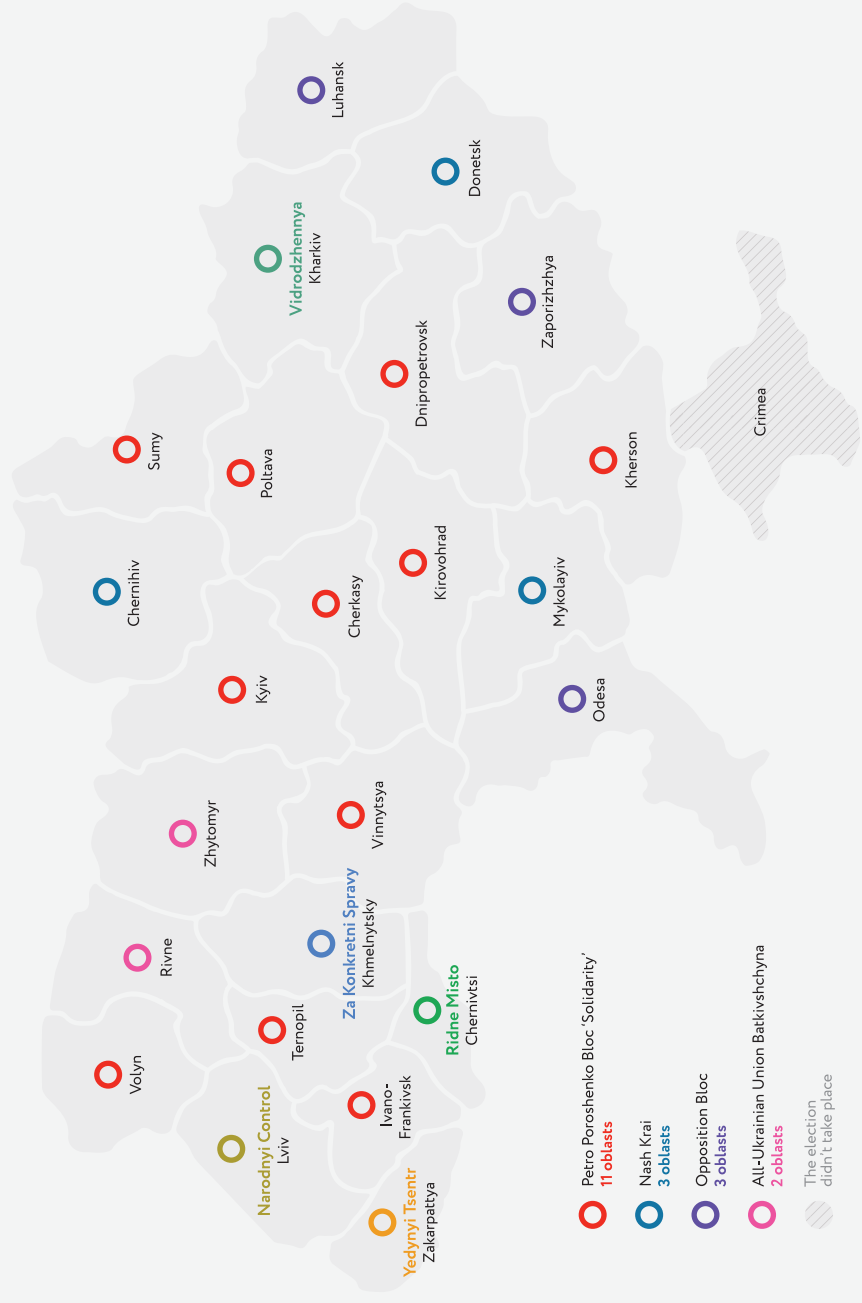
Regular pre-election campaigning on the part of the Doviryai Dilam party was recorded only in Odesa oblast. Pre-election activities of the Yedynyi Tsentri party and the KMKS Party of Hungarians of Ukraine were evident only in Zakarpattya oblast. Meanwhile, the Hromadianska Pozytsia party was most active in Lviv, the Novi Oblychchya party – in Kyiv oblast, the Za Konkretni Spravy party – in Khmelnytsky oblast, the Volunteers’ Party of Ukraine – in Kharkiv oblast, the Volia party – in Ivano-Frankivsk oblast, AUTO-MAYDAN – in Chernivtsi oblast, the Party of Free Democrats and All-Ukrainian Union Cherkaschany – in Cherkasy oblast, and the Soviet Ukrainy party – in Poltava oblast.

## ***Rankings of the most active parties***

<b>RANKING #</b>	<b>POLITICAL PARTY – SUBJECT OF ELECTION PROCESS</b>
1	Petro Poroshenko Bloc ‘Solidarity’
2	All-Ukrainian Union Batkivshchyna
3	Ukrainian Association of Patriots – UKROP
4	Nash Krai
5	Opposition Bloc
6	Samopomich Union
7	Vidrodzhennya
8	All-Ukrainian Union Svoboda
9	Radical Party of Oleh Lyashko
10	Agrarian Party of Ukraine
11	Civic Movement Narodnyi Control
12	Ridne Misto

OPORA researched which political parties were conducting the most large-scale election campaigns of nation-wide dimensions in more than one third of all oblasts of Ukraine and identified the following 7 political forces in this context: the Petro the Poroshenko Bloc ‘Solidarity’ (active election campaigns in 24 oblasts), the All-Ukrainian Union Batkivshchyna (active election campaigns in 20 oblasts), the Ukrainian Association of Patriots – UKROP (active election campaigns in 11 oblasts) Nash Krai and the Opposition Bloc party (active election campaigns in 9 oblasts), the Samopomich Union (active election campaigns in 8 oblasts), and Vidrodzhennya (active election campaigns in 7 oblasts).

# Campaigning leaders in oblasts



OPORA observers identified the leading political parties in terms of volumes of campaign materials, number of public events, and level of media coverage in each of the oblasts of Ukraine as of mid-October. In fact, all of these political parties started their election campaigns long before they were officially registered and granted the status of electoral subjects, thereby obtaining unfair advantage over the rest of electoral competitors.

Analysis of pre-election activity gives evidence of unequal capabilities of national political parties, the all-Ukrainian status of which is only a pure formality. At the same time, Ukrainian legislation is quite liberal in terms of ensuring citizens' right to associate in political parties. As of September 2015, there were 288 officially registered political parties in Ukraine. A mere 4.16% of the total number of registered parties conducted nationwide election campaigns, and only 8.45% of those parties which announced participation of their local cells in the elections.



#10

**FINANCING  
OF ELECTION  
CAMPAIGNS**

& SUBMISSION  
OF REPORTS BY  
ELECTION SUBJECTS

The problem of unequal access to politics and ineffectiveness of means of social mobility can be solved, among other things, through improving transparency and openness of political finance. Reporting on campaign spending by election participants did not solve the systemic problem of influence of shadow funds on election process. The reasons for this are the following: 1) a significant and uncontrolled proportion of financial resources, which was spent by political actors before the end of the stage of registration of candidates and parties; 2) low level of culture and poor discipline shown by election participants during submission of interim and final reports on election fund expenses; 3) absence of high quality system of verification of content of submitted reports in the election commissions of different levels; 4) Lenient system of liability for violation of reporting procedure by electoral subjects; 5) lack of reliable information about funding sources of parties-electoral subjects.

Despite systemic problems, Ukraine is moving slowly toward transparency of income and election expenses of candidates and political parties. In addition to political and legislative regulation the issue can be resolved by way of ensuring total transparency of political finances and quality performance on the part of controlling bodies (National Agency for Prevention of Corruption), which will monitor the financial resources mobilized by political actors. It is equally important to solve the problem of reports of political parties and candidates containing open source data, which should be published in a format suitable for machine-readable analysis. Local elections have demonstrated that collection of detailed interim and financial reports by OPORA observers is really hard work that requires a lot of effort for analysis and verification of materials received in a paper or scanned format. At the same time those voters, for whom the content of financial statements may become a determining factor when making decision on political preferences in the election, are basically deprived of access to such information during the period of election campaign. The law obliges TECs to publish these financial statements in local print media or by such other means as it deems appropriate within 2 days upon receipt thereof. Given the lack of funds, TECs published financial reports mostly on the bulletin boards placed in the premises of election commissions, which did not help the cause of informing voters.

According to Section 2 of Article 68 of the Law of Ukraine on Local Elections, election participants may create their own election funds to finance their campaigning activities. The election fund of local party cell, the candidates of which are registered in multi-mandate election constituency (hereinafter - Election fund of party's local cell) includes one accumulation account for receiving funds to finance election campaigns, as well as current accounts for withdrawing funds to finance expenditures on campaigning<sup>34</sup>. The election fund of candidate for deputy in single-mandate election constituency, candidate for head of village, township, city, and candidate for starosta includes one current account for receiving funds to finance election campaigns. Local organizations of political parties, candidates for dep-

<sup>34</sup> Section 1 of Article 70 of the Law of Ukraine on Local Elections



uty in single-mandate election constituency, candidates for head of village, township, city, candidates for starosta shall open corresponding accumulation and current accounts of their election funds with the banking institution of their choice within the boundaries of the corresponding multi-mandate, single-mandate, national single-mandate election constituency or in the territory of corresponding village, township or raion<sup>35</sup>. Optionality of creating an election fund for political parties and candidates does not help the cause of promoting transparency of political finances, at least in terms of campaigning expenses of candidates and parties in the multi-mandate election constituency. The resources spent during campaigning period in the local elections may be of intangible nature and hardly accountable or they can be illogical and inappropriate for the elections of village, township councils and elections of village, township heads and starostas. Candidates for the previously mentioned positions in small territorial communities mostly can make use of door-to-door canvassing tactics, while the obligation to create election funds would only result in unnecessary administrative and logistical burden. On the other hand, participants of elections held under proportional representation voting system (election of deputies of oblast, city and raion councils) cannot do without performing campaigning activities that require the use of financial resources (logistics, printing materials, etc.). Current legislation creates legal preconditions for imposing punishment for violation of party and campaign financing procedure on those persons who submitted false information in their reports<sup>36</sup>, while voluntary contributions of illegal/informal nature from private individuals or legal entities might draw the attention of law enforcement agencies only in case of large amounts of such contributions (totaling more than 10 minimum wages – over 12,000 UAH). Therefore, manipulation of contribution and election spending rules can be avoided through accountability, rather than through control over informal contributions, since each separate episode of small contribution does not pose a threat to violators.

## *Financial Discipline and Reporting of Election Participants*

OPORA observers have collected and analyzed detailed reports of those parties and candidates who ran in the 2015 local elections to oblast and city councils (in large cities), as well as those who were candidates for city heads. The general trend indicates low level of responsibility among election participants and better self-discipline shown by parliamentary parties as compared to non-parliamentary parties.

<sup>35</sup> Section 3 of Article 70 of the Law of Ukraine on Local Elections

<sup>36</sup> Article 159<sup>4</sup> of the Criminal Code of Ukraine: Violation of procedure for political parties funding, pre-election campaigning, campaigning in the all-Ukrainian or local referendum 1. Presentation of intentionally false information in the party's report on property, income (receipts), expenses and financial obligations or in the financial statements on the receipt and spending of election fund of the party, local party cell or candidate in the elections shall be punished by a fine of one hundred to three hundred untaxed minimum incomes, or correctional labor for up to two years, or imprisonment for the same period, with deprivation of the right to hold certain positions or engage in certain activities for up to three years.

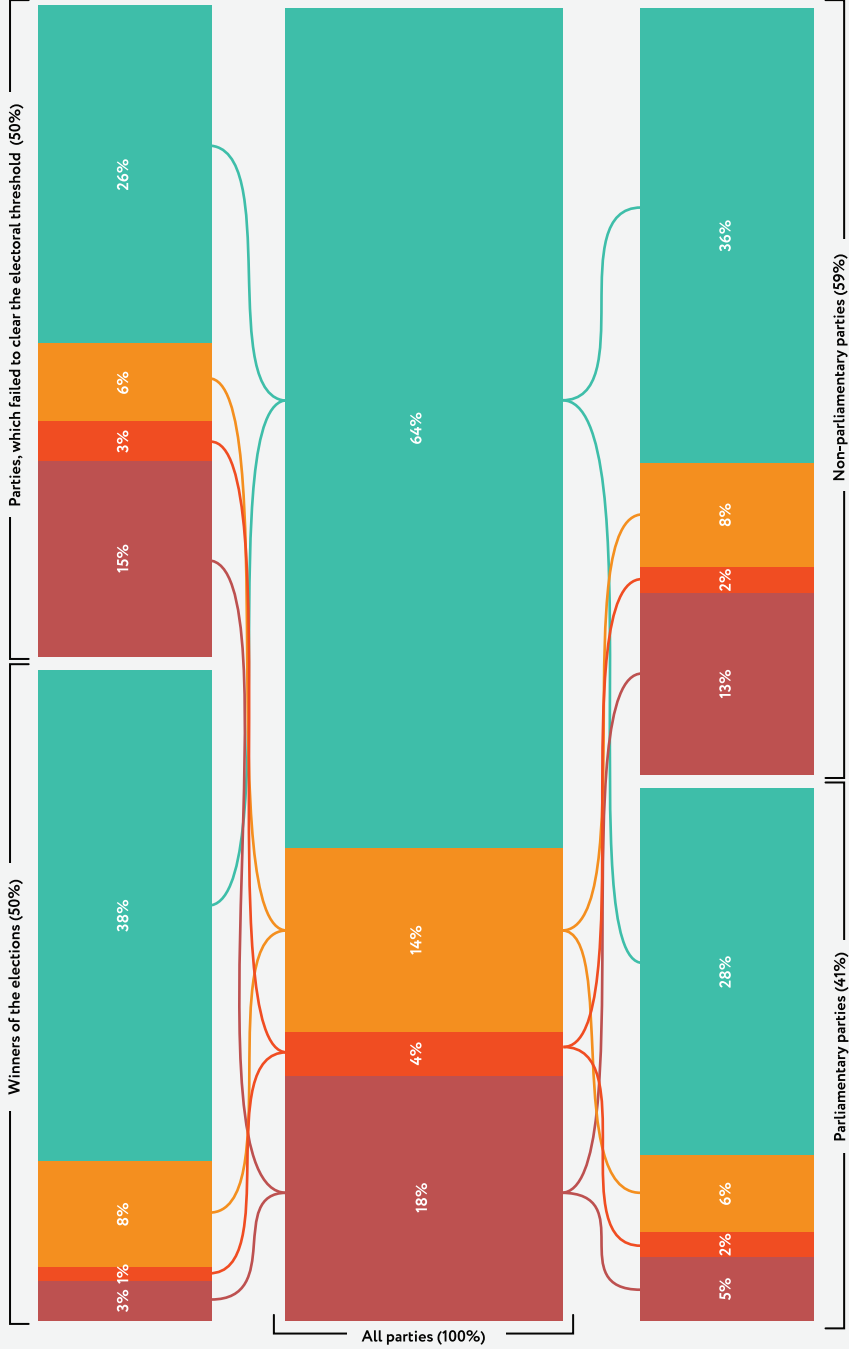
According to the Law of Ukraine on Local Elections<sup>37</sup>, a manager of the accumulation account of the election fund of a local party cell is obliged to submit an interim report covering the period from the day of opening of the accumulation account of the election fund till the 10th day before Election Day to the relevant territorial election commission on the form approved by the Central Election Commission no later than 5 days before Election Day, followed by final financial report which must be submitted no later than 7 days after Election Day. Both reports must contain mandatory information about all receipts on election fund account, election fund expenses and the balance of the corresponding account, including the date of receipt of each contribution, its amount, the name of the person who made a contribution, the name of local party cell (if a contribution was made by local party cell), payment purpose description, amount and date of each withdrawal of funds (expenditure) from election fund account, full name of the recipient of each payment. The TEC should inform the law enforcement agencies on any signs of violations revealed in the process of analysis of submitted reports. Despite the previously mentioned authority invested in territorial election commissions, OPORA observers did not record any TEC appeals to the law enforcement agencies due to fast-flowing election process and the lack of relevant knowledge and skills amongst members of TECs.

The parties, which registered their lists of candidates for deputy in the elections to oblast councils of Ukraine, failed to submit both interim and final reports in 18.73% of all cases. At the same time, only interim reports were submitted in 3.49% of all cases, only final reports were submitted in 13.97% of all cases, and both reports were submitted by parties-subjects of the electoral process in 63.81% of all cases. Thus, the statistics collected by observers show that the level of discipline in terms of submission of final reports on election fund spending is 10% higher than the level of discipline in terms of submission of interim reports. Analysis of activity of political parties demonstrates that parliamentary parties are 9% more responsible in terms of submitting financial reports than non-parliamentary parties. The most interesting fact is that the parties-winners of the elections are 22% more disciplined than those electoral subjects, which failed to clear the 5% electoral threshold and did not take part in the allocation of seats in oblast councils.

Similar figures were recorded by Civil Network OPORA observers in the analysis of reports of the parties that nominated their candidates for deputies of city councils in large cities. Therefore, there is an obvious trend toward lower rate of submission of interim reports as compared to final reports, while those parties which failed to clear the 5% electoral threshold and didn't participate in the allocation of council seats also tend to show lower level of discipline in terms of filing financial reports. The format of publication of reports does not allow the voters to familiarize themselves with financial figures to the fullest extent and compare published data with the actual expenses. This fact does not contribute to raising voters' awareness of financial fairness of political parties running for deputy mandates or

<sup>37</sup> Article 71 of the Law of Ukraine on Local Elections

# Election funds of political parties: quality of reporting



making conscious political choice. In addition, the territorial election commissions have no obligation to check fairness of the information provided in financial reports on expenses and, in fact, only monitor the level of discipline of election participants and control consistency of data with official bank transactions.

## *Income (Receipts) and Expenses*

The election funds of parties and candidates nominated by parties are raised through contributions of candidates, resources of the party or donations from private individuals. Self-nominated candidates are allowed to make use of their proprietary resources or donations from citizens. There is no limit on the size of election fund. However, the contribution of each private individual cannot be more than 10 times the minimum wage. It is forbidden to receive funds from anonymous donors or foreigners. OPORA observers have collected and analyzed about 90% of detailed reports that were submitted to TECs by electoral subjects. Unfortunately, observers didn't get access to 100% of financial documents due to several objective factors: 1) not all of the parties-electoral subjects submitted interim and final financial reports; 2) OPORA observers and voters weren't provided with open access to reporting data by the TECs; 3) TECs sent financial documentation to the relevant archives, in which it is difficult to obtain access to documentation.

Nevertheless, the analyzed information was enough to identify trends in financing election campaigns of political parties. In the process of data compilation, OPORA also revealed several mathematically incorrect amounts and balance sheets provided by the managers of election funds. Therefore, these errors were taken into account in the general calculation. In addition, in several cases observers recorded illegal sources of election funds financing, such as contributions from legal entities, but still considered them as provided in the official information<sup>38</sup>. For example, the election fund of the Opposition Bloc party in Zhytomyr oblast received several donations from private company "Styl" amounting to 23,420 UAH. These funds were used for election campaigning.

The structure of election fund receipts, as exemplified by the reports of electoral subjects, which nominated their lists of candidates for deputies of oblast councils, shows that political parties are still the largest source of funding of their own election campaigns. 66% of the total amount of contributions to election funds of the analyzed electoral subjects was provided by the parties. The second largest donors were the candidates, who provided for 25% of the total amount of contributions to the election fund accounts. Only 9% of contributions were received from voters-private individuals.

If we analyze the sources of funding of each of the parties through the example of parliamentary parties, we will discover that the roles of parties, candidates and private donors are

<sup>38</sup> Article 72 of the Law of Ukraine on Local Elections

# Sources of party campaign financing



Proprietary funds of party

Contributions of candidates

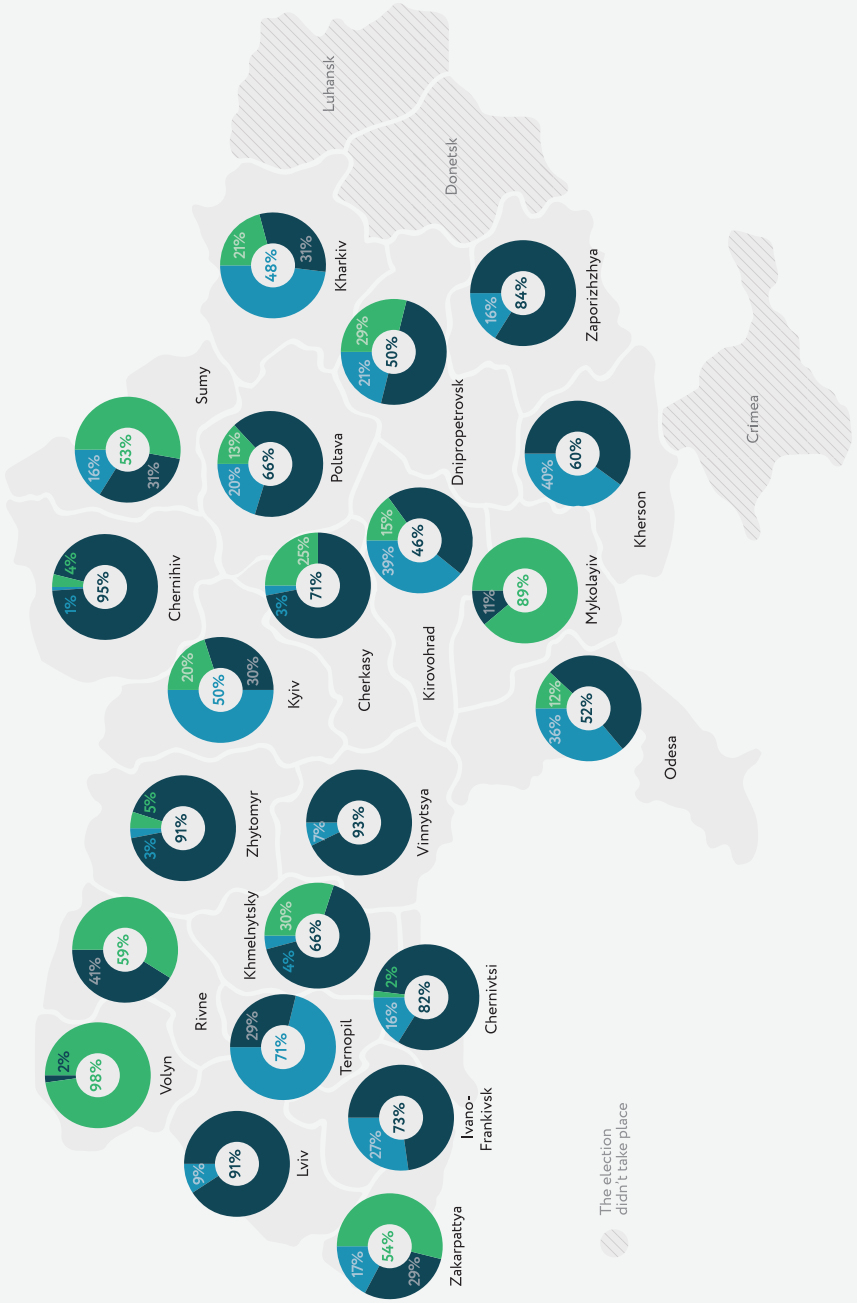
Voluntary contributions

# PPB 'Solidarity': sources of campaign financing

Proprietary funds of party

Contributions of candidates

Voluntary contributions

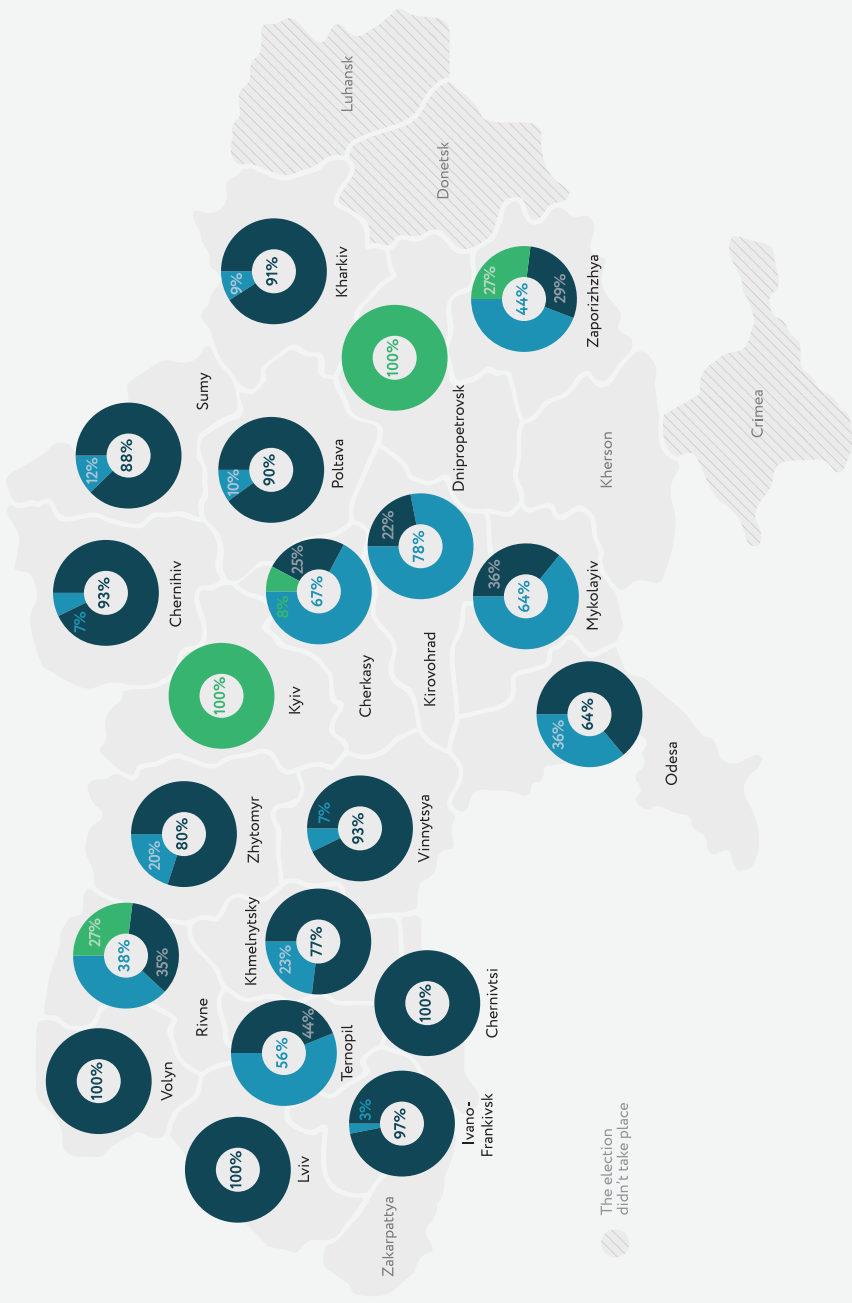


The election didn't take place



# Batkivsychyna: sources of campaign financing

## ELECTIONS TO OBLAST COUNCILS



Proprietary funds of party

Contributions of candidates

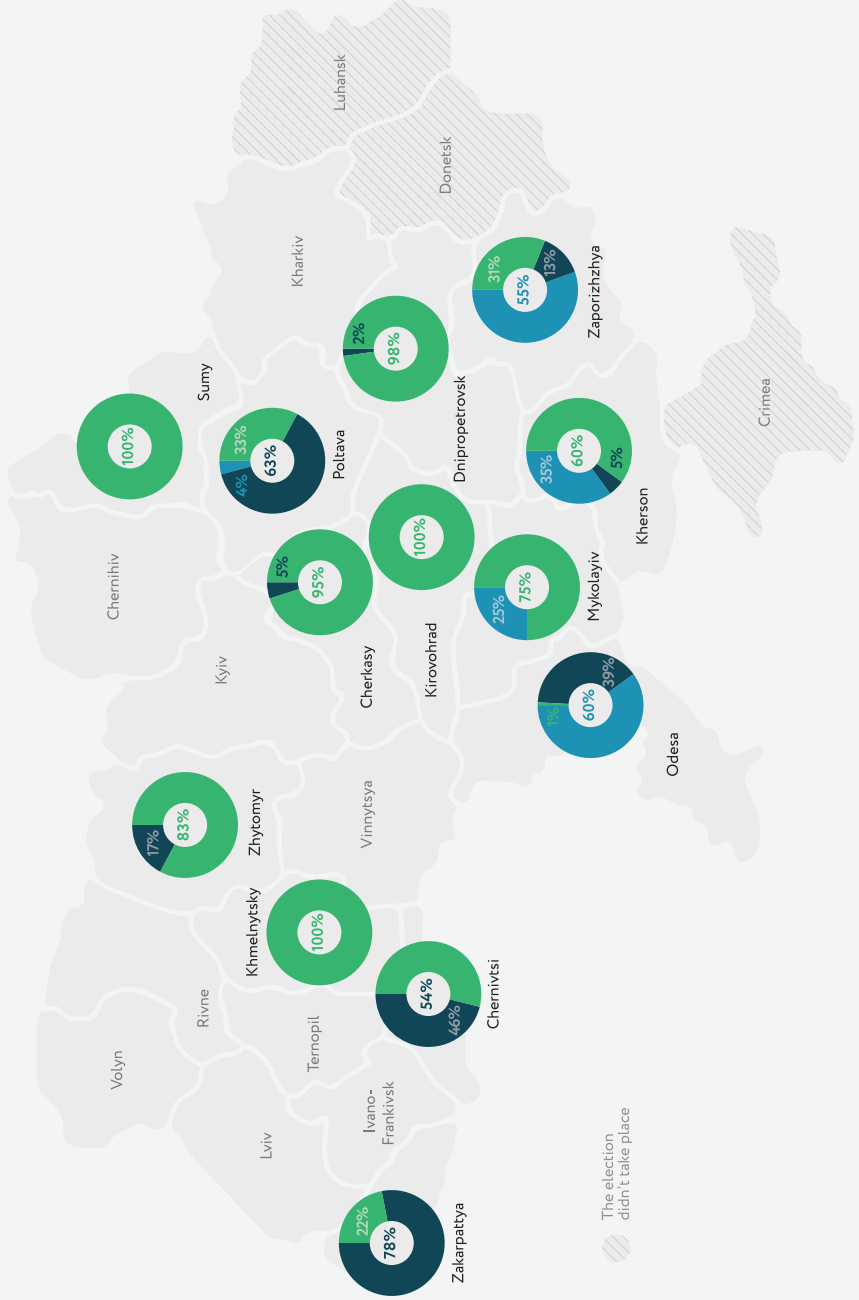
Voluntary contributions

# Vidrodzhennyya: sources of campaign financing

Proprietary funds of party

Contributions of candidates

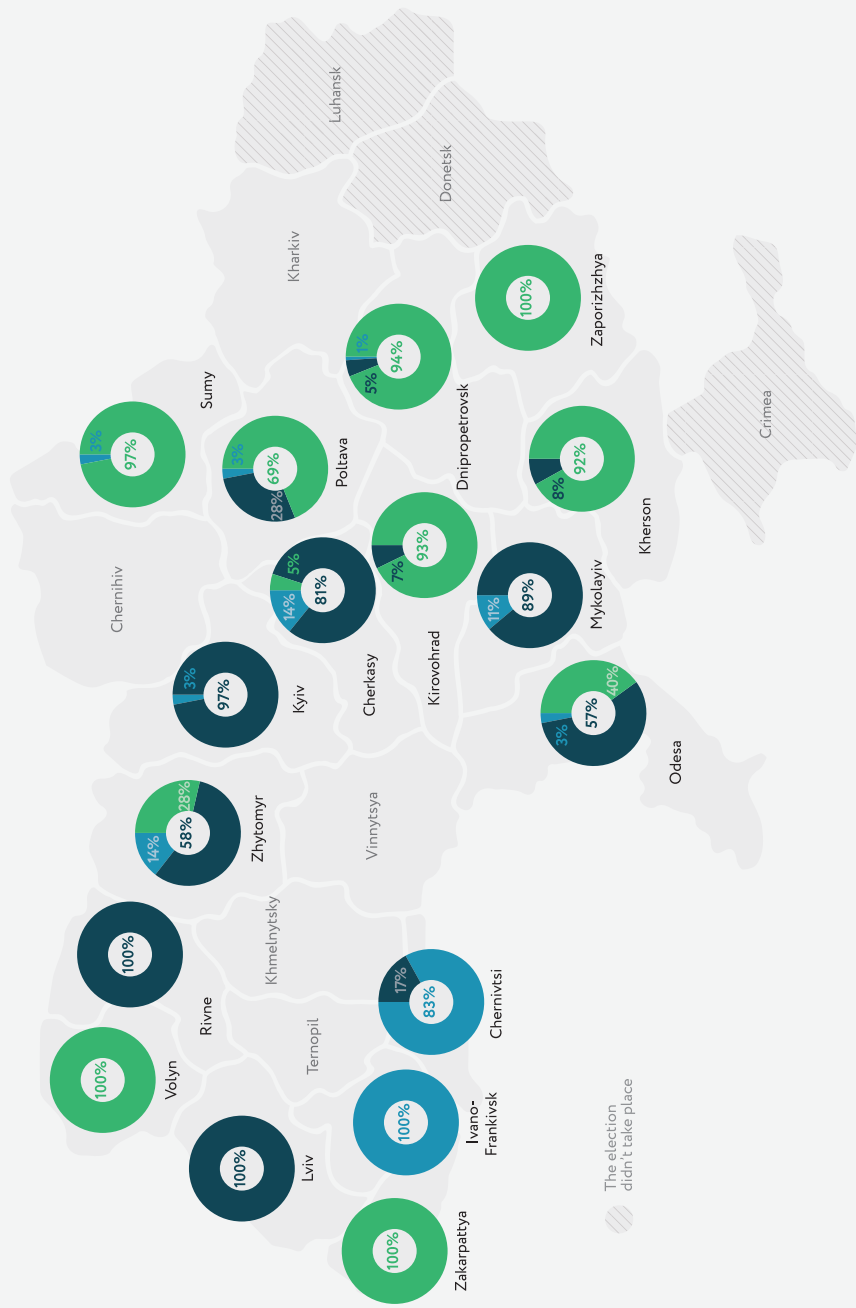
Voluntary contributions





# Opposition Bloc: sources of campaign financing

## ELECTIONS TO OBLAST COUNCILS



Proprietary funds of party

Contributions of candidates

Voluntary contributions

# Samopomich Union: sources of campaign financing

Proprietary funds of party

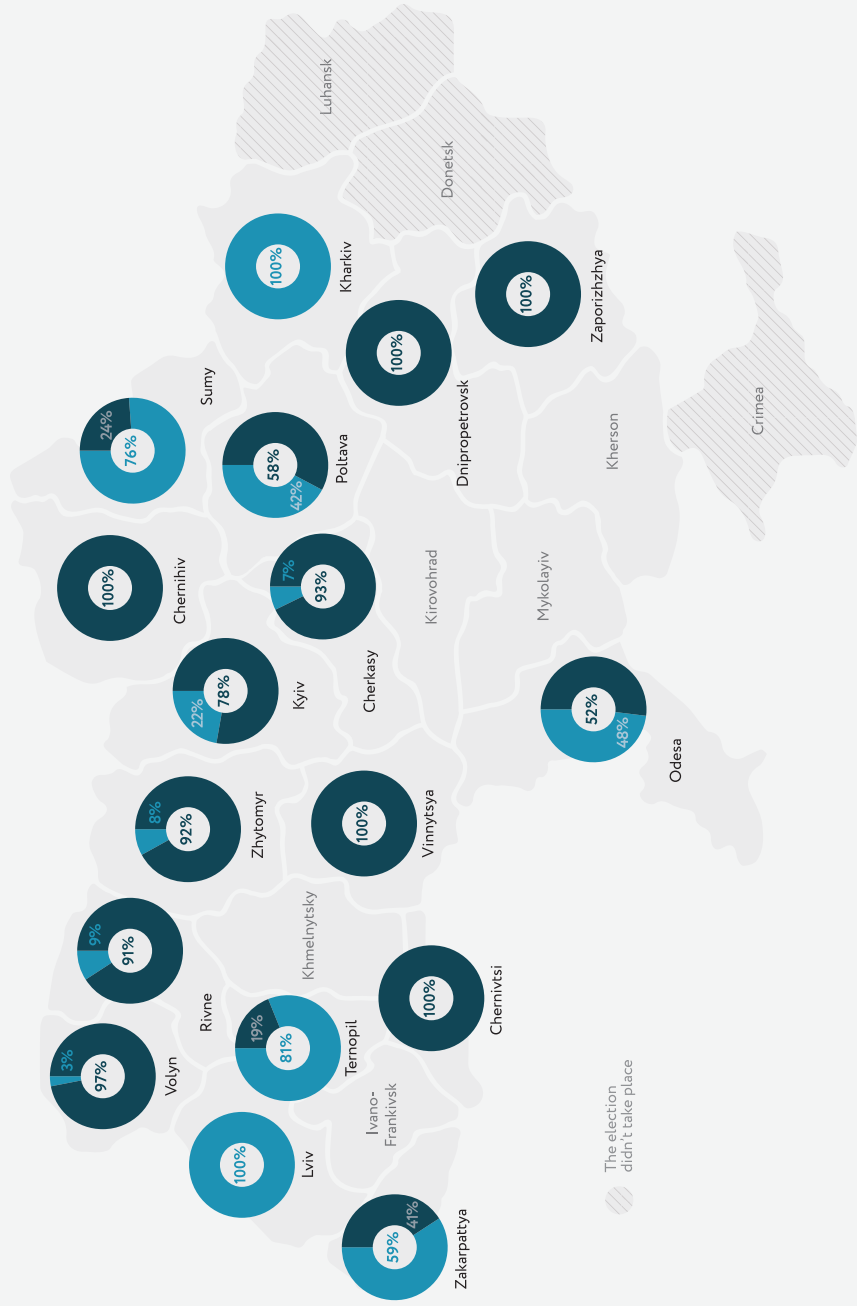
Contributions of candidates

Voluntary contributions



The election didn't take place

# Radical Party of Oleh Lyashko: sources of campaign financing



different from one another. This is a logical trend, taking into consideration the type of elections (local elections) and heterogeneity in levels of capability and levels of development of local party cells.

Efficiency of the use of party funds on the example of oblast councils can be evaluated by comparing the expenses and the actual number of votes won in the election. Evaluation of efficiency shall be based on the election results of the Petro Poroshenko Bloc 'Solidarity', which won 381 council seats (22.4%), the All-Ukrainian Union Batkivshchyna – 258 council seats (15.2%), Opposition Bloc – 201 council seats (11.8%), the Radical Party of Oleh Lyashko – 126 council seats (7.4%), Nash Krai – 76 council seats (4.5%), the Ukrainian Association of Patriots – UKROP - 140 council seats (8.2%), the All-Ukrainian Union Svoboda – 111 council seats (6.5%), the Agrarian Party of Ukraine – 40 council seats (2.4%), the Vidrozhennya party – 105 council seats (6.2%), the Samopomich Union – 104 council seats (6.1%). The information about amount of money officially invested in every vote obtained in the elections to oblast councils of Ukraine is presented in the tables below, starting from the largest sum of investment per vote.

### ***Petro Poroshenko Bloc 'Solidarity': election campaign expenses***

<b>OBLAST</b>	<b>AMOUNT SPENT, UAH</b>	<b>TOTAL NUMBER OF VOTES</b>	<b>COST PER VOTE</b>
Mykolayiv	3 597 261,03	657 340	5,47 UAH
Kharkiv	2 950 846,47	1 267 760	2,33 UAH
Dnipropetrovsk	2 485 388,13	1 089 960	2,28 UAH
Cherkasy	1 333 313,48	797 300	1,67 UAH
Odesa	2 112 001,11	1 437 690	1,47 UAH
Vinnytsia	2 554 592,12	1 768 320	1,44 UAH
Volyn	964 564,81	733 080	1,32 UAH
Kyiv	1 875 570,92	1 563 780	1,20 UAH
Zakarpattya	898 542,57	793 930	1,13 UAH
Sumy	697 345,81	707 770	0,99 UAH
Khmelnytskyi	826 969,29	866 690	0,95 UAH
Ivano-Frankivsk	1 080 599,08	1 184 180	0,91 UAH
Rivne	838 566,36	924 190	0,91 UAH
Zaporizhzhya	725 231,20	806 970	0,90 UAH

Zhytomyr	757 118,78	987 260	0,77 UAH
Chernihiv	451 526,25	686 440	0,66 UAH
Kirovohrad	400 942,08	694 030	0,58 UAH
Poltava	460 853,14	876 860	0,53 UAH
Lviv	1 045 782,19	2 246 790	0,47 UAH
Ternopil	136 384,4	1 178 940	0,12 UAH

***All-Ukrainian Union Batkivshchyna:  
election campaign expenses***

OBLAST	AMOUNT SPENT, UAH	TOTAL NUMBER OF VOTES	COST PER VOTE
Kyiv	2 614 218,4	1 196 190	2,19 UAH
Zaporizhzhya	716 159,4	512 410	1,40 UAH
Chernivtsi	666 607	524 290	1,27 UAH
Mykolayiv	330 178,63	316 690	1,04 UAH
Chernihiv	614 320	604 490	1,02 UAH
Dnipropetrovsk	703 339,22	704 990	1,00 UAH
Zhytomyr	739 216,14	770 650	0,96 UAH
Volyn	488 381,55	656 780	0,74 UAH
Poltava	419 440,23	756 720	0,55 UAH
Rivne	281 204,67	779 750	0,36 UAH
Sumy	211 412,92	692 290	0,31 UAH
Cherkasy	157 061,23	569 450	0,28 UAH
Vinnytsia	286 326,7	1 126 010	0,25 UAH
Kharkiv	114 501,6	475 510	0,24 UAH
Ivano-Frankivsk	215 031	902 320	0,24 UAH
Khmelnytskyi	119 286,13	549 430	0,22 UAH
Kirovohrad	140 148,4	660 310	0,21 UAH
Odesa	134 643,05	751 750	0,18 UAH
Ternopil	92 253,15	630 450	0,15 UAH
Lviv	84 521,66	957 480	0,09 UAH

**Opposition Bloc:**  
*election campaign expenses*

OBLAST	AMOUNT SPENT, UAH	TOTAL NUMBER OF VOTES	COST PER VOTE
Zaporizhzhya	8 706 591,61	1 743 920	4,99 UAH
Dnipropetrovsk	16 224 483,18	3 590 040	4,52 UAH
Sumy	695 627,75	247 880	2,81 UAH
Zhytomyr	1 061 914,83	386 070	2,75 UAH
Zakarpattia	413 389,52	236 890	1,75 UAH
Chernivtsi	199 679,35	152 140	1,31 UAH
Kyiv	487 462,34	383 880	1,27 UAH
Kherson	507 223,65	487 320	1,04 UAH
Kirovohrad	643 583,14	633 050	1,02 UAH
Cherkasy	170 206,00	178 760	0,95 UAH
Mykolayiv	709 518,10	750 030	0,95 UAH
Volyn	65 562,5	77 660	0,84 UAH
Vinnitsia	286 122,51	376 560	0,76 UAH
Odesa	1 180 184,22	1 554 680	0,76 UAH
Rivne	141 000,56	194 910	0,72 UAH
Poltava	194 803,32	343 190	0,57 UAH
Ivano-Frankivsk	19 805,00	38 640	0,51 UAH
Lviv	4 608,00	97 340	0,05 UAH

**Radical Party of Oleh Lyashko:**  
*election campaign expenses*

OBLAST	AMOUNT SPENT, UAH	TOTAL NUMBER OF VOTES	COST PER VOTE
Zaporizhzhya	382 724,5	387 530	0,99 UAH
Volyn	249 603,2	340 170	0,73 UAH

Odesa	117 456,38	206 470	0,57 UAH
Dnipropetrovsk	357 420	643 220	0,56 UAH
Zakarpattya	77 708,96	203 210	0,38 UAH
Zhytomyr	119 777,74	375 580	0,32 UAH
Cherkasy	128 330,94	465 780	0,28 UAH
Poltava	125 335,98	473 760	0,26 UAH
Rivne	124 073,12	480 910	0,26 UAH
Chernivtsi	48 621	199 970	0,24 UAH
Lviv	116 705,64	588 030	0,20 UAH
Sumy	51 238,48	348 050	0,15 UAH
Ternopil	35 880	354 390	0,10 UAH
Vinnysia	60 090,72	617 510	0,10 UAH
Kyiv	60 204	633 110	0,10 UAH
Ivano-Frankivsk	0	254 860	0 <sup>o</sup> UAH

## ***Nash Krai:*** *election campaign expenses*

OBLAST	AMOUNT SPENT, UAH	TOTAL NUMBER OF VOTES	COST PER VOTE
Mykolayiv	9 198 687,04	423 070	21,74 UAH
Zaporizhzhya	3 354 119,1	618 220	5,43 UAH
Kherson	1 217 699,2	267 100	4,56 UAH
Chernihiv	2 674 354,77	593 650	4,50 UAH
Kharkiv	3 016 685,19	723 590	4,17 UAH
Lviv	1 076 772,32	326 200	3,30 UAH
Kyiv	1 647 704,73	510 420	3,23 UAH
Poltava	166 833,24	51 880	3,22 UAH
Odesa	1 380 948,79	527 510	2,62 UAH

<sup>o</sup> The final report on election fund expenditures of the Radical Party of Oleh Lyashko in the election to oblast council was not submitted to the relevant TEC, while according to their interim report they had no election expenses at all.

Zhytomyr	250 331,99	107 270	2,33 UAH
Volyn	456 809,73	213 050	2,14 UAH
Cherkasy	73 481	44 850	1,64 UAH
Kirovohrad	259 840,68	173 700	1,50 UAH
Vinnytsia	262 191,49	206 500	1,27 UAH
Ivano-Frankivsk	121 033,5	109 850	1,10 UAH
Dnipropetrovsk	199 868,4	182 940	1,09 UAH
Chernivtsi	105 541,46	158 900	0,66 UAH
Rivne	33 000	61 660	0,54 UAH
Khmelnyskyi	19 000	86 470	0,22 UAH

***Ukrainian Association of Patriots – UKROP:  
election campaign expenses***

OBLAST	AMOUNT SPENT, UAH	TOTAL NUMBER OF VOTES	COST PER VOTE
Volyn	3 621 597,44	901 950	4,02 UAH
Ivano-Frankivsk	1 516 280,85	591 930	2,56 UAH
Kyiv	1 239 954,03	556 440	2,23 UAH
Lviv	1 024 451,75	650 280	1,58 UAH
Sumy	348 954,89	255 220	1,37 UAH
Khmelnyskyi	286 319,95	222 840	1,28 UAH
Odesa	282 004,4	245 710	1,15UAH
Zakarpattya	151 031	142 070	1,06 UAH
Kharkiv	216 422,23	206 850	1,05 UAH
Zaporizhzhya	434 934,2	435 200	1,00 UAH
Cherkasy	290 214,72	315 600	0,92 UAH
Dnipropetrovsk	1 604 134,45	1 943 470	0,83 UAH
Kherson	168 148	217 030	0,77 UAH
Chernihiv	204 855,8	271 270	0,76 UAH



Vinnitsia	178 480,83	358 890	0,50 UAH
Ternopil	92 795	228 840	0,41 UAH
Zhytomyr	93 575,11	301 050	0,31 UAH
Rivne	80 753,94	262 750	0,31 UAH
Mykolayiv	81 025,31	280 640	0,29 UAH
Poltava	91 405,88	467 210	0,20 UAH
Kirovohrad	44 579	244 320	0,18 UAH

### *All-Ukrainian Union Svoboda: election campaign expenses*

OBLAST	AMOUNT SPENT, UAH	TOTAL NUMBER OF VOTES	COST PER VOTE
Kharkiv	159 028	154 810	1,03 UAH
Zakarpattia	146 480,8	145 010	1,01 UAH
Volyn	308 524,79	358 250	0,86 UAH
Zaporizhzhya	112 055	138 200	0,81 UAH
Khmelnytskyi	246 623,88	509 610	0,48 UAH
Rivne	172 482,9	399 740	0,43 UAH
Lviv	540 137,15	1 353 440	0,40 UAH
Zhytomyr	112 848,05	283 160	0,40 UAH
Poltava	152 954,58	404 670	0,38 UAH
Kirovohrad	41 076,07	174 280	0,24 UAH
Vinnitsia	91 174,98	416 700	0,22 UAH
Dnipropetrovsk	61 647,55	284 040	0,22 UAH
Ternopil	111 710	833 270	0,13 UAH
Cherkasy	10 475	341 690	0,03 UAH
Chernivtsi	5 300	173 090	0,03 UAH
Odesa	2 530	175 240	0,01 UAH

***Agrarian Party of Ukraine:***  
*election campaign expenses*

OBLAST	AMOUNT SPENT, UAH	TOTAL NUMBER OF VOTES	COST PER VOTE
Kyiv	3 550 922,16	169 530	20,95 UAH
Rivne	1 162 246,88	209 930	5,54 UAH
Zhytomyr	595 870,85	204 400	2,92 UAH
Poltava	982 920,63	394 870	2,49 UAH
Odesa	447 940,83	257 510	1,74 UAH
Chernivtsi	503 813,82	302 740	1,66 UAH
Khmelnytskyi	864 849,75	551 630	1,57 UAH
Sumy	258 222,68	166 940	1,55 UAH
Vinnitsia	566 686,59	405 450	1,40 UAH
Zaporizhzhya	366 494,35	288 630	1,27 UAH
Cherkasy	177 894,95	198 300	0,90 UAH
Kirovohrad	59 837,5	97 750	0,61 UAH
Volyn	80 533,14	192 180	0,42 UAH

***Samopomich Union:***  
*election campaign expenses*

OBLAST	AMOUNT SPENT, UAH	TOTAL NUMBER OF VOTES	COST PER VOTE
Zaporizhzhya	1 326 905,78	366 880	3,62 UAH
Ivano-Frankivsk	773 984,42	402 610	1,92 UAH
Volyn	347 187,08	267 930	1,30 UAH
Poltava	231 760,08	246 480	0,94 UAH
Khmelnytskyi	313 746,06	380 710	0,82 UAH
Kyiv	514 644,89	633 650	0,81 UAH
Dnipropetrovsk	359 197,94	604 360	0,59 UAH
Ternopil	237 277,92	417 700	0,57 UAH

Kirovohrad	112 099,82	207 750	0,54 UAH
Vinnitsia	147 460,3	454 180	0,32 UAH
Kharkiv	241 760,89	776 180	0,31 UAH
Zhytomyr	70 105,05	345 320	0,20 UAH
Lviv	228 113,84	1 553 370	0,15 UAH
Kherson	22 450,32	178 190	0,13 UAH
Chernivtsi	15 948,82	204 200	0,08 UAH
Zakarpattya	11 981,46	172 950	0,07 UAH

## ***Vidrodzhennya:*** *election campaign expenses*

OBLAST	AMOUNT SPENT, UAH	TOTAL NUMBER OF VOTES	COST PER VOTE
Dnipropetrovsk	12 661 698,35	830 210	15,25 UAH
Zaporizhzhya	1 807 489,52	135 330	13,36 UAH
Sumy	3 577 618,92	425 760	8,40 UAH
Khmelnyskyi	1 007 711,54	194 160	5,19 UAH
Chernivtsi	399 910,2	84 180	4,75 UAH
Kherson	545 577,15	121 730	4,48 UAH
Mykolayiv	529 763,04	164 590	3,22 UAH
Dnipropetrovsk	303 613,69	100 080	3,03 UAH
Zhytomyr	196 560	65 290	3,01 UAH
Cherkasy	1 043 209,16	370 490	2,82 UAH
Odesa	1 343 107,28	528 540	2,54 UAH
Poltava	650 121	339 320	1,92 UAH
Zakarpattya	998 416	564 900	1,77 UAH

Based on the above stated, OPORA observers noted that large sums of investments made by political parties and candidates do not always guarantee high cost-effectiveness. The most expensive votes were mostly won in those regions where political parties did not have stable electoral support.

## Parties leading by campaign spending per voter

Nash Krai	21,70 ₴	Mykolayiv oblast
Agrarian Party of Ukraine	20,90 ₴	Kyiv oblast
Vidrodzhennya	15,00 ₴	Dnipropetrovsk oblast
Petro Poroshenko Bloc "Solidarity"	5,47 ₴	Mykolayiv oblast
Opposition Bloc	4,99 ₴	Zaporizhzhya oblast
UKROP	4,00 ₴	Volyn oblast
Samopomich	3,60 ₴	Zaporizhzhya oblast
Batkivschyna	2,18 ₴	Kyiv oblast
Svoboda	1,00 ₴	Kharkiv oblast
Radical Party of Oleh Lyashko	0,98 ₴	Zaporizhzhya oblast

Equally interesting is the comparative analysis of oblasts, in which political parties obtained the largest number of votes, and to what extent do overall results of political parties correlate with their election expenses. Only 4 parties out of 10 achieved the best results in those regions where they also accumulated the largest election funds. However, it is worth noting that these 4 political parties achieved best results in oblasts where they mostly have the largest support base.

## ***Comparison of parties' results in oblast council elections in correlation with the largest election funds***

<b>PARTY</b>	<b>NUMBER OF VOTES WON IN OBLAST where political party achieved the best result</b>	<b>NUMBER OF VOTES WON IN OBLAST where the party accumulated the largest election fund</b>
Petro Poroshenko Bloc 'Solidarity'	Lviv 2 246 790	Mykolayiv 657 340
All-Ukrainian Union Batkivshchyna	Kyiv 1 196 190	Kyiv 1 196 190
Opposition Bloc	Dnipropetrovsk 3 590 040	Dnipropetrovsk 3 590 040
Radical Party of Oleh Lyashko	Dnipropetrovsk 643 220	Zaporizhzhya 387 530
Nash Krai	Kharkiv 723 590	Mykolayiv 423 070
Ukrainian Association of Patriots -UKROP	Dnipropetrovsk 1 943 470	Volyn 901 950
All-Ukrainian Union Svoboda	Lviv 1 353 440	Lviv 1 353 440
Agrarian Party of Ukraine	Khmelnytskyi 551 630	Kyiv 169 530
Vidrodzhennya	Dnipropetrovsk 830 210	Dnipropetrovsk 830 210
Samopomich Union	Lviv 1 553 370	Zaporizhzhya 366 880



#11

**GENDER  
ASPECT  
OF LOCAL  
ELECTIONS**

## *Legal Regulation*

In 2015, for the first time ever, a provision of law aimed at ensuring a balanced representation of men and women directly in the nomination lists of political parties and indirectly in the elected institutions appeared in the electoral legislation of Ukraine. The Law of Ukraine on Local Elections as of July 14, 2015, stipulates that all candidates have equal rights and opportunities to participate in the electoral process of relevant local elections, while the level of representation of persons of each gender in the electoral lists of candidates for deputies of local councils in multi-mandate constituencies should be no lower than 30% of the total number of candidates included in the electoral list (Section 3 of Article 4 of the Law). In addition, several amendments were introduced to the Law on Political Parties in Ukraine, according to which the charter of political party must include information about the quota size that determines the minimum level of representation of women and men in the list of candidates for People's Deputies of Ukraine nominated by the party in the national election constituency, as well as in the list of candidates for deputies of local councils in multi-mandate election constituencies, and that the level of representation of each gender should be no less than 30% of the total number of candidates in the nomination list (Section 10 of Article 8 of the Law).

Despite the introduction of positive innovations, the key problem, which lies in the declarative nature of the previously mentioned legal requirements, absence of practical mechanisms for implementing the provisions on gender quota, and absence of meaningful sanctions for non-compliance with these requirements, remains unresolved. In fact, the lack of proper regulation manifested itself as early as at the stage of registration of candidates, when one day before the end of official registration of candidates for local elections the Kyiv Administrative Court of Appeal adopted two polar opposite decisions on the CEC Clarification concerning the prohibition of denial of registration of candidates on the grounds of violation of legal provisions on gender quotas committed by local party cells in the process of compiling nomination lists.

In its Clarification (Decision #362 as of September 23, 2015) the CEC stated that the denial of registration of candidates in multi-mandate constituency at the elections of deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, raion, city, and city raion councils on the grounds of non-compliance with the provision of the Law on representation of persons of the same sex in the electoral lists of candidates for deputies of local councils is not allowed. The CEC Clarification is based on the fact that provision on gender quotas was not included in the list of grounds for denial of registration of candidate for deputy, candidate for village, township or city head, and candidate for head of village or township nominated at the local elections, as provided by Section 1 of Article 46 of the Law. Moreover, Clause 3 of the CEC Clarification emphasizes that Section 1 of Article 46 of the Law sets out an exhaustive list of grounds for denial of registration of candidates.



Furthermore, the first judgment of the Kyiv Administrative Court of Appeal in the case involving a complaint by the Samopomich Union declared void and invalidated Clause 4 of the CEC Clarification concerning the impermissibility of denial of registration of candidates on the grounds of non-compliance with 30% gender quota requirement for electoral lists of candidates. However, the second judgment of the Kyiv Administrative Court of Appeal dismissed a similar complaint (filed by the Syla Lyudei party and two candidates) concerning the illegality and invalidation of the previously mentioned provisions of the CEC Clarification. Later on, the Supreme Administrative Court overturned the first judgment of the Kyiv Administrative Court of Appeal (in the case involving a claim by the Samopomich Union), thus retaining in force the second court judgment on the declarative nature of provision of the election Law on gender quotas in electoral lists of candidates.

Two controversial court decisions on the same issue further aggravated the existing problem of ambiguity of certain provisions of the Law of Ukraine on Local Elections, which was adopted by the Verkhovna Rada of Ukraine less than two months before the start of election process and signed by the President of Ukraine less than one month before the start of election process. Moreover, this fact also exacerbated the problem of conflicting interpretations of provisions of the law on gender quotas by territorial election commissions, which occurred even before the adoption of controversial court decisions.

According to OPORA, the practice of non-compliance with parliamentary procedure and other regulatory standards, which is typical for the Verkhovna Rada of Ukraine, led to inclusion of significant number of controversial election procedures in the new Law of Ukraine on Local Elections. Moreover, failure to comply with the international standard for stability of electoral legislation resulted in the presence of ambiguous provisions and procedures, which were difficult to implement in real life. In particular, we are talking about the absence of bright-line provision concerning cases of non-compliance with gender quota requirements in the list of grounds for denial of registration of candidates. Furthermore, the Law does not set out a separate procedure for specific cases where compliance with gender quota requirement is not possible (for example, in the case where the nomination list consists of only one candidate). Therefore, problems with implementation of provisions of the Law of Ukraine on Local Elections derive directly from unsystematic legislative work of the Parliament.

## *The Practice of Compliance with Gender Quota Requirements in Nomination Lists*

OPORA analyzed the electoral lists of candidates submitted at the elections of deputies of oblast councils by local cells of those political parties, which nominated the largest number of candidates throughout the country. All of these 13 political parties failed to comply with the

requirements for ensuring 30% representation of persons of the same sex in their nomination lists. The Samopomich Union was the most responsible political force in terms of compliance with provisions of the Law. In 15 out of 16 cases, this political party adhered to gender quota in the process of compiling nomination lists. Meanwhile, the Petro Poroshenko Bloc 'Solidarity' basically ignored this provision of the law, since only 4 out of 22 party lists were formed in compliance with gender quota requirement. If we take a look at the average level of compliance with gender quota requirement in the process of compiling nomination lists submitted at the elections of deputies of oblast councils, we will see that among 13 parties, which proposed the largest number of candidates for deputies of oblast councils, only the Petro Poroshenko Bloc 'Solidarity', the Agrarian Party of Ukraine, and the Nash Krai party failed to ensure 30% representation of persons of both genders in their nomination lists. The remaining 9 political parties, which nominated the largest number of candidates in multi-mandate election constituencies, came close to achieving full compliance with the corresponding provisions of the law, but they were not disciplined and consistent enough in the process of implementation thereof.

At the same time, OPORA conducted monitoring of adherence to gender quotas in the lists of candidates nominated at the elections of deputies of city councils in 25 cities of Ukraine (22 administrative centers of oblasts with the addition of Kramatorsk, Severodonetsk, and Mariupol in order to take account of the situation in Donetsk and Luhansk oblasts). Once again, none of the political parties, which nominated the largest number of candidates at the elections of deputies of local councils, adhered to the provision of law on gender quota. Only the Samopomich Union provided for representation of 30% of persons of the same sex in its nomination lists at the elections of deputies of city councils in almost all of the administrative centers of oblasts (except Uzhhorod city council). Meanwhile, only half of all nomination lists of the Petro Poroshenko Bloc 'Solidarity' and the Agrarian Party of Ukraine at the elections of deputies of city councils in the administrative centers of oblasts included at least 30% of persons of the same sex.

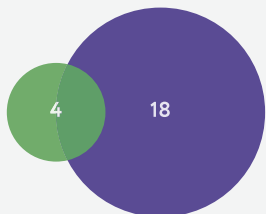
Despite the absence of formal legal requirements for ensuring gender balance in the process of ranking candidates within the nomination list, political parties could adjust the rankings of candidates within the nomination list at their sole discretion in order to ensure equal opportunities for men and women to be represented in local councils. In particular, we are talking about first-place candidates on the nomination lists who will automatically receive a deputy mandate if their political party clears the 5% electoral threshold. Results from OPORA's analysis of party lists at the elections of deputies of city councils in the administrative centers of oblasts (as well as in the cities of Kramatorsk, Severodonetsk, and Mariupol) reveal that the parties were reluctant to make use of the opportunity to increase the level of representation of women in local councils by way of placing them first on the party lists. The Vidrodzhennya party nominated 5 (out of 13) party lists at the elections of deputies of city councils in the administrative centers of oblasts, in which women-candidates were ranked first – this is the best result among all parties. Meanwhile, the All-Ukrainian Union Batkivshchyna nominated only 2 out of 25 party lists at the elections of deputies of city councils, in which women were number one candidates.

FULFILLED

NOT FULFILLED

ELECTIONS TO OBLAST COUNCILS

# Adherence to gender quota requirements in party lists to oblast councils



PPB 'Solidarity'



Agrarian Party



Nash Krai



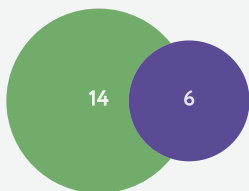
Batkivshchyna



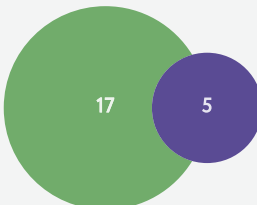
Radical Party



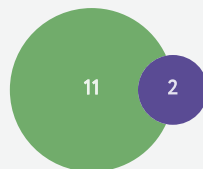
UKROP



Opposition Bloc



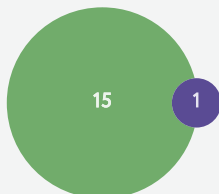
Svoboda



Vidrodzhennya



Narodnyi Control

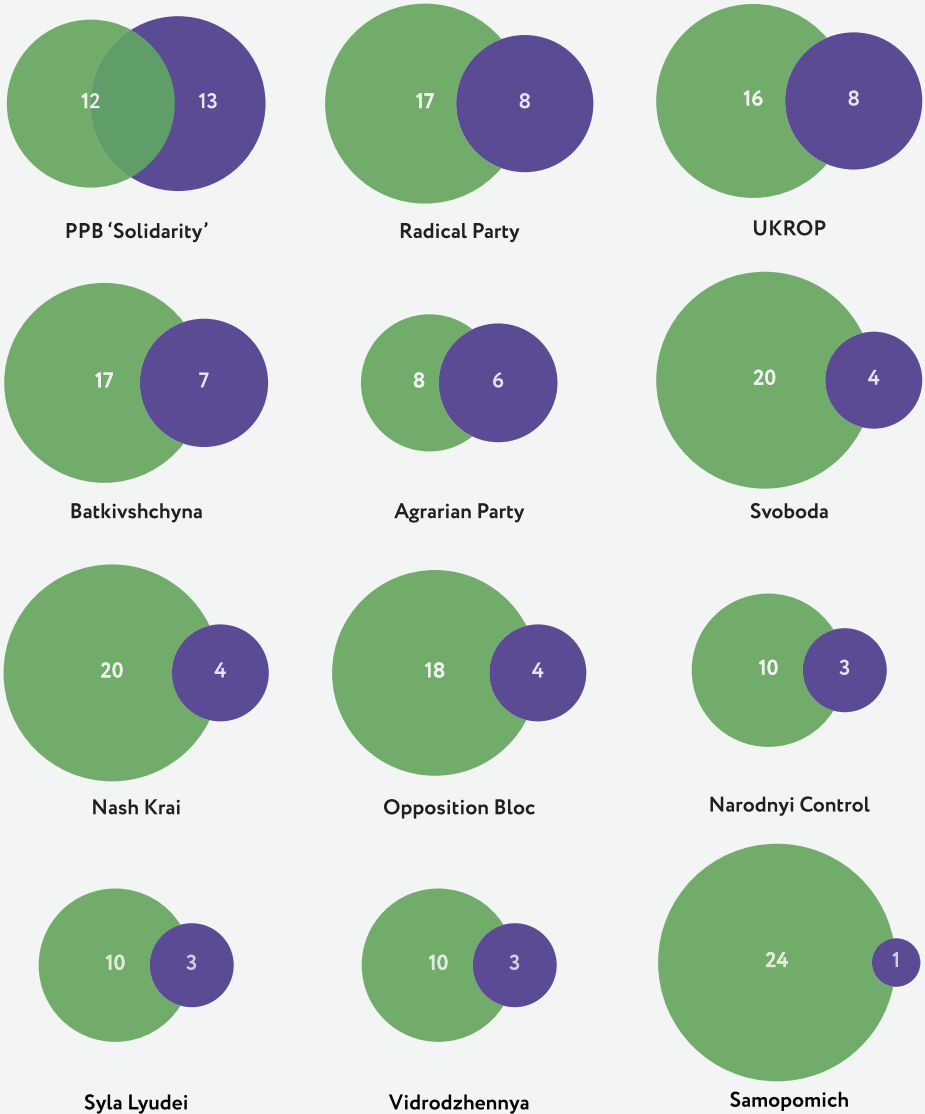


Samopomich



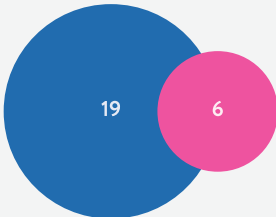
Syla Lyudei

## Adherence to gender quota requirements in party lists to city councils\*

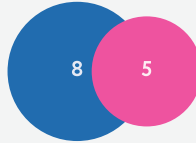


\* city councils in administrative centers of oblasts

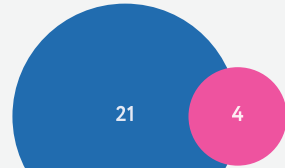
## First candidates in party lists to city councils\* – gender division



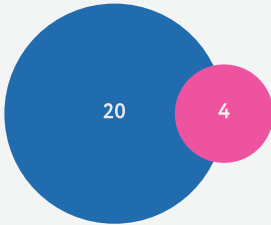
Samopomich



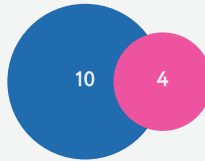
Svoboda



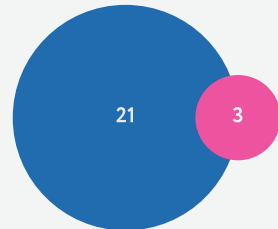
Nash Krai



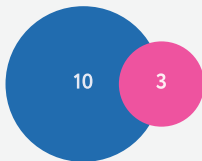
Opposition Bloc



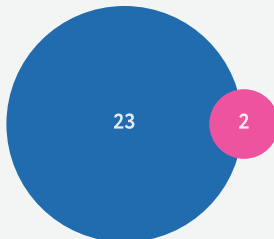
Batkivshchyna



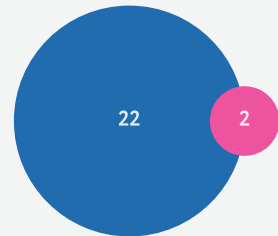
UKROP



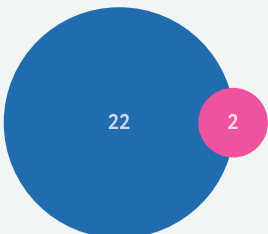
Radical Party



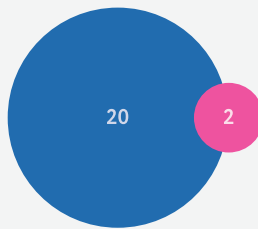
Agrarian Party



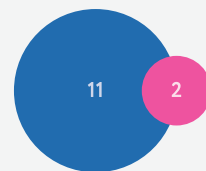
Vidrodzhennya



Narodnyi Control

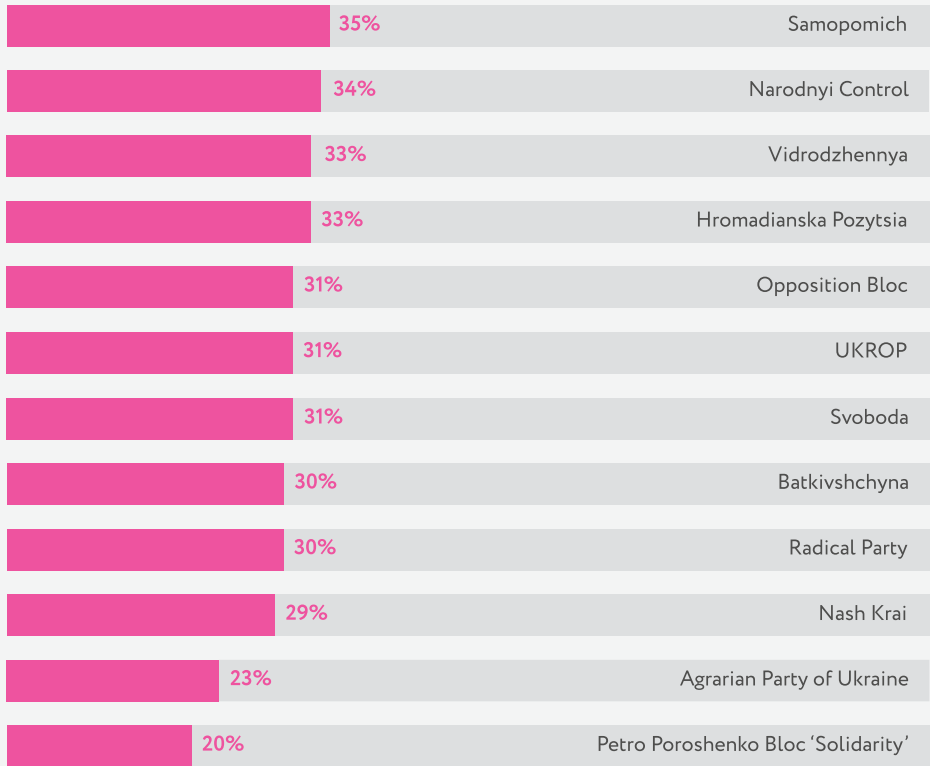


Syla Lyudei



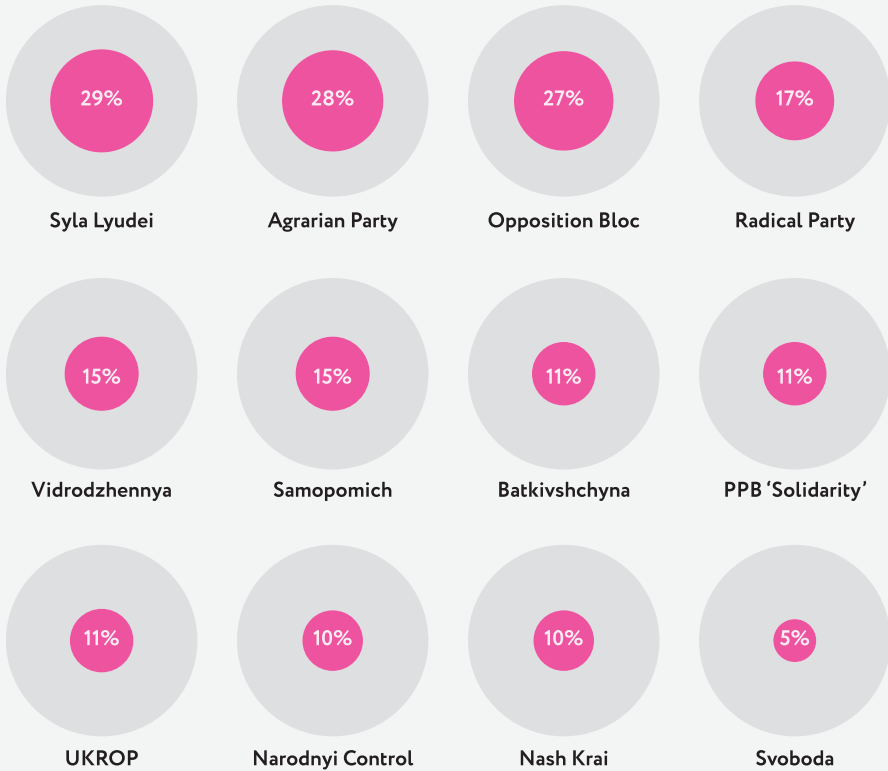
PPB 'Solidarity'

## Percentage of women in the lists of local party cells



Only 13% out of all candidates for city heads throughout the country were women and the remaining 87% were men. From a political party perspective the largest portion of women-candidates for the position of city head (among 13 political parties that submitted the largest number of candidates) was nominated by the Syla Lyudei party – 29%. The share of women in the lists of city head candidates nominated by the Agrarian Party of Ukraine (almost 28%)

## Percentage of women among candidates



and the Opposition Bloc party (27%) is slightly smaller. The least balanced lists of city head candidates in terms of equal representation of genders were nominated by the All-Ukrainian Union Svoboda (only 5% of city head candidates were women) and the Hromadianska Pozyt-sia party (almost 6% of city head candidates were women). Among those candidates who stood for city head election through self-nomination 13% were women and 87% were men.

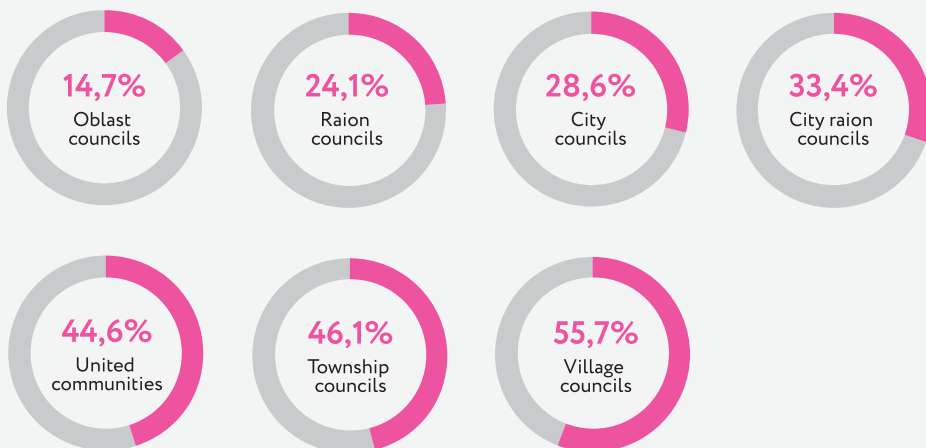
## Gender Analysis of Elections

49.5% of the total number of elected deputies of local councils of all levels were women and 50.5% were men. In the 2010 local elections, the share of women who received deputy mandates was slightly smaller and amounted to 46.8%.

From a region-wise perspective women deputies dominate the local councils in 13 oblasts of Ukraine, in particular in Luhansk, Mykolayiv, Chernihiv, Kherson, Donetsk, Sumy, Zhytomyr, Cherkasy, Kirovohrad, Zaporizhzhya, Kharkiv, Volyn, and Khmelnytsky oblasts the share of women deputies is over 50%. Meanwhile, the smallest share of women deputies of local councils was elected in Western Ukraine: Zakarpattya oblast (35.7%), Chernivtsi oblast (37.7%), Lviv oblast (37.9%), and Ivano-Frankivsk oblast (39.5%).

However, based on the results of local elections women deputies dominate only the local councils of the lowest administrative territorial level – the village councils (55.7%). Furthermore, women account for nearly half of all deputies in township councils (46.1%) and united territorial communities (44.6%). By contrast, the share of women deputies in oblast councils is only 14.7%. The largest share of women was recorded in the deputy corps of Khmelnytsky oblast council (24.1%), the smallest share of women was recorded in Odesa oblast council (9.5%). Thus, none of the oblast councils provided for a balanced representation of persons of the same sex at the level of at least 30% as is seen from the election results.

## Representation of women in local councils of all levels





Only ¼ of the total number of raion councils provided for representation of no less than 30% of persons of the same sex in their overall composition. The largest share of women deputies was recorded in Pyatykhatky raion council of Dnipropetrovsk oblast (55.9%), Zolotonosha raion council of Cherkasy oblast (52.9%), and Vysokopillya raion council of Kherison oblast (50%). The smallest share of women deputies was recorded in Drohobych raion council of Lviv oblast (4.3%) and Snyatyn raion council of Ivano-Frankivsk oblast (5.6%).

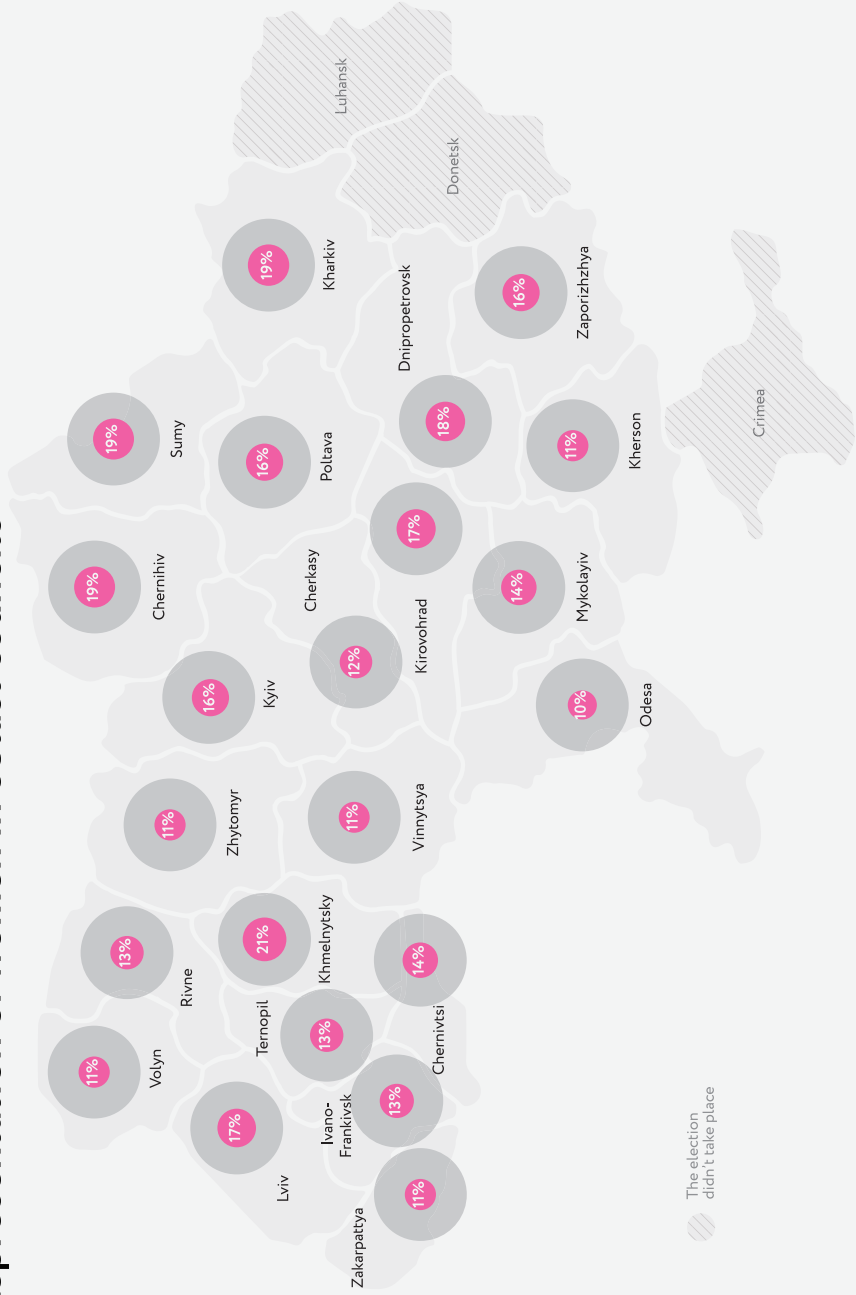
The portions of women deputies in city councils are larger than those in raion councils – in almost half of all city councils the level of representation of persons of the same sex is over 30%. The largest shares of women deputies were recorded in Baturyn city council of Chernihiv oblast (71.4%), Pereschypene city council of Dnipropetrovsk oblast (61.5%), and Sosnivka city council of Lviv oblast (61.5%). The smallest shares of women deputies were recorded in Khust city council of Zakarpattia oblast (5.9%) and Bila Tserkva city council of Kyiv oblast (7.1%).

Of all the city councils of the administrative centers of oblasts, only in Chernihiv city council women deputies account for one third of the total number of deputies, while in the rest of city councils the share of women deputies is much smaller reaching as low as 8.3% in Uzhhorod city council.

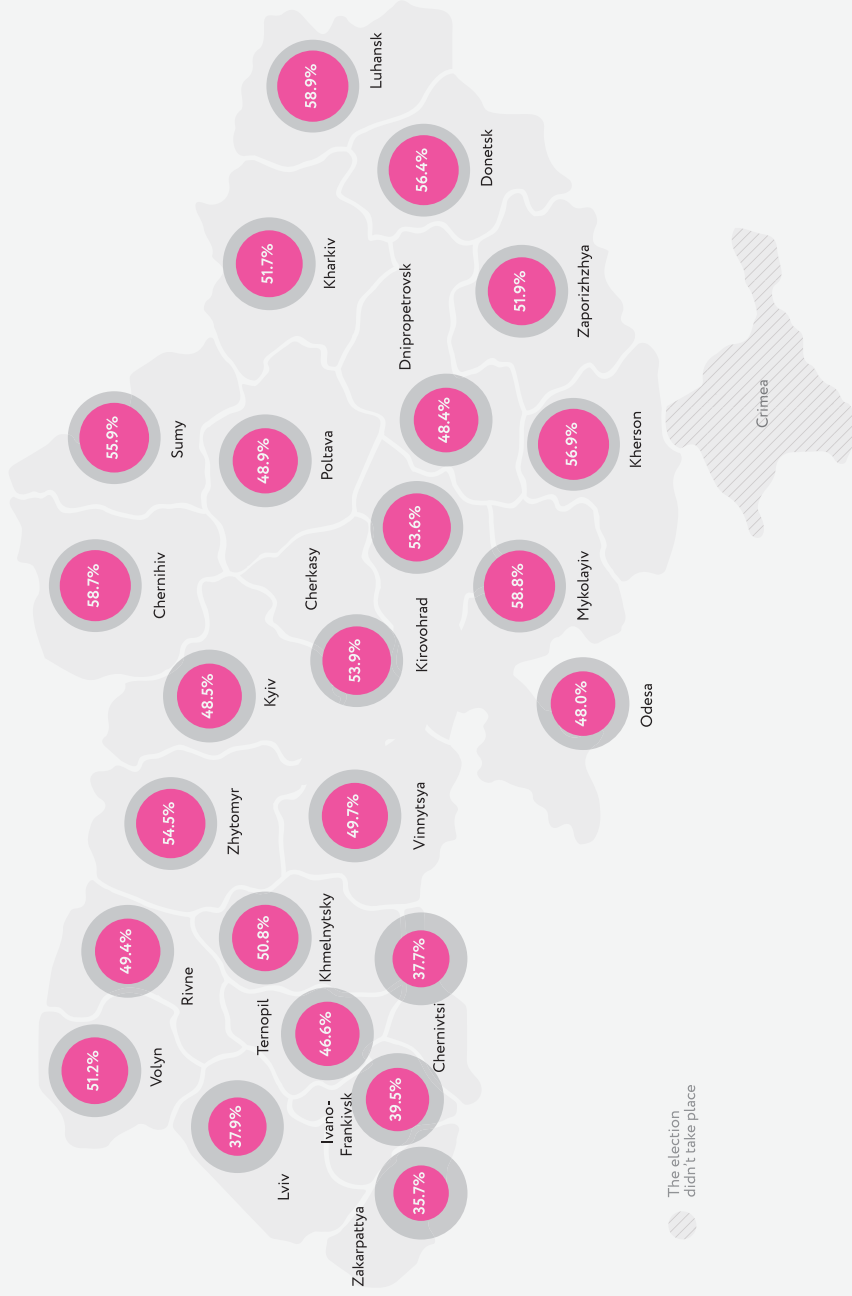
47 out of 89 political parties that won council seats on the results of local elections provided for representation of women deputies in local councils at the level of 30% or higher. The unquestioned leader in this context is the All-Ukrainian Political Union Women for the Future – all of the elected deputies representing this political force are women, however this party won only 7 council seats. Meanwhile, the Nash Krai party is the leader among top 10 political parties that won the largest number of council seats on the results of local elections – 52.9% of elected deputies representing this political force are women. In the All-Ukrainian Union Batkivshchyna women account for 42.2% of the total number of elected deputies. Women account for less than one third of the total number of elected deputies representing the Samopomich Union (26.6%) and the All-Ukrainian Union Svoboda (23.5%).

However, the election results of women deputies look somewhat different when broken down by local councils of certain level. The Samopomich Union provided for the highest level of representation of women deputies in oblast councils (27.9% on average), while the Agrarian Party of Ukraine has the smallest share of women deputies in oblast councils (5%). The Nash Krai party provided for the largest share of women deputies in legislative bodies of raion level (30%), while the Agrarian Party of Ukraine has the smallest share of women deputies in raion councils (9.6%). Opposition Bloc is the leader in terms of the share of women deputies in city councils – 34.6%, while the All-Ukrainian Union Svoboda has the worst record in city councils – 24.3%.

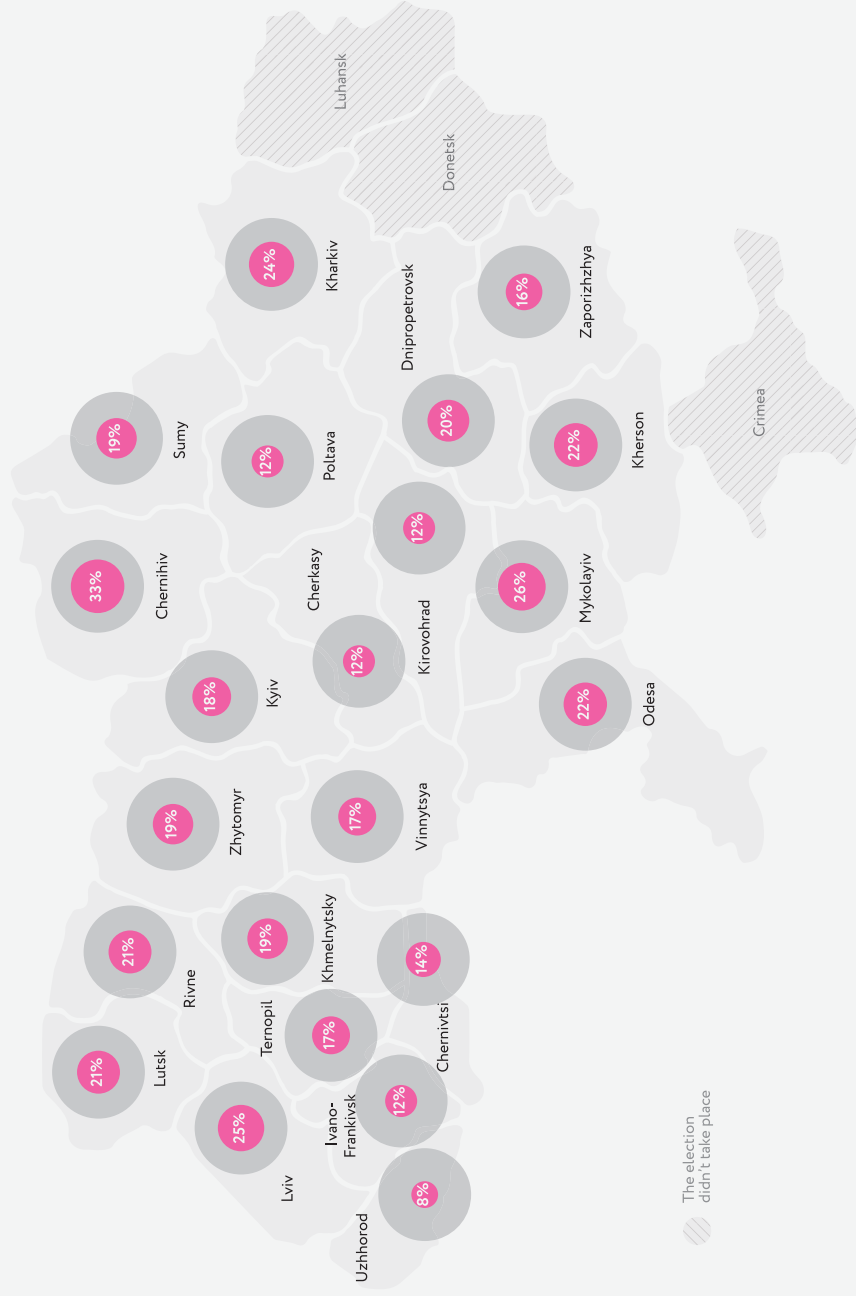
# Representation of women in oblast councils



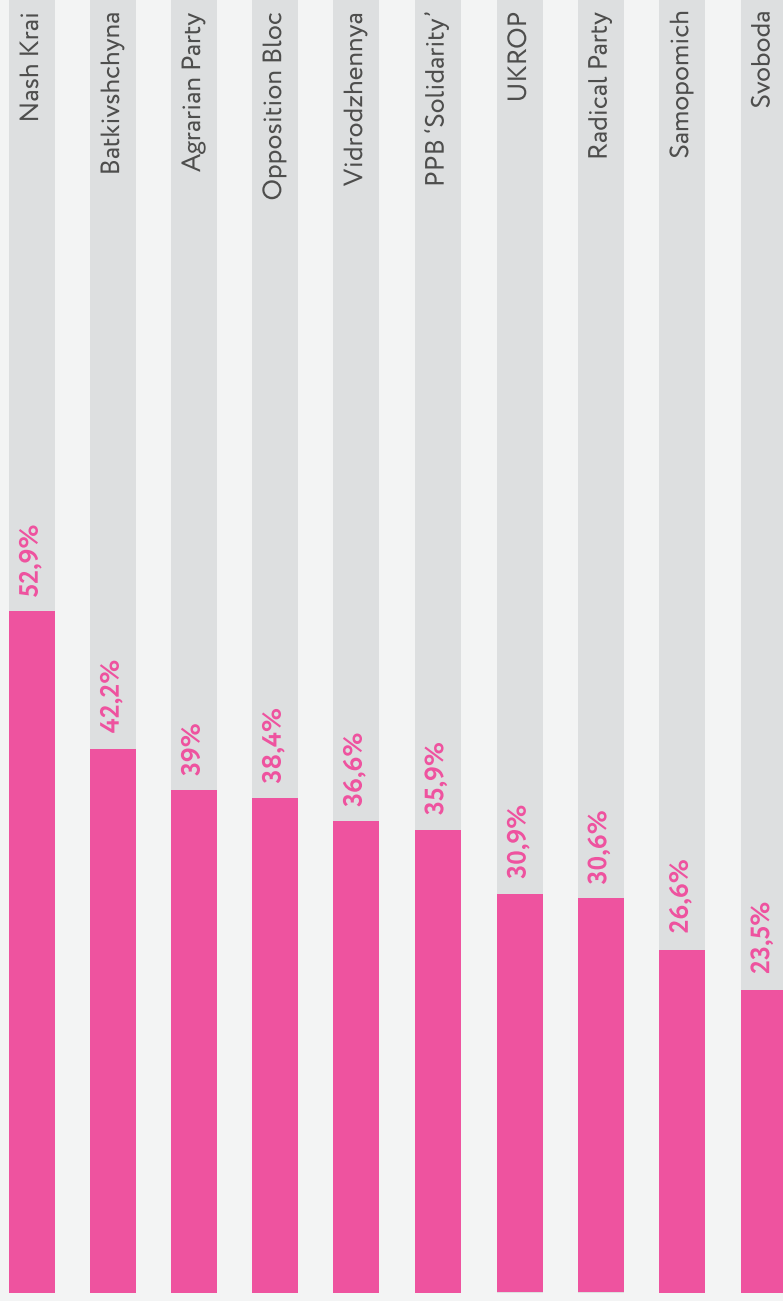
# Representation of women in all local councils



# Percentage of women in city councils of administrative oblast centers

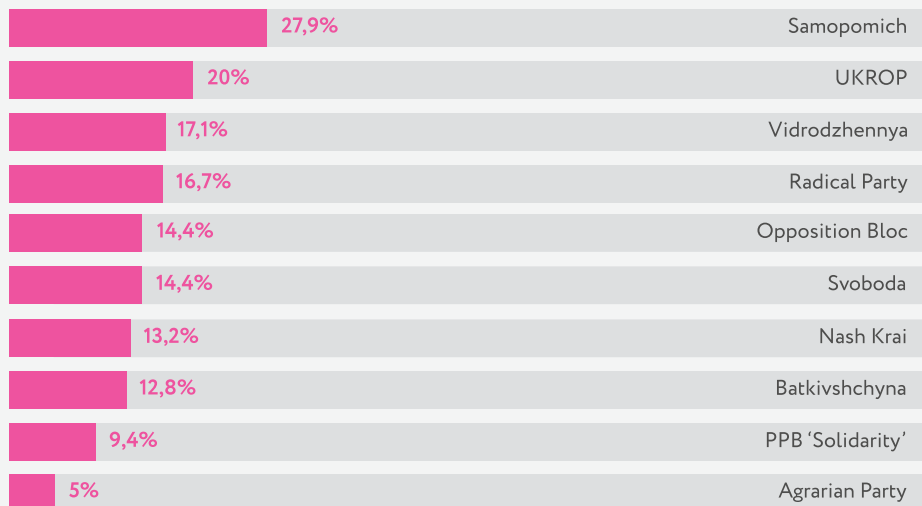


## Leading parties by the number of women in all local councils

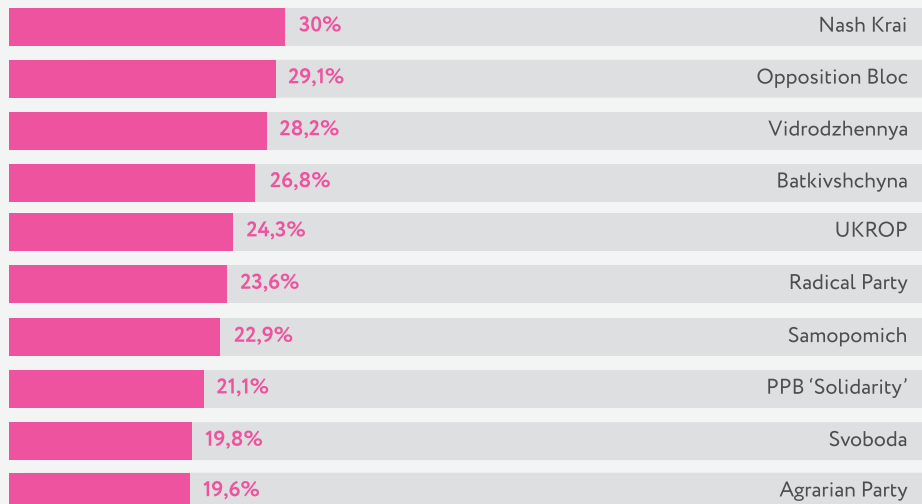


# Leading parties by the number of women in oblast and raion councils

## IN OBLAST COUNCILS:

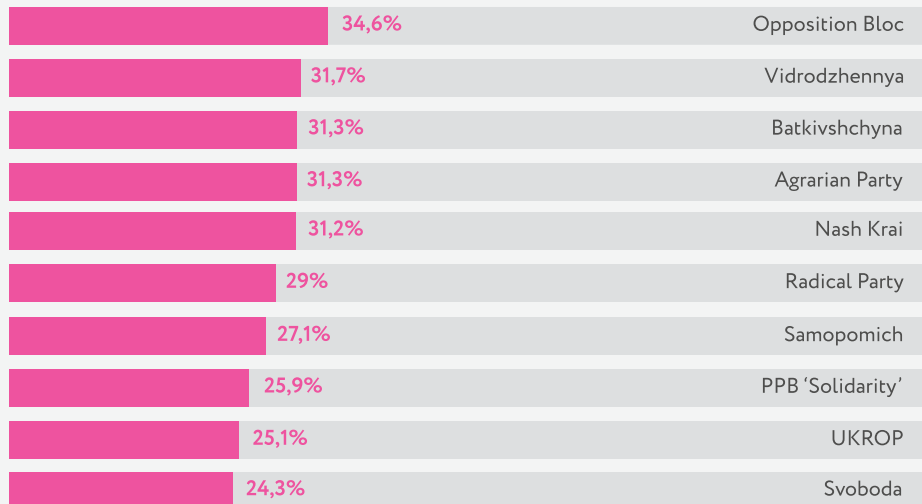


## IN RAION COUNCILS:

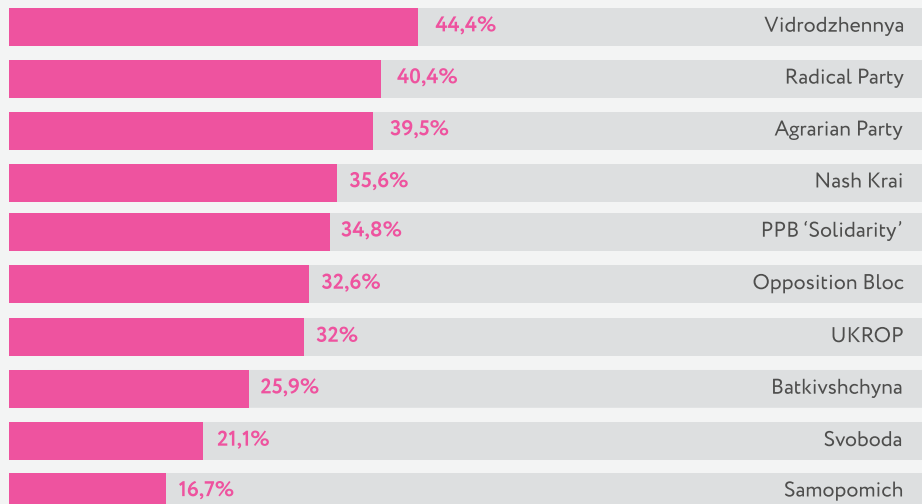


# Leading parties by the number of women holding mayoral positions and mandates in city councils

## IN CITY COUNCILS:

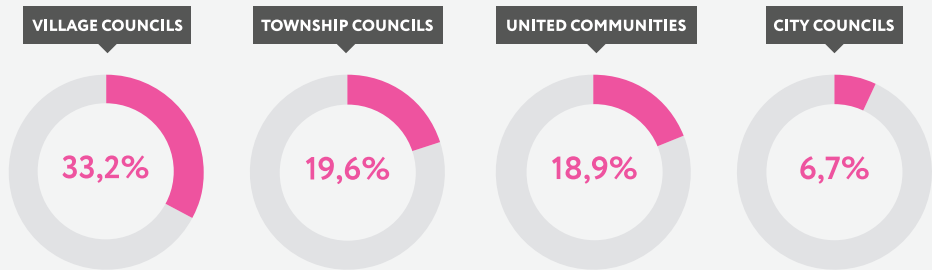


## HOLDING MAYORAL POSITION



## Women holding mayoral positions in local councils of different levels

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Women account for 54.3% of the total number of self-nominated deputies of village and township councils who were eligible to run in these elections, while 45.7% of self-nominated deputies are men.

31.3% of the total number of elected city heads (of villages, townships, and cities) are women, while 68.7% are men. Based on the results of 2010 city head elections, women/men ratio was 27.6%/72.4%. Women are best represented at the level of heads of village councils (one third of all village heads are women), while at the level of heads of city councils women have the smallest representation (nearly 7%).

According to the results of local elections, the Vidrozhennya party has the most balanced women/men ratio in terms of elected heads – 44% and 56% correspondingly. Women account for 40% of the total number of elected heads nominated by the Radical Party of Oleh Lyashko and the Agrarian Party of Ukraine, while the remaining 60% are men. The Samopomich Union has the smallest share of women city heads – nearly 17%.







#12

**INTERNALLY  
DISPLACED  
PERSONS'  
SUFFRAGE**

Military action in Donetsk and Luhansk oblasts, annexation of the Autonomous Republic of Crimea and the city of Sevastopol resulted in massive internal displacement of Ukrainian citizens. On the eve of the official start of the election process there were 1 million 459 thousand internally displaced persons registered with social protection authorities, of which approximately 78% had the right to active suffrage (information as of the end of August 2015).

The unprecedented challenges that Ukraine faced in connection with the internal displacement of citizens include social and economic issues, as well as the need for proper integration of such persons in territorial communities that are new to them. The problem with providing conditions for integration of IDPs not only became a pressing issue at the domestic level, but also grew into an internationally binding commitment. In particular, the PACE Resolution as of January 27, 2015, urged the Ukrainian authorities to respect the right of internally displaced persons to freely choose whether to return home or integrate in new territorial communities, or move to another part of the country, and to take measures aimed at assisting them in implementation of their choice. In addition, this document stressed that Ukraine must fully comply with the international standards envisaged by UN Guiding Principles on Internal Displacement (1998), which set out guarantees for integration of these groups of people in new territorial communities and ensure their participation in decision-making process both at local and national level<sup>39</sup>. According to OPORA research, the problem with ensuring the voting rights of IDPs is directly related to the mechanisms of integration of IDPs and prevention of discrimination against citizens in the exercise of their constitutional rights.

Since the beginning of 2015, the procedures for ensuring the electoral rights were being actively discussed among IDPs as well as in expert and public circles. However, these problems did not get an adequate response from the Verkhovna Rada of Ukraine, President of Ukraine, and the Cabinet of Ministers of Ukraine.

The Law of Ukraine on Local Elections, which was adopted by the Verkhovna Rada of Ukraine less than two months before the official start of the election process, defines voters at the relevant local elections as the citizens of Ukraine who are eligible to vote under Article 70 of the Constitution of Ukraine and reside on the territory of oblast, city or raion within the boundaries of relevant territorial election constituency (Article 3 of the Law). At the same time, affiliation of citizen with a relevant territorial community and his/her residence on the relevant territory is determined by his/her registered place of residence (Section 3 of Article 3 of the Law of Ukraine on Local Elections). The procedure for registration of place of residence of citizen of Ukraine is determined by the Law of Ukraine on Freedom of Movement and Choice of Place of Residence. Information about registered place of residence shall be entered into the passport of a citizen of Ukraine, while the person registering a new place of residence must

<sup>39</sup> See also: *PACE Resolution on Ukraine. Annotated translation* [eurointegration.com.ua/articles/2015/01/28/7030164/](http://eurointegration.com.ua/articles/2015/01/28/7030164/)

provide documents proving the right to occupy the residential space, fact of registration with a specialized social institution, institution of social services and social protection, fact of performance of active duty in the military unit, the addresses of which shall be indicated during registration. Thus, IDPs could vote in local elections at the place of actual residence only in the event of renunciation of registered place of residence located in a conflict zone, as well as the present ability to provide proof of his/her right to occupy a new dwelling space.

Application of imperative and mandatory requirement for IDPs concerning the change of registered place of residence, in fact, closed the door on the exercise of suffrage to the majority of IDPs. The practical complexity of the existing procedure is determined by social, security and other reasons<sup>40</sup>. According to OPORA, international standards were supposed to encourage Ukrainian state authorities to take due account of the actual circumstances of the exercise of constitutional rights and freedoms by citizens, which were caused by involuntary displacement of citizens<sup>41</sup>. For example, Recommendation of the Committee of Ministers of the Council of Europe (2006) on Internally Displaced Persons envisages adoption of adequate legal and practical measures by Member States in order to ensure that IDPs are effectively exercising their right to vote in national, regional or local elections, and guarantee the inviolability of this right by eliminating practical obstacles. Furthermore, the Law of Ukraine on Principles of Prevention and Combating Discrimination in Ukraine sets out that indirect discrimination is a situation where an individual and/or a group of persons, on the grounds of their specific features, are put to a disadvantage as compared to other individuals and/or group of persons due to implementation or application of formally neutral legal provisions, evaluation criteria, rules, requirements or practices, unless implementation or application thereof is legitimate, has an objectively grounded goal, and the methods for achieving it are adequate and necessary (Section 3 of Article 1 of the Law). Therefore, the application of imperative requirement for internally displaced persons concerning the change of registered place of residence, which is aimed at determining their affiliation with a territorial community where they reside on a permanent basis after their displacement, bears indicia of indirect discrimination of this group of citizens.

OPORA's expert opinion about ensuring the rights of IDPs, in addition to the above, was based on the provisions of the Constitution of Ukraine, the UN Guiding Principles on Internal Dis-

<sup>40</sup> *The point at issue is about access to social and humanitarian assistance, increased security risks when crossing the delimitation line to visit relatives or burial places, inability to fulfill the mandatory requirements for changing the registered place of residence. Besides that, it is necessary to take due account of the desire of the majority of internally displaced persons to preserve formal features of affiliation with the former places of residence for fear of negative effects on recovery of their property after the restoration of constitutional order on the temporarily occupied territories.*

<sup>41</sup> *In particular, the IDP's chances for concluding a formal agreement on apartment lease are low, since landlords have negative expectations about state government's binding decisions concerning the lease of dwelling space to displaced persons on a preferential basis or imposing a ban on eviction from housing of vulnerable categories of citizens. It is equally true that there is little prospect of IDPs buying a home of their own in the short and medium term. Besides that, it is necessary to take due account of the desire of the majority of internally displaced persons to preserve formal features of affiliation with the former places of residence for fear of negative effects on recovery of their property after the restoration of constitutional order on the temporarily occupied territories.*

placement, Recommendations of the Committee of Ministers of the Council of Europe, and the Parliamentary Assembly of the Council of Europe. In particular, Article 24 of the Constitution of Ukraine stipulates that citizens have equal constitutional rights and freedoms and are equal before the law. Thus, there can be no privileges or restrictions based on race, skin color, political, religious and other beliefs, sex, ethnic or social origin, property status, place of residence, language or other features. Meanwhile, Article 38 of the Constitution of Ukraine sets out that citizens have the right to participate in public affairs, national and local referendums, to freely elect and to be elected to state government bodies and local self-government authorities. Furthermore, Principle 1 of the UN Guiding Principles on internal displacement proclaims the right of IDPs to enjoy, in full equality, the same rights and freedoms under international and domestic law, as do other persons in their country. The document sets out that internally displaced persons shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced. Relevant provisions on prevention of discrimination against internally displaced persons were also included in the Recommendations of the Committee of Ministers of the Council of Europe on Internally Displaced Persons (2006). Furthermore, Recommendation 1877 (2009) of the Parliamentary Assembly of the Council of Europe drew the attention of member states to the need to take all reasonable steps in order to ensure that internally displaced persons exercise their right to participate in public affairs at all levels, including the right to vote or to stand for election, for which purpose member states may opt to implement special measures, such as conduct of voter registration campaigns among IDPs and issuance of absentee ballots.

Over the course of year 2015, OPORA in partnership with other non-governmental organizations initiated discussions on mechanisms for the implementation of voting rights of internally displaced persons at the local elections in Ukraine. OPORA experts, who participated in the work of the working party under the leadership of the Chairman of Verkhovna Rada of Ukraine Volodymyr Groisman, are the co-authors of the draft Law of Ukraine on Local Elections (registration number 2831-2). This draft law provided the IDPs with an opportunity to approach the authority responsible for maintaining the State Register of Voters with a personal request for changing his/her voting address. After changing the voting address, IDPs would have received the right to vote at local elections in those territorial communities where they actually reside after their move from the annexed territory of the Autonomous Republic of Crimea, the city of Sevastopol, and temporarily occupied raions of Donetsk and Luhansk oblasts.

Due to support of alternative draft law (registration #831-3) by the Verkhovna Rada of Ukraine, OPORA in partnership with Donetsk regional organization the Committee of Voters of Ukraine prepared their own amendments and proposals on guaranteeing the voting rights of internal migrants for the second reading of the above-mentioned draft law. However, these amendments and proposals were never considered on their merits by the Parliament.

In addition, OPORA in cooperation with partner organizations developed the draft Law of Ukraine on Amendments to certain legislative acts of Ukraine guaranteeing voting rights of internally displaced persons (registration number 2501a-1)<sup>42</sup>, which envisaged introduction of amendments to the Laws of Ukraine on Local Elections, on the State Register of Voters, and on the Rights and Freedoms of Internally Displaced Persons in order to achieve the following:

- enable determining the affiliation of IDPs with a certain territorial community in accordance with the actual place of residence, if such person changed his/her voting address by personal request;
- include certificate of registration of IDPs in the list of valid grounds for changing the voting address;
- determine the mechanisms for exchange of information between authorities responsible for maintaining the State Register of Voters and the bodies that register IDPs.

The draft law provided IDPs with an opportunity to change their voting address and gain the right to vote at the national and local elections according to the place of residence on a permanent basis. The proposed procedure envisaged that an IDP voter shall approach the authority responsible for maintaining the State Register of Voters with a personal request for changing the voting address (no later than 15 days before Election Day at the national or local elections). Authority responsible for maintaining the State Register of Voters, which has received a request for changing the voting address from the voter-internally displaced person, shall check the validity of the certificate of registration of internally displaced person by referring to the authority that issued this certificate. After completing this checkup, the authority responsible for maintaining the State Register of Voters shall adopt a decision on changing the voting address of the voter. The draft law provided that an IDP voter shall vote at the national and local elections according to the actual place of residence, which was obtained after the move from the temporarily occupied territory, on a permanent basis after changing the voting address. It was also proposed that restrictions shall be applied to repeated change of voting address by IDPs who have already taken advantage of this opportunity. At the same time, those internally displaced persons who didn't approach the authority responsible for maintaining the State Register of Voters with a personal request shall retain their present voting address, which is currently located on the temporarily occupied territory.

<sup>42</sup> *Initiators and drafters of the draft law #2501a-1 on amendments to certain legislative acts of Ukraine guaranteeing voting rights of internally displaced persons as of August 21, 2015: Civil Network OPORA, Donetsk regional organization Committee of Voters of Ukraine, All-Ukrainian Charity Fund Right of Defense, Institute for social and economic studies, VostokSOS, CrimeaSOS, People's Deputies Serhiy Taruta, Natalia Veselova, Hanna Hopko, Olexiy Ryabchyn, Yegor Firsov, Alyona Shkrum, Viktoriya Ptashnyk, Ostap Yednak, and Oksana Yurynets. [w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=56287](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=56287)*

According to international standards, all countries should respect the right of IDPs to make free and conscious choice between one of three options: return home, integration into the place of transition, or resettlement in other safe part of the country. Draft Law #2501a-1 is aimed precisely at providing real alternatives in the form of three above-mentioned options in the context of guaranteeing the exercise of suffrage by this group of citizens.

The legislative initiatives proposed by OPORA were supported by the Ombudswoman for Human Rights in the Verkhovna Rada of Ukraine Valeriya Lutkovska, head of the Parliamentary Committee for Human Rights, National Minorities and International Relations Hryhoriy Nemyria, and head of the Parliamentary Committee on Foreign Affairs Hanna Hopko, all of whom made special statements on this matter. In particular, the Ombudswoman for Human Rights in the Verkhovna Rada of Ukraine Valeriya Lutkovska in her open appeal to the People's Deputies of Ukraine pointed out that due to imperfect legislation in the run-up to the 2015 local elections our country found itself in a situation where nearly 1.5 million internally displaced citizens were, in fact, deprived of the opportunity to exercise their voting rights, in particular their right to elect deputies of village, township, city councils and the corresponding heads in those territorial communities where they currently reside<sup>43</sup>. As stressed by the Ombudswoman, such a situation violates the principle of non-discrimination in terms of equality of rights, freedoms and opportunities. Meanwhile, head of the Parliamentary Committee for Human Rights, National Minorities and International Relations Hryhoriy Nemyria noted that draft law #2501a-1 on Amendments to certain legislative acts of Ukraine guaranteeing voting rights of internally displaced persons sets out the most balanced approach to ensuring the rights of IDPs as parties to electoral process<sup>44</sup>.

Furthermore, the Verkhovna Rada of Ukraine also registered two alternative draft laws. Draft law #2501a (subjects of legislative initiative – People's Deputies V. Bondar and V. Khomytnyk) provided IDPs with an opportunity to temporarily change the polling place without changing the voting address. The People's Deputies proposed to apply a “one-off” mechanism of temporary change of polling place without changing the voting address of this group of citizens at the local elections. The fact of temporary change of polling place without changing the voting address was supposed to be relevant only to Election Day at one specific election, and should not have concerned any further elections. In particular, a person would have had an opportunity to temporarily change the polling place several times without changing the election address during the period between the day of voting at the regular local elections on

<sup>43</sup> See also: *An open appeal of the Ombudswoman for Human Rights in the Verkhovna Rada of Ukraine Valeriya Lutkovska to the People's Deputies of Ukraine concerning the voting rights of internally displaced persons*. ombudsman.gov.ua/ua/all-news/pr/12915-nm-vidkryte-zvernennya-upovnovazhenogo-verxovnoi-radi-ukraini-z-prav-ly

<sup>44</sup> See also: *Heads of two Committees of the Verkhovna Rada of Ukraine called for granting displaced persons the right to vote at the local elections*. oporaua.org/parlament/7-sklykannja/article/8174-vreguljuvannja-vyborchyh-prav-pereselenciv-scenariji-vyrishennja-problemy



October 25, 2015, and repeat voting in the second round of local elections on November 15, 2015 (or alternatively, cast a vote on October 25, but take no part in a vote on November 15).

Meanwhile, draft law #2501a-2 (subject of legislative initiative – Yulia Lyovochkina) provided for application of the principle of automatic acquisition of a new election address by internally displaced persons through submission of data on registration of place of residence (place of stay) of internally displaced persons to the authority responsible for maintaining the State Register of Voters by territorial unit of State Migration Service. However, in practice the territorial units of State Migration Service did not have relevant information about IDPs that would allow implementing the provisions of the draft law #2501a-2 in the event of its enactment.

## Comparison of draft laws

	#2501a	#2501a-1	#2501a-2
<b>Initiators</b>	MPs V. Khomutnyk and V. Bondar	MPs S. Taruta, H. Hopko, N. Veselova O. Riabchyn, Ye. Firsov, O. Yednak, V. Ptashnyk, A. Shkrum, O. Yurynets and NGOs	MP Yu. Lovochkina
<b>Voting procedure</b>	<p>It is possible to ascertain that a citizen belongs to the certain territorial community based on his/her residence address, indicated in an IDP registration certificate (while the status is valid).</p> <p>An internally displaced person may vote in local elections in case of the temporary change of voting location without changing the voting address.</p> <p>The draft law does not concern other elections, i.e. there is still an opportunity to vote in Presidential and Parliamentary elections through a temporary change of the voting location without changing the election address.</p>	<p>It is possible to ascertain that a citizen belongs to the certain territorial community based on his/her residence address, indicated in an IDP registration certificate, but only providing that election address is changed by submitting a personal application to a Voter Register maintenance body at a factual residence address.</p> <p>It suggests changing the election address based on a personal application, and a citizen who fails to submit application to a Voter Register maintenance body keeps the election address unchanged. There is a restriction for a repeated change of election address (365 days).</p> <p>IDPs will get a chance to vote at the place of residence thanks to the change of election address.</p>	<p>It is possible to ascertain that a citizen belongs to the certain territorial community based on his/her residence address, indicated in an IDP registration certificate. In particular, it is related to a mark in a residence registration certificate, made by the State Migration Service, but not a factual residence address.</p> <p>It is suggested to apply an automated acquisition of a new election address by an IDP when the State Migration Service submits the residence registration data of IDPs to State Voter Register maintenance bodies.</p> <p>It is suggested using this very algorithm on national elections.</p>

Summary			
	<p>It is suggested applying a "single-use" temporary change of the voting location without changing the election address.</p> <p>The temporary change of the voting location without changing the election address will be used only on the election day in these elections.</p>	<p>It is suggested simplifying the procedure for a change of election address. The procedures are based on an application-based principle, not automated. IDPs, who do not change their election address, will be able to vote in Presidential and Parliamentary elections through a temporary change of the voting location.</p> <p>The suggested procedures guarantee voting rights of IDPs in local and national elections.</p>	<p>According to the Law of Ukraine on Guaranteeing the Rights and Freedoms of Internally Displaced Persons, a regional department of the State Migration Service may indicate not only a residence address in an IDP registration certificate, but also an address of a regional department of the State Migration Service or a social security agency.</p> <p>This circumstance complicates the use of State Fiscal Service's data in an election process.</p>

Despite a strong campaign in support of the legislative initiative, factions of the parliamentary majority and the Verkhovna Rada Committee on Legal Policy and Justice have chosen the strategy of delaying a consideration of drafts of legislative changes concerning the electoral rights of IDPs (including draft law #2501a-1). The Verkhovna Rada Committee on Legal Policy and Justice never got around to discussing the draft law and exceeded the time allotted by the Regulations of the Verkhovna Rada of Ukraine for examining the draft law. The draft law was not submitted for consideration and was not put for a vote in the Parliament.

On the one hand, politically influential actors had prejudices against electoral preferences of IDPs. On the other hand, politicians diminished the importance of the need for ensuring the integration of this group of citizens until the completion of activities of the Minsk protocol on peaceful settlement of the military conflict in certain areas of Donetsk and Luhansk oblasts. At the same time, the on-going political conflict over the issues related to protection of voting rights of IDPs allowed to draw public attention to the problem of ensuring the voting rights of migrant workers. The attempts of some politicians to oppose the voting rights of internally displaced persons against the voting rights of migrant workers, despite their destructiveness, can have a positive effect on finding an integrated solution of the problem.





#13

**VIOLATION  
OF LEGISLATION**

In the course of official election process OPORA observers recorded 1,559 violations that were verified and posted on a special website [map.oporaua.org](http://map.oporaua.org). Full disclosure of facts of violations is a standard practice for observations conducted by OPORA, since all stakeholders, including law enforcement agencies, should have the opportunity to examine the circumstances of revealed violations in detail and take appropriate legal measures.

At the regular local elections, candidates and local party cells most commonly did not adhere to the rules of pre-election campaigning. OPORA observers revealed 789 facts of this nature, which account for more than 50% of all recorded violations during the electoral process; bribery of voters was the second most common violation - 338 facts (22%); ranked third for most common violations are those committed by members of the election commissions - 227 facts (15%).

Cases of ballot fraud and criminal intervention in the electoral process were far less widespread - 54 cases (just over 3% of all violations), obstruction of journalists' and official observers' activities - 51 cases (3%), abuse of administrative resources at the elections - 42 cases (nearly 3%), voters' list manipulations - 4 cases (0.3%).

According to OPORA, quite large-scale cases of bribery of voters were a key problem of local elections. A variety of techniques for committing this type of violation that were recorded during the election campaign could significantly influence the results of the voting in some territorial communities. Despite more active response of law enforcement agencies to the requests of OPORA observers, cases of bribery of voters at the regular local elections were not systematically prevented by responsible authorities, while candidates did not feel seriously threatened with possible punishment for the use of illegal techniques of pre-election campaigning. More large-scale violation of the rules of pre-election campaigning gives evidence of urgency of the issues related to non-transparency in election campaign funding, however bribery of voters had a strong direct impact on the election results.

The positive aspect of the 2015 local elections was the reduced impact of administrative resources on electoral process. Recorded cases of abuse of power aimed at gaining electoral benefits did not have the character of an organized action and different political forces were involved in them. However, the absence of legislative provision obliging the state officials-candidates to go on vacation for the period of their participation in pre-election campaigning encouraged political rivals to take advantage of their positions during the electoral process.

The key difference between the 2015 election campaign and the 2010 local elections is a significant decrease in the intensity of abuse of administrative resources at the last regu-

lar local elections. According to OPORA which monitored the 2010 elections, it was the abuse of administrative resources that resulted in violation of electoral standards in a large number of territorial communities at those elections. Unlike the recent local elections, the pre-election campaign in 2010 was accompanied by centralized intervention of the power vertical in the course of the electoral competition.

According to preliminary data of the Ministry of Interior Affairs of Ukraine, the investigative authorities launched nearly 250 criminal proceedings in relation to offenses committed against electoral rights in the 2015 local elections.

## *Illegal Pre-Election Campaigning*

The largest number of violations of the law at the regular local elections were related to conduct of illegal pre-election campaigning – 789 cases. Of these, 302 cases were related to funding of election campaigns using sources of financing other than the electoral funds. Such violation, as a rule, manifested itself in large-scale practice of production and distribution of campaign materials without output information, thus making it impossible to locate the sources of funds spent on corresponding activities.

It should be noted that production of campaign materials without relevant output information was not the only item on the list of violations of the rules of campaign finance.

There were some recorded cases of voters campaigning in support of a candidate or a local party cells on a paid basis, while under Section 4 of Article 60 of the Law of Ukraine on Local Elections, "conclusion of payment agreements with voters for provision of campaigning services at the expense of electoral funds is prohibited"<sup>45</sup>. Some candidates and political parties used charity funds for indirect campaigning financing for their own benefit in violation of the ban on using financial resources that are not included in electoral funds in the course of election campaign<sup>46</sup>. Besides that, those candidates who did not open campaign accounts often conducted pre-election campaigns, which de facto entailed corresponding expenses<sup>47</sup>. In the latter case, the money that was actually spent on these campaigns was not subject to any control.

<sup>45</sup> See also: *Local cell of the Petro Poroshenko Bloc 'Solidarity' party pays for the services of canvassers*. [map.oporaua.org/68-1444640473-nezakonna-agitaciya/finansuvannya-agitaciyi-ne-z-viborc/1290-v-m-malini-agitator-vid-bpp-solidar](http://map.oporaua.org/68-1444640473-nezakonna-agitaciya/finansuvannya-agitaciyi-ne-z-viborc/1290-v-m-malini-agitator-vid-bpp-solidar)

<sup>46</sup> See also: *Second round of election in Lutsyk: one of candidates violates the principle of equal suffrage*. [map.oporaua.org/68-1444640473-nezakonna-agitaciya/finansuvannya-agitaciyi-ne-z-viborc/2137-drugiy-tur-viboriu-u-lucku-odin-z-k](http://map.oporaua.org/68-1444640473-nezakonna-agitaciya/finansuvannya-agitaciyi-ne-z-viborc/2137-drugiy-tur-viboriu-u-lucku-odin-z-k)

<sup>47</sup> See also: *Zhytomyr oblast: Candidate uses financial resources other than the electoral fund for election campaign finance*. [map.oporaua.org/68-1444640473-nezakonna-agitaciya/finansuvannya-agitaciyi-ne-z-viborc/1291-bogdyuk-olena-ivanivna-kandidat-na](http://map.oporaua.org/68-1444640473-nezakonna-agitaciya/finansuvannya-agitaciyi-ne-z-viborc/1291-bogdyuk-olena-ivanivna-kandidat-na)

Of 789 cases of illegal campaigning, 242 were related to distribution or placement of campaign materials in prohibited areas. The Law of Ukraine on Local Elections prohibits placement of printed campaign materials, political advertising, and messages about the progress of electoral process on architectural monuments, cultural heritage sites, buildings and premises of state authorities, authorities of the Autonomous Republic of Crimea, local self-government authorities, enterprises, state-owned and community-owned legal entities and organizations, as well as in places where they would impede road safety (Clause 5 of Section 9 of Article 60). Besides that, the law imposes ban on placing political advertising inside and outside the public transport, including taxis, inside and outside the premises of subway stations, bus and railway stations, ports and airports, and also prohibits distribution of campaign materials, including political advertising, through TV and radio broadcasting networks as well as other types of passenger warning systems and display boards inside the premises of subway stations, subway cars, bus and railway stations, ports and airports, public transport (Clauses 6-7 of Section 9 of Article 60 of the Law of Ukraine on Local Elections).

However, the practice of conducting election campaigns gave evidence of mass violations of legal restrictions by candidates and local party cells. In particular, electoral subjects were actively placing campaign materials in public transport in violation of law<sup>48</sup>. Cases of illegal distribution of campaign materials inside the premises of state authorities, state-owned and community-owned legal entities were also recorded, although such cases were few and far between<sup>49</sup>.

There were 98 recorded cases of illegal campaigning at prohibited times. According to Section 2 of Article 54 of the Law of Ukraine on Local Elections, local party cells and candidates were allowed to start their election campaigns as from the day following the date of adoption of decision on registration of candidates by relevant territorial election commission. The end of election campaign was set for 00:00 on the last Friday before Election Day. At the same time, it was forbidden to conduct election campaigns before and after the established time. On the one hand, local party cells and candidates performed activities in form and substance similar to election campaigning prior to the date of their official registration. On the other hand, there were recorded cases of campaigning on the last Saturday before Election Day and on the very day of voting (including isolated cases of campaigning directly at the polling stations).

<sup>48</sup> See also: *Legally prohibited campaign materials of Vidrodzhennya party and candidate for city head of Kharkiv Hennadii Kernes placed at the entrance to subway stations in Kharkiv.* [map.oporaua.org/68-1444640473-nezakonna-agitaciya/poshirennya-vstanovlennya-agitaciyn/1098-zaboronena-zakonom-agitaciya-partiy](http://map.oporaua.org/68-1444640473-nezakonna-agitaciya/poshirennya-vstanovlennya-agitaciyn/1098-zaboronena-zakonom-agitaciya-partiy)

<sup>49</sup> See also: *Printed campaign materials of Petro Poroshenko's Bloc 'Solidarity' in prohibited place.* [map.oporaua.org/68-1444640473-nezakonna-agitaciya/poshirennya-vstanovlennya-agitaciyn/1546-drukovana-agitaciya-vid-partiyi-blo](http://map.oporaua.org/68-1444640473-nezakonna-agitaciya/poshirennya-vstanovlennya-agitaciyn/1546-drukovana-agitaciya-vid-partiyi-blo)



Conduct of campaign on the day of pre-election silence (last Saturday before Election Day) or on the very day of voting, as well as pre-election canvassing before the official registration of candidates actualizes the need for revision or improving the efficiency of existing legal restrictions on campaigning. That is particularly true of prohibition of campaigning on the last day before Election Day, because legal restrictions that are not enforced by real sanctions contribute to the use of various manipulative techniques.

Illegal forms of election campaign such as violation of procedure for campaigning by mass media (68 cases) as well as black PR technologies and sleazy campaigning methods (79 cases) were less widespread.

Black PR technologies were implemented either through distribution of anonymous campaign materials of questionable or blatantly false content, or by means of organizing public actions aimed at discrediting opponents. There were some cases of distribution of fake campaign materials that contained false information on behalf of political rivals.

As detailed in Section 5 of Article 60 of the Law of Ukraine on Local Elections, distribution of intentionally false information about a candidate, political party or its local cells subject to electoral process, as well as distribution of intentionally false information in support of a certain candidate or local party cell by rival candidates, political parties or their local cells is prohibited.

Furthermore, Section 8 of Article 60 of the Law of Ukraine on Local Elections states that all campaign materials must be separated from other materials and indicated as such. According to the monitoring experience of OPORA, by no means all mass media abided by this provision of the law, but instead placed or published campaign materials without properly indicating them as such. Moreover, in some cases mass media committed violations in the process of publication of results of opinion polls related to the elections. The Law of Ukraine on Local Elections stipulates that mass media, news agencies, and other entities, which publish the results of opinion polls related to the elections, must indicate the full name of polling organization and polling client, as well as polling time frame, coverage area, survey sample size and sampling method, polling method, the exact wording of questions, and margin of statistical error (Sections 1-2 of Article 53).

In summary, facts of illegal campaigning were recorded more often than other types of violations in the course of regular local elections held on October 25, 2015, and during the second round of voting. At the same time, bribery of voters was the second most common type of violation recorded by OPORA observers. This type of violation has had objectively a more significant influence on the election results than illegal campaigning conducted by subjects of electoral process.

## *Bribery of Voters*

In the course of election process, OPORA recorded 338 cases of bribery of voters, 10 of which were related to provision of money to voters by candidates or their proxies, or unknown persons (corrupt payments). All other revealed facts indicate that bribery of voters was most often carried out by means of provision of goods and services to voters.

The Law of Ukraine on Local Elections prohibits the conduct of election campaign that is accompanied by provision of money, security papers, loans, lottery tickets, goods and other property, or works and services to voters on a gratuitous or preferential basis. There is no prohibition on provision of goods containing visual images of the name, branding, flag of a local party cell, which is a subject of electoral process, or political party whose local cell is a subject of electoral process, or any other campaign materials, provided that the value of such goods does not exceed 5% of the minimum wage (68.9 UAH as of September – October 2015). Local organizations of political parties and candidates also are not allowed to conclude payment agreements with voters for provision of campaigning services at the expense of electoral funds.

At the same time, Section 1 of Article 160 of the Criminal Code of Ukraine provides for the punishment of voters who accept offers, promises or receive improper advantage for their personal benefit or for the benefit of third parties in return for performance or omission to perform any actions related to direct exercise of suffrage or the right to vote. Regardless of the actual expression of will of such persons and the election results, the corresponding offenses shall be punishable by a fine ranging from one hundred to three hundred tax-exempt minimum incomes, or correctional labor for a period of up to two years, or imprisonment for the same period. Meanwhile, an offer, promise or provision of improper benefit to the voter in return for performance or omission to perform any actions related to direct exercise of suffrage or the right to participate in the referendum shall be punishable by custodial restraint for a period of up to three years or imprisonment for the same period with deprivation of the right to hold certain positions or engage in certain activities for a period of one to three years (Section 2 of Article 160 of the Criminal Code of Ukraine).

The Criminal Code of Ukraine fixes a punishment in the form of custodial restraint for a period of two to four years, or imprisonment for the same term with deprivation of the right to hold certain positions or engage in certain activities for a period of one to three years for conducting pre-election campaign by way of provision of improper benefits to enterprises, institutions, and organizations or provision of goods and services on a gratuitous basis<sup>50</sup>

<sup>50</sup> *Except for the goods containing visual images of the name, branding, flag of a political party, provided that the value of such goods does not exceed the amount established by legislation. In this case, it is referred to the ban imposed by the Law of Ukraine on Local Elections on provision of goods containing visual images of the name, branding, flag of a local party cell, which is a subject of electoral process, or political party whose local cell is a subject of electoral process, or any other campaign materials.*

(Section 3 of Article 160 of the Criminal Code of Ukraine). It is worth paying attention to the fact that Section 3 of Article 160 of the Criminal Code of Ukraine does not actually apply to such cases involving voters, but only applies to enterprises, institutions and organizations. The absence of voter as a potentially liable party in Article 160 of the Criminal Code of Ukraine had negative effects on the efficiency of law-enforcement agencies' response to illegal campaigning by means of provision of goods and services.

Actions envisaged in Section 2<sup>51</sup> or Section 3<sup>52</sup> of Article 160 of the Criminal Code of Ukraine, committed repeatedly or in collusion with a group of persons, member of the election commission, candidate or his/her proxy, representative of political party or local party cell in the election commission, authorized person of the political party or local party cell, official observer at the elections or referendum, shall be punishable by imprisonment for a period of five to seven years with deprivation of the right to hold certain positions or engage in certain activities for a period of one to three years.

In the context of regulation of punishment for bribery of voters the Criminal Code of Ukraine defines improper benefit as money or other property, advantages, benefits, services or intangible assets, the value of which exceeds 3% of the minimum wage, and which are offered, promised, provided or received without legal basis.

Of the 10 cases of bribery of voters recorded by OPORA, the most high profile case was the one related to bribery of students of Chernivtsi National University in the city of Chernivtsi. The circumstances of this offence included mass photographing of ballot papers by voters who were identified as students of the local university. This was followed by their arrest and admission of offence committed by way of receiving money in return for voting in favor of certain local party cell<sup>53</sup>. Prompt response from law enforcement agencies enabled the arrest of perpetrators and organizer of a crime. It emerged that according to investigators the organizer of the crime was identified as a candidate nominated by the local cell of the Ridne Misto party Rostyslav Bilyi, who was put and still is on the wanted list.

Meanwhile, three students of Chernivtsi National University, who were the perpetrators of the crime, were found guilty of committing a criminal offence under Section 4 of Article 160 of the Criminal Code of Ukraine (bribery of voters in collusion with a group of persons) and sentenced to three years in prison, but placed on probation for a period of one year by the Shevchenko raion court of Chernivtsi. The investigation found that under arrangements between the organizer and perpetrators of the crime the latter were looking

<sup>51</sup> *An offer, promise or provision of improper benefit to a voter in return for performance or omission to perform any actions related to direct exercise of suffrage or the right to vote.*

<sup>52</sup> *Conduct of the pre-election campaign by way of provision of improper benefits to enterprises, institutions, and organizations or provision of goods, works, and services on a gratuitous basis.*

<sup>53</sup> *See also: In Chernivtsi, the voters who photographed ballot papers confessed to selling their votes.* [map.oporaua.org/5998-1444640474-pidkup-viborciv/pryamiy-pidkup/2103-v-chernivcyah-viborci-yaki-fotograf](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/pryamiy-pidkup/2103-v-chernivcyah-viborci-yaki-fotograf)

for voters ready to sell their votes for a price of 350 UAH (under arrangement between the perpetrators themselves the “criminal” price of the vote was reduced to 250 UAH). As reported by law-enforcement agencies, photo or video of a cross mark opposite the name of certain local party cell in the ballot paper served as certification of the fact of casting a vote in favor of this party.

Forms of indirect bribery of voters included facts of provision of financial assistance to voters by candidates who conducted their election campaigns in the status of public officials. It should be noted that in many cases candidates holding public office motivated voters to cast ballots in their favor by providing them with financial incentives at the expense of budget funds<sup>54</sup>.

Techniques for indirect bribery of voters were used quite often by candidates and local party cells in the course of regular local elections in Ukraine. In other words, participants in the election process conducted their election campaigns by means of provision of goods, works or services to voters.

There was a very broad list of goods and services provided to voters by candidates, which included the following: 1) installation of playgrounds and construction of sports facilities<sup>55</sup>; 2) selling goods at non-market prices and/or holding food fairs<sup>56</sup>; 3) organizing entertainment

<sup>54</sup> For example, candidate for deputy of Kyiv city council in the territorial election constituency #103 Oleh Kostyushko, nominated by the Petro Poroshenko Bloc ‘Solidarity’ party, provided financial assistance to voters of Solomianskiy raion of Kyiv. Financial assistance was distributed in person by the candidate for Deputy Oleh Kostyushko by way of calling out the names of voters and presenting the envelopes with financial assistance. The police was called in by OPORA observers. However, the aforementioned envelopes were not seized by the police officers, because they said that they have no authority to do so. The candidate Oleh Kostyushko denied performing unlawful actions. He said that he distributed financial aid to citizens as an acting deputy of Kyiv city council with the use of municipal budget funds allocated for this purpose. See also: Distribution of financial assistance with signs of bribery of voters. [map.oporaua.org/5998-1444640474-pidkup-viborciv/pryamiy-pidkup/2091-rozdacha-materialnoyi-dopomogi-z-oz](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/pryamiy-pidkup/2091-rozdacha-materialnoyi-dopomogi-z-oz)

<sup>55</sup> For example, in Odesa candidates included in the nomination list of a local cell of the Doviriyai Dilam party were actively installing playgrounds in the course of the election process. [map.oporaua.org/vsi-porushennya/1787-u-malinoskomu-rayoni-na-vul-fontan](http://map.oporaua.org/vsi-porushennya/1787-u-malinoskomu-rayoni-na-vul-fontan), [map.oporaua.org/vsi-porushennya/1805-u-dvori-za-adresoyu-vul-kropivnicko](http://map.oporaua.org/vsi-porushennya/1805-u-dvori-za-adresoyu-vul-kropivnicko), [map.oporaua.org/5998-1444640474-pidkup-viborciv/napryamiy-pidkup/1736-u-m-odesa-na-vul-seminarskiy-15-b-n](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/napryamiy-pidkup/1736-u-m-odesa-na-vul-seminarskiy-15-b-n). In Odesa, playgrounds were also installed by candidates nominated by other political parties. In particular, a playground was installed in the administrative center of Odesa oblast on behalf of candidate Olena Fokina nominated by a local cell of the Petro Poroshenko Bloc ‘Solidarity’ party. [map.oporaua.org/5998-1444640474-pidkup-viborciv/napryamiy-pidkup/1792-na-vulici-rozkidaylhuska-59-bula-vs](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/napryamiy-pidkup/1792-na-vulici-rozkidaylhuska-59-bula-vs)

<sup>56</sup> For example, on October 18, 2015 in the city of Krasnohrad, Kharkiv oblast, OPORA observer recorded a fact of conduct of pre-election campaign in favor of the Vidrodzhennya party by way of provision of food products to voters on a preferential basis, in particular provision of potatoes and carrots at the price of 1 UAH per kg. [map.oporaua.org/5998-1444640474-pidkup-viborciv/napryamiy-pidkup/1137-provedennya-peredviborchoyi-agitaci](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/napryamiy-pidkup/1137-provedennya-peredviborchoyi-agitaci). Meanwhile, on October 23, 2015, in the city of Odesa an agricultural fair was held on behalf of the candidate for deputy of Odesa city council Liliya Rogachko (Opposition Bloc), where citizens had an opportunity to buy products at reduced prices. [map.oporaua.org/5998-1444640474-pidkup-viborciv/napryamiy-pidkup/1794-23-zhovtnya-mizh-vul-varnenskoji-12](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/napryamiy-pidkup/1794-23-zhovtnya-mizh-vul-varnenskoji-12). In some cases, candidates performed the above-mentioned activities in the format of “social markets”, in which the goods were sold on a preferential basis. For example, in Myrhorod, Poltava oblast, representatives of a local cell of the All-Ukrainian Union Hromada initiated the sale of goods at reduced prices at the store named Hromada. Posters containing visual images of leaders of the nomination list of the local cell of the All-Ukrainian Union Hromada were also placed at the store. Furthermore, on October 15 in the city of Khmelnytsky OPORA observers detected a group of persons selling food products at reduced prices under the flag of the Agrarian party of Ukraine. Apart from food products, the shopping package included printed campaign materials of this political party.

events with free food<sup>57</sup>; 4) providing discounts on haircuts<sup>58</sup>; 5) improvement of adjacent territories; 6) establishing new public transport stops; 7) road repair; 8) cash prizes and other prizes for participation in competitions or contests initiated by a candidate; 9) provision of health services on a gratuitous or preferential basis, distribution of medical-care products<sup>59</sup>; 10) tourist trips for potential voters<sup>60</sup>; 11) provision of equipment, goods and services to community-owned enterprises, institutions and organizations<sup>61</sup>; 12) provision of legal aid and legal services on behalf of a candidate or local party cell; 13) social infrastructure repairs, renovation of school buildings and other socially important institutions<sup>62</sup>; 14) renovation of entrances of apartment buildings<sup>63</sup>; 15) opening new recreation areas or reconstruction of already existing ones; 16) distribution of food gift baskets to voters<sup>64</sup>.

It should be noted that the above-mentioned list of goods and services, which were provided to voters by candidates in the course of the election campaign, is not exhaustive and does not highlight all the techniques of the so-called indirect bribery of voters.

<sup>57</sup> For example, in Odesa a festal dinner was organized on St.Mary's Day on behalf of the candidate for deputy of Odesa city council Iryna Kutsenko nominated by the Douiryat Dilam party. [map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/1171-3978-1445262120-vid-imeni-kandidata-u-deputati-odes](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/1171-3978-1445262120-vid-imeni-kandidata-u-deputati-odes) Similarly, the People's Deputy Dmytro Golubov and the candidate for deputy of Odesa city council Serhij Goldakov nominated by a local cell of the Petro Poroshenko Bloc 'Solidarity' party organized a barbecue picnic for residents of nearby houses.

<sup>58</sup> In Chernivtsi, a beauty salon owned by the candidate for deputy of city council Natalia Frunze nominated by a local cell of the Petro Poroshenko Bloc 'Solidarity' party provided haircut services to pensioners on a preferential basis during the period of election process. [oporacv.org/v-chernivtsijah-v-saloni-krasj-kandydatky-z-ahitatsijeyu-nadajut-skyjdky-na-stryzhku](http://oporacv.org/v-chernivtsijah-v-saloni-krasj-kandydatky-z-ahitatsijeyu-nadajut-skyjdky-na-stryzhku)

<sup>59</sup> For example, Odesa branch post-offices distributed packages of medical products allegedly on behalf of the candidate for deputy of Odesa city council Eduard Stas' nominated by a local cell of the Petro Poroshenko Bloc 'Solidarity' party. [map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/1747-317-1445690518-vid-imeni-kandidata-u-deputati-odes](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/1747-317-1445690518-vid-imeni-kandidata-u-deputati-odes). Meanwhile, on October 19 in Kyiv eye sight tests were carried out, as announced in advance, together with distribution of glasses at the address: Gongadze str., 32B. The ads, which were pasted up all over Podil raion of Kyiv, stated that this charity event shall be organized on behalf of the law union Ukrainian Lawyer and will run from October 17 to 24. However, next to it was a logo of the All-Ukrainian Union Batkivschyna party and a slogan: "Get a good look at your candidate and make a conscious choice!" Moreover, Kyiv resident were asked to bring their passports with valid "registration address". [map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/2116-bezkoshtovni-okulyari-vid-batkivsch](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/2116-bezkoshtovni-okulyari-vid-batkivsch)

<sup>60</sup> For example, the candidate for deputy of Kyiv city council Repa Oleh Mykolajovyč nominated by the Yednist party (territorial constituency #5) organized a pilgrim's journey to Pochajiv Lavra located in Kremets' raion of Ternopil oblast on a gratuitous basis. [map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/1465-bezkoshtovni-poyizdki-v-pochajiv-vi](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/1465-bezkoshtovni-poyizdki-v-pochajiv-vi)

<sup>61</sup> For example, 240 bedding sets were donated by the candidate for city head of Bila Tserkva Kostyantyn Yefymenko to state-funded kindergarten #13. [map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/2148-v-bilij-cerkvi-vid-kandidata-efimen](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/2148-v-bilij-cerkvi-vid-kandidata-efimen)

<sup>62</sup> For example, the candidate for deputy Volodymyr Goncharov (territorial constituency #22) nominated by the Petro Poroshenko Bloc 'Solidarity' party renovated the building of a district police station of Darnytsya raion department of the Ministry of Internal Affairs of Ukraine at the address: Kyiv, Knyazhyi Zaton str., 17-B. [map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/226-kandidat-u-deputati-vid-bloku-petra](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/226-kandidat-u-deputati-vid-bloku-petra)

<sup>63</sup> For example, on October 22 in the city of Chernivtsi observers recorded a fact of renovation of one of the entrances of an apartment building at the address: Komarova str., 9AB, which was accompanied by canvassing in favor of the candidate for deputy of city council Valeryi Chynush nominated by the Ridne Misto party. [map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/2119-7041-1446544812-remont-v-pidyizdi-vid-kandidata-v-d](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/2119-7041-1446544812-remont-v-pidyizdi-vid-kandidata-v-d)

<sup>64</sup> For example, food gift baskets containing sunflower oil, cereals, flour, condensed milk, and sugar were distributed on behalf of the candidate for deputy of Odesa city council Denys Grygorijev nominated by the Petro Poroshenko Bloc 'Solidarity' party. [map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/1746-5117-1445690518-vid-imeni-kandidata-u-deputati-odes](http://map.oporaua.org/5998-1444640474-pidkup-viborciv/nejpryamij-pidkup/1746-5117-1445690518-vid-imeni-kandidata-u-deputati-odes)

The variety of forms of bribery of voters remains a key challenge for the election process in Ukraine, which is a consequence of the absence of inevitability of punishment for committing crimes of this category and the absence of efficient judicial practice. However, OPORA noted some progress in the activity of law-enforcement agencies as compared to 2012-2014 Parliamentary elections and the 2010 local elections, taking into account the fact that they were working more actively and adequately responded to police reports filed by observers.

The efficiency of investigations concerning this category of violations will be estimated in 2016 on the basis of analysis of judicial practice, since law enforcement agencies need some time to complete the investigations. OPORA plans to put in great efforts into legitimate public monitoring of the process of investigation of criminal proceedings related to violation of electoral law and urges other non-government organizations to take similar steps.

## *Unlawful Activities of Election Commissions*

The third place in the overall rankings of different types of violations committed in 2015 regular local elections is occupied by unlawful activities on the part of the election commissions – 227 documented cases. Furthermore, 102 of these cases were related to document manipulations by members of the election commissions. In particular, precinct election commissions failed to follow the procedure for filling out the vote counting protocols at the polling stations, and there were also recorded cases of PEC members signing blank vote counting protocols, drawing up vote count verification protocols at the polling station without holding a meeting of the precinct election commission, and violating the rules of transportation of election documents from PECs to TECs.

Some election commissions failed to follow the procedure for voting established by the Law of Ukraine on Local Elections – 56 cases. In particular, observers recorded isolated facts, which could provide evidence of forgery of voters' signatures in the corresponding registers of voters<sup>65</sup>. Occasionally, PECs violated the vote counting procedure by dividing into smaller

<sup>65</sup> For example, at the polling station #121258 in the city of Dnipropetrovsk (67 Voronezka Street) an OPORA observer recorded a fact of violation on the part of the election commission, in particular the signature of a person, who came to vote for the first time, was already affixed in the list of voters. A statement (act) of detection of the violation of the Law of Ukraine on Local Elections was drawn up. [map.oporaua.org/1607-1444640474-porushennya-z-boku-viborchih-komisi/porushennya-proceduri-golosuvannya/2269-u-dnipropetrovsku-za-viborejya-u-spi](http://map.oporaua.org/1607-1444640474-porushennya-z-boku-viborchih-komisi/porushennya-proceduri-golosuvannya/2269-u-dnipropetrovsku-za-viborejya-u-spi). Furthermore, in Poltava observers recorded a fact of receipt of ballot papers by a voter on behalf of his relative, who was not present at the polling station at that time. [map.oporaua.org/1607-1444640474-porushennya-z-boku-viborchih-komisi/porushennya-proceduri-golosuvannya/2276-golosuvannya-po-dvuh-byuletnyah](http://map.oporaua.org/1607-1444640474-porushennya-z-boku-viborchih-komisi/porushennya-proceduri-golosuvannya/2276-golosuvannya-po-dvuh-byuletnyah)

groups during the vote counting process<sup>66</sup>. Observers also recorded a few cases of issuance of ballot papers to voters who did not show their passports of citizen of Ukraine.

OPORA observers recorded 42 cases of insufficient material and technical support for the election commissions. First of all, there were cases of violation of provisions of the Law of Ukraine on Local Elections concerning the required number of ballot boxes and secret voting booths. It should be noted that the Law of Ukraine on Local Elections sets out clear requirements for polling station premise's floor space, the number of ballot boxes and secret voting booths with due regard to division of polling stations into small, medium and large ones (Article 76 of the Law).

OPORA observers recorded 25 cases involving members of the election commissions who illegally evaded the fulfillment of their duties, in particular the duty to participate in meetings of election commissions. According to the Law of Ukraine on Local Elections, members of the election commission are obliged to participate in meetings of the corresponding election commission, carry out decisions of the election commission and perform their duties as assigned by the election commission (Section 7 of Article 28 of the Law). Moreover, criminal liability of members of the election commission for evading the fulfillment of duties without due and just cause is envisaged by the Criminal Code of Ukraine (Section 1 of Article 157).

Furthermore, OPORA recorded only two cases involving members of the election commissions who conducted pre-election campaigns. According to Section 1 of Article 60 of the Law of Ukraine on Local Elections, members of the election commissions of all levels are banned from conducting pre-election campaigns during the term of office of the corresponding election commissions<sup>67</sup>.

OPORA's observation methodology provides for separation of cases with obvious signs of vote rigging, or in other words those which directly influence election results (54 recorded incidents), into a specific category of violations. This category of violations includes 28 cases of illegal voting and 26 cases of ballot paper manipulations.

Verified facts of illegal voting most often included ballot photographing by voters. Ballot paper manipulations primarily manifested themselves in the attempts to take ballots out-

<sup>66</sup> For example, members of PEC #800271 in the city of Kyiv adopted a decision on vote tabulation in groups. Similar situation occurred at the polling station #800147 (Kyiv). No one responded to OPORA observer's complaint, while PEC members continued the process of vote tabulation after dividing into smaller groups. [map.oporaua.org/1607-1444640474-porushennya-z-boku-viborchih-komisi/porushennya-proceduri-golosuvannya/2048-chleni-dvk-800271-priinyali-rishenn](http://map.oporaua.org/1607-1444640474-porushennya-z-boku-viborchih-komisi/porushennya-proceduri-golosuvannya/2048-chleni-dvk-800271-priinyali-rishenn)

<sup>67</sup> For example, on October 12 in the city of Kuznetsovsk, Rivne oblast, a member of PEC #560892 conducted pre-election campaigning in the tent of the Gromadyanska Pozyttsiya party. In particular, a woman was distributing the official newspaper of the Gromadyanska Pozyttsiya party and leaflets of the candidate for city head of Kuznetsovsk, Basyuk Yaroslav Andriyovych. [map.oporaua.org/1607-1444640474-porushennya-z-boku-viborchih-komisi/zdiysnennya-agitaciyi-chlenami-vibo/1235-12-zhovtnya-umisti-kuznecovsk-bulo](http://map.oporaua.org/1607-1444640474-porushennya-z-boku-viborchih-komisi/zdiysnennya-agitaciyi-chlenami-vibo/1235-12-zhovtnya-umisti-kuznecovsk-bulo)

side the polling stations and isolated cases of illegal ballot-box stuffing<sup>68</sup>. The practice of holding elections in Ukraine shows that ballot photographing is a constituent element of criminal offence that falls within the definition of deliberate violation of the voting secrecy under Article 159 of the Criminal Code of Ukraine. Stealing or hiding the ballot paper is also a criminal offence (under Section 1 of Article 158 of the Criminal Code of Ukraine).

## *Criminal Intervention in the Election Process*

The Civil Network OPORA recorded 54 cases of criminal intervention in the election process involving damage to property and campaign materials of candidates (40 cases), the use of violence and threats (12 cases), obstruction of campaigning activities (2 cases). Damage to property and campaign materials of candidates and local party cells most often was done by way of damaging the external advertising media, which were used for placement of political advertising of the above-mentioned electoral subjects.

Meanwhile, cases of using threats and violence against electoral subjects included messages about mining of polling stations or premises that were used as venues for pre-election events<sup>69</sup>, causing damage to personal vehicles of candidate or members of the election commission<sup>70</sup>, physical assault on candidates or their proxies, or members of the election commissions<sup>71</sup>.

Incidents or conflicts involving the use of force, which were recorded at the regular local elections in Ukraine, were not centrally orchestrated and physical force wasn't used against members of a particular political force. Meanwhile, the Criminal Code of Ukraine (Section 2 of Article 157) provides for the punishment of custodial restraint for a period of two to five years, or imprisonment for the same period for interference with citizens' voting right or

<sup>68</sup> See also: In Zhytomyr, OPORA observer recorded a fact of ballot-box stuffing. [map.oporaua.org/8623-1444640475-falsifikaciya-rezultativ-golosuwann/manipulyaciyi-z-byuletenyami/2000-u-zhitomiri-na-dilnici-181364-spost](http://map.oporaua.org/8623-1444640475-falsifikaciya-rezultativ-golosuwann/manipulyaciyi-z-byuletenyami/2000-u-zhitomiri-na-dilnici-181364-spost). See also: Fact of issuance of ballot paper to unauthorized persons recorded at the polling station in Lviv. [map.oporaua.org/8623-1444640475-falsifikaciya-rezultativ-golosuwann/manipulyaciyi-z-byuletenyami/2005-na-dilnici-u-lvovi-u-den-golosuwann](http://map.oporaua.org/8623-1444640475-falsifikaciya-rezultativ-golosuwann/manipulyaciyi-z-byuletenyami/2005-na-dilnici-u-lvovi-u-den-golosuwann)

<sup>69</sup> See also: In Luhansk oblast, the building of polling station was mined. [map.oporaua.org/7060-1444640475-kriminalne-vtruchannya-u-viborchiy/zastosuwannya-nasilstva-y-pogroz/2006-na-luganschini-zaminuvai-viborchu](http://map.oporaua.org/7060-1444640475-kriminalne-vtruchannya-u-viborchiy/zastosuwannya-nasilstva-y-pogroz/2006-na-luganschini-zaminuvai-viborchu)

<sup>70</sup> See also: In Luhansk oblast, the car of the head of Lysychansk TEC was burnt to ashes. [map.oporaua.org/7060-1444640475-kriminalne-vtruchannya-u-viborchiy/zastosuwannya-nasilstva-y-pogroz/1829-na-luganschini-spalili-automobil-go](http://map.oporaua.org/7060-1444640475-kriminalne-vtruchannya-u-viborchiy/zastosuwannya-nasilstva-y-pogroz/1829-na-luganschini-spalili-automobil-go)

<sup>71</sup> See also: In Lutsk, a candidate was beaten up on political grounds. [map.oporaua.org/7060-1444640475-kriminalne-vtruchannya-u-viborchiy/zastosuwannya-nasilstva-y-pogroz/1067-u-lucku-pobili-kandidata-cherez-pol](http://map.oporaua.org/7060-1444640475-kriminalne-vtruchannya-u-viborchiy/zastosuwannya-nasilstva-y-pogroz/1067-u-lucku-pobili-kandidata-cherez-pol). See also: An assault was made upon the head of Kakhovka city election commission. [map.oporaua.org/7060-1444640475-kriminalne-vtruchannya-u-viborchiy/zastosuwannya-nasilstva-y-pogroz/842-na-golovu-teritorialnoyi-viborchoji](http://map.oporaua.org/7060-1444640475-kriminalne-vtruchannya-u-viborchiy/zastosuwannya-nasilstva-y-pogroz/842-na-golovu-teritorialnoyi-viborchoji). See also: In Kherson oblast, the doors of candidate's house were set on fire. [map.oporaua.org/7060-1444640475-kriminalne-vtruchannya-u-viborchiy/zastosuwannya-nasilstva-y-pogroz/844-na-hersonschi-kandidatu-pidpalili-d](http://map.oporaua.org/7060-1444640475-kriminalne-vtruchannya-u-viborchiy/zastosuwannya-nasilstva-y-pogroz/844-na-hersonschi-kandidatu-pidpalili-d)



the right to participate in the referendum, obstruction of other electoral subjects' activities involving the use of force, destruction or causing damage to property, threats of violence or destruction or damage to property.

51 recorded cases of violations were related to restriction of the rights and limitation of opportunities for journalists and official observers to operate freely in the field of coverage of election process and/or election monitoring. Most commonly, this type of violation manifested itself in the form of preventing journalists or official observers from attending the meetings of the election commissions or depriving them of the right to do so<sup>72</sup> (28 cases). 14 cases of violations were related to unlawful restrictions on photography, filming, audio and video recordings imposed by the election commissions. In 9 cases official observers encountered problems in access to decisions of the election commissions due to questionable actions of members of the election commissions.

## *Abuse of Administrative Resources at the Regular Local Elections*

The election process in 2015 was not accompanied by a widespread abuse of power for the benefit of certain political parties and their local cells as compared to the regular local elections in 2010. Facts of illegal intervention by government authorities or its officials had no signs of systemic abuse of power for political purposes considering the character and consequences of such interventions. Cases of abuse of administrative resources in the 2015 elections were mostly of local nature and had local political background. At the same time, OPORA observers recorded 42 incidents having signs of abuse of administrative resources in the course of the 2015 regular local elections.

16 out of 42 cases were related to the use of material, technical and personnel resources at the place of employment of public official-candidate for pre-election campaigning purposes<sup>73</sup>. According to Section 2 of Article 60 of the Law of Ukraine on Local Elections,

<sup>72</sup> *The case of forceful removal of journalist of the Tochka Opory newspaper (the official newspaper of the Civil Network OPORA) from the meeting of Dnipropetrovsk city election commission stirred the greater part of public attention. This incident took place with the involvement of armed people wearing camouflage clothing with the "Sicheslav" chevrons who expelled the journalist from the TEC premise with the use of physical force and also took his personal phone away.* [oporaua.org/oblast/article/8476-pid-chas-rejestracij-ovilkula-avtomatnyky-vyshtovhaly-zhurnalista-z-tvk](http://oporaua.org/oblast/article/8476-pid-chas-rejestracij-ovilkula-avtomatnyky-vyshtovhaly-zhurnalista-z-tvk)

<sup>73</sup> *See also: In Kharkiv, workers of public utility company "Kharkiv Blagoustryi" were involved in pre-election campaign in favor of a local cell of the Vidrodzhennya party.* [map.oporaua.org/2345-1444640473-zlovzhivannya-administrativnim-resu/vikoristannya-v-peredvibornih-cilya/800-na-subotniku-v-harkovi-do-agitaciyi](http://map.oporaua.org/2345-1444640473-zlovzhivannya-administrativnim-resu/vikoristannya-v-peredvibornih-cilya/800-na-subotniku-v-harkovi-do-agitaciyi). *See also: Cases of abuse of administrative resources recorded in Kyiv oblast.* [map.oporaua.org/2345-1444640473-zlovzhivannya-administrativnim-resu/vikoristannya-v-peredvibornih-cilya/643-vikoristannya-administrativnogo-res](http://map.oporaua.org/2345-1444640473-zlovzhivannya-administrativnim-resu/vikoristannya-v-peredvibornih-cilya/643-vikoristannya-administrativnogo-res). *See also: Kyiv city authorities provided one-time social assistance to the elderly.* [map.oporaua.org/2345-1444640473-zlovzhivannya-administrativnim-resu/vikoristannya-v-peredvibornih-cilya/718-stolichna-uklada-nadala-razovu-socia](http://map.oporaua.org/2345-1444640473-zlovzhivannya-administrativnim-resu/vikoristannya-v-peredvibornih-cilya/718-stolichna-uklada-nadala-razovu-socia)

candidates who hold office in state government bodies, public authorities of the Autonomous Republic of Crimea, local self-government authorities, military units (formations), state-owned and community-owned enterprises, institutions, establishments, and organizations (including work in a part-time position) are banned from using the services of their subordinates, official (company-provided) transport, means of communications, equipment, premises, other facilities and resources at the place of employment. Public officials are also banned from conducting pre-election campaigns at the meetings of staff and production meetings. At that, candidates who were occupying the office in public authorities at the time of holding local elections were not laid under obligation to take a mandatory vacation for the duration of election campaign.

There were 14 recorded cases of the use of official position for conducting pre-election campaign. In some cases candidates holding public office made use of official events for campaigning in their own favor, while in other cases public officials were campaigning in favor of certain candidates or local party cells<sup>74</sup>. However, the election legislation bans public officials and officers of state government bodies, public authorities of the Autonomous Republic of Crimea, and local self-government authorities from participating in the election campaigns during working hours, except where the corresponding public official or officer is also running as a candidate (Clause 3 of Section 1 of Article 60 of the Law of Ukraine on Local Elections). As has been mentioned above, under the existing laws public official-candidate has the right to conduct pre-election campaign during working hours, but without using the services of subordinates, official transport, means of communication, equipment, premises, other facilities and resources at the place of employment, and they are also banned from conducting pre-election campaigns at the meetings of staff and production meetings.

OPORA observers recorded isolated cases of candidates holding public office receiving non-competitive advantages in community-owned mass media (6 cases), intervention of public officials in the activities of election commissions (3 cases), and prejudicial treatment of candidates by public officials in terms of assistance in organizing campaign events or in other aspects (3 cases).

There were isolated cases of **voters' list manipulations and unlawful activities of bodies responsible for maintenance of the State Register of Voters**. Four recorded cases of vio-

<sup>74</sup> See also: *Head of Kherson oblast state administration Andriy Putilov is participating in pre-election campaign of a local cell of the Petro Poroshenko Bloc Solidarity party*, [map.oporaua.org/2345-1444640473-zlovzhivannya-administrativnim-resu/vikoristannya-posadovogo-sluzhbovog/845-golova-oda-putilov-ber-uchast-u-pe](http://map.oporaua.org/2345-1444640473-zlovzhivannya-administrativnim-resu/vikoristannya-posadovogo-sluzhbovog/845-golova-oda-putilov-ber-uchast-u-pe) See also: *Deputy Director of "Kyivvodokanal" makes use of his official position for conducting pre-election campaign*, [map.oporaua.org/2345-1444640473-zlovzhivannya-administrativnim-resu/vikoristannya-posadovogo-sluzhbovog/1579-pershiy-zastupnik-direktora-pat-ak](http://map.oporaua.org/2345-1444640473-zlovzhivannya-administrativnim-resu/vikoristannya-posadovogo-sluzhbovog/1579-pershiy-zastupnik-direktora-pat-ak)

lation of procedure for compiling and amending the voters' lists included introduction of amendments to the corresponding voters' lists on Election Day, failure to meet deadline for compiling the lists of voters at special polling stations, finding of fact of illegal registration of voter at a certain address.



#14

**VOTING  
PROCESS,  
ELECTION  
OUTCOME  
& PVT RESULTS**

## *Typical Violations in the Voting and Vote Tabulation on October 25, 2015*

On October 25, OPORA observers monitored the progress of the voting process and the work of election commissions. Comprehensive monitoring and recording of violations was carried out in the course of preparatory meetings of precinct election commissions, opening of polling stations, voting, vote tabulation in PECs, and receipt of election documentation of precinct election commissions at the meetings of TECs. All violations and problematic incidents recorded by OPORA observers were classified and statistically generalized in order to assess the scope of abusive practice and the level of illegal influence on the electoral process.

In general, observers recorded minor violations in 24.1% of all polling stations in Ukraine on Election Day (margin of error is 2.3%). More serious violations were recorded in 2.3% of all polling stations (margin of error is 1.4%) throughout the country. Monitoring results broken down by cities, in which OPORA conducted election observation at all polling stations, show that minor violations were recorded in 40% of all polling stations located in Odesa and Dnipropetrovsk, and in 23% of all polling stations located in Kharkiv. More serious violations of the law were detected in 2.1% of all polling stations located in Dnipropetrovsk, in 1.9% of all polling stations located in Odesa, and in 1.7% of all polling stations located in Kharkiv. At the same time, recorded cases of abusive practice were neither pre-planned nor systematic, although they were typical for different regions and levels of local elections. However, a certain portion of violations resulted from miscalculations in organizational matters on the part of the election commissions and political conflicts between different electoral subjects at the stage of registration of candidates, production and transfer of ballot papers as well as in the course of preparation for Election Day.

On October 25, 2015, 17.7% of all precinct election commissions throughout Ukraine started their preparatory meetings before 07:15 AM. From a perspective of individual cities, in which OPORA conducted parallel vote counting process, the share of PECs that started their preparatory meetings ahead of time is somewhat smaller in Odesa (11.3%) and Dnipropetrovsk (11.5%), while in Kharkiv this value coincided with the national average. These cases gave evidence of violation of the Law of Ukraine on Local Elections which made it clear that the preparatory meetings of PECs shall start no earlier than 45 minutes before the beginning of voting process.

All precinct election commissions throughout the country conducted legitimate preparatory meetings, while ensuring proper quorum (presence of more than half of the election commission members at the meetings). At the same time, up to 6.5% of all precinct election commissions did not keep minutes of their preparatory meetings. Meanwhile, in the city of Dnipropetrovsk 8.5% of all PECs did not keep minutes of their morning meetings. Apart from very few exceptions, observers did not record any cases of disappearance or absence of official seals of PECs.

According to OPORA, more than 15.5% of all polling stations opened for voting before or after the prescribed time (October 25, 08:00 AM). Slightly more than 1% of all OPORA observers reported that members of PECs did not provide them with an opportunity to conduct full-fledged observation of all election procedures during the morning meeting and at the beginning of voting process. Meanwhile, 3% of observers pointed out some organizational problems and commission of acts on the part of election commission members, which closed the door on the presence of observers at the polling stations and made it impossible to conduct unobstructed election observation.

Attempts to issue (or receive) a ballot paper without a document which certifies the identity of a citizen (passport of a citizen of Ukraine) were the most common violations recorded by OPORA observers in the course of Election Day. This type of violation was recorded in 17.7% of all polling stations throughout Ukraine. From a perspective of individual cities, in which OPORA conducted parallel vote counting, attempts to issue/receive a ballot paper without presenting a valid passport were recorded far less frequently: such cases were recorded in 2.5% of all polling stations in Kharkiv, 2.2% of all polling stations in Odesa, and in 1.9% of all polling stations in Dnipropetrovsk.

Somewhat less common was violation of the vote secrecy, which manifested itself in the disclosure of information about the result of expression of will by the voter and filling in the ballot papers outside the voting booths. Observers recorded this type of violation in 7.5% of all polling stations throughout Ukraine. However, cases of violation of the vote secrecy were most often recorded in Odesa (15.7% of all polling stations) and Dnipropetrovsk (13.8% of all polling stations), while in Kharkiv the share of such violations coincided with the national average (7.5% of all polling stations).

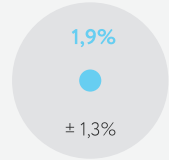
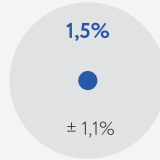
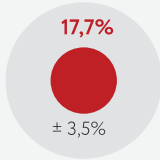
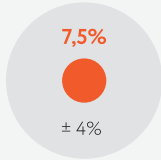
Cases of taking photos of ballot papers were recorded in only 1.9% of all polling stations throughout Ukraine. However, in Odesa and Dnipropetrovsk such cases were recorded far more often: in 13.5% and 11.9% of all polling stations respectively. In Kharkiv, cases of ballot paper photographing were recorded in 3.2% of all polling stations.

Attempts of ballot-box stuffing were recorded in 1.5% of all polling stations across Ukraine. Meanwhile, in Dnipropetrovsk and Odesa such incidents were recorded in 3.7% and 2.5% of all polling stations correspondingly. In Kharkiv, cases of ballot-box stuffing were recorded in only 1% of all polling stations

Furthermore, OPORA observers reported about obstructions and limitations on the part of the election commissions, which deprived them of the opportunity to monitor all of the election procedures on Election Day. As of 20:00 PM on Election Day, such cases were recorded in 1.7% of all polling stations throughout Ukraine and in 2.3% of all polling stations in Dnipropetrovsk. In Odesa and Kharkiv, observers were unable to monitor all of the election procedures in only 0.8% of all polling stations. In addition, isolated cases of depriving voters of the opportunity to cast ballots were recorded.

# Violations recorded on the Election Day – October 25, 2015

% of all polling stations throughout Ukraine



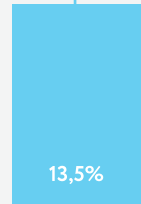
Violation of voting secrecy

Issuance of ballots without ID verification

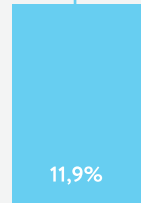
Attempts of ballot-box stuffing

Taking photos of ballot papers

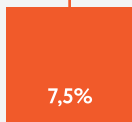
Odesa



Dnipropetrovsk



Kharkiv





## *Voter Turnout on Election Day, October 25, 2015*

The Civil Network OPORA conducted simultaneous voter turnout calculation within the framework of election monitoring campaign. Voter turnout figures were recorded as of 12:00, 16:00 and 20:00 on the basis of the information collected at those polling stations where Civil Network OPORA observers were present, according to representative samples at the national level and at the level of each of the four regions of Ukraine: West, Center, East and South. In the cities of Kharkiv, Odesa and Dnipropetrovsk OPORA observers were present at all polling stations and recorded voter turnout figures for each of them.

The overall turnout of voters in local elections across Ukraine as of 20:00 PM was 46.5%. In particular, in the central regions of Ukraine (Vinnytsya, Zhytomyr, Cherkasy, Kyiv, Kirovohrad, Chernihiv, Sumy oblasts and Kyiv city) voter turnout was 46.6%, in the western part of the country (Lviv, Ivano-Frankivsk, Zakarpattya, Ternopil, Khmelnytsky, Rivne, Lutsk, Chernivtsi oblasts) voter turnout was 51.4%, in the eastern part of Ukraine (Donetsk, Kharkiv, Luhansk, and Dnipropetrovsk oblasts) voter turnout was 43.3%, and in the southern regions of the country (Odesa, Kherson, Mykolaiv, Zaporizhzhya oblasts) voter turnout was 41.1%. The margin of error which was taken into account – 2.3%.

## *Interim voter turnout on Election Day, October 25, 2015*

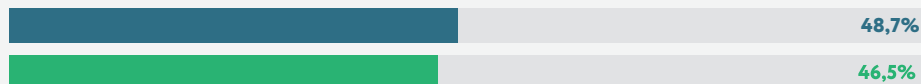
MACRO-REGION	VOTER TURNOUT AS OF 12:00	VOTER TURNOUT AS OF 16:00	VOTER TURNOUT AS OF 20:00
West	16,6%	38,1%	51,4%
Center	20,0%	37,4%	46,6%
South	18,0%	32,6%	41,1%
East	18,6%	33,5%	43,3%
Throughout Ukraine	18,5%	36,2%	46,5%

As compared to the 2010 local elections when the average turnout of voters was 48.7%, voter turnout figures at the 2015 local elections were slightly lower, but only by 2.2%. Significantly higher turnout figures were recorded only in those years when local elections coincided with the parliamentary elections (75.6% in 1994, 70.8% in 1998, 69.3% in 2002, and 67.6% in 2006).

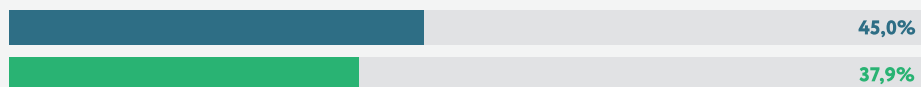
From a perspective of individual cities, in which OPORA conducted PVT, voter turnout in Odesa was 37.9%, in Kharkiv – 45.5%, in Dnipropetrovsk – 43.5%. By comparison, in the 2010 local elections voter turnout in Kharkiv was 39.9%, in Dnipropetrovsk – 40.8%, in Odesa – 45%.

## Voter turnout in the first round of local elections

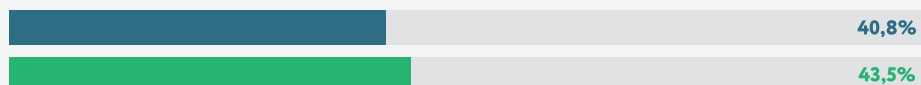
### UKRAINE



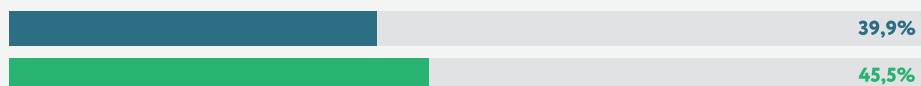
### ODESA



### DNIPROPETROVSK



### KHARKIV



## *The Run of Events on Election Day in the Second Round of City Head Elections Held on November 15, 2015*

On November 15, 2015, during the second round of elections of city heads in 29 cities of Ukraine OPORA official observers monitored the election process, according to representative sample taken from the totality of these territorial communities. In Dnipropetrovsk, OPORA organized PVT in 100% of polling stations in the city.

In general, voting proceeded in the normal way without any significant incidents of abusive practice or conflicts and in compliance with the statutory procedures. Cases of pre-planned and systematic violations of electoral legislation were not recorded by the observers. The

total number of violations decreased significantly as compared to Election Day on October 25, 2015.

Minor violations, which were mostly related to non-compliance with voting procedure, were recorded in 17% of all polling stations throughout Ukraine. On October 25, 2015, such cases occurred more frequently and were recorded in 24.5% of all polling stations. In the city of Dnipropetrovsk, the share of polling stations where such violations were recorded by OPORA observers decreased from 40% to 21.4% as compared to the first round of city head elections.

According to OPORA observers, on November 15, 2015, 11.5% of all precinct election commissions throughout Ukraine started their preparatory meetings before 07:15 AM. This percentage is smaller than that recorded in the first round, when 17% of all polling stations started their preparatory meetings before the prescribed time. In the city of Dnipropetrovsk, only 9% of all polling stations began their preparatory meetings before the prescribed time, while on October 25 this figure was 12.4%. The Law of Ukraine on Local Elections made it clear that the preparatory meetings of PECs should start no earlier than 45 minutes before the beginning of voting process.

All precinct election commissions throughout the country held legitimate preparatory meetings, while ensuring proper quorum (presence of more than half of the election commission members at the meetings). At the same time, 2% of all PECs in the city of Dnipropetrovsk did not keep minutes of their preparatory meetings. This percentage is much smaller than that recorded on October 25, when 8% of all polling stations did not keep minutes of their preparatory meetings. Overall, 7% of all precinct election commissions throughout Ukraine didn't keep minutes of their preparatory meetings and this figure coincides with the national average recorded in the first round of city head elections. Apart from a few rare exceptions, there were no typical cases of absence or disappearance of official seals of PECs, broken seals on the safes with voting ballots or deficiency in quantity of voting ballots recorded.

Furthermore, according to OPORA, a larger portion of polling stations opened in the prescribed time (at 08:00 AM) this time round – 92% of all polling stations. On October 25, the share of polling stations where voting process began in the prescribed time (not earlier and not later than 8:00 AM) was 85%. Meanwhile, in Dnipropetrovsk the percentage of polling stations which opened on time was somewhat smaller than the national average – 88%.

Just like in the first round of city head elections, slightly more than 1% of all OPORA observers reported that members of PECs did not provide them with an opportunity to conduct full-fledged observation of all election procedures during the morning meeting and at the beginning of voting process.

According to OPORA observers, violation of the vote secrecy, which manifested itself in the disclosure of information about the result of expression of will by the voter, was the most common type of violation recorded on November 15. This type of violation was recorded in 9.2% of all polling stations throughout Ukraine. By comparison, in the first round of city head elections this type of abusive practice was recorded in slightly smaller portion of PECs – 7.5%. By contrast, in the city of Dnipropetrovsk the share of polling stations where cases of violation of the vote secrecy were recorded decreased from 13.8% to 8.9%.

Just like in the first round of city head elections, there were only a few isolated cases of taking photos of ballot papers throughout Ukraine. However, in Dnipropetrovsk this type of violation was recorded much more frequently – in 11.7% of all polling stations (in the first round – in 12.1% of polling stations). Overall, ballot paper photographing was the most common type of violation recorded by OPORA observers during Election Day on November 15.

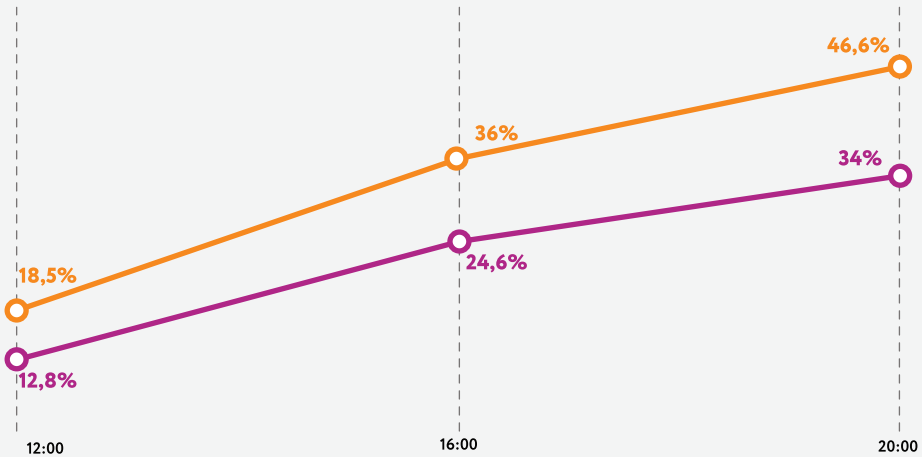
In the second round of city head elections attempts to issue (or receive) a ballot paper without a document which certifies the identity of a citizen (passport of a citizen of Ukraine) were brought down to a minimum (on October 25 this was the most common type of violation). The share of such violations decreased from 17.8% to 0.8% throughout Ukraine. To a great extent, this trend can be explained by the fact that this type of violation is most common in rural areas where no elections were held in the second round. Cases of ballot-box stuffing or acts of unlawful interference with voters' access to the voting premises were not recorded by OPORA observers. By contrast, with the first round of city head elections, OPORA observers did not report about any systematic obstructions and artificial restrictions imposed by members of the election commissions, due to which they were unable to conduct observation of all election procedures.

## *Voter Turnout in the Second Round of Elections Held on November 15, 2015*

The Civil Network OPORA conducted simultaneous voter turnout calculation within the framework of election monitoring campaign. Voter turnout figures were recorded as of 12:00, 16:00 and 20:00 on the basis of the information collected at those polling stations where OPORA observers were present, according to representative samples at the national level and separately for Dnipropetrovsk. In Dnipropetrovsk, OPORA observers were present at all polling stations and recorded voter turnout figures for each of them.

The overall turnout of voters in local elections across Ukraine as of November 15, 20:00 PM, was 34% (the margin of error is  $\pm 1,1\%$ ). On October 25, the voter turnout rate was higher by 12.6% and amounted to 46.6% (margin of error is  $\pm 1,1\%$ ).

## Voter turnout over the course of the Election Day



At the same time, in the second round of city head election in Dnipropetrovsk voter turnout rate increased slightly from 43.6% to 45%. We can see that the turnout of voters in Dnipropetrovsk was much higher than the average turnout figures in other cities of Ukraine. Whereas, on October 25 voter turnout rate in Dnipropetrovsk was slightly lower than the national average.

### *The Most High-Profile Cases Recorded During Vote Tabulation*

Local elections in Mariupol and Krasnoarmiisk did not take place on October 25, 2015. In Mariupol, territorial election commission refused to accept ballot papers produced by the “Pryazovskiy Robochiy” printing house and drew up a statement of fact that 22 ballots were unsealed. In Krasnoarmiisk, the territorial election commission accepted the ballots from this printing house, but did not adopt a decision on transfer of ballot papers to the precinct election commissions.

Breakdown of election process in Mariupol and Krasnoarmiisk (Donetsk oblast) was the result of political standoff between electoral subjects, rather than existing legal mechanisms enshrined in Ukrainian legislation. The situation in these two cities is not unique as compared to other cities or regions of Ukraine, which also experienced problems with production and receipt of ballot papers from manufacturers and their transfer from TECs to PECs. However, in contrast to other similar situations, problems with production and transfer of ballot papers in Mariupol were not resolved in a lawful manner. A sharp confrontation between different electoral subjects resulted in destabilization of activities of territorial election commissions, which gives evidence of the use of undue influence by political forces over TECs.

In particular, the sequence of events in the course of local elections in Mariupol demonstrated that territorial election commission had enough time and available mechanisms to ensure proper production of ballots and provide voters with an opportunity to vote at the local elections. At the same time, representation of local cells of different political forces in the composition of Mariupol city election commission guaranteed mutual control within the limits of legislation.

The TEC registered all candidates for city head of Mariupol and deputies of Mariupol city council on or before October 01, 2015. Therefore, in contrast to other cities of Ukraine, there was no violation of deadline for registration of candidates in Mariupol, which could have a negative impact on ballot production time.

Furthermore, Mariupol election commission adopted a decision on appointment of the manufacturer of ballot papers (printing house of the local newspaper "Pryazovskiy Robochiy") on October 17, 2015, while statutory period for production of ballots expired on October 14, 2015. This decision was preceded by long-term inactivity on the part of the TEC in terms of performance of its duties and responsibilities, including production of ballots, which forced the TEC to adopt a decision on early termination of powers of 7 members of the TEC (due to systematic neglect in the discharge of duties). On October 17, 2015, the TEC adopted a decision on production of ballots at the meeting, which was attended by 7 out of 11 authorized members of the commission. Validity of the previously mentioned meeting of the TEC was confirmed by the decision of the District administrative court of Donetsk. Whereas, legal opinion of the Civil Network OPORA proceeds on the basis that validity of a TEC meeting should have been determined on account of total number of TEC members whose powers weren't terminated prematurely (at the time of adoption of decision on production of ballots more than half of the 11 TEC members retained their powers).

In Mariupol, appointment of the manufacturer of ballot papers became a political, rather than organizational problem of the election process. Some electoral subjects expressed their distrust of the printing house of the "Pryazovskiy Robochiy" newspaper, which was

chosen for printing ballot papers, due to alleged conflict of interests faced by its actual owner during elections. The current law of Ukraine on Local Elections doesn't set out the criteria for determining potential conflict of interest concerning the owners or directors of printing houses and such criteria weren't applied in other cities, raions or oblasts of Ukraine. At the same time, electoral process must be based on common principles and common practice in the application of legislation.

Under the conditions of ignored public proposals on enhancing control procedures in the process of production of ballot papers, subjects of the election process in different cities and regions expressed their concerns about conformity of total number of printed ballots with the law, proper invalidation of defective ballots and safe storage of ballot papers (for example, in Ternopil, Nizhyn (Chernihiv oblast), etc.). However, in contrast to Mariupol city election commission, other territorial election commissions made use of legal mechanisms of relevant control commissions and other legal procedures. Furthermore, the Law of Ukraine on Local Elections does not give any grounds for adoption of TEC decisions on impossibility of acceptance of ballot papers that have already been printed by a manufacturer. In contrast to election commissions in other troubled territorial communities, which were trying hard to resolve problems with ballot production shortly before Election Day, the city election commission of Mariupol has chosen the path of internal confrontation and deliberately delayed the election procedures.

Meanwhile, the territorial election commission in the city of Krasnoarmiisk (Donetsk oblast) adopted a decision on acceptance of ballots printed by individual entrepreneur, but failed to adopt a decision on transfer of ballot papers to the precinct election commissions for the purpose of organization of voting process on October 25, 2015. The printed ballot papers were declared unsuitable for use in the voting process at the regular local elections.

In its decision, Krasnoarmiisk city election commission referred to the judgment of the Donetsk district administrative court as of October 25, 2015, in a case #805/4737/15-a. In the corresponding judgment the Donetsk district administrative court invalidated the decision of Krasnoarmiisk city election commission concerning the appointment of individual entrepreneur as printer of ballot papers, but didn't uphold other claims of electoral subject plaintiff concerning the placement of the city election commission under an obligation to refrain from transferring the ballot papers to precinct election commissions and ensure the production of new ballot papers. The Donetsk district administrative court ruled that the individual entrepreneur chosen to print the paper ballots should have been ruled ineligible, since according to court opinion only a business entity created in the legal form of enterprise can be a printing establishment. On October 25, 2015, this court decision was affirmed by appeals instance.

It should be noted that it is common practice to appoint individual entrepreneurs as printers of ballot papers for local elections in Ukraine (for example, individual entrepreneurs produced ballot papers for the election of deputies of Cherkasy oblast council, Mykolayiv city council, Kamyanets-Podilskiy city council, Dunayivtsi and Nova Ushytsya raion councils in Khmelnytskyi oblast, etc.). At the same time, the Donetsk district administrative court did not place the TEC under an obligation to perform certain actions related to ballot papers.

Furthermore, the CEC adopted a Decision #513 as of October 25, 2015, on invalidation of decision of Krasnoarmiisk city election commission concerning impossibility of transfer of printed ballots to PECs. The CEC also placed all the PECs involved in the process of preparation and organization of the election of deputies of Krasnoarmiisk city council and city head of Krasnoarmiisk under an obligation to accept printed ballots and organize the voting process in accordance with the Law of Ukraine on Local Elections. The CEC decision was not put into practice. In fact, it was only possible to implement this decision just a few hours before the end of Election Day. Consequently, voters registered in the city of Krasnoarmiisk (Donetsk oblast) were deprived of the opportunity to exercise their constitutional right to elect local self-governing bodies. Just like in Mariupol, breakdown of election process in Krasnoarmiisk was preceded by unstable work of the TEC and political standoff between electoral subjects.

Since the Law of Ukraine on Local Elections does not establish any mechanism of restoration of voting rights of citizens of Ukraine in the event of non-conduct of voting process on Election Day, the Verkhovna Rada of Ukraine adopted a special law, which resolved the existing problem.

## *Voting Process in Krasnoarmiisk and Mariupol on November 29, 2015*

According to the Law of Ukraine on special voting procedure at the regular elections of deputies of Krasnoarmiisk city council, city head of Krasnoarmiisk (Donetsk oblast), deputies of Mariupol city council, and city head of Mariupol (Donetsk oblast) on October 25, 2015, voting at the regular elections of deputies of local councils and city heads of the two cities of Donetsk oblast took place on November 29.

The problem with fixing a new date for holding regular local elections in Mariupol and Krasnoarmiisk, which occurred after the breakdown of election process and remained unresolved at the legislative level, disorganized the candidates for a certain period of time. Electoral subjects reduced their efforts and expenditures on campaigning activities until



the moment of adoption of the previously mentioned Law. The CEC Clarification (Decision #570 as of November 19, 2015) regarding non-conduct of pre-election campaigning until the 29th of November set off a negative reaction among a large portion of electoral subjects and didn't facilitate mutual understanding between competing political parties on the matters concerning electoral rights of citizens and organizational challenges to the election process.

On Election Day, observers recorded a number of minor procedural violations that were related to the ignorance of the Law of Ukraine on Local Elections or non-compliance with its provisions on the part of members of the election commissions.

As is often the case with them, PECs in Krasnoarmiisk and Mariupol started their preparatory meetings before the prescribed time (earlier than 7:15 AM). Such incidents were recorded in 16% of all polling stations in Mariupol and 8% of all polling stations in Krasnoarmiisk. Moreover, 5.6% of all PECs in Krasnoarmiisk and 1.9% of all PECs in Mariupol did not keep minutes of their preparatory meetings.

On Election Day during the period between 08:00 AM and 20:00 PM minor procedural violations were recorded in 24.8% of all polling stations in Mariupol and 8.3% of all polling stations in Krasnoarmiisk. At the same time, in the course of the voting process there were a few isolated incidents when observers were forced to appeal to law enforcement agencies due to the manipulation with ballot papers.

Observers also recorded a few isolated cases of violation of the vote secrecy (primarily, in the form of filling in the ballot papers outside the voting booths) in 2.8% of all polling stations in Krasnoarmiisk and 1.8% of all polling stations in Mariupol. By comparison, on November 15 in the second round of city head elections this type of violation was recorded in 9.2% of all polling stations throughout Ukraine. Meanwhile, statistics of ballot paper photographing were similar to those recorded in the second round of elections: 2.8% of all polling stations in Krasnoarmiisk and 1% of all polling stations in Mariupol. Voting process in Mariupol and Krasnoarmiisk was not accompanied by facts of issuance (receipt) of ballots without a document, which certifies the identity of a citizen, ballot-box stuffing, and problems with absence of citizens from the voters' lists.

According to OPORA observers, vote tabulation after the closing of polling stations in Mariupol and Krasnoarmiisk was not accompanied by serious violations or vote rigging attempts, except for a few isolated cases.

All PECs in Krasnoarmiisk and Mariupol ensured proper quorum at their final meetings for the purpose of vote tabulation. At the same time, 3.7% of all precinct election commissions in Mariupol started their final meetings behind schedule due to the fact that some of them failed to comply with the legal requirement concerning immediate start of final meetings after the closing of polling stations.

5.7% of precinct election commissions in Krasnoarmiisk and 8.3% of precinct election commissions in Mariupol were examining complaints filed by electoral subjects prior to the start of vote tabulation, which reflects the proactiveness of electoral subjects in the matters concerning complaints of violations.

In general, all precinct election commissions in the cities of Krasnoarmiisk and Mariupol, where regular local elections took place on November 29, followed up the procedure for vote tabulation, except for 1% of polling stations in Mariupol. Furthermore, in 1% of all polling stations in Mariupol observers were deprived of the opportunity to see the marks in ballot papers during vote counting process conducted by precinct election commissions.

Separate opinions of PEC members concerning vote-counting protocols at the city head elections were recorded in 2.9% of all polling stations in Krasnoarmiisk and 0.9% of all polling stations in Mariupol. Furthermore, observers recorded separate opinions of PEC members concerning vote-counting protocols in 2.9% of all polling stations in Krasnoarmiisk and 1.8% of all polling stations in Mariupol at the elections of deputies of local councils. Separate opinions are documented remarks of individual members of PECs concerning the content of vote counting protocols or violations that were committed at the polling stations during the voting process.

There were a few isolated cases when official observers were deprived of their right to obtain copies of vote counting protocols. In particular, such incidents were recorded in 3% of all polling stations in Krasnoarmiisk. Meanwhile, at the city head election in Mariupol observers were experiencing problems with receiving vote counting protocols in 1% of all polling stations.

## *Results of PVT in Dnipropetrovsk, Kharkiv, and Odesa, 25.10.2015*

On Election Day, OPORA made use of comprehensive and innovative strategy for allocation of observers at the polling stations. OPORA allocated a total of 623 observers according to a representative sample at the national level and at the level of each of the four regions: West, Center, East and South. This allowed to carry out systemic assessment of the quality of voting process and compare each of the regions against one another. OPORA also deployed a network of PVT observers in order to cover all polling stations located in three cities: Kharkiv, Odesa, and Dnipropetrovsk. In each of the three cities, PVT observers assessed the quality of voting process and monitored the results of elections of city heads and deputies of city councils. PVT is an independent monitoring campaign conducted solely by OPORA for the purpose of provision of unbiased information about the accuracy of official

results of the elections of city heads and deputies of local councils in the three cities of Dnipropetrovsk, Kharkiv, and Odesa.

OPORA observers sent information collected at the polling stations to the Center for data analysis located in Kyiv using short structured text messages and mobile phones. The center for data analysis was composed of 20 data operators, 10 critical incident operators, and a team of administrative office staff. OPORA developed sophisticated software that processes the reports of observers and automatically communicates with them using artificial intelligence algorithms. All the data received from the observers were automatically put through several quality control tests. Data, which passed the tests, was analyzed and included in the results of observation.

### **Dnipropetrovsk**

According to the results of simultaneous vote counting based on 100% of processed vote counting protocols, the Opposition Bloc party won the largest number of votes at the election of deputies of Dnipropetrovsk city council – 30.54% (99,600 votes), second place was taken by the Ukrainian Association of Patriots – UKROP, which gained the support of 25.02% of voters (81,595 votes). The other three political parties which also cleared the 5% electoral threshold are as follows: Hromadska Syl'a – 8.99% (29,308 votes), the Petro Poroshenko Bloc 'Solidarity' – 7.49% (24,421 votes), and the Samopomich Union – 5.97% (19,463 votes). The Vidrodzhennya party failed to clear the electoral threshold, having received only 4.95% of votes (16,158 votes).

According to the results of PVT based on 100% of processed vote counting protocols, Olexandr Vilkul (member and nominee of the Opposition Bloc party) won the largest number of votes at the election of city head of Dnipropetrovsk on October 25 – 37.15% (125,844 votes), second place was taken by Borys Filatov (People's Deputy of Ukraine, member and nominee of the Ukrainian Association of Patriots – UKROP) who gained the support of 35% of voters (118,553 votes). Third place in the city head race was taken by Zahid Krasnov (nominated by the Hromadska Syl'a party) who won 12.04% of votes (40,774 votes).

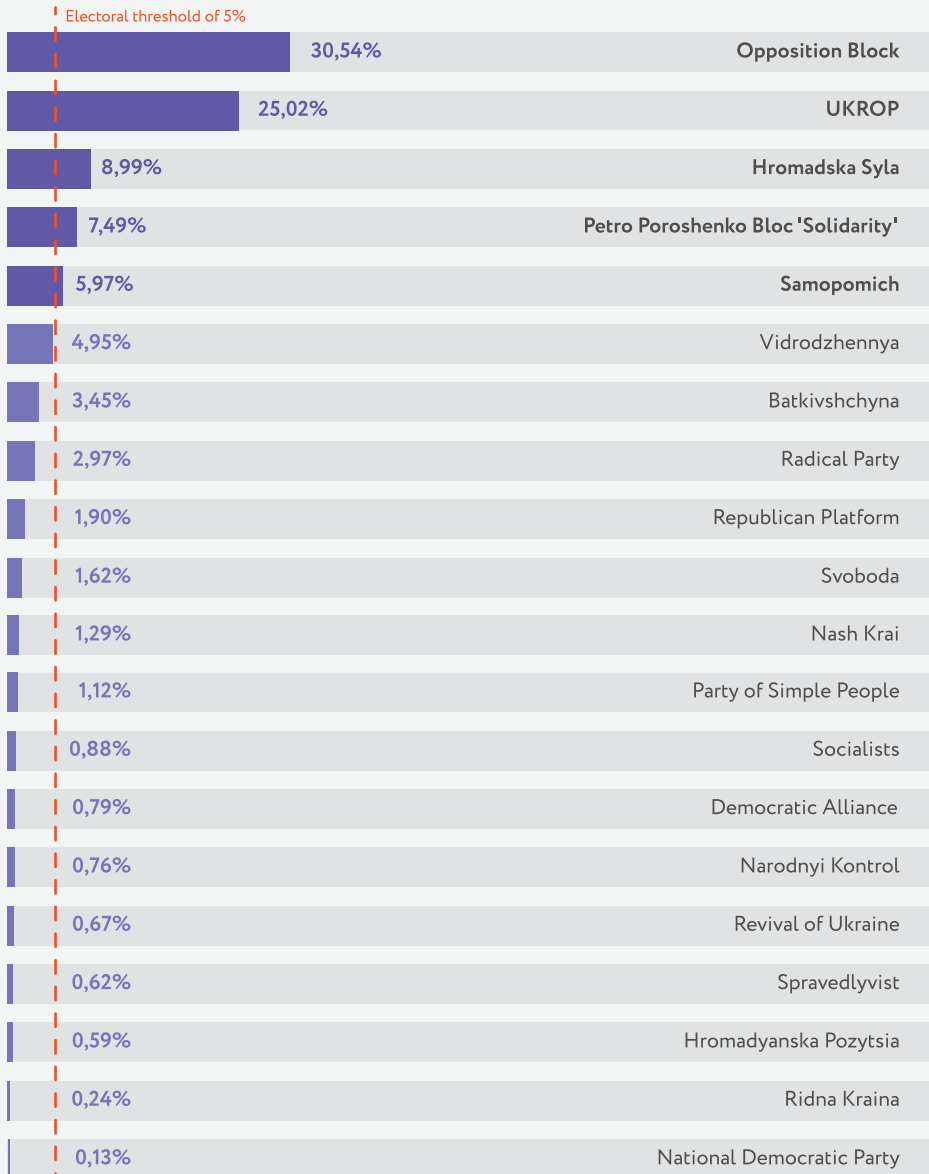
Due to the fact that none of city head candidates managed to win 50% + 1 vote in the first round, on November 15, 2015, the second round of the city head election was held in Dnipropetrovsk with the participation of Olexandr Vilkul and Borys Filatov.

According to the results of PVT based on 100% of processed vote counting protocols, the following results were achieved by candidates in the second round of the city head election of Dnipropetrovsk held on November 15:

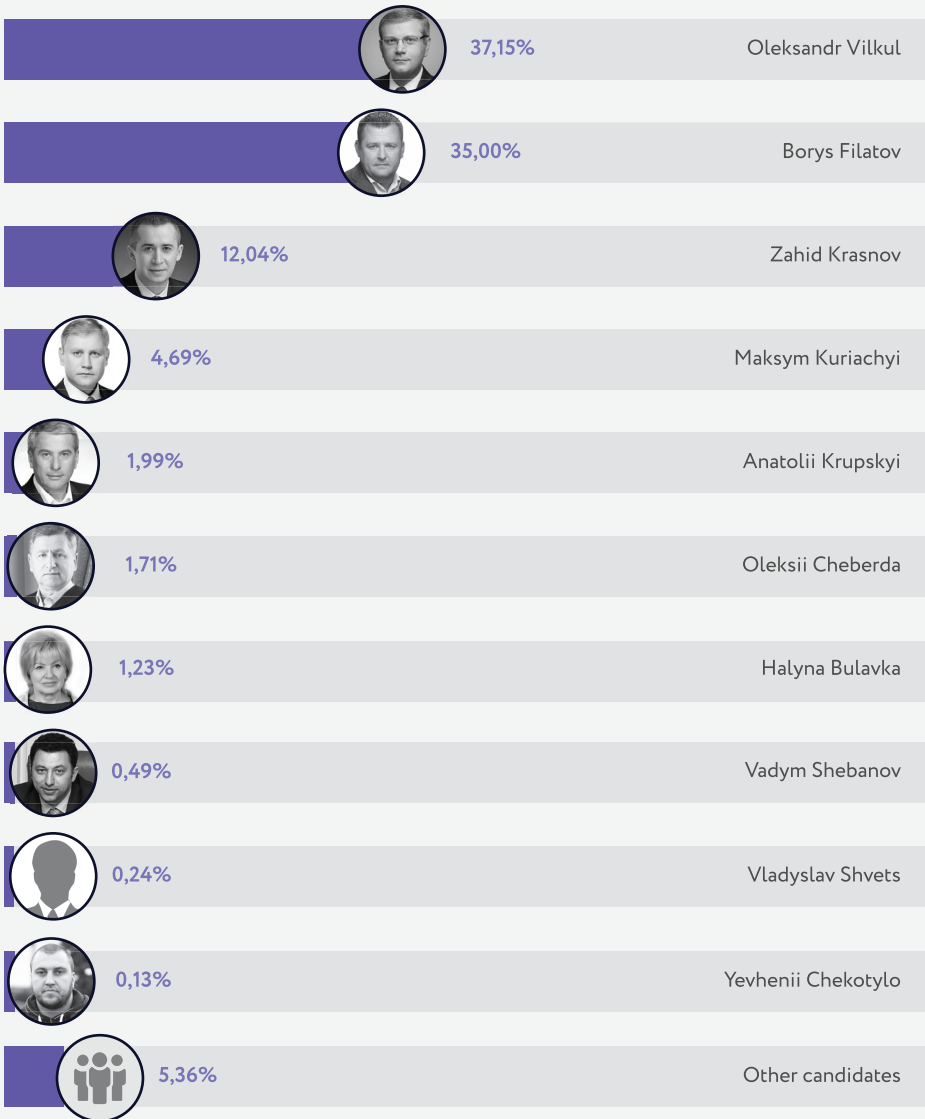
Borys Filatov – 53.76% (184,724 votes);

Olexandr Vilkul – 46.24% (158,897 votes).

# Results of parallel vote tabulation



## First round of local elections: results of parallel vote tabulation



## Second round of election: results of parallel vote tabulation

46.24% / 158 897 votes



Oleksandr Vilkul

53.76% / 184 724 votes



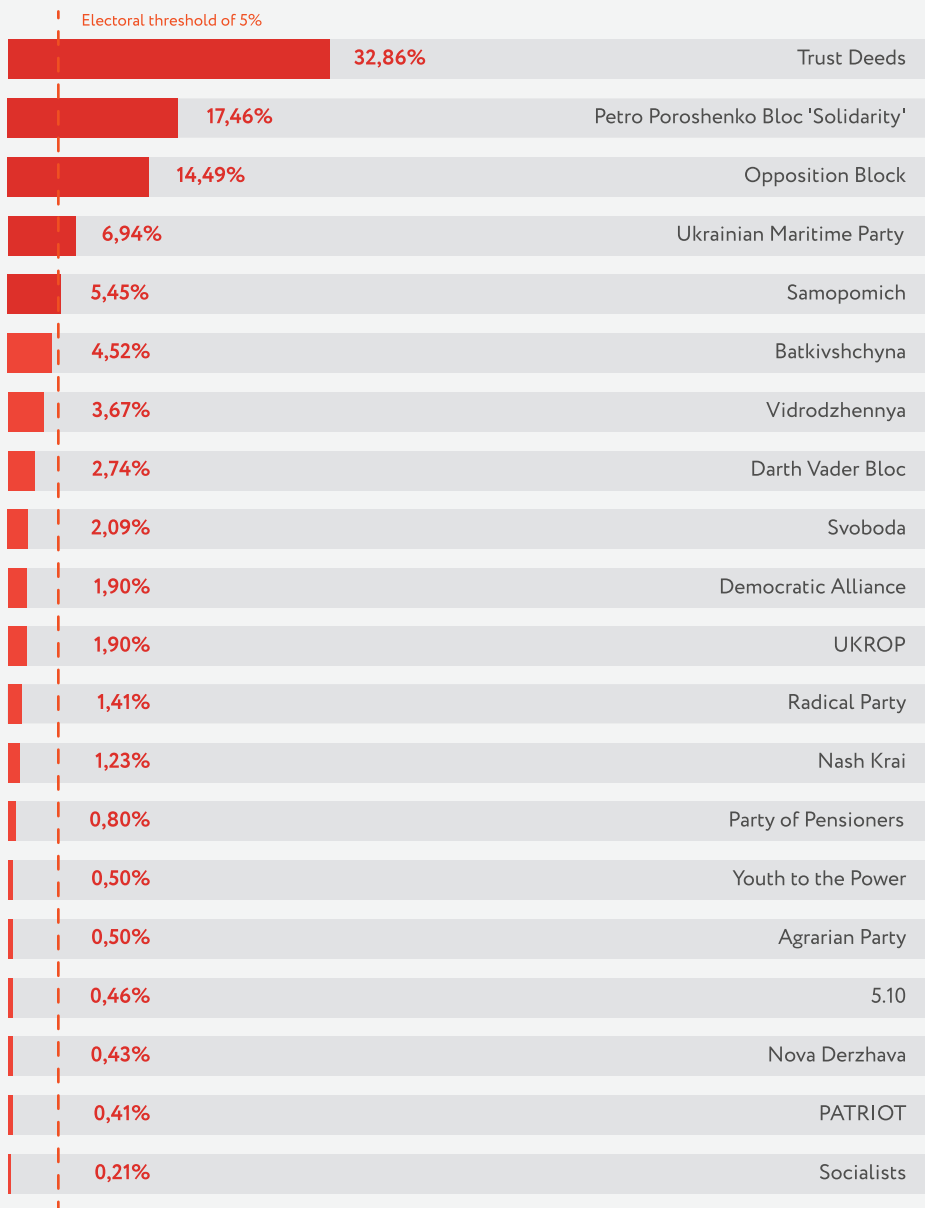
Borys Filatov

### Odesa

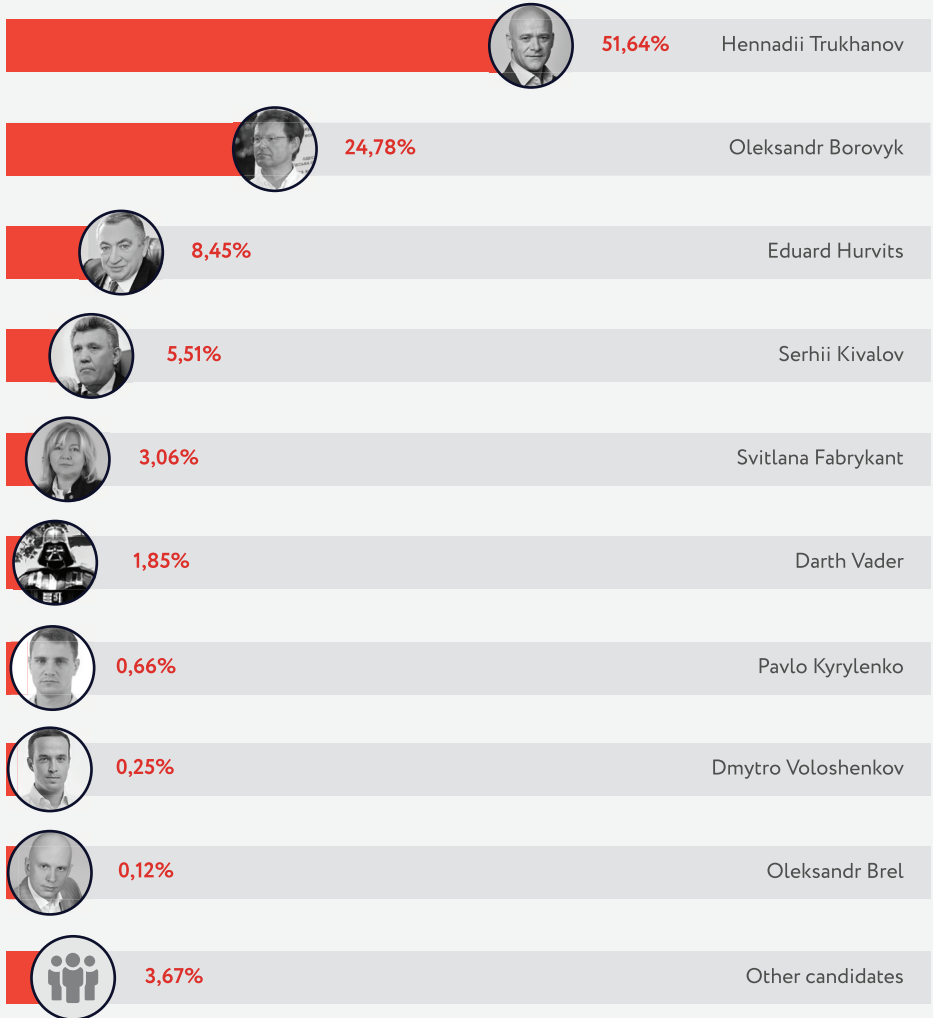
According to the PVT results based on 100% of processed vote counting protocols, the Doviriyai Dilam party won the largest number of votes at the election of deputies in Odesa city council – 32.86% (85,706 votes), second place was taken by the Petro Poroshenko Bloc ‘Solidarity’, which gained the support of 17.46% of voters (45,542 votes), third place was taken by the Opposition Bloc party – 14.49% (37,800 votes). The other two political parties, which also cleared the 5% electoral threshold, are as follows: the Ukrainian Maritime Party of Serhiy Kivalov – 6.94% and the Samopomich Union – 5.45%. It should be mentioned that the All-Ukrainian Union Batkivshchyna failed to clear the electoral threshold, having received only 4.52% of votes.

According to the PVT results based on 100% of processed vote counting protocols, Hennadiy Trukhanov won the largest number of votes at the city head election in Odesa – 51.64% (138,353 votes), second place was taken by Olexandr Borovyk who gained the support of 24.78% of voters (66,387 votes), third place in the city head race was taken by Eduard Hurwitz who gained the support of 8.45% of voters (22 631 votes).

# Results of parallel vote tabulation

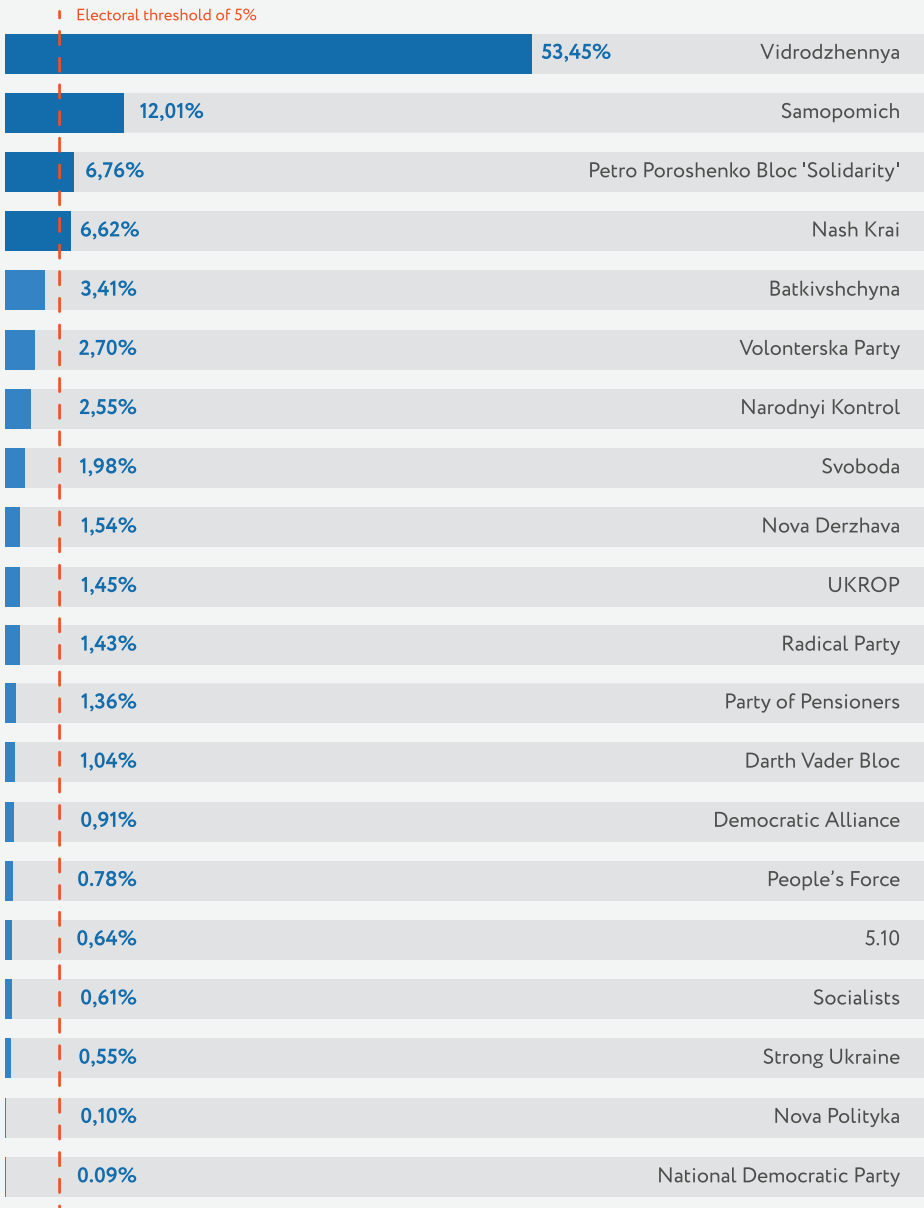


# Results of parallel vote tabulation

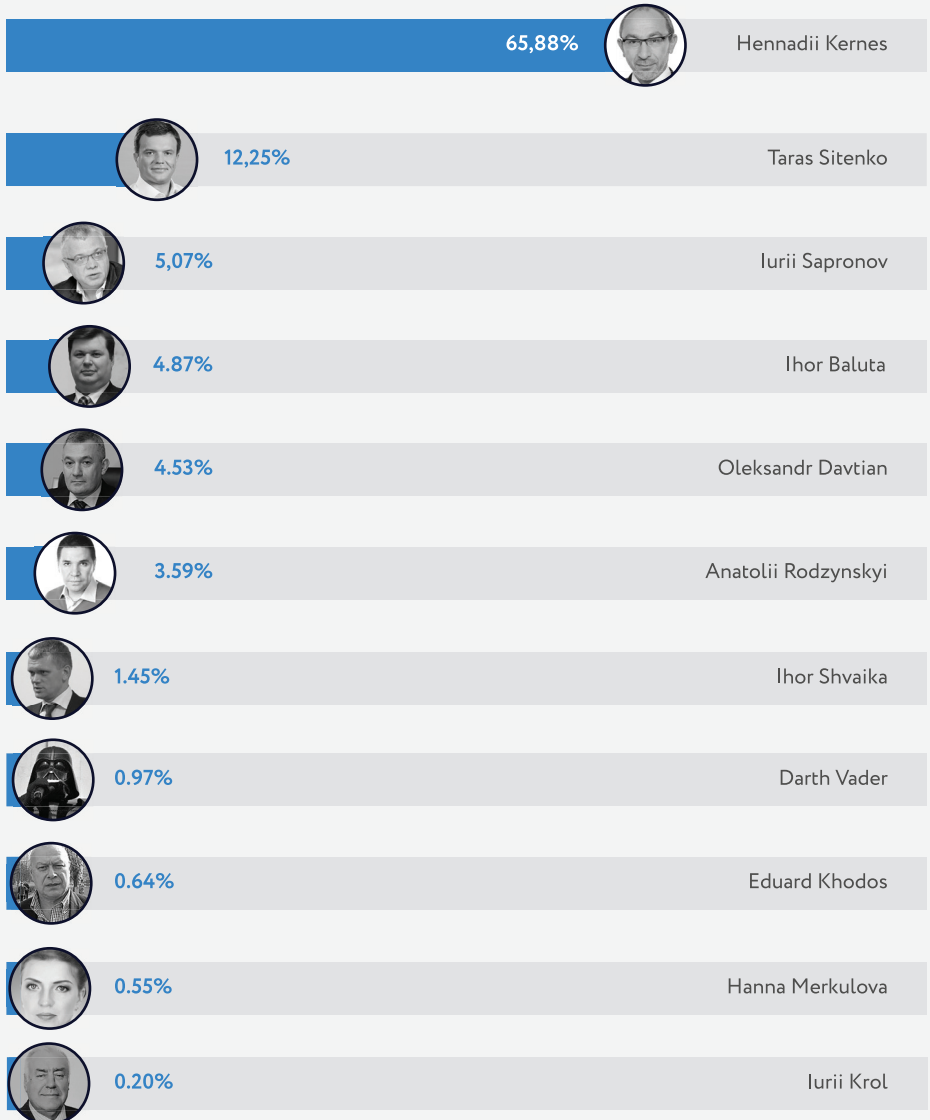




# Results of parallel vote tabulation



## First round of local elections: results of parallel vote tabulation



## **Kharkiv**

According to the PVT results based on 100% of processed vote counting protocols, the Vidrodzhennya party won the largest number of votes at the election of deputies of Kharkiv city council – 53.45% (251,790 votes), second place was taken by the Samopomich Union, which gained the support of 12.01% of voters (56,585 votes). Third place in the race for council seats was taken by the Petro Poroshenko Bloc 'Solidarity' – 6.76% (31,827 votes). The Nash Krai party also managed to clear the 5% electoral threshold – 6.62% (31 174 votes).

According to the results of simultaneous vote counting based on 100% of processed vote counting protocols, Hennadiy Kernes won the largest number of votes at the city head election in Kharkiv – 65.88%, second place was taken by Taras Sitenko who gained the support of 12.25% of voters, third place in the city head race was taken by Yuri Sapronov who won the support of 5.07% of voters.



#15

**ANALYSIS  
OF ELECTION  
RESULTS**

According to the Law of Ukraine on Local Elections, proportional representation voting system with preferences was applied in the elections of deputies of oblast, raion, and city councils. At this level of elections, political parties were the only subjects of the nomination of candidates, while self-nomination of independent candidates was not allowed. The Law did not provide for participation of blocks of political parties in the elections. The electoral threshold for political parties was set at 5% out of the total number of votes received by local party cells. The elections of deputies of village and township councils were held under the first-past-the-post principle in single-mandate constituencies. The right to stand for election could be exercised by candidates both through nomination by local party cells and self-nomination. Elections of village, township, and city heads (in cities having less than 90,000 registered voters) were also held under the first-past-the-post principle. In cities having 90,000 registered voters or more, an absolute majority voting system was introduced at the city head elections.

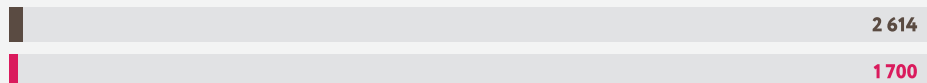
Deputies were elected to a total of 10,562 councils on October 25, 2015, as compared to 12,084 councils in 2010. A 13% decrease in the total number of councils formed on the basis of election results is due to the fact that the elections were not held in the temporarily occupied territory of Ukraine (Autonomous Republic Crimea, Sevastopol, and certain areas of Donetsk and Luhansk oblasts).

Also, due to the changes set out in the electoral law (Article 16 of Law of Ukraine on Local Elections) the total number of deputies who were elected to the local councils of all levels in 2015 decreased by 30% as compared to 2010 – from 225,154 to 158,399 deputies. If we look at statistics separately for each level of councils, we will see that the largest decrease in the number of elected deputies was in the city raion councils – 59%, and township councils – 41%. Meanwhile, village councils saw the smallest overall decrease in the number of elected deputies – 26%.

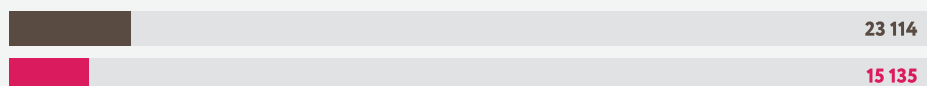
Based on the results of elections held under proportional representation voting system in multi-mandate constituencies (oblast, raion, and city councils, but without including city raion councils), the Petro Poroshenko Bloc ‘Solidarity’ party won the largest number of council seats – 20.8% of seats in councils of this level. Overall, this political force received the highest percentage of council seats in Zhytomyr (26.5%), Chernivtsi (26.2%), Ternopil (25.5%), and Vinnytsya (25.5%) oblasts. At the same time, the Petro Poroshenko Bloc ‘Solidarity’ guaranteed itself the lowest political representation in the councils of Donetsk (13.4%), Dnipropetrovsk (14%), and Zaporozhzhya (15.1%) oblasts.

# Dynamics of the total number of deputies of local councils

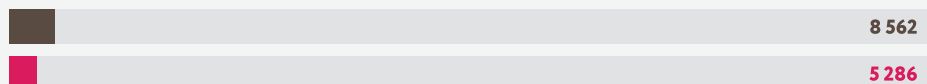
## OBLAST COUNCILS ↓35%



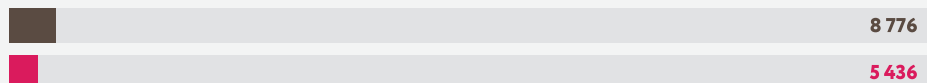
## RAION COUNCILS ↓35%



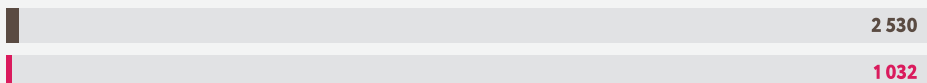
## CITY COUNCILS (CITIES OF OBLAST SIGNIFICANCE) ↓38%



## CITY COUNCILS (CITIES OF RAION SIGNIFICANCE) ↓38%



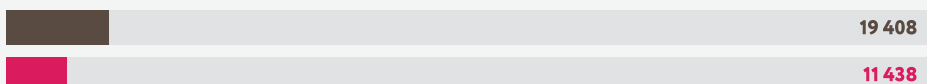
## CITY RAION COUNCILS ↓59%



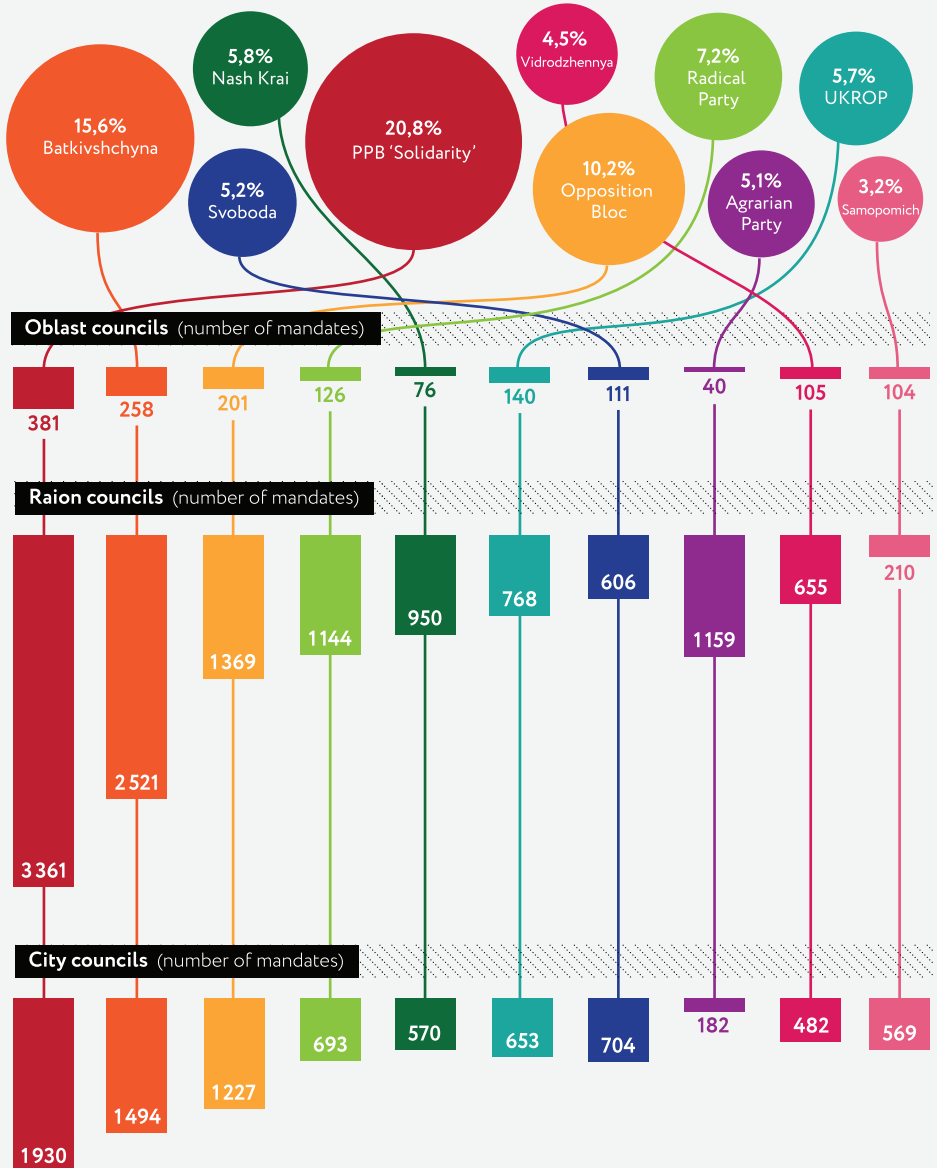
## VILLAGE COUNCILS ↓26%



## TOWNSHIP COUNCILS ↓41%



## Parties leading by the number representatives in councils at different levels





The All-Ukrainian Union Batkivshchyna and the Opposition Bloc party were also among the top 3 political parties in terms of the total number of received deputy mandates – 15.6% and 10.2% of all council seats respectively. Batkivshchyna won the largest number of council seats in Chernivtsi (23%), Kirovohrad (22.4%), Ternopil (21.9%), Rivne (21.7%), and Vinnitsa (21.3%) oblasts, while the lowest number of deputy mandates was obtained in Donetsk (2.7%) and Luhansk (5.9%) oblasts. Meanwhile, candidates nominated by the Opposition Bloc party won about half of all council seats in multi-mandate constituencies in Luhansk and Donetsk oblasts – 46.9% and 45.1% respectively. In addition, the Opposition Bloc party obtained 36% of all deputy mandates in Zaporizhzhya oblast. At the same time, this political party did not win a single council seat in Ternopil, Ivano-Frankivsk, and Lviv oblasts.

Seven more political parties obtained over 3% of all deputy mandates in local councils, which were formed under proportional representation voting system (oblast, raion, and city councils). In particular, the Radical Party of Oleh Lyashko, Nash Krai, UKROP, Svoboda, the Agrarian Party of Ukraine, Vidrodzhennya, and the Samopomich Union.

The Radical Party of Oleh Lyashko, which is represented in local councils of all regions, won the largest number of council seats in Chernihiv (13.9%) and Cherkassy (12.3%) oblasts, and the lowest number of council seats in Donetsk (1.4%) and Kharkiv (2.6%) oblasts.

Another party that won council seats (although only minimum quantity) in all regions of Ukraine is the Samopomich Union. This party obtained the highest percentage of deputy mandates in Lviv (13.3%), and the lowest percentage in Donetsk (0.3%), Odesa (0.6%) and Cherkasy (0.6%) oblasts.

Ukrainian Association of Patriots – UKROP political party failed to clear the 5% electoral threshold in all of local councils located in Donetsk oblast. Meanwhile, in all other regions this party is partially represented by its deputies. The UKROP party won the largest number of council seats in Volyn (18%) and Dnipropetrovsk (17%) oblasts and the lowest number of council seats in Odesa (0.5%) and Zakarpattia (0.6%) oblasts.

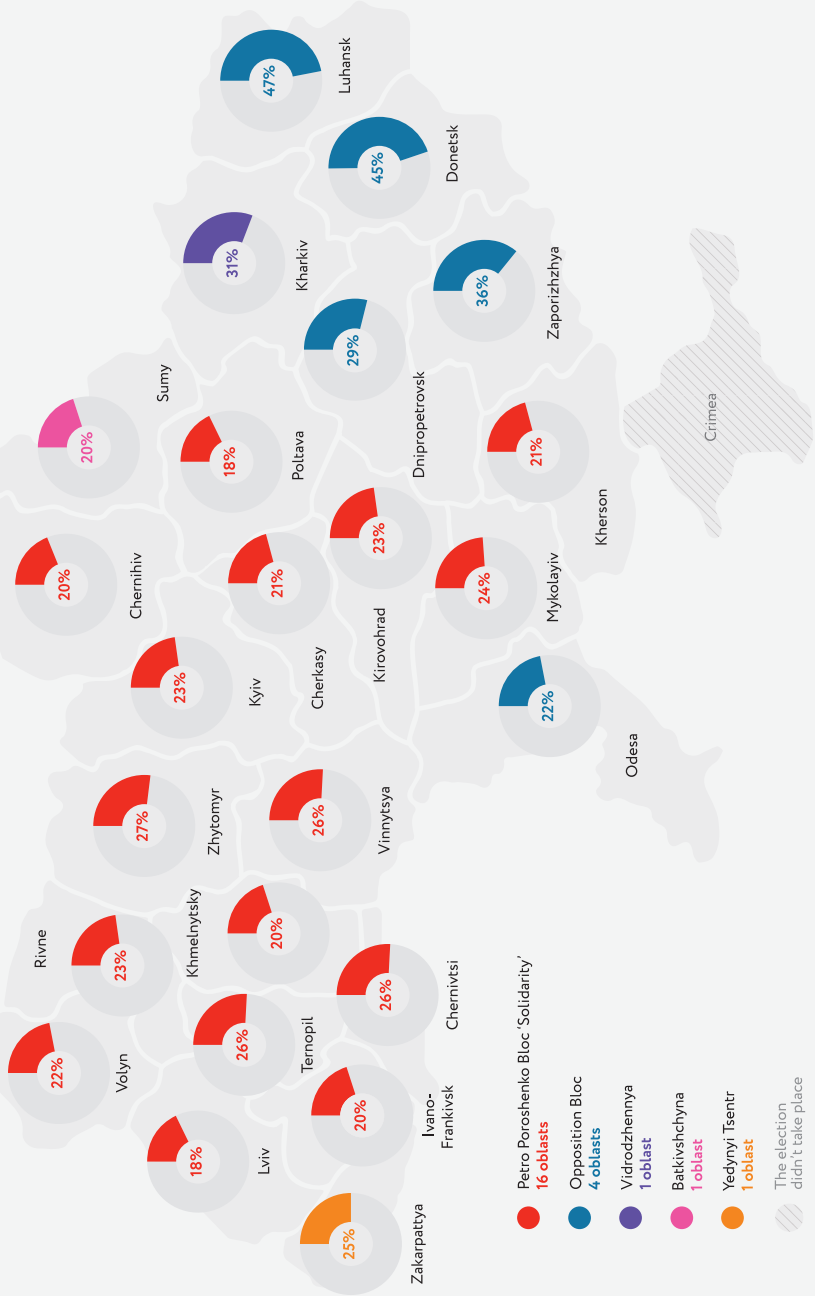
Candidates for deputies nominated by the Nash Krai party failed to win any council seats only in two regions (Ternopil and Rivne oblasts). This political party won the largest number of council seats in Donetsk (23.6%), Chernihiv (18.3%), and Mykolayiv (18.2%) oblasts.

The Agrarian Party of Ukraine obtained the highest percentage of deputy mandates in Chernihiv (15.2%), Chernivtsi (12.9%) and Khmelnytsky (12.3%) oblasts. This political party did not win a single council seat in Ivano-Frankivsk, Lviv, and Ternopil oblasts.

Candidates for deputies nominated by the All-Ukrainian Union Svoboda failed to win any council seats in Donetsk, Luhansk, and Odesa oblasts, and received the highest percentage of deputy mandates in local councils of Ternopil (17.2%) and Ivano-Frankivsk (14%) oblasts.

Candidates representing the Vidrodzhennya political party won council seats under proportional representation voting system in 15 regions of Ukraine. This party won the largest number of deputy mandates in Kharkiv oblast (31.3%), meanwhile in Zakarpattia (17.2%) and Dnipropetrovsk (14.1%) oblasts its election results were somewhat lower.

# Parties leading by the number of council members elected under proportional system



● Petro Poroshenko Bloc 'Solidarity'

16 oblasts

● Opposition Bloc

4 oblasts

● Vidrodzhennya

1 oblast

● Batkivshchyna

1 oblast

● Yedynyi Tsentr

1 oblast

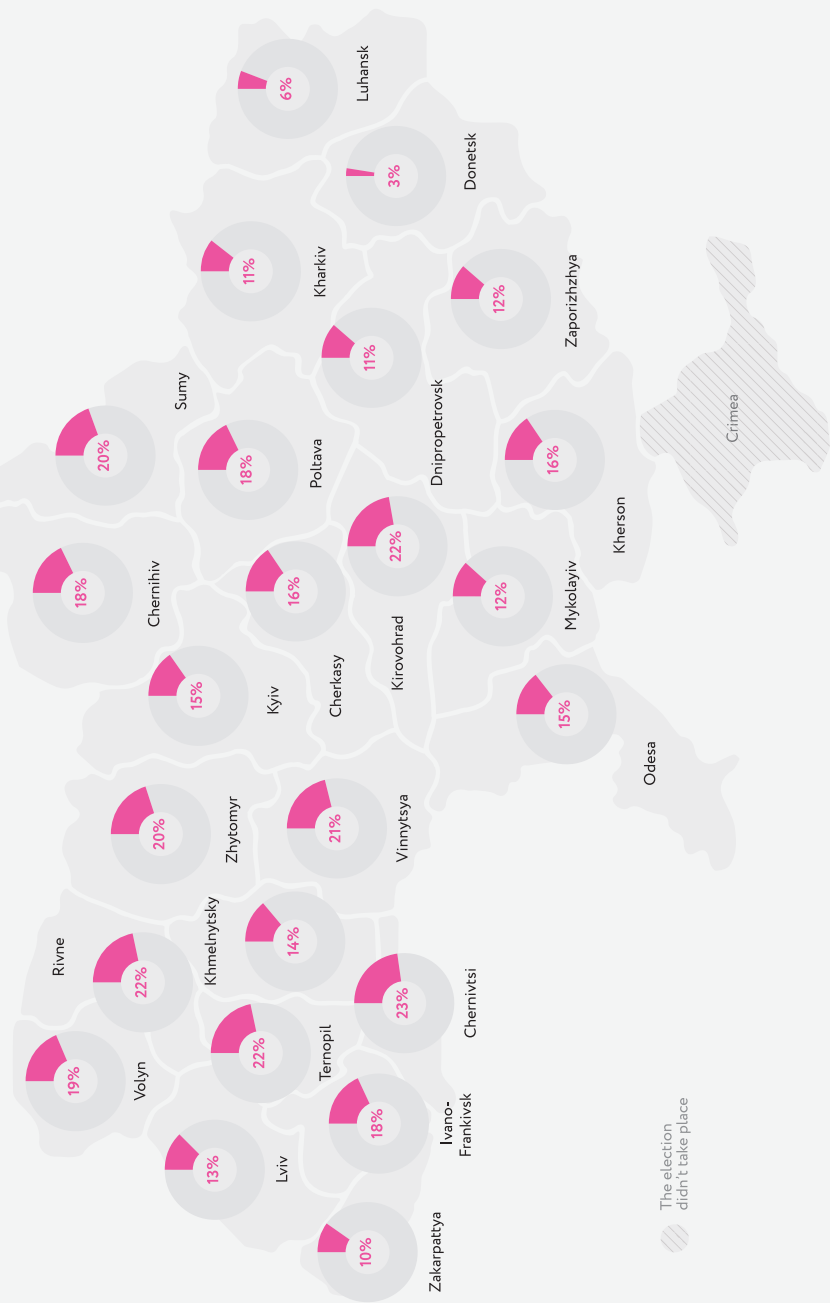
● The election didn't take place

# Petro Poroshenko Bloc 'Solidarity':

## % of mandates elected under proportional system

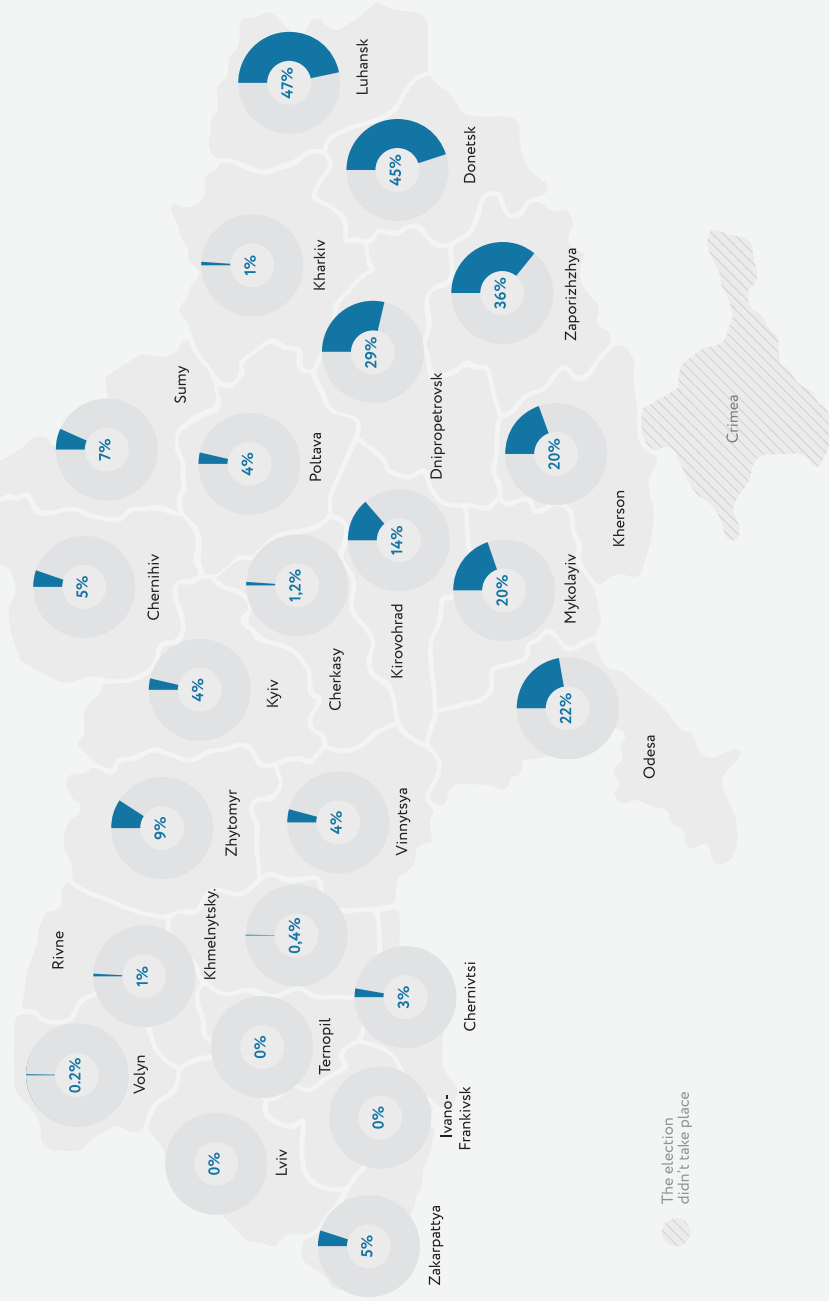


# All-Ukrainian Union Batkivshchyna: % mandates elected under proportional system

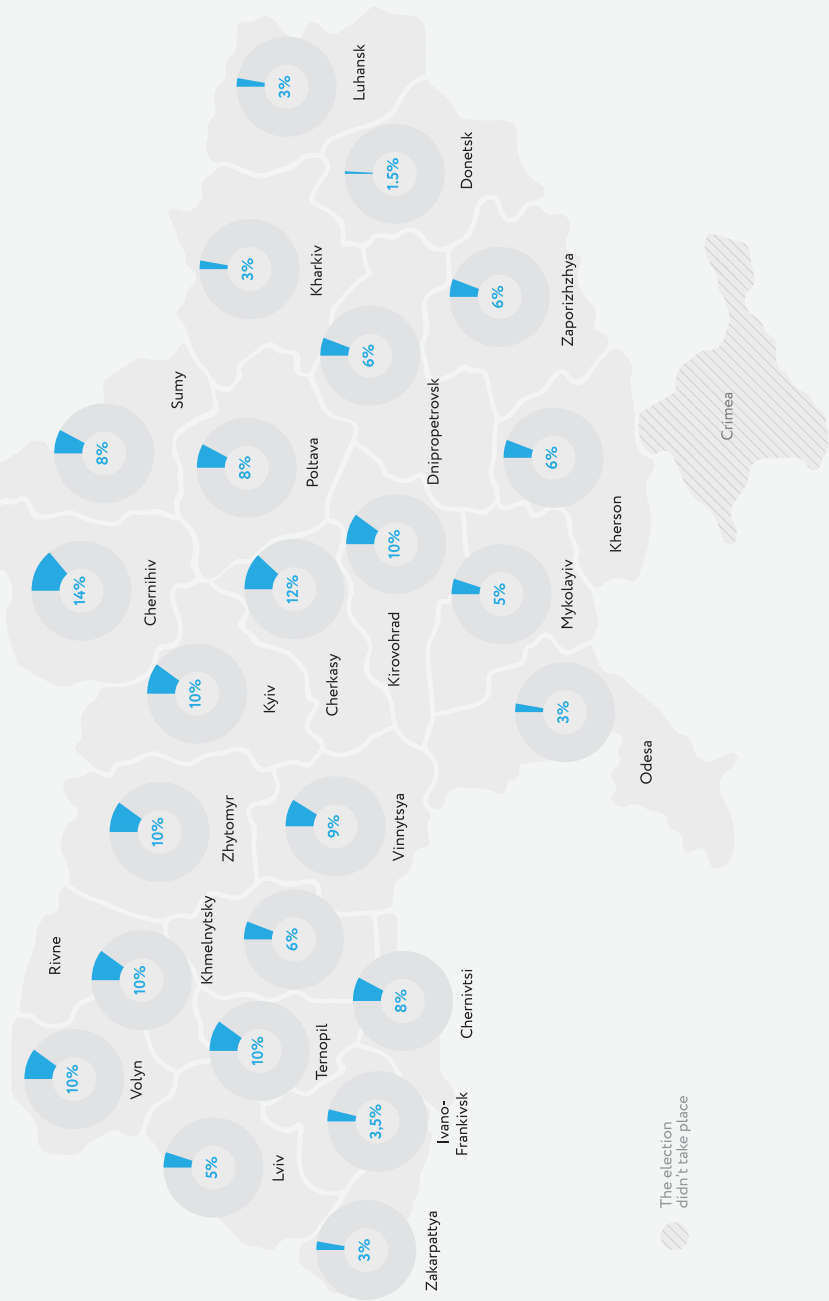


# Opposition Bloc:

## % mandates elected under proportional system



# Radical Party of Oleh Lyashko: % of mandates elected under proportional system

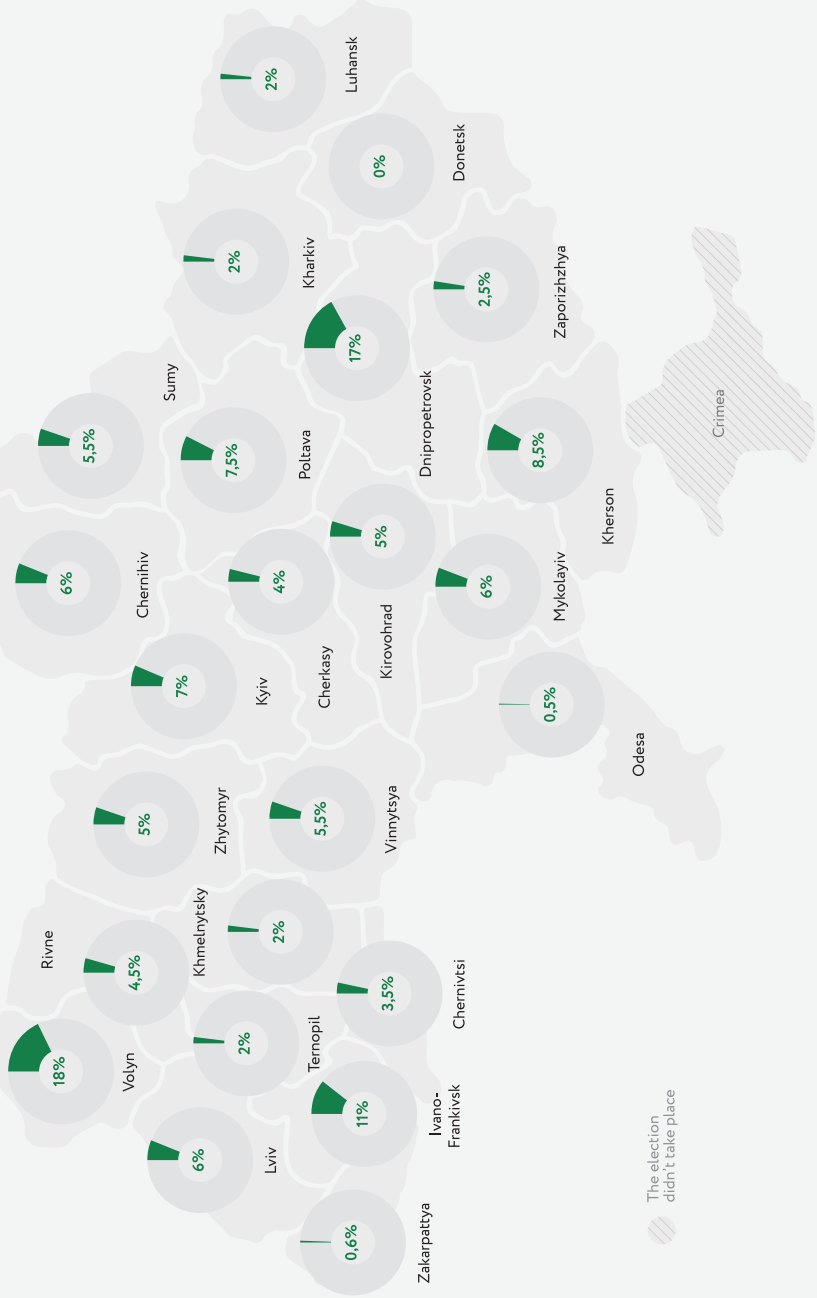


# Samopomich Union:

## % of mandates elected under proportional system



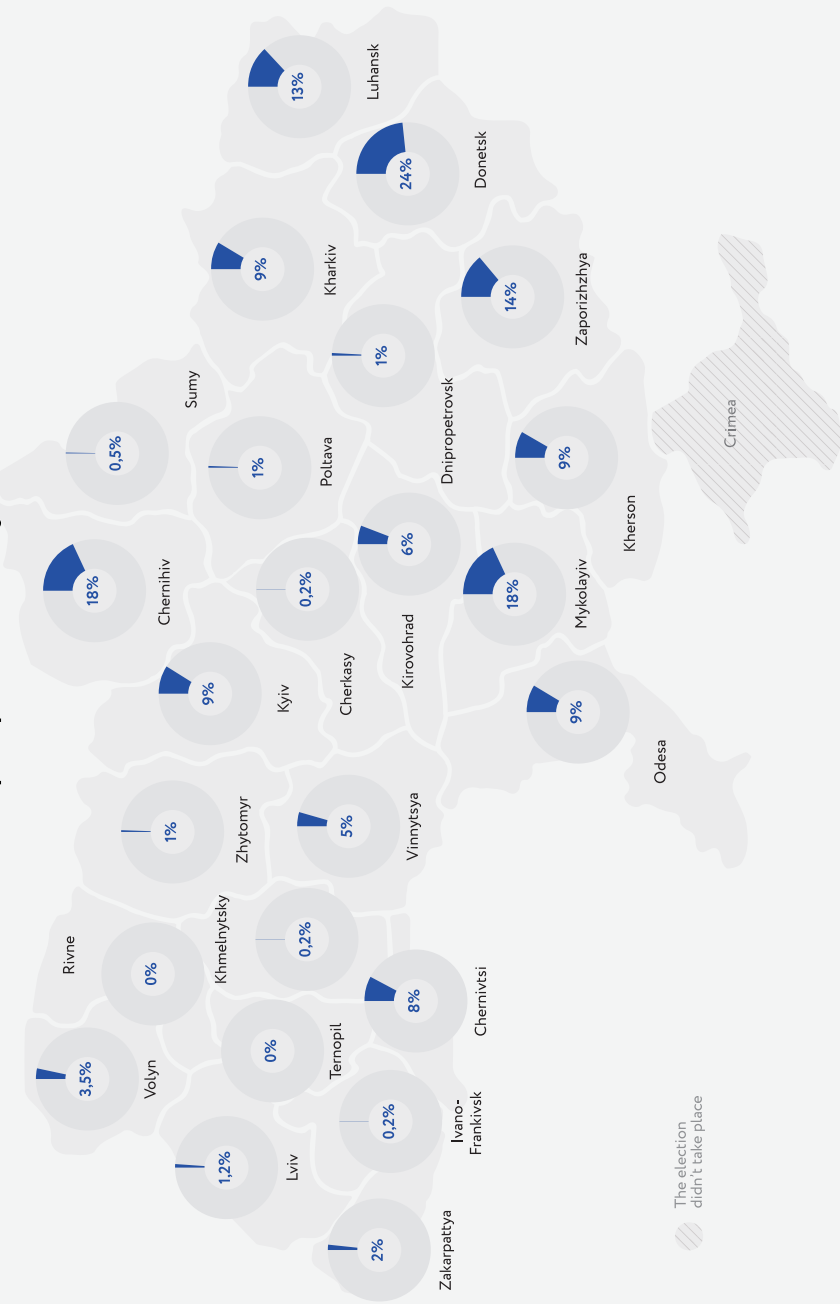
# Ukrainian Association of Patriots – UKROP: % of mandates elected under proportional system





# Nash Krai:

## % of mandates elected under proportional system



# Agrarian Party of Ukraine: % of mandates elected under proportional system



# All-Ukrainian Union Svoboda: % mandates elected under proportional system

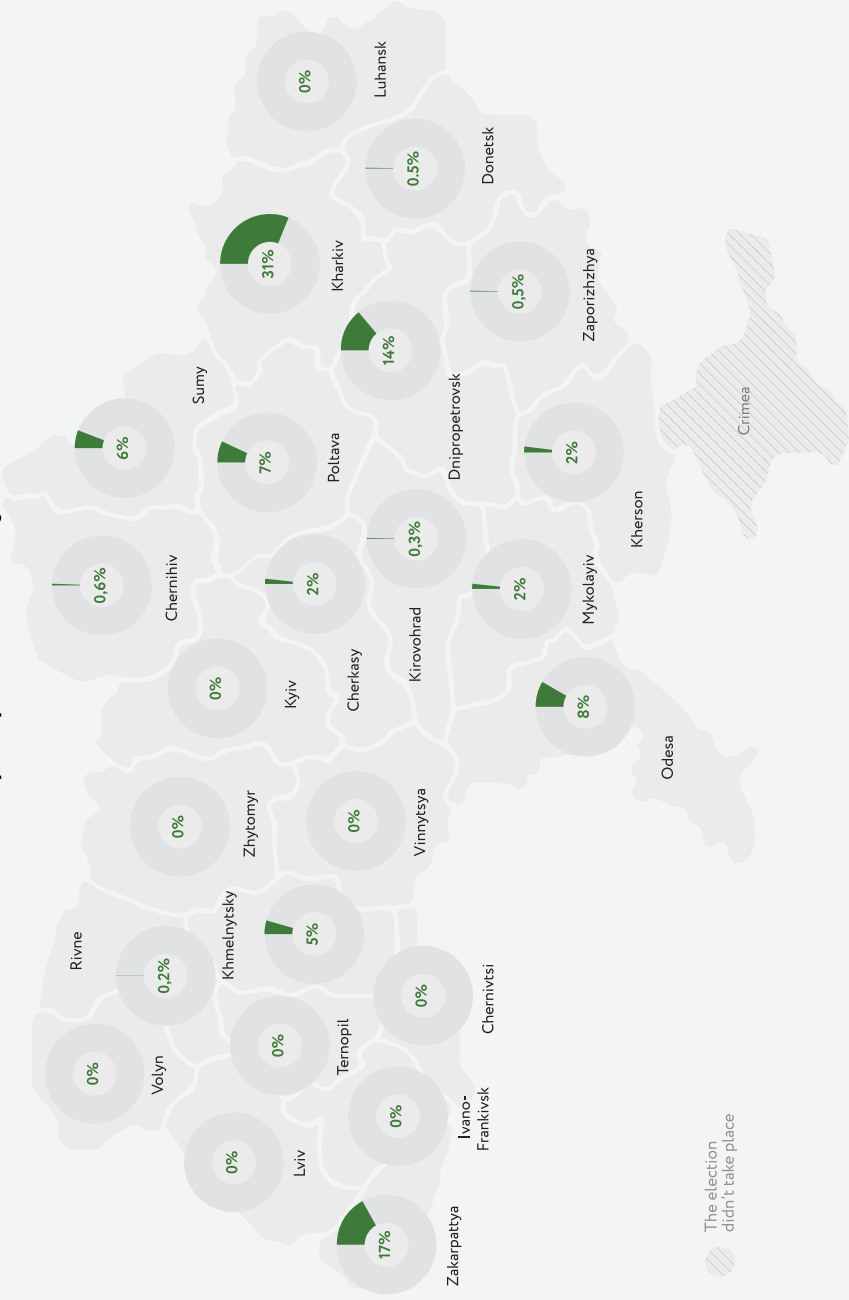
OBLAST, RAION AND CITY COUNCILS



# Vidrodzhennya:

% of mandates elected under proportional system

OBLAST, RAION AND CITY COUNCILS

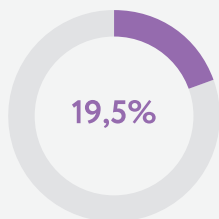


Altogether, the ten aforementioned political parties won 83% of all seats in local councils that were formed under proportional representation voting system in multi-mandate constituencies. Meanwhile, the remaining 17% of council seats were distributed among 51 local party cells.

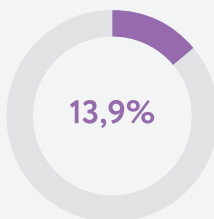
The Petro Poroshenko Bloc 'Solidarity' is the leading party in terms of the total number of elected deputies at the level of oblast councils (22.4%), whereas the All-Ukrainian Union Batkivshchyna and the Opposition Bloc party won 15.2% and 11.8% of oblast council seats correspondingly. Likewise, these three political parties have the largest number of elected deputies at the level of raion councils – 22.3%, 16.7% and 9.1% respectively. The Agrarian Party of Ukraine (7.7%) is ranked fourth in the list of political parties, which won the most seats in raion councils formed under proportional representation voting system.

The same political parties obtained the largest total number of deputy mandates in all city councils: the Petro Poroshenko Bloc 'Solidarity' (18.3%), the All-Ukrainian Union Batkivshchyna (14.1%), and the Opposition Bloc party (11.6%). However, the Samopomich Union (13.9%) is ranked second behind the Petro Poroshenko Bloc 'Solidarity' (19.5%) in terms of political representation only in the city councils of the administrative centers of oblasts. Meanwhile, the All-Ukrainian Union Batkivshchyna (10.6%), the Opposition Bloc party (10.5%), and Svoboda (9.1%) have fallen slightly behind in this context. The Petro Poroshenko Bloc 'Solidarity' and Samopomich are the only parties, which have their representatives in all city councils of the administrative centers of oblasts. Candidates for deputies nominated by the Petro Poroshenko Bloc 'Solidarity' won the highest percentage of council seats in Kyiv city council (43.3%) and the lowest percentage of council seats in Kharkiv (8.3%) and Dnipropetrovsk (9.4%) city councils. The Samopomich Union obtained the largest number of deputy mandates in Lviv city council (37.5%) and the smallest number of deputy mandates in Kirovohrad city council (7.1%). The All-Ukrainian Union Batkivshchyna won 42.9% of all council seats in Sumy city council and has not obtained a single deputy mandate in Odesa, Vinnytsya, Lviv, Dnipropetrovsk, and Kharkiv city council. Candidates for deputies nominated by the Opposition Bloc party achieved their best results at the local elections in the following administrative centers of oblasts: Dnipropetrovsk (39.1%), Mykolayiv (37.7%), and Zaporizhzhya (31.3%) city councils. However, this political party has no representatives in 12 city councils of the administrative centers of oblasts. The All-Ukrainian Union Svoboda failed to clear the electoral threshold at the local elections in 6 administrative centers of oblasts, while winning the highest percentage of council seats in Ivano-Frankivsk and Ternopil city councils – 33.3% and 31% respectively. Overall, a total of 36 different parties are represented in the city councils of the administrative centers of oblasts.

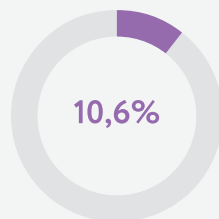
## Parties leading by representation in city councils of oblast administrative centers



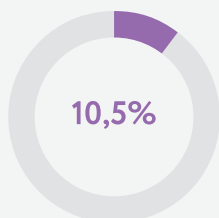
**PPB 'Solidarity'**  
22 councils



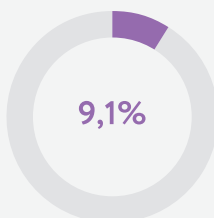
**Samopomich**  
22 councils



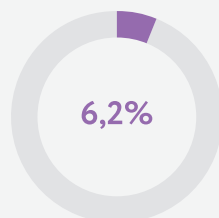
**Batkivshchyna**  
18 councils



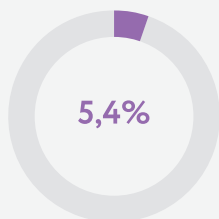
**Opposition Bloc**  
10 councils



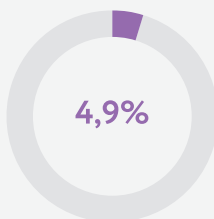
**Svoboda**  
16 councils



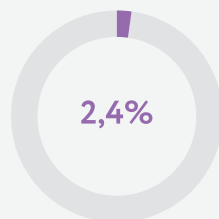
**UKROP**  
10 councils



**Vidrozhennya**  
2 councils



**Nash Krai**  
7 councils



**Radical Party**  
9 councils

## Parties leading by representation in village and township councils\*

### Batkivshchyna

3 259

477

3 736

### PPB 'Solidarity'

2 661

395

3 056

### Nash Krai

2 619

268

2 887

### Agrarian Party of Ukraine

1 806

157

1 963

### Opposition Bloc

807

175

982

### UKROP

382

114

496

### Radical Party

352

123

475

### Vidrodzhennya

345

89

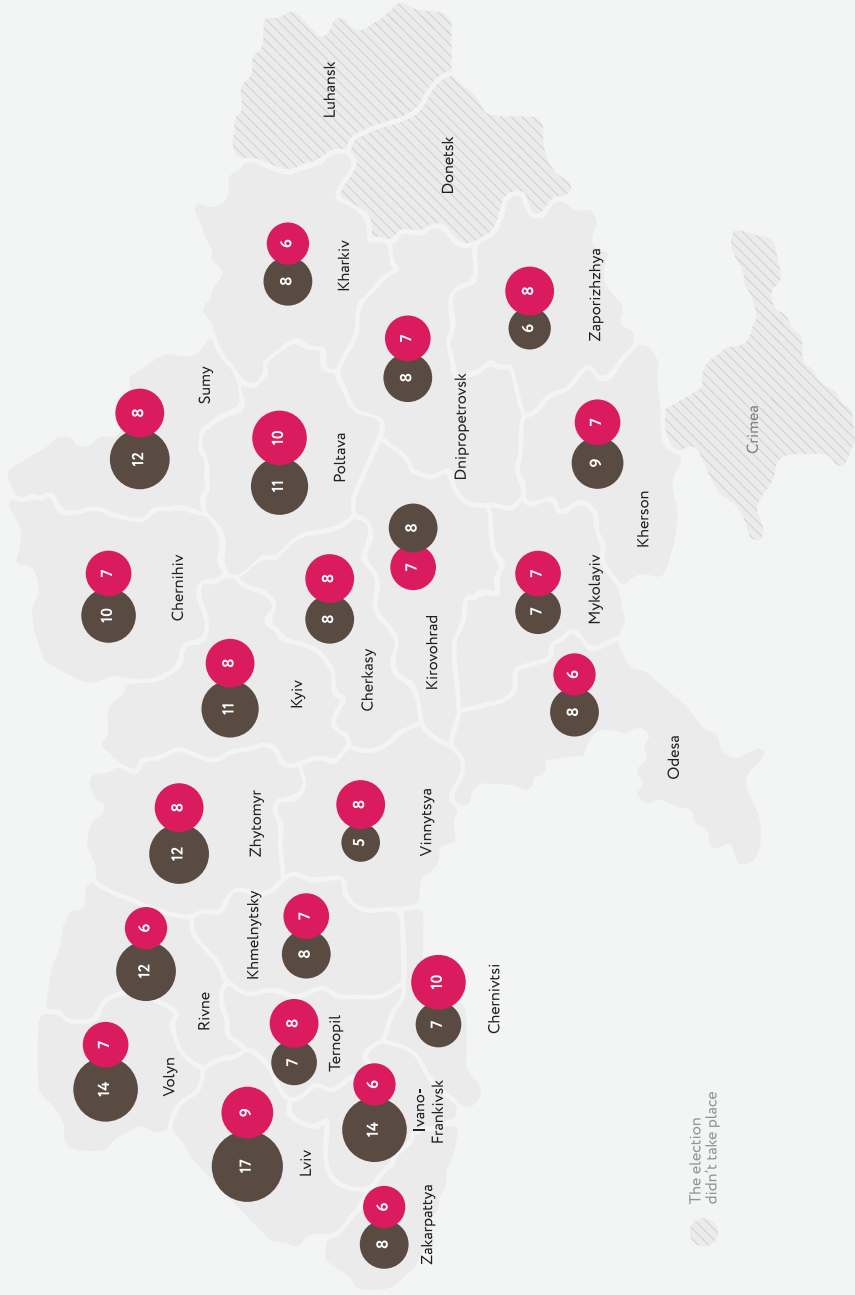
434

\* not including self-nominated candidates

2010

2015

# Comparing the number of parties represented in oblast councils



The election didn't take place



Based on the results of elections of deputies of oblast, raion, city, and city raion councils in multi-mandate constituencies, a total of 28,357 deputies from nomination lists submitted for registration by local cells of 61 political parties were elected. In 2010, candidates for deputies representing as many as 100 political parties won their council seats under proportional component of mixed election system. Overall, local cells of 89 political parties have their representatives in local councils of different levels.

At the level of oblast councils, there was a slight decrease in the number of political parties that have their representatives in the local self-governing authorities. In particular, the number of represented political parties decreased in 14 out of 22 oblast councils, and in some cases the number of parties represented in oblast councils decreased by half (Volyn, Ivano-Frankivsk, Lviv, Rivne oblast councils). This is largely due to the changes made to electoral system, such as elimination of majority component, which resulted in the fact that some parties were represented by one or two deputies in local councils, and raising the electoral threshold from 3% to 5%, which serves as an artificial barrier to participation of minor parties in distribution of council seats. At the same time, voter fragmentation in terms of their political preferences still contributes to the fact that a significant number of parties enter the local councils.

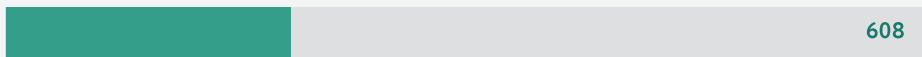
The election results were somewhat different at the level of village and township councils, which were formed under plurality voting system in single-mandate constituencies, and candidates were allowed to stand for election under self-nomination procedure. The main feature of the plurality voting system was that non-party candidates won an absolute majority of seats in village and township councils – 88% and 80% correspondingly. The remaining council seats were distributed among political parties with the All-Ukrainian Union *Batkivshchyna* topping the ranks, having obtained 22.9% of deputy mandates. The Petro Poroshenko Bloc ‘Solidarity’, Nash Krai and the Agrarian Party of Ukraine were slightly behind, having won 18.7%, 17.7% and 12% of village and township council seats correspondingly.

According to the Law, the process of the nomination of candidates for heads of villages, townships and cities is carried out by voters in the corresponding single-mandate constituencies through local party cells or through the self-nomination procedure. Based on the results of local head elections, a total of 9,960 heads were elected, including 327 (or 3.3%) city heads, 563 (5.7%) township heads, and 9,070 (91.1%) village heads. 80% of the total number of elected heads were independent candidates (self-nominations). The remaining 20% of elected heads were nominated by local cells of 52 political parties (in the 2010 local elections representatives of 66 different political parties were elected heads). Based on the election results, candidates nominated by the Petro Poroshenko Bloc ‘Solidarity’ took up the largest number of city head posts (30.7%) among all other party nominees. The All-Ukrainian Union *Batkivshchyna* and the Agrarian Party of Ukraine are also among the top 3 political parties in terms of the total number of elected heads of cities, townships, and villages – 18.5% and 9.4% correspondingly.

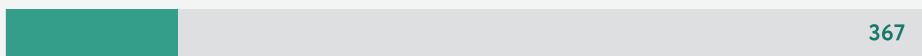
## Parties leading by the total number of elected heads of villages, townships and cities\*

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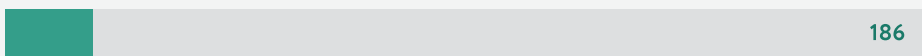
PPB 'Solidarity'



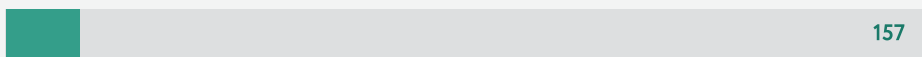
Batkivshchyna



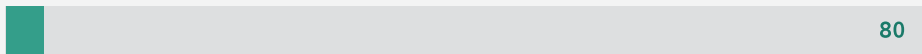
Agrarian Party of Ukraine



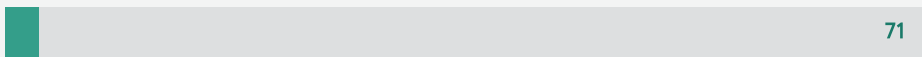
Nash Krai



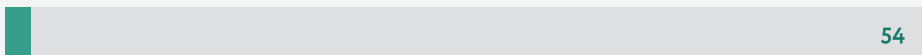
Opposition Bloc



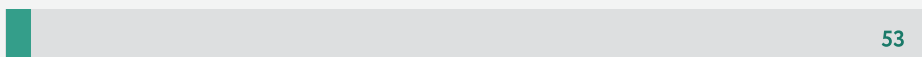
Vidrodzhennya



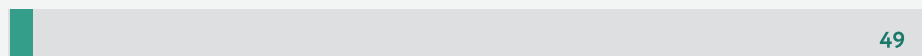
Za Konkretni Spravy



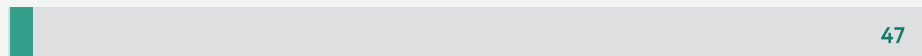
Svoboda



UKROP



Radical Party



\* not including self-nominated candidates

Analysis of factional structure of local councils and the level of electoral support of leading parties shows that there are no dominant parties in the majority of oblast and city (administrative centers of oblasts) councils. A typical situation is when the largest faction includes about one third of all deputy mandates, and such situation encourages a dialogue between political parties and leads to formation of broad coalitions in local councils. In average, the winning party has a 32% share of deputy mandates in city councils and a 27% share of deputy mandates in oblast councils. An exception to this is Kharkiv city council, where nearly 70% of all seats are held by the representatives of the Vidrozhennya party. In 2010, one-party dominance in local councils (Party of Regions, All-Ukrainian Union Svoboda) was a more common occurrence than it is now. However, based on the results of the 2015 local elections the winning parties gained unusually low level of support from the voters. Thus, the share of deputy mandates obtained by the winning parties in Poltava city council (Petro Poroshenko Bloc 'Solidarity') and Cherkasy city council (Party of Free Democrats) is 19%. The largest faction in Poltava oblast council (Petro Poroshenko Bloc 'Solidarity') has 17.9% of deputy mandates, while the two largest factions in Chernihiv oblast council (Petro Poroshenko Bloc 'Solidarity' and the Radical Party of Oleh Lyashko) hold 18.8% of council seats each.

### ***The largest factions in the city councils of the administrative centers of oblasts and Kyiv***

CITY COUNCIL	LEADING PARTY	SHARE OF DEPUTY MANDATES
Vinnitsya	Vinnitsya European Strategy	37,0%
Dnipropetrovsk	Opposition Bloc	39,1%
Zhytomyr	Petro Poroshenko Bloc 'Solidarity'	26,2%
Zaporizhzhya	Opposition Bloc	31,3%
Ivano-Frankivsk	All-Ukrainian Union Svoboda	33,3%
Kyiv	Petro Poroshenko Bloc 'Solidarity'	43,3%
Kirovohrad	Petro Poroshenko Bloc 'Solidarity'	21,4%
Lutsk	UKROP	35,7%
Lviv	Samopomich	37,5%
Mykolayiv	Opposition Bloc	37,7%
Odesa	Doviryai Dilam	42,2%
Poltava	Petro Poroshenko Bloc 'Solidarity'	19,0%

Rivne	Petro Poroshenko Bloc 'Solidarity'	21,4%
Sumy	ALL-Ukrainian Union Batkivshchyna	42,9%
Ternopil	ALL-Ukrainian Union Svoboda	31,0%
Uzhgorod	Vidrodzhennya	25,0%
Kharkiv	Vidrodzhennya	67,9%
Kherson	Petro Poroshenko Bloc 'Solidarity'	20,4%
Khmelnytsky	ALL-Ukrainian Union Svoboda	23,8%
Cherkasy	Party of Free Democrats	19,0%
Chernivtsi	Ridne Misto	23,8%
Chernihiv	Nash Krai	28,5%

### *The largest factions in oblast councils*

OBLAST COUNCIL	LEADING PARTY	SHARE OF DEPUTY MANDATES
Vinnysya	Petro Poroshenko Bloc 'Solidarity'	32,1%
Dnipropetrovsk	Opposition Bloc	38,3%
Zhytomyr	Petro Poroshenko Bloc 'Solidarity'	26,6%
Zaporizhzhya	Opposition Bloc	33,3%
Ivano-Frankivsk	Petro Poroshenko Bloc 'Solidarity'	27,4%
Kyiv	Petro Poroshenko Bloc 'Solidarity'	26,2%
Kirovohrad	Petro Poroshenko Bloc 'Solidarity'	21,9%
Lutsk	UKROP	26,6%
Lviv	Petro Poroshenko Bloc 'Solidarity'	23,8%
Mykolayiv	Opposition Bloc	26,6%
Odesa	Opposition Bloc	27,4%
Poltava	Petro Poroshenko Bloc 'Solidarity'	17,9%
Rivne	Petro Poroshenko Bloc 'Solidarity'	29,7%
Sumy	Petro Poroshenko Bloc 'Solidarity' / ALL-Ukrainian Union Batkivshchyna	21,9%

Ternopil	Petro Poroshenko Bloc 'Solidarity'	28,1%
Uzhgorod	Yedynyi Tsentr	29,7%
Kharkiv	Vidrodzhennya	41,7%
Kherson	Petro Poroshenko Bloc 'Solidarity'	28,1%
Khmelnysky	Za Konkretni Spravy	22,6%
Cherkasy	Petro Poroshenko Bloc 'Solidarity'	21,4%
Chernivtsi	Petro Poroshenko Bloc 'Solidarity'	23,4%
Chernihiv	Petro Poroshenko Bloc 'Solidarity' / Radical Party of Oleh Lyashko	18,8%

At the same time, a certain degree of one-party dominance within a region is observable in a situation of simultaneous influence of one political force on various elected bodies and positions, including oblast council, city council, and the position of head of the administrative center of oblast. Thus, the Petro Poroshenko Bloc 'Solidarity' is politically dominant in Zhytomyr, Kirovohrad, and Kyiv, where it has the largest factions in oblast and city council, as well as its own representative in the city head seat. In Poltava, Kherson, and Rivne the Petro Poroshenko Bloc 'Solidarity' has the largest faction in city and oblast council, while in Chernihiv this political party controls the city head position and has the largest faction in oblast council. The Vidrodzhennya party is politically dominant in Kharkiv (holds the majority of seats in city council, has the largest faction in oblast council and controls the city head position) and, to a lesser extent, in Uzhgorod (has the largest faction in city council and controls the city head position). The All-Ukrainian Union Svoboda is politically dominant in Ivano-Frankivsk, Ternopil, and Khmelnytsky, where it has the largest factions in city councils and controls the city head positions. The Opposition Bloc party is politically dominant in Zaporizhzhya, Mykolayiv, and Dnipropetrovsk, where it has the largest factions in oblast and city councils. The Vinnytsya European Strategy has the largest faction in Vinnytsya city council and controls the city head position. UKROP party has the largest faction in Lutsk city council and Volyn oblast council. The Samopomich Union is politically dominant in Lviv, where it has the largest faction in city council and controls the city head position. The most politically influential party in Odesa is the Doviryai Dilam party, which controls the city head position and has the largest faction in Odesa city council. The All-Ukrainian Union Batkivshchyna, albeit being one of the two leading parties in terms of the total number of obtained deputy mandates, is politically dominant only in Sumy, where it holds the majority of seats in the city and oblast councils, and controls the city head position. There is no dominant party in Cherkassy, where political influence is evenly divided between the Petro Poroshenko Bloc 'Solidarity' (this party has the largest faction in oblast council), the All-

Ukrainian Union Batkivshchyna (this party controls the city head position), and the Party of Free Democrats (this party has the largest faction in city council). A similar situation is observed in Chernivtsi, where the Ridne Misto party has the largest faction in city council, while the Petro Poroshenko Bloc 'Solidarity' has the largest faction in oblast council.

### *The most politically influential parties in the administrative centers of oblasts*

CITY	CITY COUNCIL	%	OBLAST COUNCIL	%	CITY HEAD	%
Vinnitsya	Vinnitsya European Strategy	37	Petro Poroshenko Bloc 'Solidarity'	32,1	Vinnitsya European Strategy	63,92
Dnipropetrovsk	Opposition Bloc	39,1	Opposition Bloc	38,3	UKROP	52,32
Zhytomyr	Petro Poroshenko Bloc 'Solidarity'	26,2	Petro Poroshenko Bloc 'Solidarity'	26,6	Petro Poroshenko Bloc 'Solidarity'	52,65
Zaporizhzhya	Opposition Bloc	31,3	Opposition Bloc	33,3	Self-nomination	55,62
Ivano-Frankivsk	All-Ukrainian Union Svoboda	33,3	Petro Poroshenko Bloc 'Solidarity'	27,4	All-Ukrainian Union Svoboda	54,83
Kyiv	Petro Poroshenko Bloc 'Solidarity'	43,3	Petro Poroshenko Bloc 'Solidarity'	26,2	Petro Poroshenko Bloc 'Solidarity'	64,1
Kirovohrad	Petro Poroshenko Bloc 'Solidarity'	21,4	Petro Poroshenko Bloc 'Solidarity'	21,9	Petro Poroshenko Bloc 'Solidarity'	48,6
Lutsk	UKROP	35,7	UKROP	26,6	Petro Poroshenko Bloc 'Solidarity'	55,7
Lviv	Samopomich Union	37,5	Petro Poroshenko Bloc 'Solidarity'	23,8	Samopomich Union	61,1
Mykolayiv	Opposition Bloc	37,7	Opposition Bloc	26,6	Samopomich Union	54,9
Odesa	Doviryai Dilam	42,2	Opposition Bloc	27,4	Doviryai Dilam	51,3
Poltava	Petro Poroshenko Bloc 'Solidarity'	19	Petro Poroshenko Bloc 'Solidarity'	17,9	Sovist Ukrainy	58,23

Rivne	Petro Poroshenko Bloc 'Solidarity'	21,4	Petro Poroshenko Bloc 'Solidarity'	29,7	Self-nomination	64,21
Sumy	All-Ukrainian Union Batkivshchyna	42,9	Petro Poroshenko Bloc 'Solidarity' / All-Ukrainian Union Batkivshchyna	21,9	All-Ukrainian Union Batkivshchyna	68,54
Ternopil	All-Ukrainian Union Svoboda	31	Petro Poroshenko Bloc 'Solidarity'	28,1	All-Ukrainian Union Svoboda	57,9
Uzhgorod	Vidrodzhennya	25	Yedynyi Tsentr	29,7	Vidrodzhennya	58,49
Kharkiv	Vidrodzhennya	67,9	Vidrodzhennya	41,7	Vidrodzhennya	65,8
Kherson	Petro Poroshenko Bloc 'Solidarity'	20,4	Petro Poroshenko Bloc 'Solidarity'	28,1	Self-nomination	67,79
Khmelnitsky	All-Ukrainian Union Svoboda	23,8	Za Konkretni Spravy	22,6	All-Ukrainian Union Svoboda	59,99
Cherkasy	Party of Free Democrats	19	Petro Poroshenko Bloc 'Solidarity'	21,4	All-Ukrainian Union Batkivshchyna	49,08
Chernivtsi	Ridne Misto	23,8	Petro Poroshenko Bloc 'Solidarity'	23,4	Self-nomination	62,63
Chernihiv	Nash Krai	28,5	Petro Poroshenko Bloc 'Solidarity' / Radical Party of Oleh Lyashko	18,8	Petro Poroshenko Bloc 'Solidarity'	51,52





#16

# CONCLUSIONS

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Failure of the Verkhovna Rada of Ukraine to comply with the principle of stability of electoral legislation in the view of belated adoption of the Law of Ukraine on Local Elections caused serious problems for all parties to the electoral process. On the one hand, the voters were not sufficiently informed about the specifics of election system, which was used for the first time at the local elections. On the other hand, election commission members, local cells of political parties, and candidates were not granted the minimum required time for getting acquainted with innovations in electoral legislation and carrying out proper organizational preparation for the elections.

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Despite collaborative and timely effort of the Parliament and expert community in developing a draft law #2831-2, which contained a number of democratic innovations, including introduction of the proportional representation system with open lists of candidates, deputies of the Verkhovna Rada of Ukraine eventually voted in favor of another draft law (#2831-3). This draft law was developed in a non-transparent manner without holding an initial public discussion and without consultation with all the stakeholders.

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The Parliament failed to comply with provisions of the Coalition Agreement on introduction of proportional representation voting system with open lists of candidates at the local elections. Instead, the People's Deputies implemented, without holding a discussion, the so-called proportional representation voting system with preferences, which was groundlessly marketed by law drafters as a form of an open list system. In fact, the voters' expectations for opportunity to freely choose between particular candidates from a party list were not satisfied. Voters were offered a non-alternative choice of a single candidate assigned to territorial constituency by the party. In the case of non-assignment of any candidates to the territorial constituency by the party, the voters basically could only vote in favor of a party.

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Although the provision of law on gender quotas for party lists was of declarative nature, it still made a positive impact on the implementation of the principle of equal rights and opportunities for all candidates.

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The procedure for two-round elections of city heads of large cities helped to enhance the legitimacy of elected city heads and requires further implementation at the level of other population centers.

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The introduction of the imperative mandate institution at the local level discords with the principle of people's sovereignty and the European standards of democratic procedures, and also creates conditions for arbitrary revision of legitimate results of expression of will of citizens by party leadership.

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Due to the lack of proper legal regulation and the absence of political initiative on prompt improvement of legislation, the suffrage rights of internally displaced persons at the local elections were artificially restricted.

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The mechanism for financial reporting of candidates and parties, which was enshrined in law, proved ineffective and needs further improvement in terms of strengthening control over the financial expenditures of candidates and parties and application of proportionate sanctions against them for violation of the Law

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The absence of legal obligation for the submission and publication of election programs of the candidates under the conditions of application of proportional representation voting system encourages irresponsibility of the candidates and does not contribute to ideological structuring of political parties.

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The adoption of the new Law of Ukraine on Local Elections shortly before the start of the election process had a negative impact on the ability to ensure professional competence of election commission members, whose powers included candidates' registration and cancellation thereof. In turn, violation of inclusive principles in the process of preparation of the Law resulted in the adoption of imperfect legislative provisions on the process of nomination and registration of candidates. As a matter of practice, provisions of the law on application of gender quotas, regulation of the procedure for making a monetary deposit, determining the grounds for denial of registration of candidates, taking into consideration the violations of procedure for nominating candidates when adopting decisions on denial of registration of candidates, and others, turned out to be the most inefficient and ambiguous ones.

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Unequal application of the Law by different territorial election commissions, the political bias of members of the election commissions in the matters concerning registration of candidates and violation of a legally stipulated deadline were the key problems of the process of nomination and registration of candidates.

Failure to meet the deadline for registration of candidates in several territorial communities led to destabilization of the following stages of election process, including the conduct of legal pre-election campaigns by candidates and timely production of ballot papers.

Given the fact of completion of the process of registration of candidates in substantial breach of legally stipulated time limits, not all electoral subjects were provided with equal opportunities to conduct pre-election campaigns in a proper manner. Those candidates, who were in the process of appealing against the decisions on denial of registration, were forced to either conduct unauthorized pre-election campaigns or perform no activity at all.

The process of registration of candidates by territorial commissions was not accompanied by the manifestations of centrally orchestrated administrative pressure, as compared to the regular local elections in 2010. The mechanisms of challenging the decisions on denial of registration in court proved effective for a large number of candidates, while the political bias of election commission members was of local and restricted nature.

The CEC performed its duties at the local elections under the conditions of negative attitude of the public towards the fact that the majority of CEC members have exceeded their term of office, which resulted from inactivity of the Verkhovna Rada of Ukraine and the President of Ukraine in relation to the law-stipulated rotation of the CEC members;

Crisis of confidence over the legitimacy of CEC members made it more difficult for the CEC to perform its duties, since major decisions of the Commission were excessively politicized and drew criticism from key stakeholders in the electoral process;

Under the conditions of imperfection of the new Law of Ukraine on Local Elections the CEC has put a lot of effort into clarifying the provisions of this Law and established implementing rules for certain election procedures which deserves appreciation;

In some cases, the CEC assumed the duty of eliminating the legal loopholes in the provisions of the Law which shows evidence for the abuse of authority. This problem was identified in the explanatory statements on the application of gender quotas, list of grounds for appointing the second round of elections of city heads, and awarding the deputy mandates to the first-placed candidates in the nomination lists of local party cells.

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Activities of TECs at the regular local elections in Ukraine were based on mutual control of local party cells over each other and the absence of monopoly control over these election commissions by the state machinery or one of the political forces. The balance of interests and mutual control was mostly ensured at the level of TECs, which helped to strengthen the credibility of corresponding election commissions among electoral subjects.

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Influence of political parties on their representatives in election commissions often posed a threat to the ability of election commissions to fulfill the requirements of the Law effectively and impartially. Excessive politicization of activities of TECs complicated the decision-making process and, in some cases, led to breach of time limits for carrying out the election procedures.

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Territorial election commissions at the regular local elections suffered from the turnover of its members to a much lesser extent, as compared to the territorial election commissions formed at the early Parliamentary elections (16% and 50% TEC member turnover rate correspondingly). However, the problem of recruitment of quality personnel to work in election commissions remains relevant to this day.

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There was no tendentious approach or systematic bias in the decisions, actions or inactivity of TECs throughout the country. However, politically motivated decisions of certain election commissions created serious problems at the stage of registration of candidates and other stages of election process. Excessive politicization of the activities of Mariupol and Krasnoarmiisk city election commissions, among other factors, undermined the elections due on October 25, 2015, and resulted in conduct of elections on November 29, 2015.

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Gaps in the electoral legislation and inadequate level of training of TEC members led to difficulties in exercising the powers in respect of registration of candidates and ensuring production of ballots. Furthermore, lack of motivation among local party cells to form the composition of PECs forced the TECs to search for appropriate candidates for PECs members on their own.

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Personnel deficiency was a key problem in the activity of PECs at the regular local elections in Ukraine. Just like at the previous national elections, the election commissions of precinct level were often formed with the inclusion of the minimum allowed number of members

and suffered from significant staff turnover on the eve of Election Day. Firstly, this problem resulted from a lack of follow-through work of political parties with potential election commission members of all levels. Secondly, citizens demonstrated low level of motivation to perform the duties of election commission members.

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According to OPORA's estimates, turnover of PEC members was large-scale and resulted from refusal of citizens to participate in the corresponding activities of PECs. The staff turnover rate ranged from 20% to 60% of original composition of PECs in different territorial communities.

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For the most part, the activities of PECs at 2015 regular local elections were performed in lawful and organized manner. Isolated cases of unlawful influence of PEC members on voting results required detailed and motivated investigation by law enforcement agencies, but such violations were not systematic or centrally orchestrated.

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Violations recorded during Election Days scheduled on October 25, November 15, and November 29, weren't necessarily related to the activities or decisions of PECs (for example, voters who took photos of their ballots, etc.). However, in some cases passivity or inactivity of PEC members provoked other subjects of the election process to commit offenses.

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Errors made by PEC members in the process of drawing up vote counting protocols at the polling stations as well as breaches of procedure for transportation and packaging of election documentation also became a common problem. According to the Civil Network OPORA, such violations resulted from the lack of competence among PEC members and their attempts to reduce the time required for implementation of appropriate procedures.

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The requirement of the law regarding balanced representation of persons of both genders in the nomination lists of political parties was one of the key positive innovations in electoral law in terms of its compliance with international standards of democratic elections. However, the absence of practical mechanisms of implementation as well as the absence of meaningful sanctions against those political parties, which did not adhere to gender quota requirements, initially raised doubts regarding the possibility of achieving progress in ensuring equal rights and opportunities for men and women to participate in the electoral process. Controversial judicial practice concerning the denial of registration of candidates

representing local cells of those political parties, which committed violation of the Law on gender quotas when compiling their nomination lists, exacerbated the problem of conflicting interpretations of the corresponding provisions of the Law by territorial election commissions and signaled the possibility to ignore these requirements due to their non-binding nature.

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None of the parties that nominated the largest number of candidates in local elections ensured fully balanced representation of persons of both genders (at the level of at least 30%) in their lists of candidates nominated at the elections of deputies of oblast councils and city councils in the administrative centers of oblasts. The Samopomich Union came closer than anyone else to implementation of the Law provisions, having compiled all but two of its nomination lists at the elections of deputies of oblast councils and city councils in the administrative centers of oblasts with due consideration of gender quota requirement. Meanwhile, the Petro Poroshenko Bloc 'Solidarity' was the political force that most commonly violated the provisions of the Law, which was initially supported by the parliamentary faction of the Petro Poroshenko Bloc 'Solidarity' in the Verkhovna Rada of Ukraine. Only 4 out of 22 nomination lists, which were submitted by the Petro Poroshenko Bloc 'Solidarity' at the elections of deputies of oblast councils, complied with the gender quota requirements. Likewise, more than half of all nomination lists of the Agrarian Party of Ukraine and Nash Krai submitted at the elections of deputies of oblast councils did not comply with the gender quota requirement.

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Political parties basically did not make use of the opportunity to increase the level of representation of women in local councils by way of placing them first on the party lists. Women-candidates were ranked first in 5 out of 13 nomination lists of the Vidrodzhennya party submitted at the elections of deputies of city councils in the administrative centers of oblasts, and this is the best result among the leading political parties. Meanwhile, the All-Ukrainian Union Batkivshchyna submitted only 2 out of 25 party lists with first-place women candidates at the elections of deputies of city councils. Of all the candidates for city heads throughout the country, only 13% were women and 87% were men. From a political party perspective, the largest share of women candidates for the position of city head (among 13 political parties that submitted the largest number of candidates) was nominated by the Sylu Lyudei party and amounted to 29%. The least balanced lists of city head candidates in terms of equal representation of genders were nominated by the All-Ukrainian Union Svoboda (only 5% of city head candidates were women) and the Hromadianska Pozytsia party (almost

6% of city head candidates were women). Among those candidates who stood for city head election through self-nomination 13% were women and 87% were men.

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According to the election results, we have an almost equitable relationship of men and women deputies in the local councils of all levels. However, women deputies slightly dominate only the local councils of the lowest administrative territorial level (village and township councils), while the share of women in the deputy corps of oblast councils is only 14.7%.

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The election results revealed that the most responsible and consistent political parties in terms of implementation of legislative provisions on gender quotas ensured the most balanced representation of both genders in local councils. The Samopomich Union is a bright example in this respect, since almost all (except one) of its nomination lists at the elections of deputies of oblast councils comply with the gender quota requirements. As a result, this party has the largest share of women deputies in oblast councils (27.9% on average). Meanwhile, only 4 out of 22 lists of candidates nominated by the Petro Poroshenko Bloc 'Solidarity' at the elections of deputies of oblast councils comply with the gender quota requirements. The result is one of the lowest levels of representation of women in oblast councils (9.4% on average).

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Inaction of the Verkhovna Rada of Ukraine in relation to the regulation of electoral rights of internally displaced persons resulted in indirect discrimination against this group of citizens in the process of exercise of constitutional rights and freedoms.

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The 2015 local elections in Ukraine gave evidence of urgency of the problems with ensuring the voting rights of internally displaced persons and migrant workers who have been actually living for a long time in territorial communities other than those where they are formally registered.

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At the legislative level, the government ignores the fact of involvement of a person in the life of territorial community (tax payment, permanent use of local services, involvement in the activities of community development) when determining the affiliation of citizens with a certain territorial community. At the same time, the affiliation with a territorial community is strictly pegged to the registered place of residence on the model of the Soviet Union.



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A large portion of mobile citizens within the state boundaries have no possibility of acquiring a new officially registered place of residence, and this is especially true for internally displaced persons and internal migrant workers. This fact imposes constraints on millions of citizens of Ukraine in the exercise of their electoral rights.

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Leading political parties and People's Deputies of the Verkhovna Rada of Ukraine were unprepared for proper and impartial discussion on the mechanisms for regulation of electoral rights of internally displaced persons and internal migrants due to political reasons.

.....

Most commonly, candidates and local party cells did not comply with the requirements of legislation concerning pre-election campaigning.

.....

Illegal campaigning manifested itself in election campaign finance with the use of sources of funding other than registered electoral funds, distribution of campaign materials in places prohibited by law, illegal campaigning at prohibited times, and the use of black PR technologies. According to the Civil Network OPORA, the use of non-transparent sources of campaign funding was the main cause of the widespread occurrence of illegal campaigning. Meanwhile, facts of bribery of voters, which are ranked second in the overall rankings of most common violations, had a much more negative effect on the election results than cases of illegal campaigning.

.....

Bribery of voters at the 2015 regular local elections in Ukraine was not centrally orchestrated and there was no political monopoly on this type of violation. This violation technique was used by representatives of various political parties and local influence groups. Furthermore, bribing techniques, such as provision of goods, works and services to voters, most often were used in the course of pre-election campaigning. In some cases, candidates made use of public funds and resources of local purpose-oriented programs for provision of financial incentives to voters.

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There were a few cases in which the law enforcement authorities of Ukraine demonstrated their ability to respond quickly to violations of the law, especially in relation to bribery of voters. However, their activity did not result in the formation of an effective system of prevention and detection of crimes committed against the electoral rights of citizens. In 2016, the key challenge facing that the law enforcement agencies of Ukraine in the electoral

field will be the effective investigation of 200 criminal proceedings initiated in the course of the 2015 local elections.

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Large number of violations committed by election commission members is a key feature of the 2015 regular local elections. On the one hand, this fact can be explained by a large number of territorial election commissions, which were responsible for the organization and holding of local elections. On the other hand, these violations were often caused by the lack of competence of members of the newly formed election commissions and factors leading to excessive politicization of their activities. Most commonly, violations on the part of the election commissions were committed in the process of preparation of election documents. Primarily, we are talking about the process of drawing up vote counting protocols at the polling stations;

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The 2015 regular local elections were marked by a significant reduction of influence of administrative resources. The electoral legislation of Ukraine left the door open for obtaining non-competitive advantages by candidates who were holding office in state government bodies or local self-government authorities at the time of the election process. However, OPORA observers did not record any cases of centrally orchestrated abuse of administrative resources that could have potential influence on the results of certain political force in a large number of territorial communities.

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The Law of Ukraine on State Service, which was passed by Parliament and signed by the President of Ukraine after the local elections, changes the regulation of public officials' participation in the election campaigns. Section 4 of Article 10 of the Law of Ukraine on State Service stipulates that in the case of registration of a public official as a candidate for deputy by the Central Election Commission, or other election commissions formed (established) in the procedure prescribed by law, such public official shall notify the head of civil service on this matter in written form within one day after registration as a candidate. Upon his application, the public official is granted an unpaid vacation for the period of participation in the election campaign. Such a vacation shall be granted by the decision of the head of civil service for the period starting from the date of notification on participation in the election process and ending with the date of election process termination as prescribed by the electoral law. The Civil Network OPORA believes that implementation of corresponding amendments to legislation concerning the prevention of abuse of power in electoral or political interests must continue in a comprehensive manner, which will require reasonable efforts from all subjects of legislative initiative.

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Cases of obstruction of journalists', observers', and candidates' activities, acts of violence related to the election process, were threatening in certain situations. At the same time, there was no systematic trend or political dependence detected in these incidents.

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Local elections in Ukraine were held with numerous violations of the international standards and the organization and conduct of electoral process. However, the Civil Network OPORA affirms that Election Day violations were usually unsystematic and did not have significant influence on election results or vote count process, and the campaign itself was quite competitive. A number of violations resulted from the low level of organization of election commissions, as well as political conflicts between electoral subjects yet on the stage of candidate registration, printing and transportation of ballots, and preparation to Election Day. Thus, observers detected minor violations at 24.1% of polling stations in Ukraine (margin of error is 2.3%). More significant violations occurred at 2.3% of polling stations in Ukraine (margin of error is 1.4%). Although quite typical violations occurred in different regions and levels of local elections, they were not pre-planned or systematic.

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The most typical violation was an attempt to issue (or receive) ballots without previous passport verification. Such incidents were detected at 17.7% of polling stations in Ukraine. The violation of the voting secrecy (demonstration of filled in ballots or voting out of voting booths) was less spread. Such violations were detected at 7.5% of polling stations in Ukraine.

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During the second round of city head elections in 29 cities, detected election law violations were not wide-scale, systematic or centralized. OPORA has estimated that violations detected at polling stations could not influence the final results of the second round to city head elections. The number of violations committed by election commissions and other electoral subjects during the second round has decreased in comparison to the voting process on October 25, 2015. The voting was held on the regular pace without considerable violations or conflicts and in accordance with the procedures established by the Law. If compared to the first round, the number of violations detected by OPORA observers has significantly decreased, in particular, attempts to issue ballots without passport verification have decreased from 17.8% to 0.8% within Ukraine. However, the fact that the percentage of incidents related to the violation of the voting secrecy has increased from 7.5% to 9.2% within Ukraine, if compared to the first round, raises concerns. Taking pictures of ballots still

remains quite a widespread violation, detected at 11.7% of polling stations in Dnipropetrovsk (12.1% in the first round). Observers did not notice any pre-planned or systematic violations of electoral legislation.

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According to the data gathered by OPORA, voters activity on November 15, 2015 was lower than on October 25, 2015 (34.4% and 46.6% respectively). Thus, approximately 12% less of voters participated in the second round of voting if compared to the regular local elections held on October 25, 2015. Lower voter turnout in the second round displays the specifics and intensity of the second round campaigning in some territorial communities and cannot be interpreted as decreased public legitimacy of the elections or public trust to the institution of elections. The Ukrainian government have not secured stability of the election legislation, what could have affected citizens' awareness of the electoral system used for city head elections and the second round in particular.

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Introduction of the absolute majority electoral system for city head elections (in big cities having 90,000 registered voters or more) helped the voters to fully define their attitude to two top candidates in their territorial communities, what increases responsibility of all parties for the final election results.

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The election process in Krasnoarmiisk and Mariupol was disrupted in the local elections on October 25, 2015 causing damage to internal and international political image of Ukraine, therefore prompt and decisive action were needed to restore constitutional rights of many citizens. Although the legal framework chosen to secure voting rights of Krasnoarmiisk and Mariupol citizens causes debates, the decision of the Ukrainian Parliament on the peculiarities of voting in these two cities proves that the state is able to restore the violated electoral rights of citizens. However, the absence of detailed procedues in the Law that would cover all the specifics of the election process is one of the drawbacks of legislative regulations concerning the voting process in Krasnoarmiisk and Mariupol. Firstly, it refers to campaigning regulations under the conditions of election process restoration after its disruption. The CEC has made fair effort to secure legislative framework for the organization and conduct of elections by passing the corresponding normative acts. At the same time, according to OPORA's assessment, the CEC Clarification on campaigning in these cities before November 29, 2015 is questionable from a legal persepctive and with consideration of legal consequences.

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The voting process on November 29, 2015 in Krasnoarmiisk and Mariupol passed quietly, in accordance with legislative requirements, and without systematic or centralized violations. The same applies, with a few exceptions, to the tabulation of votes at election precincts.

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In average, the total number of deputies of local councils decreased by one third. The smallest decrease was in the personal composition of village councils (-26%), the biggest decrease was in the city raion councils (-59%).

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The Petro Poroshenko Bloc 'Solidarity' is the leading political party in terms of the total number of deputies elected to local councils of all levels. Overall, this party obtained 5.65% of all deputy mandates in local representative bodies. The All-Ukrainian Union Batkivshchyna is ranked second with 5.15% of deputy mandates in local councils. Their closest rivals (the Opposition Bloc party, Nash Krai, and the Agrarian Party of Ukraine) won only half as much council seats. They are followed by a group of four political forces (the Radical Party of Oleh Lyashko, UKROP, Vidrodzhennya, and the All-Ukrainian Union Svoboda), each of which obtained more than 1% of deputy mandates throughout Ukraine. The Samopomich Union rounds out the top ten performing parties (it obtained 0.58% of all deputy mandates). The remaining council seats were distributed among 79 other political parties. Meanwhile, the greater part of council seats (71.6%) were won by self-nominated candidates.

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Political party ratings and the overall picture of election results are more representative at the level of oblast, raion, and city councils where the local elections were held under the proportional representation voting system in multi-mandate constituencies and only political parties were authorized to nominate candidates. Firstly, party nominees were competing only against one another, but not against self-nominated candidates. Secondly, party representation at the level of oblast, raion, and city councils is stronger and more illustrative in terms of available powers and resources than at the level of village and township councils.

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Based on the results of elections held under the proportional representation voting system in multi-mandate constituencies, the Petro Poroshenko Bloc 'Solidarity' won the largest share of council seats which amounted to 20.8% (cumulatively, in oblast, raion and city councils, but exclusive of city raion councils). Thus, one fifth of all deputies in oblast, raion and city councils are representing this political force. The Petro Poroshenko Bloc 'Solidarity'

is the leading party in terms of the total number of deputy mandates obtained in 16 regions of Ukraine (Vinnytsya, Volyn, Zhytomyr, Ivano-Frankivsk, Kyiv, Kirovohrad, Lviv, Mykolayiv, Poltava, Rivne, Ternopil, Kherson, Khmelnytsky, Cherkasy, Chernivtsi, and Chernihiv oblasts). The All-Ukrainian Union Batkivshchyna won 15.6% of the total number of seats in the oblast, raion and city councils. In addition, Batkivshchyna is the leading political party in Sumy oblast in terms of the total number of deputy mandates obtained in this region. The Opposition Bloc party won 10.2% of seats in local councils formed under proportional representation voting system. The Opposition Bloc party is the leading party in terms of the total number of deputy mandates obtained in five regions (Dnipropetrovsk, Donetsk, Zaporizhzhya, Luhansk, and Odesa oblasts). In Luhansk oblast this political party set the record for the total share of deputy mandates obtained - 46.9%, while in Donetsk oblast it holds 45.1% of all council seats. The Vidrozhennya party, ranked ninth overall in terms of the total number of deputy mandates obtained (holds 4.5% of all seats in oblast, raion and city councils), is the leading political force in Kharkiv oblast. Meanwhile, the Yedynyi Tsentri party is in the lead in Zakarpattia oblast.

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Only four political parties obtained deputy mandates in all regions of Ukraine, without exception, under the proportional representation voting system: the Petro Poroshenko Bloc 'Solidarity', the All-Ukrainian Union Batkivshchyna, the Radical Party of Oleh Lyashko, and the Samopomich Union. Moreover, the Petro Poroshenko Bloc 'Solidarity' and the Samopomich Union are the only parties that cleared the electoral threshold and have their representatives in all city councils of the administrative centers of oblasts.

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The All-Ukrainian Union Batkivshchyna is the leader among political parties (exclusive of self-nominated candidates) in terms of the total number of deputy mandates obtained at the level of village and township councils formed under plurality voting system in single-mandate constituencies, having won 22.9% of all council seats. The election results of the Petro Poroshenko Bloc 'Solidarity', Nash Krai, and the Agrarian Party of Ukraine in village and township councils were somewhat lower – 18.7%, 17.7%, and 12% respectively.

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Based on the election results, candidates nominated by the Petro Poroshenko Bloc 'Solidarity' took up the largest number of city head posts among all other party nominees – 30.7%. The All-Ukrainian Union Batkivshchyna and the Agrarian Party of Ukraine are also among the top 3 political parties in terms of the total number of elected heads of cities, townships, and villages – 18.5% and 9.4% respectively. Candidates nominated by the Petro

Poroshenko Bloc 'Solidarity' also took up the largest number of city head posts in the administrative centers of oblasts (5 city heads elected in Zhytomyr, Kyiv, Kirovohrad, Lutsk, and Chernihiv), followed by representatives of the All-Ukrainian Union Svoboda who took up 3 city head posts (in Ivano-Frankivsk, Ternopil, and Khmelnytsky).

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Analysis of factional structure of local councils and the level of electoral support of leading parties shows that there are no dominant parties in the majority of oblast and city (administrative centers of oblasts) councils. A typical situation is when the largest faction includes about one third of all deputy mandates, and such situation encourages a dialogue between political parties and leads to formation of broad coalitions in local councils. An exception to this is Kharkiv city council, where nearly 70% of all seats are held by the representatives of one party (Vidrodzhennya). At the same time, a certain degree of one-party dominance within a region is in evidence in a situation of simultaneous influence of one political force on various elected bodies and positions, in particular oblast council, city council, and the position of the head of the administrative center of oblast. Thus, the Petro Poroshenko Bloc 'Solidarity' is politically dominant in Zhytomyr, Kirovohrad, and Kyiv, where it has the largest factions in oblast and city council, as well as its own representative in the city head's seat. In Poltava, Kherson, and Rivne the Petro Poroshenko Bloc 'Solidarity' has the largest faction in city and oblast council, while in Chernihiv this political party controls the position of a city head and has the largest faction in oblast council. Based on the election results, we may state that the Opposition Bloc party is politically dominant in Zaporizhzhya, Mykolayiv, and Dnipropetrovsk; the All-Ukrainian Union Svoboda is politically dominant in Ivano-Frankivsk, Ternopil, and Khmelnytsky; Vidrodzhennya is the most politically influential party in Kharkiv and Uzhgorod (together with Yedynyi Tsentri); the Samopomich Union is politically dominant in Lviv; the UKROP party dominates the city of Lutsk; the Vinnytsya European Strategy party dominates the city of Vinnytsya; the Dovirnyi Dilam party is politically dominant in Odesa; and the All-Ukrainian Union Batkivshchyna is the most politically influential party in Sumy.

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#17

**RECOMMEN-  
DATIONS**

## *To the Verkhovna Rada of Ukraine*

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To reform the electoral legislation, including the law on local elections, insofar as such provisions of law apply or relate to ensuring the principle of gender-balanced representation.

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To amend the Law of Ukraine on Local Elections to the extent applicable to procedure for making monetary deposits on behalf of local party cells by enabling placement of deposits only in non-cash form through transfer of funds from the account of a local cell or higher-level structure of a political party.

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Introduction of amendments to the Law of Ukraine on Local Elections for the purpose of abolition of procedure for granting a local cell permission to participate in local elections and approving its nomination lists by the steering committee of a political party due to its threat to intraparty and local democracy.

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To reinforce legislative regulation of the process of the nomination of candidates by local party cells by way of placing them under an obligation to hold preliminary discussion on potential nominees and ensuring democratic decision-making in the local offices of political parties.

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To legally prevent cases of denial of media access to party meetings (conferences) for the nomination of candidates. In particular, the procedure for accreditation of media representatives on the part of the organizers of the event should not leave open the possibility of denying journalist the right to attend the party meeting.

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To reinforce provisions of law on political parties to the extent applicable to establishment of facts of acquisition or termination of person's membership in a political party, and retrieving information about changes in the leadership of political parties.

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To strengthen legal guarantees for political impartiality of territorial election commissions, including through the inclusion of non-party members in the composition of these commissions;

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To amplify the procedure for production of ballots in order to avoid uneven implementation of the law and possible abusive practices.

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To improve legal provisions on registration and denial of registration of candidates in order to avoid politically motivated decisions.

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To introduce a comprehensive system of training and certification of potential election commission members at the legislative level.

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To limit the possibility of repeated replacement of members of the election commissions nominated by one and the same subject of nomination.

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To legally formalize the implementation of training and knowledge certification system in relation to election commissions members of all levels in Ukraine.

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To ensure the suffrage of internally displaced persons and internal migrants by expanding the list of valid grounds for changing the voting address, while substantially liberalizing the institute of citizens' place of residence registration.

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To improve the legal framework for prevention, detection and investigation of facts of bribery of voters by amending the Criminal Code of Ukraine. In particular, it is advisable to amend Article 160 of the Criminal Code of Ukraine in order to clarify the manifestations of bribery of voters, which were recognized as one of constituent elements of the corresponding offence. First of all, it is necessary to introduce significant amendments to Section 3 of this Article, which sets out the liability for campaigning by way of provision of improper benefits to enterprises, institutions, and organizations, or by means of provision of goods (except for the goods that contain visual images of the name, branding, flag of a political party, and the value of which does not exceed the amount established by law), works and services on a gratuitous basis. The current version of Article 160 of the Criminal Code of Ukraine ignores the possibility of performance of such actions by voters, and recognizes enterprises, institutions and organizations as the only potential violators.

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To legally restrict the use of deputy funds, allocated for the exercise of powers by elected persons, in the course of the election process and impose a ban on provision of financial aid to voters by those candidates who retain their deputy seats in local councils at the time of holding the election.

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## *To political parties of Ukraine and their local cells*

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To ensure proper management and training of potential election commission members in the inter-election period and focus on improving the level of expertise of party representatives in the election commissions of all levels.

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To avoid placing political pressure on election commission members of all levels, while allowing for their legitimate activities.

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To ensure interaction with potential election commission members during the inter-election period by way of implementation of an intraparty training system.

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## *To law enforcement agencies*

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To ensure high quality and politically unbiased investigation of criminal offenses committed by members of the election commissions.

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To ensure proper investigation of criminal proceedings related to offenses against electoral rights, which were committed at the 2015 local elections.

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Initiate and implement public awareness activities and reporting on the course of investigation of electoral crimes committed at the regular local elections in 2015.

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To intensify intra-institutional and educational activities aimed at increasing the level of competence of law enforcement officers and strengthening their motivation to prevent, detect and investigate offenses against electoral rights.

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## *To the Central Election Commission*

To strengthen efforts aimed at implementing a comprehensive system of training and certification of knowledge of election commission members of all levels.



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