

**FINAL REPORT
ON OBSERVATION FINDINGS
OF THE CIVIL NETWORK OPORA
AT THE EXTRAORDINARY
PARLIAMENTARY ELECTIONS
IN UKRAINE ON JULY, 21, 2019**



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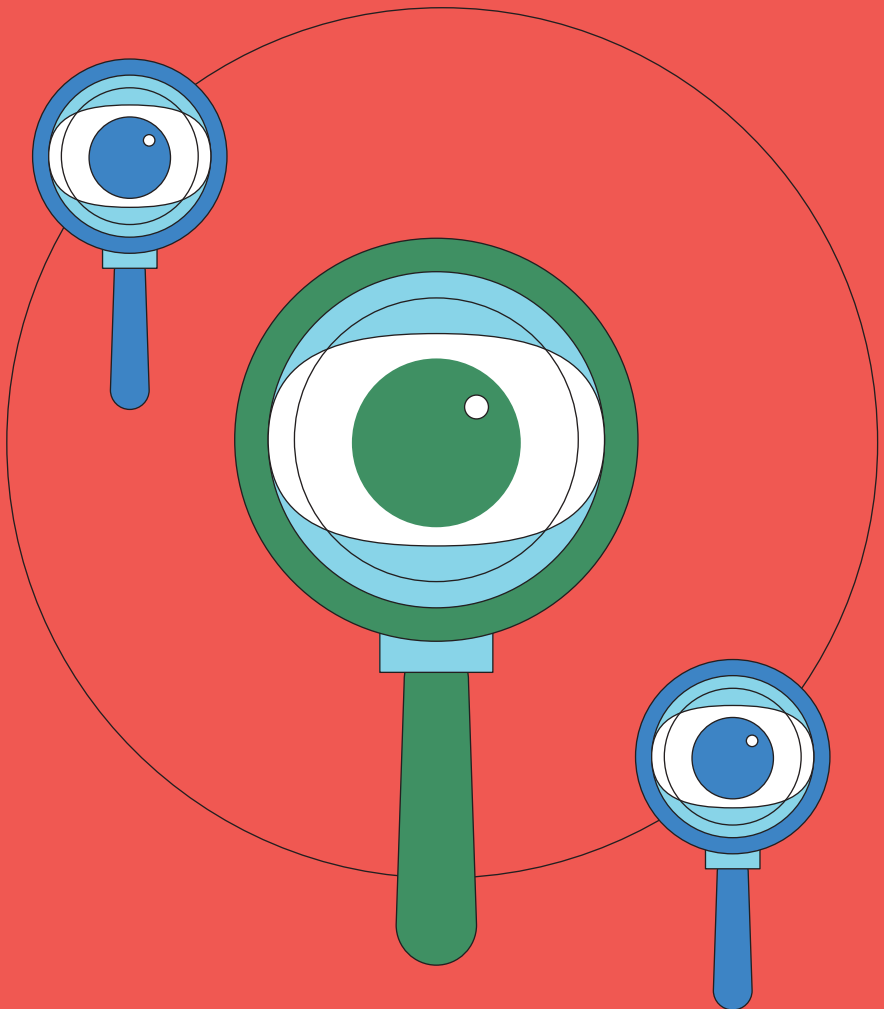
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ABOUT INDEPENDENT NON-PARTISAN OBSERVATION BY OPORA



Civil Network OPORA provided for an independent non-partisan observation at the special elections of people's deputies of Ukraine in 2019. OPORA observation covered all the election stages. For that matter, a network of long-term and short-term observers has been unfolded in all regions of Ukraine.

Since late May, 2019, and until the establishment of voting results in all regions of Ukraine, 199 long-term observers have been monitoring the electoral process. LTO activities were supervised by 25 oblast coordinators. On the other hand, press secretaries in each region provided for a professional coverage of the electoral process. The structure of OPORA observation also included the activity of 4 interregional coordinators. Their objective was to coordinate oblast observer teams.

To conduct the observation over the voting and the vote count, OPORA recruited, trained and engaged over 1,800 short-term observers. They took record of all electoral procedures on the basis of the number of polling stations statistically representative for Ukraine. The unique products of OPORA's short-term observation was the assessment of electoral procedures at polling stations in Ukraine, parallel tabulation of the turnout and parallel vote tabulation, as well as an unbiased legal documenting of the facts of violations.

A comprehensive OPORA observation enabled an objective assessment for the special elections of people's deputies of Ukraine. The methodology of OPORA observation provides for the identification of breaches of electoral law, but also the official response thereto in a legally established manner. The circumstance required from OPORA observers to have systemic cooperation with the law-enforcement by submitting and legally supervising the official claims, requests, inquiries, or reports.

This report is a product of competent and scrupulous work of OPORA observers whom the organization deeply appreciates. Additionally, OPORA is grateful to the law-enforcement officers and members of election commissions who were proactive and professional to respond to the organization's reports on the breach of law or to our recommendations.

SUMMARY



The newly elected President of Ukraine Volodymyr Zelensky terminated the mandate of the Verkhovna Rada of Ukraine on the grounds of legally disputable but politically recognized fact of the lacking coalition of deputies in the Parliament of the 8th convocation. The electoral process was launched on May, 24, whereas the Constitutional Court of Ukraine upheld as constitutional the Presidential Decree on the early termination of office of the Verkhovna Rada of Ukraine as late as on June, 20.

The snap elections of people's deputies of Ukraine were conducted in the context of the under-finalized electoral law and its many outdated provisions. The President of Ukraine and leaders of deputy factions ran consultations on the possible rejection of the majoritarian electoral system at the parliamentary elections, but the hastily submitted draft law by the head of state on the application of the proportionate system with the closed lists and the reduced electoral threshold failed to enjoy the MPs' support. Soon after the start of electoral process, the parliament of the 8th convocation approved the Electoral Code which had not been used during the extraordinary elections.

The off-year parliamentary elections provided for reduced terms for the implementation of key procedures. Election commissions of all levels and other electoral subjects only had 60 days to organize the process, rather than the 90 days provided for the regular elections of the Verkhovna Rada of Ukraine. Taking into account the withdrawal of the current parliament from the comprehensive reform of electoral law, the CEC and the Government had to independently address the issue with following the terms of public procurement to produce ballots in the settings of the short duration of the election process.

The Verkhovna Rada of Ukraine of the 9th convocation was elected under the parallel electoral system. It provided for electing half of the parliament under the proportionate electoral system on a national constituency, with the 5% electoral threshold. Another half of the deputy corps were elected in single-mandate constituencies. Thus, 225 people's deputies were elected under the proportionate electoral system; 199 deputies were elected in single-mandate constituencies (with account for the temporary occupied territories of the AR Crimea, the Sevastopol City, and separate territories of Donetsk and Luhansk oblasts).

The law on elections of people's deputies had not been comprehensively reformed before the regular campaign, even though it underwent certain

changes after the 2014 parliamentary elections. A positive factor was having the campaign in the context of synchronizing the electoral law and the Law of Ukraine on political parties. It added requirements to transparency and accountability of electoral finance. The unreformed electoral system, no changes in the Criminal Code and the Code on Administrative Offense on the inescapable nature of punishment for electoral fraud, and procedural gaps resulted from the inaction of the parliament of the 8th convocation in electoral reform. Voter awareness was also affected by no mandatory requirement for candidates at the snap elections to submit the declaration on income and costs.

The election campaign was highly competitive regardless of the large electoral advantage of a new party “Servant of the People,” with the President of Ukraine Volodymyr Zelenskyi as the informal leader. The nomination and registration process for candidates was rather conflicting due to massive use of the clone technology at the elections, loopholes in the law on verifying the abiding by the electoral census on the part of candidates, and because of the CEC controversial decisions.

At the snap elections of people’s deputies of Ukraine, the law did not have any detailed provisions on nominating candidates, which was in line with the international standards for providing autonomy of political parties from the state. However, the political party leaders disappointingly abused the rights, often conducting candidate nominating conferences in a non-transparent way. Certain parties notified on the introduction of changes to party lists upon expiry of the legally established terms for nomination, while the practice for holding party conventions for several days, with breaks, posed obstacles for delegates from Ukraine’s regions to participate at such events full-scale. The parties were selectively or partially publishing candidates from electoral lists. It enabled covert rotations among nominees from political forces. According to the electoral law, the CEC did not have any real mechanisms to identify and respond to possible incidents of breaking the procedure of nominating candidates at parliamentary elections.

The negative practice of non-transparent nomination of candidates and the publication of electoral lists was aggravated with the lack of detailed requirements in the law to parties to provide for the possibility to admit media and observers at the candidate nomination events.

The extraordinary parliamentary campaign failed to hit the records in terms of numbers of the nominated candidates, since it had not exceeded the

number of nominees at the 2014 elections. The activism levels of political parties in terms of nominating electoral lists for the nationwide constituency was not distinct, either. Whereas in 2014, 29 political parties were competing for the mandates, at this election, candidate lists on a nationwide constituency were nominated by 22 political actors. The total number of candidates claiming the mandates in the parliament of the 9th convocation was 5,853. 54% of them were running on single-mandate constituencies. 46% of them were included into electoral lists of political parties.

In single-mandate constituencies, the candidates have been nominated by 52 political parties, while the self-nominated candidates slightly outnumbered in the total pool of candidates (55%). The average number of candidates in a single-mandate constituency was 16 persons, with the highest number ranking in SMC No 133 (50 persons). The lowest number of candidates (6 persons) were nominated by parties and by self-nomination in four constituencies: No 46 (Bakhmut, Donetsk oblast), No 177 (Kupyansk, Kharkiv oblast), No 178 (Balakliya, Kharkiv oblast), and No 188 (Khmelnyskiy, Khmelnytskyi oblast).

The “Servant of the People” alone nominated their candidates in all single-mandate constituencies. On the other hand, 34 of 52 parties suggested under ten candidates on the level of constituencies. 5 parties have not had any candidates in single-mandate constituencies, even though they have been actively engaged in elections on the level of the national constituency (“Ukrainian Strategy of Groysman”). Political parties were rather active in nominating non-partisan persons as candidates at parliamentary elections in Ukraine. However, their number was much lower as compared to the 2014 campaign. In a single multi-mandate constituency, 25% non-partisan candidates were running; at the 2014 extraordinary elections, the share was 40%. The highest number of non-partisan candidates was included into electoral lists of the “Shariy Party” (69% were non-partisan), “Servant of the People” (57%) and the “Fakel” AU (54%). In contrast to this, no non-partisan candidate was available in the electoral list of the “Power of the People”. As little as 1% of non-partisan candidates were coming from the list of the “Opposition Platform – For Life.”

Despite the significant political change upon the Ukraine’s Presidential elections, people’s deputies of Ukraine of the 8th convocation were rather active in the special 2019 campaign. Of the 307 people’s deputies of Ukraine who were repeatedly competing for the mandate, 115 MPs were running on the nation-wide constituency; 192 people’s deputies were candidates

in single-mandate constituencies (149 of them were running as self-nominated, others were nominated on behalf of parties). The highest number of MPs (29 persons: 21 – on party lists, 8 – in single-mandate constituencies) were running from the “European Solidarity” party; some smaller numbers of candidates were taken to elections by the “Batkivshchyna” AU (21) and the “Opposition Platform – For Life” (20). A large representation of people’s deputies was found on the list of candidates from the “Opposition Bloc” (17), Radical Party (16), “Samopomich” Union (13), and “Ukrainian Strategy of Groyzman” party (12).

The 2019 electoral campaign was characterized with the massive use of the “alternatives” or “cloning” technology largely affecting the “Servant of the People” party, popular at elections. The unfair technology to mislead voters was exercised at the snap elections of people’s deputies of Ukraine through the following two most common ways: by registering candidates with identical last names and by stating in the candidate’s bio the affiliation to organizations duplicating the names of political parties that acted as electoral subjects. The practice of registering in single-mandate constituencies the candidates with identical or similar last names was less common than during the 2014 parliamentary elections. On the other hand, manipulations in candidates’ biographical data with names of legal entities similar to the political parties have become unprecedented in scale.

According to OPORA, in 55 single-mandate constituencies, about 90 candidates were standing, who had the official statutes of self-nominees but indicated their affiliation with civil society organizations, charitable funds, or private enterprises, with the names consonant with the party names. At least 86 self-nominated candidates declared their affiliation to organizations, which names had an expression such as the “servant of the people.” One distinct and rather conflicting electoral dispute was the situation when 14 self-nominated candidates stated their membership in parties without any consent of the latter. The “Servant of the People” party succeeded to rebut the CEC decision in the Sixth Administrative Court of Appeals on the registration of 12 candidates who indicated the data on their membership in this political force. The CEC enforced the court decision and deleted the information on the candidates’ membership in this party from the candidate data.

Manipulations with names of political parties in the biographical data of candidates appeared rather efficient. According to OPORA observers, the technology of misleading voters succeeded in 7 constituencies, while about 170,000 voters voted for the fake candidates from the popular parties.

The way the situation with manipulative information in candidates' bios unfolded showed the lack of sufficient legal mechanisms to respond thereto. Despite the 34 criminal proceedings initiated by the National police of Ukraine, the CEC did not have any grounds to check the veracity and correctness of the information declared by a candidate about the place of employment, civic activities or party affiliation. Any overlapping or coincidence in the names of organizations the candidates were part of or employed in, as declared in their documents, were not any formal breaches, either. Any abuse of data about the candidate undertaken by electoral rivals is a de facto obstruction to the exercise of suffrage, with the liability therefor envisaged by part one of Article 157 of the Criminal Code of Ukraine. It is certainly complicated to investigate into the body of such crime. Therefore, as of the date of publication of this report, OPORA had not had any knowledge of any successful investigations of voter misleading technologies. In the near future, the Verkhovna Rada of Ukraine shall eliminate any legal gaps and enhance the capacity of law-enforcement bodies and election commissions to respond to any obstructions posed to voters to exercise their suffrage by misleading them. At that, any amendments aimed at counteracting the unfair technologies shall take into account the need to efficiently protect citizen's right to run for elections.

On the basis of findings of the examination into the issue of "cloning" at elections, OPORA hereby reiterates that any legal amendments shall not be considered as the only mechanism for the solution. Political parties shall invest additional effort to protect their ownership rights on the brand for products and services, and try to more systemically communicate with voters on the need to carefully study the data about candidates. In the period between elections, the law-enforcement bodies, the CEC, and the people's deputies of Ukraine shall hold a dialogue on efficient mechanisms to counteract the "cloning" technology at Ukraine's elections.

An ongoing challenge for elections in Ukraine is still to provide for equal opportunities for men and women in electoral process. The 2019 special elections of people's deputies of Ukraine were held with no mandatory requirement to provide for equal representation of men and women in party electoral lists. Despite the progress in this area in Ukraine, the parliament failed to improve the law to provide for the balanced participation of men and women in electoral process. The problem was settled only after the election of new composition of the parliament, and upon the approval of the final version of the Electoral Code. According to OPORA estimates, 13 of 22 political parties included over 30% of women into their electoral lists.

The highest numbers of women were found in the lists of parties “Social Justice” (44% or 68 persons), “The Power of the People” (43% or 20 persons), and the Radical Party (41% or 90 persons). The worst situation with the representation of women was recorded in electoral lists of the “Svoboda” AU (17%) and the “Patriot” party (19%). Upon the whole, women made 30.6% of the total number of candidates running for the parliamentary elections under party lists. The gradual progress in providing the gender equality principle in the electoral process is related, among other things, with the introduction of the incentive for political parties on the level of the system of their government funding. However, there are regrettably no grounds for any optimistic expectations as to overcoming the issues in following the balanced representation of two genders in electoral process. At the parliamentary elections, men prevailed in the upper part of electoral lists of parties. Of the 22 parties, it was only 7 political forces who had the share of women among the first thirty candidates under 30% (“Social Justice,” “European Solidarity,” “Power of the People,” the Green Party of Ukraine, “Fakel” AU, “Samopomich” and the “Holos”). Some parties were formally compliant with the minimum gender equality requirements but included women on the least winning places in electoral lists. For example, the “Opposition Platform – For Life” party only had 3 women out of 60 who were included into the upper thirty positions of the candidate list.

The candidate registration process at elections of the people’s deputies of Ukraine was rather conflicting. On the level of electoral lists, the CEC rejected registration to the Communist Party of Ukraine, to the “The Union of Leftist Forces” and the “Movement of New forces of Mikheil Saakashvili” parties. The issue of rejecting registration to the lists of the CPU and the “Union of Leftist Forces” were due to breaching the requirements for decommunization and the failure to enter the monetary deposit, respectively. On the other hand, the rejection of registration of the electoral list of the “Movement of New Forces of Mikheil Saakashvili” resulted into complicated litigation that undermined the stability of electoral process. The CEC rejected registration of the electoral list of this party on the grounds of finding the date in the nomination documents that preceded the Decree of the President of Ukraine on the early termination of mandate of the Verkhovna Rada of Ukraine. Upon the successful appeal against the registration of their electoral list received by the “Movement of New Forces of Mikheil Saakashvili”, the CEC reconsidered their decisions on the approval of a template and a text of a ballot paper. The Commission approved a controversial decision on including the “Movement of New Forces of Mikheil Saakashvili” party into the ballot, without the draw, and put them onto the last position. The

problematic situation related to the settlement of electoral dispute after the approval of the ballot's template and text requires consideration on the legislative level. According to OPORA, there is a need to more efficiently distinguish between the terms for court appeals and the process of producing ballot papers.

The same as during all recent national elections in Ukraine, political parties and candidates for people's deputies started their pre-election campaign before their official registration on the level of the CEC. This practice was not affected by the extraordinary type of elections that is usually lower in volumes and scale. The fact that candidates and political forces had been running the pre-election campaign before assuming the official status of candidates disabled the efficient control over the origin of electoral finance. The likelihood of shadow financing of the early campaigning affected the principle of equal opportunities for candidates, as well as encouraged signs of political corruption in society. The CEC, as a higher election administration authority, admitted the challenge but systemic changes in the law are required to eliminate the problem.

Running some of the election campaign before the final decision of the CCU on the constitutionality of the early termination of the mandate reduced the activity levels of parties and candidates. At the onset of electoral process, 11 political forces launched their campaigning activities, while the largest scale campaigns were run by the "European Solidarity," "Ukrainian Strategy of Groysman," and "Opposition Platform – For Life." The campaigns' electoral leader – the "Servant of the People" party – launched their pre-election campaign much later than the official launch of the electoral process.

OPORA monitoring showed that 13 of the 22 political parties ran the nationwide campaigns ("European Solidarity," "Servant of the People," "Ukrainian Strategy of Groysman," "Opposition Platform – For Life," "Batkivshchyna" AU, "Holos," Radical Party of Oleh Liashko, "Opposition Bloc," "Svoboda" AU, "Samopomich" Union, "Civic Position," "Force and Honor," "Movement of New Forces of Mikheil Saakashvili"). Other parties campaigned only in certain regions or even in certain constituencies.

"European Solidarity," "Servant of the People," "Ukrainian Strategy of Groysman," "Batkivshchyna" AU, and the Radical Party of Oleh Liashko, according to OPORA observers, ran the largest campaigns. The highest activity levels were also recorded about the "Holos" party but the campaigning was little noticeable on the territory of Donetsk and Luhansk oblasts. OPORA obser-

vations recorded during the election campaign coincided with the ranking of political parties according to official costs for their campaigns. The regional focus was rather typical of the election campaigns run by the parties “Opposition Platform – For Life,” “Svoboda,” and “Opposition Bloc.”

Depending on the peculiarities of regional division in Ukraine by political leaning, the political forces were more active in certain regions but rather passive in others. OPORA analyzed the campaigning activity of candidates in single-mandate constituencies. According to observers, out of over 3,000 registered candidates, the noticeable campaign had been run by less than half of them.

The 2019 parliamentary elections showed the increasing importance of the role of social media in election campaigns of Ukrainian parties and candidates. The Facebook platform initiated the regulation of political ads but Ukraine’s law has not yet provided for the full-scale track-keeping and control over this form of campaigning. According to the Facebook Political Ads Library, the “Holos” party spent the most on political ads on this social media. The provisional costs incurred by the political party for Facebook amounted to UAH 7.741 mln. Next follow the positions two and three in terms of costs for the social media – the “European Solidarity” (UAH 6.716 mln) and the “Power of Law” (almost UAH 4.362 mln).

The “Batkivshchyna” AU spent for political ads on Facebook about UAH 2.375 mln, “Servant of the People” – UAH 1.774 mln. Over a million was spent on the political ads by the “Shariy Party,” and “Ukrainian Strategy of Groysman.” In total, the Political Ads Library of this social media shows that political parties could have spent UAH 31.53 mln. The data varies widely from the data from final financial statements of election funds administrators where all parties in total showed as little as slightly over UAH 17 mln of costs for Internet campaigning. Certain parties, such as “The Power of Law,” the “Batkivshchyna” AU, the “Ukrainian Strategy of Groysman,” the “Opposition Platform – For Life” have not shown any costs for campaigning on the Internet. The deviations point to the need to have a comprehensive legal regulation of the pre-election campaign in social media and on the Internet, and clear accountability on the costs incurred. OPORA observers also documented violations of the ban to campaign on election day. The ban was perpetrated by political parties actively campaigning on social media on the day (“Servant of the People,” “Shariy Party”). In our view, breaking the terms for Internet campaigning shall be considered in the general context of the relevance of such restrictions.

The amount and costs of election funds at the 2019 special elections exceeded suchlike parameters at the 2014 extraordinary parliamentary elections in Ukraine. Whereas at the 2014 elections to the Verkhovna Rada of Ukraine, all parties spent for the pre-election campaign the total of UAH 616 mln, in 2019, the amount reached UAH 910 mln. 13 political parties who acted as electoral subjects had their election funds over UAH 20 mln. The largest election fund was generated by the “Servant of the People” party (UAH 114,652,872). In addition, other political forces with the largest election funds were the “Radical Party of Oleh Liashko” (UAH 111,795,535), “Holos” (UAH 105,689,000), “European Solidarity” (UAH 99,494,126), “Ukrainian Strategy of Groyzman” (UAH 90,961,472), “Opposition Bloc” (UAH 90,616,918), “Batkivshchyna” AU (UAH 87,214,297), “Opposition Platform – For Life” (UAH 65,566,650), “Samopomich” Union (UAH 28,708,834), “Force and Honor” (UAH 27,018,140), “Civic Position” (UAH 25,678,349), “Svoboda” AU (UAH 24,083,252), “Agrarian Party of Ukraine” (UAH 21,165,456). Election funds of other political parties amounted from UAH 6.5 mln (“New Forces Movement of Mikheil Saakashvili”) to UAH 37,000 (“Green Party of Ukraine”).

Electoral law allowed to natural persons and legal entities to fund the pre-election campaigns of parties, but 93% of all money from the election funds were coming from the political forces themselves. Insignificant contribution to election funds from voters is certainly indicative of the shortcomings or complicated procedures for making the contributions, which requires further simplification. However, in the event of replenishing the fund at the party costs, the origin can only be disclosed to voters after elections, as part of the current party reporting. The reporting peculiarity may lead to the actual monopoly of party finance during the compilation of their election funds.

OPORA observers conducted a comprehensive assessment of election commission operations at the special elections of people’s deputies of Ukraine. The CEC as a higher election administration authority conducted the second national elections in the settings of the under-reformed law and pressing time for the Commission’s internal reform. Despite the high professional levels of the CEC members, the candidate registration process appeared to be politically conflicting for the Commission. Following the consideration of electoral disputes by the courts, the CEC had to review their previous decisions on rejecting registration to 35 candidates in single-member constituencies, and for the party list of the “New Forces Movement of Mikheil Saakashvili.” The lack of conformity in the terms for appeal of the CEC decisions, either on the registration or on rejection of candidates, posed risks

to disrupt the process of producing ballot papers. Despite the fact that the challenge was managed by the CEC members, it still requires a clear legal regulation. It shall be noted that the CEC provided for the process of candidate registration under legal uncertainty about checking candidates' adherence to the local residence requirement and other constitutional requirements. In individual cases, it led to the situation when courts assumed the powers of the CEC to check and establish the local residence qualification about candidates to people's deputies (for example, the issue of citizenship of Mikheil Saakashvili). The same as at the presidential elections, OPORA hereby states the need to clearly regulate how the CEC shall check the compliance with the constitutional requirements for the exercise of passive suffrage in Ukraine's elections.

A positive achievement of the pre-election campaign was the liberalization of the procedure for the temporary change of voting location without changing the electoral address. In the run-up to this election, all voters were given the opportunity to change the voting location without the need to submit any confirming documents to the authorities managing the State Voter Registry. The requirement to present the confirming documents to the application for changing the voting location at the national elections was an obstruction for citizens to exercise their suffrage, and did not have any practical sense. Despite the liberalization of the procedure, there still remained a need to properly inform citizens on the possibility to temporarily change their voting location. The number of persons who undertook the procedure at the extraordinary elections of people's deputies of Ukraine was not significant (280,922). The number is almost 35,000 voters lower than in the first round of the presidential elections; or almost 45,000 voters lower than the numbers in the second round of the elections of the President of Ukraine. At the same time, about 20% of citizens temporarily changed their voting location, on the last day of the term allocated by the law. The non-proportionate correlation of citizens mobile within the country to the number of persons who have temporarily changed their voting location, and the unequal distribution of the workload on the authorities managing the State Register of Voters indicate to the need to enhance the awareness campaigns among citizens.

The CEC also managed to timely regulate the issue of public procurements in the settings of election process, jointly with the Ministry of Economy of Ukraine, since the terms for public procurements did not correlate with the electoral procedures. However, the temporary solutions for public procurement of goods and services required for the election process failed to resolve the problem, and calls for changes to the law.

The extraordinary elections of people's deputies of Ukraine have shown the typical issues in providing stability and professionalism in the DEC and PEC where political parties and candidates were entitled to submit their nominees. A key issue was a high rotation levels of members of these commissions. Specifically, 46% of the first composition of the district election commissions have been altered, which disabled the due training of the members. The process of the factual distribution of seats in election commissions between the actual and fictitious electoral actors lacked transparency and was corruption tainted, especially in the settings when the high ranking parties did not have the right to participate in the compilation of DEC ("Servant of the People," "Opposition Platform – For Life," "Holos"). Political parties that have not stood in the previous 2014 elections and have not been represented in the 8th convocation parliament were not able to submit their candidates to DEC. However, the final composition of the commissions showed the possible influence of electoral subjects on the process of their formation. For example, the parties "All-Ukrainian Agrarian Union "Zastup," the "All-Ukrainian Political Union "Yedyna Rodyna," "Ukraine of the Future," and the "Green Party of Ukraine" secured their representation in DEC due to persons who used to represent the candidate Volodymyr Zelensky at the presidential elections. Thus, at the parliamentary elections, they could have been related to the "Servant of the People" party.

The peculiarity of the extraordinary elections of people's deputies of Ukraine was in the fact that the parliamentary parties had the right to secure one mandatory seat in DEC and PEC, but not all of them managed to fully make use of this opportunity ("Samopomich" Union). On the other hand, certain parties with deputy factions in Verkhovna Rada did not nominate their candidates but were actively composing election commissions ("People's Front").

According to OPORA, the highest number of members in DEC went to the parties such as the "Bloc of Petro Poroshenko "Solidarity" (309 persons), "Radical Party of Oleh Liashko" (307), "People's Front" (305), "Batkivshchyna" (300), the "Opposition Bloc" (290), and the "Samopomich" Union (237). The political forces had a right to one mandatory seat in the each of the 199 commissions, and one more seat in these commissions by drawing lots. Among the candidate parties from the previous elections of people's deputies of Ukraine who could claim the seats in DEC by drawing lots only, the largest representation on this level of election commissions went to the "Vidrodzhennia" party and the "5.10" party (114 persons for each).

The process of composing PECs showed several serious violations of electoral law, even though they have not largely undermined the electoral process. According to OPORA, 24 of the 199 DEC members were created in breach of statutory terms. 3% of submissions from political parties and candidates, or about 11,000 persons have been rejected by DEC members due to the found non-compliances. The organizations observers verified 71 cases with signs of non-compliance with the statutory requirements about the PECs establishment. The most frequent violations were about the non-compliance with the requirements as to the announcement of the composition of each PEC, as to the establishment of commissions and the distribution of their managerial positions in a public mode. OPORA highlighted the need to enhance the trainings for DEC members and to simplify the procedures for PEC establishment, and drawing lots for their membership.

Despite the same activity levels of political parties in the process of formation of election commissions, the PEC composition at the extraordinary elections of people's deputies of Ukraine was competitive. Seven political parties who acted as electoral subjects on a national constituency had their representative in 30% PECs or more. Leaders in the number of PEC members was the "Servant of the People" party (82% of all commissions).

The highest representation in PECs was also secured by the parties "Opposition Platform – For Life" (72% of PECs), AU "Batkivshchyna" (64%), "European Solidarity" (46%), AU "Svoboda" (45%), "Force and Honour" (31%). As to candidates from parties in single-mandate constituencies, the highest representation in PECs went to deputies from the parties "Servant of the People" (76% PECs), "Opposition Platform – For Life" (45%), AU "Batkivshchyna" (37%), AU "Svoboda" (20%), "European Solidarity" (18%), and the "Opposition Bloc" (11%).

The statistics collected by OPORA observers claims that parties with high electoral rankings have been actively influencing the process of PEC establishment. Other political forces failed to fully exercise their right to nominate candidates to election commission membership. "Servant of the People" submitted the electoral list and their candidates in all single-mandate constituencies, thus nominating the highest number of PEC members under the party quota, and their candidates in single-mandate constituencies.

The 2019 extraordinary parliamentary elections have shown again the need to enhance the professional level of election commissions by prior certification of knowledge of their members, and by increasing their financial

incentives to engage in election administration. Low competence of many election commission members and their political dependence posed additional risks for the fraud. In particular, OPORA observers found at least 60 cases of illegal adjustment of vote count protocols at polling stations. Even though no facts of direct distortion of voting results have ever been found, the widespread undue actions of election commission members create preconditions for illegal technologies on the part of unfair electoral actors. Therefore, the consolidation of election administration process remains a key task for electoral reform in Ukraine.

Illegal campaigning was by far the most widespread violation of electoral law by parties and candidates. OPORA observers documented 1,989 cases with signs of electoral subjects failing on the rules for pre-election campaigning. The verified violations made up 81% of all the violations identified by observers, while the total number of violations recorded was 2,459 cases. The massive failure on compliance with the campaigning rules repeatedly showed the challenging practical implementation of statutory requirements to transparency of electoral finance. The uncontrolled costs for early campaigning, ignoring the requirements for opening election funds by candidates, dissemination of campaigning materials, non-transparency of funding sources for election campaigns — all of it shows the need to continue the reform of political finance in Ukraine on the basis of best EU practices. OPORA observers have already made it customary to focus on the need to reinforce the standards for mass media activities in the context of election process, taking into account the breaking of rules for placing political ads and polling results. In addition to negative practices on transparency and accountability of electoral finance, at the extraordinary elections of people's deputies of Ukraine, an issue has been repeatedly highlighted on the relevance of banning campaigning after 24:00 on the last Friday before the election day. The answer to this question lies in the area of assessing the feasibility of control over the compliance with the ban on campaigning, with account for the increasing impact of social media on elections and the lasting practice of failure to timely dismantle the campaigning on the outside advertising media.

The second most widespread type of identified violations (even though with a large gap) were cases with signs of voter bribery (232 cases, or 9% of the total number). The abuse remains to be the most dangerous technology for fair vote, especially in rather small single-mandate constituencies. Presenting goods and services during the election campaign was the most common method to materially influence the choice of citizens (162 of 232 cases).

Regretfully, the product kits, alcoholic beverages, construction materials, or other goods were a popular tool to attract voters' attention to candidates. A less common method than the voter bribery was the use of charity foundations by candidates, which they rather actively employed for covert financial incentivization of voters. Despite the negative experience of presidential elections, the government failed to take any additional measures to counteract the use of budget programs with the actual goal to financially incentivize voters.

The third position in terms of prevalence went to violations by election commissions (138 incidents or 6% of the total number). These cases included both minor procedural incidents and cases of gross violations of Ukrainian law. In the extraordinary elections of people's deputies of Ukraine, the need to strengthen control over the legality of the vote count, to clarify the relevant protocols by PEC members and the process of forming PECs was obvious. A significant number of violations could be related to the low competence of election commission members and their continuous rotation, although this does not release the state from the obligation to combat election crimes.

Abuse of administrative resources in the interests of the electorate ranked fourth in the structure of violations identified by OPORA observers (49 or 2% of the total). The specificity of the extraordinary campaign to the Verkhovna Rada of Ukraine was the actual absence of the ruling party, given the transit of power after the election of the new President of Ukraine. But, as OPORA has repeatedly emphasized, the problem of using power, budget programs and state resources for electoral and political purposes has not yet been resolved at the system level in Ukraine. In the recent elections to the Verkhovna Rada of Ukraine, a number of majority candidates used state subventions for socio-economic development for their own electoral PR. In June-July 2019, OPORA observers identified 2,724 cases of PR on budget resources by 147 majority deputies and 27 list-based deputies. According to OPORA, 33 people's deputies of Ukraine were re-elected to the parliament of the 9th convocation, actively using budget programs in their own campaigning, media and reputation building activities. Against the background of constant rotations in the Government of Ukraine, the position of government officials to ignore OPORA's proposals to depoliticize and increase the efficiency of the use of state funds allocated for socio-economic and other development of territorial communities remained stable. Thus, OPORA is forced to state the unwillingness of the Government and the Parliament at the legislative and secondary levels to counteract the misuse of adminis-

trative resources, including budgetary administrative resources. The crucial problems associated with the misuse of administrative resources have been avoided due to the political situation, but no legislative and institutional guarantees have been implemented. OPORA calls on the parliament to promptly consider and adopt joint proposals of law enforcement agencies and organizations to ensure the inescapable punishment for electoral fraud. Instead, the Government is recommended to immediately strengthen the by-laws on transparency, accountability and political impartiality in the use of budget funds in the run-up to and between elections.

During and after the election, the Civil Network OPORA actively monitors the progress of investigations into election crimes by law enforcement agencies. Public attention to the process of combating crimes against citizens' suffrage is an important component of efforts to increase the effectiveness of the law enforcement system in this area. In addition, the generalization of problems in the investigation of electoral fraud and their professional discussion allow law enforcement and national experts to develop new approaches to combating violations.

In the extraordinary elections of people's deputies of Ukraine in 2019, territorial divisions of the National Police of Ukraine initiated 433 criminal proceedings under the "election" articles of the Criminal Code of Ukraine (Art. 157 – 160). The leading regions in terms of the number of initiated proceedings were Kyiv city, Dnipropetrovsk and Kyiv oblasts. At the time of drafting the report, OPORA was aware of 48 convictions for crimes against citizens' voting rights, 28 of which concerned falsification of election documents (Article 158 of the Criminal Code), 16 convictions for illegal use of ballots, and for voting more than once (Art. 158-1), 2 – illegal destruction of election documentation (Art. 158-2). One sentence was passed on voter bribery (Article 160), obstruction to suffrage, and to official observer activity (Art. 157) and a set of articles on the destruction and illegal use of election documentation (Art. 158-2, Art. 158-1). According to OPORA's estimates, the vast majority of convicts were not sentenced to imprisonment or restriction of liberty, and plea agreements were usually concluded between them and prosecutors. It is noteworthy that effective investigations into voter bribery are still few, although material incentives for voters are a massive dishonest technology. Intermediate positive trends in the investigation of election crimes include the prosecution not only of voters who voted illegally, but also of members of election commissions responsible for issuing ballots. But, in general, OPORA is forced to state the need to significantly strengthen the legislative and institutional guarantees for the inescapable

punishment for electoral fraud. One of the directions of formation of such guarantees should be the adoption of a joint project of the Ministry of Internal Affairs of Ukraine, the National Police and OPORA to ensure the inescapable punishment for electoral fraud.

The process of bringing violators to administrative liability was accompanied by significant difficulties. 40% (out of 2,680) of all cases considered by the courts concerning administrative liability for election crimes were closed due to the expiration of the terms for prosecution or the absence of corpus delicti in the actions of a person.

As in the 2019 presidential election, the insufficient level of training of law enforcement officers on drawing up protocols on bringing perpetrators to justice for election violations has clearly manifested itself. According to OPORA, every third protocol was returned by the courts of Ukraine to the territorial divisions of the National Police for revision. The main reasons for the return of the protocols were related to the shortcomings of law enforcement: incomplete description of actions, failure to present a copy of the protocol to the alleged violator, lack of explanations of the defendants, or their personal data. Noting the interest of the National Police of Ukraine in improving the skills of its staff in the election process, OPORA emphasizes the need for further implementation of training activities for law enforcement.

Monitoring of OPORA's court cases showed that the most common administrative offenses in the early parliamentary elections concerned non-compliance with election law requirements for the production and distribution of printed campaign materials (1,069 out of 2,680 cases). The second most common type was administrative offenses of non-compliance with the procedure for submitting or receiving a contribution to the election fund or candidate (740). In the third place were cases of violations of restrictions on campaigning (334). A package of legislative proposals on ensuring the inescapable punishment for electoral crimes has already been jointly prepared by law enforcement agencies and OPORA, and its adoption by parliament can improve the situation with bringing violators to administrative liability.

The early parliamentary elections in 2019 continued the practice of this year's election of the President of Ukraine regarding the use of the right of NGOs to administer observation at elections for political purposes. Of the 163 NGOs authorized to observe Ukraine's parliamentary elections, 68 had never had the experience before. Over a quarter of all observation organi-

zations were established on the eve of the 2019 elections, 6 of which were registered by the Ministry of Justice of Ukraine after the start of the parliamentary campaign. 3 out of 6 organizations created already in the settings of the election process had names that were similar to the names of parties that acted as electoral subjects (“People’s Servants,” “People’s Servant,” “For the People’s Servant”).

According to OPORA, a significant number of NGOs that were allowed to conduct the observation had direct links with political parties, shared registration addresses or leaders. A sign of politically biased observation may be the lack of observation reports from previous elections. At least 15% of the leaders of observation-focused NGOs ran in the elections of people’s deputies of Ukraine themselves. According to OPORA, the practice of using NGOs by party headquarters and candidates for their own election purposes undermines the guarantees for non-partisan observation. It is very difficult, and often impossible, for voters to distinguish between the activities of politically independent observers and party functionaries when the latter make statements on behalf of formally non-partisan organizations. Political parties and candidates have every legal right to conduct their own observation; and therefore their attempts to use non-partisan observation are a purely unfair technology. OPORA calls on political parties and potential candidates to avoid such practices in the forthcoming elections, providing genuine conditions for non-partisan observation.

The processes of voting, vote count, and establishing voting results were in a separate focus of OPORA’s attention, given their significance for fair and democratic elections. On the election day in the extraordinary elections of people’s deputies of Ukraine, OPORA assessed the course of the election process on the basis of a statistically sound sample. In the absence of systematic and centrally organized violations of the election law, some grave problems on election day included attempts to issue ballots without presenting proper documents or voting in lieu of another person. On election day, such incidents were recorded by observers in 10.1% of polling stations, compared to 12.9% in the presidential election of the same year. Trends in attempts to illegally issue and obtain ballots indicate the need for more decisive action on the part of the state to prevent such violations. These steps should be based both on ensuring the inescapable punishment and by implementing large-scale information campaigns among citizens.

In addition to illegal actions with ballots, there were quite common cases of voters violating the secrecy of the ballot by displaying ballots at the polling

station or by not following the voting procedure in the booth (4.2%). It should be emphasized that these violations are partly provoked by non-compliance with the requirements in the arrangement of polling stations. Compared to previous campaigns, voters rarely photographed ballots, which in practice has traditionally been associated with attempts to report voting in exchange for illicit material gain (0.8% of polling stations).

In some regions of Ukraine, OPORA observers recorded delayed opening of polling stations (0.3% of polling stations), with the most difficult situation in 5 polling stations in Chernihiv oblast.

In general, the election day in the extraordinary elections of people's deputies of Ukraine was not accompanied by violations critical to the integrity of the will, except for an attempt to cast a few ballots in Myrnohrad, Donetsk oblast.

OPORA observers separately assessed the process of vote count at polling stations, on the basis of a statistically sound sample. PECs managed to ensure the proper implementation of the vote count procedures and the drafting of vote count protocols, although some of them committed gross violations of the election law.

According to OPORA, in 3% of polling stations, PEC members did not follow the statutory vote counting procedure. The list of such violations included the counting of ballots by individual groups of PEC members, the violation of the sequence of stages of such counting, the simultaneous dumping of ballots from all ballot boxes, and so on. In some polling stations there were cases of signing vote count protocols before the end of the voting process. Sometimes, PEC members put the date of the next day in the vote count protocols, to receive additional financial remuneration. The introduction of a false date for the signing of the vote count protocols indicates to the need for additional regulation of the remuneration of PEC members, taking into account the heavy workload on them on election day.

Separately, observers recorded violations of the procedure for clarifying the vote count protocols. Members of certain PECs illegally carried seals to be kept at polling stations and, without returning to commission meetings, amended the protocols to eliminate inaccuracies found in them. As a rule, such illegal actions were justified by the need to correct errors that do not affect the distribution of votes. OPORA emphasizes that in the conditions of uncontrolled and illegal clarifications of the protocols there is no

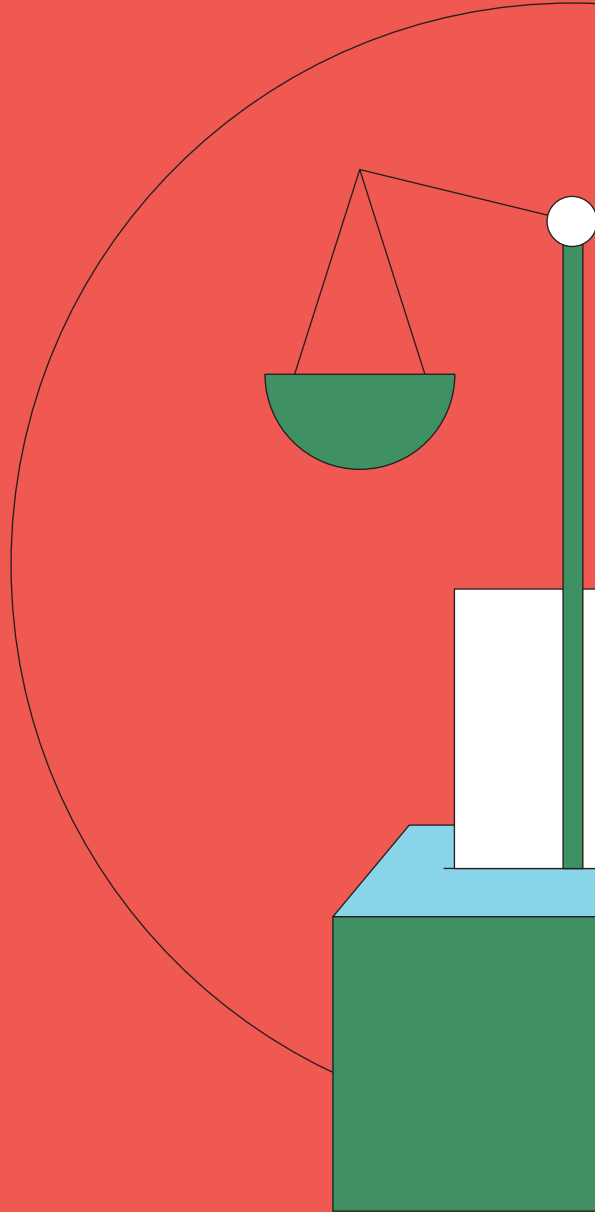
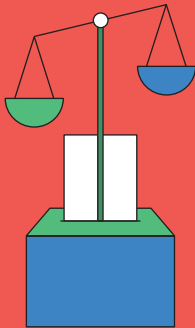
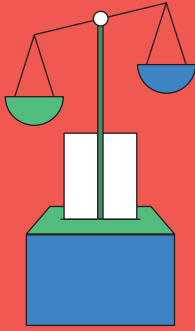
possibility to prevent purposeful falsification of voting and the state should bring to justice those responsible for such violations. But the inescapable punishment for violations does not preclude the expediency of simplifying election procedures to avoid random abuses by inexperienced members of election commissions.

Based on the country's representative number of polling stations, OPORA provided a parallel turnout tabulation, which, according to the organization, was 49.3% (error +/- 0.6). Instead, according to the CEC, the official voter turnout in the snap elections of Ukrainian deputies was 49.84%. Although voter turnout in the recent Verkhovna Rada elections was slightly lower than in the previous ones (official turnout in 2014 was 52.42%), voters showed a fairly high interest in voting during the holidays. On election day, OPORA observers provided Parallel Vote Tabulation at 1,395 polling stations, which formed a nationwide sample. OPORA administered Parallel Vote Tabulation was an important tool to build trust to official voting results and to prevent interference into the vote at the level of higher levels commissions.

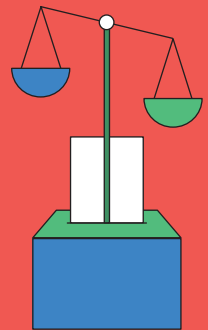
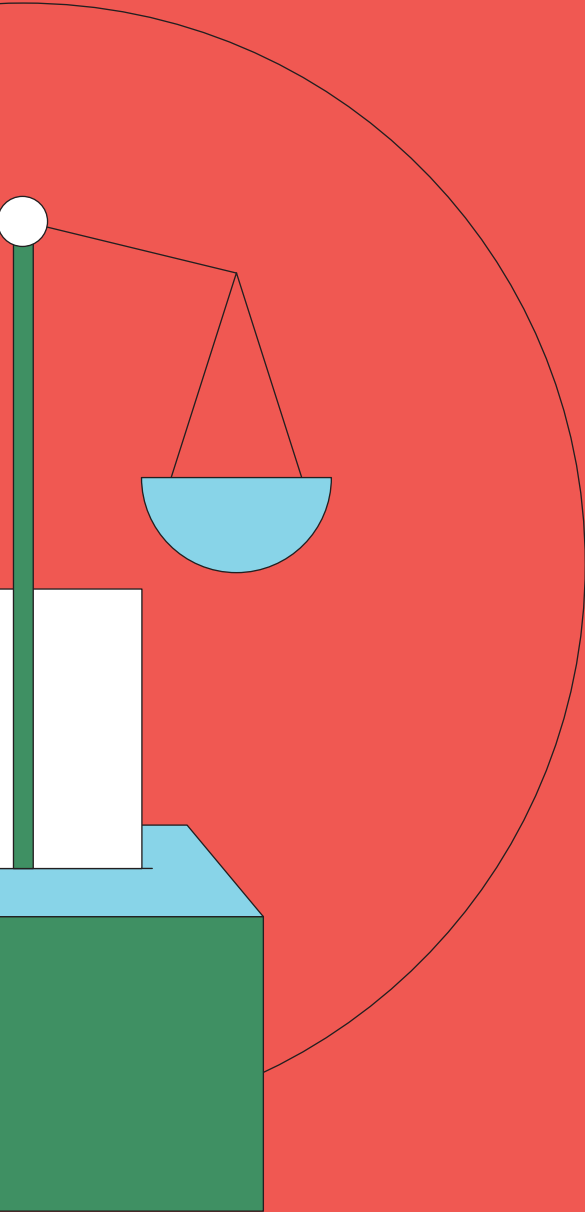
Official election results showed the updated composition of the deputy corps of Verkhovna Rada: as little as 82 MPs from the previous convocations were elected to the Verkhovna Rada of Ukraine, 342 people's deputies made it for the first time to the parliament. A positive outcome of election campaign was the 9% increase in women representation as compared to the previous convocations. Under the proportional election component, 27% deputies are women, and as little as 13.6% of the deputies were elected in single-mandate constituencies. The latter fact showed yet again the unfavourable settings of electoral system for efficient provision of different representation of two genders in electoral process. Compared to previous convocations, the average age of deputies dropped by almost 8 years, and was 41 years of age. The deputy corps analysis shows the need to reinforce the legislative and internal party guarantees for equal participation of men and women in electoral process, and for enhanced mechanisms of equal participation of all social groups in politics. A separate focus area shall be to provide due conditions for political activity of people with disabilities who are still facing the obstacles in exercising their constitutional rights.

OPORA observation findings confirm the need to continue the electoral reform in Ukraine, which outcome shall be the implementation of transparent procedures. Adherence to them shall be provided by efficient EABs, by proportionate and effective sanctions. The government shall also prioritize the task to reinforce the guarantees to exercise their voting rights for people

with disabilities, to internally displaced persons, to internal labour migrants, to voters located abroad; and to provide for equal participation of men and women in electoral process. A large share of changes to electoral law shall be approved before the local elections to enable their administration on a whole new level.



ELECTORAL SYSTEM AND LAW



Political context

The election process for the 2019 early parliamentary elections started in the settings of unreformed electoral legislation and political uncertainty, and was accompanied by hasty consideration in the Constitutional Court of Ukraine of submissions from 62 people's deputies on the constitutionality of the Presidential Decree on the dissolution of the Verkhovna Rada.

Immediately after the official inauguration on May 20, 2019, the newly elected President Volodymyr Zelensky publicly announced his intention to dissolve the Verkhovna Rada of the 8th convocation. After consultations with the Speaker of the Verkhovna Rada and leaders of parliamentary factions, on May 21, he signed a Decree on the early termination of the powers of the Verkhovna Rada of Ukraine of the 8th convocation, and called for extraordinary elections for July 21, 2019. The formal basis for this decision was a legally contradictory, but politically recognized fact of the absence of a coalition of parliamentary factions in the parliament¹.

The topic of changing the electoral system was the key subject of the mentioned consultations of the President with the parliamentary factions and the Speaker of the Verkhovna Rada on the eve of the Decree's publication. Despite repeated proposals from politicians to move to a fully proportional electoral system with open party lists and to abandon the majority component, the participants in the consultations failed to reach a consensus on the format and timing of the necessary legislative changes. At that moment, the draft of the Electoral Code voted in the first reading was under consideration in the parliament.² However, given the excessive number of amendments made by the deputies, the chance for a quality review and successful adoption of the document as a basis for holding extraordinary elections was virtually wasted. The alternative proposed by the President to update the electoral system by amending the current Law on Elections of People's Deputies did not find any support among the leaders of parliamen-

1 According to Article 90 of the Constitution of Ukraine, the President is entitled to terminate the powers of the Parliament ahead of time, in particular if a coalition of parliamentary factions failed to be formed in the Verkhovna Rada of Ukraine within one month.

2 On October 2, 2015, the Electoral Code was registered in the parliament of the 8th convocation, although the text itself was developed several years before. On November 7, 2017, the Verkhovna Rada supported the draft in the first reading. 4,296 amendments were submitted for revision to the second reading, which affected the content and integrity of the final document. Since April 16, 2018, a working group has been working in the parliament to work out these amendments

tary factions, either. On May 22, 2019, the Parliament refused to consider the presidential draft law hastily submitted for consideration at an extraordinary session of the Verkhovna Rada, which proposed to eliminate the majority component in the current law, to hold elections solely on the basis of a proportional system with closed party lists, and to reduce the threshold from 5% to 3%. On the next day (May 23), the Presidential Decree “On the Early Termination of the Powers of the Verkhovna Rada of Ukraine and the Call of Extraordinary Elections” was published, and thus entered into force.

On May 24, 2019, the election process of early parliamentary elections officially began in Ukraine. According to the Law “On Elections of People’s Deputies of Ukraine”, immediately after the publication of the Decree, the Central Election Commission took over all functions provided by law for organizing and holding special elections of People’s Deputies on July 21, 2019.

Shortened deadlines for the implementation of certain election procedures were a key feature of the legal regulation of early parliamentary elections. According to the Constitution, 60 days (actually 58) were allotted for extraordinary elections, instead of 90 days in the case of regular elections. This placed an additional burden on the CEC and the electoral subjects, as the time limits set for the registration of candidates, the formation of election commissions, and the printing of ballots were significantly reduced. The CEC also faced the problem of meeting the legal deadlines for public procurement in the context of a fast election process and the self-removal of the parliament from the legislative settlement of this problem. The situation was resolved by adopting a separate by-law at the Government level (by the Ministry of Economic Development and Trade).

The anticipation of the decision of the Constitutional Court and the unpredictability of its impact on the election campaign have long disoriented potential electoral subjects, and even served as a basis for some political actors to question the legitimacy of the extraordinary elections. Finally, already in the midst of the campaign (June 20), the Constitutional Court ruled that the Presidential Decree was in line with the Constitution of Ukraine (thus, termed as constitutional). The court described the current situation as a “constitutional conflict between the President and the Verkhovna Rada, which has no legal solution” and noted that resolving this conflict by holding extraordinary elections to the Verkhovna Rada of Ukraine met the requirements of the Constitution of Ukraine.

Peculiarities of the Electoral System

According to the current legislation, members of parliament were elected on the basis of a mixed proportional-majoritarian electoral system for a term of 5 years. Half of the members of the Verkhovna Rada (225 deputies) were elected by the proportional system in a single nationwide multi-mandate constituency, with the nomination of candidates under the lists of political parties. The right to nominate candidates was reserved exclusively to political parties (without the possibility of forming electoral blocs), and the distribution of parliamentary seats was allowed only to those parties that overcame the 5% electoral barrier. The rest of the MPs (225, but in fact 199 deputies – given the military occupation of the part of Ukraine where constituencies were supposed to be established) were elected in single-mandate majoritarian constituencies by a relative majority system. Both nominees of political parties, and independent candidates (self-nominees) had the right to run for elections. The law did not require majoritarian candidates to reside in the constituencies in which they intended to run.

Elections of people's deputies of Ukraine were held in the national multi-mandate constituency, which included the entire territory of Ukraine and the foreign constituency, and in 225 single-mandate constituencies formed by the CEC on a permanent basis.³ Given that some constituencies are located in the temporarily occupied territories of Ukraine, elections failed to be held in all 12 constituencies of the Autonomous Republic of Crimea and the city of Sevastopol, in 9 (out of 21) constituencies of Donetsk oblast, and in 5 (out of 11) districts of Luhansk oblast. Thus, according to the majoritarian component of the electoral system, people's deputies were elected only in 199 out of 225 single-mandate constituencies. The territorial boundaries of single-member constituencies have remained unchanged since 2012 (except for those constituencies that belonged to the temporarily occupied parts of Ukraine's regions), but the number of voters voting in these constituencies is variable. In practice, this leads to an increase in the number of constituencies in which there is a significant excess of the

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3 Single-member constituencies were established on a permanent basis by the CEC Resolution of April, 28, 2012 No 82 "On the establishment of single-member constituencies on a permanent basis within the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol (as amended)." In turn, the preparation of the organization and conduct of voting, as well as the vote count in the elections of people's deputies of Ukraine were carried out at regular, special and foreign polling stations, which function on a permanent or temporary basis.

permissible deviation from the estimated average number of voters in the constituency, which should not exceed 12%. If the current electoral system is maintained, the CEC urgently needs to review the constituency boundaries in a transparent and inclusive manner before the next parliamentary elections.

Legislative Changes

The holding of early parliamentary elections is regulated by the 1996 Constitution of Ukraine (as amended in 2019) and the Law of Ukraine “On Elections of People’s Deputies of Ukraine” adopted in 2011.⁴ The complex of electoral and related legislation also includes the laws of Ukraine “On the Central Election Commission,” “On the State Register of Voters,” “On Political Parties,” on the Criminal Code of Ukraine, the Code of Administrative Offenses, the Code of Administrative Procedure of Ukraine, and certain provisions of the special law “On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine.”

Since the recent parliamentary elections (in 2014), the legal framework has remained unchanged in terms of regulating the electoral system and implementing key electoral procedures. However, in the last five years, the Law on Elections of People’s Deputies has been amended six times, including technical and legal amendments, mainly due to the need to bring the election law in line with changes in regulations concerning anti-corruption policy, policies in the field of decommunization, police, and justice reform, etc.

At the end of 2015, a number of amendments were made to various legislative acts of Ukraine on preventing and combating political corruption.⁵ Some of the changes directly concerned the election process and the activities of political parties. In particular, candidates and political parties were required to inform the CEC (or DEC), and also the National Agency on Cor-

4 Although the relevant law, which called for extraordinary parliamentary elections in 2019, was adopted in 2011, the electoral system used in these elections was first introduced by law in 1997 and has been applied five times since then, with some differences for the parliamentary elections in Ukraine (1998, 2002, 2012, 2014, and 2019).

5 Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning the Prevention and Counteraction of Political Corruption.” Available at: <https://bit.ly/2P4eDCz>

ruption Prevention (NACP) on the opening of the election fund account. The latter agency was included as a special body authorized to monitor anti-corruption rules compliance by political parties. The deadlines have been changed for candidates and parties to submit interim financial reports on the used proceeds of the election fund to the CEC and the NACP. Thus, the administrator of the savings account of the party's election fund was obliged to submit such a report five days prior to the election day (in the previous elections, the term was 20 days prior to the election).

Parties that nominated candidates in single-mandate constituencies were required to publish on their official websites (if available) interim financial reports on the receipt and use of proceeds from candidates' election funds. The same information should be published on the CEC and NACP websites, without undue delay. Similar legal requirements for ensuring the publicity of information on election finance also applied to the publication of final financial statements. The legislative changes detailed the procedure for analyzing the financial statements of candidates and parties, and for publishing relevant information by the CEC and district election commissions. Thus, the analysis of financial statements shall be carried out by election commissions to which they are submitted, and shall consist in establishing compliance of reporting data with the requirements of the Law of Ukraine "On Elections of People's Deputies of Ukraine," with reporting timeliness and compliance of reported data with the data received from banks holding election funds accounts. The procedure for the establishment of election funds and the implementation of voluntary contributions of individuals or legal entities has been regulated. Thus, the election law was brought in line with the updated "Law on Political Parties of Ukraine."

Moreover, in Ukraine, they legally regulated the procedure for reimbursing political parties for the costs of financing election campaigns in the elections of people's deputies of Ukraine, although this practice was not new.⁶ The right to such compensation was granted to parties that took part in the distribution of parliamentary seats by the election results. The amount of reimbursement shall be equal to the amount of expenses actually incurred by the political party, but not exceeding the maximum size of the election fund of the political party, and shall be based on the final financial report

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6 Reimbursement of campaign expenses to parties was introduced in 2005 (in the text of the Law on Elections of People's Deputies), but since 2007 this legislation has not been applied.

on the receipt and use of funds of the political party election fund.⁷ It impacts the expanded requirements to reporting and financial transparency of political parties, and imposes an obligation on the authorities to ensure effective control over financial expenditure. However, the weak spot of the legislation is the lack of mechanisms to compensate parties for campaign expenses also before the elections, but not only after the election. In the long run, this may affect the level of political pluralism, limiting the ability of new or small parties to compete effectively with influential political forces during the election campaign.

Another legislative change concerned the reduction of the list of documents that parties were required to submit to the CEC when registering candidates in the national constituency. In particular, a copy of the party's certificate and its charter certified by the central executive body were excluded from this list. In turn, during the registration of official observers, the provision was removed for NGOs to submit to the CEC a copy of the notarized charter and the registration certificate of the organization. The decisions are by all means positive and well-justified⁸, in terms of continuous improvement for possibilities to process and verify suchlike information in the electronic form, or with the help of software, through the Unified State Register of Legal Entities.

After the 2015 adoption of the Law of Ukraine "On Condemnation of Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of Their Symbols," certain changes also affected the electoral law. The law provoked a resonant political discussion in Ukraine, and also inspired 46 people's deputies to appeal to the Constitutional Court regarding its compliance with the Constitution of Ukraine. On July 16, 2019, the Court recognized the Law as unconstitutional. In their joint opinion published in 2015, the Venice Commission and the Office for Democratic Institutions and Human Rights (OSCE / ODIHR) considered certain provisions of the Law to be signs of interference with the exercise of the

7 In total, over 467 million hryvnias (about \$ 20 million at the NBU exchange rate in 2019) will be reimbursed from the state budget to the parties that entered the parliament due to the elections. Also, since 2016, political parties in Ukraine have received state funding for statutory activities.

8 The Law of Ukraine "On Amendments to the Law of Ukraine "On State Registration of Legal Entities and Individual Entrepreneurs," and some other legislative acts of Ukraine on decentralization of powers for state registration of legal entities, sole entrepreneurs and public entities." Available at: <https://bit.ly/3jTa8Zt>

right to free elections. Compared to the version of the Law regulating the early parliamentary elections in 2014, at the time of the 2019 elections, the current Law expanded the list of grounds for refusal to register candidates (Part 1 of Art. 60 of the Law of Ukraine “On Elections of People’s Deputies of Ukraine”). In particular, the CEC was obliged to deny registration to candidates nominated by a party that promotes Communist and/or National Socialist (Nazi) totalitarian regimes and their symbols. The Cabinet of Ministers of Ukraine qualified its activities, name, and/or symbols as non-compliant with the law.

Some of the changes made to the election law were of a purely formal nature and concerned the update of the conceptual framework caused by the adoption of new regulations. In particular, in the text of the Law “On Elections of People’s Deputies,” the words “militia” and “internal affairs bodies” were replaced by “police” and “National Police bodies.”⁹

The most dangerous legislative initiative in the context of amending the Law “On Elections of People’s Deputies” was the proposal to introduce a procedure for excluding candidates for People’s Deputies of Ukraine from the electoral list after the election results are established.¹⁰ According to the proposed changes, the parties that nominated candidates in the national multi-mandate constituency were granted the right to exclude these candidates from the lists by the decision of the party convention (meeting, conference) taking place in the aftermath of the election. Thus, the party was able to literally ignore the election results and directly influence the order of passage of candidates from the party list to the parliament, in the event of early termination of the powers of the deputy elected under the party list. The proposed changes (which was labeled the “Law on Party Dictatorship” in the media) were appealed in the Constitutional Court of Ukraine. In its opinion, the Commission of the European Council for Democracy through Law (Venice Commission) recognized the amendments to the law as “contrary to international norms.” Eventually, the Constitutional Court of Ukraine declared the above-mentioned provisions of the law unconstitutional¹¹.

9 Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning the Activities of the National Police.” Available at: <https://bit.ly/335Smw4>

10 Law of Ukraine “On Amendments to the Law of Ukraine “On Elections of People’s Deputies of Ukraine to Exclude Candidates for People’s Deputies of Ukraine from the Electoral List of a Party in a Multi-Mandate Constituency.” Available at: <https://bit.ly/30SlXXg>

11 Decision of the Constitutional Court of Ukraine of 21.12.2017 No 3-r / 2017. Available at: <https://bit.ly/2X7iItR>

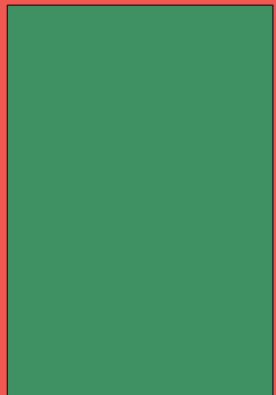
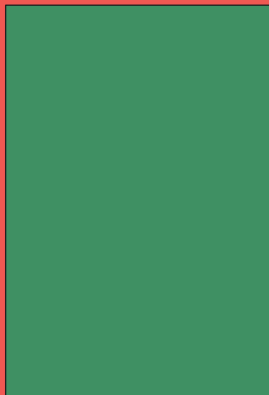
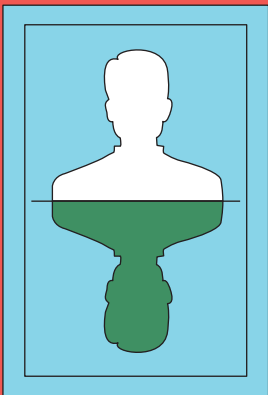
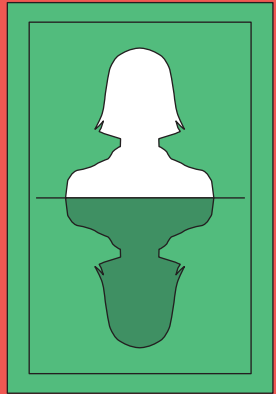
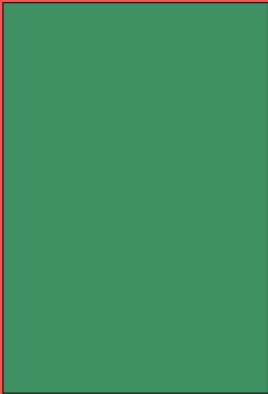
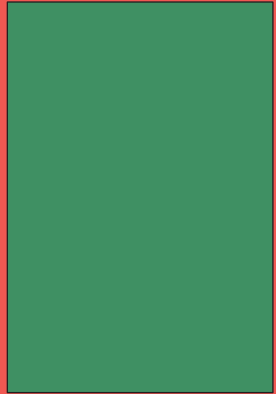
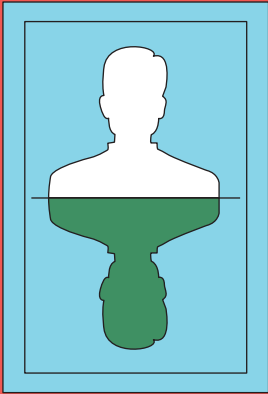
One of the negative aspects of the legislative regulation of extraordinary elections is the procedure of public declaration of income and expenses by candidates when acquiring the status of an electoral subject. Thus, in the event of extraordinary elections, candidates were not required to submit to the CEC an annual declaration of financial assets, income, expenses and liabilities. As a result, voters were deprived of the opportunity to review tax returns and thus obtain full information on registered candidates on the CEC website. In its previous reports, OPORA drew attention to the need to address this issue.

On the other hand, in accordance with the amendments to the Law “On Prevention of Corruption” (in March, 2017¹²), registered candidates were required to submit the relevant declarations by filling them out on the official website of the National Agency for the Prevention of Corruption. This is a justified approach from the point of view of unification of the practice of submitting and publishing declarations of persons authorized to perform the functions of public administration or local self-government. However, in the extraordinary parliamentary elections, it proved ineffective due to the lack of a clear procedure for deadlines and sanctions for failure to submit such declarations by candidates who were not elected. According to OPORA, most of the registered candidates did not publish their declarations. As late as in October 2019,¹³ the provision (paragraph 11 of Article 107) on the non-obligation to submit declarations to the CEC for candidates running in the extraordinary parliamentary elections was removed from the Law “On Election of People’s Deputies.” Regretfully, these legislative changes were delayed and did not impact the election process.

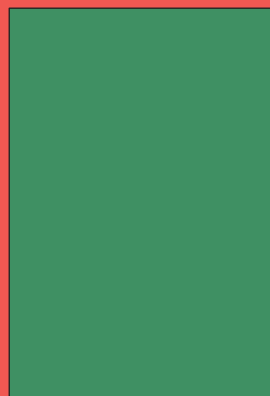
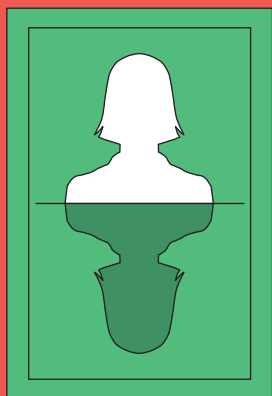
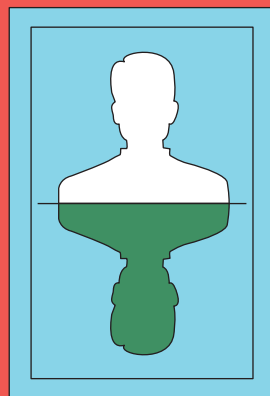
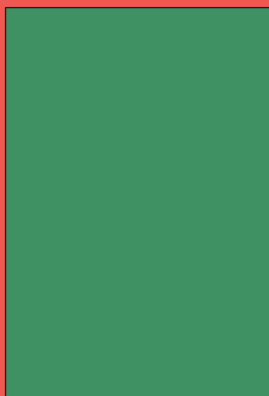
Against the background of certain legally unregulated aspects of holding extraordinary elections of people’s deputies, the key remaining problem was the unreformed electoral legislation, in particular the preservation of a mixed (parallel) electoral system for the election of people’s deputies. Parliamentary political parties and public authorities did not make adequate efforts to reach political agreements and timely adopt the Electoral Code, the content of which would be in line with the publicly declared intentions of all actors to introduce a proportional electoral system with open lists.

12 Law of Ukraine “On Amendments to Certain Laws of Ukraine on Peculiarities of Financial Control of Certain Categories of Officials.” Available at: <https://bit.ly/2D1oHtk>

13 Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning Ensuring the Effectiveness of the Institutional Mechanism for Preventing Corruption.” Available at: <https://bit.ly/2EvH8XF>



NOMINATION AND REGISTRATION OF CANDIDATES FOR PEOPLE'S DEPUTIES OF UKRAINE



The stage of nomination and registration of candidates for deputies began on the first day of the election process (May 24, 2019) and by June 20, parties and candidates could submit the necessary documents to the Central Election Commission for registration. At the same time, unlike self-nominated candidates, parties had a reduced period of time for nominating candidates for deputies in the national constituency and/or in single-mandate constituencies, given the need to hold party congresses. On June 10, 2019 (ten days before the end of registration), the deadline expired for holding congresses of political parties to nominate candidates. By June 25, the CEC was required to complete the process of registering all candidates for people's deputies of Ukraine.

Ukrainian legislation on parliamentary elections did not contain any detailed requirements for the nomination of candidates by political parties, and therefore its procedure was established by the parties themselves. In fact, the only requirement for the parties was the nomination of candidates at the congress (meeting, conference), held in accordance with the statutory documents of the party. In particular, the law did not explicitly oblige political parties to ensure the openness of congresses to the media and NGOs, nor did it set a minimum number of delegates for nominating candidates or an obligation to publish a list of candidates before submitting their documents to the CEC. In practice, this deprived the parties that acted as electoral subjects of incentives to demonstrate the appropriate level of openness and transparency in decision-making, the consequences of which had a significant impact on the course and quality of the electoral process. On the other hand, the lack of comprehensive legislative regulation of the procedure for nominating political parties is justified, given the international democratic standards of party activity and the conclusions of the Venice Commission on the analysis of previous versions of Ukraine's election legislation. It is about the importance of avoiding excessive government interference in party affairs and effectively ensuring the autonomy of political parties. In particular, in the Opinion of the Venice Commission on the Law of Ukraine "On Elections of People's Deputies of Ukraine" that regulated the regular elections in 2006, the authors stated the excessive government interference into internal party processes. In the Commission's view, excessive interference in internal party processes was manifested in the requirement for minimum participation of delegates in party congresses, the need to inform the CEC and the media about such congresses, and to provide information about candidates (education, occupation, etc.). The Venice Commission emphasized that in a free and competitive party system, parties are interested in informing the public about their activities, and that government in-

tervention shall not be so significant. This position was later confirmed in a joint opinion adopted at meetings of the Council for Democratic Elections and the Venice Commission in 2011 on the draft Law of Ukraine “On Elections of People’s Deputies of Ukraine” (developed pursuant to the Decree of the President of Ukraine “On Working Group to Improve the Legislation on Elections” dated 02.11.2010). The Opinion highlighted a positive aspect that the provisions of the draft Law no longer defined the procedure for forming and approving the party list, but instead stipulated that the party conduct this process in accordance with the procedures set out in the statute.

Despite the validity of guarantees for autonomy of political parties, OPORA draws attention to the signs of arbitrary interpretation of the law during the nomination of candidates by political parties in the extraordinary elections of people’s deputies of Ukraine.

During the campaign, a number of political parties reported to the media about the exclusion of candidates from the electoral lists previously supported by the Congress, on suspicion of dishonesty of individual candidates or refusal to run in elections (including the party “Servant of the People,” “European Solidarity,” “Holos”). Moreover, the public and the media were aware that immediately after the candidate nominating congress certain names were included into the party’s electoral list even though they had not been previously mentioned (for example, Oleksandr Yefremov in the list of the “Opposition Bloc” under number 10, which was previously publicly assigned to another candidate – Volodymyr Pylypenko). Reports on changes to party lists were received by observers and the media after June 10, when parties were no longer allowed to hold congresses to nominate candidates. In addition, some parties (“Holos,” “Servant of the People”) practiced congresses for several days interrupted with breaks, which created obstructions for all delegates from the regions of Ukraine to be present without interruptions or to attend such events repeatedly.

The common practice when political parties were not publicly publishing full lists of candidates in national and single-mandate constituencies also raises concerns. This circumstance made it possible to hold covert rotations in the list of candidates without convening party congresses and beyond the period established by law.

The CEC was not empowered to assess parties’ compliance with their statutes during nomination activities. Even if the party’s electoral list was identified and confirmed without holding a congress, the CEC did not have ef-

fective ways to respond to such situations or to intervene to resolve them. According to OPORA, during the further reform of the election law, it is important to strike an efficient balance between guarantees for party autonomy and the possibility for the party leadership to arbitrarily intervene or even discriminate against congress participants in the nomination process.

Registration Results of Candidate for People's Deputies

June 25, 2019, was the deadline for registration of candidates for People's Deputies who expressed a desire to run in the extraordinary elections to the Verkhovna Rada of Ukraine on July 21, 2019. As of June 28, the Central Election Commission registered 5,853 candidates, of whom 3,179 (or 54%) ran in 199 single-member constituencies, and 2,674 (46%) were nominated by political parties in a single national constituency. In total, the number of registered candidates was not record-high for the Ukrainian elections, and did not exceed the figure for the snap parliamentary elections in 2014, when 6,627 people exercised their passive suffrage.

The CEC denied registration to three political parties: the "Union of Left Forces," the "Communist Party of Ukraine," and the "New Forces Movement of Mikheil Saakashvili." The "Union of Left Forces" was denied due to the lack of a statutory list of documents, including receipts for the payment of the party's cash deposit in full amount. The CEC rejected the Communist Party of Ukraine on the grounds of a fact previously established by the Cabinet of Ministers of Ukraine that the party's activities did not comply with the requirements of the Law "On the Condemnation of the Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and the Ban on Propaganda of Their Symbols." The CEC rejected registration to the "New Forces Movement of Mikheil Saakashvili" party for the fact that the documents submitted by the party indicated the date of May, 8, 2019, as the day for holding the meeting where they discussed the possible participation in elections. In fact, it is much earlier than the moment of declaring the extraordinary elections (for May, 21, 2019). The party successfully appealed the CEC's decision to Kyiv's Sixth Administrative Court of Appeal, and on June 29, the Supreme Court upheld the administrative court's appeal and ordered the CEC to re-register the "New Forces Movement of Mikheil Saakashvili" party.

The court's decision to re-register Mikheil Saakashvili's New Forces Movement necessitated a revision of the form and text of the ballot, including the order of the parties in the ballot already determined by drawing lots by the last statutory deadline (June 26). Instead of holding a re-draw, which was insisted by the "New Forces Movement of Mikheil Saakashvili" party, but which procedures are not regulated by the law, the CEC made a legally controversial decision to include the "New Forces Movement of Mikheil Saakashvili" into the ballot for elections in a national multi-mandate constituency at the extraordinary elections of people's deputies of Ukraine, under No 22, without drawing lots (by amending its previous resolution).

Lists of candidates within the national constituency were nominated by 22 political parties, while in 2014, 29 political forces decided to stand in the elections. In the multi-member constituency, the largest number of candidates (over 200 people) were on the lists of five political parties: the Opposition Bloc, the Svoboda All-Ukrainian Union, the Radical Party of Oleh Liashko, the Batkivshchyna All-Ukrainian Union, and the "Servant of the People" party.¹⁴

In this election, the practice remained to include into the party electoral lists the persons who have not been formally members of the parties. After all, the law allowed parties to nominate non-party candidates, but not members of other parties. Thus, in the early parliamentary elections in a single multi-member constituency, 25% of non-party candidates were running (in the 2014 parliamentary elections, there were 40%). In fact, half of the parties (namely 12) that nominated candidates in a multi-member constituency had over 30% of non-party deputies on their lists. The "Shariy Party" (69% non-partisans), the "Servant of the People" (57%) and the "Fakel" (54%) were the record holders in the number of non-party candidates on the electoral lists. Instead, no non-partisan candidate was found on the "Power of the People" electoral list, and as little as 1% of non-partisans were on the list of the "Opposition Platform – For Life."

This practice can be partly explained by the lack of legislative capacity to form electoral blocs of parties. Consequently, candidates who expressed a desire to join another party's formally consolidated electoral list or to run outside their own party were forced to terminate their membership in any other party. Accordingly, a large number of candidates running for the de facto united party teams did formally cancel their membership in their own

14 Later, registration of 9 candidates in a party list of the "Servants of the People" was canceled.

parties. Another reason for this phenomenon was that the new political parties that were formed with high intensity shortly before the elections were hastily recruiting members, mainly due to non-partisans.

Candidates without a party ticket in the electoral lists of parties

Nominating entity	Candidates in a multi-member constituency	Non-partisan candidates	% of non-partisan candidates
Sharyi Party	29	20	69%
Servant of the People	201	115	57%
The "Fakel" AU	59	32	54%
Opposition Bloc	224	108	48%
"Holos"	175	84	48%
AU "Svoboda"	224	87	39%
The Power of Law	62	24	39%
Ukrainian Strategy of Groysman	63	24	38%
European Solidarity	100	36	36%
Patriot	122	42	34%
"Syla i Chest"	76	26	34%
Independence Party	60	8	13%
Civic Position	164	19	12%
All-Ukrainian Union "Batkivshchyna"	206	14	7%
The Green Party of Ukraine	43	3	7%
"Samopomich" Union	93	5	5%

The Radical Party of Oleh Liashko	217	7	3%
Agrarian Party of Ukraine	174	6	3%
Social Justice	154	4	3%
Opposition Platform – For Life	182	2	1%
Power of the People	46	0	0%
Total	2.674	666	24.91%

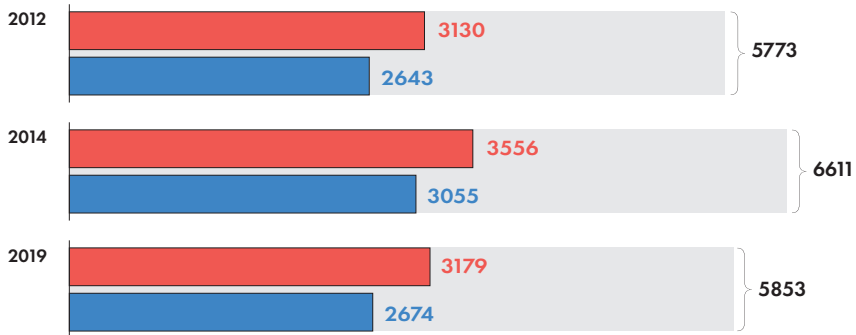
In single-member constituencies, 52 political parties nominated their candidates (a total of 1,437 people). This is significantly higher than in the extraordinary parliamentary elections in 2014, but it did not exceed the figure of 2012, when 81 political parties nominated their candidates in single-mandate constituencies in the parliamentary elections. However, although insignificant, most registered majority candidates (1,742 or 55%) ran as self-nominated.

The average number of candidates running in one single-member constituency was 16 (in 2014, this figure was 18 per constituency). The most of majoritarian candidates, 50 persons, ran in constituency 133, centered in Odessa. On the other hand, at least 6 people ran in four constituencies at the same time – No 46 (Bakhmut, Donetsk oblast), No 177 (Kupyansk, Kharkiv oblast), No 178 (Balakliya, Kharkiv oblast), and No 188 (Khmelnyskyi, Khmelnytskyi oblast). The “Servant of the People” is the only party that has nominated candidates in all single-member majority constituencies, without exception. On the other hand, as many as 34 political forces in the single-mandate constituencies nominated under ten candidates, and 5 parties had no candidates at single-mandate constituencies, although they were represented by a significant number of candidates at the national constituency level (including the “Ukrainian Strategy of Groyzman”).

Registered candidates as of June, 28, 2019

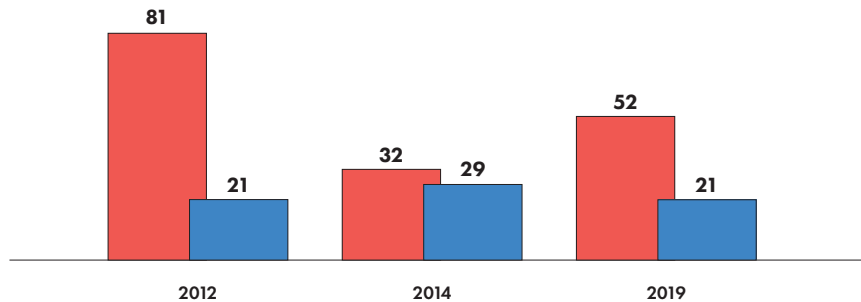
NUMBER OF CANDIDATES

158 In one-mandate constituencies	2113 In a national constituency	3696 total number
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NUMBER OF PARTIES

76 Parties nominating candidates in constituencies	15 Parties nominating candidates under party lists
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OPORA also analyzed the degree of interest of current MPs in registering as candidates. After all, with the elections approaching, MPs have become much more active in conducting de facto campaigning events in order to promote cases of their involvement in budgetary resources in the infrastruc-

ture of constituencies.¹⁵ As a result, the participation of incumbent MPs in the election campaign increased the risks of using administrative resources for electoral purposes.

According to OPORA, 307 people's deputies ran in the early parliamentary elections: 115 parliamentarians struggled for the votes in the national constituency, and 192 people's deputies stood in single-member constituencies (149 of them by self-nomination, the others were nominated by parties).

A total of 18 parties included Verkhovna Rada deputies in their list of candidates nominated in multi-member or single-member constituencies. Most MPs (29 people: 21 — on the party list, 8 — in single-member constituencies) ran for the "European Solidarity" party. Slightly fewer acting MPs were nominated for elections by the "Batkivshchyna" (21 candidates) and the "Opposition Platform — For Life" (20 candidates). There was also a fairly significant representation of people's deputies in the list of candidates from the "Opposition Bloc" (17 people), the Radical Party of Oleh Liashko (16), the "Samopomich" Union (13), and the "Ukrainian Strategy of Groysman" (12).

The "Clone" Candidates

During the registration of candidates at the level of single-mandate majority constituencies, there was a particularly grave problem of mass and partially effective use of the "twins" (or "cloning") technology. It aimed at distracting the electorate and misleading voters about the identity or party affiliation of candidates. The National Police of Ukraine has instituted 34 cases on illegal use of party brands, under Article 157 of the Criminal Code of Ukraine (obstruction of citizens' free exercise of their voting rights).

The most common way of manipulating the attention of voters was when during the registration in the CEC, candidates indicated their place of work to be an organization which name was consonant with or duplicated the name of the party that acted as the electoral subject. This was done on the assumption that this information would be available on the ballot paper, where, along with other biographical information about the candidate, infor-

15 For more details, see the "OPORA Report on the Possible Misuse of Budget Resources for Campaigning Purposes (June 2019)." Available at: <https://bit.ly/2Pfapbs>

mation about their place of work shall be indicated. In practice, a voter saw in the ballot the name of the organization that the candidate was associated with, but could not always easily identify whether the candidate was in fact a nominee from that organization or simply an employee or member of the organization with the same name.

In the extraordinary parliamentary elections, the cloning technology was used in two main forms. The first, more traditional, was the registration in single-member constituencies of candidates with the same surnames and names, and sometimes even with identical patronymics. This time it was less popular than in the 2012 parliamentary elections and, by and large, it failed.¹⁶ Instead, another type of cloning technology proved to be relatively efficient, when candidates indicated in their biographies that they belonged to organizations whose names duplicated the names of political parties that acted as electoral subjects (while in fact, the candidates were not running on behalf of these parties).

According to OPORA, over 90 candidates were running for the elections (in 55 single-member constituencies) who were self-nominated but presented themselves as members of private companies, NGOs or charities which names replicated the names of parties that acted as electoral subjects.

Given its popularity and high rankings, the “Servant of the People” party has become the main target of manipulative use of the brand and party name by registered candidates, in order to influence the will of voters. At the time of registration, at least 86 candidates indicated in their biographies that they belonged to an organization whose name used the phrase such as the “servant of the people.” All of them were self-nominated candidates in single-member constituencies, which also had candidates officially nominated by the “Servant of the People” party. At the time of registration, the vast majority of candidates (72 people) positioned themselves as non-partisan. The others (14 people) reported their affiliation with political parties, 12 of them to the “Servant of the People” party, other two were members of the “Opposition Bloc – the Party for Peace and Development” and the “Batkivshchyna” AU.¹⁷ The “Servant of the People” party, as well as individual candidates

16 An exception is constituency No 106 in Luhansk region, where self-nominated Yuriy Furman lost to the candidate from the “Servant of the People” Oleksiy Kuznetsov, with a difference of 1,002 votes. At the same time, his namesake Andriy Furman received 1,622 votes in his favor.

17 Pomohayboh Bohdan Veniaminovich, SMC No 221, Kyiv.

nominated by it in single-mandate constituencies, challenged in court the fact that the CEC had entered information about the affiliation of these 12 candidates with the “Servant of the People.” Following the decision of the Sixth Administrative Court of Appeal, the CEC amended its decision to update information on the party affiliation of these candidates, and indicated their non-partisan status. Eventually, at the time of the vote, the biographical data of at least 74 candidates kept the information that they belonged to organizations that were not affiliated with the “Servant of the People” party but used similar or identical names.

The methods of writing the names of organizations containing the “servant of the people” phrase varied significantly (over 40 varieties, according to OPORA findings). However, all of the varieties were about the differences in word order (for example, “SERVANT OF THE PEOPLE. ZE!”) or “ZE! SERVANT OF THE PEOPLE”). Or, they used low case or uppercase letters only, abbreviations, acronyms, punctuation. The following names were most often found in the biographical information: “The “SERVANT OF THE PEOPLE” Civic Movement” NGO, the “Servant of the People – Ze!” LLC, “Servant of the People” PE, the “SERVANT OF THE PEOPLE” CF NGO.

In addition to the names, there were also different organizational and legal forms of structures, which membership was indicated by the candidates and whose names were consonant with the “Servant of the People” party. The largest number of candidates (27 people) positioned themselves as members of the civil society organization “Servant of the People.” Slightly less candidates (22 people) reported working in a private enterprise “Servant of the People” or the “Servant of the People” PE (which could also stand for an abbreviation of PP – political party, identical with “PP” for ‘Private Enterprise’ in Ukrainian). Another 17 candidates worked in a limited liability company or “Servant of the People” LLC. There were also some who indicated their affiliation with the “Servant of the People” Charitable Foundation (18 people). The Unified State Register of Legal Entities, Sole Entrepreneurs and Public Formations featured 40 organizations as legal entities, which name used the “Servant of the People” expression. Half of them were registered in Kyiv, 6 in Dnipropetrovsk oblast, and 6 in Odesa oblast. Thus, the vast majority of the organizations with the same name, to which the candidates indicated their affiliation, although not affiliated with the “Servant of the People” party, were quite legal, in terms of law.

The scale of the use of technology is evidenced by the fact that candidates who positioned themselves as representatives of the organizations of the

same name with the “Servant of the People” party ran in over a quarter of single-member constituencies (55 out of 199). At the same time, there were six of them in the constituency No 25 of Dnipro city; five candidates in constituency No 37 in Kryvyi Rih; four each in constituencies No 94 (Obukhiv, Kyiv region) and No 146 (Kremenchuk, Poltava region). Ten constituencies had two candidates each who ran for office indicating their affiliation with the “Servant of the People” organization. In the remaining 30 single-member constituencies, one such candidate was running.

Dnipropetrovsk oblast was in the lead in the number of candidates who indicated their affiliation with organizations called similar to the “Servant of the People” while competing with the official nominees of the “Servant of the People” political party. There were 18 such persons found in 7 constituencies. 9 such candidates ran in the constituencies of Zaporizhia oblast, 8 in Kyiv oblast, and 6 in Kyiv city. In general, the geography of nomination of candidates belonging to public organizations that used in their name the “servant of the people” wording was very wide, and covered 19 regions of Ukraine. The exceptions were the regions mainly in Western Ukraine: Volyn, Transcarpathian, Ivano-Frankivsk, Rivne and Khmelnytsky oblasts.

In the case of the “Holos” party, there were only 6 single-member constituencies (Lviv, Poltava, Dnipropetrovsk and Sumy oblasts) that had candidates who indicated their affiliation with the “Holos” party or the “Holos” PE, without actually being nominated or supported by that political force.

The voting results in seven single-member constituencies demonstrated the successful efforts of electoral actors to deliberately mislead voters about the identity of a candidate and a party they represented. In general, all candidates running in single-mandate constituencies who stated in their bios the affiliation with organizations which names replicated or were consonant with names of parties that acted as electoral subjects were supported by over 178,000 voters. Based on the analysis conducted by the Civil Network OPORA¹⁸, it should be noted that the consequences of using cloning technology in single-member constituencies No 37 (Dnipropetrovsk oblast), No 64 (Zhytomyr oblast), No 78 (Zaporizhia oblast), No 119 (Lviv oblast), No 146 (Poltava oblast), No 198 (Cherkasy oblast), No 210 (Kyiv oblast) had a negative impact on the process of expressing the will by voters, and require careful study and further consideration by law enforcement agencies and the CEC.

18 See OPORA’s research “Did the cloning technology work in the extraordinary elections of people’s deputies?”. Available at: <https://bit.ly/3bZupIT>

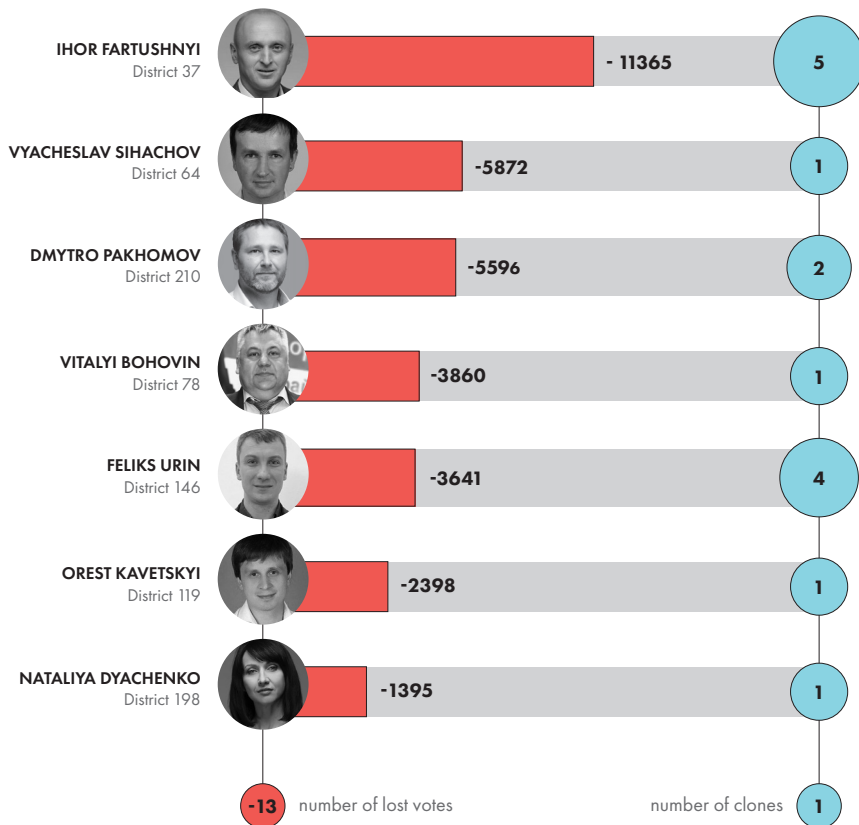
The problem is that electoral or related legislation does not explicitly classify such cases as violations. The law does not impose any special restrictions on the participation in elections of citizens with similar personal data or biographical information. In turn, the Central Election Commission is not authorized to verify the truthfulness and correctness of the information provided by the candidate(s) regarding the place of work (or civic activism) or party affiliation. It is not a violation, either, to have in the documents any coincidences in the names of the organizations to which the candidates for people's deputies belong or where they work. At the same time, such actions can be classified as criminal offenses qualified as obstruction to the exercise of suffrage (Part 1 of Article 157 of the Criminal Code of Ukraine). But in practice the case did not reach the verdicts.

In general, the option of running in single-member constituencies by self-nomination was the most attractive for the registration of "technical" candidates. After all, the reputational risks for a little-known candidate running through self-nomination are minimal, in contrast to political parties, which can be required to have at least political responsibility for the use of such technologies. The rejection of the majority electoral system provided by the new Electoral Code reduces the incentives for large-scale use of this technology.

The unprecedented scale of using the "cloning" technology in the 2019 extraordinary parliamentary elections in Ukraine indicates the urgent need to make legal and administrative decisions so that citizens have the opportunity to make free choices from an informed position.

OPORA hereby states that all such cases show signs of abuse by citizens of their passive suffrage (the right to run for elections and be elected) in order to mislead voters about the identity of a candidate or party. A partial solution to the problem lies in legislative changes aimed at enabling the practical implementation of the principle of inescapable punishment for electoral fraud, in particular for misleading voters and obstructing the exercise of suffrage. Political parties, for their part, should pay more attention to preventive measures to protect their ownership for the brand for goods and services, which means any designation or any combination of designations (including proper names, letters, numbers, figurative elements, colors and their combinations). The current situation also requires voters to take a closer look at the list and biographies of candidates running in constituencies. The function of law enforcement agencies is to continue the investigation and establish who had a keen interest in the cases with signs of abuse of passive suffrage by citizens.

Influence of “clone” on the elections



Influence of “clone” candidates on the distribution of votes in constituencies:

No of constituency	Number of votes for the winner	Results of the runner-up	Difference in votes between the 1st and the 2nd positions	Number of “clones”	Result of “clones”
37	24 739	23 531	1 208	5	11 365
64	22 056	21 416	640	1	5 872
78	27 488	24 199	3 289	1	3 860
119	12 790	12 650	140	1	2 398
146	19 206	16 500	2 706	4	3 641
198	18 924	17 909	1 015	1	1 395
210	16 448	16 295 ^o	3 243	2	5 596

^oThe result of the 3rd position

A Profile of a Registered Candidate

The vast majority of candidates running in both the multi-member constituency and the majority constituencies were middle-aged (36-59 years) – 62% and 66%, respectively. There were almost three times fewer candidates among the elderly (60 and older) than candidates in the youth category (up to 35, inclusive) – only 9% and 7% in the national multi-member constituency and single-mandate constituencies, respectively. In this snap election, almost a third of the candidates represented young people under the age of 35: in the national multi-member constituency – 29%, and in the majority constituencies – 28%.

Professionally, as few as 16% of candidates, both on party lists and in majority constituencies, positioned themselves as temporarily unemployed. Among the parties that registered over a hundred candidates in multi-member and single-member constituencies, the highest rate of the temporarily unemployed persons was among the candidates in “Social Justice” (33%) and the AU “Svoboda” (25%). The lowest number of the temporarily unemployed persons was among the candidates in “Holos” (4%) and the “Samopomich” Union (7%).

91% of all registered candidates had higher education, 6% had vocational or secondary special education; as few as 3% received the general secondary education only. Among the parties that nominated over a hundred candidates, the lowest rate of people with higher education (87%) was in “Social Solidarity,” and the highest number (97%) was in the “Batkivshchyna” AU and in the “Syla i Chest.”

Exercise of the Gender Equality Principle at the Stage of Candidate Nomination

The relevant law in force at the time of the extraordinary elections did not contain a mandatory requirement to ensure equal representation of men and women in party electoral lists. OPORA and other organizations have repeatedly drawn attention to this shortcoming of the election law, which the Ukrainian parliament has not managed to eliminate¹⁹. Instead, the financial and political incentives secured in the Law “On Political Parties in Ukraine” which have existed since 2013, had a positive effect on equalizing the representation of women and men in party electoral lists. According to this law, the parties were obliged to reflect in their charters the information on the quota, which determines the minimum level of representation of women and men in the electoral list of candidates for deputies of Ukraine from the party in the national constituency (the quota shall be at least 30% of the total number of candidates on the electoral list). Secondly, parties with at least one third of the same gender deputies on the list elected in a nationwide constituency receive an additional 10% of annual state funding for statutory activities (which shall be equally distributed among political parties).

19 Despite heated political discussions, the final version of the new Electoral Code (approved after the parliamentary elections) enshrined legislative guarantees for equal representation of women and men in the electoral process.

Of the 22 political parties, 13 included over 30% of women on their lists. The largest number of women was on the lists of the “Social Justice” party (44% or 68 people), “Power of the People” (43% or 20 people) and the Radical Party of Oleh Liashko (41% or 90 people). As much as 17% of women were on the lists of the “Svoboda” All-Ukrainian Union, and 19% were on the lists of the “Patriot” party. In other political forces, the number of women ranged from 22% to 29%. In general, women accounted for 30.6% of the total number of candidates running in the parliamentary elections on party lists. This indicates to the gradual progress towards the practical implementation of the gender equality principle, in particular in the context of the formation of party lists of candidates. However, the situation was not totally optimistic, given the fact that the upper (most passable) part of the electoral list of parties was clearly dominated by men. Out of 22 political forces, only 7 parties had in the first thirty positions on the lists of candidates a share of women of at least 30%. Namely, the “Social Justice” party – 16 women, “European Solidarity” – 12, “Power of the People” and the “Green Party of Ukraine” – 11, each; the “Fakel” AU, “Samopomich” and “Holos” – 10, each. On the other hand, in other parties this number is much lower. Some parties indulged into an approach when the achievement of a minimum gender balance was possible through the formal inclusion of women in those positions on the party list that were the least promising. For example, there were 60 women on the “Opposition Platform – For Life” list, but only 3 of them were in the top 30. Among the first 30 candidates in the “Civic Position” lists, there are 3 women (39 women in total), 4 in the “Opposition Bloc” (85 in total), 5 in the “Batktivshchyna” All-Ukrainian Union (61 in total), and 5 in the Radical Party of Oleh Liashko (total of 90), “Servants of the People” – 6 (total of 66).

At the same time, the majority component of the electoral system is evidently much less favorable for the implementation of such incentives. As a result, no women ran in the 25 single-member constituencies located in 16 oblasts of Ukraine.

In general, the process of candidate registration was conducted in compliance with statutory requirements and deadlines, but some CEC decisions to reject candidates (parties) based on the results of the consideration of documents made it difficult to implement certain election procedures. In particular, the actions of the commission to re-approve the text of the ballot in the context of the underregulated re-draw for assigning numbers of political parties in the ballot were questionable from a legal point of view, and affected the exercise of equal opportunities. The process of nominating candidates by political parties was not sufficiently public and properly or-

ganized in terms of forming the final versions of party lists. The full scope of nominated candidates in the lists was not always made public, and decisions on candidates made and announced at party congresses were subsequently reviewed, often in a non-transparent manner.

The Central Election Commission adopted a total of 128 resolutions rejecting candidates for deputies of Ukraine. Given the number of candidates nominated by parties and by self-nomination, the number of rejections does not appear excessive. But the controversial case of rejecting registration for the list of candidates nominated by the “New Forces Movement of Mikheil Saakashvili” emphasizes the need to explore the possibilities to improve legislation to establish the legal certainty of the nomination and registration procedures.

CAMPAIGNING ACTIVITY OF CANDIDATES AND POLITICAL PARTIES



Given the early nature of the 2019 parliamentary elections, dynamics and intensity of campaigning of electoral subjects was recorded at much lower levels than commonly in the regular general elections in Ukraine. The limited timeframe of the election process (de facto 58 days, and even a shorter period allocated to campaigning itself) also affected the campaigning content and format. The most proactive parties and candidates largely focused on media campaign and political ads on the Internet, as opposed to offline work in the streets and to direct interaction with target groups of voters. It influenced the overall level of campaign costs, as media advertising remains the most expensive and highly demanded form of campaigning.

At the same time, all key political actors launched an active phase of campaign long before official registration with the CEC and opening of election funds. The early nature of campaigning and lack of regulation in election legislation remains a major issue, leading to the situation when financial costs of campaigning remain in shadow. Such situation prevents the effective public control over receipts and expenditures of candidates and parties. It is impossible to determine exact amounts of unaccounted expenditures of candidates and parties on campaigning, but according to provisional estimates, it comes close to the amount of officially declared costs. After all, it includes both financing of the election campaign and labor costs for persons involved in the organization of campaigning events and performing other functions that shall be formally unpaid (observers, members of election commissions).

OPORA carried out a comprehensive monitoring of the campaigning activity of parties and candidates from the moment the President of Ukraine declared his intentions to dissolve Verkhovna Rada till the end of the election process. At the end of May and in June 2019, campaigning activities of candidates and parties was not too intense, limited to outdoor and media advertising. According to OPORA, 11 political parties have launched comprehensive campaigning in different oblasts of Ukraine as early as at the beginning of the election process. The most extensive in terms of geographical coverage were public campaigns run by the “European Solidarity” (covered the whole territory of Ukraine), “Ukrainian Strategy of Groysman” (covered 21 oblasts) and the “Opposition Platform – For Life” (covered 17 oblasts). Other political forces that organized the campaigning events in the first month of the campaign, even though to a lesser extent (also prior to official registration), were the All-Ukrainian Union “Svoboda”, “Holos”, Agrarian Party of Ukraine, All-Ukrainian Union “Batkivshchyna”, Radical Party of Oleh Liashko, the “Samopomich” Union.

Campaigning activity of the potential electoral subjects in the first weeks of the campaign was partially restrained as the subjects were awaiting the ruling of the Constitutional Court of Ukraine on the constitutionality of the Presidential decree on dissolution of parliament and calling the extraordinary parliamentary elections. In addition, the process of submitting documents to the CEC for registration of candidates was completed only on June 20, 2019. After this, all electoral subjects have significantly intensified their efforts. In particular, the campaign has become more eventful and competitive, especially at the level of single-member constituencies.

In general, campaigning activity of the majority of parties nominating candidates in the nationwide constituency manifested itself in the use of various forms of public outreach throughout Ukraine or in certain oblasts. Out of 22 political parties that officially submitted lists of candidates, as much as 13 parties ran the most noticeable election campaigns²⁰. Public outreach of other political parties was sporadic and did not extend to a large area of Ukraine, whereas three other political parties (“Independence,” “Green Party of Ukraine,” and “Power of the Law”) did not de facto conduct any campaigning on a systemic basis.

The scale of campaign intensity of the parties nominating candidates in the nationwide constituencies (isolated cases were disregarded)

Parties	Number of oblasts (and the Kyiv city) covered by the campaigning	Number of constituencies recording campaigning signs
European Solidarity	25	161
Servant of the People	25	157
Ukrainian Strategy of Groysman	25	142
Opposition Platform – For Life	18	101

20 Financial reports on receipt and use of parties’ election funds, which were made public after the elections, revealed that it was these 13 parties that predictably had higher campaigning costs as compared to other political forces participating in election.

All-Ukrainian Union "Batkivshchyna"	25	99
Radical Party of Oleh Liashko	25	99
"Holos"	23	91
Opposition Bloc	15	88
All-Ukrainian Union "Svoboda"	19	69
"Samopomich" Union	14	42
Civic Position	13	28
Agrarian Party of Ukraine	9	21
"Syla i Chest"	10	16
New Forces Movement of Mikheil Saakashvili	6	16
Shariy Party	4	10
Power of the People	5	8
Patriot	3	3
Social Justice	2	2
"Fakel" All-Ukrainian Union	1	1
Nezalezhnist	0	0
Green Party of Ukraine	0	0
Power of the Law	0	0

The most extensive election campaign in terms of scale and diversity of campaign formats, which covered all oblasts of Ukraine without exception (24 oblasts and the city of Kyiv), was launched by five political parties, such as: “European Solidarity,” “Servant of the People,” “Ukrainian Strategy of Groysman,” “Batkivshchyna” and Radical Party of Oleh Liashko. The list includes “Holos”, but unlike other parties that were proactive throughout Ukraine, the campaign of this political force was barely noticeable in Luhansk and Donetsk oblasts.

Campaigns of the remaining three parties (“Opposition Platform – For Life,” “Svoboda,” “Opposition Bloc”) were also intensive, with a particular focus on certain oblasts. Thus, “Opposition Platform – For Life” (as well as “Opposition Bloc”) did not conduct active campaigns in Lviv, Rivne, Ivano-Frankivsk, Volyn and Ternopil oblasts, while Svoboda did not show any campaigning activity in Donetsk, Zaporizhzhya, Luhansk and Odesa oblasts. At the same time, it carried out very active pre-election campaign in its priority oblasts (Western oblasts of Ukraine). Other proactive political parties that acted as electoral subjects (“Samopomich,” “Civic Position,” “Syla i Chest,” Agrarian Party of Ukraine, “New Forces Movement of Mikheil Saakashvili” and the “Power of the People”) did not launch any comprehensive nationwide campaign, also focusing only on a few oblasts.

In addition to the regional dimension, OPORA observers also analyzed intensity and scale of election campaigns within the boundaries of each of 199 single-member constituencies. According to OPORA, the most extensive campaigns in terms of territorial coverage and local outreach were those run by the “European Solidarity” (there were multiple examples of campaigning in over 160 constituencies), “Servant of the People” (campaigning in 157 constituencies) and “Ukrainian Strategy of Groysman” (142 constituencies).

At the local level (beyond the boundaries of the oblast centers), all most proactive parties mainly conducted their campaigning activities through the efforts of candidates in single-member constituencies. Majoritarian candidates campaigned both for themselves and for the party they represented, and used their own election funds. Therefore, the scale of presence of party campaigns in oblasts and their outreach to the lower administrative and territorial level mainly depends on the level of activities of the candidates for people’s deputies nominated by these parties in the corresponding electoral districts. Regarding the election funds of candidates nominated by parties, and their campaign expenditures, there is a problem as the parties cannot transfer funds to the election funds of such candidates. In practice, parties

are deprived of legal ways to provide financial support for candidates nominated in single-member constituencies, and such candidates have uneven playing field in comparison with the candidates nominated on the party list basis.

Despite fierce competition between electoral subjects at the national level, the main tone of the campaign was still set by the majoritarian candidates in single-member constituencies. Their campaigning was much more dynamic and diverse and often led to conflicts between candidates. In total, according to OPORA, less than half of over 3,000 registered candidates conducted a noticeable campaign. Among the candidates running in single-member constituencies, the most proactive were incumbent MPs elected in the same single-member constituencies in the special elections to Verkhovna Rada in 2014 (in total, there were 192 such MPs).

Throughout the election campaign, but most clearly at its final stages, candidates in single-member constituencies used all the available forms of campaigning. The most common campaign formats were outdoor advertising, direct work with voters and distribution of printed campaigning materials (distribution of newspapers, posting leaflets and posters, distribution of printed campaign materials in party campaign tents). Only individual candidates could afford to use television and radio for public outreach, even at the regional level, due to the high cost of political advertising and campaigning in the audiovisual media.

Media campaigning was dominated by advertising on social media and use of online media. Unlike previous election campaigns, most of majoritarian candidates running in this election were present in social media and were proactive in running their Facebook pages. The frequent use of social media by candidates, among other things, resulted in growing figures of dirty campaigning and fake election-related news. It reveals the need for a more thorough study of the features and consequences of using online resources for campaigning purposes, and for legislative regulation of campaigning formats related to modern media technologies.

Last weeks of the campaign saw significant increase in the number of mass public events organized by the candidates to secure the support, or initiated by other people or organizations with direct participation of candidates. In comparison with the 2014 parliamentary election, the format of campaign that includes entertaining events, in particular, concerts of popular Ukrainian singers and local bands, is back again. The key problem here is lack of proper

financial reporting on funds spent on this form of campaigning (including the level of candidates' financial reports), as well as lack of efficient control on the part of the authorities.

Moreover, majoritarian candidates extensively used the format of personal meetings with voters in public places or at the place of their residence. Positive democratic effect of such events was often denounced due to multiple cases of the so-called pre-election charity that were recorded by OPORA observers. This type of abuse was mainly committed by self-nominees. However, over the last month there were several campaign events organized by party candidates from "Opposition Platform – For Life" and the All-Ukrainian Union "Batkivshchyna" that involved the element of distributing goods and services to voters.

Throughout the entire election campaign, there were repeated cases of using the results of sociological surveys for campaigning purposes, when they were conducted in single-member constituencies but often contained contradictory data and were not duly recorded. In most cases, apart from manipulative component, such actions also constitute violations of the Law "On Publication of the Results of Opinion Polls Related to Elections." In practice, the authorities had limited possibilities to clearly identify such actions as offences, and with lack of due response (also from law-enforcement bodies), future election campaigns will see all the incentives to use such technologies.

Political Campaigning on the Facebook Social Media

Despite the fact that political parties and candidates are proactively using online-resources, social media in particular, as a platform for posting political advertising, there is no legislation available to control their spending. The Law on Election of the People's Deputies of Ukraine does not outline the online advertising as a specific form of pre-election campaigning. Apart from this, the CEC Regulation of June 14, 2019 No. 1010 that approves forms of financial reports on receipt and spending of election funds of political parties and candidates for people's deputies does not indicate specific codes for online-advertising in general, or for advertising in social media in particular. National Agency on Corruption Prevention does not have any special methodology for tracking advertisements in the Internet, either.

Consequently, in the absence of explicit legislative bans, it is impossible to prosecute a person for financing placement of campaign materials on the Internet or in social media from sources other than the election fund. On the other hand, current law prohibits financing of campaigning activities from own funds of political parties, MP candidates or other sources, including those initiated by voters. In other words, social media advertising financed by third parties is not an acceptable form of campaigning.

One of the only open online sources of information about political campaigning at the special elections of MPs is Political Ad Library created by Facebook to enhance transparency and accountability in advertising and preventing foreign interference in election process in different countries of the world. New rules presuppose certain requirements for placing political advertisements. In particular, an advertiser shall confirm their identity as well as provide additional information (address, phone, email, website). Furthermore, to prevent foreign interference in election process, Facebook imposed a prohibition on placement of political ads by foreign citizens. From now on, all political advertisements are kept in Political Ad Library for a period of 7 years, and they are available to general public.

According to Facebook Political Ad Library, during election campaign from May 24 to August 21, 2019, approximately 59 thousand advertisements were of political nature. The number of published ads is increasing in the run-up to the Election Day, and 72% of publications were posted in July. Such distribution of advertisements can be explained not only by the intensification of campaigns of political parties and candidates in election districts, but also by internal Facebook processes on identification and marking of political ads as such. At the beginning of election campaign, the majority of political ads were published as commercial ones. It was only since the middle of June that Facebook started blocking such posts. Notwithstanding the fact that the law prohibits campaigning the day before the elections and on the Election Day, 821 political advertisements were posted in Facebook on July 20 and 21. The parties who disregarded the legislative prohibition were the “Servant of the People” that posted on its page 158 ads on election silence day, and the “Shariy Party” – 8 ads.

Overall, according to the Political Ad Library report, over USD 1,8 mln was spent on political advertising on Facebook during the period from May 24 to July 27, 2019. The city of Kyiv accounts for the largest portion of political ad views – 14.5%, Lviv oblast – 9.28%, and Dnipropetrovsk oblast – 7.61%. The smallest number of political ad views on Facebook was recorded in Luhansk oblast (0.71%) and Kherson oblast (1.78%).

The “Holos” party spent the largest amount of funds on Facebook campaigning – about USD 230,000, and posted 470 political ads on this social media. Also, about USD 50,000 was spent on political ads on the page of the party leader Sviatoslav Vakarchuk. “Holos” primarily targeted its advertisements at Lviv (11% of all ad impressions views) and Kyiv residents (10.4% of all ad views). The smallest number of political ads of the party was recorded in Donetsk and Luhansk oblasts. It shall be stated that “Holos” audience is the youngest in terms of age structure. In addition, it is the only party that distributed its campaign materials among citizens aged under 18. In its final financial report, the party indicated expenditures on social media advertising in the amount of UAH 6,168,632.

Throughout election period, the “European Solidarity” political party posted 250 ads on Facebook, amounting to over USD 209,780. The primary target audience of the party were residents of Kyiv (17.4% of all ad views) and Lviv oblast. However, the party put less emphasis on campaigning in Eastern and Southern regions of Ukraine. In its interim report, the party does not indicate any expenditures on posting campaigning materials on social media. In its final financial report, the party stated 11 payments in the amount of UAH 6,499,325 for online advertising.

The “Power of the Law” political party spent over USD 136,000 on publication of 66 campaign materials. The largest number of political ads views was recorded in the city of Kyiv and in Lviv oblast. According to Facebook, campaigning activities of the party were financed by an NGO “All-Ukrainian Union “Spilna Sprava” and an All-Ukrainian Civic Movement “Power of the Law”. Most ads were aimed at collecting personal data of users who expressed their positions in support of financial compensation for Russian aggression. The final financial report of the party does not indicate expenditures on Internet and social media advertising.

The All-Ukrainian Union “Batkivshchyna” posted 76 political ads to Facebook amounting to over USD 72,000. The largest numbers of political ad views were recorded in the city of Kyiv and in Lviv oblast. According to the information provided by Facebook, publication of party’s campaign materials was financed by the “Modern Advertising Solutions” LLC (Suchasni Reklamni Rishennya) and by the “I Vote for Tymoshenko” NGO. In its final financial report, the party indicated only one payment to the “Modern Advertising Solutions” LLC, in the amount of UAH 100,000, under the item 1400 “Other expenses for pre-election campaigning.” There is no information about placing advertisements on social media.

Political party “Servant of the People” spent over USD 47,000 on political advertising on Facebook. The largest numbers of political ad views came from voters from Lviv oblast and the city of Kyiv; the smallest number of views was recorded in Luhansk oblast. In its interim financial report, the party indicated 2 payments for online advertising in the amount of UAH 334,900.

Political party “Opposition Platform – For Life” posted 2,350 political ads to Facebook that cost over USD 47,000. The largest number of campaign materials of the party was published on the page “Бойко – Премьер” / lit. “Boyko is the Prime Minister” (the current name is “Бойко – лидер” / lit. “Boyko is the Leader”, www.facebook.com/Boyko.Leader/). The target audience of party’s political ads were voters aged 35+ residing in southern and eastern regions of Ukraine. There were no party advertisements for Facebook users in Volyn, Lviv, Rivne, Transcarpathian, Chernivtsi, Ternopil, Ivano-Frankivsk, and or Vinnytsia oblasts. The majority of party’s advertisements were financed by the civic movement “Boyko is the Prime Minister”. The final financial report of the party does not state any expenditures on social media or online advertising.

The “Shariy Party” posted 1,607 political ads to Facebook and spent over USD 44,533 for this purpose. The largest number of political ad impressions was produced by voters in the city of Kyiv and in Dnipropetrovsk oblast; the smallest number in Chernivtsi oblast. In its final financial report, the party declared 5 payments for placing campaign materials on the Internet in the amount of UAH 1,993,014, as well as 2 payments for placing campaign materials in social media in the amount of UAH 1 mln.

Political party “Samopomich” posted 199 political ads to Facebook for the amount of over USD 38,000. The largest number of political ad impressions was recorded in the city of Kyiv and in Lviv oblast. According to Facebook Political Ad Library report, the page spent about USD 14,000 for media advertisement paid by the “Your Choice” NGO. In its final financial report, the party declared one payment for online advertising in the amount of UAH 50,000.

Political party “Opposition Bloc” posted 336 campaign materials on Facebook, and paid over USD 36,000. The largest number of political ad views was recorded in Dnipropetrovsk and Kharkiv oblasts; and the smallest number – in Volyn oblast. The final financial report of the party does not declare any payments for social media or online advertising.

The party “Ukrainian Strategy of Groysman” spent over USD 30,000 on posting 103 political ads on Facebook. The largest number of political ad views was generated by voters from the city of Kyiv and from Lviv oblast; the smallest number — by voters from Luhansk and Donetsk oblasts. The final financial report of the party does not declare any payments for online advertising services.

Overall, political parties and leaders of election lists participating in special MP elections spent about 31 million UAH on political ads, while according to final financial reports, the parties total expenditures amounted to as much as over UAH 16 mln. Such discrepancy can be attributed to the fact that final financial reports of the parties state expenditures since the date a certain political force was registered in the CEC, whereas Facebook provides data on expenditures since June 1. However, given the fact that apart from Facebook, political parties used other social media and online resources for campaigning, the actual costs of online advertising are much higher. Therefore, the difference in costs shows yet again that financing of a larger part of online campaigning is not transparent and the funds involved come from sources other than election funds of parties and candidates.

Despite the fact that the Political Ads Library shows the parties that spent their funds on posting their campaigning materials on Facebook, final financial reports of 9 such parties out of 17 in total have not declared any costs on online advertising.

Approximate costs incurred by the candidates in single-member constituency amount to USD 500,000, which is half as much as those of political parties.

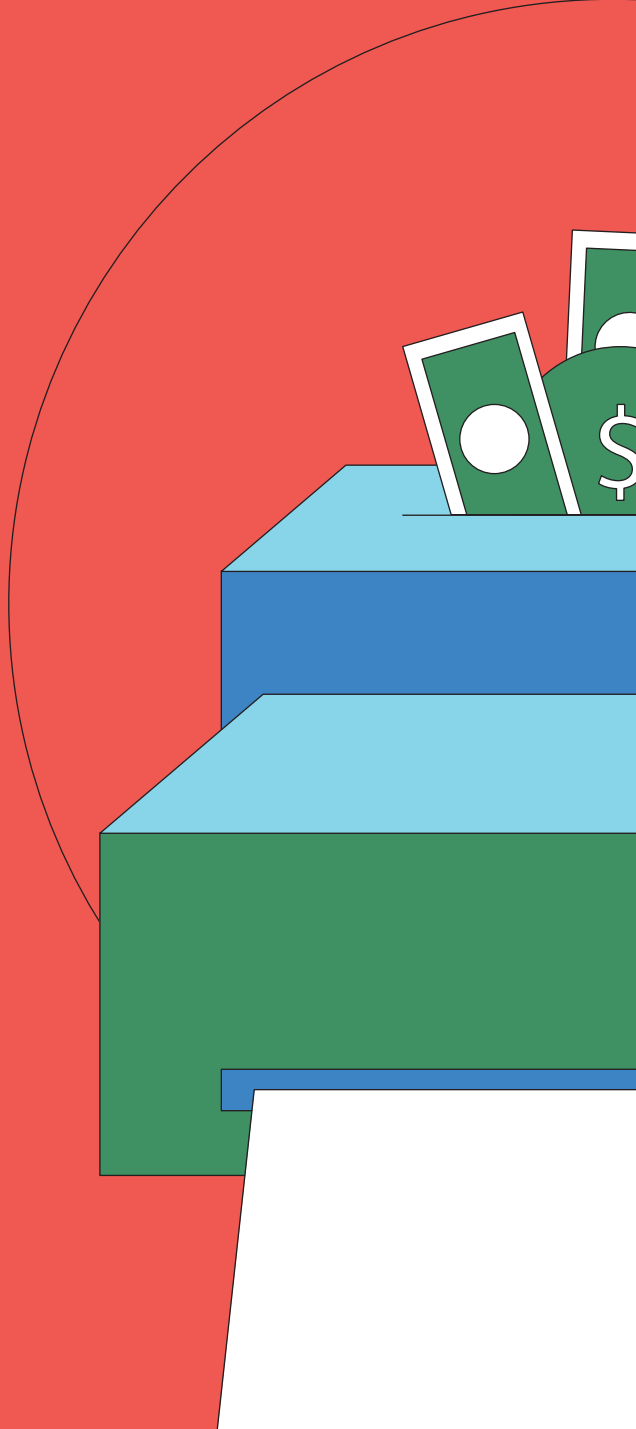
Comparison of expenditures on Facebook political advertising with expenditures on online advertisements indicated in the final financial reports

Party	Number of ads	Provisional costs, UAH	Costs for online ads according to the final financial statements, UAH	Difference, UAH
"Holos"	529	7 740 652	6 168 632	1 572 020
European Solidarity	328	6 716 419	6 499 325	217 094
Power of Law	63	4 361 622	0	4 361 622
All-Ukrainian Union "Batkivshchyna"	78	2 375 121	0	2 375 121
Servant of the People	560	1 774 188	334 900	1 439 288
Shariy Party	1 641	1 653 700	2 993 014	1 339 314
Opposition Platform – For Life	2 398	1 515 898	0	1 515 898
Ukrainian Strategy of Groysman	110	1 163 896	0	1 163 896
"Samopomich" Union	199	969 994	50 000	919 994
Opposition Bloc	325	923 865	0	923 865
Social Justice	734	869 320	105 300	764 020
Agrarian Party	55	234 141	75 000	159 141
Civic Position	119	229 245	119 500	109 745

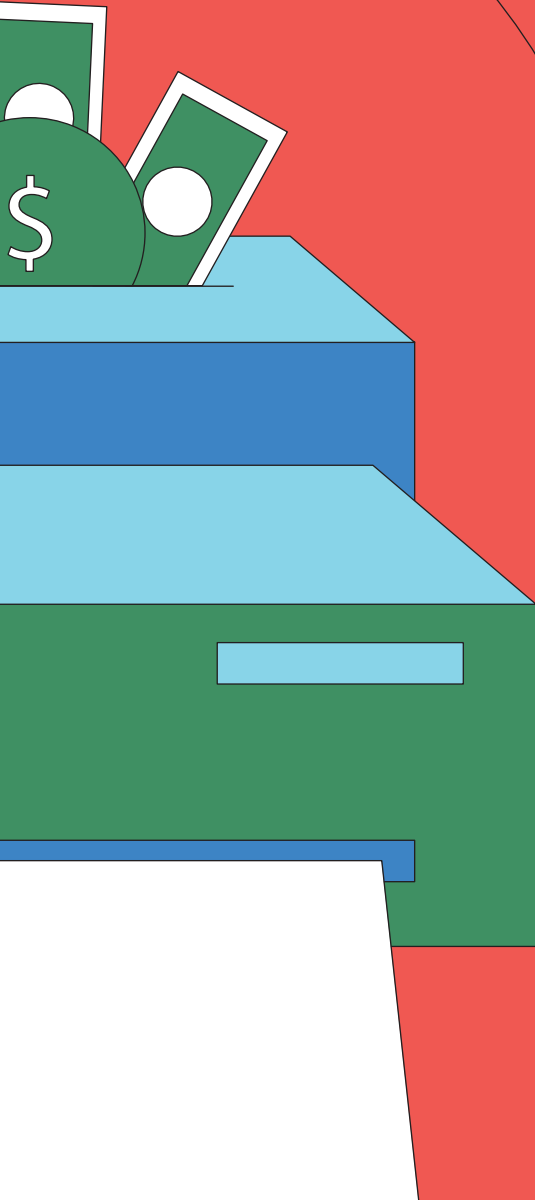
New Forces Movement of Mikheil Saakashvili	24	194 233	0	194 233
Radical Party of Oleh Liashko	17	166 413	0	166 413
“Nezaleshnist”	24	97 614	0	97 614
The “Fakel” All-Ukrainian Union	20	67 294	0	67 294
TOTAL	7 224	31 053 615	16 345 671	14 707 944

OPORA welcomes Facebook initiative to regulate use of political advertising as part of Facebook social responsibility. Nevertheless, we urge Facebook to make all the necessary changes and improve mechanisms for placing and identification of political advertisements to prevent usage of political advertising as a tool for spreading misinformation to voters.

We also hereby note that due to the general trend towards new forms and means of campaigning, legislative mechanisms for control and reporting on the online and social media advertising should be changed, and specific restrictions on prosecution of electoral subjects should be established.



ELECTION CAMPAIGN FINANCING



Ukraine’s election legislation required political parties that acted as electoral subjects and candidates in single-mandate constituencies to open accounts of election funds, to be exclusively used to cover the expenses for election campaigning. Candidates and political parties were not allowed to fund campaigning outside the election fund. Election funds in the parliamentary elections were limited: the fund amount for the party was set at 90,000 minimum wages; for a majority candidate – 4,000 minimum wages. As of the campaign period, the size of the election fund of the political party that nominated the electoral list could not exceed UAH 375.5 mln; for a candidate in a single-member constituency – UAH 16.7 mln.

Electoral funds of political parties could be formed only from the following three sources:

- party own funds;
- voluntary contributions of individuals;
- voluntary donations from legal entities.

Voluntary contributions of individuals and legal entities to the election funds of a political party are limited to the amount of the annual maximum contribution to support the party, which is established by the Law of Ukraine “On Political Parties.” It is the equivalent of 400 minimum wages for individuals, and 800 such amounts for legal entities. The same maximum contributions apply in the case of candidates’ election funds. Contributions from the candidates themselves are not limited.

Election Funds of Political Parties that Act as Electoral Subjects

In the extraordinary elections of people’s deputies of Ukraine, 22 political parties opened accounts of election funds, but not all of them formed them. The “Power of the People” political party did not fill its election fund, although it fulfilled its obligation to open an account.

The total size of the election funds of all political parties that nominated candidates in the national constituency was UAH 910,155,662. Election funds of 5 parliamentary parties (“Servant of the People,” “Opposition Platform – For Life,” “European Solidarity,” AU “Batkivshchyna” and the “Holos”) accounted for 52% of the total funds of all parties that stood for elections.

The largest election fund was formed by the “Servant of the People” party (UAH 114,652, 872); the smallest fund was found for the “Green Party of Ukraine” (slightly above UAH 37,000). Second place went to the “Radical Party of Oleh Liashko” which failed to overcome the election barrier.

Ranking of political parties by the total level of election funds (in descending order), UAH

Servant of the People	114 652 872.82
The Radical Party of Oleh Liashko	111 795 535.64
“Holos”	105 689 000
European Solidarity	99 494 126.81
Ukrainian Strategy of Groysman	90 961 472
Opposition Bloc	90 616 918.19
All-Ukrainian Union “Batkivshchyna”	87 214 297.80
Opposition Platform – For life	65 566 650.29
“Samopomich” Union	28 708 834
“Syla i Chest”	27 018 140
Civic Position	25 678 349.18
AU “Svoboda”	24 083 252.68
Agrarian Party of Ukraine	21 165 456.96
New Forces Movement of Mikheil Saakashvili	6 528 381.56
Shariy Party	4 210 029.50
The “Fakel” AU	2 489 495.62

"Nezalezhnist"	2 320 000
Social Justice	1 112 000
The Power of Law	603 670
Patriot	209 943
The Green Party of Ukraine	37 236.40
Power of the People	0

11 of the 21 election funds were filled exclusively at the expense of political parties ("Servant of the People," "Radical Party of Oleh Liashko," "Holos," "European Solidarity," "Opposition Bloc," "Batkivshchyna," "Opposition Platform – For Life," "Civic Position," AU "Svoboda," "Nezalezhnist," the Green Party of Ukraine). 93% of money of all election funds of the parties were formed at the expense of the parties themselves (UAH 850,892,344).

The lack of voluntary contributions from individuals and legal entities to the election funds of the campaign winners is particularly noteworthy. A possible reason for this is the reluctance of political forces to disclose their sponsors during the election campaign. Donors are shown in the financial reports of parties to the NAPC for the 2nd and 3rd quarters of 2019, the submission deadlines of which went beyond the calendar plan of the election campaign, and cover August and November. On the other hand, the explanation does not negate the need to make it easier for voters to make contributions through online tools.

The structure of sources to fill the election funds of political parties in the 2019 extraordinary elections

Party	Own funds of a political party, UAH	Share, %	Voluntary contributions from individuals, UAH	Share, %	Voluntary contributions from legal entities, UAH	Share, %	General amount of the election fund (UAH)
Servant of the People	114 652 872.82	100	0	0	0	0	114 652 872.82
The Radical Party of Oleh Leshko	111 795 535.64	100	0	0	0	0	111 795 535.64
"Holos"	105 689 000	100	0	0	0	0	105 689 000
European Solidarity	99 494 126.81	100	0	0	0	0	99 494 126.81
Ukrainian Strategy of Groyzman	66 683 400	73.31	17 028 072	18.72	7 250 000	7.97	90 961 472
Opposition Bloc	90 616 918.19	100	0	0	0	0	90 616 918.19
All-Ukrainian Union "Batkivshchyna"	87 214 297.80	100	0	0	0	0	87 214 297.80
Opposition Platform – For Life	65 566 650.29	100	0	0	0	0	65 566 650.29
"Samopomich" Union	28 695 834	99.95	13 000	0.05	0	0	28 708 834
"Syla i Chest"	26 731 000	98.94	287 140	1.06	0	0	27 018 140

Civic Position	25 678 349.18	100	0	0	0	0	0	0	25 678 349.18
AU "Svoboda"	24 083 252.68	100	0	0	0	0	0	0	24 083 252.68
Agrarian Party of Ukraine	92 961.96	0.44	12 419 295	58.68	8 653 200	40.88			21 165 456.96
New Forces Movement of Mikheil Saakashvili	210 000	3.22	6 318 381.56	96.78	0	0			6 528 381.56
Shariy Party	550 000	13.06	3 660 029.50	86.94	0	0			4 210 029.50
The "Fakel" AU	750 295.62	30.14	1 739 200	69.86	0	0			2 489 495.62
"Nezalezhnist"	2 320 000	100	0	0	0	0			2 320 000
Social Justice	0	0	1 112 000	100	0	0			1 112 000
The Power of Law	21 670	3.59	32 000	5.30	550 000	91.11			603 670
Patriot	8 943	4.26	201 000	95.74	0	0			209 943
The Green Party of Ukraine	37 236.40	100	0	0	0	0			37 236.40
Power of the People	0	0	0	0	0	0			0

10 political parties received contributions from individuals to their own election funds, which accounted for 5% of the total level of the election fund of all political parties. The largest amount of such revenues was declared by the party “Ukrainian Strategy of Groysman” (about UAH 17,028,000, or 18.7% of the size of the fund of this political force). Instead, contributions from individuals were significant shares in small election funds (“New Forces Movement of Mikheil Saakashvili” – 96.78%, “Social Justice” – 100%, “Patriot” – 95.74%, “Shariy Party” – 86.94%). Among the parties with the level of election funds over UAH 20 mln, the Agrarian Party of Ukraine had the largest share of contributions from individuals – almost 59%.

Contributions of legal entities to the election funds of political parties were not common at all. It was only the Agrarian Party of Ukraine (UAH 8,653,200), “Ukrainian Strategy of Groysman” (UAH 7,250,000) and the “Power of Law” (UAH 550,000) who showed the revenues from legal entities in their reports. These amounts accounted for 2% of the total size of election funds of political parties.

Thus, 93% of the finances of all parties came from the political parties themselves, the contributions of individuals made up 5%, from legal entities – 2%.

Expenditures from Political Parties Election Funds

The interim and final financial reports of political parties declare the costs for producing campaign materials, for using the media, and for other expenditures for campaigning and services related thereto.

Total expenditures of political parties by areas

Party	Production of election campaign materials, UAH	Share, %	Use of mass media, UAH	Share, %	
Servant of the People	906 724.60	0.79	96 077 323.68	83.81	
The Radical Party of Oleh Liashko	1 571 732.95	1.41	106 867 584.91	95.60	
Holos	5 454 883.18	5.16	79 996 273.80	75.70	
European Solidarity	5 895 886.56	5.93	64 823 378.95	65.15	
Opposition Bloc	5 669 611.77	6.26	71 578 114.87	79.06	
Ukrainian Strategy of Groyzman	6 723 758.59	7.53	70 262 704.41	78.73	
All-Ukrainian Union "Batkivshchyna"	2 729 029.92	3.13	75 284 459.75	86.32	
Opposition Platform – For life	3 594 754	5.96	49 288 114.20	81.73	
"Samopomich"	1 104 655.34	3.85	16 014 602.11	55.78	
"Syla i Chest"	2 824 218.84	10.48	22 347 013.98	82.91	
Civic Position	746 813.78	2.91	18 300 771.40	71.27	
AU "Svoboda"	282 931	1.17	18 157 305.68	75.39	
Agrarian Party of Ukraine	2 225 783	10.57	11 095 296.22	52.67	
New Forces Movement of Mikheil Saakashvili	84 593.77	1.30	3 351 488.68	51.41	
Shariy Party	815 124.95	19.36	201 139.77	4.78	

	Other expenses for campaigning, UAH	Share, %	Other services related to campaigning, UAH	Share, %	Total costs, UAH
	628 893.57	0.55	17 027 330.57	14.85	114 640 272.42
	27 916.24	0.02	3 319 092.94	2.97	111 786 327.04
	6 710 672	6.35	13 507 731.02	12.78	105 669 560
	9 254 977.42	9.30	19 519 883.88	19.62	99 494 126.81
	535 855.61	0.59	12 749 455.94	14.08	90 533 038.19
	1 455 200	1.63	10 807 037.99	12.11	89 248 700.99
	663 513.45	0.76	8 537 294.68	9.79	87 214 297.80
	424 720	0.70	7 001 793.20	11.61	60 309 381.40
	2 956 664.99	10.30	8 632 911.56	30.07	28 708 834
	18 015	0.07	1 763 585.11	6.54	26 952 832.93
	119 500	0.47	6 511 264	25.36	25 678 349.18
	179 300	0.74	5 463 716	22.69	24 083 252.68
	5 292 500	25.12	2 453 877.74	11.65	21 067 456.96
	600	0.01	3 082 953	47.29	6 519 635.45
	3 139 964.78	74.58	53 800	1.28	4 210 029.50

79% of the expenditures of all political parties were related to the use of the media for campaigning, to which they donated almost UAH 704 mln. The indicator testifies to the decisive role of political advertising in the media during election campaigns in Ukraine. 11 out of 21 political parties spent over 60% of their election funds for campaigning in the media. For example, 83.7% of the expenses of the front-runner party “Servant of the People” were related to campaigning in the media, while the printed materials hardly accounted for 1% of all costs. For all that, some parties did not actually campaign in the media at all. The “Shariy Party” allocated as little as 5% to mass media, and was actively campaigning on the Internet, on social networks, and with the help of printed campaign materials.

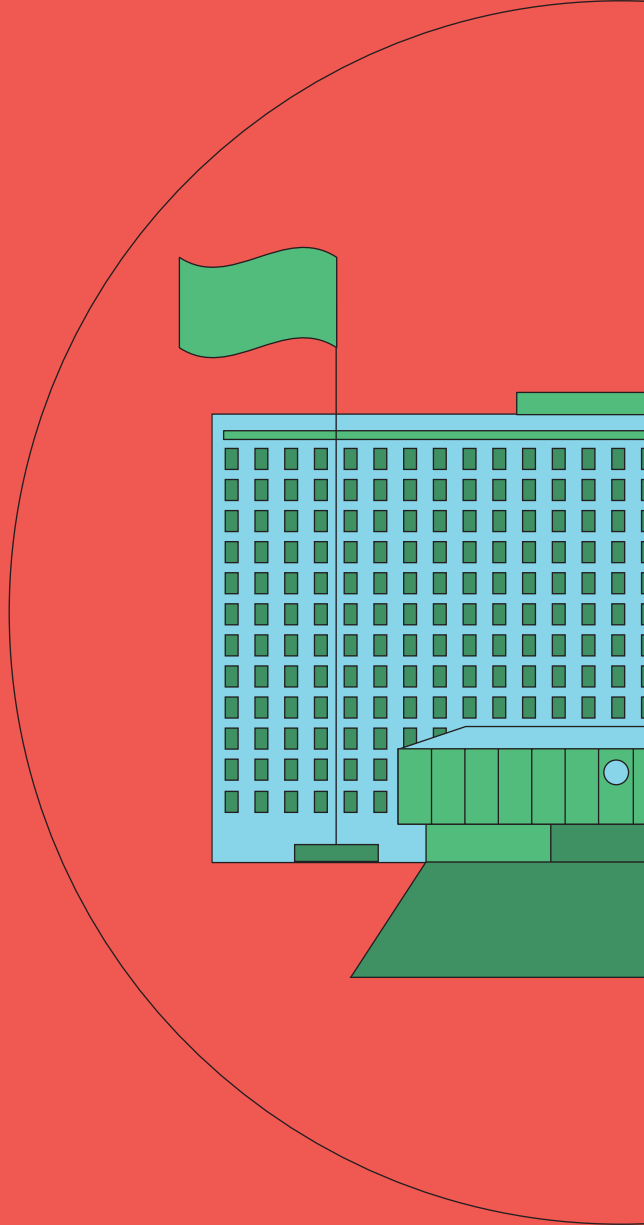
Refund from Election Funds

The legislation of Ukraine provides for a number of grounds for the return of funds from election funds to contributors, and the transfer of funds to the Central Budget of Ukraine.

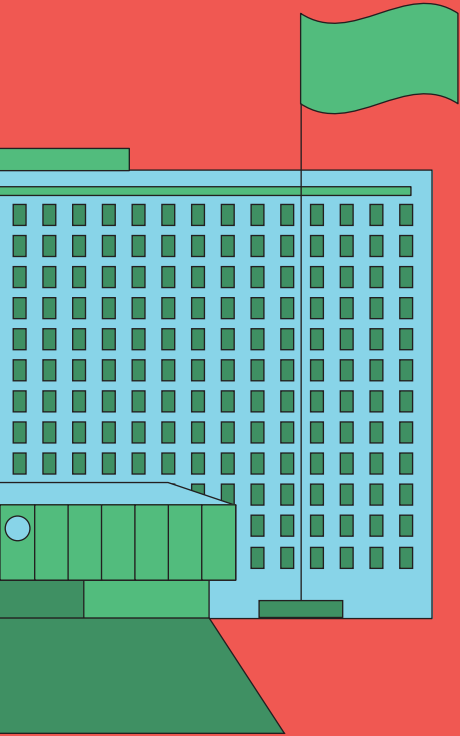
Grounds for refund to individuals, or to crediting the funds to the Central Budget of Ukraine:

- Refund of contributions waived by the account manager.
- Refund of contributions received by the election fund later than one day before the election day.
- Transfer to the Central Budget of Ukraine of contributions from persons who, in accordance with part three of Article 50 of the Law of Ukraine “On Election of People’s Deputies of Ukraine,” are entitled to make the contributions.
- Transfer of contributions to the Central Budget of Ukraine, which amount exceeds the sum specified in part two of Article 50 of the Law of Ukraine “On Election of People’s Deputies of Ukraine”.
- Transfer to the Central Budget of Ukraine of contributions from persons rejected by the account manager, in case they are impossible to return to the respective persons.
- Transfer by the bank to the Central Budget of Ukraine of contributions received to election funds later than one day before the election day, in case they are impossible to return by the bank to the respective persons.

In the extraordinary elections of people's deputies of Ukraine, UAH 1,842,000 was either refunded to sponsors from election funds, or transferred to the Central Budget. 92% of this amount is a refund of contributions to donors administered by the "Ukrainian Strategy of Groysman" party.



ELECTION ADMINISTRATION



CEC Operations

Ukrainian legislation empowers the CEC to organize and hold extraordinary parliamentary elections in Ukraine. The Commission registered candidates for Ukrainian MPs, established 199 DEC, provided for the production of ballot papers, registered observers from foreign countries and international organizations, and granted observation permits to domestic NGOs. The CEC's powers also included analyzing interim and final reports on the electoral funds of political parties that acted as electoral subjects, and issuing warnings to candidates for people's deputies of Ukraine. Because of the gaps in the legal framework, the CEC had to explicate procedures by adopting special resolutions. In a foreign constituency, the Commission also exercised the powers of the DEC.

The 2019 extraordinary parliamentary elections in Ukraine were the second nationwide electoral campaign for the Central Election Commission whose new members were appointed as early as in September 2018. The CEC members had not had sufficient time to prepare the regular presidential and extraordinary parliamentary elections. Furthermore, the legal framework posed serious obstacles to the organization and conduct of the vote.

By and large, OPORA hereby gives a positive assessment to the activities of the higher election administration body during the 2019 extraordinary parliamentary campaign. The CEC's decisions and actions were performed in an overall professional manner, and in compliance with the Ukrainian law. Whilst the overall assessment is positive, OPORA shall point to some negative practices applied by the Commission such as holding working meetings behind closed off to observers, thereby causing a lack of substantive discussion of draft decisions at its public sessions. OPORA has repeatedly drawn attention to the necessity of publicizing draft decisions and agendas prior to sessions as well as giving advance notice of scheduled CEC sessions to the mass media and to electoral subjects. Unfortunately, the conduct of two back-to-back nationwide electoral campaigns thwarted the launch of a sweeping internal reform of the Central Election Commission.

One of the key challenges for the CEC was a conflict between public procurement timeframes and procedures and special features of the rapid electoral process. The Law of Ukraine "On Public Procurement" is not harmonized with the electoral legislation, in particular with respect to deadlines for appealing tendering results, which jeopardized the stability of activities pertaining to the organization and conduct of the vote, including the pro-

duction of ballot papers. Prior to the start of the electoral process, President Volodymyr Zelensky submitted a draft law on making amendments to the Law of Ukraine “On Public Procurement” to facilitate the organization of elections, but the document was never considered due to the confrontation between the head of state and the previous convocation of the Parliament. Since the Verkhovna Rada of Ukraine refused to regulate electoral procurement at the legislative level, the issue was raised to the Government level.

The lengthy and politically controversial discussions at the Government level between the CEC and the Ministry of Economy of Ukraine resulted in a stopgap solution that allowed critical electoral procurement to take place without tendering procedures. It was necessary to resolve the issue of procuring election materials during the extraordinary elections, but the solution was not long-term or comprehensive. In OPORA’s view, the Verkhovna Rada of Ukraine must regulate electoral procurement in a systematic manner, with shorter timeframes for conducting tenders and appealing their results. That being said, a sustainable solution should not bypass the key procurement requirements and transparent tendering procedures. In this context, it should be noted that the CEC did not announce any complex approaches to the fulfillment of legislative requirements to electoral procurement.

Prior to the start of the extraordinary electoral process, the CEC simplified the procedure for temporary change of the voting place without changing one’s electoral address. It was a significant move to ensure equal suffrage for citizens migrating within the country. In a welcome development, citizens, for the first time, were not required to provide any documentary evidence on why they wanted to change their place of voting during the national elections. In the past, only residents of the temporarily occupied territories and internally displaced persons were not required to submit any supporting documents proving their wish to vote outside of their district. OPORA observers also noted the effective organization of the process for temporary change of one’s voting place, which was exercised by 280,922 citizens during the parliamentary elections.

With more stringent legislative guarantees for campaign finance transparency and accountability in place, the CEC was quite active in performing its controlling powers in this regard. The CEC, inter alia, issued warnings to 722 SMC candidates for missing the deadlines for opening their campaign accounts (electoral funds). The Central Election Commission also issued an official warning to the “Power of People” party for failing to do so. Based on the information received from DEC’s, the CEC issued warnings to 299 MP

candidates for failing to meet the deadlines for submitting interim campaign finance reports to district commissions. 260 candidates received warnings for missing the deadlines for submitting final reports. The Commission analyzed interim and final campaign finance reports of electoral contestants, which resulted in some materials being transferred to the National Police of Ukraine. Although the Commission's efforts deserve appreciation, OPORA would like to draw attention to the formal character and actual futility of the analysis of majoritarian candidates' reports conducted by DEC's. The CEC is not equipped with effective tools to conduct such an analysis and exercise control over DEC's on this matter, which weakens the accountability of SMC candidates.

The candidate registration process also appeared to be replete with political conflict and was marked by complex court proceedings. During the electoral process, the CEC adopted 25 resolutions to execute court decisions ordering it to register the party list of the "New Forces Movement of Mikheil Saakashvili," as well as 31 SMC candidates.

Compared to the 2014 parliamentary campaign, the 2019 electoral process was characterized by better established court practices, in particular with regard to the CEC's excessive formalism during candidate registration (for example, concerning data in autobiographies). At the same time, it is worth mentioning the divergent approaches applied by the Sixth Administrative Court of Appeals (a first-instance court for appealing the CEC's decisions) and the Supreme Court of Ukraine to settle electoral disputes. The latter reviewed the decisions of the first-instance court on multiple occasions.

The shortcomings of the candidate registration process were as follows.

- **The CEC website contained an incorrect application template for self-nomination which use resulted in the CEC rejecting the candidate registration.**

Later, the incorrect template was replaced on the CEC website, but the candidate had already been denied registration and had to appeal it to a court.

- **The Sixth Administrative Court of Appeals lacked a uniform approach to considering disputes related to non-compliance with requirements for completing (submitting) an application form and an autobiography.**

In most cases, the court viewed missing data in the autobiography as the absence of the document itself, which resulted in the Supreme Court

overturning its decisions. At the same time, it should be noted that in some cases, in particular related to the submission of inaccurate data by candidates, both the Sixth Administrative Court of Appeals and the Supreme Court of Ukraine based their rulings on the practice of the European Court of Human Rights aimed at eliminating excessive formalism during candidate registration.

- **The legal deadlines for appealing the CEC’s resolutions on candidate registration were in conflict with other election procedures.**

For example, on July 4, 2019, when 5.2 million ballot papers had already been printed, the Sixth Administrative Court of Appeals ruled on the cancellation of the CEC’s resolution not to conduct the redrawing of lots to determine the order of appearance of political parties on the ballots in the proportional system. This decision was later overturned by the Supreme Court, but it could have caused the need to reprint ballot papers.

- **Public authorities and the judiciary lacked a uniform approach to settling disputes with regard to the five-year continuous residency requirement for candidates.**

The most high-profile (from a societal perspective) and confrontational (from the CEC’s viewpoint) cases were related to the denial or cancellation of registration due to non-compliance with the five-year residency requirement (cases of Volodymyr Saldo, Yevhen Yevtukhov, Anatoliy Shariy, Marianna Feldman, Serhiy Katsuba, Andriy Kliuyev, Oleksandr Onyshchenko, Renat Kuzmin, and Oleksandr Kunytskyi). Ukrainian legislation does not set any clear criteria for verifying compliance with the five-year residency requirement (residence qualification), which led to acrimonious political conflicts concerning the registration of some candidates. On the one hand, there were heated debates about the possibility to verify a candidate’s residence on the temporarily occupied territories of the Crimea and Donbas in the process of considering their registration applications. On the other hand, it was difficult for the CEC to ensure a uniform approach to confirming compliance with the constitutional residency requirement due to inefficient legislation and divergent practices applied by the law-enforcement bodies to verify a citizen’s place of residence and information on crossing the state border of Ukraine. For instance, the electoral dispute between the CEC and Oleksandr Kunytskyi, an MP from the “Servant of the People” party, was used by the President of Ukraine to justify his move to dismiss the entire CEC.

Some local courts tried to assume the CEC's powers with regard to verifying and confirming compliance with the residency requirement by MP candidates. For example, the ruling of the Pechersk District Court dated June 21, 2019 in case No 757/31612/19-ц acknowledged Mikheil Saakashvili's continuous and legally grounded residence in Ukraine from February 23, 2014 till June 6, 2019.

- **Lack of a unified approach of courts to efficient protection of citizens' voting rights.**

In some cases, the court ordered the CEC to register candidates based on the effective protection of violated rights, whereas in other cases it ruled to reconsider their applications. For instance, in case No 855/196/19, the Supreme Court of Ukraine ordered the CEC to register the candidate. The Court grounded its decision in the ECHR's judgment in the Gurepka vs Ukraine case stating that, to be effective, a remedy must be independent of any discretionary action by the authorities and must be directly available to those concerned. Therefore, the court had to order the defendant to register the candidate and avoid the reconsideration of the same documents by the CEC. On the contrary, in case No 855/150/19, the Supreme Court of Ukraine stated that an administrative body could not substitute for another executive government agency and assume powers vested in that agency by law.

- **The judiciary applied divergent approaches to considering the possibility of another person paying a financial deposit for the candidate.**

Inconsistent court practices with regard to financial deposit payments by candidates are long-standing in Ukrainian elections. In case No 855/154/19, the Supreme Court of Ukraine stated that the payment of a financial deposit by a person other than the candidate could not be viewed as a correctable mistake or inaccuracy and, consequently, such a candidate had to be denied registration. The same judgment was made by the Court in three other cases. On the contrary, in some cases, when an electoral deposit was paid from the candidate's entrepreneurial account (No 855/159/19) or the deposit payment confirmation document contained the wrong last name (No 855/163/19), courts ruled on the CEC's excessive formalism in denying candidate registration.

The positive outcomes of the judicial practice during the extraordinary parliamentary elections include the formulation of a clear legal position by the Supreme Court of Ukraine with regard to differentiation between "mistakes" and "missing documents required for candidate registration." For example, if

a document contains an omitted letter or word, an inapt or inaccurate term, phrase or sentence, it is not an obstacle for understanding the content of the data therein; if the submitted information intends to ensure compliance with a legislative requirement, such a mistake shall be subject to correction or clarification. On the other hand, if a document is drafted inappropriately, i.e. it does not contain all required and essential data stipulated by law, or it lacks a signature, stamp, and other necessary details, then the document shall be deemed missing.

The results of electoral disputes between the CEC and political parties, as well as candidates, should compel the Ukrainian parliament to refine election procedures pertaining to candidate nomination and registration. The judiciary, in their turn, must strengthen measures aimed at unifying court practices and enhance training for judges on candidate registration or cancellation thereof. In our view, the CEC should also analyze candidate registration disputes. During the elections, the Civil Network OPORA took notice of the fact that on rare occasions CEC members made politically charged statements that sparked conflicts within the higher election administration body, and partially contributed to the decision on the early dismissal of the entire CEC in September 2019.

Formation of DECs

As per the Law of Ukraine “On the Election of People’s Deputies,” the CEC is charged with establishing DECs based on nominations by parties with parliamentary factions and those that contested the last parliamentary elections. These two entities had the right to submit one candidate per DEC. It is noteworthy that nominees from parties with mandates in the current Parliament were included into DECs automatically, while candidates from the parties that had lists competing in the last elections – by drawing lots. The list of entities that are entitled to nominate DEC members during extraordinary parliamentary elections differs from the one during regular election campaigns. During the latter, DEC members are formed by parties with mandates in the current Parliament and those that nominated their candidates in the nationwide constituency at the same elections. During a snap election campaign, on the other hand, parties that act as subjects of the ongoing electoral process do not have the right to nominate DEC members. That list included all the parties that did not have factions in the current Parliament and those that did not contest the 2014 parliamentary elections. For example, parties

with high approval ratings such as “Servant of the People,” “Opposition Platform – For Life,” and the “Holos” were not formally entitled to nominate their representatives to DEC. The law allowed those parties with parliamentary factions that ran for the 2014 extraordinary elections to have two seats in DEC – a mandatory one and a seat filled by drawing lots. Therefore, six parties with mandates in the current Parliament and 29 parties that had lists competing in the 2014 snap parliamentary elections had the legal right to fill seats in all 199 DEC.

All the political parties that had factions in the 8th convocation of the Verkhovna Rada of Ukraine exercised their right to nominate DEC members during the extraordinary parliamentary elections. Almost all of them submitted their candidates to each DEC, with the exception of the “Samopomich” party that nominated members to 184 out of 199 DEC. Of the 29 parties that stood for the 2014 extraordinary elections, 25 parties exercised their right to nominate candidates for DEC membership.

The CEC established 199 DEC with full membership (18 members) on time and in compliance with the current legislation. 59% of DEC members were women, while men made up 41%. According to OPORA, **the following parties contributed the smallest number of women to DEC (in relation to their quotas): “Syla i Chest” (37%), “Right Sector” (42%), and “Svoboda” (42%). The largest number of women was contributed by the “Solidarity of Women of Ukraine” party (70%). OPORA also analyzed the age structure of DEC members. 50% of DEC members during the extraordinary parliamentary elections fell in the 31-50 age group, while 35% of DEC members were aged between 51 and 70.**

The largest representation in DEC was obtained by the following parties: Petro Poroshenko’s Bloc “Solidarity” (309 members), “Radical Party of Oleh Liashko” (307), “People’s Front” (305), “Batkivshchyna” (300), “Opposition Bloc” (290), and “Samopomich” (237). It is explained by the fact that they had the right to one mandatory seat in each DEC, as well as a potential quota based on the results of drawing lots among the nominations of parties that stood in the 2014 parliamentary elections.

Following the lot-drawing results, the largest representation in DEC was obtained by the “Vidrodzhennia” and “5.10” parties (114 each). These political entities had the right to participate in DEC formation only as contestants of the 2014 extraordinary elections, and did not receive a mandatory seat

in these commissions. The smallest number of DEC members through the drawing of lots was received by the “Power of People” party (47 members).

Three out of five political parties that passed the electoral threshold during the snap parliamentary elections did not have official representatives in DEC. “Servant of the People,” “Opposition Platform – For Life,” and “Holos” could not nominate DEC members because they did not have factions in the current Parliament and did not run in the recent parliamentary elections. However, the analysis of DEC compositions conducted by OPORA testifies to the actual representation of these parties in election commissions through the formal quotas of other political parties.

Parties such as the All-Ukrainian Agrarian Union “Zastup”, All-Ukrainian Political Association “Yedyna Rodyna,” “Ukraine of the Future,” and the “Green Party of Ukraine” received most DEC members who represented Volodymyr Zelensky at the presidential election. Petro Poroshenko’s Bloc “Solidarity” received members of commissions who represented Petro Poroshenko, Yuliya Lytvynenko, and Volodymyr Petrov during the presidential election. The largest number of commission members who represented Oleksandr Vilkul and Yuriy Boyko in DEC during the presidential election was delegated to DEC by the “Opposition Bloc” during the parliamentary elections. AU “Batkivshchyna” received DEC members who represented Yuliya Tymoshenko, Mykola Haber, and Andriy Novak at the presidential election. The “Radical Party of Oleh Liashko” received most DEC members who represented Oleh Liashko and Ruslan Ryhovanov²¹.

21 The relevant thematic publication is available at: <https://bit.ly/3b7TsrL>

Nº	Nominating entities	Number of DEC members with party representation	Number of DEC members with two party representatives	Number of DEC members with one party representative	Total number of DEC members nominated by the party
1	BPP "Solidarity"	199	110	89	309
2	Radical Party of Oleh Liashko	199	108	91	307
3	People's Front	199	106	93	305
4	All-Ukrainian Union "Batkivshchyna"	199	101	98	300
5	Opposition Bloc	199	91	108	290
6	"Samopomich" Union	184	53	131	237
	...				
23	Ukraine of the Future	85	0	85	85
24	Liberal Party of Ukraine	82	0	82	82
25	Power of People	47	0	47	47

38% of DEC members during the extraordinary parliamentary elections acted as DEC members at this year's presidential election. The largest number of DEC members represented Volodymyr Zelensky (193 persons) and Petro Poroshenko (182). A significant number of current DEC members represented Yuliya Tymoshenko (95), Andriy Sadovyi (93), Oleh Liashko (90), and Oleksandr Vilkul (79) during the presidential election.

Ukraine’s legal framework does not limit nominations for election commission members during different elections by different political entities. However, potential shadow deals or even “commercial” swaps between real and fictitious electoral subjects perpetuate political corruption and may have an adverse effect on ensuring mutual control between political parties at the level of election administration bodies.

In addition to the non-transparent allocation of DEC representatives between real and “technical” contestants, large-scale replacements of DEC members were traditionally rampant. According to CEC data, 46% of DEC members were replaced during the snap parliamentary elections. Such a high rotation rate makes it impossible to conduct high-quality and timely training of election commission members. Potential solutions to this problem may include introducing mandatory certification of election commission members at the CEC’s Training Center prior to their appointments.

Formation and Operations of PECs

Under the current legislation, the powers of PEC formation in 199 election districts were vested in DECs. PECs whose functions included organizing and conducting polling were formed based on nominations by parties with parliamentary factions, electoral subjects in the nationwide constituency, and majoritarian candidates (in single-mandate districts). These three entities had the right to submit one candidate per PEC. It is noteworthy that nominees from parties with mandates in the current Parliament were included into PECs automatically, while candidates from electoral subjects in the nationwide constituency and majoritarian candidates (in single-mandate districts) were included through the drawing of lots. The aforementioned means that those parties with parliamentary factions that also had their party lists and candidates in single-mandate districts and ran for the elections had the right to claim three seats in each PEC. Therefore, in Ukraine, political parties and candidates hold a monopoly on the formation of election commissions. Public authorities are not represented therein.

OPORA observers identified the following problems related to PEC formation:

- **28 DECs, which accounts for 14%, did not meet legal deadlines for PEC formation.**

The most significant delay in establishing PECs was recorded in SMC No 47 (Donetsk oblast), which was caused by the CEC's decision to dismiss the entire DEC. The higher election administration body ruled that following the DEC's decision to reject all 113 PEC candidates from the "European Solidarity" party because potential PEC members consented in the nomination documents to work in commissions on behalf of the party as an electoral contestant, not of the "European Solidarity" party with a mandate in the current Parliament. The party changed the documents, but the DEC did not heed this move, hence the CEC's decision on the extraordinary termination of its powers.

- **Inclusion of persons who were not eligible to be PEC members or inclusion of the same persons in the submissions of different political parties and candidates.**

According to OPORA, during the parliamentary elections DEC's rejected 3% of the nominations submitted by parties and candidates, which translates into 11,253 persons, due to violations identified in the submissions. DEC's recorded cases of multiple nominations of the same individuals by different political parties.

- **Violations with regard to the lot-drawing procedures to select PEC members.**

OPORA recorded 71 cases of non-compliance with the legislative requirements pertaining to PEC formation.

The violations were as follows:

1. DEC's did not prepare lists of candidates for each PEC in a format of a table before the start of the lot-drawing process (3 cases).
2. Candidates on PEC lists were not arranged in alphabetical order (4).
3. The DEC chair did not announce the maximum possible composition of each PEC and the number of submitted nominations (7).
4. Incorrect number of lots (5).
5. The DEC chair did not announce the composition of each PEC (29).
6. A DEC session was held right after the drawing of lots, and PEC's were formed behind closed doors (23).

According to OPORA, 60% of DEC's drew lots to fill seats in PEC's, while 40% of PEC's did not require the lot-drawing process as the number of nominations did not exceed the required number of PEC members.

Political parties that acted as electoral subjects, majoritarian candidates, and parties with parliamentary factions delegated a total of 426,735 individuals to PECs. 34% of all submissions were made by electoral contestants in the nationwide constituency, 29% – by parties with mandates in the current Parliament, 19% – by party candidates in SMCs, and 18% – by self-nominated candidates.

Quantitative data on PEC membership submissions

Parties in the nationwide constituency	146 621
Submissions by party candidates	82 493
Submissions by self-nominated candidates	75 165
Submissions by parliamentary factions	122 456
Total submissions by nominating entities	426 735
Rejected nominations	11 253
% of rejected nominations	3%

Level of Engagement of Political Parties and Candidates in the PEC Formation Process

Political parties with parliamentary factions, political parties that acted as electoral subjects, and candidates in single-mandate districts had the right to nominate PEC members, but not all of them exercised this right.

None of the political parties with mandates in the 8th convocation of the Verkhovna Rada of Ukraine and the right to one mandatory seat in each PEC submitted candidates to all election commissions at the precinct level. Of all political parties with parliamentary factions, the “Samopomich” party was the least active one in the PEC formation process, and nominated its representatives to as little as 34% of commissions. The “European Solidarity” and the “Batkivshchyna” parties became top performers in the PEC formation process by having submitted nominations to 90% of election commissions.

The “Radical Party of Oleh Liashko” nominated members to 78% of election commissions, “Opposition Bloc” – 63%, and “People’s Front” – 54%. According to OPORA, parties with parliamentary factions submitted a total of over 122,000 nominations for PEC membership within their mandatory quotas.

All parties that acted as electoral subjects in the nationwide constituency, with the exception of the “Shariy Party,” made their submissions at least to one PEC. However, parties exhibited varying levels of activity in establishing lower-level commissions.

Level of Engagement of Electoral Subjects in Submitting Nominations for PEC Membership

Of the six political parties represented in the Verkhovna Rada of Ukraine, the largest number of nominations for PEC membership was submitted by “Batkivshchyna” and “European Solidarity.” They nominated one PEC member to over 90% of all election precincts. This percentage constituted 78% for the “Radical Party of Oleh Liashko,” 63% for the “Opposition Bloc,” and 54% for the “People’s Front.” The “Samopomich” party was the least active one in the PEC formation process, and nominated its representatives only to 34% of PECs. All six parties submitted a total of over 122,000 nominations for PEC membership within their mandatory quotas.

Of the 22 parties that nominated their candidates in the nationwide constituency, it was only “Shariy Party” that did not nominate a single PEC member. Other political forces exercised their right to nominate PEC members at least at a small number of election precincts. However, the number of PEC membership nominations by different parties varied drastically. Whilst the “Servant of the People” party made submissions to 90% of PECs, “Holos” and the “Ukrainian Strategy of Groyzman” delegated their representatives only to selected precincts within very few districts. In fact, the 2019 extraordinary campaign was distinct in that both campaign outsiders and parties with large-scale election campaigns refused to participate in the PEC formation process. Top three performers in terms of the number of submitted nominations, except for the “Servant of the People” party, included “Opposition Platform – For Life” (79% of PECs), AU “Batkivshchyna” (72%), and “European Solidarity” (54%). Other parties nominated a far smaller number of PEC members during the snap parliamentary elections in Ukraine.

Level of engagement of political parties that nominated candidates in the nationwide constituency with regard to PEC formation

Party name	Total	% of PECs with submitted nominations
Servant of the People	26 786	90%
Opposition Platform – For Life	23 676	79%
AU “Batkivshchyna”	21 506	72%
European Solidarity	16 200	54%
AU “Svoboda”	14 268	48%
“Syla i Chest”	9 750	33%
Opposition Bloc	7 643	26%
Radical Party of Oleh Liashko	6 791	23%
Agrarian Party of Ukraine	5 945	20%
Civic Position	4 561	15%

Besides parties with parliamentary factions and electoral contestants in the nationwide constituency, majoritarian candidates also had the right to PEC membership. Nominees of the “Servant of the People” party made by far the largest number of submissions among other majoritarian candidates. Altogether, they nominated members to 84% of PECs. Candidates from other parties were less active in the PEC formation process. Some parties merely did not have any registered candidates in certain districts. It is noteworthy that contenders from the “Servant of the People” party had the opportunity to submit PEC membership nominations in all election districts, which was conditioned by the party’s decision to nominate candidates in all single-mandate districts, without exception.

Level of engagement of candidates in single-mandate districts with regard to PEC formation

Party that nominated SMC candidates	Total	% of election precincts with submitted nominations
Servant of the People	25 034	84%
Opposition Platform – For Life	14 029	47%
AU “Batkivshchyna”	11 829	40%
European Solidarity	6 427	22%
AU “Svoboda”	6 365	21%
All other parties	18 809	–

Representation of Political Parties and Candidates in PECs

Of all political parties with parliamentary factions, AU “Batkivshchyna” had the largest representation in PECs. Its nominees were included in 91% of PECs in all 199 election districts. Other parties with mandates in the current Parliament were represented in these election commissions on a much smaller scale (“European Solidarity” – 87% of PECs, “Radical Party of Oleh Liashko” – 75%, “Opposition Bloc” – 64%, “People’s Front” – 52%, “Samopomich” – 32%). The “People’s Front” party that had a mandate in the 8th convocation of the Parliament did not nominate any PEC members, but obtained representation in half the PECs.

Representation of parties with parliamentary factions in PECs (within mandatory quotas)

Party	Total PEC members	Total executive positions	% of PECs with party representatives
AU "Batkivshchyna"	27 284	6 384	92%
European Solidarity	26 183	6 185	91%
Radical Party of Oleh Liashko	22 385	5 093	78%
Opposition Bloc	18 927	4 218	64%
People's Front	15 722	3 541	54%
"Samopomich" Union	9 334	1 999	32%

Among parties that had their lists competing in the elections, "Servant of the People" had the largest representation in PECs (82%) followed by "Opposition Platform – For Life" (72%), AU "Batkivshchyna" (64%), "European Solidarity" (46%), and AU "Svoboda" (45%).

Representation of political parties that nominated candidates in the nationwide constituency

Parties	Total	% PECs with party representatives
Servant of the People	24 424	82%
Opposition Platform – For Life	21 429	72%
AU "Batkivshchyna"	18 965	64%
European Solidarity	13 674	46%
AU "Svoboda"	13 495	45%
"Syla i Chest"	9 085	31%

Opposition Bloc	5 753	19%
Agrarian Party of Ukraine	5 091	17%
Radical Party of Oleh Liashko	4 976	17%
Other parties	13 624	—

Nominees from such parties as “Servant of the People,” “Opposition Platform – For Life,” AU “Batkivshchyna,” AU “Svoboda,” and “European Solidarity” obtained the largest representation in PECs. Candidates from the “Servant of the People” party were represented in 76% of PECs, while candidates from other parties had a far smaller representation. At the same time, self-nominated candidates filled about 75,000 seats in PECs across the country.

Representation of candidates nominated by political parties in PECs

Parties that nominated SMC candidates	Number of PEC members	% of PECs with party members
Servant of the People	22 668	76%
Opposition Platform – For Life	13 361	45%
AU “Batkivshchyna”	10 941	37%
AU “Svoboda”	5 910	20%
European Solidarity	5 378	18%
Opposition Bloc	3 373	11%
“Holos”	2 136	7%
“Syla i Chest”	2 032	7%
Radical Party of Oleh Liashko	1 868	6%
Other parties	2 776	—

The aforementioned shows that political parties and candidates failed to fully exercise their right to nominate PEC members, which, nonetheless, did not cause any problems for the establishment and functioning of these commissions. PECs included representatives of different political parties and a wide array of majoritarian candidates. Electoral ratings had an impact on the parties' willingness to invest effort and resources into PEC formation. Parties with a higher chance of being elected for the 9th convocation of the Verkhovna Rada of Ukraine were more active in nominating PEC members compared to outsider parties.

The PEC formation process was not marked by copious court appeals. Nonetheless, observers recorded quite complex electoral disputes in some districts. High-profile cases included court appeals against the DEC's decision to reject PEC nominees from the "European Solidarity" party in SMC No 47 and SMC No 50 (Donetsk oblast).

In SMC No 47, the DEC decided to reject the submission of the "European Solidarity" party due to shortcomings in the applications attached therein. By the decision of the Donetsk District Administrative Court dated July 7, 2019, the claim was rejected. However, on July 8, 2019, the CEC revoked the aforementioned DEC's decision and terminated early the powers of the entire district election commission. The First Administrative Court of Appeals satisfied the claims partially and established the fact of a single gross violation of the election legislation by the DEC. The decision was motivated by the fact that on July 4, 2019, the party representative submitted to the DEC corrected applications of individuals agreeing to act as PEC members from the "European Solidarity" political party, but these applications were unlawfully disregarded by the DEC.

In SMC No 50, European Solidarity filed a lawsuit against the DEC's rejection of the party's submission to include 226 representatives as PEC members. The DEC's decision being appealed was motivated by the fact that the nominations were not sealed by the party. The court dismissed the claim because Article 28 of the Law of Ukraine "On Election of the People's Deputies of Ukraine" clearly states that a party's submission shall be signed by the party leader (or a person exercising their powers), and sealed by the party. The absence of a seal, in the court's view, is not a technical error or inaccuracy that can be remedied.

In SMC No 51 (Donetsk oblast), a majoritarian candidate simultaneously appealed against the DEC's decisions and the CEC's inaction on the formation

of quotas for executive positions in precinct election commissions of this district (Donetsk oblast). The Supreme Court's Administrative Cassation Chamber completely dismissed the claims: the claims to the CEC were rejected as ungrounded, while the ones to the DEC were rejected due to the fact that the Sixth Administrative Court of Appeals as a first-instance court violated the above procedural law regulations and decided on the claims that are within the competence of another district administrative court.

Indirectly related to the PEC formation process was an electoral dispute over DEC's Resolution No 193 (Khmelnyskyi oblast) establishing that the commission secretary had not performed her duties. The DEC adopted this decision because the secretary (at the request of AU "Svoboda") committed inaction, which almost led to the violation of the procedure and PEC formation deadlines in single-mandate district No 193. The court upheld the party's claim, revoked the resolution in question and stated that the court had not been provided with any document that would record a violation of the applicable law. Moreover, the decision was transferred to the system administrator within the timeframe required to create its electronic version by scanning, in accordance with the CEC's regulations and procedures.

The main powers of PECs included organizing and conducting polling as well as counting votes at polling stations. OPORA observers performing parallel vote tabulation identified key issues in the activities of PEC members during the voting process. They were most concerned about attempts by PEC members to issue ballots without voters presenting proper IDs or voter attempts to vote in place of others. Such incidents were observed in different regions of Ukraine at 10.1% of polling stations, and they dominated the statistics for offenses recorded by the Civil Network OPORA²². In Ukraine, politicians often justify the illegal practice of issuing ballots to voters without proper documents by housekeeping reasons. But it certainly creates ample opportunity for electoral fraud in favor of specific candidates or parties. By the way, the results of criminal investigations during these and previous elections testify to the vested interest of some entities in the illegal issuance of ballots. OPORA insists on ensuring the inescapable punishment for the illegal issuance and receipt of ballots, which should be coupled with a full-fledged awareness raising campaign among citizens regarding liability for such violations.

22 For more details, see this report's chapter "The Course of Election Day and the Vote Count"; p. 147

Observers noted the prevalence of non-compliance with legal requirements for the polling station premises. These violations did not affect the democratic nature of the voting process, but they demonstrate the importance of stepping up government efforts to improve electoral logistics and supplies.

Violations by PEC members were quite prevalent in the process of transporting election documentation to DEC, and while drawing up corrected vote count protocols at polling stations. For example, PEC members in a number of constituencies were on or near the DEC premises with the commission's seal, which is deemed to be a violation of the legal procedure. It allowed for uncontrolled changes in the vote count protocols outside of PEC meetings. According to the Law of Ukraine "On Election of the People's Deputies of Ukraine," PECs, as delegated by the DEC, must amend the established voting results at the polling station in order to eliminate corrections, errors, and inaccuracies. However, such changes are possible only providing there is no need to recount votes. Should such a need occur, the recount of votes shall be conducted by the DEC, not the PEC.

If it is necessary to amend the PEC's protocol without vote recount, PEC members are required to hold a new meeting and draw up a protocol marked as "Corrected."

OPORA observers identified at least 60 cases of purportedly illegal production of corrected PEC protocols. Some PEC members, independently and without returning to the commission's premises for an official meeting, corrected vote count protocols at the polling station. The highest number of such cases was recorded by observers in Cherkasy, Zhytomyr, and Lviv oblasts.

Despite the fact that observers have no grounds to claim that the voting results were actually distorted, the practice of illegally correcting protocols is a criminal offense. This offense is not only about formal non-compliance with the election procedure, but it also creates ample opportunity for the direct distortion of the citizens' will. The seriousness of the problem is evidenced by the results of criminal investigations by the National Police of Ukraine²³.

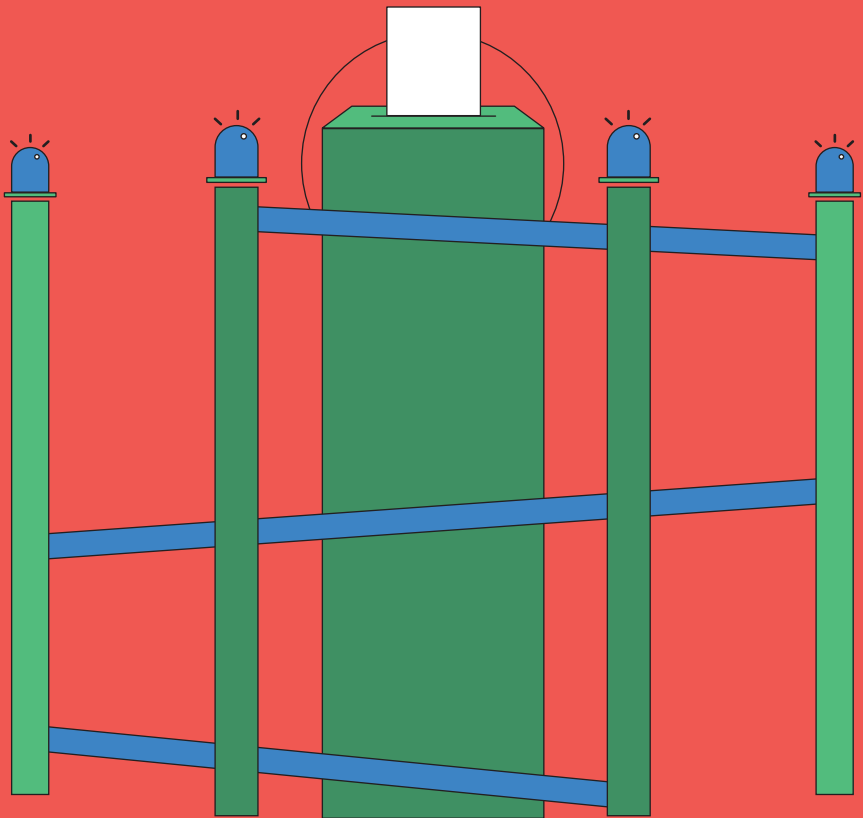
It is obvious that the illegal correction of the vote count protocols is impossible without the unlawful use of the PEC's seal. The election law explicitly

23 For more details, see this report's chapter on "Law Enforcement Response Agencies to Electoral Fraud"; p. 119

prohibits PECs from transporting the commission's seal to DEC meetings after the vote count has been completed and the relevant protocol has been drawn up. The presence of the PEC's seal during the transfer of documents to the DEC creates opportunities for tampering with voting results. OPORA observers directly recorded 26 cases of the illegal storage of seals by commission members in charge of transporting election documentation from the polling station to the DEC.

During the election process, OPORA called on the National Police of Ukraine to respond relentlessly to violations by PEC members in order to prevent the falsification of voting results. Along with ensuring a proper response by law enforcement agencies, the state should simplify election procedures and significantly improve the logistics of transferring documents from PECs to DEC. The need for these logistical and procedural improvements should not be used as a public excuse for the illegal actions of individual PEC members.

VIOLATIONS OF LEGISLATION: OPORA ASSESSMENT AND RESULTS OF ACTIVITIES OF LAW ENFORCEMENT AUTHORITIES



According to OPORA, illegal campaigning remains the most common problem in Ukraine's election process. Cases of candidates ignoring the requirements of the law during the campaign were not uncommon for the last presidential election, while during the parliamentary elections under the parallel electoral system, they were systemic in nature.

Candidates for the people's deputies of Ukraine often ignored the requirements of the legislation regarding the proper labeling of election campaign materials, the opening of election fund accounts, or restrictions on locations permitted for campaigning. Some of the recorded cases of illegal campaigning were certainly mundane, such as the placement of campaigning materials in locations not permitted by the law of Ukraine. But the extraordinary campaign once again demonstrated the powerful impact of non-transparent election finances on the election campaign. OPORA observers not only recorded massive early campaigning, but also found widespread propaganda whose sources of funding were unclear. According to OPORA, the Verkhovna Rada of Ukraine shall make every effort to ensure legislative transparency and accountability of election finance. Particular attention should be paid to preventing illegal financing of election campaigns on social media, which is becoming increasingly important in Ukraine.

A significant problem of the electoral process remains the technology of material incentives offered to voters, which was widely used in the extraordinary elections. The practices were mostly used by self-nominated candidates who were not restricted in their actions and could not affect the image of a political party. Candidates for the deputy mandate actively distributed free goods and services to voters, organizations and institutions, taking advantage of gaps in the legislation or implementing the technologies through third parties.

The impact of abuses of administrative resources in the elections of people's deputies of Ukraine was much less important than in the previous presidential elections. The only centralized problem was the lack of a clear demarcation between the current job and election activities of the Prime Minister of Ukraine Volodymyr Groysman and a number of Ukrainian ministers who were the leaders of the party's electoral list of the "Ukrainian Strategy of Groysman." At the level of single-member constituencies, the situation with the authorities' compliance with the principle of political involvement was worse. In the constituencies, OPORA observers identified three main problems: the involvement of local officials in candidates' campaigning; posting campaign calls on official websites and pages of local authorities in social media; use of state subventions by candidates for their own PR.

OPORA notes that cases of obstruction of the lawful activities of official observers, journalists and candidates have not received any proper legal assessment. As little as one verdict was handed down in the proceedings for damaging the candidate’s campaign materials, while dozens of other cases when electoral subjects counteracted each other did not reach the court. The ability to observe elections or campaign freely and without fear for one’s own safety is an integral part of the standards of democratic elections, which must be observed in Ukraine without exception.

Official OPORA observers identified and verified 2,459 violations of election law in the extraordinary elections of people’s deputies of Ukraine.

Cases of illegal campaigning in favor of candidates and political parties were the most common type of violation of the election law in the extraordinary elections of people’s deputies of Ukraine (**1,989 violations or 81%**).

The number and structure of violations of electoral law identified by OPORA observers

Type of violation:	Number of violations	% of total
Illegal campaigning	1 989	81%
Material incentives and voter bribery	232	9%
Violations by election commissions	138	6%
Misuse of administrative resources	49	2%
Criminal interference in the election process	22	1%
Illegal influence on voting results	16	1%
Obstruction to journalists and observers	12	0%
Violations related to voter lists	1	0%
Total	2 459	—

Illegal Campaigning

1,309 out of 1,989 (66%) detected cases of illegal campaigning concerned the distribution of printed materials of the election campaign in violation of the Law of Ukraine “On Elections of People’s Deputies of Ukraine.” According to the law, each printed material of the election campaign must contain information about its customer, the institution that carried out the printing, or an indication that the printing was carried out using party-owned equipment, its circulation, information about the persons in charge of the issue. The availability of such information allows to control the legality of financing the printed materials of the candidates’ election campaign. Instead, their absence may indicate to the use of illegal election funds during the campaign.

The second place in the structure of illegal campaigning belongs to cases of locating campaigning materials in places prohibited by law (**289 out of 1,989 cases, or 15%**).

The legislation of Ukraine prohibits the placement of election campaign materials in the premises and buildings of public authorities and local governments, enterprises, institutions and organizations of state and communal ownership. In addition, the dissemination of such materials during official events of authorities at all levels, state and municipal enterprises, institutions and organizations is not allowed. In these elections, the same as during other campaigns, a number of restrictions were applied to the placement of campaign materials on public transport, at railway stations and bus stations.

Illegal campaigning in the context of other violations

Subtypes of illegal campaigning	Number of violations	% of violations
Dissemination of printed propaganda in breach of law	1 309	66%
Locating campaigning materials in places prohibited by law	289	15%
Carrying out of campaigning actions before opening of election funds	109	5%
Dissemination of campaigning in the media, with violations	81	4%

Black PR and illegal slogans	60	3%
Campaigning at a time prohibited by law	53	3%
Other	88	4%
Total	1989	100%

5% of the total scope of illegal campaigning, or **109** cases, involved campaigning before the opening of election funds. These are the cases when observers revealed facts of campaigning by candidates or political parties before opening or without opening the accounts of their election funds. Detected incidents include both the signs of “early” campaigning of unregistered candidates, and the illegal campaigning of candidates with official statuses. Other subtypes of illegal campaigning accounted for less than 5% of the total number of relevant incidents.

OPORA observers recorded 81 cases when the media failed to comply with the law during the election campaign. In particular, covert political advertisements and cases with signs of public opinion polls were revealed in the media. The 60 cases studied by OPORA observers concerned the dissemination of the knowingly false information about candidates (the so-called “black PR”), and untruthful reports to voters about the method of voting or provisions of competitors’ election agendas. Traditionally, the regions did not fully comply with the law on the completion of campaigning after 24:00 on the last Friday before election day (53 cases, most of which concerned non-compliance with the requirements for dismantling of campaign materials or carriers).

Material Incentives to Voters. Cases with Signs of Voter Bribery

Incidents of illegal campaigning and incidents of bribery or incentivization of voters are a key issue in the extraordinary campaign. During the election process, OPORA observers recorded 232 cases with signs of voter bribery (9% of the total number of violations detected).

Self-nominated candidates were the most frequent users of material incentive technologies. Candidates for parliamentary seats from political parties

mostly avoided such approaches to the election campaign. These tendencies have once again intensified the discussion in Ukraine about the need to abandon the parallel electoral system, which provides for the election of half of the parliament in single-member constituencies. In relatively small constituencies, voter bribery can be extremely effective, since the winner of election is established by a simple majority. Due to the adoption of the Electoral Code by the Verkhovna Rada of Ukraine, the next parliamentary elections will no longer be held in single-member constituencies. Instead, it will be held on the basis of a proportional electoral system with voting for open lists in regional constituencies.

Key forms of material incentives for voters

Subtypes of illegal campaigning	Number of violations
Provision of goods and services (indirect bribery)	162
Use of charitable foundations	42
Use of local social programs for electoral interests	21
Direct bribery (money in exchange for a vote)	7
Total, cases	232

Despite the legal ban on campaigning by providing voters, institutions and organizations with goods and services, candidates for people’s deputies of Ukraine actively resorted to indirect voter bribery (162 cases). Pursuant to the Law of Ukraine “On Elections of the People’s Deputies of Ukraine,” the election campaigning, or handing out money, or goods, services, works, securities, loans, lottery tickets, other tangible assets, either free of charge, or on preferential terms, to voters, establishments, institutions, or organizations, along with appeals or proposals to vote or not to vote for a particular party or a candidate for people’s deputies, or along with mentioning the name of a party or an MP candidate, shall be deemed as indirect bribing of voters.

Food kits for socially vulnerable groups and charitable actions to support them, free medical examinations, blood and medical tests, entertainment

lotteries and tourist trips for voters were still the most popular methods undertaken by the candidates. The practice of treating voters with ready meals and alcohol during street events and “festivals” specially organized by candidates was widespread. Candidates also provided free building materials to voters in disaster-stricken regions. No less popular was the practice of assistance to social infrastructure institutions and facilities provided by candidates or affiliated business entities.

According to OPORA estimates, law enforcement agencies responded appropriately to observers’ reports on facts of voter bribery. However, according to the results of the investigation of violations in the extraordinary elections, it can be stated that the principle of inescapable punishment in Ukraine is unsatisfactory.

42 cases concerned the activities of charitable foundations in favor of candidates for people’s deputies of Ukraine. These funds operated in different regions in favor of a wide range of candidates, eliminating legal restrictions on direct and indirect voter bribery. Candidates generally did not have a formal connection with charitable foundations that provided goods and services to citizens, and therefore avoided legal liability for the technology of election-related charity.

Local social programs for vulnerable groups of the population became a kind of tool for material incentives offered to voters (21 cases were detected). Specifically, it is about candidates using the measures for implementing budgetary programs in their own electoral interests. Information coverage of candidates’ participation in such events gave voters a false impression that they were receiving a service or financial assistance from an electoral contestant, rather than from a local government body. The use of budget programs during elections is not a mere technology of material incentives for voters. It also shows signs of abuse of administrative resources.

During the election process, OPORA observers recorded 7 cases involving voter bribery. The cases were usually based on reports from electoral subjects about possible facts of voter bribery, and required a full-fledged investigation by law enforcement agencies. One of the recorded cases concerned the holding of a contest with a monetary reward by a candidate for people’s deputies of Ukraine. Observations show that voter bribery was not a mass-scale technology, but there are still no effective guarantees in Ukraine to prevent the illegal practices.

Electoral “charity,” direct and indirect voter bribery have long been challenging the democratic process in Ukraine. The duration and replication of illegal technologies is proof for the need to significantly strengthen the legal guarantees of compliance with the principle of inescapable punishment for electoral fraud. Since April 2018, the Verkhovna Rada of Ukraine has hel a draft law No 8270. There, much attention has been allocated to strengthening the responsibility for voter bribery and improving the provisions of the Criminal Code and the Code of Administrative Offenses. Although the draft law had a governmental status, it was never considered by the parliament of the 8th convocation. Unfortunately, the people’s deputies of Ukraine withdrew from the timely improvement of legislation, and by inaction contributed to the exercise of illegal technologies. OPORA repeatedly calls on the Verkhovna Rada of Ukraine of the 9th convocation to comprehensively legislate the principle of inescapable punishment for electoral fraud, taking into account the achievements of the draft law No 8270 (registration number from the previous convocation).

Violations Committed by Election Commissions

Non-compliance of election commissions with the law is the third most common violation recorded by OPORA observers (138 cases, or 6% of the total scope). The key problems in the activities of DEC and PEC in the extraordinary elections of people’s deputies of Ukraine were violations of the requirements for election commission meetings and their office work, evasion of election commission members from exercising their powers, without due grounds (especially after the formation of commissions). The process of forming PECs, which belongs to the powers of DEC, was accompanied by significant difficulties. The shortcomings of this process highlighted the need to strengthen training activities for TEC members, as well as to simplify the relevant procedures.

Unlawful Influence on the Voting Results

Civil Network OPORA recorded a number of violations by election commissions, which show signs of attempted unlawful influence on voting results (16 cases). These cases include attempts to illegally complete the vote count

protocol at the polling station, or to correct it in violation of legal procedures, as well as illegal attempts by PEC members to issue ballots to persons who were not entitled to receive them. According to OPORA's monitoring, the largest number of verdicts were handed down by Ukrainian courts against PEC members who committed offenses during the drafting of vote count protocols and illegal issuance of ballots.

Abuse of Administrative Resources. Manipulation with Subventions for Election Purposes

The key signs of abuse of administrative resources were the involvement of local government officials in campaigns in favor of candidates (31 out of 49 cases), as well as campaigning in the municipal media and on the official websites of local authorities (18 cases). A number of city, village, township mayors, and other local government officials directly campaigned for specific candidates. In some cases, local governments even tried to "formalize" public interaction with candidates. For example, during the election, a cooperation agreement was signed between the self-nominated candidate Andriy Ivanchuk in the SMC No 88 and the mayor on behalf of the Kolomyia community (Ivano-Frankivsk region).

Despite the lack of a political party that would monopolize the vertical power hierarchy in the country, OPORA notes the lack of a clear distinction between the current activities of the Government of Volodymyr Groysman, the leader of the "Ukrainian Strategy of Groysman" party's electoral list, and his electoral activity. This fact convincingly demonstrates the need for legal and political standards of government work during election campaigns.

In Ukraine, the misuse of administrative resources for electoral purposes is manifested not only through activities that are directly contrary to the law, but also through the usual practices of electoral actors and officials caused by the lack of established norms and ethical standards, which has devastating consequences for competitive elections.

One such practice, which showed itself in the extraordinary elections to the Verkhovna Rada of Ukraine, is the use by deputies of subventions for socio-economic development of territories and other budget resources (sub-

ventions for road repairs, funds of the State Fund for Regional Development, local budget programs) for their own election purposes. In particular, in the period from June, 2018 to July, 2019, OPORA observers recorded 2,724 cases of PR fed on budget resources by 147 deputies who were elected in the majority constituencies, and 27 cases for deputies elected under party lists. During the two-month election campaign, OPORA observers found almost 600 cases of PR fed on budget resources by MPs who wanted to run for parliament for the second term of office.

According to the Ukraine law and the by-laws, a subvention is a form of financial assistance to local budgets from the Central budget, which is intended for a specific purpose(s). Each such monetary aid is included in the Central Budget of Ukraine, but the amount and the list of government subventions can be changed from year to year.

Subventions can be different, such as medical, educational, for the establishment of infrastructure in amalgamated hromadas, etc. However, OPORA observers were interested in the subvention for socio-economic development. In particular, due to non-transparent mechanisms of its distribution and due to the fact that MPs began to actively use it for their own campaign and media purposes long before the official start of the election campaign.

In 2016-2018, the Cabinet of Ministers of Ukraine distributed almost **UAH 12 billion** of subventions for socio-economic development. Almost **UAH 3 billion** was distributed in 2019. In total, it is about **UAH 15 billion**.

The lack of clear criteria for selecting the objects to be financed contributes to the dispersion of finances between areas of dubious priority, which makes it impossible to achieve a long-term effect from subventions. In particular, we are talking about the purchase of mirrors, printers, laptops, furniture, bicycles, stage costumes, kitchen equipment, tennis tables, and sports grounds, etc. At the same time, the problem is not so much that funds are spent on small objects, but that MPs use budget funds for election campaigns. In fact, they plan to re-elect themselves to parliament at the expense of these funds.

Over the entire campaign period, OPORA observers recorded 593 cases of budget-based PR undertaken by candidates and political parties. Most often, in 69.6% (413 cases), the use of budget resources for campaign purposes was related to subventions for socio-economic development. In 21 cases, MPs used the State Fund for Regional Development (3.5%) for their own PR, in

other 28 cases, it was the subvention for road repairs (4.7%). In 131 cases they fed on other budget resources (22.2%).

Indirect campaigning in social networks and the media with the probable use of budget resources. This type of activity usually manifests itself in several forms. Firstly, people's deputies and/or their team members post on their pages in social media certain information on the budget money attracted with support of the MP to implement a project. Secondly, these are the reports in mass media where they focus on the fact that the money was engaged for a certain infrastructure facility with the assistance of an MP. Thirdly, these are the so called "thank you letters" usually posted on websites of local web-resources from the grateful voters or employees of public and municipal institutions. They express their gratitude for the money that was allocated owing to the MP. This form of PR was used in 60% of cases.

Indirect campaigning during public events, including also events organized by the authorities. Such activities are usually related to participation in the unveiling of newly-constructed or reconstructed infrastructure facilities (schools, nurseries, playgrounds, sports facilities, rural health posts, etc.), transfer of procured equipment or hardware (furniture, multimedia and computer equipment, music equipment, etc.) or inspection of the works done. This form of PR was used in 30% of cases.

Campaigning in the form of outdoor advertising and reports on the work of deputies. This activity took several forms: deputies stated how much budget resources they had attracted to the constituency during their public reports; they mentioned this information in their printed reports; published these reports in the local media, and also posted information about the funds raised in their district on the outdoor advertising media and in their printed campaign materials. This form of PR was used in 10% of cases.

Following the election results, there were 33 deputies re-elected to the Verkhovna Rada of Ukraine who used budget resources for their own media and campaigning purposes. Among the people's deputies who used them the most during the election campaign, only five of the top 12 managed to be re-elected to the Verkhovna Rada for the second term. They are **Anton Yatsenko** (34 cases, won in constituency No 200), **Serhiy Rudyk** (27 cases, constituency No 198), **Ihor Huz** (24 cases, constituency No 19), **Mykhaylo Bondar** (16 cases, constituency No 119); **Iryna Konstankevich** (13 cases, constituency No 23).

Other deputies from the top twelve who used budget resources could not replicate the success of their colleagues. Their results are as follows:

1. **Oleh Barna** (44 cases). He ran for the “European Solidarity” party in constituency No 167 in Ternopil oblast. As a result, he took 5th place in the district. The winner in the constituency was the representative of the “Servant of the People” party.
2. **Oleksandr Dekhtyarchuk** (20 cases). He ran as a self-nominated candidate in constituency No 154 in the Rivne oblast. He took 2nd place. He lost to the “Servant of the People” party member.
3. **Vladyslav Holub** (17 cases). He ran by self-nomination in the constituency No 197. He took 2nd place. He lost to the candidate from the “Servant of the People” party.
4. **Ihor Kononenko** (17 cases). He ran as a self-nominated candidate in the constituency No 94. He took 2nd place. He lost to the candidate from the “Servant of the People” party.
5. **Yuriy Vozniuk** (17 cases). He ran as a self-nominated candidate in the constituency No 153. As a result, he took 2nd place. He lost to the candidate from the “Servant of the People” party.
6. **Hennadiy Bobov** (13 cases). He ran as a self-nominated candidate in the constituency No 196. He lost to the “Servant of the People” party.
7. **Bohdan Dubnevych** (12 cases). He ran as a self-nominated candidate in the constituency No 118. He took 2nd place. He lost to the “Holos” party member.

In the context of democratic elections, the use of budget resources for campaign purposes of candidates and parties is a negative practice. In particular, it is due to the fact that the use of budget funds for indirect early campaigning is one of the forms of budgetary administrative resource, which largely undermines the competitiveness of elections.

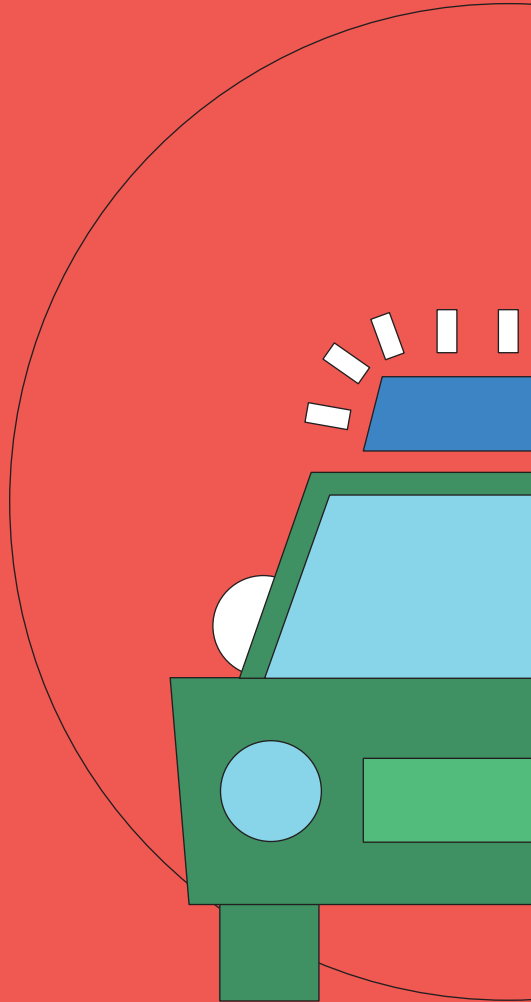
OPORA hereby reiterates the opinion that the process of distribution of subventions for socio-economic development of individual territories should be transparent and uniform. The government should establish clear mechanisms and criteria for where to allocate budget funds in the first place; introduce competitive selection procedures for projects that are planned to be financed by state subventions; provide publication in the format of open data of its orders on the distribution of subvention funds for socio-economic development, and strengthen control over the use of budget funds. All

these factors added, it will make the process of their distribution impartial and politically neutral. Therefore, OPORA will re-send detailed recommendations to the Cabinet of Ministers of Ukraine on how to improve the process of distribution of subventions. OPORA sent similar recommendations in December 2018, but they were virtually ignored.

Criminal Interference With the Election Process

Civil Network OPORA closely monitored violent incidents during elections, cases of obstruction of candidates and parties, and the effectiveness of law enforcement response. During the extraordinary elections of people's deputies of Ukraine in 2019, OPORA observers recorded 22 incidents that included violent opposition to the work of campaigners and deliberate damage to campaign materials and outdoor advertising media.

On a separate note, OPORA recorded facts of obstruction of the lawful activities of official observers and journalists (12 cases, including illegal opposition to the organization's observers). At the time of publication of this report, the courts of Ukraine had not passed any sentences for illegal opposition to official observers and journalists.



LAW ENFORCEMENT RESPONSE AGENCIES TO ELECTORAL FRAUD



According to OPORA, territorial subdivisions of the National Police of Ukraine initiated 433 criminal proceedings under Articles 157 – 160 of the Criminal Code in the extraordinary elections of people’s deputies of Ukraine. The National Police of Ukraine also received 9,847 complaints about possible offenses related to the election process. Officers of the National Police of Ukraine drew up 1,311 reports on administrative offenses under election articles of the Code of Administrative Offenses during the election process.

The leading regions in terms of the number of criminal proceedings include Kyiv oblast (53), Kyiv city (50), Chernihiv oblast (47); by the number of drawn up protocols on administrative offenses – Kyiv city (138), Dnipropetrovsk (133) and Kyiv oblasts (111); by the number of appeals to the National Police of Ukraine – Dnipropetrovsk (921), Odessa (748) and Donetsk (700) oblasts.

Activities of the National Police of Ukraine in Ukraine’s extraordinary parliamentary elections

Region	Request	Criminal proceedings	Administrative protocols
Vinnitsia Oblast	330	12	17
Volyn Oblast	194	1	25
Dnipropetrovsk Oblast	921	19	133
Donetsk Oblast	700	26	45
Zhytomyr Oblast	190	15	31
Transcarpathia Oblast	296	11	36
Zaporizhia Oblast	612	17	87
Ivano-Frankivsk Oblast	152	5	89
Kyiv Oblast	583	53	111
Kirovohrad Oblast	321	14	32
Luhansk Oblast	501	25	31

Lviv Oblast	317	11	45
Mykolaiv Oblast	302	1	60
Odesa Oblast	748	35	85
Poltava Oblast	463	14	34
Rivne Oblast	235	4	46
Sumy Oblast	316	9	17
Ternopil Oblast	173	0	56
Kharkiv Oblast	409	31	27
Kherson Oblast	357	8	59
Khmelnyskyi Oblast	68	1	13
Cherkasy Oblast	419	13	10
Chernivtsi Oblast	148	11	63
Chernihiv Oblast	527	47	21
Kyiv	565	50	138
Total amount	9 847	433	1 311

Following the election, OPORA has been traditionally monitoring the effectiveness of criminal investigations into crimes against citizens' voting rights. As of January 2020, according to the Unified State Register of Judgments, the courts have adjudged 48 convictions.

The number of criminal proceedings in Ukraine's 2019 extraordinary parliamentary elections

Article of the Criminal Code	Number of sentences
Article 158. Falsification of election documentation	28
Article 158-1. Illegal use of the ballot, voting more than once	16
Article 158-2. Illegal destruction of election documents	2
Article 160. Voter bribery	1
Article 157. Obstruction of the right to vote, to the actions of an official observer	1
Collectively Article 158-2. Destruction of election documentation and Article 158-1. Illegal use of election documentation	1

Falsification of Election Documentation

28 out of 48 convictions concern falsification of election documents (Article 158 of the Criminal Code of Ukraine). These are cases concerning the signing of the vote count protocol at the polling station before its completion, or drawing up or signing it outside the meeting of the election commission. The incidents brought to court took place at 8 polling stations in different regions of Ukraine. No guilty person was sentenced to imprisonment or restriction of liberty. In most cases, plea agreements were entered into with the prosecutor, and a fine imposed. As little as 4 cases only were sentenced to imprisonment, in three of which the court decided to deprive offenders of the right to hold certain positions. All convicts were released on probation for a term of 1 to 3 years.

Illegal Use of the Ballot

16 sentences were handed down by the courts of Ukraine under Article 158-1 of the Criminal Code of Ukraine, which establishes liability for illegal use of ballots or illegal voting.

The specifics of the offenses considered in the courts and related to the illegal use of ballots

The specifics of the offense	Number of sentences
A voter hid and took his ballot out of the polling station	4
A voter brought out several ballots	1
A PEC member hid other voters' ballots	1
A voter illegally received the ballot / a PEC member illegally issued the ballot	6
A voter voted more than once	4

No guilty person was sentenced to imprisonment or restriction of liberty. In the vast majority of cases, plea agreements have been entered into with the prosecutor and a fine imposed. In 8 out of 16 cases, the punishment provided for imprisonment with simultaneous deprivation of the right to hold certain positions; in one case the sanction was restriction of liberty. All perpetrators were released on probation for 1 to 3 years.

In the extraordinary parliamentary elections, OPORA recorded a tendency to prosecute not only voters who illegally received the ballot, but also PEC members who illegally issued it. In particular, PEC members were prosecuted for issuing ballots to unidentified persons instead of voters who were staying abroad on election day. However, we would like to draw your attention to the fact that in a number of cases the investigation did not identify persons who directly received ballots instead of other voters. The latter fact once again testifies to the need to strengthen the legislative and practical guarantees for the inescapable punishment for electoral crimes.

In addition to convictions for falsifying election documents and illegal use of ballots, court cases under other articles of the Criminal Code of Ukraine were few.

According to Article 160 of the Criminal Code of Ukraine, only one sentence was passed on voter bribery. According to the circumstances of this case, an unidentified person suggested that another voter take actions aimed at bribing the residents of Podilsk, Odesa Oblast. These illegal actions consisted of searching for persons who agreed to vote for a specific candidate for the Verkhovna Rada of Ukraine in the single-mandate constituency No 137. After accepting this proposal, the voter in a personal meeting with an unknown person handed over a list of 16 voters and received the amount of UAH 16,000 to bribe them. The money was to be provided to voters for their votes in favor of a particular candidate, at a rate of UAH 1,000 per voter, and a monetary reward in the amount of UAH 3,000 as own remuneration for these actions.

The voter was sentenced to imprisonment for a term of 5 years with deprivation of the right to hold office and engage in activities, but on the basis of Art. 75 of the Criminal Code of Ukraine, the guilty person was released from serving a sentence on probation for 2 years.

One criminal sentence concerned obstruction of the exercise of the voting right (Article 157 of the Criminal Code of Ukraine). The actions of the four defendants were qualified under Part 3 of Art. 157 of the Criminal Code of Ukraine as obstruction to the activity of another electoral subject, combined with the destruction of property, committed by a group of persons with prior conspiracy (burning the campaign banner of an MP candidate). Each of the guilty persons was sentenced to 4 years of imprisonment, with release from serving a sentence on probation for two years. Unfortunately, no person who obstructed the lawful activities of official observers of the Civil Network OPORA was prosecuted under this article of the Criminal Code. Despite the repeated appeals from OPORA, the National Police did not enter information into the Unified Register of Pre-Trial Investigations since they did not see the corpus delicti. In one of these cases, the Zmiyiv District Court of the Kharkiv Oblast recognized the inaction of officials of the National Police and obliged them to enter in the URPI the information about committing a criminal offense under Part 3 of Art. 157 of the Criminal Code of Ukraine (case No 621/1728/19).

According to OPORA, the analysis of these convictions shows the need for further study of judicial practice and for training judges on the qualification of crimes against the voting rights of citizens.

At the same time, one of the reasons for the discrepancy between the number of criminal proceedings and those prosecuted for electoral fraud is, inter alia, the imperfection of criminal law. The work of the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine and OPORA to ensure the inescapable punishment for electoral fraud provides for the establishment of legal certainty on a number of issues in qualifying electoral offenses, and will increase the efficiency of their investigation. The relevant changes shall be approved before the start of the local election campaign.

Effectiveness of Bringing to Administrative Liability for Electoral Fraud

Since the beginning of election process in Ukraine's parliamentary elections, the Unified Register of Court Judgements has published **2,680** decisions on cases of bringing to administrative liability for electoral fraud. Some of them concerned the presidential election, as the courts continued to hear cases based on administrative proceedings in Ukraine's presidential election.

OPORA monitoring of court decisions showed that the most common administrative election offenses were:

1. Production and distribution of printed propaganda products without source data thereon (Art. 212-13 Code of Administrative Offense, 1,069 decisions).
2. Violation of the procedure for granting or receiving a contribution in support of the party, financing of election campaigning (Art. 212-15 Code of Administrative Offense, 749 decisions).
3. Violation of campaigning restrictions (Art. 212-10 Code of Administrative Offense, 334 decisions).
4. Violation of the order of placement of campaigning materials (Art. 212-14 Code of Administrative Offense, 278 decisions).
5. Violation of the procedure for submitting a financial report on the receipt and use of money in election fund (Art. 212-21 Code of Administrative Offense, 197 decisions).

6. The courts also ruled on cases under the articles of the Code of Ukraine on Administrative Offenses: Art. 212-7 – 4 decisions, Art. 212-9 – 20, p. 212-17 – 3, Art. 212-18 – 1, Art. 212-20 – 25, and none under Articles 212-8, 212-11, 212-12, 212-16, 212-19.

In cases with closing of proceedings due to expiration of terms for bringing to administrative liability, **the courts took a different approach to the need to establish the guilt of the person prosecuted.** Some pleaded guilty and closed the case due to the expiration of the terms, while others, on the contrary, avoided a conclusion on this issue, which requires a clear legislative regulation to avoid the adoption of contrary decisions by the courts.

Almost every third court decision concerned the return of the materials of the administrative offense to the police and the NAPC for revision (or even repeated revision). The Civic Ombudsman for the Voting Rights in the Lviv Oblast monitored the decisions of the court register, and detected the case No [301/1654/19](#), in which the materials were returned for revision three times, and were eventually considered on the fourth attempt. As to this problem, the case law was non-uniform. Some courts returned the materials of the administrative offense to the police. Other courts, finding improper execution of the protocol and other administrative materials, came to the conclusion that the case should be closed. In the latter case, the courts referred to the case law of the European Court of Human Rights (*Malofeeva v. Russia* and *Karelin v. Russia*).

During the extraordinary campaign to the Verkhovna Rada of Ukraine, the protocols were returned by the courts for revision in connection with the following violations:

- non-delivery of the second copy of the protocol to the person who is brought to administrative liability, or failure to notify the person about the drawing up of the protocol against them;
- incomplete description of actions (inaction) of a person and signs of a specific administrative offense (for example, in one case there is no indication about the information posted on the billboard, and in another case, the campaign nature of the materials was not specified, or to which election process they related);
- lack of reference to specific provisions of regulations governing the procedure for expressing the will of the people;
- inconsistency of the factual circumstances of the offense with the normative act that provides for liability for its commission;

- lack of explanation of the person who is brought to administrative liability, or the report on the administrative offense does not contain the signature of the person who is brought to administrative liability;
- failure to provide complete data on the place of residence of the person being held administratively liable or lack of information on the passport data of the person being prosecuted;
- the materials in the case do not contain information on the notification of a person about drawing up a report on an administrative offense and receiving such a report;
- lack of data on attesting witnesses and witnesses of the offense, lack of certified copies of documents and other problems of the evidence base.

In almost every fourth case, individuals were found guilty and prosecuted **in the form of a fine** or were released from responsibility on the basis of Art. 22 of the Code of Administrative Offense, whereas the case was brought down to an **verbal warning** for minor nature of the administrative offense. The courts limited themselves to verbal warnings in cases where individuals indicated that they had no intention of breaking the law. According to OPORA, the practice of exempting from liability persons who have declared no intention to break the law or due to their own ignorance does not contribute to the legality of the actions of electoral subjects.

At the extraordinary elections of people's deputies of Ukraine, the courts issued 4 decisions on bringing persons to justice for violating the procedure for maintaining SVR (Art. 212-7 Code of Administrative Offense). For example, in one of the cases, a specialist of the Department of the State Register of Voters of the Vyshnivets Village Council of the Zbarazh District was prosecuted for failing to provide information on the changed registered residence address of a voter.

According to Art. 212-9 of the Code of Administrative Offense (violation of the order of campaigning with the use of mass media), 20 decisions were published in the court register. In particular, in the case No [759/15196/19](#) a founder and editor-in-chief of the Sviatoshynski Visti newspaper was found guilty, for publishing propaganda material without the "political ad" disclaimer. At the same time, in the case No [314/3378/19](#) the court erroneously qualified the actions of the person who was engaged in the dissemination of defamatory information about the candidate, placed on printed leaflets, under this article. The court did not take into account that this article provides for liability for illegal campaigning committed exclusively with the use of the media.

According to Art. 212-10 of the Code of Administrative Offense (Violation of campaigning restrictions), 334 decisions were published in the register (of which every 10th case concerned the presidential election). In these cases, breaking legal restrictions on campaigning via Facebook were considered. In the case No [182/5347/19](#) the person was prosecuted for posting his ballot on Facebook on election day, which was a de facto campaigning within the period prohibited by law. At the same time, in the case No [522/13414/19](#) the court refused to prosecute a person who posted information about candidates on Facebook on the eve of the election. The court pointed out, among other things, that the social network Facebook was not a mass medium.

The proceedings in the case No [200/11847/19](#) were also closed, under Art. 212-10 of the Code of Administrative Offenses, regarding the distribution by a person of a newspaper which, according to the police, contained **inaccurate information about the candidate**. The court noted that in accordance with Part 10 [Art. 74 of the Law of Ukraine “On Elections of the People’s Deputies of Ukraine,”](#) it is prohibited to disseminate knowingly unreliable or defamatory information about the party that acts as an electoral subject, or about the candidate, which unreliable or defamatory nature has been established in court. However, the case file does not contain the relevant court decision establishing this fact. This approach of the court, according to OPORA, is correct in this controversial situation.

According to Art. 212-10 of the Code of Administrative Offenses, persons were brought to responsibility **whose participation in campaigning is prohibited**. In particular, PEC members who campaigned by pasting campaign leaflets on power poles.

Among the defendants prosecuted for indirect voter bribery, there were campaigners who provided free of charge blood sugar testing services to citizens in the candidate’s campaign tent. The cashiers of the store were also fined for distributing bread to citizens free of charge.

OPORA duly noted the mass-scale cases when the courts returned to the police for proper documentation the files on breaking the law during the production or distribution of printed campaigning materials (Art. 212-13 of the Code of Administrative Offense).

Since the presidential campaign, there has remained certain cases in judicial practices about the closure of court proceedings in cases of self-promotion of candidates who are also public officials, who are advertised through their

official positions, and about the advertising of charitable foundations related to candidates.

During the parliamentary elections, in contrast to the presidential elections, there was a ban on placing and distributing campaign materials on/in public vehicles, stations, etc. (Part 9 of Art. 60 of the Law of Ukraine “On Elections of People’s Deputies of Ukraine”). However, there are few cases of prosecution for such violations.

Regarding the placement of campaign materials on power poles, there is a case law of prosecution for this violation under Art. 212-14 of the Code of Administrative Offenses (case No [398/2607/19](#), the person was found guilty). However, the position of OPORA is that this violation is subject to qualification under Art. 152 of the Code of Administrative Offense (violation of the state standards, norms and rules in the field of beautification management of settlements, rules of managing urban amenities in settlements).

The case law was different bringing to justice persons for illegal submission of a contribution in support of the party who had a tax debt. In some cases, the courts prosecuted such persons, but in others they closed the proceedings in the absence of an administrative offense. In the latter case, the courts indicated that the person had no intention of knowingly taking appropriate action to finance the party in the presence of an outstanding tax debt of which he was unaware. In some other cases, the courts analyzed and distinguished the concept of tax debt in detail, pointing out that the materials did not prove the very existence of the tax debt. Given this inconsistency of case law, this issue calls for more detailed legislative regulation.

In three decisions **under Art. 212-17 of the Code of Administrative Offense** (failure to provide a copy of the election protocol) only one person was found guilty of failing to provide the protocol to an official observer – case [524/5321/19](#), materials of the second case No [310/5777/19](#) have been returned for revision, proceedings in the third case No [243/8103/19](#) were closed for lack of elements of administrative offense in the actions of the person.

Materials of the only case in the register No [576/1532/19](#) **under Art. 212-18 of the Code of Administrative Offense** (non-compliance with the decision of the election commission) were returned to the police for proper documentation.

According to Art. 212-20 of the Code of Administrative Offense (violation of the procedure for publishing documents related to the preparation and conduct of elections), 25 decisions have been published in the register of court decisions. They mainly consist in consideration of materials on non-placement of the election commission's decision on a specially equipped stand (case No [521/12980/19](#)), non-equipment of such stands ([333/3944/19](#)), non-placement of information posters with candidates (case [367/5844/19](#)). Many of the materials were returned to the police for proper documentation.

One very interesting issue is about the qualification of dissemination in the media of information on opinion polls without specifying all the necessary details (Art. 60 of the Law of Ukraine "On Elections of the People's Deputies of Ukraine"). Thus, in the case No [569/14390/19](#) administrative materials were sent to the court on the fact that a rating in favor of the deputy of the Verkhovna Rada of Ukraine from the "Svoboda" party was published on the Rivne Vechirne website, and the court closed the proceedings in the absence of elements of an administrative offense. In this regard, OPORA believes that the rules of Art. 212-20 do not apply to such cases, and proposes to introduce a separate provision in the Code of Administrative Offenses on liability for breaking the rules for the dissemination of information about polls.

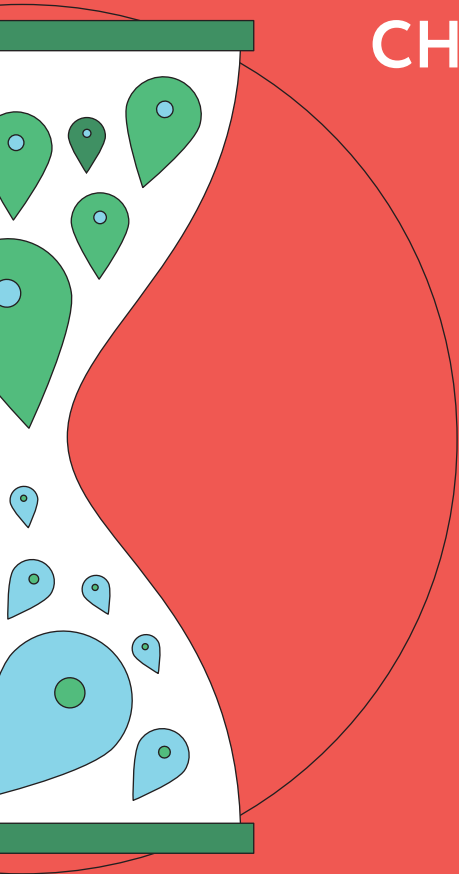
According to Art. 212-21 of the Code of Administrative Offense (Violation of the procedure for submitting a financial report on money flow in election fund, and for a party report). There are 197 decisions in the register, but few of these cases concern the election process for the election of people's deputies. Proceedings in cases were often closed due to the expiration of the administrative penalty (cases No [756/14134/19](#), No [462/6527/19](#)).

In the case No [932/14638/19](#) under this article, the current account manager of the election fund of a candidate for people's deputies of Ukraine was prosecuted for failure to submit to the district election commission an interim financial report on the receipt and use of funds of the election fund of a candidate for people's deputies of Ukraine in a single-member constituency. At the same time, in the case No [750/10931/19](#), a person was released from liability for failure to submit an interim report due to the insignificance of the administrative offense, limiting himself to a verbal warning, as the fund manager explained to the court that the person submitted the final report on time, but the interim report was not submitted since there were no receipts and spending of election funds.

OPORA draws the government's attention to the urgent need for additional training of the National Police of Ukraine on the drafting of case files on bringing persons to administrative liability. According to court practice, the quality of such materials is low and they were returned en masse for revision by the National Police of Ukraine. Another problem for the process of punishing those guilty of electoral fraud is the lack of unified judicial practices, which are often drastically converse. The formation of a unified approach of courts to issues of administrative liability can be ensured both by training judges and preparing explanations by higher judicial bodies, and by amending the Code of Administrative Offenses. Changes to the legislation are provided for in a joint draft developed by the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine, and OPORA, which has been awaiting consideration in parliament since 2018.



OPERATIONS OF THE STATE VOTER REGISTRY AND TEMPORARY CHANGE OF VOTING LOCATION



Since 2009, Ukraine has had an electronic Register of Voters administered by the CEC, which provides regular (monthly) information on citizens eligible to vote. The administration of the electronic database is provided by a territorially extensive network of bodies of the State Register, which, in particular, are responsible for entering information received from local authorities and local governments.

In the settings of the election process, the main function of the bodies of the State Register was to compile preliminary and updated lists of voters (in the form of an extract) on the basis of current information from the database of the State Register,²⁴ as well as making changes to the voter lists on the basis of information provided by precinct election commissions. All voters had the opportunity to check in advance the information about themselves and the electoral address at which they are recorded in the database of the State Register of Voters, remotely (through the online office on the website of the State Register) or by contacting the State Register or the precinct election commission (from the moment of publishing preliminary voter lists). The scale of the changes to the revised voter lists (0.04% of the total number of registered voters) indicates to the absence of obvious shortcomings in the functioning of the State Register database, and to ensuring its completeness and accuracy. At the same time, the lack of effective mechanisms for independent control and depersonalized verification of voter lists is a key reason for public criticism of the Registry Administration Service coming from electoral actors and the expert community.

In the extraordinary parliamentary elections, the number of citizens included in the voter lists was 29,424,978. The total number of voters in Ukraine is higher (over 35.5 million), but voters who were in the temporarily occupied territories, in locations where there were no conditions for voting, were not included in the voter lists and had the opportunity to vote only by changing the place of voting without changing the electoral addresses. In general, the law allowed all voters to temporarily change their voting address without changing their actual place of registration, and to vote for candidates within the national constituency only.

Internally displaced persons, internal labor migrants and other mobile groups make a key category of voters (according to official data alone, there

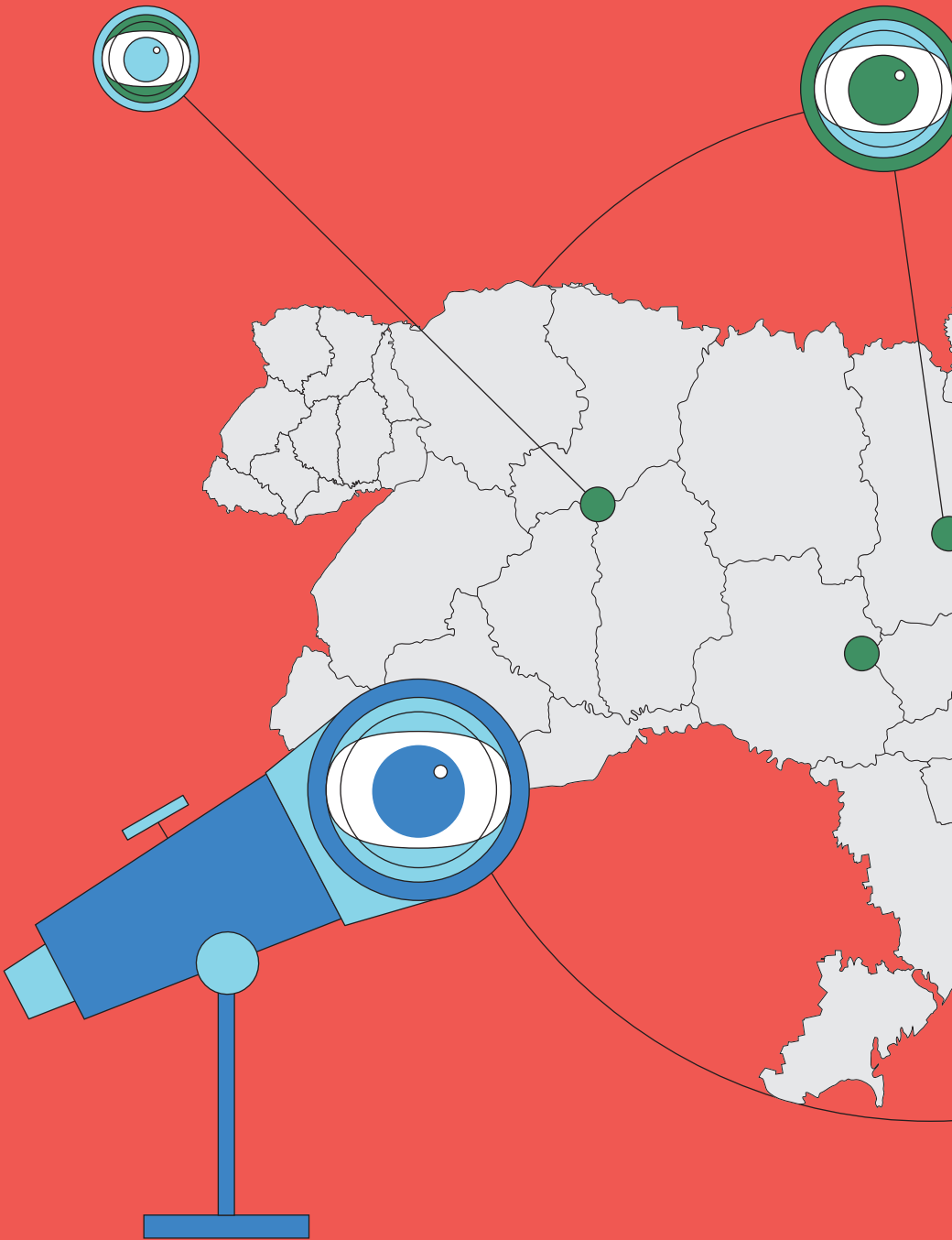
24 At special PECs (with the exception of penitentiaries), voter lists were compiled by the relevant precinct commissions and submitted to the SVR authorities to mark the voting of such citizens outside their place of election address.

are at least 1.4 million people) who face limitations and difficulties in trying to exercise their active suffrage.

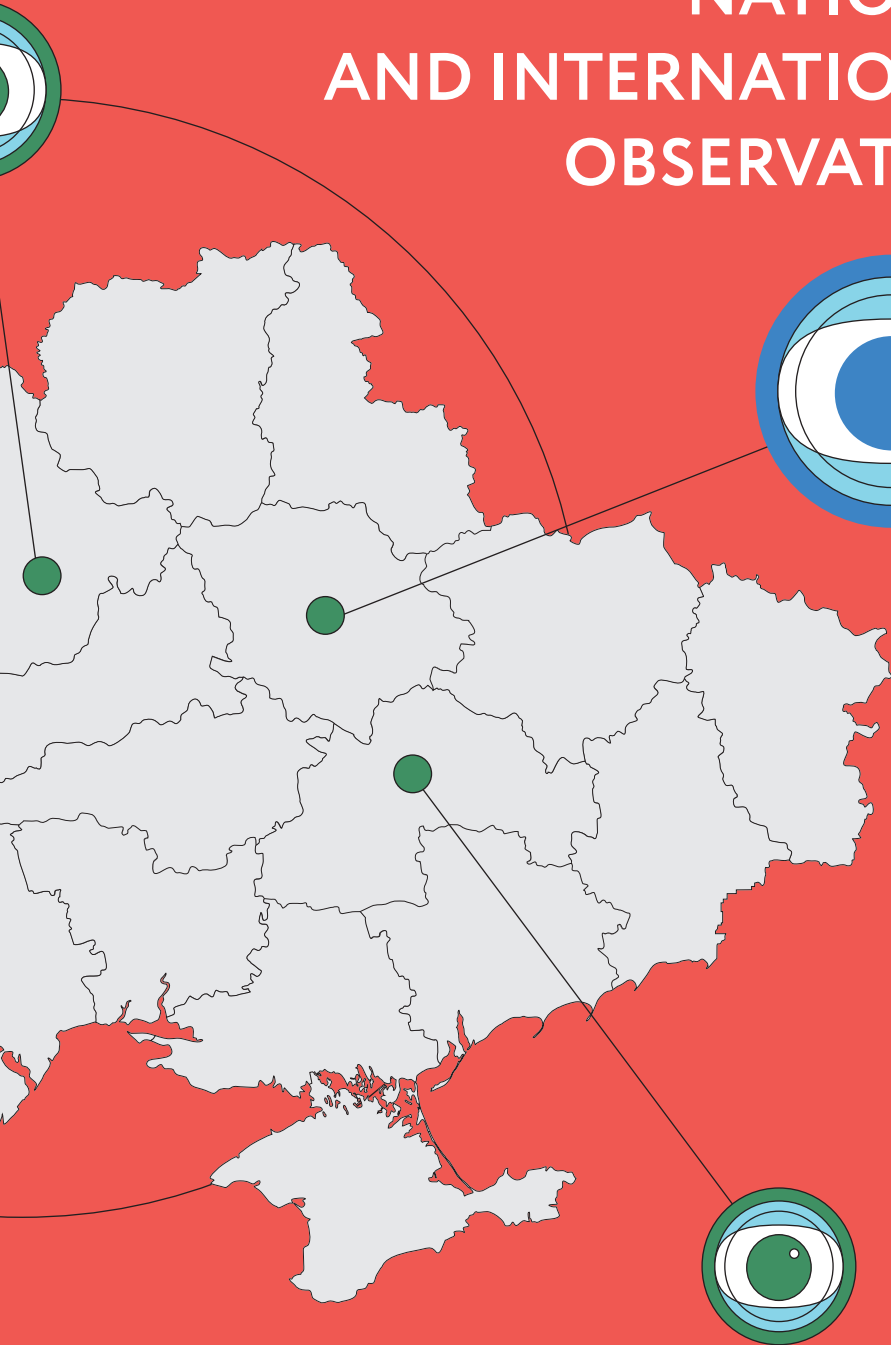
During this parliamentary election campaign, it was the first time when conditions were created under which citizens were not obliged to document their own motivation to change the place of voting in national elections. OPORA welcomes the CEC's decision to liberalize the procedure for temporarily changing the place of voting without changing the electoral address for internally mobile citizens. OPORA observers described it as a well-organized and smooth process of changing voting location, which was implemented at a high level by the bodies maintaining the State Register of Voters.

According to the final data provided by the State Register of Voters, 280,922 people made use of the procedure of temporary change of the voting place without changing their electoral addresses. It is 44,682 persons less than in the second ballot in the election of the President of Ukraine; or 34,803 fewer people than in the first round of the 2019 presidential election. At the same time, almost 18% of citizens changed their place of voting on the last day provided by law, one week before election day. The growing interest of voters in changing the voting place as the election date approached and the resulting high burden on employees of the State Register indicates the need for early and more intensive outreach throughout the campaign.

Upon the whole, according to OPORA, the Central Election Commission managed to ensure an adequate level of election administration in terms of working with voter lists, including the decision to simplify the procedure for voters to temporarily change their voting location without changing their voting address.



NATIONAL AND INTERNATIONAL OBSERVATION



Law of Ukraine “On Elections of the People’s Deputies of Ukraine” guarantees the right of public organizations, international organizations and foreign states to observe the extraordinary elections to the Verkhovna Rada of Ukraine.

Public Observation

The right to obtain permission to have official election observers was granted to all registered NGOs whose statutory activities included electoral issues and observation over elections, and who applied to the CEC for permission to have observers within the statutory period. The process of applying for permission to have official observers lasted only a week – from May, 24 to 31. In total, 170 NGOs applied to the Central Election Commission during the specified period with a request to have official observers, 163 of which received permission to administer the observation.

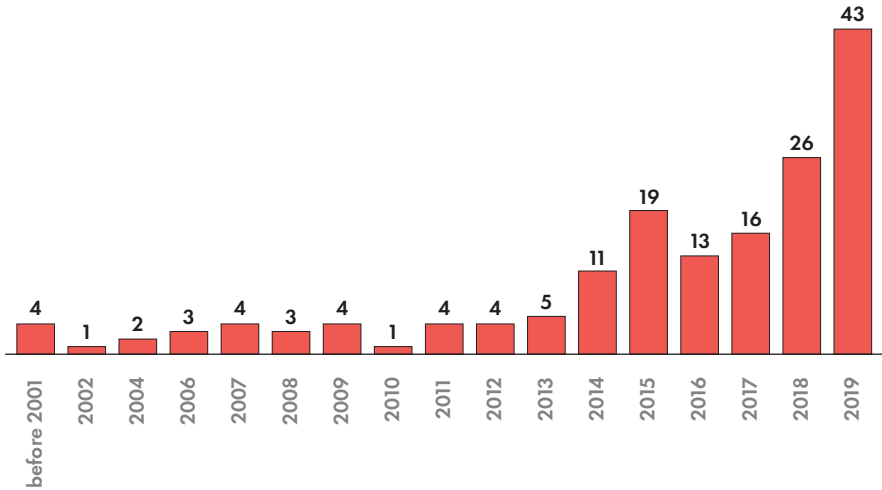
Of the 163 registered NGOs, 95 (58%) had prior election observation experience, but most of them only gained it one time, in the 2019 presidential election in Ukraine. For 68 NGOs, this election process was the virgin experience. In fact, some of them were created only on the eve of the election.

Over a quarter of all registered NGOs were founded on the eve of the 2019 elections. 6 public organizations were registered by the Ministry of Justice after the start of the election campaign. Specifically, there were 3 organizations among them, which name was consonant with the name of one political party:

- “Strong Country” NGO;
- “Legal Aid Center” NGO;
- “Southern Mining and Processing Plant – Kryvyi Rih” NGO;
- “For the Servant of the People” NGO;
- “People’s Servants” NGO;
- “People’s Servant” NGO.

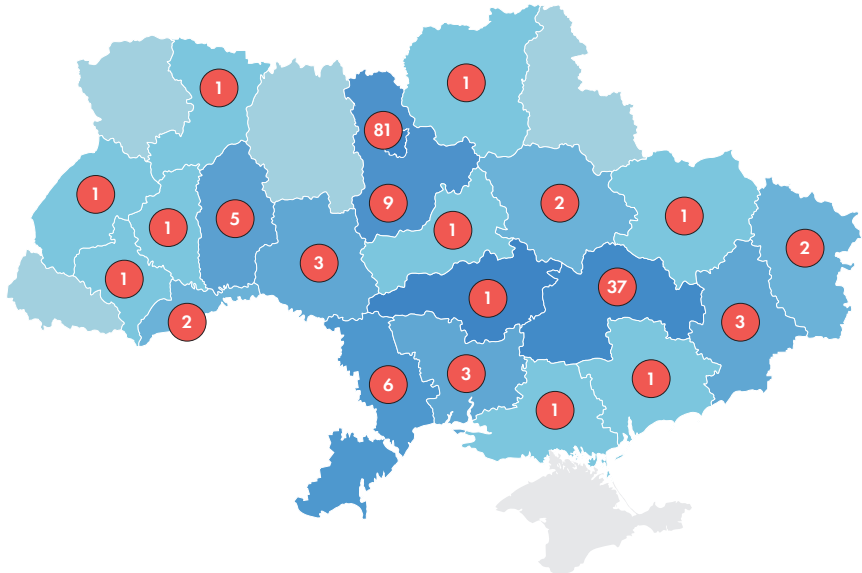
Year of registration of NGOs permitted to conduct observation*

* Special elections of people's deputies 2019



Out of the organizations registered in 2019, 25 were registered within short periods of time in Dnipropetrovsk oblast, most of which are located at an address within the constituency No 38.

Registration region of NGOs permitted to conduct observation



Most NGOs that received permission to observe displayed signs of fictitious and fake election observation. It is evidenced by the direct links the organizations had with political parties, by shared registration addresses, leaders, the absence of official observers and reports on the results of observations, and so on.

The links of NGOs with political parties directly contradict one of the main principles of public non-partisan observation, such as the politically neutral position of the organization and equal treatment of all participants in the election race. Nevertheless, some NGOs do not hide their direct links to political parties, which can only be established by the organization's name. Next follow some examples of such organizations:

- “Ukrainian Student Freedom” NGO;
- Khmelnytsky regional non-governmental organization “For Specific Actions”;
- All-Ukrainian non-governmental organization “Women of the Motherland (Batkivshchyna)”;
- Vitali Klitschko’s UDAR (Ukrainian Democratic Alliance for Reforms) NGO;
- “Olexandr Vilkul Foundation “Ukrainian Perspective” NGO;
- “Team ZE” NGO;
- “Servants of the People” NGO;
- “Batkivshchyna Moloda” (The Young Batkivshchyna) NGO;
- “All-Ukrainian Union “NASHI” NGO;
- “VOLIA!” NGO (consonant with SVOBODA – “freedom – liberty”);
- All-Ukrainian Union “Common Cause” NGO.

The political motives for observing the election process are evidenced by the fact that 15% of leaders of non-governmental organizations participate in the election process also in the role of candidates. Thus, 13 leaders are running on the lists of political parties in a multi-member constituency:

- Sokolyk Oleh Vitaliyovych – head of **“Mykolayiv region is a reliable partner” NGO**, and a candidate on the list of the “Ukrainian Strategy of Groysman” party.
- Klymenko Yuliya Leonidivna – head of **“Real Change” NGO**, and a candidate on the “Holos” party list.

- Senchenko Andriy Vilenovich – the head of **“All-Ukrainian Movement “Power of the Law” NGO**, and a candidate on the list of “The Power of Law” party.
- Mytrofanskiy Serhiy Volodymyrovych – the head of **“Batkivshchyna Moloda” NGO**, and a candidate on the party list of the All-Ukrainian Union “Batkivshchyna.”
- Tkachov Dmytro Yuriyovych – the head of **“National Monitoring” NGO**, and a candidate on the party list of the All-Ukrainian Union “Svoboda.”
- Mandziy Serhiy Volodymyrovych – head of **“Strong City” NGO**, and a candidate on the party list of the “Servant of the People.”
- Kostriyuchuk Serhiy Volodymyrovych – head of the **“Servants of the People” NGO**, and a candidate on the party list of the “Servant of the People.”
- Korniyenko Oleksandr Serhiyovych – head of **“Team ZE” NGO**, and a candidate on the party list “Servant of the People.”
- Zolotariov Yevhen Volodymyrovych – head of **“Ukrainian Strategy” Public Movement” NGO**, and a candidate on the party list of the “Ukrainian Strategy of Groysman.”
- Habibullayeva Dinara Tarlan Kizy – head of the **“All-Ukrainian NGO “Solidary Youth”**, and a candidate on the party list of the “European Solidarity.”
- Buzilo Antonina – head of the **“Solidary Youth” NGO**, and a candidate on the party list of the “European Solidarity” party.
- Bondarenko Olha Oleksiyivna – head of the **“OUR WILL” NGO**, and a candidate on the “Shariy Party” list.

Moreover, 12 heads of NGOs were running for the Verkhovna Rada in single-member constituencies:

- Boyarchuk Oleksandr Mykolayovych – head of the **“International Human Rights NGO “CONTINENT”**, and a candidate in the majoritarian constituency No 92.
- Kaletnik Hryhoriy Mykolayovych – head of **“Belanov – Blokhin Football School” NGO**, and a candidate in a majoritarian constituency No 18.
- Ilyyuk Artem Oleksandrovych – head of **“Party of Mykolayiv Citizen” NGO**, and a candidate in a majoritarian constituency No 128.
- Rybalko Andriy Petrovich – head of the **“Young People’s Movement” NGO**, and a candidate in a majoritarian constituency No 162.

- Serdyuk Roman Oleksandrovych — head of **“Institute of Reforms and Innovations”** NGO, and a candidate in a majoritarian constituency No 25.
- Pohuliyai Stanislav Petrovych — head of the **“Union of Architects of Ukraine”** NGO, and a candidate in a majoritarian constituency No 25.
- Vitko Artem Leonidovych — head of **“People’s Defender Association”** NGO, and a candidate in a majoritarian constituency No 149.
- Matsyuk Taras Yaroslavovych — head of **“Strong Country”** NGO, and a candidate in a majoritarian constituency No 119.
- Manko Valentyn Mykolayovych — head of **“United Union of Patriots of Ukraine”** NGO, and a candidate in the majoritarian constituency No 39.
- Andriyko Ruslan Yuriyovych — head of **“Ukrainian Student Freedom”** NGO, and a candidate from the All-Ukrainian Union “Svoboda” political party in the majoritarian constituency No 211.
- Baranskyi Victor Serhoyovych — head of the **“Center for Public Initiatives “For Odessa!”** NGO, and a candidate from the “Opposition Platform – For Life” political party in the majoritarian constituency No 133.
- Gufman Hennadiy Leonidovych — head of the **“People’s Partnership”** NGO, and a candidate from the “Opposition Platform – For Life” party in the majoritarian constituency No 26.

In general, district election commissions registered during the election process 27,879 official observers from NGOs. The largest number was registered in constituency No 38 – 1,475 observers.

Constituencies with the largest number of registered official observers from NGOs

District constituency	Number of registered official observers
№ 38	1 475
№ 18	1 132
№ 46	938
№ 14	884
№ 15	670

Of the 163 NGOs that received permission to observe, 76 NGOs did not register any official observers. The largest number of observers was registered by the Civil Network “OPORA” All-Ukrainian NGO and by the “ADVANCED LEGAL INITIATIVES.”

10 NGOs that registered the largest number of official observers

Name of NGO	Territory covered by the activity	Number of registered observers	Number of constituencies covered by observers
“Civil Network “OPORA” All-Ukrainian NGO	Ukraine	5 570	199
“ADVANCED LEGAL INITIATIVES” All-Ukrainian NGO	Ukraine	3 953	115
“Ukrainian strategy” Public movement” NGO	Ukraine	1 897	8
“Committee of Voters of Ukraine” All-Ukrainian NGO	Ukraine	1 736	79
“Strategy of Ukraine” NGO	Ukraine	1 606	8
“Center for Vocational and Labor Rehabilitation of the Disabled Persons from the Judicial System” NGO	Ukraine	1 563	14
“Solidary Cause of Local Communities” NGO	Ukraine	1 048	139
“Ukrainian Center for Democratic Society” NGO	Ukraine	900	12
“All-Ukrainian Non-Governmental Organization “Solidary Youth” NGO	Ukraine	800	18
“Institute for Development and Promotion of Democracy” NGO	Ukraine	699	12

International Observation

In the extraordinary elections to the Verkhovna Rada, the Central Election Commission registered 1,719 official observers from international organizations and foreign states.

117 official observers from 12 foreign countries observed the election process in Ukraine. Among them, the largest delegations were from the United States (42), Hungary (19), and the Republic of Poland (16).

1,602 official observers from 21 international organizations observed the elections on behalf of international organizations. The most numerous observation missions were conducted by:

- Office for Democratic Institutions and Human Rights, Organization for Security and Co-operation in Europe – 728 observers.
- The CANADEM international non-governmental organization – 178 observers.
- European Network of Election Observation Organizations (ENEMO) – 156 observers.
- World Congress of Ukrainians – 143 observers.

Party Administered Observation

In the extraordinary elections of people's deputies of Ukraine, the district election commissions registered 105,994 observers from political parties that acted as electoral subjects. The largest number of of observers were registered on behalf of the following parties:

- European Solidarity – 26,703;
- Ukrainian Strategy of Groysman – 11,585;
- All-Ukrainian Union “Batkivshchyna” – 11,429;
- “Opposition Platform – For Life” – 11,055;
- “Servant of the People” – 10,598.

By constituency, political parties registered the most observers in the following constituencies:

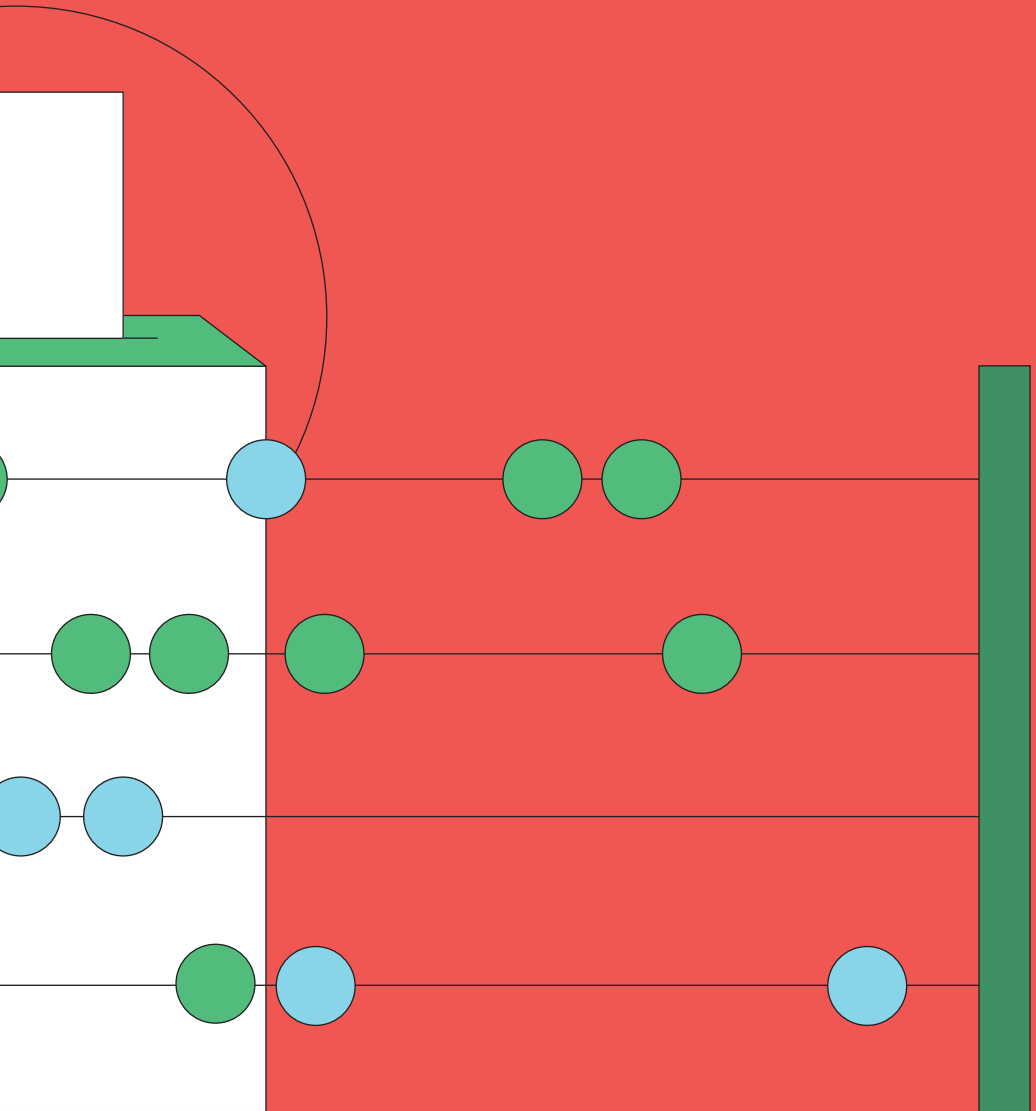
- SMC No 101 – 1,560 observers;

- Territorial constituency No 64 – 1,490 observers;
- Territorial constituency No 153 – 1,330 observers.

Candidates for people's deputies running in single-member constituencies also exercised their right to have official observers. In general, they registered 186,646 official observers. The largest number was registered in SMC No 64 – 1,707 observers, the smallest number was found in SMC No 19 – 25.



THE COURSE OF ELECTION DAY AND THE VOTE COUNT



Evaluation of Procedural Compliance on Election Day

On election day, July 21, 2019, the Civil Network OPORA, based on a statistically sound sample of polling stations, assessed the quality of the organization of the election process, and generally analyzed the observance of legal procedures by all electoral subjects.

On the election day, observers of the Civil Network OPORA did not identify systemic violations of the election legislation or conflicts that could destabilize the voting process or have a significant impact on the results of citizens' vote. However, frequent and repeated procedural irregularities committed by precinct election commissions and caused by incompetence and/or misconduct by voters still had a negative effect on voting. During the monitoring over the compliance with election legislation on election day, during the vote count, and the receipt of election documentation by DEC's from PECs on July 21, 2019, observers of Civil Network OPORA recorded 759 incidents at PECs and 123 cases at DEC's (as of 9:00 on July 22).²⁵

Observers were most concerned about the frequent issuance of ballots without proper documents or repeated attempts to vote for another person. In particular, attempts were made to vote on the basis of an international passport (PS No 461150 SMC No 125 in Lviv oblast), pension certificate (PS No 730195 SMC No 202 in Chernivtsi oblast), photocopies of the passport (at the polling station No 710742 SMC No 195 in Holovkivka village, Xyhyryn district, Cherkasy oblast). Additionally, there were 130 cases of voting in lieu of another person, which contains signs of a crime defined under Article 158-1 of the Criminal Code of Ukraine (69 violations in the western oblasts of Ukraine, 49 – in central regions, others – in the East and South). On election day, such cases were observed within different regions of Ukraine in 10.1% of polling stations, and this type of violation dominates the statistics of offenses recorded by the Civil Network OPORA. The current situation reproduces the trends identified in the extraordinary parliamentary elections in 2014, when the number of similar violations reached 12.9%, and in the last presidential election, when in the first round such violations were recorded in 14.5% of polling stations.

25 More details can be found in the text "OPORA Statement on preliminary conclusions of observation at the extraordinary elections of people's deputies."
Available at: <https://bit.ly/2PewHKt>

Another most common violation on election day, July 21, was the disclosure of the secret ballot by voters showing a completed ballot or by failing to comply with the requirements for installing booths and polling stations at PEC premises. Such cases were recorded in 4.2% of polling stations. For re-election of the President of Ukraine, this figure was 5%, but in the recent parliamentary elections it was lower – 3.9% of polling stations.

The overall statistics on violations and incidents were dominated by cases of inadequate logistics of polling stations. The most typical cases included the lack of the required number of ballot boxes and booths for secret ballot, as well as information posters. There were also repeated cases of non-compliance with the requirements for the minimum area of the polling station, the location of polling stations above the first floor. In several cases, observers noted the impossibility of using booths for secret ballot for a person in a wheelchair.

In the extraordinary parliamentary elections, all participants in the election process, compared to previous campaigns, more responsibly complied with the requirements regarding the inadmissibility of photographing ballots in PEC premises. Such incidents were sporadic and were recorded by observers in as little as 0.8% of polling stations. In the first round of voting in the presidential election, the scale of such violations was much higher (4.8% of polling stations). In the second ballot, the photographing of ballot papers in the polling station (in the voting booth or outside it) was recorded by OPORA observers in 3.3% of polling stations. It is likely that the publicity surrounding the prosecution of public figures who knowingly disclosed the secrecy of the ballot had a positive preventive effect on voters who, due to their ignorance, intended to resort to such violations.

No other critical or negative incidents related to interference with the work of election commissions or obstruction of voters' exercise of their rights, among other things, were identified during the voting. In particular, OPORA observers reported no repeated attempts to throw several ballots into ballot boxes or take ballots out of the polling station at the same time (the statistics for recording such abuses was 0.1%). However, observers signaled the fact that ballots were thrown into a stationary ballot box at the precinct election commission No 140750 in constituency No 50 in the city of Myrnohrad (Donetsk oblast). On election day, observers did not notice any planned or systematic actions that could indicate attempts to incorporate voter bribery schemes at polling stations.

During the preparatory sessions, OPORA observers did not identify any serious problems with the procedures for opening the ballot box safe, handing over election documents to PEC members, and installing and sealing ballot boxes. According to OPORA, 81.6% of PECs started preparatory meetings in accordance with the law (not earlier than 45 minutes before the start of voting), which allowed for full observation of the course and implementation of all election procedures for electoral contestants. In 1.6% of polling stations, the commission started the preparatory meeting before 7 am, and 16.5% of PECs started working between 7:00 am and 7:15 am. Thus, in 18.4% of polling stations, preparatory sessions started beyond the time provided by the law, which created certain obstructions and inconveniences in conducting public control by electoral subjects after the start of operations at PECs. The statistics of polling stations where this procedure was not clearly followed improved slightly, compared to the previous parliamentary elections (at the time, the level was 20.2%). OPORA observers also noted that in 5.7% of polling stations, commission members did not keep minutes of the preparatory meeting, which was their direct duty under the law. This indicator of procedural violations in the 2019 extraordinary parliamentary elections was significantly higher than in the second ballot in the election of the President of Ukraine. At that time, only 2.2% of polling stations were found to have violations related to the minutes of the preparatory meeting. In the extraordinary parliamentary elections of 2014, 4.6% of PECs did not record the minutes of the morning session.

OPORA observers reported that in 99.3% of polling stations within the country, they did not face any obstacles to monitoring the preparation of commissions for the opening of polling stations. While in 0.7% of PECs there were incidents of restricting observers' rights in monitoring preparatory procedures at polling stations. In the previous parliamentary elections, as well as the recent presidential elections, the statistics were close in value.

All precinct election commissions, which began their work on 21 July, were empowered (with over half of the PEC members present) and adequately staffed to carry out their functions on election day effectively. On average, almost 14 commission members provided work for each PEC in the extraordinary elections of Ukrainian deputies.

According to the Law of Ukraine "On Elections of the People's Deputies of Ukraine," voting is allotted from 8 a.m. to 8 p.m. The organization's observers found incidents of PECs' non-compliance with the starting time of voting. 19.1% of polling stations within the country started the voting process be-

fore 8 a.m.; 80.6% of polling stations opened between 8 a.m. and 8.30 a.m. Instead, 0.3% of polling stations provided voters with the opportunity to vote only after 8.30. The most problematic situation was in the single-member constituency of Chernihiv oblast, where five polling stations (No 740376, No 740375, No 740370, No 40370, and No 740389) started working late due to mass replacements in the PEC leadership undertaken by the district commission shortly before. In general, the situation with the opening and functioning of polling stations on election day did not provoke any remarks from observers. In general, they did not have full opportunity to observe the voting process in 2% of polling stations.²⁶ In particular, an observer was aggressively threatened with removal from the polling station (PS No 511442 SMC No 135 in Odesa oblast); physically prevented from recording the entry of unreliable information in the protocols (PS No 181432 SMC No 62 in Zhytomyr oblast, PS No 120458 SMC No 34 in Dnipropetrovsk oblast); to take the video recording (PS No 181432 SMC No 62 in Zhytomyr oblast); the PEC secretary and the village head obstructed the observation (PS No 120458 SMC No 34 in Dnipropetrovsk oblast).

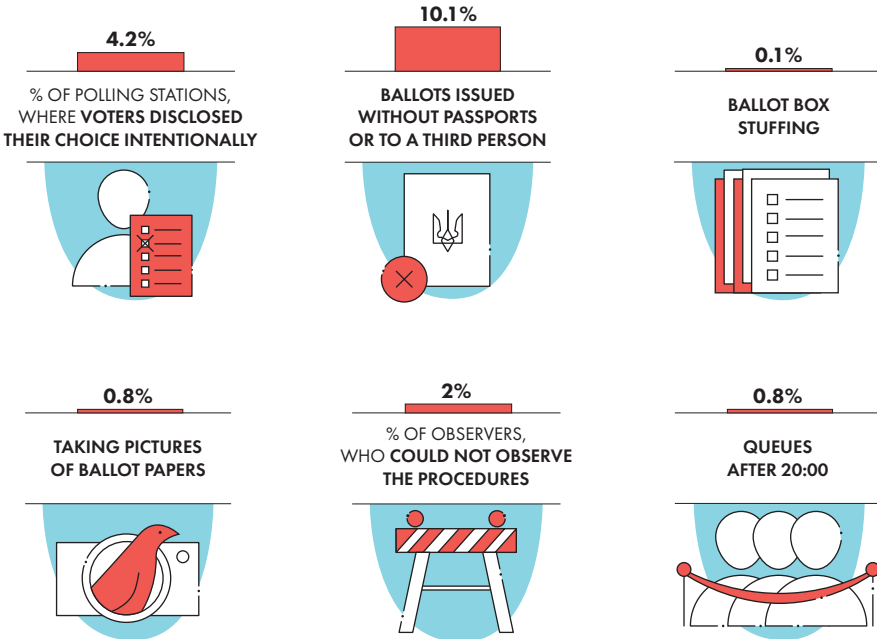
Incidents related to campaigning at or near the polling station were also recorded on election day. In particular, voters most often came to the polling station in clothes branded with the symbols of political forces, or printed campaign materials were placed in the street near the PEC.

According to OPORA, the absolute majority (99.2%) of polling stations closed at 8 pm, as provided by the legislation on elections of people's deputies of Ukraine.²⁷

26 In the second ballot for the election of the President of Ukraine, similar problems were identified in 1.5% of polling stations.

27 In the second ballot for the 2019 presidential election, the number was similar.

Typical Fraud on Election Day



The Civil Network OPORA also analyzed the course of the vote count process after the end of voting in the extraordinary elections of people's deputies on July 21, 2019. In general, it took place without systemic violations, but in a rather conflicting atmosphere and was accompanied by typical procedural abuses. OPORA observers reported that 3% of precinct election commissions did not follow the statutory order of counting votes, arbitrarily interpreting certain provisions of the law. In particular, violations of the counting procedures, counting by separate groups of commission members, and dropping ballots from all ballot boxes at the same time were typical. There were some cases with signs of forgery or manipulation of election documents (a significant part of them took place in the central regions of Ukraine). At PS No 461520 of constituency No 125 (Lviv oblast), signatures on the vote count protocols were made during the voting. A typical violation was the indication in the PEC protocol of the date of the next day (July 22, 2019), and not the date of the actual filling in of the protocol. Also, observers did not always have the opportunity to freely control the course of all stages

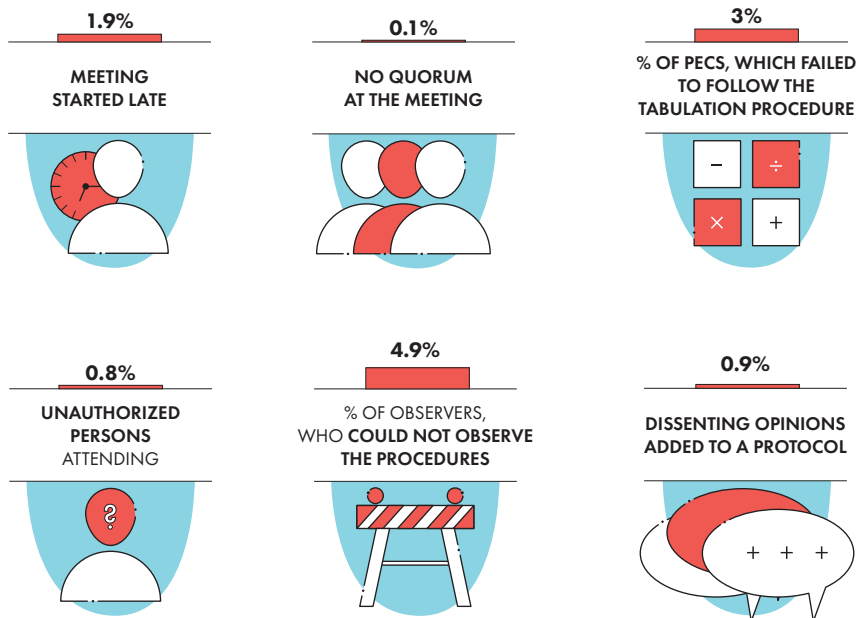
of the vote count, in particular to see the marks on the ballots. In the 2019 extraordinary parliamentary elections, such cases occurred in 4.9% of PECs. Shortly before that, in the first round of voting in the regular presidential election, this problem was much smaller (only 1% of polling stations).

Almost all precinct election commissions completed the voting process at 8 p.m., immediately followed by evening sessions. At the same time, at 1.9% of PECs, the review of complaints and the counting process started late.²⁸ According to OPORA, complaints from electoral subjects were received by 3.8% of precinct election commissions. Their consideration was carried out in accordance with the procedure established by law, before the evening meeting.

Cases of the presence of outsiders in the polling station during the vote count were detected by observers in 0.8% of polling stations throughout Ukraine. In most cases, they were representatives of the National Police, State Emergency Service, village council chairmen, and local council deputies. In addition, a person was present at PEC No 320278 (constituency No 94, Kyiv oblast) as a journalist, but with an invalid ID certificate; at the special polling station PS No 531211 (constituency No 144, Poltava oblast) in 64 colonies, the head of the penitentiary institution was present at the vote count; at PS No 320270 (constituency No 97, Kyiv oblast) 8 outsiders tried to be present in the polling station. These situations did not have any negative consequences or impact on the counting process. Similarly, there were no recurring incidents of obstruction of the counting process either by electoral subjects, or by outsiders (only 0.3% of polling stations were recorded).

28 In the recent presidential election, the number of polling stations where such delays were observed was slightly lower – 1.4% of commissions.

Evening meeting. PEC Operations



According to OPORA observers, on election day, voters were provided with all appropriate conditions for free expression of will. The quality of the implementation of election procedures in general can be assessed positively. The low legal culture of voters is still the most evident challenge. It manifested itself in certain illegal actions, not numerous, but typical and repetitive, and such that entail criminal liability. After all, tolerance and lack of counteraction to unfair voting practices create a favorable ground and increase the future risks of mass fraud on election day.

From 8 p.m. on July 21, OPORA observers observed the voting results. As of the morning of July 22, several problematic district election commissions had been identified where the process had not been properly organized. Namely: DEC No 199 (Cherkasy oblast) – mass rewriting of protocols; evasion from work of commission members in DEC No 94 (Kyiv oblast); DEC No 116 (Lviv oblast) – decision-making in the absence of a quorum; DEC No 181 (Kharkiv oblast) – unknown persons were detected near the DEC premises (over 10 people); DEC No 59 (Donetsk oblast) – stopped accept-

ing the documentation by 12:00, which resulted in queues with commission members. The most critical problem at this stage of the election process, which has been repeatedly reported by OPORA observers, has been the practice of illegally rewriting or correcting the vote count protocols at the polling station.

Voter Turnout on the Election Day (according to the Civil Network OPORA)

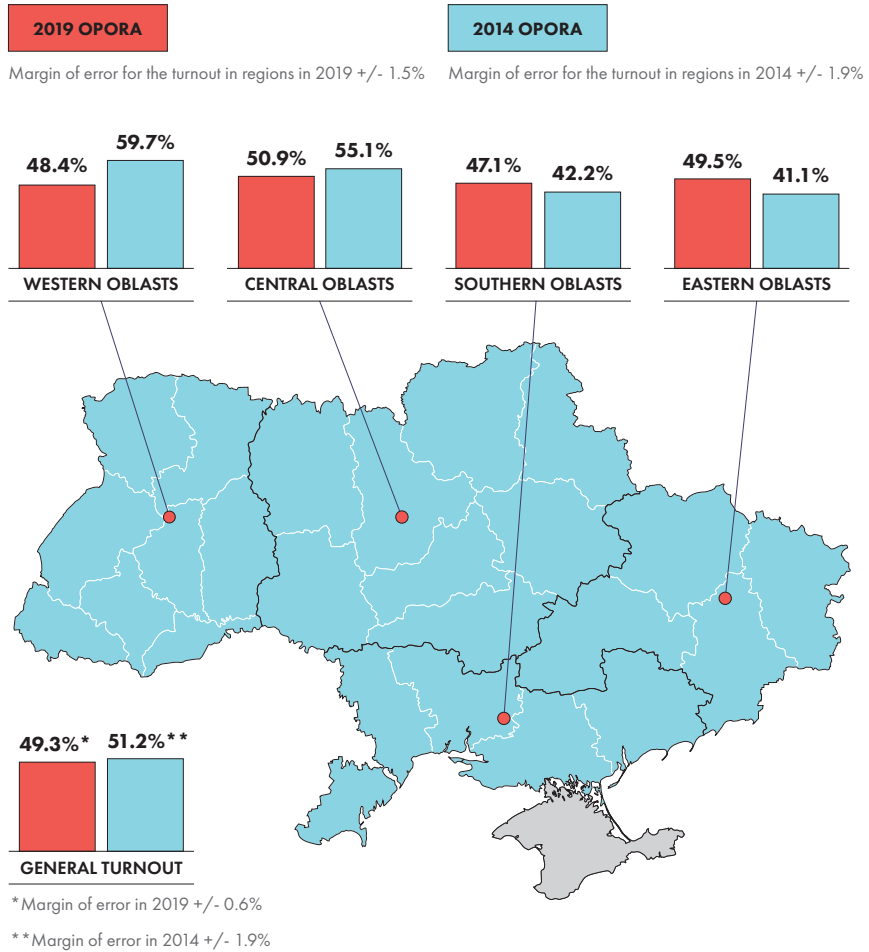
During the observation of the voting process on July 21, 2019, the Civil Network OPORA carried out a parallel tabulation of voter turnout on the basis of a representative number of polling stations in Ukraine. Data were recorded as of 12:00, 4 p.m., 8 p.m. for the whole of Ukraine, and in the context of four macro-regions.

In Ukraine as a whole, according to OPORA, voter turnout in the extraordinary parliamentary elections on July 21, 2019 was 49.3% (error \pm 0.6%). According to official CEC data, voter turnout in Ukraine was 49.84%. In the recent parliamentary elections, voter turnout was only slightly higher, at 51.2% according to OPORA, and 52.42% according to official CEC data.

Data on parallel tabulation administered by OPORA on voter turnout on election day in the parliamentary elections in 2019 and 2014

Region	Parliamentary elections — 2019	Error for 2019	CEC DATA (2019)	2014 Parliamentary elections:	Error for 2014	CEC data (2014)
All Ukraine	49.3%	0.6%	49.84%	51.2%	1.9%	52.42%
West	48.4%	1.5%	-	59.7%	1.9%	-
Center	50.9%	1.5%	-	55.1%	1.9%	-
East	49.5%	1.5%	-	41.1%	1.9%	-
South	47.1%	1.5%	-	42.4%	1.9%	-

Turnout before 20:00



Results of the Parallel Vote Tabulation Conducted by OPORA

On election day, OPORA sent 1,398 trained and registered observers to a nationally representative number of polling stations, the list of which was formed by random sampling. Observers of parallel vote tabulation (PVT) assessed the quality of voting on election day and recorded the official results.

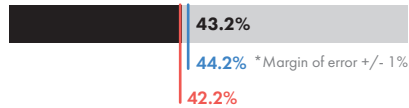
A PVT is an independent activity that is regularly used in Ukraine only by OPORA, with the intention of providing independent information on the course of elections and the accuracy of official results. Unlike exit polls, PVTs use official data collected from polling stations with the help of specially trained observers, rather than the subjective results of opinion polls on how people voted.

Data for the PVT were collected by 1,395 observers (out of 1,398 trained persons) in 99.8% of representative polling stations, with 677,510 votes. Based on the reports of the parallel vote tabulation, OPORA stated with 99% confidence the following final results of the elections to the Verkhovna Rada within the national multi-member constituency:

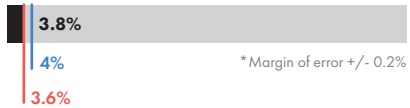
Party	Share of support	Error	Lower limit	Upper limit
Servant of the People	43.2%	1.0%	42.2%	44.2%
Opposition Platform – For Life	13.0%	1.0%	12.0%	14.0%
European Solidarity	8.2%	0.5%	7.7%	8.7%
AU “Batkivshchyna”	8.1%	0.4%	7.7%	8.5%
“Holos”	5.7%	0.6%	5.1%	6.3%
Radical Party of Oleh Liashko	3.9%	0.3%	3.6%	4.2%
“Syla i Chest”	3.8%	0.2%	3.6%	4.0%
Opposition Bloc	3.0%	0.3%	2.7%	3.3%
Ukrainian Strategy of Groysman	2.4%	0.3%	2.1%	2.7%
Shariy Party	2.3%	0.2%	2.1%	2.5%
AU “Svoboda”	2.2%	0.2%	2.0%	2.4%
Civic Position	1.0%	0.1%	0.9%	1.1%
All others	3.2%			

Parallel Vote Tabulation

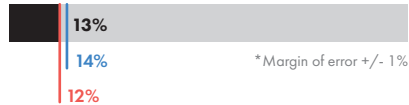
SERVANT OF THE PEOPLE



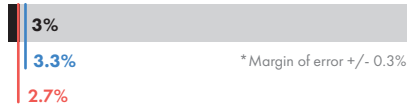
POWER AND HONOR



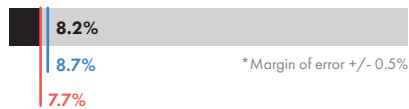
OPPOSITION PLATFORM FOR LIFE



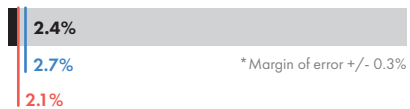
OPPOSITION BLOC



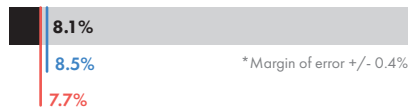
EUROPEAN SOLIDARITY



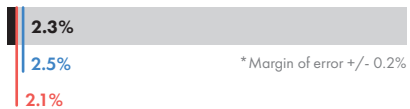
UKRAINIAN STRATEGY OF GROISMAN



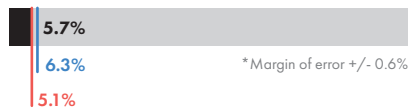
BATKIVSHCHYNA



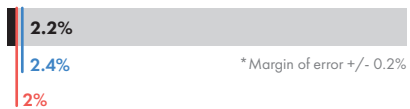
SHARYI'S PARTY



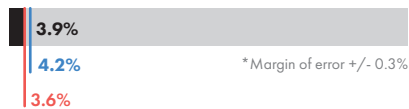
HOLOS



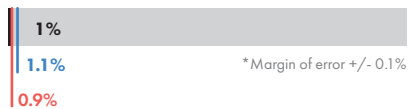
SVOBODA



RADICAL PARTY OF OLEH LIASHKO



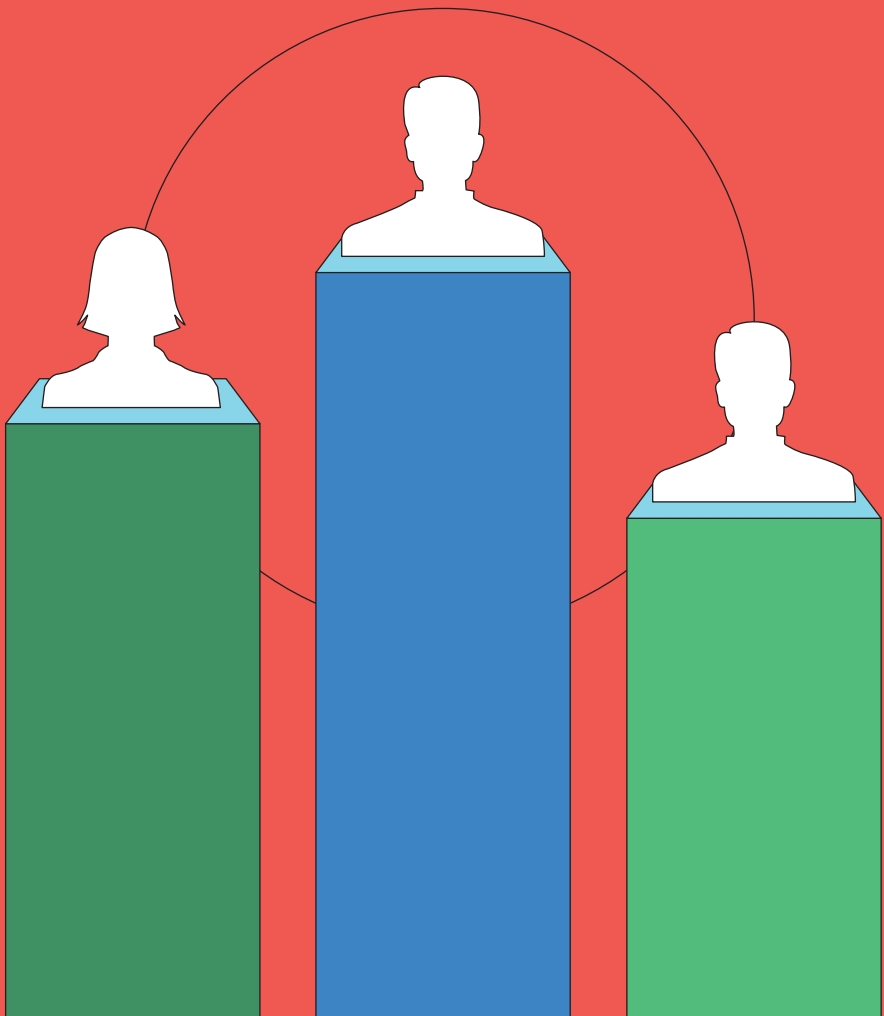
CIVIC POSITION



OTHERS



RESULTS OF PEOPLE'S DEPUTIES ELECTIONS



Given the use of a parallel (mixed) electoral system, the general constitutional composition of the Ukrainian parliament is formed of two categories of deputies.²⁹ They are 225 people elected in single-member constituencies, and another 225 people elected in the national constituency under the lists of political parties. Since it was impossible to hold elections in certain single-mandate constituencies located in the temporarily occupied territories that are not government controlled, 199 (instead of 225) people's deputies were elected under the majority system. Thus, as a result of the election, the Verkhovna Rada of the 9th convocation was formed of 424, rather than of 450 deputies.

On August 3, 2019 (the thirteenth day after the election), the CEC established the results of the extraordinary elections of people's deputies within the national constituency based on the processed DEC protocols on the voting results. Similarly, within the term allotted by the Law (up to and including August, 5), the results of voting were established in almost all single-mandate constituencies (except for one). It was only in constituency No 210 in Chernihiv oblast (center – Pryluky), given the court appeals and delays in the recount procedure by the district election commission, that the CEC established the results of voting as late as on August, 16, 2019.

In the national constituency, five parties overcame the 5% electoral threshold and won seats. The winner was the political force of the incumbent President Volodymyr Zelensky, “Servant of the People.” They received 43.16% of the actual votes of voters who took part in the voting. The “Servant of the People” gained the support of the majority of voters within almost all of Ukraine, with the exception of Lviv, Donetsk, and Luhansk oblasts. The rest of the political parties received a much lower level of electoral support in the national constituency. Second place (13.05%) went for the “Opposition Platform – For Life” party, which won in Donetsk and Luhansk oblasts, and received the main share of their votes in the eastern and southern regions of Ukraine. In fact, the All-Ukrainian Union “Batkivshchyna” and the “European Solidarity” parties showed the same results – 8.18% and 8.10%, respectively. However, “Batkivshchyna” voters were more dispersed within all regions of Ukraine, while the “European Solidarity” voters clearly showed themselves

29 In fact, some are politically responsible for the implementation of individual election programs, while others are solely responsible for the implementation of party agendas. Regardless of the election method, all people's deputies have the same amount of authority and responsibilities to interact with voters and, in accordance with the Constitution, they represent the interests of the entire Ukrainian people.

in the largest cities in the western regions of Ukraine, in Kyiv, and in foreign constituencies. Like the “Servant of the People,” Svyatoslav Vakarchuk’s “Holos,” a new party for Ukrainian politics, which received the support of 5.82% of voters and became the leader in Lviv oblast, entered the parliament for the first time.

Three more parties, such as the “Radical Party of Oleh Liashko,” “Syla i Chest” (number one on the list – Ihor Smeshko), and “Opposition Bloc” (headed by Yevhen Muraev), who could get into the Verkhovna Rada if the barrier was set at the level of 3%. It shall be reminded that such an electoral threshold was used in the parliamentary elections, which took place exclusively according to the proportional system of closed party lists in 2006 and 2007. In European electoral practices, there are different approaches to regulating this issue, but most Council of Europe member states today apply a 4-5% electoral barrier. Experts of the Venice Commission believe that a barrier of 3 to 5% is acceptable for established democracies, while in new democracies it is advisable to set higher barriers in order to develop sustainable and effective party systems.³⁰

One of the anticipated negative effects of the establishment of excessive electoral barriers is an increase in the share of lost votes (i.e. those cast for parties that did not receive any seats). In the 2019 extraordinary parliamentary elections, 3,164,737 voters voted for parties that did not pass the electoral threshold (it is 22% of the total number of valid votes cast for all lists of political parties). Thus, one-fifth of all votes were in fact wasted. At the same time, this number is much smaller compared to the effects of the majority electoral system, where the number of votes lost was over 8,734,139 (this is 63% of the total number of valid votes cast for all candidates in single-member constituencies).

According to election results in single-mandate constituencies, the “Servant of the People” party was the winner, too, the same as in the national constituency. Its candidates won the elections in 130 constituencies. In 46 constituencies, the front-runners were self-nominated. The remaining 23 seats were won by representatives of other parties. In particular, as a result of the application of the majority electoral system, representatives of three parties that did not overcome the electoral barrier under the proportional system entered the parliament: the “Opposition Bloc” (6 deputies), “Svoboda” and

30 See: Report on Electoral Barriers and Other Characteristics of Electoral Systems That Hinder Party Access to Parliament (II), CDL-AD (2010) 007.

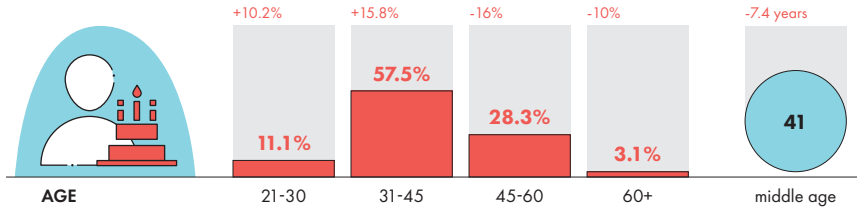
“Samopomich” (one deputy each). Thus, the presidential party “Servant of the People” received the total of an unprecedented number of seats (254), which allowed it to form a single majority (coalition) in the Verkhovna Rada of the 9th convocation.

The results of the majority voting system highlighted the problem of non-compliance with the principle of equality of votes in the distribution of seats between constituencies, caused by the consequences of the temporary occupation of Ukraine by terrorist armed groups. Although formally the number of voters in all single-member constituencies is about the same (about 150,000), in practice in some constituencies, which borders cover part of the territories beyond the government control (and where elections were held), the number of actual voters was much smaller. For example, in constituency No 51 (Donetsk oblast), the candidate with only 220 votes managed to win (Oleksandr Kovalyov, self-nomination). In constituency No 105 (Luhansk oblast) the winner received 1,854 votes (Victoria Hryb, “Opposition Bloc”). Instead, the average number of votes received by the winners in single-mandate majority constituencies in Ukraine was about 26,000; whereas the results of individual majority candidates reached 40-50 thousand (for example, a self-nominated Anton Yatsenko in the SMC No 200 in Cherkasy oblast received 50,712 votes).

A Profile of a New Composition of a Parliament

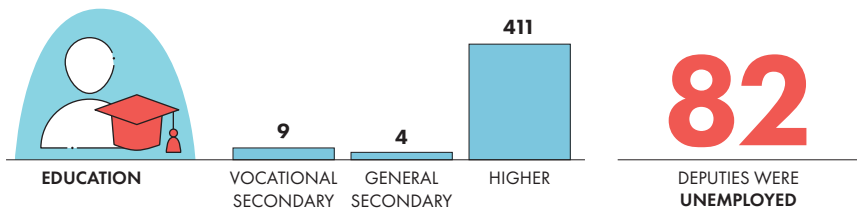
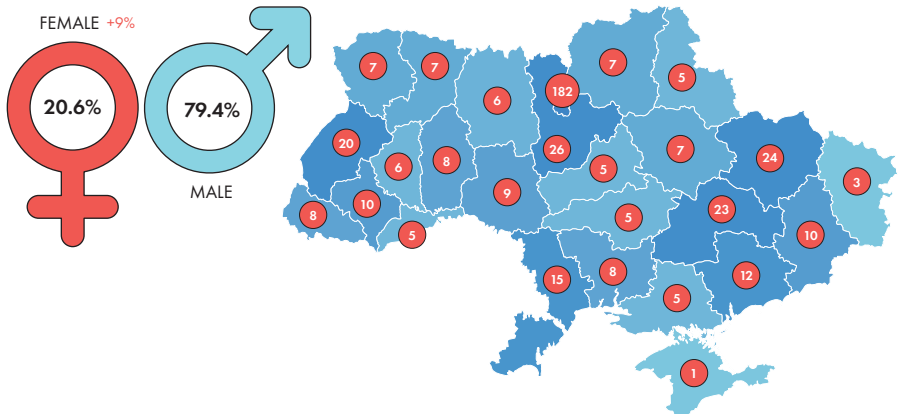
Only 82 people’s deputies of previous convocations managed to be re-elected to the Verkhovna Rada in the extraordinary elections. 342 parliamentarians received seats for the first time. Most of the deputies who worked in the previous convocation are members of the “European Solidarity” and “Opposition platform – For Life” parties (17 each). Another 16 MPs passed under the the lists of the “Batkivshchyna” party. In addition, another 32 deputies managed to get elected to parliament in their constituencies under the majority system. Other two political forces, such as the “Servant of the People” and “Holos,” have not had any former deputies from the 8th convocation in their lists.

Portrait of Verkhovna Rada, IX convocation



GENDER DISTRIBUTION

RESIDENCE



In terms of gender, 336 men (79.4%) and 87 women (20.6%) were elected to the Verkhovna Rada. Compared to the previous convocation, there will be 38 more female MPs in this parliament, and the representation of women in general has increased by 9%.

As part of the parties, 61 women entered the parliament, which is 27% of all the lists that passed to the Verkhovna Rada. In addition, 27 women won in the majority constituencies (13.6% of all majoritarians). In the last convocation, only 4 women were elected in their majority constituencies (Oksana Yurynets, Iryna Konstankevych, Iryna Podoliak, and Tetyana Rychkova). Iryna Konstankevych was the only who was re-elected to the parliament for the second term.

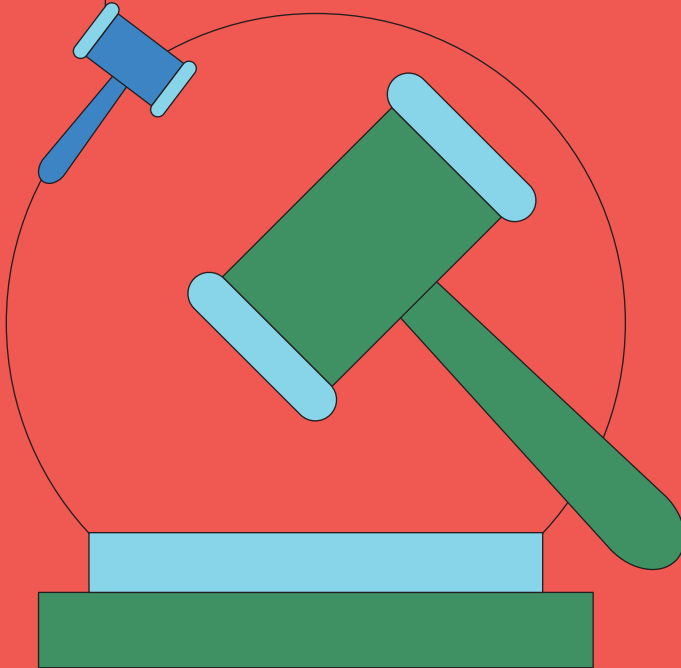
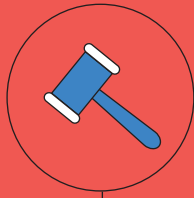
Most women entered the parliament from the “Servant of the People” — there are 56 of them. The “Holos” and the “European Solidarity” have 9 female deputies each. The “Opposition Platform — For Life” and “Batkivshchyna” have 5 deputies each. As for the percentage, the largest share of female deputies is in the “Holos” party — 45%. The “European Solidarity” has 36%, the “Servant of the People” has 22.1%, the “Batkivshchyna” has 19.2%. This number is the lowest in the “Opposition Platform — For Life” party — 11.6%.

41 years if age is the average age of an MP in the current parliament. In general, this figure decreased by 7.4 years, compared to the previous convocation of parliament. The youngest deputy, Sviatoslav Yurash, is 23 years old. He was elected on party lists from the “Servant of the People” (number 27). The oldest deputy is 78. It is Yuri Ioffe, who was elected on the party lists from the “Opposition Platform — For Life” (number 12). In general, the age structure of the future parliament is as follows: 47 deputies aged 21 to 30, 244 deputies aged 31 to 45, 120 deputies aged 46 to 60, and a total of 13 deputies over 60.

411 newly elected deputies have higher education, 9 deputies have the special secondary degree. There are also four with the general secondary education. At the time of the election, 30 MPs were unemployed. This is 5 people less than in the previous convocation. Most people’s deputies live in Kyiv (182 people). Next follows the Kyiv oblast (26 people); Kharkiv oblast in the third place (24 people). The least newly elected deputies live in Luhansk oblast (3 people) and in the Autonomous Republic of Crimea (1 person).

A key effect of the proportional voting system, with the requirement for compliance with the gender quota in the legislation, was the passage to parliament of 27% of women of all elected deputies on party lists. On the other hand, due to the application of the majority voting system in single-member constituencies, the rate of women entering parliament was twice lower — only 13.6% of all majoritarians.

JUDICIAL APPEALS AGAINST THE ELECTION RESULTS



In the elections of people's deputies of Ukraine, the CEC shall establish the results in national and single-mandate constituencies. The decision of the CEC on this issue can be appealed in the Supreme Court of Ukraine as in the first instance, while the appellate instance in such cases shall be the Grand Chamber of the Supreme Court of Ukraine.

The Unified Register of Judgments published 147 decisions on appeals against election results, including 6 cases in the Grand Chamber of the Supreme Court of Ukraine concerning constituencies. **No 50, 210, and 198.**

In the case No [9901/437/19](#), which was revised by the Grand Chamber, the candidate appealed the decision of the CEC of August 5, 2019 to establish the results of the elections of people's deputies of Ukraine in DEC **No 50** on the following grounds: violation of the law during transportation of documents to DEC No 50, forgery and falsification of election documents, illegal destruction of election documents, evasion of election commission members from performing their functions and duties without good reason, transfer of changed data through the "Elections" information-analytical system, about which there were corresponding appeals to law enforcement agencies. The lawsuit was dismissed due to the fact that in this case the CEC re-counted the results of 50 election documents requested from DECs in individual polling stations, and entered in the minutes the data it had established during such re-counts. At the same time, the CEC appealed to the National Police of Ukraine regarding the violations it had identified. The protocol was signed by the CEC chairman and all members of the Commission, most of whom added separate opinions to the protocol, which posited that although there were grounds for concluding that the results of the vote did not correspond to the will of the voters, but the Commission could not make other decisions or act other than specified in Art. 99 of the Law of Ukraine "On Elections of the People's Deputies of Ukraine" (establishment of election results). The Grand Chamber of the Supreme Court stated that the existence of dissenting opinions of the members of the Commission on the contested decision of the CEC was not a ground for revoking such a decision.

In the case No [855/372/19](#) the claim of the candidate to the CEC on recognizing illegal and cancelling the protocol from August 16, 2019 on voting results in the single-mandate constituency **No 210** was rejected. In his lawsuit, the candidate stated that on August 15, 2019, DEC No 210 decided to verify the information in the protocols on the recount of votes at 32 polling stations, and began to implement this decision. On August 16, the CEC drew

up a protocol on voting results in the constituency, and terminated powers of the entire DEC. The candidate considered such actions of the CEC illegal. By denying the candidate the claim, the courts assumed that the CEC, exercising the powers of the district election commission in constituency No 210, was obliged to comply with the decision of the Chernihiv District Administrative Court of August 10, 2019 in case No 620/2335/19 and declare invalid the voting at the polling station No 740243 of the single-mandate constituency No 210, while the legitimacy of the CEC to draw up a protocol on voting results in the single-mandate constituency in a SMC No 210 is also supported by court decisions on cases No 855/363/19, No 855/370/19.

As to the single-mandate constituency **No 198**, the Grand Chamber of the Supreme Court approved multiple decisions: on August, 17, 2019, in the case No [9901/441/19](#); on August, 28, 2019, in the case No [9901/467/19](#); on August, 28, 2019, in the case No [9901/468/19](#); and on September, 09, 2019, in the case No [9901/486/19](#). Thus, in the case No [9901/441/19](#), the candidate appealed against the CEC protocol dated August, 5, 2019, on results of elections of people's deputies of Ukraine in a single-mandate constituency No 198, in terms of systemic nature of abuse during the vote count, and drawing up the protocol on voting results at some PECs in the constituency that are impossible to eliminate by correcting inconsistencies, or by introducing changes in the document without having the repeat elections. The systemic nature of the violations was confirmed by court decisions in cases No 580/2433/19, No 580/2437/19. The case was reviewed by the Grand Chamber, which found that at the time of drawing up the minutes on 5 August 2019, the CEC had no information on complaints that could affect the election results. At the time of the case, the Supreme Court had adopted several rulings of the appellate court on cases No 580/2433/19, No 580/2437/19, which were essential for the case. Under such conditions, the CEC protocol on the results of the elections of people's deputies of Ukraine in the single-mandate constituency No 198 of August 5, 2019 was declared illegal and revoked, and the CEC was obliged to continue to establish the results of the elections in the district No 198, taking into account the decisions of the Sixth Administrative Court of Appeal of August, 7, 2019 on case No 580/2433/19 and of August, 10, 2019 on case No 580/2437/19.

In cases No [9901/467/19](#) and No [9901/468/19](#), the courts found illegal and revoked the protocol of the Central Election Commission on the results of the elections of people's deputies of Ukraine in SMC No 198 of August, 21, 2019, and obliged the CEC to continue actions to establish the results of elections of people's deputies of Ukraine in a single-mandate constit-

uency No 198, following the enforcement of the resolutions of the Sixth Administrative Court of Appeal of August, 7, 2019 on case No 580/2433/19, of August, 10, 2019 on case No 580/2437/19, and decision of the Administrative Court of Cassation of the Supreme Court of August, 12, 2019 on case No 9901 / 441/19.

On September 09, 2019, in the case No [9901/486/19](#), the courts partially satisfied the candidate's claim, and found illegal the CEC's inaction to fail to establish the results of the extraordinary elections of people's deputies of Ukraine on July 21, 2019 within SMC No 198, and obliged the CEC to do everything under the law to establish the results of the extraordinary elections of people's deputies of Ukraine on July 21, 2019 within the SMC No 198. The claims were based on the fact that as of September 3, 2019, the CEC had not taken any action to establish the election results within the PSC No 198 and to enforce court decisions in cases No 580/2437/19, No 580/2433/19, No 9901/441/19, No 9901/467/19. The courts agreed with this and pointed out that in the period from August 28 to September 3, 2019, the CEC did not take any measures to establish the results of the extraordinary elections of people's deputies of Ukraine on July 21, 2019 in SMC No 198.

The situation in constituency No 198 was described by OPORA ombudsman in Cherkasy region in his blog³¹, while the Administrative Court of Cassation of the Supreme Court (ACC of the Supreme Court), as to the case No [855/397/19](#), listed the entire chronology of events in constituency No 198 as of November, 04, 2019.

It should be noted that some CEC decisions on the voting results were appealed to the Sixth Administrative Court of Appeal as a court of first instance (with the right to appeal to the Supreme Court of Cassation), while lawsuits to district election commissions were resolved in local district administrative courts (with the right to appeal to administrative courts of appeal) in accordance with Part 3-4 of Art. 273 of the Code of Administrative Proceedings of Ukraine.

In particular, in addition to the above decisions of the Grand Chamber of the Supreme Court on the "problematic" districts **No 50**, **No 198**, and **No 210**, there are numerous other court decisions. In particular, regarding the district **No 50**, decisions were made in cases No [855/343/19](#), No [9901/422/19](#), No [235/5084/19](#), No [235/5094/19](#), No [200/9252/19-a](#), No [227/3107/19](#),

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31 Available at: <https://bit.ly/2y1c1LE>

No [235/5082/19](#), No [200/9326/19-a](#), No [200/9412/19-a](#), No [235/5082/19](#), No [235/5082/19](#); regarding the district **8198** – in cases No [580/2350/19](#), No [580/2351/19](#), No [580/2433/19](#), No [580/2432/19](#), No [580/2430/19](#), No [580/2437/19](#), No [580/2494/19](#); regarding the district No 210 – in cases No [620/2151/19](#), No [620/2276/19](#), No [620/2229/19](#), No [620/2276/19](#), No [620/2335/19](#), No [9901/429/19](#), No [855/358/19](#), No [855/363/19](#), No [855/370/19](#), No [855/372/19](#).

It is noteworthy to quote the cases No [9901/408/19](#) and No [640/14929/19](#), on appeals against actions of the CEC reviewed by the Administrative Court of Cassation of the Supreme Court. Thus, in the case No [9901/408/19](#) the plaintiff filed a lawsuit with the CEC, requesting not to publish the results of the elections as such, because the number of elected deputies was under 450, which will prevent the formation of the constitutional composition of the Verkhovna Rada of Ukraine (since the total number of single constituencies is not 225 but 199, i.e. is by 26 seats lower than 450). In another case No [640/14929/19](#) the plaintiff asked the court to recognize illegal the actions of the CEC to publish the results of the election process on August 7, 2019, and to oblige the CEC to ensure the results of extraordinary elections on July 21, 2019, namely 450 elected deputies, which will allow the formation of the constitutional composition of the Verkhovna Rada of Ukraine. The courts denied the claims in both cases on the grounds that by its resolution of July 2, 2019 No 1430, the CEC determined the lists of single-member constituencies in which the voting of Ukrainian citizens in the extraordinary elections of deputies of Ukraine on July 21, 2019 was not organized and was not carried out. The Central Election Commission acted on the grounds of this Article 8 of the Law of Ukraine of April 15, 2014 “On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine.” It established that during the elections of people’s deputies of Ukraine voting of citizens of Ukraine in the temporarily occupied territory was not organized and was not conducted.

In the case No [855/341/19](#), the Administrative Court of Cassation of the Supreme Court, as the appellate court, considered the case on the claim of the candidate to the CEC, in which the question was raised of the legality of the CEC decision regarding the recognition of illegal actions of the DEC in constituency **No 69** on the recount of votes at a number of polling stations in the district. The courts denied the claim due to the fact that at the time of receipt of recounts and complaints about recounts by DEC, DEC had completed the acceptance of documents from precinct election commissions from the constituency No 69, and had taken into account information

on vote count protocols at these polling stations during establishing the voting results within the district. Under such conditions, the CEC reasonably found it illegal for DEC's to recount votes at a number of polling stations complained about. The courts agreed that the CEC's decision complied with the law.

In the case of No [855/342/19](#) under the claim from the candidate to the CEC, the Administrative Court of Cassation of the Supreme Court, as an appellate instance, considered the legality of the CEC's actions to adopt the DEC protocol on voting results in a single-member constituency No 209, and dismissed the claim. The ACC of the Supreme Court assumed that the CEC had no legal grounds for not accepting the protocol from DEC No 209. Concerning the plaintiff's allegations about the establishment of the fact of gross violation of the DEC of the SMC No 209 in terms of entering inaccurate information into the "Elections" Unified information-analytical system, with regard to the number of voters in a number of polling stations, the Court noted that during the vote count at the above-mentioned polling stations, neither the candidate, nor his proxies, nor official observers drew up and submitted to the commission any act of violation of election law. No complaints were filed against the actions or decisions of members of both the above-mentioned precinct election commissions and DEC of the SMC No 209. The actions or decisions of these election commissions were not appealed in court.

The courts were also hearing the cases as to appeal against **decisions, actions, inaction of DEC's** regarding the establishment of voting results within single-member constituencies.

Thus, the Sixth Administrative Court of Appeal in the case of No [620/2153/19](#) considered the issue of DEC's of constituency No 207 (Chernihiv region). In fact, against the law, it did not consider the complaint filed by a candidate's proxy, so the court overturned the decision of DEC at SMC No 207 to recount votes at a number of polling stations and consider the complaint of the candidate's proxy.

The Eighth Administrative Court of Appeal considered issues concerning the district election commissions of constituency No 119 (case No [857/7981/19](#)), constituency No 164 (case No [500/1796/19](#)) and constituency No 69 (case No [260/1107/19](#)).

Thus, in the case No [857/7981/19](#), the courts annulled the protocol of DEC in SMC No 119 (Lviv oblast) on voting results in a single-mandate constituency, and obliged DEC to recount the votes in some of the polling stations declared in the lawsuit. Such decisions are motivated by the fact that the candidates' complaints were returned to DEC without any consideration. In fact, failure to consider these complaints essentially made it impossible for the plaintiffs to exercise their rights to appeal against election law violations raised in their complaints. At the same time, in the case No [260/1107/19](#), in which the candidate also requested to cancel the DEC protocol in SMC No 69 (Transcarpathia oblast) and to recognize the illegal inaction of the non-recount of votes, the courts refused to satisfy the claims. Thus, the courts noted that the actions of DEC No 69 to establish voting results in the single-member constituency No 69 and draw up a protocol on July 28, 2019 are lawful, because earlier, on July 24, 2019, based on reports and complaints of MP candidates in DEC No 69, decided to recount the votes at all 133 polling stations in the constituency. However, the decision was revoked by the CEC Resolution No 1830 of July 27, 2019. It obliged the DEC to establish voting results without undue delay. Therefore, the impugned protocol of DEC No 69 dated July 28, 2019 was drawn up in accordance with the law and the instructions of the CEC, and is not subject to cancellation.

In the case No [500/1796/19](#), the candidate filed a lawsuit with DEC in SMC No 164 (Ternopil oblast), requesting to cancel in full the protocol of the district election commission on elections of people's deputies of Ukraine on voting results in single-mandate constituency No 164 of 24.07.2019, and to recount the votes. He was denied the claim because the plaintiff did not provide evidence to prove the violation of the integrity of the packages containing the vote count protocols of polling stations, as well as because the DEC did not return the copies of protocols to PECs for clarification, but independently entered new data into the protocols.

The Fifth Administrative Court of Appeal in the case No [420/4482/19](#) considered the issue about DEC of constituency No 142. There, the candidate complained about the inaction of the DEC in SMC No 142 (Odesa oblast), which consisted in the commission not considering the requesting claims of three of its members to cancel the DEC decisions, and conduct a recount. The courts dismissed the claim because the joint request of the three DEC members concerned the internal activities of the commission and could directly violate the rights of the commission members. The DEC members did not challenge the disputed inaction of the commission and its chairman to consider their request a violation of his rights as an electoral subject.

The Third Administrative Court of Appeal in the case No [160/6993/19](#) considered the issue of appealing the actions of DEC on drawing up the voting results protocol constituency No 37 (Dnipropetrovsk oblast). In the claim, the candidate asked for a recount of votes at a number of polling stations and to establish voting results on the basis of new data. The claim was dismissed by the courts due to the fact that after the court reviewed the second copies of the PEC protocols, the plaintiff withdrew some of his claims. Moreover, the court was not provided with any claims or complaints, or acts confirming violations of the law during the vote and the vote count at polling stations, during the transportation to the DEC of vote count protocols at polling stations. Besides, there were no established signs of opening packages with packed documents from polling stations.

The First Administrative Court of Appeal was considering the issues from constituency No 52 (cases No [200/9323/19-a](#), No [200/9317/19-a](#), No [200/9324/19-a](#), No [200/9318/19-a](#), No [200/9321/19-a](#), No [200/9315/19-a](#), No [200/9316/19-a](#), No [200/9325/19-a](#), No [200/9322/19-a](#), No [200/9462/19-a](#), No [200/9402/19-a](#), No [200/9463/19-a](#)), the question of constituency No 105 (case No [360/3281/19](#), No [360/3363/19](#), No [360/3365/19](#)), the question of constituency No 106 (case No [360/3344/19](#), No [360/3300/19](#), No [360/3397/19](#)).

As to constituency No 52, most cases concerned the invalidation of polling station results (No [200/9317/19-a](#), No [200/9318/19-a](#), No [200/9315/19-a](#), No [200/9316/19-a](#), No [200/9325/19-a](#)), or the obligation of DEC to recount votes at polling stations (No [200/9323/19-a](#), No [200/9321/19-a](#), No [200/9322/19-a](#), No [200/9402/19-a](#), No [200/9462/19-a](#)). All claims were denied on the grounds that they were unfounded. In the case No [200/9324/19-a](#), the plaintiff appealed against the actions of DEC No 52 (Donetsk oblast) to stop the continuous meeting of the commission and the unauthorized leaving of the premises of the commission, because during the continuous meeting on July 21-24, 2019 DEC No 52 constantly announced the breaks. The claim was denied and the courts stated that the legislator had only prohibited members of DEC from participating in other functions than attending such a meeting, and that the plaintiff had not provided any adequate evidence of the announcement of such breaks. In the case No [200/9463/19-a](#), the plaintiff asked to admit the fact of impossibility to reliably establish the voting results, and to recognize the need to hold repeat elections of deputies of Ukraine in a single-member constituency No 52, on the grounds of revealing the facts of illegal voting and bribery of voters. The claim was dismissed on the grounds that the plaintiff had

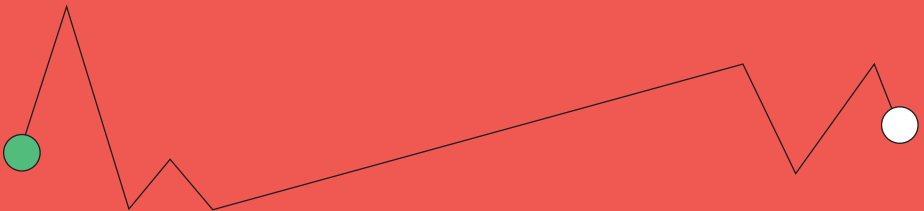
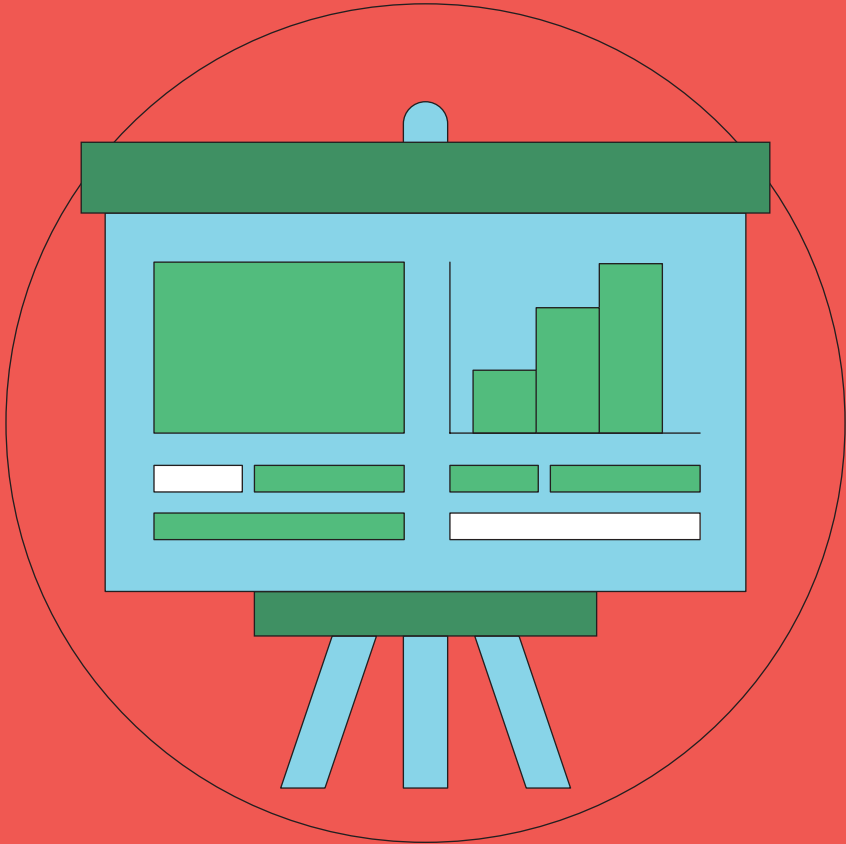
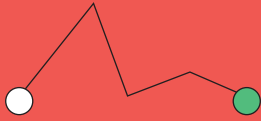
not provided evidence for planting bombs, which led to the suspension of polling stations and the mass deprivation of voters of the opportunity to vote; for recording of frequent cases of voter bribery, for bringing the corrupt voters in groups in order to take the paid organized voting for one of the candidates; transportation of precinct election commission documents by unauthorized persons, unaccompanied by the police.

As to constituency **No 105** (Luhansk oblast), in the case [360/3281/19](#) on the claim of the candidate to the chairman of the precinct election commission to recognize illegal the inaction, and to recognize illegal the protocol of the precinct election commission on vote count at a regular polling station, the appellate court refused to satisfy the claims due to lack of proper and admissible evidence of violations. In the case No [360/3363/19](#), the candidate filed a lawsuit to invalidate and cancel the protocols on voting results, to declare illegal the actions of the district election commission, and to invalidate the voting results. The court rejected the claim and declared illegal the inaction of some members of DEC No 106, which was expressed in non-participation on July 25, 2019 in the continuation of the ongoing meeting of the district election commission. The decision was motivated by the fact that this part of DEC members, unlike others, had disrespectful reasons for not attending the commission meeting, which was not supported by adequate evidence.

The courts rejected the plaintiff's argument that the impugned protocol was signed by ten of the eighteen DEC members, four of whom were not authorized, was rejected. Besides, it was stated that the newly appointed DEC members were appointed by the CEC and attended the commission meeting, and took the oath. Therefore, the DEC managed to comply with the requirements for drawing up the challenged protocols on voting results. In the case No [360/3365/19](#), the candidate demanded that the voting results at certain polling stations be declared invalid, and that the fact be established of impossibility to reliably state the will of voters in constituency No 105. The courts denied the claims, as the court compared the data from DEC protocols on voting results, on the recount of votes at the polling station, as well as the protocol of the polling station election commission on the vote count at the polling station, and stated that the irregularities in the defendant's actions when drawing up the protocol of the district election commission on voting results in a single-mandate constituency No 105 were not established by the courts.

The issue about **constituency No 106** (Luhansk oblast) was considered by the courts in the cases No [360/3300/19](#) and No [360/3344/19](#), where the first case established the illegality of decision by the DEC No 106 to undertake the recount at a number of polling stations. The second case stated the DEC had prematurely independently revoked its decisions, which were previously revoked by the court, but the decision in the case has not yet entered into force. In the case No [360/3397/19](#), the court found unlawful the inaction of DEC members No 106, which consisted in non-participation in the continuation of the ongoing meeting. However, the request to recognize the fact of a one-time gross violation by the commission members has not been supported.

CONCLUSIONS



Extraordinary elections of people's deputies completed the process of upgrade of political power in Ukraine, which began after the election of President Volodymyr Zelensky. The dissolution of the parliament almost immediately after the inauguration of the new President of Ukraine made it impossible to adopt a proper legal framework and review the electoral system in the parliamentary elections. The refusal of parliamentary factions and groups in the Verkhovna Rada of Ukraine and the President of Ukraine Volodymyr Zelensky from a broad compromise on legislative changes has led to the reproduction of the parallel electoral system that has been discredited in Ukraine. Expert and political concerns about the corruption of the parallel electoral system, which provided for the election of one half of the parliament on closed party lists and the other half of the parliamentary corps passed in single-member constituencies, found their practical implementation. In particular, the technology of cloning candidates in single-member constituencies proved to be widespread and quite effective, misleading a large number of voters. The lack of conditions for comprehensive electoral reform after the early termination of parliamentary powers and the previous long-term inaction of parliament have caused significant difficulties in organizing and conducting elections.

Imperfect legislation has negatively affected the legal certainty and democracy of the process of nominating and registering candidates for deputies of Ukraine. The process of nominating candidates was accompanied by non-transparent practices on the part of the organizers of party congresses and their leadership. The lack of full access for journalists and observers at party events, the selective publication of the list of nominated candidates and the announcement of changes to the electoral lists after the deadline for nomination had a negative impact on internal party democracy. The Verkhovna Rada of Ukraine needs to find an effective balance between guarantees for the autonomy of political parties and legislative mechanisms for the rights of members and local organizations of political parties to influence the decisions of their political force.

The snap elections to the Verkhovna Rada of Ukraine have once again demonstrated the need to coordinate the deadlines for appealing CEC decisions on registration or refusal to register candidates with other election procedures. First of all, we are talking about preventing the possibility of disrupting the process of producing ballots due to the need to amend the CEC decision on their form and content. Electoral dispute between the CEC and a political party "New Forces Movement of Mikheil Saakashvili" regarding the registration of the electoral list could potentially lead to a delay in the

production of ballots for the extraordinary elections of people's deputies of Ukraine. An equally important task is the proper legislative regulation of the CEC's verification of compliance by candidates for people's deputies with the electoral qualifications established by the Constitution of Ukraine. The lack of the necessary details of the requirements for such verification provoked the CEC's debatable decisions on the registration or deregistration of candidates. The shortcomings of the election legislation, especially in terms of verifying candidates' compliance with the residency requirement, contributed to the CEC's political requirements to register or not to register individual candidates. The registration of candidates who may not have lived in Ukraine for some time after the change of government, as a result of the Revolution of Dignity, was largely politicized. The issue of checking the fact of a candidate's compliance with the residency requirement if they lived in the temporarily occupied territories of Donbass and Crimea also became politically controversial. The long-standing problem of determining who can make a deposit in the election remains unresolved: shall these be only the candidates themselves, or also a third party. The unequal judicial practice during the elections emphasized the need to improve the electoral legislation regarding the nomination and registration of candidates. The legal certainty of the document verification process and its clear criteria and phasing will avoid excessive conflict in the nomination and registration processes.

The unresolved issue of the legality of the election process has reduced the already short-lived early election campaign. Political parties and candidates awaited the decision of the Constitutional Court on the constitutionality of the Decree of the President of Ukraine on the early termination of the powers of the Verkhovna Rada of Ukraine, and belatedly launched their own pre-election campaigns. At the same time, some political parties and candidates campaigned before gaining the status of an electoral subject, and opening the accounts of election funds. Thus, the extraordinary elections were accompanied, on the one hand, by a short campaign. On the other hand, the problem of early campaigning in the conditions of uncontrolled use of funds by the party and candidates manifested itself during the short election campaign.

The extraordinary campaign did not have any record-high numbers of candidates in the electoral lists of parties and in single-mandate constituencies, not exceeding this indicator in the 2014 parliamentary elections.

Compared to the previous parliamentary elections, the share of non-partisan candidates in party electoral lists has decreased from 40% to 25%. At the same time, in the lists of individual parties, non-party nominees had a significant advantage (“Servant of the people” – 57%, “Shariy Party” – 69%, AU “Fakel” – 54%). A significant share of non-partisans on political party electoral lists were due to the fact that political forces themselves were often formed shortly before the election process began. In the extraordinary elections of 2019, as well as in the elections of 2014, the most rated political parties were those that had not previously participated in election campaigns. According to OPORA, the party system of Ukraine requires further development of the tools of internal party democracy and ensuring the stability of party institutions.

Despite gradual progress in ensuring equal conditions for the participation of men and women in the electoral process, the situation remains far from perfect. Overall, 30.6% of candidates on the voter lists were women, but gender balances differed significantly between political parties. For example, only 17% of women were included in the electoral list of a highly ranking All-Ukrainian Union “Svoboda.” Men dominated in the upper parts of electoral lists: in the electoral lists of as little as 7 of the 22 political forces in the top twenty candidates, the share of women was at least 30%. Thus, it is expedient for Ukraine to envisage the impossibility of registering the party’s electoral list in case it fails to comply with the gender quota. The transition to a proportional electoral system will ensure full representation of men and women, as the majority component of elections does not promote women’s participation in elections.

The holding of extraordinary elections of people’s deputies of Ukraine without the obligatory legal requirement to observe the principle of equal representation of men and women in the electoral lists has once again demonstrated the need to introduce full-fledged guarantees in this area. Political parties have made some progress on gender mainstreaming, but it has not been sufficient, especially in the context of the election of half of the parliament in single-member constituencies. In OPORA’s opinion, the Verkhovna Rada of Ukraine shall immediately establish it impossible to register voter lists in all elections in Ukraine without respecting the principle of gender balance. Instead, political parties, by amending their statutes, should increase women participation in internal processes and at the nomination stage.

The election campaign was accompanied by significant shortcomings in terms of ensuring its inclusiveness for all social groups. The legislation did not provide sufficient special guarantees to create appropriate conditions for the participation of people with disabilities in the election process, especially in terms of infrastructure for access to polling stations and access to campaign materials. During the discussion of the draft Electoral Code by the previous parliament, legislative improvements for people with disabilities were planned but failed to be implemented during the extraordinary election campaign. According to OPORA, the Parliament, with the involvement of the CEC, should immediately implement appropriate standards for the participation of people with disabilities in electoral and political processes, while the Government should develop a realistic plan to bring the electoral infrastructure in line with accessibility standards.

The issue of inclusiveness of the electoral process has also been acute in terms of the participation of internally mobile voters and Ukrainian citizens staying abroad. Internally displaced persons and internal labour migrants had the opportunity to temporarily change their voting place throughout the government-controlled territory of Ukraine. But the small number of citizens who exercised the right to change the place of voting indicates the lack of awareness campaigns and relevant explanations among voters. Against the background of a constantly growing number of citizens without an officially registered place of residence, the issue of participation of such voters in voting was not sufficiently regulated by law. A comprehensive solution for such groups of voters should provide for the abolition of the mandatory link of the electoral address to the formally registered place of residence of persons, in the context of an ever-growing number of citizens.

A separate area of strengthening the inclusiveness of the electoral process should be the improvement of procedures and infrastructure for voting for the citizens of Ukraine who stay overseas. The available number of foreign polling stations does not allow to create favorable conditions for the voting of a significant number of citizens, while the parallel electoral system does not ensure equality of votes of voters staying outside Ukraine.

The violations of the legislation identified and verified by OPORA observers clearly demonstrate the need to further improve the requirements for campaigning. Cases of non-compliance with the rules of campaigning were in the lead in the general structure of violations. On the one hand, the parliament must effectively complete the reform of electoral and party finances, on the basis of European best practices. On the other hand, the NAPC and

the CEC should be given additional powers to respond to non-compliance with legal requirements during campaigning. It is important that state bodies, primarily the NAPC, have the opportunity to obtain and promptly analyze information on violations from constituencies, and not limit themselves to studying the reports of electoral subjects.

A separate task for the government shall be a comprehensive but balanced regulation of political advertising on social networks, which would ensure the transparency of any costs of such campaigning and preserve the freedom of dissemination of information. Measures to improve the campaigning of parties and candidates on social media should include both amendments to the legislation, and a dialogue between state-authorized bodies and transnational platforms. The experience of national campaigns shows the need to strengthen the fight against misinformation during elections, and to prevent the influence of foreign states on the formation of public opinion in Ukraine. It is expedient to pay special attention to the prevention of cases of misinformation on the voting procedure that were recorded in the 2019 elections.

The transitional political period between the presidential and parliamentary elections reduced the impact of administrative resources on the electoral process. The absence of a “classic” party policy for Ukrainian politics has avoided mass abuses of power for electoral purposes. However, according to OPORA, at the level of legislation and bylaws, opportunities for such abuses have not been eliminated. Particular attention should be paid to preventing the use of budget programs during election campaigns by the ruling political parties or individual candidates. In particular, the Government of Ukraine should crucially reconsider the procedures for the distribution and use of state subventions for socio-economic development, which were quite actively used in their own electoral interests by candidates who were active at the time of the election. In addition, parliament should explore the possibility for special restrictions on the implementation of new social programs or other budget programs in the election process.

The disadvantage of the parliamentary election campaign in 2019 was the application of outdated and insufficiently effective legal framework for bringing perpetrators to criminal and administrative liability. The Verkhovna Rada of Ukraine of the 8th convocation failed to adopt a package of amendments to the Criminal Code and the Code of Administrative Offenses, which was jointly developed by law enforcement agencies and OPORA. The proposed changes address gaps in legislation, and aim to impose proportionate

sanctions for electoral fraud. Unfortunately, unreformed legislation has not fully ensured the inescapable punishment for electoral fraud, including incidents of voter bribery. Strengthening the institutional capacity of the National Police of Ukraine to document and investigate violations of the law remains a priority. In particular, the analysis of court decisions on cases of bringing persons to administrative liability demonstrates significant shortcomings in the preparation of relevant materials by law enforcement officers. The factual lack of effective investigations into incidents of voter bribery in the extraordinary elections of people's deputies of Ukraine raises concerns, too. Cases of material incentives for voters were not widespread in these elections of people's deputies of Ukraine, although they were not few, and had to receive a comprehensive study from law enforcement agencies. At the same time, OPORA notes the constructive and stable orientation of the territorial subdivisions of the National Police of Ukraine to cooperate with OPORA observers in response to the identified violations of the election legislation.

The extraordinary elections of people's deputies of Ukraine were accompanied by long-term challenges in election administration, which need to be resolved systematically and without undue delay. The instability in the composition and insufficient professional training of DEC and PEC members requires the introduction of a full-fledged system of preliminary training and attestation of knowledge of potential election commission members. Optimization and simplification are needed for PEC formation procedures, which are currently difficult for DEC members to implement. There is a need to strengthen legislative and practical guarantees for ensuring access of electoral subjects and the interested public to the decisions of lower-level election commissions, as well as timeliness and completeness of their promulgation. By ensuring the inescapable punishment for violating the procedure for drawing up protocols on the vote count with its simultaneous simplification, the state is obliged to counteract the still widespread cases of organized and unorganized distortion of voting results. Given the deficit of budget funds, the problem is acute of remuneration of members of election commissions who organize and conduct voting. At the moment, the level of such payment is unsatisfactory and the state should look for ways to strengthen the motivation of citizens to perform the functions of election commission members. At the same time, OPORA hereby highlights that it is inadmissible to implement any populist statements about the remuneration possibility for election commission members at the expense of the electoral process, which would violate democratic standards of formation and operation of politically impartial election administration bodies. Separate men-

tion should be made of the need to eliminate incentives for PEC members to indicate a false date and time for signing vote count protocols, in order to receive additional payment. According to OPORA, a universal approach to fair remuneration of election commission members should be envisaged, which would deprive commission members of incentives to manipulate the time of drafting and signing election documents.

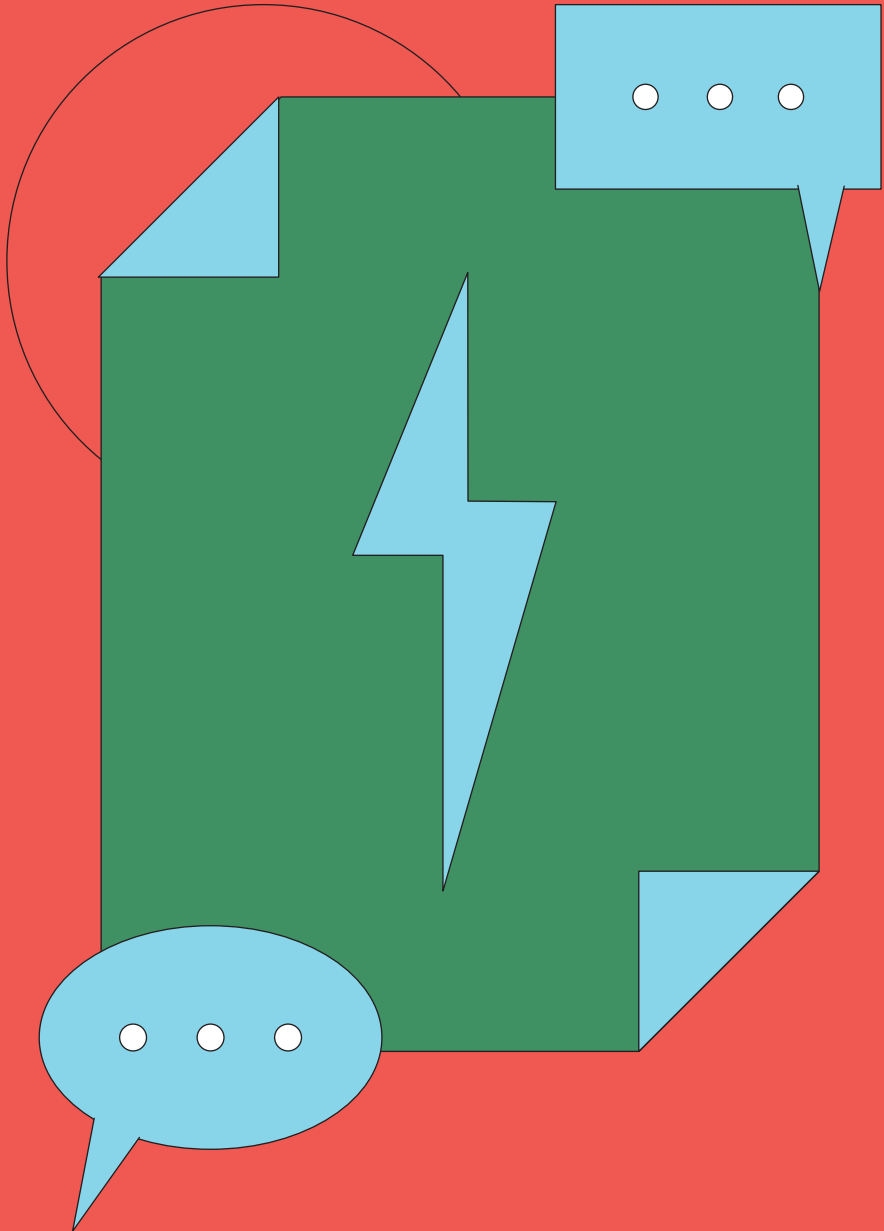
An important area of reforming the election administration should be the establishment of territorial and regional CEC offices, which would take over the functions of facilitating the work of DEC and PECs, maintaining the State Register of Voters, coordinating local authorities on election infrastructure, and informing citizens. The Central Election Commission needs significant financial resources to set up such representations, so it is advisable for the Government and the CEC to formulate a realistic phased plan for the implementation of these institutions.

The 2019 parliamentary elections also highlighted the importance of conducting and effectively concluding an expert and parliamentary dialogue on the terms of public procurement during the election process. People's deputies of Ukraine and government officials must find a balanced and well-reasoned approach to procurement, which would at the same time guarantee the efficiency, transparency and non-corruption of public procurement for the election process.

OPORA, based on its own observation of a representative number of polling stations, positively assessed the voting and counting process. On the other hand, violations detected on election day traditionally demonstrate the importance of informing election commission members of responsibility for the illegal issuance or receipt of ballots, as relevant incidents were recorded in a large number of polling stations in Ukraine. Simultaneously with education, law enforcement agencies must ensure the inescapable punishment for all perpetrators of voting procedures. The same requirements apply to many cases of PEC members illegally adjusting vote count protocols after transporting documents to DEC.

According to the observation results, OPORA hereby states the importance of continuing and effectively completing a full-fledged electoral reform in Ukraine. Priority steps should be taken to strengthen the requirements for the transparency of electoral finance, to provide conditions for the participation of all groups of voters, to establish proportionate and effective sanctions for electoral crimes, and to gradually reform the election administration.

RECOMMENDATIONS



To the Verkhovna Rada of Ukraine

General Recommendations

- Complete full-fledged electoral reform by improving the Electoral code based on inclusive parliamentary and expert dialogue.
- Adopt a package of amendments to the Criminal Code, the Code of Administrative Offenses on the effective provision of punishment for electoral fraud, which was jointly developed by the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine, and by OPORA.
- Continue to reform the legislation on electoral and party finance on the basis of European standards and with account for the impact of shadow finance on the political process in Ukraine.
- Take into account the need to ensure the political and electoral rights of people with disabilities at all stages of electoral reform.
- Legislatively create conditions for the progress of election administration bodies in the field of open election data.

Special Recommendations

- Comprehensively regulate the conduct of campaigning by political parties and candidates on social media, in order to ensure accountability of electoral finances.
- Give political parties with a minimum share of support the right to governmental funding to promote the development of the party system and support non-partisan political forces.
- Strengthen the requirements for transparency and openness of conventions (congresses) of political parties in order to develop internal party democracy, avoid abuses and falsifications at the stage of approval of candidate lists.
- Due to the massive technology of “twins” and “clones” in the extraordinary elections of people’s deputies, to clearly establish criminal liability for bribing candidates in the interests of influential electoral contestants.
- Given the non-compliance of some parties with the principle of gender balance in the electoral lists and the unsatisfactory level of representation of women in the upper parts of lists, to ensure legislative and practical compliance with the minimum quota for the representation of two genders in the electoral lists.

- Simplify the procedures for individuals to contribute to the election funds of parties and candidates through online tools, ensuring full control over their legality and openness of information about campaign sponsors.
- Comprehensively regulate the issues of CEC public procurement in the settings of the election process, adhering to the balance of their accountability, anti-corruption, flexibility and efficiency.
- Legislate the criteria and procedures for the CEC to verify candidates' compliance with the residence requirement on the territory of Ukraine during the previous five years, in order to avoid conflict situations and unequal legal practice.

To the Central Election Commission

- Initiate the internal reform of the Commission on the basis of the Roadmap, which was presented by public and expert organizations in 2018.
- The CEC's internal reform should include the Commission's transition to medium- and long-term planning, the creation of stakeholder consultation platforms, the provision of public discussions of important Commission documents, staff capacity building, and the development of open election data and voter services policies.
- Ensure that the Commission's working meetings are open and accountable to journalists and official observers by creating a genuine discussion on the agenda of the Commission's formal meetings.

To the Supreme Court of Ukraine

- To ensure the generalization of judicial practice in the extraordinary elections of people's deputies of Ukraine, and to organize public events to discuss key issues in the process of consideration of election disputes by courts.

To State Judicial Administration

- Provide thematic training of judges of Ukraine in the period between the elections, in order to enhance their capacity to resolve electoral disputes.

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