

**OPORA FINAL REPORT
ON OBSERVATION
AT THE 2019 REGULAR
PRESIDENTIAL ELECTIONS
IN UKRAINE**



The publication was made possible due to support of American people provided by the United States Agency for International Development (USAID). Any opinions and statements expressed in this publication may not coincide with the official position of USAID and US Government.

Authors

Oleksandr Kliuzhev
Oleksandr Neberykut
Olha Kotsiuruba
Robert Lorian
Iurii Lisovskyi
Grygorii Sorochan

Endorsed by

Olga Aivazovska

Translation

Svitlana Bregman

Design by

Viktoriya Arkhypenko

ISBN 978-617-7142-56-9

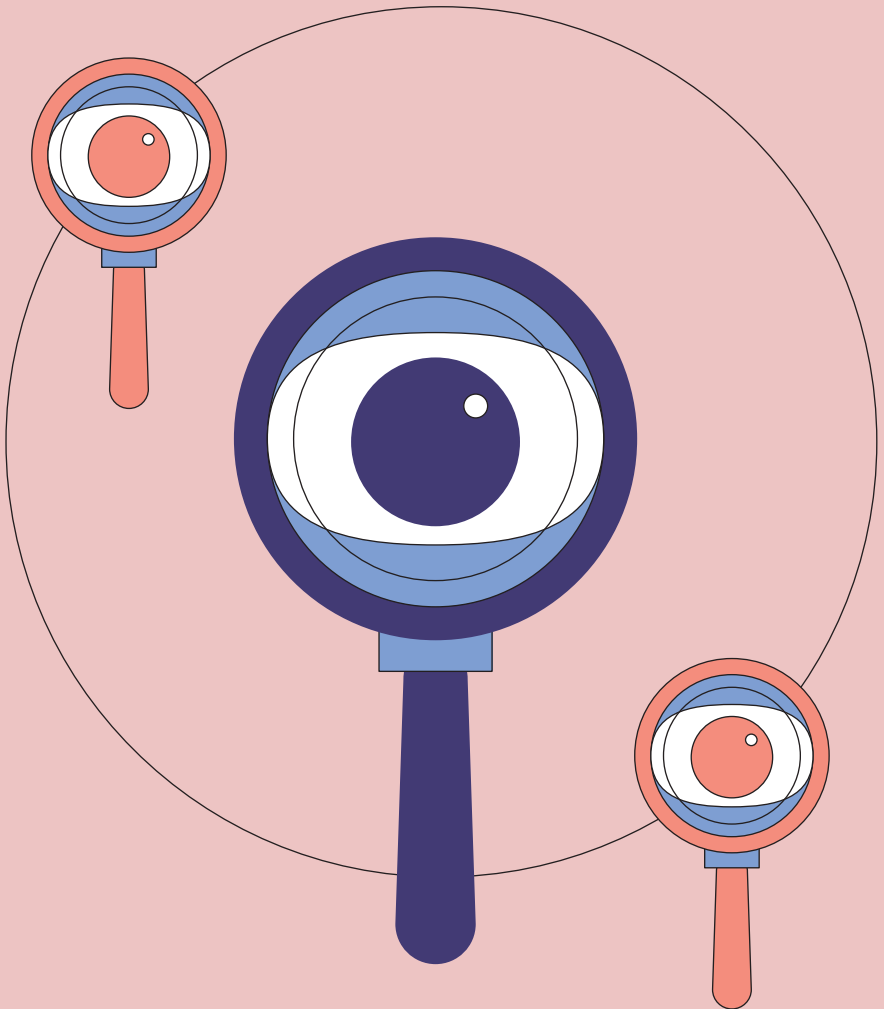
© OPORA, 2020

CONTENT

ABOUT OPORA OBSERVATION	5
BACKGROUND INFORMATION OF THE REPORT	7
DETAILED SUMMARY	13
ELECTORAL SYSTEM AND ELECTORAL LAW	31
REGISTRATION OF CANDIDATES FOR THE POSITION OF THE PRESIDENT OF UKRAINE	35
CAMPAIGNING ACTIVITIES OF PARTIES AND CANDIDATES	39
Peculiarities of the early campaigning.....	40
Format of campaigning activities and early campaigning subjects.....	41
Campaigning activities of candidates within the electoral process.....	46
Campaigning activities of candidates during the preparation for the second round of voting.....	51
ADMINISTRATION OF THE PRESIDENTIAL ELECTIONS IN UKRAINE	55
CEC operations.....	56
Formation and activities of district election commissions.....	64
Establishing district election commissions.....	64
The first sessions of district election commissions.....	69
Rotation of the DEC membership.....	72
Formation of precinct election commissions.....	72
Launch of operations of precinct election commissions.....	78
Formation and organization of DEC operations during the re-election.....	79
Establishment of PECs during the re-election.....	83
Establishment of polling stations for servicemen of the Armed Forces of Ukraine.....	86
PROCEDURE OF TEMPORARY CHANGE OF VOTING LOCATIONS WITHOUT CHANGE OF ELECTORAL ADDRESS	91
Court disputes to clarify voter lists.....	94

VIOLATIONS OF ELECTORAL LAW	99
Bribery and technology for financial incentives to voters.....	100
Abuse of administrative resources.....	107
Counter-campaigning and misinformation at the regular presidential elections in Ukraine.....	111
CRIMINAL PROCEEDINGS ON CRIME AGAINST THE ELECTORAL RIGHTS OF CITIZENS	113
SENTENCES DELIVERED ON ELECTORAL FRAUD	121
ADMINISTRATIVE LIABILITY FOR VIOLATION OF ELECTORAL LAW	125
ELECTION CAMPAIGN FINANCING AND REPORTING OF ELECTORAL SUBJECTS	131
Legal background.....	132
Discipline and reporting of electoral actors.....	133
Revenues and expenses.....	137
CANDIDATES CAMPAIGNING ON THE FACEBOOK SOCIAL NETWORK	145
NATIONAL OBSERVATION	157
INTERNATIONAL OBSERVATION	165
ELECTION DAY, VOTE COUNT AND ESTABLISHMENT OF ELECTION RESULTS	167
Voting and vote count on March, 31, 2019	168
Voting and vote count on April, 21, 2019	175
REPORT CONCLUSIONS	183
RECOMMENDATIONS	191

ABOUT OPORA OBSERVATION



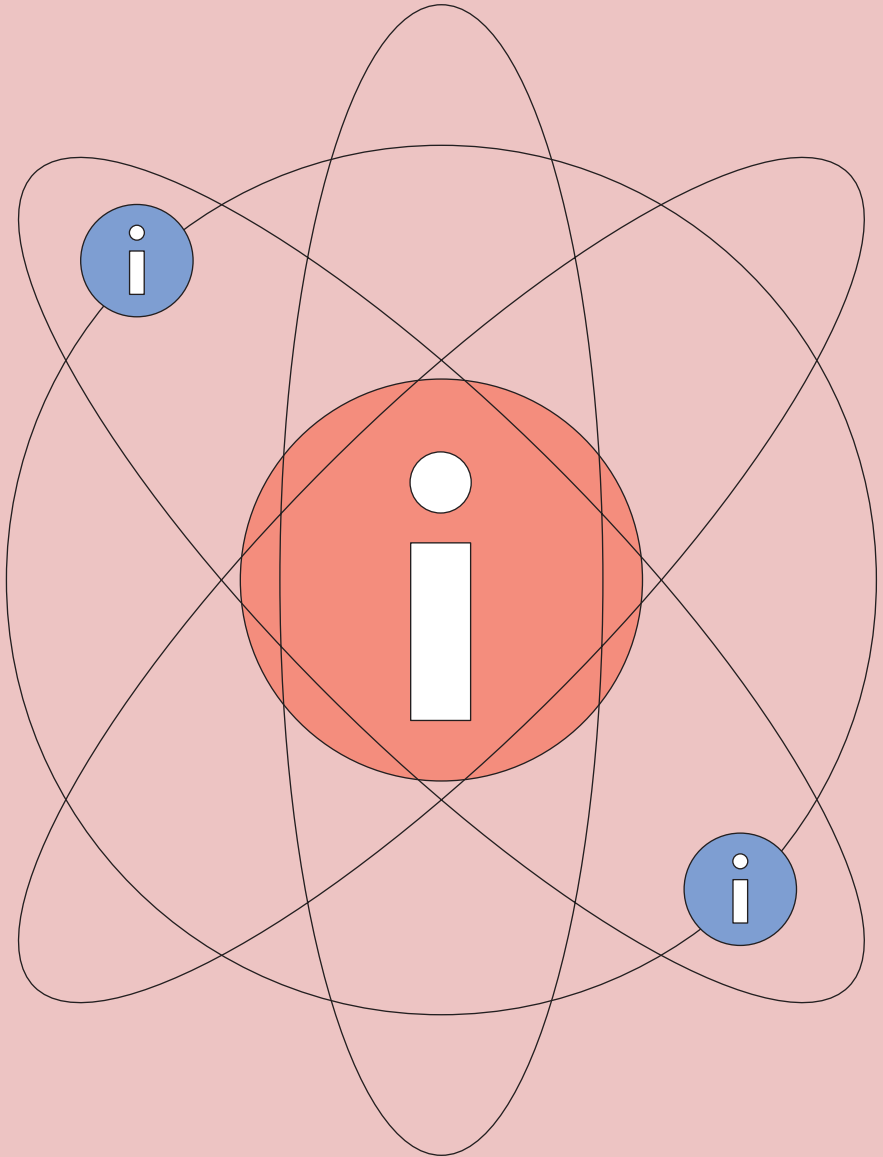
Civil Network OPORA has provided independent, non-partisan observation in the regular 2019 presidential election. The organization's monitoring campaign began three months before the official start of the election process. The OPORA observation covered all of its stages, for which a network of long-term and short-term observers was deployed in the regions of Ukraine.

From October 2018 to April 2020, 151 long-term observers monitored the election process in all regions of Ukraine. The activities of the LTO were coordinated by 25 regional coordinators, while press secretaries in each region professionally covered the electoral process. To monitor the voting process and vote count, OPORA recruited, trained and engaged more than 3,000 short-term observers. They recorded all election procedures at a statistically representative number of polling stations in Ukraine. The unique products of OPORA's short-term observation were the assessment of the quality of the election procedures at polling stations, the parallel tabulation of the turnout, and the parallel vote tabulation, as well as the proper legal documentation of the facts of violations.

OPORA's comprehensive observation allowed for an objective assessment of the regular presidential election in Ukraine. The OPORA observation methodology involves not only detecting violations of electoral law but also formally responding to them in a statutory manner. This circumstance required OPORA observers to systematically work with law enforcement agencies through the filing and legal support of official statements, requests, inquiries, or reports.

OPORA is grateful to its observers for the work they have done, as well as the words of support for those law enforcement officials who have responded in good faith and competence to the organizations' reports on violations.

BACKGROUND INFORMATION OF THE REPORT



According to the results of the long-term and short-term observation in the regular presidential elections, OPORA recorded the competitive nature of the election process. The voting process and election campaign period largely met the basic international standards for democratic elections. Voters were well versed and provided with real alternatives for expression of will, which broadly covered the political parties represented in society and illustrated the entire spectrum of sociopolitical sentiment. The state provided the citizens with the proper conditions for exercising their voting rights, without pressure and obstacles from the authorities or other entities during the March 31 and April 21 ballot. However, according to observers, parliament, election administration and law enforcement must make every effort to address the legislative and practical issues identified in the electoral process.

The presidential elections were organized under conditions of incomplete compliance by the state with its commitments to run the full-fledged electoral reform. The ineffectiveness of legislation regarding the proper legal conditions for investigating electoral crimes adversely affected the state's ability to counter voter bribery and illegal electoral finances. Neither did it fully protect the electoral rights of citizens abroad, internally displaced persons and workers. Also problematic was the process of exercising certain powers by official observers from NGOs, whose rights are an integral part of international standards for democratic elections. At the same time, the electoral process was conducted in accordance with the basic standards of democratic elections and free expression of the will of citizens.

The election campaign was characterized by high competition between candidates who were able to conduct intensive and financially costly election campaigns. The regular election of the President of Ukraine set a record for the number of candidates running for the presidential post – 44 persons. By comparison, in 2014 presidential election, 23 candidates were registered, in 2010 – 18, in 2004 – 26, in 1999 – 15, in 1991 – 6. The process of registration of election nominees was conflict-free, and the main reason for rejection of candidates registration was their failure to pay the obligatory financial collateral. Of the 44 registered candidates, there were only 4 women, which again confirms the need to strengthen the guarantees of equal participation of two genders in the election process in Ukraine.

The informal campaigning for about 20 candidates began 3–4 months before the start of the election process provided by the Law. Although candidates could not be held accountable for early campaigning, the government

should pay attention to the problem of violating transparency and accountability standards of candidates' expenses before acquiring official status. One of the key features of the official period of the election campaign was the refusal of the most popular candidate Volodymyr Zelensky to campaign in its traditional forms, while the second most influential campaign leader, Petro Poroshenko, actively combined the duties of the President of Ukraine with the candidate status.

OPORA observers have noted the mass violation of the election campaign rules by Ukrainian presidential candidates. This conclusion is confirmed by the data from the National Police of Ukraine. 71%, or 457 of the 642 administrative reports drawn up, concerned the production or placement of campaign materials without source data thereon. This number of protocols covered both the early campaign phase and the official election campaign period. Given the shortcomings in the legislation, the courts of Ukraine used different approaches when considering violations of the election campaign procedure. Particularly difficult were the cases of campaigning in favor of unregistered candidates. According to the organizations' provisional data, national courts have handed down only 106 decisions on bringing offenders of electoral legislation to administrative liability.

The CEC and NAZK monitored compliance with the submission deadlines and reconciled the contents of the interim and final financial reports of the election fund administrators. All candidates for the post of President of Ukraine submitted the reports envisaged by the Laws of Ukraine, but their documents contained violations, including the payment of contributions by persons with tax debt, the appointment of persons unauthorized by the law as accounts managers, the lack of complete information in payment documents. OPORA drew attention to the need for the supervisory authorities to take into account not only the information on the candidates' official financial statements but also direct information on the actual orientation and amount of expenditure at the constituency level. Instead, the lack of operational data on candidates' expenditures made it impossible to effectively prevent violations in the field of campaign financing.

During the election process, OPORA recorded only a single case of voter bribery. But the election campaign was accompanied by resonant reports from electoral subjects and law enforcement about incidents of this type of crime. In particular, the Prosecutor General's Office of Ukraine and the Security Service of Ukraine reported on an attempt to bribe a candidate Yuriy Tymoshenko in order to persuade him to refuse to run for office. The

shadowy way of remuneration of members of election commissions and compensation to voters of campaigning expenses provoked the political statements of competitors about the use of technologies of concealed voter bribery by individual candidates. Contradictory practices in terms of abuse were the local programs for providing one-time financial assistance to citizens in the electoral process.

According to the National Police of Ukraine, 62 criminal proceedings were initiated during the election regarding possible bribery of voters. These include investigating the possible use of local budget programs to bribe voters. Intermediate judgments testify to the fact that shadow funds were used in the elections. However, the lack of final verdicts does not allow us to assess the validity of the information collected by candidates during the election about the bribery of voters.

The election campaign demonstrated the need to strengthen legislative safeguards against abuse of administrative resources in the electoral interests. In addition to the failure of civil servants to observe the principles of political impartiality, observers revealed the use of budget programs and measures in favour of one candidate for President of Ukraine. The 2019 campaign demonstrated the need for legislative and practical regulation of the process of implementation by the Government and local authorities of new social initiatives in the electoral process.

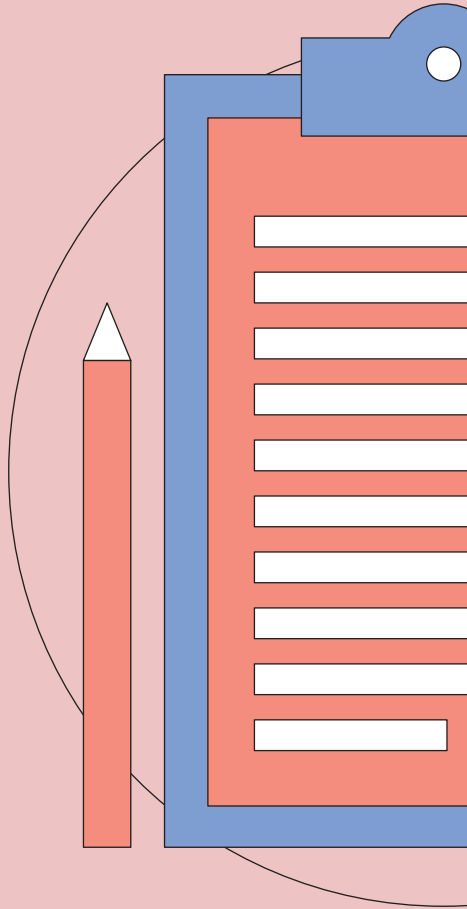
The role of social networks and political advertising on the Internet has grown in the context of the lack of transparency in the spendings of candidates and political groups on this form of campaigning. OPORA analyzed the candidates' reports and their actual costs for political advertising on the Internet, which proves the importance of legislative regulation of this increasingly popular form of campaigning.

The organization assessed the quality of the voting process on the basis of a statistically representative number of polling stations, and found no systematic problems in ensuring free expression of the will of the citizens. The key disadvantages of the voting process were the attempts to issue and receive ballots without proper documents and to disclose to the voters the contents of their ballot. These irregularities at the polling stations were not centralized, but they do require a full-fledged public awareness campaign.

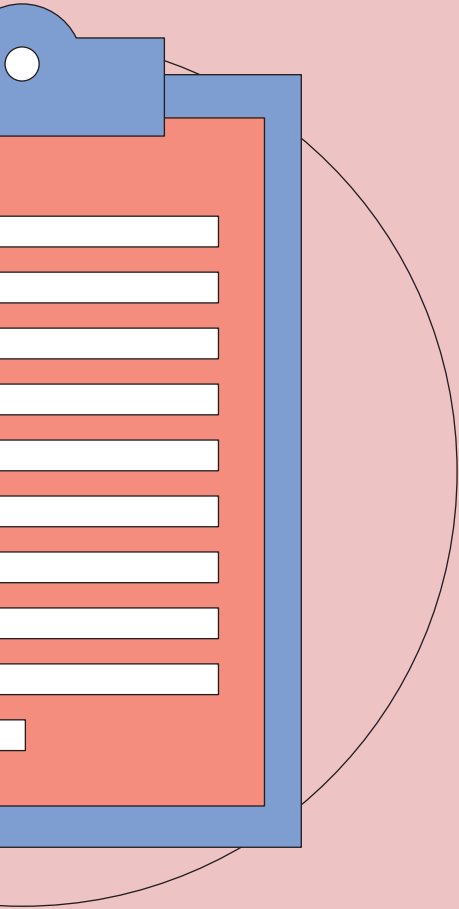
A parallel vote tabulation conducted by OPORA showed the victory of the presidential candidate Volodymyr Zelensky by the results of second round vote and his electoral advantage during the first round of elections. The non-partisan and candidate-independent vote tabulation showed that there was no manipulation with the voting results at the stage of establishing the outcomes and voting results.

According to OPORA, voter turnout during the first and second rounds was 63.2% and 61.6%, respectively. The turnout in this election was not significantly higher than the previous election of the Head of State. It indicates to a sufficiently high voter involvement in the election campaign. The winner of the presidential election, Volodymyr Zelensky, by the results of the first round and the second round, prevailed in the vast majority of regions of Ukraine. The high competitiveness of the elections, combined with the factor of a clear campaign favorite, did not cause any significant conflict between the electoral subjects and their supporters at the stage of vote count and establishment of the voting results.

During the election campaign, OPORA identified legislative and practical obstacles to full monitoring of the election process by official observers from NGOs. Problems with access to CEC meetings, with obtaining public information about the election process from commissions at different levels, cases of illegal restriction of observers' rights – these are reasons for strengthening the legislative guarantees for independent non-partisan election observation in Ukraine. The practice of using loyal or directly related NGOs by candidates to organize a politically motivated or fake observation should also receive public and legislative judgement.



DETAILED SUMMARY



The regular 2019 presidential elections were the third nationwide election to be held in the settings of the armed conflict with the Russian Federation. As a result of the temporary occupation of the Autonomous Republic of Crimea, the city of Sevastopol, separate districts of Donetsk and Luhansk regions, voting was organized in 199 out of 225 territorial districts.

The election process under the conditions of temporary occupation of part of the territory of Ukraine imposed special responsibility on the state authorities. The CEC and law enforcement authorities were forced to strengthen the security of elections, including cybersecurity of the DEC data transfer process to a higher election administration.

The internal displacement of citizens, provoked by armed aggression from the neighboring state, required a proper outreach campaign to temporarily change the voting location without changing the election address. During the elections, the parliament passed a decision banning the citizens of the aggressor country from being international observers in the presidential election. This decision had a legitimate objective to counteract politically motivated and biased surveillance by a foreign country or its affiliated organizations. Equally important was the task of preventing potential security provocations by observers who are citizens of the Russian Federation. This forced step Ukraine took demonstrates the need for systematic and coordinated actions of international institutions to prevent the bias or provocative actions of observers.

On the eve of the official start of the election process, the Verkhovna Rada of Ukraine decided to introduce martial law in certain regions, from November, 26 to December, 26, 2018. The legal regime of martial law ended 5 days before the official start of the election process and in no way affected the preparation for the election of state bodies and potential electoral subjects. Considering the operation to counter Russia's external aggression, the CEC established 80 special polling stations for military personnel to vote.

The Elections vital for the future of the society were conducted on the basis of unreformed legislation. The shortcomings of legal regulation in Ukraine are most acute at the level of parliamentary campaigns, but the presidential elections have not been fully secured by quality legislation.

Some serious loopholes in the Laws of Ukraine included the issues of counteracting voter bribery and misuse of administrative resources, as well as transparency of campaigning finance. Unfortunately, the provisions of the

legislation on the application of sanctions for crimes against the suffrage of citizens remained insufficiently effective. OPORA, in conjunction with the Ministry of Internal Affairs of Ukraine and the National Police of Ukraine, long before the start of the election campaigns recommended that the Criminal Code and the Code of Administrative Offenses be amended to ensure the irreversible nature of punishment for electoral fraud. The draft law, written in an inclusive manner, was not approved by the Verkhovna Rada of Ukraine, which did not allow to strengthen the state's ability to prevent and investigate electoral offenses. The legislation of Ukraine did not regulate the issue of election campaigning on social media, and did not contain provisions for counteracting non-transparent expenses of candidates before their official registration. The laws of Ukraine and the by-laws did not take into account the mass mobility of voters within the country, which is related to internal displacement from temporarily occupied territories, and to labor migration. Temporary relocation procedures without changing the electoral address were not reformed in a timely manner, creating obstacles to voting for internally displaced persons and migrant workers. Another drawback of the legislation was the inadequate enforcement of the rights of official observers from NGOs. In particular, the Laws of Ukraine do not have any adequate guarantees of the right of observers to attend CEC meetings and working sessions, as well as to have access to election documentation of commissions on different levels.

Civil Network OPORA has traditionally evaluated not only the official stage of the election process but also the early campaigning of potential candidates. The regular election of the President of Ukraine officially began on December 31, 2018, but unofficial campaigning of potential candidates launched in summer of that year.

OPORA monitoring showed a high intensity of early campaigning for the candidates before the election or their official registration. 3 to 4 months before the official start of the election, political leaders spent considerable money on various forms of campaigning, with legally authorized campaigning only possible within the electoral process and after the candidate has been registered.

Early campaigning is a significant problem in terms of adherence to democratic election standards. Before the official start of the election, de facto campaigning was carried out without observing the transparency and reporting requirements of election funds. Whereas political parties are regularly reporting on their expenditures, individuals and legal entities have

been able to uncontrollably finance the campaigns until the candidates are officially registered. In addition to the shadow nature of the money spent, early campaigning led to a violation of the principle of equality of candidates. Law-abiding candidates were deliberately unequal with political leaders who began campaigning and spending the non-accounted funds in advance.

For the first time in the election in Ukraine, the CEC resorted to the official warning of presidential candidates of the inadmissibility of early campaigning. In its statement, the Commission acknowledged the lack of legal tools to prohibit campaigning for candidates, but pointed to the negative consequences of violating the due campaigning standards. The CEC's position, despite its declarative nature, has fostered expert and public debate on mechanisms to ensure transparency of electoral finance and the principle of equal rights of candidates.

By the start of the election process, at least 20 potential candidates have started informal campaigning in their favor. Among the various types of early campaigning, political leaders mostly used outdoor advertising and political advertising in mass media. Such campaigns were costly, but they were not subject to full scrutiny until the candidates' election funds were officially opened.

The most intensive and long-lasting early campaigns were in favor of Yulia Tymoshenko, Petro Poroshenko and Oleh Liashko. These political leaders were represented in various segments of political advertising and actively held personal meetings with voters in the regions of Ukraine. Early campaigning was carried out on a smaller scale, but rather intensely, by Serhiy Taruta, Anatoliy Hrytsenko, and Oleksandr Shevchenko. Early campaigning in favor of Oleksandr Vilkul, Roman Bezsmertnyi, Valentyn Nalyvaichenko, Oleh Tiahnybok (before the nomination of Ruslan Koshulynskyi as a candidate from Svoboda) was localized in a number of regions.

During September – December 2019, most visits to the regions were made by Oleh Liashko and Petro Poroshenko. Prior to the official launch of the campaign, Oleh Liashko visited 18 regions within 26 separate visits. Instead, Petro Poroshenko conducted events in 16 oblasts during 24 visits.

Observers monitored the timely campaigning of potential candidates for adhering to key democratic standards of the political process. An important risk identified at the informal stage of the election process was the partici-

pation of future candidates in charitable activities. The material encouragement of citizens by potential candidates did not directly violate the requirements of the legislation, but created negative prerequisites for organizing bribery during the official election process. At the stage of early campaigning, candidates actively involved civil servants and representatives of local self-government bodies in their activities. According to OPORA, the unofficial period of the election campaign, as well as the electoral process as a whole, demonstrated the need to intensify measures to truly depoliticize the civil service and the work of local self-government institutions.

Even before the formal start of the election, OPORA observers recorded intense negative campaigns against unregistered candidates. These counter-campaigns were implemented in local media and on Internet and were most often directed against Volodymyr Zelensky and Yuliya Tymoshenko.

The campaigning of candidates prior to the start of the electoral process and their official registration is typical for Ukraine. However, according to OPORA, the experience of the 2019 presidential election showed the need to intensify the dialogue on the regulation of actual campaigning before the official start of the election process.

OPORA observers positively assessed the process of presidential candidates registration in Ukraine, which was non-political and conflict-free. In our opinion, the CEC adhered to the priority of passive suffrage when considering the documents of potential participants of the election campaign.

92 potential candidates for the highest position of the country have submitted their documents to the CEC, of which 44 persons have acquired the status of electoral process subjects. Compared to previous campaigns, the 2019 presidential election in Ukraine had a record-breaking number of candidates. The main reason for the refusal of registration of 47 applicants was the failure to pay the mortgage of 2.5 million UAH (one application – without consideration). 39 people were included in the ballot, considering the applications from 5 persons to the CEC refusing to run for office (Andriy Sadovyi, Dmytro Dobrodomov, Yevheniy Murayev, Serhiy Kryvonos, Dmytro Hnap). After canceling the registration of these candidates, 39 people were included in the ballot.

Candidates for the post of President of Ukraine were almost equally distributed by the nominating subject: 24 persons were nominated by parties, 20 persons were self-nominated. According to this data, the institution of

self-nomination in the presidential election remains popular. The President of Ukraine Petro Poroshenko, acting on his position at the time of voting, also participated in the elections through self-nomination.

The most numerous among the candidates was the age group of 46-60 years (22 persons). 15 candidates ranged in age from 35 to 45 years, aged above 60 years were 7 candidates. According to the Constitution of Ukraine, a citizen of Ukraine, who has reached the age of 35, has the right to vote, speaks the state language and has resided in Ukraine for the last ten years prior to election day, is entitled to be elected President of Ukraine. Women were a minority among the total number of candidates for the post of head of state. There were 4 women, while 40 candidates were men. The election of the President of Ukraine makes it impossible for legal mechanisms to ensure gender balance in the list of candidates, but the clear disparity between the two genders demonstrates the need to strengthen the role of women in electoral processes at all levels.

According to OPORA estimates, only 19 of the 39 candidates for President of Ukraine conducted an active or visible election campaign.

Petro Poroshenko, Yuliya Tymoshenko, Anatolii Hrytsenko, Oleh Liashko and Volodymyr Zelensky carried out large-scale nationwide campaigning throughout the election process. They were the most widely represented in the regions and covered all segments of the campaigning (from political advertising in the media to street meetings). The campaigning was also conducted by Ruslan Koshulynskiy, Yuriy Boyko, Oleksandr Vilkul, Oleksandr Shevchenko, Yuriy Derevyanko, Serhiy Taruta, Serhiy Kaplin, Valentyn Nalyvaichenko, Oleksandr Solovyov, Viktor Kryvenko, Ihor Smeshko, Viktor Bondar. Andriy Sadovyi and Yevheniy Murayev were on the list of 19 candidates with significant activity before their rejection of the ballot. If you identify the two candidates with the most large-scale campaigns, they include Petro Poroshenko and Yuliya Tymoshenko, by territorial coverage and variety of forms of campaigning.

During the three months of the election process, the candidates personally made more than 390 visits to regions of Ukraine. Petro Poroshenko (visited 20 oblasts at least once), Yuliya Tymoshenko (19), Ruslan Koshulynskiy (18) and Oleh Liashko (18) became the leaders in the number of visited regions of Ukraine. Before the second ballot, Petro Poroshenko continued to actively travel to territorial communities. Instead, the winner of the second ballot Volodymyr Zelensky did not actually campaign during the first and

second rounds of campaigning with voters. He was characterized by his participation in regional concerts of the Quarter 95 art studio, which were not formally related to the election campaign.

According to OPORA estimates, 16 out of 39 candidates did not run any full-fledged election campaigns, and some of them were completely invisible to voters. Inactive candidates received considerable representation in DEC and PECs to which they had the right to nominate their representatives. The low or absent campaigning of candidates with the simultaneous use of quotas during the formation of DEC and PECs is evidence of the widespread technology of 'technical' candidates in the election process in Ukraine.

After the CEC officially appointed the second ballot, the campaign had to start only the next day. But participants in the second round, Volodymyr Zelensky and Petro Poroshenko, did not wait for the decision of the Commission and carried out hidden campaigns. The first-round candidates are widely publicized for political advertising on outdoor carriers and in social media. Expenditure on such activities could not be made from election funds, and therefore had an overtly shadowy nature. As with campaigning prior to the start of the election, the state must ensure proper control over the candidates' financial expenses between the first and second rounds of voting.

The Law of Ukraine "On Elections of the President of Ukraine" does not set a limit on the size of the election fund, providing only a limit for the voluntary contribution of individuals and legal entities.

The election funds of 14 candidates received more than 10 million UAH, with the current President of Ukraine Petro Poroshenko forming the largest election fund at the time of the elections – UAH 584,507,000. The size of election funds of 6 of these 14 candidates exceeded UAH 100 million: Yuliya Tymoshenko – almost UAH 229 million, Oleksandr Vilkul – UAH 165,225 mln, Volodymyr Zelensky – UAH 156,405 mln, Anatoliy Hrytsenko – UAH 123,744 mln, Oleh Liashko – UAH 113,459 mln, Serhiy Taruta – UAH 105,208 mln. The election funds of Yuriy Boyko, Oleksandr Shevchenko, Andriy Sadovyi, Ruslan Koshulynskiy, Yevheniy Murayev, Serhiy Kaplin, Valentyn Nalyvaichenko received from 10 to 76 million UAH. 4 candidates for the post of President of Ukraine did not open the accounts of the election fund (Oleksandr Danylyuk, Roman Nasirov, Oleksandr Vashchenko, Dmytro Hnyp), while the funds of 7 election participants received less than 100 thousand UAH.

Candidates' reports show that 67.1% of election funds, or UAH 1.16 billion, were spent on campaigning in the media. 12.4% of all candidates' funds went to the production of campaign materials, while other expenses for campaigning or services amounted to 20.2% of the total size of the funds. The peculiarity of Petro Poroshenko campaign was financing from the election fund of agreements with public organizations on campaigning, for which more than UAH 6 million was spent. Non-governmental organizations provide tax and statistical reports to the government once a year. Thus, they are not required to promptly disclose information on the use of election funds, separately from their regular reporting.

All 44 candidates for the post of President of Ukraine submitted timely and interim financial reports. As a result of the review, the NAZK found no administrative violations on the part of the candidates themselves, but made protocols for a number of election fund managers and individuals. The Agency also sent criminal reports to the National Police of Ukraine revealing elements of crime in the reports of 12 candidates. These appeals were illegal repayment of contributions of citizens with tax debt, although these funds should be transferred to the state.

Public authorities have demonstrated the ability to enforce electoral finance legislation, but legal regulation remains imperfect. Observers did not have access to up-to-date data on the day of opening and payments of candidates' election funds, although such daily information is available to the NAZK and the CEC. The inability to verify the timeliness of campaign funding substantially weakened the effect of election observation. Similarly, observers have no access to detailed transaction data from election funds, which is generally reflected in the reports submitted. The drawback of the application of the legislation is in the fact that the NAZK only carries the analysis of formal data from reports, without verifying the actual practices of election campaign financing. The Agency does not have territorial units to gather operational information from constituencies, but independent observers cannot fully assess possible irregularities without payment data from election fund accounts.

The election of the President of Ukraine was conducted under the conditions of increasing influence of social media on public opinion and strengthening of the role of political advertising on the Internet for election campaigns. 13 days before the first round of Ukrainian presidential elections, the Facebook social network introduced new rules for the publication of political advertising in Ukraine in order to increase transparency and pre-

vent foreign interference. These policies inform you about your advertising customers, target audience, estimated views, costs, and more. Comparison of the cost of political advertising on Facebook with the costs reflected in the financial statements of candidates proves the opacity of funding for this campaign segment.

According to OPORA estimates, during the election campaign, presidential candidates spent from \$ 9.2 million to \$ 48 million on their official Facebook pages. These amounts were calculated based on data from the Political Ad Library created by the social network. Instead, according to the summary of the final financial statements, all candidates spent UAH 13.5 million. In particular, the estimated expenses of the front-runner Volodymyr Zelensky invested into the Facebook campaigning range from UAH 934,000 to UAH 9,227 mln. At the same time, about UAH 237,000 was officially stated in the report of the candidate's election fund manager. Petro Poroshenko spent on advertising in this social network from about UAH 2,433 mln to UAH 10,692 mln, while officially reporting only about UAH 1,199 mln. The discrepancy between the expenditures recorded in the Political Ad Library and those of the official candidate reports is typical of other candidates. Some of them did not officially show any expenses for political advertising on the Internet, although they ran this kind of campaigning (Ihor Shevchenko, Oleksandr Vilkul, Yuliya Lytvynenko, etc.). Noteworthy is the proliferation of political advertising by Facebook candidates in the "days of silence", after the election campaign is officially over (about 15% of all advertisements). The terms of campaigning were violated, in particular, by the use of a significant amount of targeted political advertising by a "Komanda Zelenskoho" page. Another de facto violation of the law was the financing of political advertising on the Internet other than from the election fund, and the dissemination of exit polls before the end of voting.

OPORA also examined the specific features of candidates' activity on the social network Facebook, and the dissemination of political fakes and negative information about competitors. According to OPORA estimates, the largest-scale campaigns on Facebook were those run for Volodymyr Zelensky, Petro Poroshenko, and Yulia Tymoshenko. Not only were these contestants actively promoting themselves on the social network, they were also represented by a large number of pages created for their support or against their competitors. After the first round, the campaign to discredit Volodymyr Zelensky and Petro Poroshenko intensified. Instead, before March 31, the social media pages were campaigning more in favour of these leaders rather than against their competitors.

Abuse of administrative resources was also recorded in social media. In particular, Facebook pages of regional state administrations were used to campaign for Petro Poroshenko. Observers noted that an important function in campaigning for or against candidates was played by the mass media Facebook pages, specifically, the click-bait types.

The re-election campaign was short-lived, but extremely conflicting, although the candidates limited the variety of communication forms with voters. Volodymyr Zelensky and Petro Poroshenko hardly visited the regions with personal visits, but instead were widely publicized by political advertisements in the media and on the Internet. Dirty campaigning or negative campaigning against candidates has become a major challenge to meeting democratic election standards ahead of the second round of presidential elections. Black PR campaigns were either anonymous or conducted on behalf of third parties.

Due to Volodymyr Zelensky's refusal to participate in official debates with a competitor, the CEC and the National Public Broadcasting Company of Ukraine were unable to fully exercise the authority to ensure quality discussions between presidential candidates, or politically impartial debate moderation. Candidates for the post of the President of Ukraine held a joint campaigning event at the Olympic NSC, which did not fully meet the legal requirements for official television debates. Offsetting the importance of state-sponsored television debates had a negative impact on voters' awareness of candidates.

OPORA analyzed the functioning of the CEC, DEC and PECs in the regular presidential election. The highest election administration body is the CEC, which composition was appointed before the start of the election process. The new commission did not have sufficient time to prepare internally for an important and potentially conflicting election campaign, but was able to provide the necessary decisions and organizational measures at a sufficiently high level.

The CEC managed to provide for the priority of passive suffrage in a complex and conflicting candidate registration process. Refusals to register candidates by the CEC were most often associated with the failure of potential candidates to deposit money. According to the international democratic election standards and the decisions of the Constitutional Court of Ukraine, the deposit for the candidates is not a restriction of citizen voting rights, but rather aims to check the seriousness of citizen's intentions to participate in

the elections. The CEC's legal position regarding the refusal of candidate registration was, as a rule, confirmed by the courts during the adjudication of electoral disputes.

The explanations provided by the CEC for general or contradictory provisions of the electoral legislation were ambiguous. The most controversial was the Commission's position on the possibility of voters to conclude unpaid agreements with candidates and receive compensation for the costs incurred during the campaigning itself. The CEC decision recognizes the right of candidates and voters to conclude agreements, but they shall only be charge-free. At the same time, the candidates were able to reimburse to voters logistical expenses related to organizing and conducting election campaigning. Under this Explanation, the right to coordinate and organize the work of unpaid campaigners was allocated to non-governmental organizations, while their reporting could not be available within the short election process. A large number of candidates and independent experts expressed concern about the actual possibility of concealing voter bribes by fictitiously compensating voters for the cost of free campaigning. Despite the courts recognizing the legality of the CEC decision, OPORA insists on introducing a procedure for legalizing candidates' organizational expenses. This is especially important for local elections, where hidden forms of voter bribery can determine the outcome of a vote.

OPORA positively assesses the CEC's call on candidates to avoid early campaigning, but also notes, however, that there are no substantive explanations for legal gaps on election campaign. The organization independently addressed the Commission on this group of issues, but could not receive any specific answer. According to OPORA, the highest election administration lacked transparency in holding working sessions, which were often the main form of discussion of decisions. Instead, the Commissions' public sessions only had a role to announce the previously made decisions. CEC working sessions are not stipulated by the Law of Ukraine "On the Central Election Commission." They are regulated solely on the level of the Commission Regulation. The CEC has repeatedly refused official observers from NGOs to attend the sessions, occasionally admitting observers from international organizations and foreign countries. In order to ensure collegiality and openness in the CEC's activities, OPORA hereby proposes to Parliament to establish at the legislative level certain clear distinguishing criteria and requirements for the Commission's sessions and working meetings.

OPORA's monitoring of the CEC activities revealed that there were insufficient legal guarantees for official observers from NGOs. The contradictions between the provisions of the Laws of Ukraine "On the Election of the President of Ukraine" and "On the Central Election Commission" do not provide a definitive answer as to the right of observers to attend the meetings of a higher election administration body. In practice, the CEC interpreted the legislation as not allowing observers from NGOs at its meetings without permission or invitation. Although the courts have not explicitly confirmed the CEC's position, the rights of official observers in this respect are not fully defined. The Law of Ukraine "On Elections of the President of Ukraine" provides for the CEC to grant public organizations permits only to conduct observations, while the DEC's themselves register official observers from such organizations. The laws on presidential elections indicate that the powers of observers shall only be extended to the territories of the constituencies in which they are registered. This provision conflicts with the Law of Ukraine "On the Central Election Commission" on the right of official observers to attend its meetings, and indicates to unequal approaches to regulating the activities of national and international observers. Observers from international organizations and foreign countries are registered with the CEC and exercise authority throughout the entire national constituency. The fact that national organisations lack proper safeguards to monitor the CEC activities goes against international standards for democratic elections, in particular against the recommendations of the Venice Commission.

The Central Election Commission helped inform voters about the possibility to temporarily change the voting location without changing the electoral address. This CEC activity was extremely important given the high voter mobility within the country. However, unfortunately, the Commission did not have time to make the decision to abolish the need for all citizens without exception to submit supporting documents when applying for a temporary change of voting location without changing the electoral address. At the presidential election, the documents confirming the voter's application were not obligatory only for residents of temporarily occupied territories and for internally displaced persons. The CEC liberalized the procedures for temporary change of voting location without changing the electoral address only before the snap elections to the Verkhovna Rada of Ukraine. During the presidential campaign, the Commission also failed to introduce an electronic way of applying for the change of polling station.

Given the appointment of the CEC in the run-up to the election of the President of Ukraine, the Commission did not have time to initiate internal

institutional reform. According to OPORA, this reform should include an extended access to electoral data sets, launch public consultations and set up expert groups, and medium- and long-term planning for the Commission. OPORA emphasizes the importance of prompt access to electoral data in order to detect and prevent violations of electoral law. For example, the lack of timely information on payments from the accounts of candidates' election funds actually makes it impossible to detect cases of illegal campaign financing.

In the regular elections of the President of Ukraine, district and precinct election commissions were formed twice. Initially, all 44 candidates were eligible to nominate members to election commissions. After the appointment of the second voting round, Volodymyr Zelensky and Petro Poroshenko independently influenced the DEC and PECs personnel.

The key challenges for the activities of district and precinct election commissions were the significant rotation of their composition and the low financial motivation of citizens to work therein. Ongoing replacement of commission members had a negative impact on the professional level and effectiveness of the CEC's training of commission members. The dependence of DEC and PEC members on illegal payments by candidates cast doubt on their political impartiality, while the failure of election participants to promise unlawful benefits led to the commission members refusal to fulfill their responsibilities.

The high level of rotation in the composition of election commissions is evidenced by the following OPORA data collected at the DEC level: as of March 31, the composition of district level commissions had been updated by 37%. Of the 7,355 DEC members included into the initial lists, 2,703 persons were expelled. The replacement rate of DEC members for individual candidates exceeded 100% (Oleksandr Moroz, Vitaliy Skotsyk, Vitaliy Kuriy). This intensity of DEC replacements certainly had a negative impact on the quality and stability of the commissions, although it was lower than in the previous presidential elections. At the 2014 snap election of the President of Ukraine, the DEC rotation rate was 51%.

OPORA observers witnessed an even larger PEC rotation. The main reasons for the waiver of authority were falsified statements of consent of persons to work within such commissions, and a small amount of payments by the state.

At the election of the President of Ukraine, candidates are given the exclusive right to nominate candidates to the election commissions. Each of them had the opportunity to add one person to each DEC and PEC, without limiting the maximum composition of commissions.

17 out of 44 candidates for the post of President of Ukraine submitted nominations to all DECs without exception. 15 other candidates failed to use quotas only in several commissions of this level. Thus, 32 candidates filled all or almost all the seats in the DECs provided for by the Law. 3 candidates submitted proposals for half of the DECs, 3 more candidates used quotas to fund 10% of DECs.

In the 2019 presidential election, 7,355 people were included in the DECs, 65% of whom had previously participated in election commissions. Compared to the previous election of the President of Ukraine, a smaller number of DEC members had election experience: in 2010, 78% of DEC members had such experience, in 2014 – 72%.

During the formation of the PECs for the first round of elections, the biggest problems were the cases of nominating the same persons from different candidates, poorly prepared and falsified applications from potential commissions members. Counterfeiting the documentary consent of persons to be members of PECs has led to mass rotations, but such incidents have not been the subject of attention and comprehensive investigation by law enforcement agencies.

According to OPORA, about 2% of PECs were formed with a minimum of 9 people, despite the record-breaking number of candidates eligible to submit proposals. None of the candidates took the opportunity to submit up to 100% of the PECs, with 4 candidates generally waiving the right to form these commissions (Hennadiy Balashov, Inna Bohoslovska, Arkadiy Kornatsky, and Roman Nasirov).

24 of the 44 candidates secured representation in all or almost all PECs in the country. 12 candidates were represented in the PECs of some regions in Ukraine.

Candidates for the presidency of Ukraine Petro Poroshenko, Yuliya Tymoshenko, Oleh Liashko, Yuliya Lytvynenko, Anatolii Hrytsenko, and Mykola Haber received representation in more than 90% of PECs in the country. Volodymyr Zelensky and Yuriy Boyko were slightly less represented – in

84% and 83% of PECs, respectively. Among the candidates who used the right to submit their proposals, Petro Poroshenko provided the largest representation (99%).

OPORA observers made notice that DEC members were using different approaches to the distribution of senior positions within PECs. As a rule, DEC members adhered to the proportionality principle when the candidates with the highest number of PEC members received the highest number of managerial positions. In some constituencies, the proportional distribution of senior positions within PECs was not respected.

Candidates Volodymyr Zelensky and Petro Poroshenko had the right to form independently all DEC members and PECs for re-election. Candidates could offer up to 7 candidates for each DEC: Petro Poroshenko made full use of his quota, while Volodymyr Zelensky failed to delegate his representatives to only two DEC members in Mariupol. According to OPORA, 69% of all DEC members had had prior experience in the first round of elections, 31% had no such experience.

Most DEC members from Petro Poroshenko (82%) organized the first round of voting, and in the course of the second round, he engaged a large number of commission members who had previously represented other candidates (Yuliya Lytvynenko, Volodymyr Petrov, Vasyl Zhuravlyov, Yuriy Tymoshenko, Roman Nasirov, Serhiy Kaplin, Oleksandr Moroz). The number of DEC members representing Volodymyr Zelensky who had prior had experience in organizing the first round of voting was much lower (54%). In comparison with Poroshenko, candidate Zelensky engaged former DEC members from a broader list of candidates, but the share of such persons from each was insignificant (Mykola Haber, Oleh Liashko, Anatolii Hrytsenko, Oleksandr Shevchenko, Yuliya Tymoshenko, Serhiy Taruta). The scale of the transition of DEC members from one candidate to another, especially in the case of Petro Poroshenko's representation, attests to the hidden role of "technical" candidates in the electoral process¹.

.....

1 For the purposes of this report, the term "technical" candidate is treated as a candidate who does not take an actual part in the race for votes, and does not carry out any genuine campaigning; instead, their formal rights and powers in the election process are used by influential participants in the election campaign. As a rule, quotas of "technical" candidates are used to gain advantage in the election commissions.

According to OPORA, challenges with formation and numerous replacements within the DEC and PEC emphasize yet another time the need to increase the government's financial motivation for members of election commissions. A possible mechanism for stabilizing the administration of elections could be a transparent approach to distributing contributions by political parties and candidates to pay to DEC and PEC members. The training and certification system of potential members of election commissions shall also become continuous since it is instrumental for the early and effective training of professional staff for election administration bodies.

OPORA systematically monitored the legality status of voting at special polling stations for military personnel, the guarantee voting rights for internally displaced persons and migrant workers. There was also an analysis of court decisions on voting rights of Ukrainian citizens living abroad and / or having no registered voting place.

The state has demonstrated the ability to organize voting at special polling stations for military personnel in compliance with democratic standards. During the first round, 36,147 servicemen exercised their right to vote at special polling stations. 36,926 servicemen participated in the second voting round. The outcomes of the vote of the military personnel were consistent with the public sentiment, and did not show any serious abnormalities. During the first round, an opposition candidate Volodymyr Zelensky conceded to the then President of Ukraine Petro Poroshenko 108 votes only, with other candidates also receiving considerable support from military personnel. The results of the second voting round were also competitive: Petro Poroshenko gained only 976 votes more than his competitor Volodymyr Zelensky.

According to the State Voters Register, during the first round, 315,725 persons temporarily changed the voting place; in the second round, the opportunity was used by 325,604 citizens. Before each of the two voting rounds, about 75,000 citizens with an electoral address in the temporarily occupied territories of Donbass and Crimea changed their voting places. While noting the CEC's efforts to inform voters, OPORA hereby stresses that the Commission did not take any opportunity to simplify the procedures for changing the voting location in the presidential elections.

The experience of the presidential election has reiterated the problematic conditions of voting for citizens without a registered place of residence. Legislation and court practices still link the availability of a registered res-

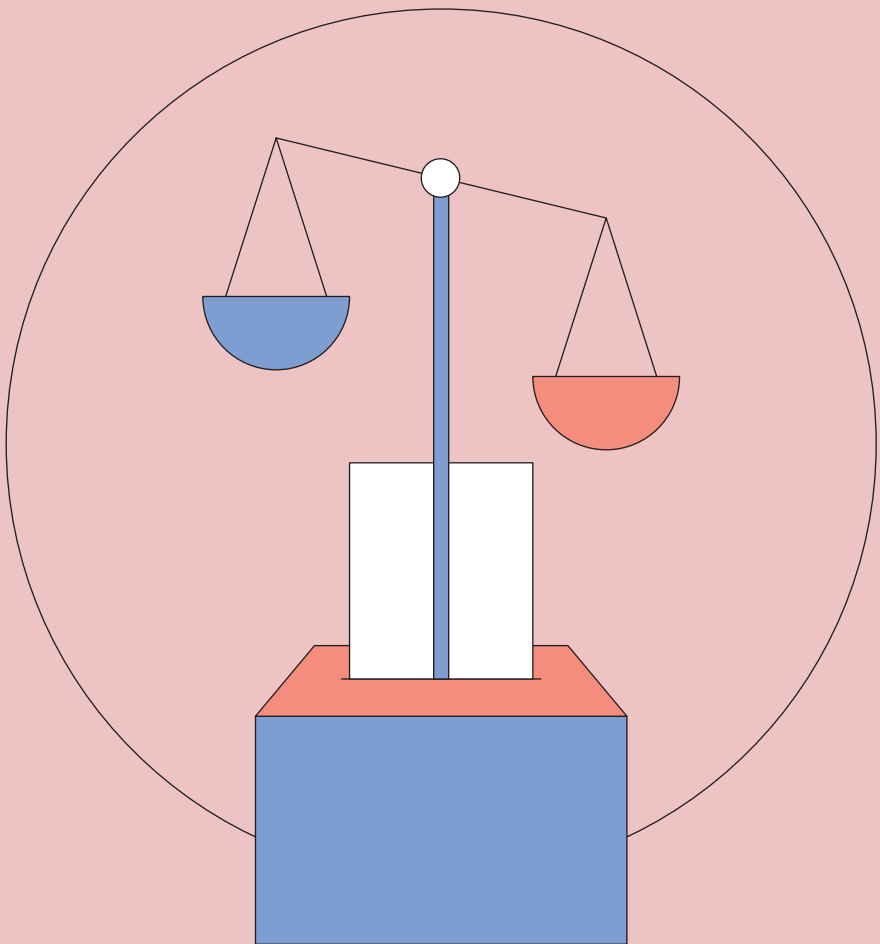
idence address to a voter's right to be included in voter lists. According to OPORA, this approach violates citizens' constitutional rights and requires a review through legislative changes. Citizens abroad often had no practical opportunity to change their place of voting, and their lack of an internal passport prevented them from voting during their stay in Ukraine. The number of polling stations abroad, in turn, limits voters' access to the voting procedure. According to OPORA, the legislation needs to be comprehensively reviewed in order to strengthen the suffrage guarantees for citizens who live abroad or do not have their registered residence address in Ukraine.

At the regular election of the President of Ukraine, a record-breaking number of 152 NGOs applied to the CEC for permission to conduct observation. Of them, 139 applicants were granted the permit. 13 organizations were rejected since their statutory documents did not include any scope of activities related either to electoral process or to observation. 85 out of 139, or 61% of NGOs had no previous election observation experience. At the same time, OPORA observers have established legal relations of presidential candidates with 39 NGOs. The large number of NGOs in the elections and their formal or informal link to the candidates testify to the deliberate efforts of Ukrainian politicians to involve third parties as an element of electoral technology. The negative expectations of undermining the work of election commissions or the voting process through the intervention of politically motivated observers did not materialize. But in OPORA's opinion, it is important for Ukrainian candidates and political parties to refrain from using NGOs for electoral purposes. Such practices indirectly discredit independent non-partisan observation, since it is difficult for voters to identify links between candidates and formally independent observers.

The most common violations during the March 31 and April 21, 2019 ballot were attempts of PEC members to issue ballot papers to voters failing to present their proper IDs. These abuses were recorded at 14.5% of polling stations during the first round of voting, and in 5.5% of polling stations during the second ballot. Violations of the procedure for issuing and receiving ballot papers were not organized in nature, but they are serious kinds of offense against the citizen voting rights. Another frequent violation during the two voting rounds was the non-observance of the secrecy of vote (March 31 – 10.4% of polling stations, April 21 – 5.5% of polling stations). In general, the process of organizing voting in the election of the President of Ukraine was legal and was not accompanied by mass violations.

In the regular presidential election, voter turnout was much higher than in the 2014 presidential election. According to data obtained during OPORA's parallel vote tabulation, 63.2% of voters took part in the first round of elections, 61.6% engaged in the in the second round (error – 0.8%). Instead, in the early presidential elections, voter turnout was 60%. Official voting results have become nontypical for Ukraine in terms of supporting one candidate in most regions of the country. According to the results of the first round of elections, the campaign leader Volodymyr Zelensky won in 19 regions and in the capital. On the other hand, the sixth President of Ukraine received the highest number of votes in all regions of Ukraine, except for Lviv region. The significant electoral advantage of one candidate actually helped to reduce the efficiency of illegal technology in elections.

ELECTORAL SYSTEM AND ELECTORAL LAW



The election of the President of Ukraine was conducted in the national single-mandate district, which covered the whole Ukrainian territory and overseas electoral district. For preparation, organization, and conduct of elections, one-mandate constituencies operating on a permanent basis were used. During the regular 2019 presidential election, 199 of 225 territorial constituencies were used. 26 constituencies were not formed, and therefore, no voting was conducted within those territories of Ukraine which are fully or partially temporarily occupied by the Russian Federation (12 constituencies – in the Autonomous Republic of Crimea and Sevastopol, 9 constituencies – in Donetsk region, 5 constituencies – in the Luhansk region)². The President of Ukraine is elected by citizens of Ukraine on the basis of universal, equal and direct suffrage by secret ballot. A candidate who has received more than half of the votes cast in the election is considered elected. If no candidate receives the number of votes established by the Law, the CEC decides to hold a re-election.

In legal terms, the regular presidential elections in Ukraine ran in the context of public authorities non complying with public obligations to carry out full-fledged electoral reform.

Given the lack of progress in the harmonization of electoral law, most of the specific election recommendations made by international and national election observation organizations have remained unfulfilled³. However, they mostly referred to legislation on parliamentary rather than presidential elections. At the same time, lack of efficient provision for the irreversible nature of punishment for electoral fraud and other violations of the law remains a key problem common to different types of elections in Ukraine⁴.

Legislative under-regulation of issues related to voter bribery, abuse of administrative resources, illegal financial resources for campaigning – those were the significant unremoved obstacles to recognizing the full compli-

2 Since 2014, the Law "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" has been in effect in Ukraine. The Presidential Decree No. 32/2019 of February 7, 2019 "On Borders and the List of Districts, Cities, Towns and Villages, Parts of Their Territories Temporarily Occupied in Donetsk and Luhansk Oblasts" is also part of the legal framework.

3 See: Process analysis of Ukraine's implementation of election related recommendations by international and national observation missions, international organizations and foreign partner countries. Available at: <https://bit.ly/2kdhzRq>

4 The Verkhovna Rada has registered the draft law No. 8270 on strengthening accountability for electoral fraud.

ance of existing electoral practices with democratic electoral standards. The Verkhovna Rada of Ukraine did not use the available time limit to approve amendments to the criminal and other related legislation before the start of the presidential election.

As soon as after the presidential elections, the Verkhovna Rada hastily adopted the Electoral Code⁵ which, among other things, defines the specifics for preparation and holding of voting, and for establishment of the voting results at elections of the President of Ukraine, the general procedure for nomination and conditions of candidate registration, the formation and use of election funds of presidential candidates. However, the document needed substantial revision, as it contained conflicting rules and did not take into account all the amendments proposed by experts and relevant NGOs within the working group that elaborated the text. Moreover, the process of consideration did not include the proper interest and engagement from the deputy corps. Deputies of the Verkhovna Rada of Ukraine of the 8th convocation have determined the Electoral Code entering into force only since December 1, 2023. In September 2019, the President of Ukraine Volodymyr Zelensky vetoed the Electoral Code, while in December the same year, the Parliament re-approved the Electoral Code with proposals coming from the President. The changes include resolving issues with voting rights of internally displaced persons and migrant workers, and some other progressive rules, but parliamentary factions and groups plan to continue work to improve the Code.

The process of preparing and holding the presidential election in Ukraine was governed by a special law “On Election of the President of Ukraine” adopted in 1999⁶. During this time, the document was repeatedly amended (34 revisions in total), the most significant of which were adopted in 2014 – 2016, and were related to improving the legal framework in the field of preventing and combating political corruption; the procedure of state registration of public formations; condemnation of communist and national-socialist (Nazi) totalitarian regimes in Ukraine; functioning of the Ukrainian language as an official state language.

The practice of holding presidential elections has shown that there are no provisions in the Law that would facilitate the full implementation of

.....

5 At the time the report was prepared, the Code was not signed by the President.

6 Law of Ukraine “On Elections of the President of Ukraine” No. 474-XIV of 05.03.1999.

democratic principles of suffrage. In particular, the issue of campaigning and financing of election campaigns before the official start of the election process remains unresolved. Another legally uncertain issues were those of securing the suffrage of internally displaced persons and other internally mobile citizens. At the time of the election, the Law did not include any effective provisions on the procedure of electoral subjects engaging citizens into election campaigning.

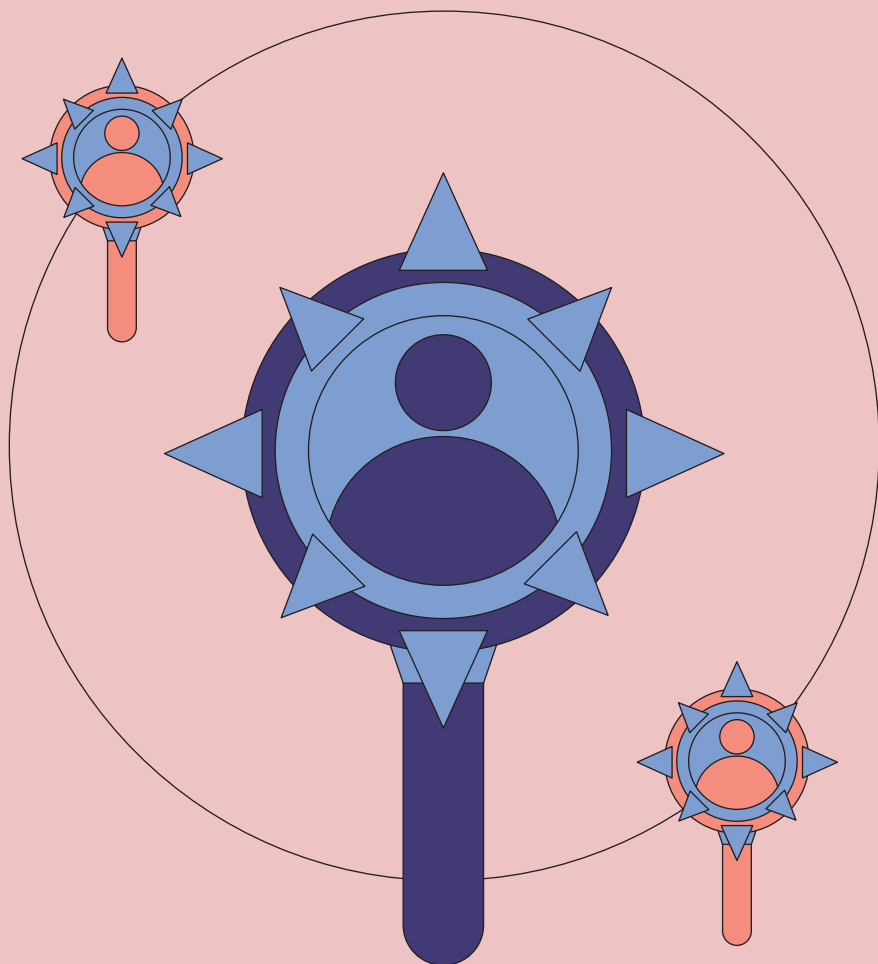
In the context of the presidential election, a considerable response was caused by the Parliament's decision to reject official observation status to citizens or nationals of a state recognized by the Verkhovna Rada as an aggressor state or an occupying state.⁷ Additionally, applications shall be rejected also for persons initiated or submitted by such States. Pursuant to the Law of Ukraine "On Peculiarities of State Policy to Secure State Sovereignty of Ukraine Over the Temporarily Occupied Regions in Donetsk and Luhansk Oblasts", the Russian Federation is recognized an aggressor state committing an act of aggression against Ukraine, and an occupant state temporarily occupying part of the territory of Ukrainian state. As a result, citizens of the Russian Federation were unable to participate in the monitoring of the presidential election in Ukraine, including within the framework of the OSCE / ODIHR mission. The legislator justified such a decision by the need to mitigate the risks and threats of the Russian Federation's interference in the elections in Ukraine. OPORA believes that the risks of such interference were justified, given the current facts of the politically motivated observation of the 2015 local elections in Ukraine.⁸ Other grounds are based on cases of the so-called "fake observation" by which Russia tried to legitimize elections in the occupied Crimea, Abkhazia, South Ossetia, and Transnistria. However, this issue cannot be effectively addressed by Ukraine unilaterally, and requires coordinated and comprehensive solutions at the level of relevant international institutions, in particular the OSCE / ODIHR.

In addition to the Law "On the Election of the President of Ukraine", the Laws "On the Central Election Commission" and "On the State Register of Voters" are also included in the system of special legislative acts that determine the conduct of presidential elections. These regulations have not changed significantly since the last presidential election in 2014.

7 Law of Ukraine "On Amendments to Certain Laws of Ukraine Concerning Election Observation in Ukraine" No. 2683-VIII of 07/02/2019.

8 For more information, see: Anton Shekhovtsov, "Politically Motivated International Election Observation 2015 in Ukraine" (Available at: <https://bit.ly/2kChabe>)

REGISTRATION OF CANDIDATES FOR THE POSITION OF THE PRESIDENT OF UKRAINE



The Central Election Commission duly organized the process of registering presidential candidates in a proper manner and in compliance with the electoral law, preventing potential conflicts and avoiding politically motivated decisions at this crucial stage. Conditions for the exercise of passive suffrage were created for all candidates, and cases of refusal to register were justified.

From December 31, 2018 to February 3, 2019, 92 persons submitted registration documents to the CEC, of which 44 candidates were registered by the Commission. The decisions on the registration of candidates for the presidential election held on March 31, 2019, have been made by the Central Election Commission from January 4 to February 8. It is worth noting that the 2019 presidential election were record breaking in the number of candidates. Thus, in 1991, 6 candidates ran for the post of the head of state, in 2004 their number was 26, in 2014 – 23.

The legislation establishes a number of requirements regarding the procedure for nomination and registration of candidates for the presidential post in Ukraine. In particular, in the case of nomination of candidates by parties, this should only take place at a convention (meeting, conference) in accordance with the charter of that party. The conventions shall be open for attendance to media representatives who shall be notified in advance on the time and venue of the event. On the other hand, participation of CEC representatives is not provided by the law. The list of mandatory documents to be presented by both self-nominated, and party nominated candidates included declarations of property, income, expenses and financial liabilities, as well as the candidate's election program. In addition, candidates had to place a cash deposit of UAH 2.5 million. Since 2010, the practice of collecting signatures as a prerequisite for the registration of presidential candidates has not been used in the presidential election in Ukraine, but the issue of the deposit amount still causes public debate. A citizen of Ukraine, who has reached the age of 35 on election day, is eligible to vote, is fluent in the state language, and has resided in Ukraine for ten years prior to election day, could be elected President of Ukraine.

The CEC refused to register 47 persons, and left 1 application without consideration. The main reason for the refusal was the failure to comply with Article 51 of the Law "On the Election of the President of Ukraine" regarding the monetary deposit. The age of three applicants at the time of the ballot did not meet the age requirements. Six candidates were denied registration because the content of their election programs did not meet the requirements of the law (there were provisions aimed at eliminating Ukraine's

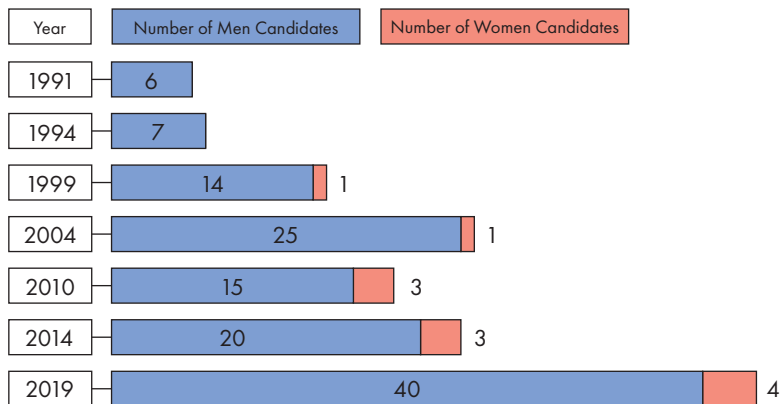
independence or violating the constitutional order by force, or violating sovereignty and territorial integrity, or promoting war, violence, liberty, encroachment on human rights and freedoms). One candidate (Petro Symonenko, leader of the Communist Party of Ukraine) was denied due to his nomination by a party whose activities were banned under the Law of Ukraine “On Condemning Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibiting Their Propaganda.”

Among the presidential candidates, 40 persons were men and 4 were women: Yuliya Tymoshenko, Olha Bohomolets, Inna Bohoslovska, Yuliya Lytvynenko. The average age of the candidates was 50 years. The 35-45 category included 15 registered candidates, 45-60 years – 22 candidates, over 60 years – 7 candidates. 24 candidates for the post of head of state were nominated by parties, and 20 candidates were self-nominated. At the same time, 26 of them were party members at the time of registration, 18 were not members of any political force. Among the registered candidates, 16 were MPs. Two candidates – Yuliya Lytvynenko and Andriy Novak – positioned themselves as unemployed, while another candidate – Roman Nasirov – did not specify his job.

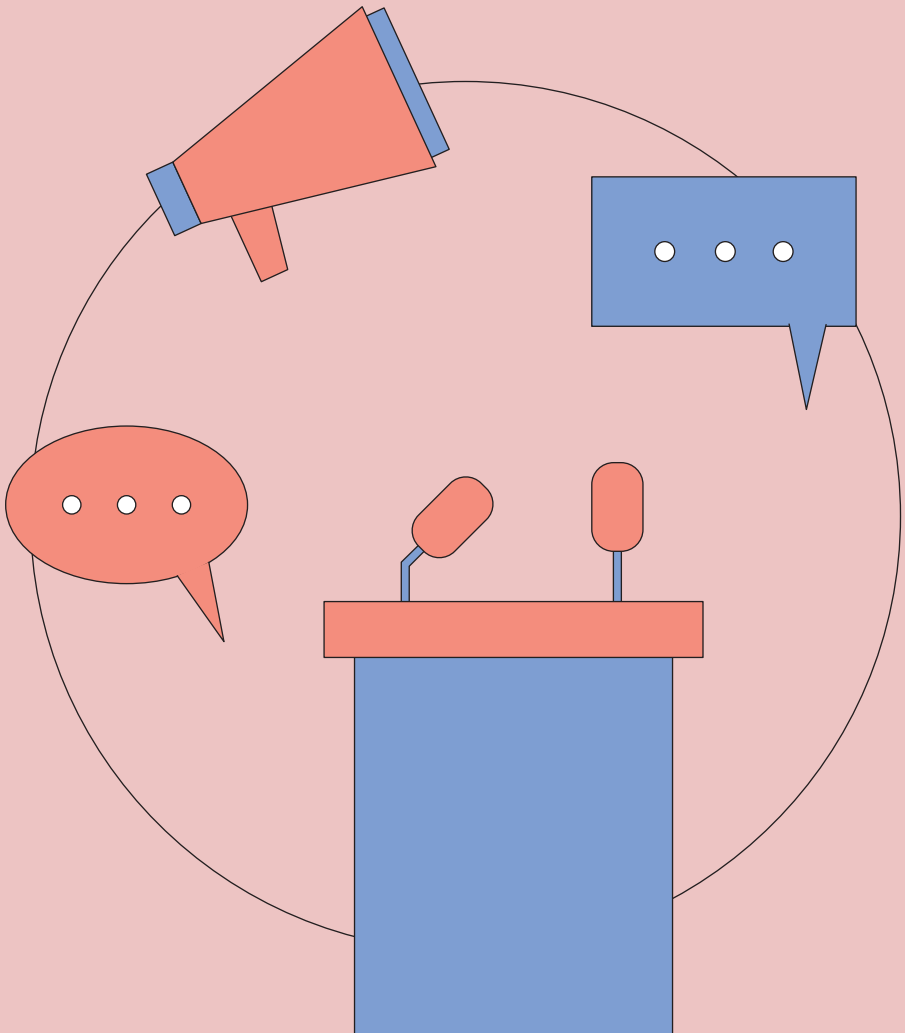
Based on the applications from candidates for the post of President of Ukraine, the Central Election Commission cancelled the registration of 5 persons (Andriy Sadovyi, Dmytro Dobrodomov, Yevheniy Murayev, Serhiy Kryvonos, Dmytro Hnap). Thus, 39 candidates for the post of President of Ukraine were included in the ballot.

The results of OPORA observation during the registration process of candidates suggest that the CEC adhered to the priority of passive suffrage of candidates when considering the problematic issues in their submitted documents. The CEC approach to candidate registration, in our view, met the standards of democratic elections and effectively ensured the exercise of passive suffrage for all interested citizens.

Comparison of the number of candidates in the Presidential election in Ukraine



CAMPAIGNING ACTIVITIES OF PARTIES AND CANDIDATES



Peculiarities of the early campaigning

De facto campaigning still before the start of the election campaign has become a traditional form of electoral conduct for political actors in Ukraine. Early campaigning deployed by key candidates for the post of head of state was significantly longer than their official campaign in the status of registered candidates. This practice allowed potential candidates to draw voters' attention to their own electoral preferences in advance, to mobilize local elites for their support, and at the same time to avoid the mandatory declaration of spending on election campaigns. In fact, candidates who funded the campaign only upon their official registration were on unequal terms with the political leaders who had launched an intensive campaign in advance. It indicates to a violation of the democratic principle of equality of candidates. The major problematic aspect of pre-election campaigns is the large-scale financial expenditures made on behalf of candidates or related organizations (persons) even before the official opening of election fund accounts, and were often in shadow.

In legal terms, the concept of campaigning exists only within the election process, and begins with the registration of a candidate by the CEC. It includes any activities aimed to urge the electorate to vote or not to vote for a certain candidate (Art. 57–58 of the Law of Ukraine “On Elections of the President of Ukraine”). In fact, potential electoral subjects organize campaigning events, place and disseminate campaigning materials long time before the official start of campaign. Thus, they actually avoid any control (in particular by the CEC and NAZK, or law enforcement agencies) over compliance with the formal requirements for the conduct of election campaigning and its finance.

The presidential election campaign officially began on December 31, 2018. However, since August 2018, a number of political actors have launched a large-scale public activity that had all the elements of election campaigning. This activity was accompanied by sufficiently intense personal activity of the political leaders who were potential electoral subjects, by significant financial costs for outdoor, media advertising and deployment of candidates' election centers in the regions. The martial law regime in force in Ukraine from November 26 to December 26, 2018, despite its possible risks, did not adversely affect the mass deployment of early campaigning.

Civil Network OPORA began conducting comprehensive monitoring of the election situation in the regions of Ukraine long before the official start of the election process, analysing the progress and content of the early campaigning of potential candidates and related political parties and organizations.

Format of campaigning activities and early campaigning subjects

The earliest large-scale election campaigns, accompanied by early advocacy, were launched by Oleh Liashko, Yuliya Tymoshenko, Petro Poroshenko, and Andriy Sadovyi. They resorted to the simultaneous use of various forms of public activities (conducting public events and giving speeches, disseminating outdoor and media advertising). In terms of territory, they covered most regions of Ukraine. Smaller-scale, but equally intense, early campaigns were launched by Serhiy Taruta, Anatoliy Hrytsenko, and Oleksandr Shevchenko. During the entire campaign, some potential candidates focused only on particular regions or oblasts (Oleksandr Vilkul), or widely used certain forms of early campaigning. For example, they paid frequent visits to the regions – Oleh Tyahnybok (prior to registration of the candidate Ruslan Koshulynskiy), Roman Bezsmertnyi, Valentyn Nalyvaichenko. Against this background, much less visible was the public activity of other politicians who had earlier launched the early campaign, including Vadym Rabinovich, Viktor Chumak, Dmytro Dobrodomov, Yevheniy Murayev, Vadym Novinskyi. It is also worth noting that the public activity of some of the potential candidates for the presidency, by nature, was an element of campaigns aimed more at the upcoming parliamentary and local elections rather than at the presidential race.

Election campaigning took place in all regions of Ukraine, but most of the candidates' early activities in the presidential election were concentrated in oblast centers, while in other places, public events were far less frequent. The most dynamic early campaigning of potential candidates for the post of President of Ukraine unfolded in the city of Kyiv, while its intensity in the Transcarpathian, Cherkasy, Chernivtsi, Poltava and Zhytomyr regions was low. At the same time, campaigning was carried out at the level of constituencies by majoritarian MPs, who began to visit settlements more often and organize public events in the context of approaching presidential and parliamentary elections.

The content of the early campaign campaigns was unified and homogeneous across Ukraine. Regional events and information materials were promoted within the framework of national initiatives of certain potential candidate (party) and did not have any exclusive regional nature.

In terms of types of early campaigning, outdoor advertising (billboards, citylights) was clearly dominating. Besides, political advertising in the local media (print, electronic, television) was heavily used. Instead, street campaigning and distribution of printed campaign materials were sporadic, spontaneous and usually related to short-term regional visits of potential candidates. According to OPORA observers, as of the end of December 2018, at least 20 potential candidates have launched large-scale campaigning using various forms, mobilizing party structures, and attracting significant financial resources. Most of the potential candidates in this list conducted early campaigning for more than three months, which exceeded the period of the official campaign stipulated by the law. Thus, Yuliya Tymoshenko, Petro Poroshenko, and Oleh Liashko had the most active and longest early campaigning. They lead in various sectors of political advertising and involvement in regional public activities.

At this stage, Yuliya Tymoshenko's outdoor advertising (with key messages) was the most massive by territorial coverage and numerically. "New vector of Ukraine – new opportunities for everyone," "Ukraine's future is in the EU, Ukraine's security is in NATO," "New economic course," "The Popular Constitution") and Petro Poroshenko ("The army protects our land, language protects our heart, faith protects our soul," "Army, language, faith – we are taking our own way! We are Ukraine!"). The billboards of potential candidates were installed in all regions of Ukraine and in high numbers. A noticeably smaller amount of outdoor advertising was unfolded by Andriy Sadovyi ("Andriy Sadovyi is next. Sadovyi2019.win") and by Serhiy Taruta ("The country will work"). Oleh Liashko used campaigning on outdoor advertising media ("Jobs or IMF slavery"), and by Oleksandr Vilkul ("We shall overcome," "We are the majority"). Other potential candidates did not launch any large-scale outdoor advertising campaigns in the regions.

In the regional audiovisual media (television, radio), as well as in the printed editions (newspapers), at the stage of early campaigning, the most represented candidate was Petro Poroshenko. Slightly less represented were Yuliya Tymoshenko and Oleh Liashko. Much more scarce was the presence of Andriy Sadovyi and Oleksandr Shevchenko. Print media were actively used for campaigning by Serhiy Taruta and Vadim Rabinovich. Other po-

tential candidates were featured in local media only in selected areas, or did not carry out any early campaigning in this format. OPORA observers have documented recurrent elements of dirty campaigning in the regional press – advocating against potential candidates, specifically against Volodymyr Zelensky and Yuliya Tymoshenko. A large number of political advertisements in the print media were already placed in a hidden way without proper marking at the stage of early campaigning, which can be regarded as a violation not only of standards of journalistic activity, but also of the Law “On Advertising.”

The distribution of printed propaganda products was used by potential candidates in limited numbers. The leaders in this component of early campaigning were Yuliya Tymoshenko, Andriy Sadovyi (and Oleh Tyahnybok, who eventually failed to nominate himself). Before the official registration, the largest-scale campaign was conducted on the Internet by Yuliya Tymoshenko. Oleh Liashko and Petro Poroshenko were less active.

Public events, street actions and meetings with voters (mainly in the framework of visits to the regions) were held by potential candidates Yuliya Tymoshenko, Oleh Liashko, and Petro Poroshenko, to a lesser extent, by Oleksandr Shevchenko and Andriy Sadovyi.

A key manifestation of the activation of potential candidates, the mobilization of their party structures and the launching of the early campaign was a consistent increase in intensity of political visits to the regions in order to participate in various public events well before the official start of the election process. This aspect of OPORA monitoring made it possible to establish the personal involvement of political leaders in the process of engagement with voters, the organizational status local electoral structures, and communication with local political elites.

At the stage of early campaigning (in September – December, 2018), the largest number of visits to the regions was made by the Head of the Radical Party, an MP Oleh Liashko, and the President of Ukraine Petro Poroshenko.

According to OPORA’s data obtained through attending regional events of potential candidates and through monitoring open sources of information, the leader of the Radical Party Oleh Liashko visited the largest number of regions. In the four months leading up to the start of the election process, an MP Oleh Liashko made 26 visits, covering 18 regions of Ukraine. During the same period, the incumbent President Petro Poroshenko visited 16 re-

gions of Ukraine within 24 separate visits. Cherkasy, Dnipropetrovsk, Ivano-Frankivsk and Kyiv oblasts were the most interesting regions for potential candidates in terms of the number of visits, attended by 10 potential candidates (some of them had repeated visits). At the same time, the least popular are Sumy, Mykolaiv, Luhansk, and Transcarpathian oblasts.

OPORA also analyzed the peculiarities of regional trips of the most active potential candidates for the post of President of Ukraine. Traditionally, regional visits took place in the form of press conferences, meetings with sectoral employees (educators, physicians, manufacturers, farmers) and street events (meetings with voters). Some candidates used the specially customized formats of events, like primaries or discussion forums. A characteristic feature of the candidates' visits was that they often participated in events initiated by public administrations on the ground, or by local organizations or institutions.

Usually, the main target audience that potential candidates interacted with during their visits were media representatives, party functionaries and activists of local socio-political structures. At the same time, the most sought after voter groups that politicians met were representatives of educational institutions (workers and students) and youth. Also, priority social groups were health care workers and military personnel.

Oleh Liashko during his visits most often met with representatives of farmsteads, employees of agricultural enterprises, or socially disadvantaged groups; he visited hospitals and kindergartens (in particular in Odesa, Zaporizhia, Dnipropetrovsk, Kirovohrad, and Lviv regions). **Petro Poroshenko** mainly visited military infrastructure facilities (mobile hospitals, military units, training grounds, medical centers, educational establishments) in Lviv, Kherson, Khmelnytsky, Kyiv, Donetsk, Zhytomyr regions, which is explained by the particular duties of this political leader. The other potential candidates, who actively visited the regions for campaigning purposes, focused on different target audiences. **Andriy Sadovyi** made visits to regions (including Kirovohrad, Poltava, Sumy, Kharkiv, Cherkasy regions) within the framework of the Urban Talks discussion platform, which was attended by community activists, deputies, representatives of local self-government bodies. **Yuliya Tymoshenko** mainly held public events (street speeches), met with educators and scholars, and actively used local media (in particular in Vinnytsia, Dnipropetrovsk, Zhytomyr, Khmelnytsky regions). **Oleksandr Shevchenko**, in the first place, visited the regions (Volyn, Transcarpathian, Odessa, Rivne, Ternopil, Khmelnytsky, Chernivtsi, Kherson regions) to par-

ticipate in the UKROP party primaries, attended by all his party members, activists and supporters. **Roman Bezsmertnyi** mainly conducted targeted thematic meetings in educational institutions and with youth organizations (Ivano-Frankivsk, Poltava, Ternopil, Volyn, Chernivtsi, Chernihiv, Cherkasy regions).

Besides the potential candidates for the President, there were also the so-called VIP campaigners, who were also involved in early campaigning through public activities in favour or in the interest of a certain candidate. OPORA has identified more than 70 people who have once or periodically engaged in a campaign in favour of potential presidential candidates during the early campaigning phase. The main category of campaigners included MPs who made independent visits to the regions or accompanied potential candidates during events and meetings with voters. Most people's deputies joined and held events in favour of Yuliya Tymoshenko. A slightly smaller number of active campaigners among the the Verkhovna Rada deputy corps carried out public activities in support of Petro Poroshenko.

OPORA analyzed the facts of attendance of officials of all levels of government at events involving potential candidates. Observations show that some potential candidates were actively involved in the de facto campaigning activity. Such cases did not necessarily testify to the politicians' implementation of formal violations of the law, as they often held meetings with voters in the status of acting People's Deputies, top-level officials, heads of local self-government bodies. However, the communication of potential candidates and civil servants requires a clear understanding and compliance with the principles of competitiveness and the principle of equality of opportunities in political and electoral processes.

Petro Poroshenko visited the regions in the status of an official, and civil servants and local officials predictably accompanied the President of Ukraine during all his visits to the regions. OPORA observers have not identified any direct or open elements of political support for Petro Poroshenko as a potential candidate from local officials, but given the experience of previous campaigns, the top official needs to clearly distinguish between official and election related activity in the context of an approaching or formal start of election process. This line of conduct will promote election competitiveness and serve as a safeguard against misuse of administrative resources.

One of the unresolved problems of early campaigning in terms of adherence to democratic electoral standards was holding events or participation

of potential presidential candidates in events that were accompanied by the donation of various forms of charitable assistance to particular voter groups or institutions, or were part of budgetary funding. For example, four months before the start of the campaign, Oleh Liashko visited the Technical Lyceum in Mariupol (which reconstruction was co-financed from the central budget and the city budget), accompanied by the mayor Vadym Boychenko. He also handed over the keys from 20 apartments for internally displaced persons. On the other hand, during his visit to Donetsk region (October 12, 2018), Petro Poroshenko visited the 61st Military Mobile Hospital and handed over documents for 20 new vehicles. On October 26, 2018, Serhiy Taruta, along with his team and heads of Zhytomyr Oblast and Korosten District Organizations of the Osnova Political Party, Tamila Tkachuk and Oleh Hurin handed over the 'Spider' rehabilitation system to the Social Rehabilitation Center for Children with Disabilities "The Source of Hope", also attended by the mayor of Zhytomyr, Volodymyr Moskalenko.

Early campaigning for or on behalf of potential candidates also took place in the form of public (charitable) actions and / or activities of party public associations. In the absence of legal restrictions and until the official registration of candidates, such activity is not formally considered as election campaigning, which is accompanied by the provision of goods and services to voters. Therefore, the situation is highly conducive for potential candidates to use different forms of material incentives for voters, in the context of future electoral cycles. In order to avoid recurrent situations of using budgetary resources for campaigning purposes, it is also a priority to differentiate the official job related and political activity of election potential participants.

Campaigning activities of candidates within the electoral process

Considering the scale, intensity and variety of forms of campaigning applied by all active candidates, it can be stated that the presidential election campaign was competitive and free in this aspect.

Throughout the election process, five presidential candidates (Petro Poroshenko, Yuliya Tymoshenko, Anatolii Hrytsenko, Oleh Liashko, and Volodymyr Zelensky) conducted large-scale nationwide campaigns covering all

regions of Ukraine (except for temporarily occupied parts of Ukrainian territories) and included the combination of all possible campaigning forms. The campaigning activity of other candidates was more selective in terms of methods and territorial coverage. Over a third of candidates (16 out of 39) did not conduct any full-fledged election campaigns, despite the fact that many of them secured substantial representation in election commissions at various levels. No public activity of candidates combined with their representation in election commissions may indicate to the “technical” nature of their participation in the electoral process.

As the election day approached, the scale of campaigning by the presidential candidates and their teams has expanded significantly, but the number of those who conducted intense election activity has decreased. According to OPORA observers, among the 39 officially registered candidates, only 19 were active, namely: Petro Poroshenko, Yuliya Tymoshenko, Anatolii Hrytsenko, Oleh Liashko, Volodymyr Zelensky, Ruslan Koshulynskyi, Yuriy Boyko, Oleksandr Vilkul, Oleksandr Shevchenko, Yuriy Derevyanko, Serhiy Taruta, Serhiy Kaplin, Valentyn Nalyvaichenko, Oleksandr Solovyov, Viktor Kryvenko, Ihor Smeshko, Viktor Bondar, as well as two candidates who eventually withdrew their candidacies (Andriy Sadovyi, Yevheniy Murayev). In general, presidential candidates nominated by political parties have been much more active in campaigning than self-nominated candidates. The highest activity of candidate teams was observed within oblast centers and large cities, while in district cities and smaller territorial units, campaigning activities were not noticeable.

One of the tendencies of the last weeks of the campaign was the increase in intensity of direct engagement with voters by the most active candidates, through the use of networks of street campaigning tents, through holding public events attended by candidates and VIP campaigners. In fact, there was a significant expansion and supplementation of outdoor and media forms of campaigning with measures aimed at direct interaction with voters. The leading format of campaigning public events in the last stage of the election campaign was holding pre-election concerts and organizing entertaining events in favor of the most active candidates – Yuliya Tymoshenko, Petro Poroshenko, and Volodymyr Zelensky.

As election day approached, the intensity of street campaigning increased, in particular in cities outside the regional centers, where the number of tents has grown in places of mass gathering of people. They were used to disseminate campaigning products (information booklets, newspapers,

calendars). OPORA observers recorded the largest number of campaigning tents of Petro Poroshenko, Yuliya Tymoshenko, Anatoliy Hrytsenko, Ruslan Koshulynskiy, and Oleksandr Shevchenko.

On the whole, the largest scale campaign in terms of coverage and variety of campaigning formats was conducted by two candidates – Petro Poroshenko and Yuliya Tymoshenko. Petro Poroshenko remained one of the most active candidates in the election process in terms of forms and scope of his election activities. The campaign covered all regions of Ukraine and was aimed at the widest possible target audience. In the last weeks of the campaign, massive use of party tents of the Petro Poroshenko Bloc across Ukraine has become a new feature of election campaigning (campaign materials included party newspapers, the candidate’s election program, campaigning in the form of a Ukrainian national passport, balloons with the signs “We go our way. Petro Poroshenko”). There was a large-scale dissemination of letters through mailboxes, sent from the Regional Development Council as part of collecting a set of recommendations for the Territorial Development Plans. They sent over text messages “Success 2019”, with a reminder of the achievements of the current authorities, to the telephone numbers received in the framework of the campaign for signature collection in support of Ukraine’s integration into NATO and the EU. Several door-to-door campaigns were also implemented, during which volunteers of the Solidarity NGO personally visited voters who had previously filled out questionnaires, and reminded them of the need to vote on March 31 for a candidate Petro Poroshenko. There have been repeated cases of public support for his candidacy by cultural figures, educators, student organizations, representatives of local self-government bodies (mayors of cities) and more. The election activity of Yuliya Tymoshenko’s team was almost on par in size and variety of forms of activity. A large-scale campaign was launched engaging a large number of VIP campaigners and mass concerts. Through the network of street tents, party newspapers and booklets were actively distributed, “Reducing the price of gas by 2 times is real! New Course for Ukraine” and “New Course of Ukraine. The New Social Doctrine”, calendars and notepads for notes with the sign “Yuliya Tymoshenko 2019.” The New Deal of Ukraine” program was also distributed through mailboxes. The party newspapers “Vechirni Visti” and “To every mailbox” were widely distributed, with materials focusing on anti-campaigning, among other things.

Anatoliy Hrytsenko and Oleh Liashko were somewhat falling behind the front-runners, specifically in the format of street actions and campaigning in the print media. The campaigning of Volodymyr Zelensky was similarly

large-scale, but did not include election activity in the form of street events and distribution of printed materials. A very high intensity of the election campaign has been maintained by Ruslan Koshulynskiy, but it did not cover all regions of Ukraine. Anatoliy Hrytsenko, Yuriy Boyko, and Oleksandr Vilkul have become more present in the last weeks of the campaign. The remaining nineteen of the most active candidates carried out selective campaigning in separate segments, with a low intensity of events. For example, the election campaigns of Oleksandr Shevchenko, Yuriy Derevyanko, and Serhiy Kaplin focused only on outdoor and media campaigning in parts of Ukraine's regions and did not include systematic street events.

Throughout the campaign period, campaigning on outdoor advertising media (billboards, citylights, banners) remained the dominant form of election activity and was used extensively by 12 presidential candidates: Petro Poroshenko, Yuliya Tymoshenko, Anatoliy Hrytsenko, Oleh Liashko, Volodymyr Zelensky, Ruslan Koshulynskiy, Yuriy Boyko, Oleksandr Vilkul, Oleksandr Shevchenko, Yuriy Derevyanko, Oleksandr Solovyov, Serhiy Kaplin. The content of campaigning products was regularly updated by Volodymyr Zelensky and Oleksandr Shevchenko. The other candidates combined the use of already known and new campaign messages and materials. Yuliya Tymoshenko's visual political advertisement changed twice during the last month of the campaign – at the beginning of the month there were materials with the slogan “New course of Ukraine. Changes everyone is looking for! Yuliya Tymoshenko 2019”. In the middle of the month, there came materials with the slogan “Ukraine chooses change! Yuliya Tymoshenko” and a new image of the candidate. Petro Poroshenko's previous billboards with the slogan “Real Achievements, not False Promises” were replaced by new ones – “There many candidates – the President is one.” Volodymyr Zelensky's campaign materials with slogans “Let's do them together,” “Spring will show who is stealing,” “Spring will come – we will start planting” and “Everything will be Ze!awesome!” changed to new: “No promises, no Apologies. Ze! President – is a Servant of the People” and “Hand over the corrupt person – get 10% ZeThe president is a Servant of the People.” Anatoliy Hrytsenko's campaign slogan “The Honest are More” has been changed to “A country without corruption – high salaries and pensions.” The following candidates used the new printed campaign materials on the media of outdoor advertising: Ihor Shevchenko (“There are many candidates – the best is one,” “I will return of the people what oligarchs stole from them”), Oleh Liashko (“People's President. It is possible!” “Jobs to Ukrainians! It is possible!”), Ruslan Koshulynskiy (“Ruslan Koshulynskiy. For peace on your God-given Earth”). OPORA observers continue to record some cases of damage (damage to

structures or paint) to billboards and citylights that featured political advertising of candidates (in particular, in the Kherson region, this trend is the longest-running).

The campaigning in the regional print media was used by virtually all candidates, but with different intensity. However, the largest scale campaigns were run by Petro Poroshenko, Yuliya Tymoshenko, and Oleh Liashko. They also led in political advertising in the audiovisual media (regional television and radio). However, in general, campaigning in the local print media was the least common form of election work among electoral subjects (22 registered candidates did not resort to such campaigning).

According to observers estimates, the campaign content of Volodymyr Zelensky, whose team conducted a separate targeted election campaign on social networks, was most prominently displayed on the Internet. However, in this segment of campaigning, the distinguished activities were run by Yuliya Tymoshenko, Petro Poroshenko, Oleksandr Shevchenko, Oleh Liashko, Anatoliy Hrytsenko, Ruslan Koshulynskyi, Yuriy Boyko. In the last weeks of campaigning, there have intensified cases of sharing online the information which showed elements of dirty campaigning, mainly aimed against presidential candidates Volodymyr Zelensky, Yuliya Tymoshenko, and Petro Poroshenko. With the approaching election day, the number of such materials as recorded by OPORA observers have grown.

Large-scale street campaigning was used by the staff of five presidential candidates – Petro Poroshenko, Yuliya Tymoshenko, Anatoliy Hrytsenko, Oleh Liashko, and Ruslan Koshulynskyi. This was usually done in the format of installing party tents in crowded places, through which party newspapers, campaign leaflets, election programs, calendars and other printed matter were distributed.

The election campaign of so-called VIP campaigners has intensified in the last weeks preceding the campaign. The undisputed leaders in the use of such forms of campaigning were the teams of Yuliya Tymoshenko and Petro Poroshenko. Candidates engaged in the campaigning work the MPs, former high-ranking officials and politicians, popular artists, creative intelligentsia, etc. In Yuliya Tymoshenko's team, key VIP campaigners whose presence OPORA observers repeatedly recorded in the regions in March 2019, were Ivan Krulko, Oleksandr Ponomaryov, Leonid Kravchuk, Anastasia Prykhodko, Oleksandra Kuzhel, Nina Matviienko, Pavlo Zibrov, Volodymyr Yavorivsky, Svitlana Tarabarova, Borys Tarasiuk. Some persons who went on

campaigning trips in favour of the candidate were Oksana Bilozir, Iryna Herashchenko, Iryna Lutsenko, Dmytro Pavlychko, “Kozak System” and “Plach Yeremiya” bands.

The presidential candidates themselves made more than 390 personal visits to different regions of Ukraine during the three months of the election process. This form of activity was used by 27 candidates. The leaders for the number of regions visited were Petro Poroshenko (visited 20 regions at least once), as well as Yuliya Tymoshenko (19), Ruslan Koshulynskyi (18), and Oleh Liashko (18).

The key target regions for the election visits of candidates during January – March 2019 were Cherkasy (visited by 18 candidates) and Kharkiv (16 candidates) oblasts. Instead, the least personal candidate attention was received by Kherson and Transcarpathian oblasts (5 and 6 candidates, respectively).

In general, the campaigning of presidential candidates was conducted in a highly competitive manner and, given the variety and scale of the campaign, it allowed different categories of voters to freely form their opinions to be able to express their will.

Campaigning activities of candidates during the preparation for the second round of voting

Formal pre-election campaigning began on April 8, 2019, that is, from the day following the CEC re-election (the relevant CEC Resolution No. 759 appeared on April 7). Thus, twelve days were formally allotted for the campaign of two winning candidates in the first voting round (from April 8 to 19, inclusive). The limited timeframes of the campaign influenced the format of the candidates’ activities. They focused on media campaigning and outdoor advertising. Moreover, this type of campaigning, in various hidden forms, did not stop between March 30 and April 7, despite a formal legal ban. In particular, presidential candidates have repeatedly made videos and appeals in the media about election debates, and continued to post political ads on outdoor media and on the Internet. As in the early campaigning phase, the financial costs on campaigning at this time were blatantly shadowy, since they were not covered from candidates’ election funds. According to the Law, spending from the current accounts of the election fund ceased at 6

pm on the last Friday before the election day (March 29) and resumed from the date of the decision to include candidates in the ballot for re-election (April 7).

The absence of regional visits by presidential candidates is the most prominent feature of the campaign in the context of preparing for the re-election. Whereas for Volodymyr Zelensky refusal to hold street actions (rallies, pickets, meetings with voters) was a common practice throughout the campaign, Petro Poroshenko has remained until the last month one of the leaders in the number of areas visited and public events held. Also, the activity of VIP campaigners in the regions decreased and cases of pre-election charity of candidates have not actually been recorded.

On the whole, during April, the lowest level of campaigning was observed by the presidential candidates and their teams, as compared to the previous periods of the election process. In the last month, Petro Poroshenko's regional election headquarters abandoned the mass placement of street information tents, which he had actively used throughout the election campaign. Instead, they distributed printed campaigning products (newspapers) through a network of campaigners. This kind of campaigning among the supporters of Volodymyr Zelensky was not targeted, but was available at the regional headquarters of the candidate.

In the absence of regional action, candidates continued to use outdoor advertising (billboards, citylights) and political advertising in the media (online publications, print media) as the main forms of campaigning.

Placement of campaigning on outdoor advertising media during re-election remained the most widespread form of election activity on the part of both candidates (recorded by observers in all regions of Ukraine). The changes affected not only the renewal of the content of political advertising and the emergence of new slogans, but also manifested in more active use of "black PR" and hidden campaigning. In particular, billboards without original data with the image of a figure reminiscent of Petro Poroshenko with the inscription "The End"; designed in the style of Petro Poroshenko's campaigning products; a variety of publications and printed materials featuring Black PR against Volodymyr Zelensky, which were distributed at the regional level. External political advertising materials were ordered and distributed by the headquarters in a centralized manner and had no regional features. The team of Petro Poroshenko has posted billboards across Ukraine with the image of the candidate and the Russian president Vladimir Putin (and also with-

out him), with a new slogan “April 21 – time for a decisive choice.” Another type of billboards disseminated by the candidate contained the slogan “The main thing is not to lose the country.” Also, the outdoor campaigning materials continued, with the “Think” caption. Over the last month, the team of Volodymyr Zelensky has been spreading city-lights slogans in different regions of Ukraine with the slogans “End of the Age of Lies”, “End of the Age of Greed” and “End of the Age of Poverty.” Along with outdoor advertising, candidates actively shared political advertising on the Internet, including elements of dirty campaigning. In the segment of distributing printed campaigning products, only Petro Poroshenko was noticed. Similar cases have been reported in most regions of Ukraine. In particular, campaigners of the presidential candidate distributed in the regions the newspaper “Choose April 21” (the first page depicts Petro Poroshenko and Vladimir Putin, as well as the inscription “Choose on April 21!”).

In spite of the low intensity and narrowing of the scale of campaigning before the second voting round, the election campaign conducted by the opponents became much more conflicting. Moreover, it manifested in the mobilization of various social groups that supported one or another presidential candidate. In April, the active campaign against Volodymyr Zelensky was run in different regions of Ukraine by a “Vidsich” public association and by the party members of the Ukrainian Halytska Party (active throughout the Lviv oblast). Representatives of these groups spoke to citizens (a door-to-door campaign and meetings in crowded places), and distributed newspapers and leaflets urging them not to vote for Volodymyr Zelensky.

At the regional level, observers noted cases of public support for presidential candidate Petro Poroshenko coming from public figures, politicians, and non-governmental organizations.

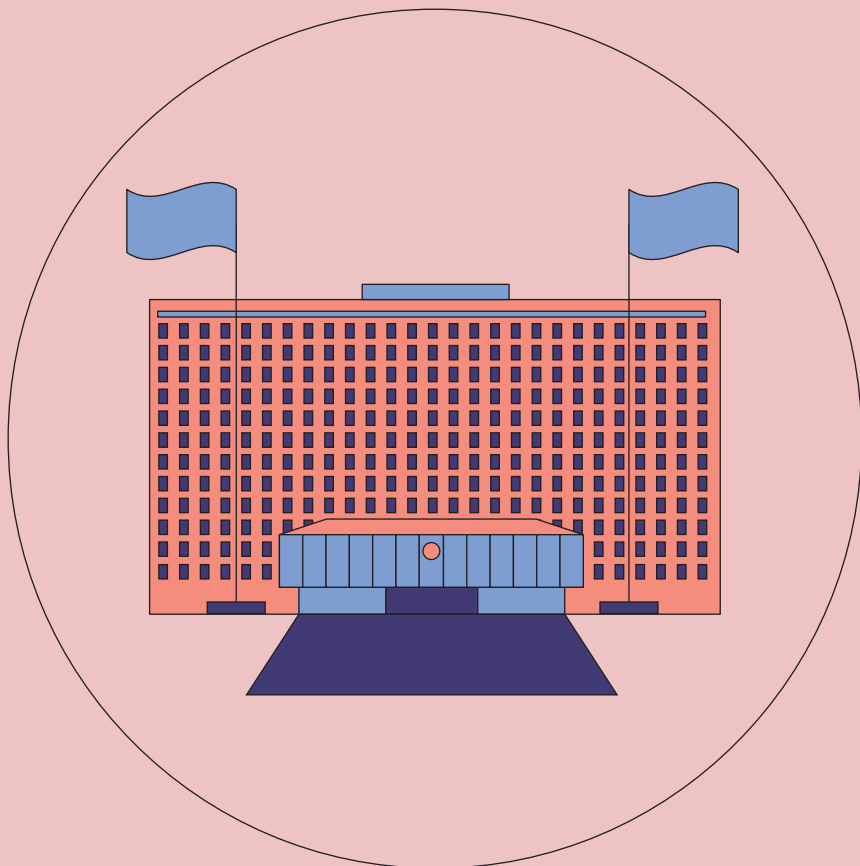
In general, the election headquarters of both candidates, in preparation for the re-election, actually phased down public activity, and concentrated on the organizational aspects of the elections, including the manning of district and precinct election commissions. It is significant that other participants in the first round of voting (electoral subjects), their teams, personnel, and party centers on the ground did not show their own public action or activities aimed at public support of the participants of the second round, after March 31. However, single cases of interaction of local political forces with the staff of presidential candidates were recorded by observers. Their goal was to assist the candidates in nominating election commissions members.

The key issue of political fight between the presidential candidates was that of organizing public debates between them. Notwithstanding the current provisions of the Law of Ukraine “On Elections of the President of Ukraine” and the relevant CEC Resolution (as amended)⁹ on the organization of television debates at the expense of the State Budget of Ukraine, the candidates eventually agreed to hold a debate at the expense of election funds at the Olympic NSC in Kyiv. Instead, the official debate that was scheduled to take place in the Public Television studio was ignored by one candidate (Volodymyr Zelensky). It undoubtedly adversely affected voters’ awareness and ability to shape their position about the candidates and their programs. It also prevented the CEC and the National Public Television and Radio Company of Ukraine from exercising their powers to ensure quality discussions between presidential candidates, and politically impartial debate.

.....

9 CEC Resolution of May 5, 2014 No. 472 “On the Regulations on the Procedure of Pre-Election Television Debates Between the Ukrainian Presidential Candidates included in the ballot paper for re-election, at the expense and within the funds from the State Budget of Ukraine allocated for preparation and holding the election of the President of Ukraine.”

ADMINISTRATION OF THE PRESIDENTIAL ELECTIONS IN UKRAINE



CEC Operations

During the official election process, the CEC adopted 895 resolutions and decisions (including 18 decisions on local rather than presidential elections).

Much of the CEC's decisions concerned the registration of authorized representatives and proxies of candidates, granting NGOs the right to monitor elections and to register international observers. Adopting these regulations required attention and time-consuming work by CEC members, but was technical in nature and did not cause any political conflict or undue difficulty. There were 484 of such decisions, or 51% of the total number of resolutions adopted.

Central Election Commission adopted 44 decisions on registration of candidates for the position of the President of Ukraine, whereas 52 decisions were adopted by the Commission to deny registration to 47 persons.

Topics of the CEC's decisions regarding the election of the President of Ukraine	Number of decisions and protocol resolutions
Registration and cancellation of candidates' proxies	263
Enabling NGOs to conduct observations, registration of national observers in overseas constituency, international observers	162
Election finance	61
Registration and cancellation of registration for authorized representatives of candidates in the CEC	59
Decisions on rejection of candidate registration	52
Formation of DECs, changes in their composition, and early termination of powers of all members of district commissions	44
Resolutions on the registration of candidates for the post of the President of Ukraine	44
Interpretation of previous resolutions and protocol decisions	39
Approval of decisions of DECs and PECs in the overseas election district	32
Consideration of complaints and claims	22

The CEC's rulings on the presidential election adopted before they start	22
Formation of PECs in the overseas district, changes in the composition of such commissions	16
Consideration of requests and inquiries	13
Approval and production of ballots	10
Mandate to exclude multiple entries in the registry	7
Interpretation of electoral law	6
Other issues	6
Decisions to cancel the registration of candidates on the basis of applications to withdraw from running for office	5
Resolutions on establishing the rules for election procedures provided for by law	5
Resolutions approving the forms of reports and documents provided for by law	5
Temporary closure of special polling stations	5
Timeframe and other aspects of the second ballot	5
Voter Lists	3
Enforcement of court decisions	2
Appeal to public authorities and law enforcement agencies	2
Information-analytical system "Elections"	2
Announcing warning to the candidates	1

The most common reason for refusal of candidate registration was lack of complete package of documents stipulated by the Law of Ukraine "On the Election of the President of Ukraine." As a rule, applicants did not provide proper proof of deposit (over 40 cases). The candidate from the Communist Party of Ukraine was denied registration due to the incompatibility of the party's charter, name and symbolism with the legislation on decommunization. The fact of having provisions in the election program recognizing the status of "DNR" and "LNR" formations was the reason to deny registration to one of the candidates.

Most often, the CEC's decision to deny registration was appealed by presidential candidates who did not deposit money. It amounted to UAH 2.5 million and was a prerequisite for the registration of a candidate for Presidency

of Ukraine. 10 candidates failed to comply with this requirement of the law, and challenged the CEC's decision denying their official registration.

The case-law clearly defines the absence of payment of a security deposit as an absolute ground for refusing to register a candidate. The decision of the Constitutional Court of Ukraine of January 30, 2002 No. 2rp / 2002 states it impossible to consider a pledge in elections as a restriction on the passive suffrage of citizens on the grounds of property status. This pledge does not violate the constitutional principle of equality of citizens, but aims at preventing the participation in the election of "thoughtless" candidates without actual intentions to win the voters' trust (ECHR decision in the Sukhovetsky v. Ukraine case). The Ukrainian courts also referred to the decision of the Venice Commission, which considered the pledge requirement as an acceptable instrument. For example, on January 23, 2019, the Supreme Court concluded within the panel of judges of the Cassation Administrative Court that the electoral pledge was only a precondition for registering a candidate for President of Ukraine. Its amount is the same for all election participants and does not depend on the size of the candidate's income or the party's financial status.

The consideration by the judicial authorities of cases on denial to register candidates contributed to the formation of a unified understanding of legal provisions that are debatable in Ukraine at each election. In particular, court decisions have demonstrated the following approaches to law enforcement:

- Only a non-cash form can be used when making a cash deposit.
- Once the legal deadline for the registration of candidates has expired, the prospective applicant may not reapply for self-nomination with corrected shortcomings.
- The CEC is obliged to give the candidate or party a copy of the resolution on refusal to register as a candidate for the post of President of Ukraine. One of the lawsuits involved the failure of the CEC to issue a copy on the basis of a candidate's statement, but it was sent to the Commission by mail. The Court emphasized the urgency of issuing to the authorized representative of the relevant party (candidate) or the candidate a copy of the CEC decision, taking into account the short terms for their appeal.

The practice of the Supreme Court of Ukraine during the election of the President of Ukraine contributed to the prevention of excessively formal approaches to the examination of documents submitted by candidates during the CEC's decision-making on their registration. In particular, the ab-

sence of any particular information in the candidate's CV or the excess of the CV's size or characters in other documents shall be interpreted by the Commission as errors and inaccuracies. These deficiencies are subject to correction and shall not be grounds for denying registration to a presidential candidate.

The candidate registration process demonstrated yet again the need for a clear delineation of the categories of "inaccuracy" and "error" in the candidate's documents that influence the decision to register him. In order to have a uniform application of the law, it is necessary to define criteria for establishing the fact of permanent residence of a candidate for President of Ukraine during 10 years in the territory of Ukraine.

Potential electoral subjects have repeatedly challenged in court the decision of the CEC to deny candidate registration. According to OPORA, 33 cases have been considered by the courts of Ukraine, 11 of which have fully confirmed the Commission's position. 11 lawsuits were upheld in violation of the terms of appeal. In 3 cases, the courts partially satisfied the plaintiffs' requirements concerning certain aspects of denying the registration to candidates (the issue of certifying the self-nomination application, specification of the motivational part of the decisions of the first instance courts, etc.). In one of the cases where the CEC failed to provide the candidate with a copy of the registration denying decision, the lawsuits were fully met. But the court's decision to partially or fully satisfy the claims did not cancel the very rejections of the Central Election Commission to register candidates. Thus, the CEC, without conflict and in compliance with the requirements of the legislation, fulfilled the authority to register candidates. Electoral disputes on this issue were usually related to the failure of candidates themselves to submit a complete list of documents.

During the election of the President of Ukraine, the CEC approved 6 explanations of the electoral legislation, which are binding.

The Commission's strongest response was to elucidate and regulate the widespread practice of involving voters in campaigning in favour of candidates. This de facto existing activity contravenes part six of Article 64 of the Law of Ukraine "On Elections of the President of Ukraine", which forbids the conclusion of payment contracts for election campaigning with voters at the expense of the election fund. According to OPORA, this provision appeared in the legislation to prevent the hidden manifestations of voter bribery, which could be carried out under the guise of performing campaign

work for a fee. However, as OPORA has repeatedly stated, there is an objective need to withdraw the funds of parties and candidates for campaigning from the shadow circulation.

In its Resolution, the CEC referred to the payment of funds to campaigners not as to indirect bribery, but as to the violation of legislative bans or restrictions on campaigning. The CEC's position was to recognize the legitimacy only of free of charge campaigning agreements between candidates and voters, with the parties having a constitutional right to conclude such agreements. The commission also noted that the contract between the election fund manager and legal entities may provide for the obligation of the service provider to select, train and coordinate individuals involved in direct campaigning. Thus, the voter and the candidate have the right to conclude free-of-charge campaigning contracts, but the legal entities can compensate the logistical expenses for the citizens involved at the expense of election funds (travel, food, transportation of campaign materials, etc.).

The CEC's explanation of the legislative prohibition to pay for campaigning services to voters caused a mixed reaction of the electoral subjects, observers and experts. On the one hand, the state shall ensure full transparency of electoral finance, including the legalization of expenses for the organizational activities of candidates. These expenses of electoral subjects are an objective necessity for the proper conduct of election campaign. On the other hand, the Explanation does not guarantee that citizens' compensation for campaigning will not be used to conceal voter bribery. The lack of preventive leverage is particularly evident in the case of financing and organizing campaigning through third parties that do not have transparent, complete and prompt reporting on the use of candidates' election funds.

Allowing citizens to offset the cost of campaigning has caused a negative reaction from a number of candidates. Election participants suggested that the Statutory Interpretation would foster possible illegal actions by other candidates. In particular, electoral subjects actively discussed the activities of numerous groups of Petro Poroshenko's campaigners in the context of the CEC Resolution. This discussion has led to judicial appeals against this decision by the highest election administration body that the CEC won. But, in OPORA's opinion, within the framework of electoral reform, Parliament is obliged to systematically regulate the financial costs of organizing and staffing the campaigning.

The decision of the CEC to ensure the security of the functioning of the information-analytical system “Election of the President of Ukraine” was challenged in court. A Presidential Candidate Anatoliy Hrytsenko, in a lawsuit against the CEC, expressed reservations about involvement of the State Service for Special Communications and Information Protection and the Security Service of Ukraine to the work of joint groups at DEC’s on the use of the information-analytical system. These reservations were also supported by part of the expert community on the grounds of a high level of distrust of the authorities’ ability to prevent arbitrary interference with the electoral process. The courts denied the candidate’s claim, as the CEC, in its decision, pursued a legitimate aim to ensure an adequate level of cybersecurity.

During the election campaign, OPORA twice appealed to the CEC asking for interpretation on the peculiarities of assuming the status of an electoral subject by the parties, and on campaigning in case they nominate candidates for the post of President of Ukraine, on the specifics of campaigning by candidates who are the People’s Deputies of Ukraine. The need for such explanations was conditioned by ambiguous practice in qualifying electoral offenses and bringing those responsible to justice for non-compliance with election campaign rules. Unfortunately, the CEC’s responses to these appeals were low-key and did not contribute to a clear and definitive understanding of the legal provisions.

OPORA has also initiated a series of lawsuits with the CEC to ensure access to information about the election process and to protect the rights of the organization’s official observers. First, OPORA appealed to the court to challenge the denial to provide public information on the use of funds from the candidate’s fund accounts prior to the release of the interim financial report. This information was essential to monitor the sources of election campaign funding, especially in cases involving evidence of covert voter bribery. The said case was not considered according to the rules established for consideration of cases related to the electoral process, on the grounds that the organization is not an independent electoral subject. In such a case, the claim should be considered under the general procedure, rather than by the short-term procedure of electoral disputes. Therefore, the case was referred to the court of first instance under a new jurisdiction. Unfortunately, the organization has not been able to promptly access publicly important information on election fund expenditures necessary to verify election law violations.

Civil Network OPORA has consistently upheld the proposal to strengthen the legal capacity of a non-governmental organization that has registered official observers. These opportunities should include increased access to justice and legal protection for independent monitoring organizations. Instead, prompt publication of election fund expenditures will increase the capacity of law enforcement agencies, the National Television and Radio Broadcasting Council, the State Committee on Television and Radio Broadcasting to respond to covert campaigning and illegal spending by candidates.

OPORA also challenged the CEC's decision to allow its official observer in a foreign constituency to attend a commission meeting. The Law of Ukraine "On the Central Election Commission" does not provide for the Commission's mandate to grant such permission. During the court consideration, they expressed an opinion that there was no legislative procedure for granting an observer the right to attend the CEC meeting. But the court's decisions did not identify any violations on the part of the Commission, as the CEC members allowed the observer to attend its meeting. This electoral dispute demonstrates the need to regulate observers' rights to monitor the CEC's activities.

The Law of Ukraine "On the Central Election Commission" provides for the right for official observers to attend its meetings without permission or invitation. Instead, presidential election legislation defines the registration of observers at the level of district election commissions, with the exception of observers in an overseas constituency. The latter are registered by the CEC, which acts as a district commission for the overseas district. Such legislative regulation allowed the CEC to interpret the situation as follows: official observers registered with the DECs are entitled to observe only at the territorial district level; an observer in a foreign district may attend CEC meetings only when considering the organization of the election process outside Ukraine. The courts have not upheld this legal position, but the problem of ambiguous and inadequate regulation of observers' right to monitor the CEC is obvious. This underscores the need to amend the electoral legislation to ensure that all aspects of the electoral process, including the CEC, are monitored independently. The OPORA submitted relevant proposals to the draft Election Code during its consideration by the Parliament and the relevant Verkhovna Rada Committee of Ukraine, which were partially taken into account. The Electoral Code provides for the possibility of registering no more than two observers from one NGO at the CEC level for observation in a national constituency. This decision of the Parliament

resolves the problem of legal uncertainty of observers' right to attend the CEC meetings, although it does not give NGOs any independent status of an electoral subject.

Another obstacle to the monitoring of the CEC's activities is the lack of proper regulation of the process of holding working sessions, which were a common form of activity of the Central Election Commission. The law on the CEC does not explicitly provide for such a form of work as a session, procedures for its conduct are regulated only by the Commission's Regulations.

CEC members held working sessions before each public meeting only, and there was often no public discussion of the agenda at the sessions. Official sessions of the Commission formally recorded the decision-making, but in the absence of substantive discussion they did not allow the electoral subjects to fully understand the CEC's legal position.

The practice of holding meetings showed signs of non-compliance with the principles of collegiality and transparency in the Commission's activities. At the same time, observers of NGOs were not able to observe such meetings. The OPORA has repeatedly noted cases of unequal treatment by the CEC of international and national observers: the former were invited to sessions, others were not admitted. In light of this negative experience, OPORA proposes to strengthen at the legal level the principles of transparency, openness and collegiality in the CEC operations. The process of conducting sessions shall include the right of observers to receive information about their agenda, and the reasons for limiting their attendance shall be clearly defined.

The unresolved issues in the CEC's interaction with the electoral subjects testify to the expediency of the CEC's internal reform. Prior to the start of the election process, OPORA and other NGOs prepared a Roadmap for Commission Reforms, which was publicly endorsed by CEC members on the eve of their appointments. These reforms had not been launched during the intense electoral process, but should be put into practice in the near future. The CEC Roadmap for Reform envisages the introduction of medium- and long-term planning for its activities, tools for public consultation and external expertise, increased access to electoral data, the introduction of an internal complaint management system, etc. The CEC Internal Reform Roadmap is available at the link <https://bit.ly/2u4YjdD>.

Formation and Activities of District Election Commissions

The low level of competence and professional training of the election commissions members, as well as the common unwillingness of the members of the lower-level election commissions to perform their functions, remain the main negative factor during the organization of the election process. Similarly, there is still no progress in addressing the shadow nature of the remuneration of election commissions members at different levels, both at the stage of legislative regulation and in response of authorized bodies.

Due to the inadequate preparation and compilation of lists of candidates for the district election commissions, the actual activity of these commissions began with a week delay. By the election day, the composition of DEC's had changed by more than a third. According to OPORA observers, the scale of PEC replacements was even more intense. It was only due to the presence of much more than the minimum required number of candidates included in the election commissions that it was possible to ensure their normal functioning, even in the conditions of mass replacements.

Although the day-to-day activities of election commissions were accompanied by a variety of problems, which were manifested in the lack of quality implementation of all legal procedures (such as in situations of distribution of senior positions within the PECs), in general, the election administration managed to fulfil their responsibilities to ensure the proper level of organization of the election process, specifically on election day.

Establishing District Election Commissions

The Central Election Commission, in compliance with all established procedures and within the allotted time period (before February 18), formed district election commissions in each of the territorial constituencies, where the voting took place on March 31, 2019. In total, 199 district election commissions were formed in 24 regions of Ukraine and the city of Kyiv.¹⁰ Given

10 CEC Resolution No. 331 of February 18, 2019 "On the Formation of District Election Commissions for the Presidential Election at the Regular Election of the President of Ukraine on March 31, 2019".

the temporary occupation of part of the territory of Ukraine by the Russian Federation, 26 district election commissions were not formed (12 DEC in the Autonomous Republic of Crimea and Sevastopol, 9 DEC in Donetsk oblast, 5 DEC in Luhansk oblast). Such a forced and well-founded decision of the CEC is conditioned by the absence of proper conditions within these territories for free expression of the will of citizens and comprehensive guarantee of their safety.

Each of the 44 officially registered candidates had the right to submit one person to one election commission. Since the presidential elections do not impose any restrictions on the maximum number of members in the DEC, all candidates who make the appropriate submissions have their representatives represented on the commissions. All 199 DEC were delegated by 17 presidential candidates, and 15 candidates did not make submissions to some DEC. Thus, 2/3 of the presidential candidates made the most of the opportunity to nominate DEC representatives. Three presidential candidates (Serhiy Kryvonos, Inna Bohoslovska, Oleksandr Vashchenko) delegated their members to almost half of the DEC formed. The other three candidates (Hennadiy Balashov, Dmytro Dobrodomov and Dmytro Hnap) – to less than 10% DEC. Only one candidate – Arkadiy Kornatskyi – did not delegate anyone.

In all regions of Ukraine without exception, 33 presidential candidates received their DEC representatives. Roman Bezsmertnyi did not submit candidates for the DEC only in Ivano-Frankivsk and Odesa oblasts, and Ihor Smeshko – in Kirovohrad and Kherson oblasts. Serhiy Kryvonos did not have his DEC representatives in four regions, Yevhen Murayev and Inna Bohoslovska – in seven, each. The geography of DEC membership representation from other candidates is much less extensive.

Transcarpathian, Kirovohrad and Rivne oblasts were the least popular in terms of DEC representation. In each of these regions, eight presidential candidates did not submit their delegates to the DEC. The opposite situation is found in the DEC of Kharkiv oblast, where only two candidates – Dmytro Dobrodomov and Arkadiy Kornatskyi – did not delegate their representatives.

In general, the CEC adhered to the principle of proportionality and balanced the distribution of senior positions among the delegating subjects, depending on the total number of nominees from each candidate. Similarly, when forming district election commissions, the CEC followed the regula-

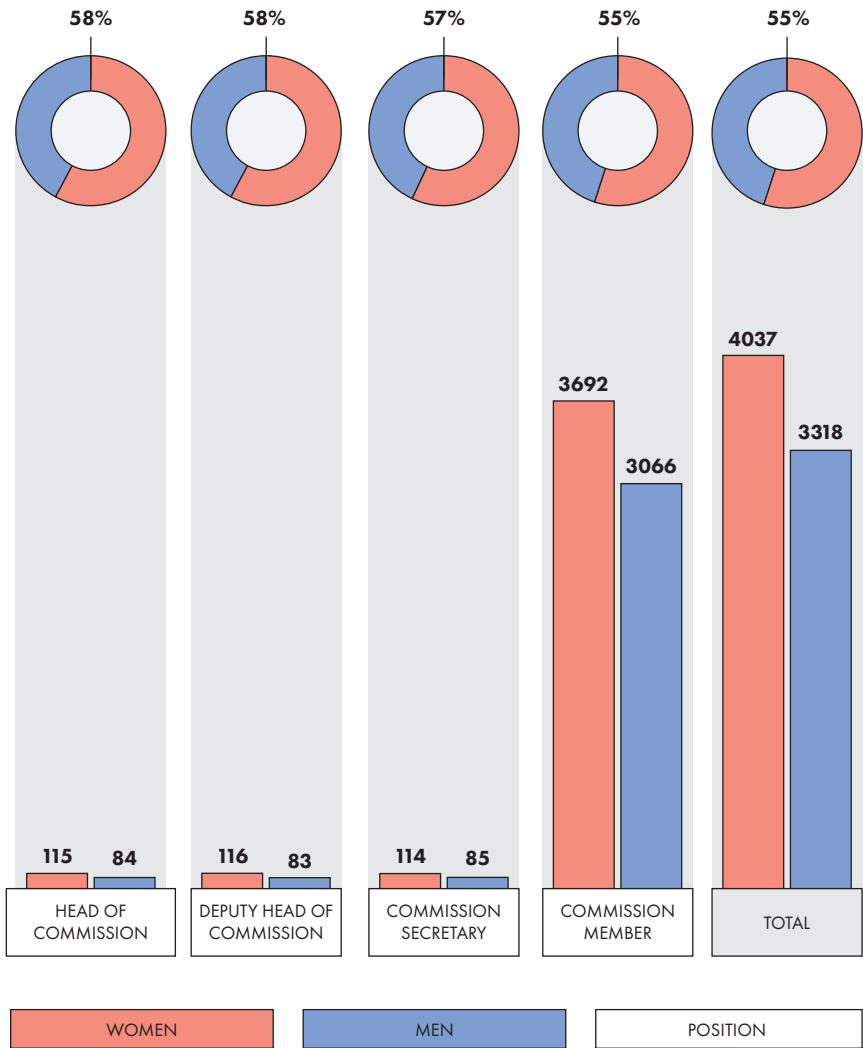
tion for equitability of territorial distribution of positions obtained by representatives of each delegating subject.

In total, 7,355 people were involved in the election commissions established as of February 18, 2019. Due to the large number of registered candidates, the risk of incomplete DEC or those with the minimum permissible membership (12 persons) was low. The average (median) number of DEC members formed as of February, 18, was 37 persons. In terms of numbers, the largest DEC included 41 people (No. 174 and No. 176 in the Kharkiv oblast), while the least numerous (29 people) DEC was No. 105 (Luhansk oblast). In the 2004 presidential election, the average number of DEC members was notably larger and amounted to 43 persons.

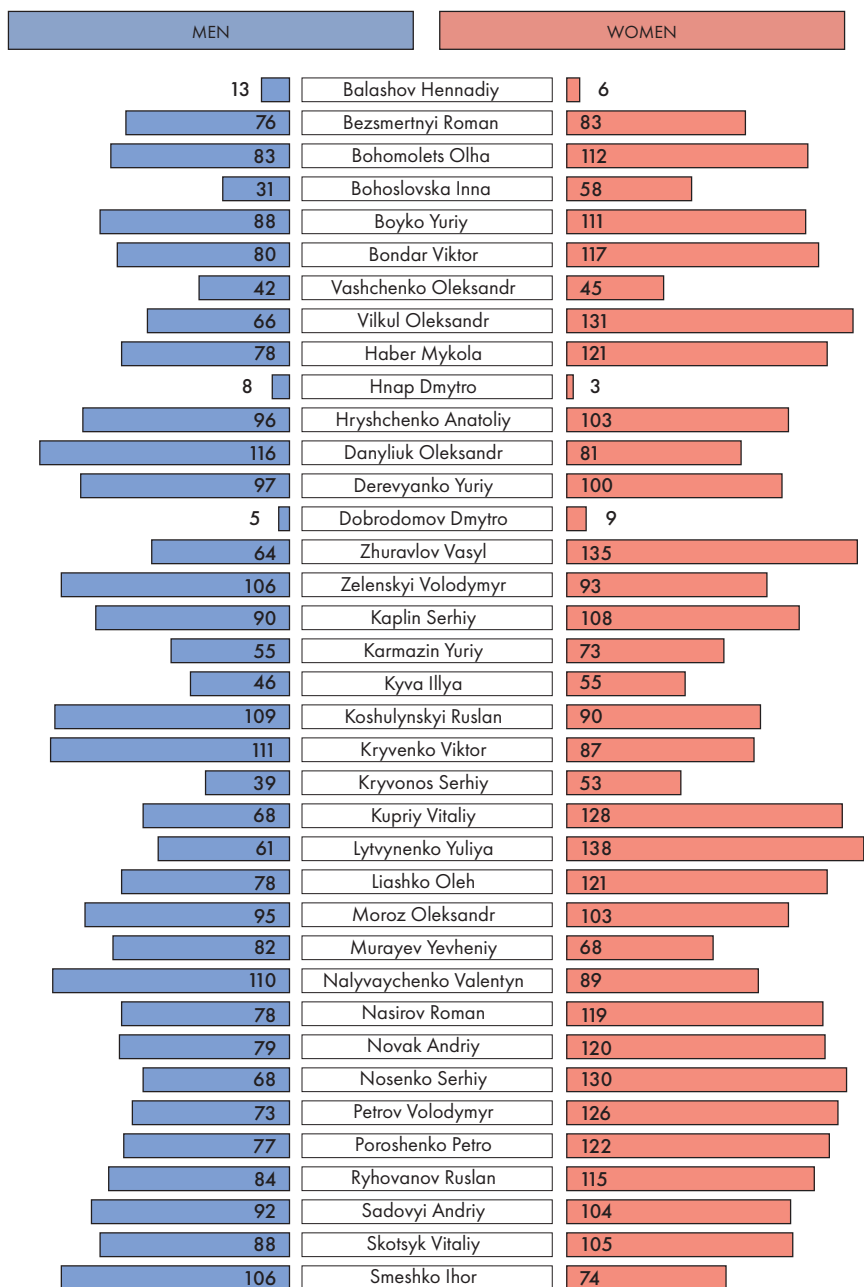
65% of DEC members have had previous experience in election commissions. In recent election cycles, there has been a slight decrease in the share of people with work experience in district election commissions. In the 2010 presidential election, 78% of members have had such prior experience, compared to 72% in 2014.

In terms of gender, the overall composition of DEC was fairly balanced — 55% women and 45% men. The same is true of DEC, where the distribution was 58% women to 42% men. The highest number of women on these commissions was submitted by a presidential candidate Yuliya Lytvynenko (69% of women). The least came from Ihor Smeshko and Oleksandr Danylyuk (except for Dmytro Hnap and Henadiy Balashov, who only made several nominations). There are also some regional differences — most of them are women in the DEC of Rivne, Kherson and Volyn oblasts (62% each). The lowest number is in Transcarpathian oblast (40%).

Gender distribution in district election commissions (first round)



DEC Candidate Representation (first round)





The process of forming election commissions reiterated the issue of shadow funding for the work of DEC members. The law only provides for remuneration to a part of commission members (4 persons maximum). Thus, no more than 11% of DEC commission members were employed on a paid basis. However, according to OPORA observers, in practice, delegating subjects continued to use financial incentives for election commission members, which was a covert process that remained one of the key challenges in the context of ensuring the transparency of candidates' financial expenses.

The First Sessions of District Election Commissions

The powers of election commissions began with at least two-thirds of their members administering an oath during the first DEC session. District election commissions were required to convene for their first session no later than February, 20, inclusive. OPORA observers monitored the first DEC sessions by personally attending the sessions of most of these commissions, and collecting additional information remotely.

98% of the total number of established DECs held their first meetings within the allotted time period (32% of them met on February 19, 66% – on February 20). On the other hand, 2% of commissions (DECs No. 119, No. 121 and No. 125 in the Lviv oblast; No. 130 in the Mykolaiv oblast, and No. 105 in the Luhansk oblast) failed to hold their first qualifying sessions within the established deadlines. In total, at least 17 district election commissions were unable to hold a session on the first attempt due to the lack of a quorum required to swear DEC members. Nevertheless, they still met the deadlines set by law to hold the first session.

None of the election commissions gathered for their first session in full strength. On average, 10 people were absent at each commission session. Overall, about 41% of the total number of members (3,047) did not attend the first DEC sessions, according to OPORA estimates. At the same time, over half of the established DECs lacked some of their leaders at the first session (chairperson, deputy chairperson, or a secretary).

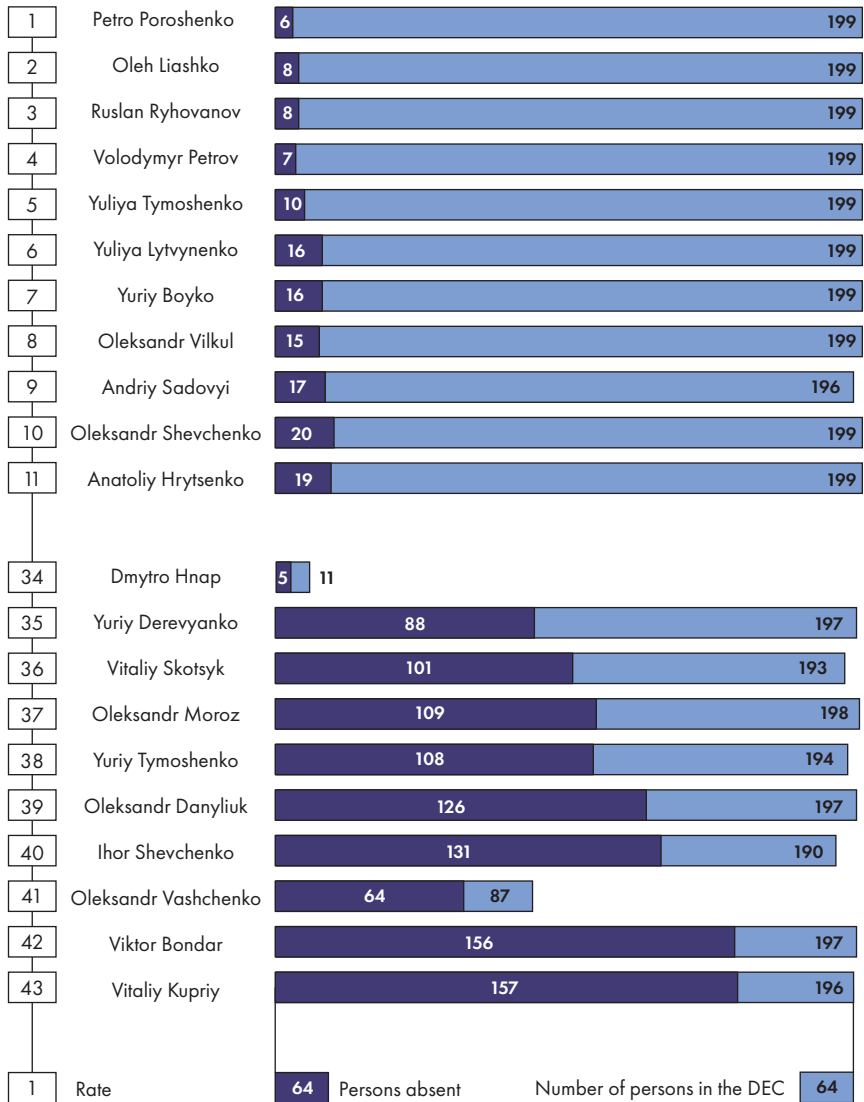
Over 300 persons (or 4% of the total number) included in the DECs refused to serve on the commission. Also, a key reason for the absence was the fact of remote residence in other regions of Ukraine. Thus, over 8% of DEC members resided in different oblasts than the respective established DECs. Moreover, there failed attempts to contact 5% of commission members either via telephone or other connection, in order to invite them to the first DEC session.

The most disciplined were the members of commissions delegated by the candidate Petro Poroshenko – only 3% of them failed to attend the first DEC session. The high attendance at the first DEC sessions was among members delegated by Volodymyr Petrov, Oleh Liashko, Ruslan Ryhovanov, and Yuliya Tymoshenko (4–5% of absentees). Moreover, the first commission sessions were not attended by over half of the candidates delegated to the DECs by Vitaliy Skotsyk (52%), Oleksandr Moroz (55%), Yuriy Tymoshenko (56%), Oleksandr Danylyuk (64%), Ihor Shevchenko (69%), Oleksandr Vashchenko (74%), Viktor Bondar (79%), and Vitaly Kupriy (80%).

Among other eligible persons to attend DEC sessions, some of the most active were media representatives who were present at 138 sessions (70% of commissions), and observers from foreign countries who attended 29 DEC sessions (15% of commissions).

In general, the activities of district election commissions can be assessed as satisfactory from the point of view of administering the process and compliance with legal procedures. The attendance rate of DEC members was high enough to allow commissions to make efficient decisions. Observers estimate that commission members with prior experience were in minority, but the management was more experienced and professional.

Attendance rates at the first sessions for DEC members delegated by each presidential candidate (first round of elections)



Rotations in DEC's Membership

On the next day after the formation of district election commissions, their staff began to change dynamically, and this process continued until the election day. During the campaign, the CEC made 123 decisions to change DEC's composition.

At the time of voting on March 31, 2019, the composition of district election commissions had been upgraded by 37% (2,703 persons were removed from the commissions, out of their initial composition of 7,355). For comparison in the 2014 presidential election, half of the (nearly 51%) members of district election commissions were terminated early from the moment of the DEC formation and until the election day. Of these, 35% were eventually replaced by the submission entities, and the remainder completely ceased to serve as DEC members (based on personal statements of authority or systematic failure to perform duties). Given the multiplicity of replacements and their recurrence, the replacement rate by certain candidates exceeded 100%. That is, the number of replacements administered was higher than the number of candidates initially submitted to DEC's. In particular, the leaders in the replacement (including multiple replacements) of election commission members were Oleksandr Moroz, Vitaliy Skotsyk, and Vitaliy Kupriy (over 100%). Instead, a minimum number of replacements for DEC members was made by Petro Poroshenko and Oleh Liashko (under 5%).

Formation of Precinct Election Commissions

The obligation to form precinct election commissions is vested in the respective DEC's, in accordance with Article 24 of the Law of Ukraine "On Elections of the President of Ukraine." Each of the 199 district election commissions was in charge of forming PEC personnel within the district polling stations. Observers from the Civil Network OPORA personally attended 90% of sessions of district election commissions (180 DEC's) where decisions to establish PEC's were considered. Information on the remaining 10% (or 19 commissions) of DEC meetings was obtained remotely.

In general, the PEC formation process was conducted in accordance with legal procedures and within the allotted time (until March 12 inclusive). All meetings of district election commissions at which PEC's were decided were qualifying (over half of the commission members were present).

Candidate submissions to the PECs were delegated by March 7, inclusive, by the candidates' proxies or persons who had a notarized power of attorney from the candidates' proxies. Submissions were received on time, but some commissions (e.g. DEC No. 90) de facto considered the documents after the set deadline (after midnight on March 7). Observers were also informed of cases where submissions, applications and copies of documents were delivered to DEC later and / or changed after the deadline (after March 7), retroactively.

According to OPORA observers, many procedural irregularities were recorded during the registration and formation of precinct election commissions. The most common problem was the introduction of the same persons into PECs upon the submission of different candidates. Such submissions have been delivered to at least 28% of district election commissions. In case of multiple (double and triple) submissions of candidates to PECs, the district election commission rejected them. Otherwise, it suggested that such individuals personally contact the DEC and withdraw one of several applications.

Other common issues were: poorly prepared submission which lacked the signature of the delegating subject, or did not have applications and/or copies of passports of the nominees delegated; the submissions did not specify all the necessary details (no date of birth) or did not specify the polling station where the person was supposed to work; statements of consent to be a commission member and statements of consent to occupy a senior position in the PEC were often written by the election headquarters members, and without the knowledge of candidates for a commission member; multiple inclusions of the same persons in the submissions of different candidates. There were problems with the use of software by DEC employees who were unable to properly identify multiple nominations of the same individuals. However, they were later discovered by the CEC electronic system, after all PECs were already established.

The practice of delegating PEC candidates without the knowledge of potential commission members remains widespread and leads to massive replacements of PEC members. Although such actions have the elements of a criminal offense (since they may involve forgery of documents and signatures), they seldom get reported to law enforcement. For example, one of the most resonant cases was the appointment of a person as a Chairperson without their knowledge at PEC No. 461822 (in Lviv oblast). According to OPORA observation, the problem is much larger.

The district election commissions were most loyal to review the submitted PEC candidates for compliance with the legal requirements. However, the practice of rejecting nominations was common in this election. Only about a third of district election commissions (67 DEC)s have not rejected any PEC nominee. OPORA observers did not record any such cases in the absence of legal grounds. The rejection of nominations submitted to PECs analyzed by the observers was justified and legitimate. The key reasons for rejection of PEC candidates were multiple inclusion of persons from different candidates or inclusion of persons who were not eligible to be members of commissions.

Several DEC)s encountered situations that impeded the activities of official observers and media workers at the commission sessions where they considered the issue of establishing PECs (in particular DEC No. 24 in Dnipropetrovsk oblast, No. 93 in Kyiv oblast, No. 177 in Kharkiv oblast, No. 184 in Kherson oblast).

Despite the unusually large number of registered presidential candidates, not all PECs had received enough candidates to form a minimum permissible commission (9 people). In this case, the procedure was used when nominations for PECs were delegated by the DEC chairperson on the basis of proposals made by commission members (in accordance with Article 24, Section 8 of the Law). Overall, the number of PECs formed with the minimum membership (9 people) is insignificant, accounting for about 2% of all PECs. Also, at polling stations where the number of voters did not exceed fifty persons, PECs included only a chairperson, a secretary and two to four commission members.

29,989 PECs were formed by district election commissions, which included more than 440,000 people. Each candidate had the right to submit one candidate to one PEC. None of them used this opportunity 100%.

The largest number of PEC candidates was submitted by six presidential candidates: Petro Poroshenko (received representation in 99% of PECs), Yuliya Tymoshenko (97%), Oleh Liashko (97%), Yuliya Lytvynenko (95%), Anatolii Hrytsenko (94%), and Mykola Haber (91%). Volodymyr Zelensky (84%) and Yuriy Boyko (83%) also secured themselves a significant representation. Only four candidates did not submit a single representative to PECs. They are Hennadiy Balashov, Inna Bohoslovskaya, Arkadiy Kornatskiy, and Roman Nasirov.

Most presidential candidates (24 people) secured representation in PECs in almost all or in most of Ukrainian regions. Besides, twelve candidates received regionally non-uniform PEC representation. In particular, Yuriy Tymoshenko submitted candidates to the commissions only in Donetsk oblast, Vitaliy Kupriy – in Volyn and Kyiv oblasts only, and Serhiy Kaplin – in Donetsk, Kyiv, and Poltava oblasts. Upon the whole, the most diverse representation of candidates in PECs was in the Donetsk oblast (where 31 candidates delegated their nominees), as well as in Dnipropetrovsk and Kyiv oblasts (28 delegates). Besides, the lowest interest to compose PECs was expressed in Khmelnytsky (20 candidates), Kirovohrad, and Transcarpathian oblasts (21 candidates each).

The most complicated for district election commissions was the procedure for distribution of senior positions in PECs. Whereas the quotas between the candidates delegating their representatives for PECs were granted through the use of the information-analytical system “Elections of the President of Ukraine”, the distribution of senior positions was often done “manually” (for example, in DEC Nos. 13, 17, 18, 25, 69, 71, 106, 107, 113, 204, 209, 210 and others). In practice, this often led to conflicts and protracted procedures. Due to the deviation from the proportional distribution of senior positions and the illegitimate interference of the candidates’ proxies in the DEC decision preparation and decision-making, the CEC ruled on March 12 to terminate the powers of Ternopil DEC No. 163.

In general, the distribution of executive positions in PECs (chairperson, deputy chairperson, secretary) claimed by presidential candidates was conducted in a balanced and proportionate manner.¹¹ However, not all DEC Nos followed the same approach in applying this procedure. As a result, the vast majority of candidates received 19-21% of senior positions from the number of candidates they submitted. In absolute terms, the candidates who submitted the largest number of PEC candidates received the highest number of senior positions. In particular, Petro Poroshenko, Yuliya Lytvynenko, Yuliya Tymoshenko and Yuriy Boyko, who held just over 21% of the PEC senior positions, were in the lead. However, there were a few candidates who had significantly lower representation in the PEC leadership. In particular, Yuriy Tymoshenko, Ilya Kyva and Vitaliy Skotsyk received about 13 – 14% of senior positions out of the number of candidates they submitted.

11 Pursuant to Article 24, paragraph 11 of the Law of Ukraine “On the Election of the President of Ukraine”, the share of senior positions for each candidate shall depend on the number of delegates submitted to the commission and the total number of persons in the PEC.

Representation of Candidates in Precinct Election Commissions

Candidates	Number of representatives in the PEC	Share of PECs with the candidate representation	Number of oblasts and the city of Kyiv with candidates represented in PECs	Number of managerial positions in PECs	Share of managerial positions in the PEC of the number of persons submitted by the candidate
Poroshenko Petro	29 420	98.80%	25	6 271	21.30%
Tymoshenko Yuliya	29 066	97.60%	25	6 149	21.20%
Liashko Oleh	29 057	97.50%	25	5 977	20.60%
Lytvynenko Yuliya	28 344	95.20%	25	6 048	21.30%
Hrytsenko Anatoliy	28 029	94.10%	25	5 923	21.10%
Haber Mykola	27 176	91.20%	25	5 658	20.80%
Zelenskyi Volodymyr	24 938	83.70%	25	5 189	20.80%
Boyko Yuriy	24 703	82.90%	25	5 262	21.30%
Novak Andriy	22 549	75.70%	25	4 417	19.60%
Ryhovanov Ruslan	21 958	73.70%	24	4 444	20.20%
Taruta Serhiy	20 459	68.70%	25	4 059	19.80%
Nosenko Serhiy	18 348	61.60%	22	3 512	19.10%
Koshulynskyi Ruslan	16 908	56.80%	25	3 455	20.40%
Solovyov Oleksandr	16 726	56.20%	22	3 225	19.30%
Karmazin Yuriy	16 633	55.80%	21	3 217	19.30%
Vilkul Oleksandr	15 895	53.40%	17	3 331	21.00%
Shevchenko Oleksandr	10 258	34.40%	25	1 949	19.00%
Petrov Volodymyr	6 771	22.70%	12	1 188	17.50%
Derevyanko Yuriy	6 638	22.30%	24	1 295	19.50%

Nalyvaychenko Valentyn	6 433	21.60%	19	1 213	18.90%
Zhuravlov Vasyl	5 850	19.60%	7	987	16.90%
Shevchenko Ihor	5 596	18.80%	13	1 056	18.90%
Smeshko Ihor	5 208	17.50%	20	987	19.00%
Kryvenko Viktor	3 889	13.10%	19	707	18.20%
Bezsmertnyi Roman	3 046	10.20%	17	595	19.50%
Bohomolets Olha	2 643	8.90%	8	530	20.10%
Bondar Viktor	2 250	7.60%	4	358	15.90%
Kyva Illya	2 161	7.30%	8	308	14.30%
Vashchenko Oleksandr	1 978	6.60%	5	342	17.30%
Danyliuk Oleksandr	1 978	6.60%	25	364	18.40%
Moroz Oleksandr	1 568	5.30%	8	321	20.50%
Kaplin Serhiy	1 554	5.20%	3	298	19.20%
Skotsyk Vitaliy	1 259	4.20%	5	186	14.80%
Tymoshenko	1 047	3.50%	1	144	13.80%
Kupriy Vitaliy	252	0.80%	2	43	17.10%
Balashov Hennadiy	0	0.00%	0	0	0.00%
Bohoslovska Inna	0	0.00%	0	0	0.00%
Kornatskyi Arkadiy	0	0.00%	0	0	0.00%
Nasirov Roman	0	0.00%	0	0	0.00%
TOTAL	440 588		25	89 008	

Launch of operations of precinct election commissions

Typical were the situations where the actual launch of operations of precinct election commissions took place almost a week later, despite the fact that the vast majority of PECs formally held their first sessions in time (before March 14).

Among the main reasons for the early and unstable or ineffective work of precinct election commissions at the initial stage were the refusals of PEC members to work in the commissions. A large part of the candidates delegated to the polling station election commissions reported that they did not write statements of consent to be a PEC member and/ or to hold a senior position in the PEC (instead the statements were arbitrarily drafted by the staff of campaign offices). In addition, observers received information that PEC members insisted on paying upfront for work (at least half the amount), otherwise they would refuse to work or not attend the sessions.

Replacements of PEC members began virtually immediately after their formation (since March 13) and continued until the election day. The problem was largely common and was observed in all constituencies.

Critical problems with the operation of precinct election commissions and the destabilization of the election administration process have been avoided largely due to the relatively big total number of submissions required to ensure a quorum and minimum functioning of commissions.

Unlike the DECs, senior executives of many PECs have not had any prior experience in election commissions, according to OPORA estimates. During the election process, training with the support of the Central Election Commission and IFES continued, which was affected by mass replacements within precinct election commissions.

Issues of fictitious representation and key risks included PEC members in precinct election commissions who actually coordinated their work in the interests of individual candidates or political forces. This problem was identified by OPORA observers in all constituencies, which is connected with the mass introduction of PEC candidates upon delegation of little known (or so-called technical) candidates.

Formation and Organization of DEC Operations During the Re-Election

The process and results of the formation of district election commissions for the re-election were much better than in the previous DEC formation phase. More than two-thirds of the members of the newly formed DECs (69%) have worked on commissions during the first round of voting. The presidential candidates actively engaged into district election commissions the persons who had been previously delegated to DECs by other candidates, as well as persons who had previously been the official observers of candidates and NGOs. All DECs were formed in full strength (14 people in each), and started their work on time, within the deadlines set by the Law. Both presidential candidates received proportional and balanced representation in the DECs, including at the level of senior management.

On the last day allotted by the Law (April 10, 2019), the Central Election Commission formed the composition of 199 district election commissions to organize and hold a re-election in the presidential election on April 21, 2019.

Petro Poroshenko delegated the maximum number of candidates (7 people to each) to the membership of all 199 district election commissions. Thus, his representation in DECs included 1,393 persons. Volodymyr Zelensky also made full use of his quota by delegating 1,379 candidates to 197 DECs. There were no representatives of Volodymyr Zelensky in two district election commissions (No 57 and No 58) with a center in Mariupol city. These commissions were completed in accordance with the statutory procedure upon submission of the CEC chairperson.

The CEC, in a balanced and proportionate manner, distributed senior positions between the two candidates included in the ballot for re-election. Volodymyr Zelensky received 99 posts of chairpersons of commissions and 98 positions of commission secretaries within DECs. Petro Poroshenko had 100 heads of commissions and 99 secretaries. Two more, who became secretaries of the commissions, were brought in by the CEC chairperson.

69% (or 1,898 people) of the newly formed district election commissions consisted of persons who worked for DECs during the so-called first round of the 2019 presidential election. The remaining 31% (or 861 people) were entirely new members of the district election commissions formed to organize the April 21, 2019 elections.

Petro Poroshenko has delegated 82% (or 1,142) of the newly formed DEC members who have already worked in district commissions to hold the first round of voting. Of these, 168 (15%) were delegated to the previous DEC members by Petro Poroshenko himself, while the rest represented other candidates. In particular, 144 persons (13%) were previously members of the DEC members upon the submission of candidate Yuliya Lytvynenko, 132 persons (12%) – from Volodymyr Petrov, 120 persons (11%) – from Vasyl Zhuravliov, and 112 persons (10%) – from Yuriy Tymoshenko. Also, a large number of DEC members delegated by Petro Poroshenko to the newly formed commissions had been previously submitted by Roman Nasirov, Serhiy Kaplin, and Oleksandr Moroz.

54% (or 746) of the nominees for the newly formed DEC members delegated by Volodymyr Zelensky also worked in district election commissions before the so-called first round of voting. Of these, 159 persons (21%) were members of DEC members upon the submission of Volodymyr Zelensky himself, while the rest represented other candidates. Compared to Petro Poroshenko, the number of presidential candidates from whom DEC members “shifted” to Volodymyr Zelensky is higher, but the proportion of such persons from each is negligible. In particular, 44 persons (6%) were formerly members of the DEC upon the submission of Mykola Haber, 43 persons (6%) – from Oleh Liashko, 40 persons (5%) – from Anatoliy Hrytsenko and Oleksandr Shevchenko, each, 34 persons (5%) – from Yuliya Tymoshenko, 29 people (4%) – from Serhiy Taruta.

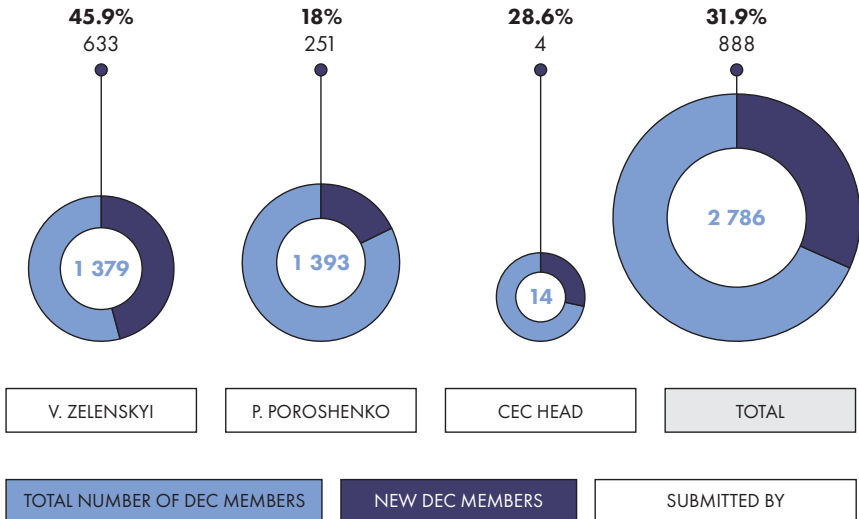
The scale and manner of the transition of election commission members previously submitted by one candidate to another candidate reflects the problem of the so-called technical candidates, as well as indicates to informal interaction and coordination of efforts between individual electoral subjects.

By gender, of the 2,786 members of district election commissions, 40% were men and 60% were women. Among the heads of district commissions, the share of women was 53%, and there were 72% women among secretaries of commissions. Among the commission members delegated to DEC by Petro Poroshenko, there were 64% women, with Volodymyr Zelensky having a 56% share.

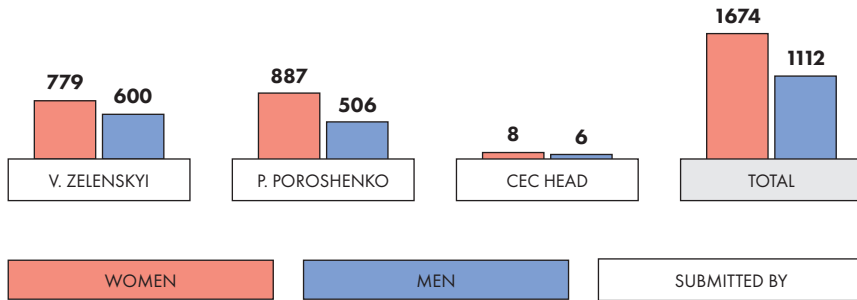
Almost 86% of DEC members had previous experience in election commissions. For the election commissions formed to organize voting in the first round, the proportion of people with previous experience was lower – and made 65%.

The number of DEC rotations administered at the initiative of nominees was minimal – only 7% of DEC members were replaced. This could have been predicted, since the presidential candidates who participated in the re-election did not belong to the list of those who had been massively replaced by DEC members in the preliminary phase of the campaign (in the first round, Petro Poroshenko replaced 4.5% of candidates, while Volodymyr Zelensky – 22%). In the second round, Volodymyr Zelensky replaced 9% of DEC members, while Petro Poroshenko replaced 5%.

Update on the Composition of District Election Commissions Formed to Hold the Re-Election on April 21, 2019



Gender Distribution of Members of District Election Commissions Established for Re-Election on April 21, 2019



The work of the election commissions in preparation for the re-election was organized at a better level than the previous stage of the presidential election. The district election commissions were obliged to hold their first sessions no later than on the second day after their formation by the Central Election Commission – until April 12, inclusive. OPORA observers analysed the DEC commissions, personally attending the first sessions of 157 out of 199 (or 80%) district election commissions, and also by collecting information remotely.

All 199 commissions met in time for their first sessions. The vast majority of district election commissions (184 out of 199) held their first sessions immediately the day after the formation (April 11), eight commissions met on April 10, and the remaining seven commissions had their sessions on the last allotted day – April 12.

All the first DEC sessions were qualifying for decision-making (at least two-thirds of the commission members were present and sworn in). Almost half of the commissions (94) met in the maximum composition (14 persons), 13 members attended 61 commission sessions, 12 persons attended 33 commission sessions, 11 persons attended 7 commission sessions, and the lowest number of 10 members was present at the first sessions of 4 DEC. To compare, during the preparation to the first electoral round, none of DEC gathered for the first session in full membership. According to data obtained by

OPORA observers, less than 1% of DEC members refused to serve on district commissions (4% in the first round). Members included into the composition of DEC members who resided outside the DEC region were about 2% (57 people), as contrasted by 8% of such cases in the first round.

At the first sessions, district election commissions mainly made decisions regarding DEC schedules, distribution of duties and duty schedules of commission members. The decision-making process of the DEC members was collegial and open-ended, with the role of the senior body remaining crucial, and most members of the commissions not actively participating in the discussion.

Most commissions openly interacted with observers, journalists and other electoral stakeholders, thus creating conditions for unimpeded access to sessions. However, commissions did not usually publicly inform about their first sessions.

The records were kept in accordance with the law – during the sessions, the DEC secretaries kept records, made protocol decisions and resolutions, which were made public by placing them on bulletin boards and in local newspapers. However, insufficient promptness and completeness of publication of decisions by district election commissions on the CEC website remains a problem. This issue has not been properly addressed in the previous elections or in the run-up to the March 31, 2019 vote.

In general, at the stage of formation and holding of the first DEC sessions, there were no problems manifest in the previous stage of the election process such as frequent refusals of commission members to participate in DEC members, the presence of persons from other regions and, as a consequence, a large number of DEC rotations.

Establishment of PECs During the Re-Election

The key challenge for re-election was the formation of precinct election commissions. Due to the insufficient activity of presidential candidates regarding the nomination of PEC candidates, the DEC members formed 15% of the PECs upon their own submissions. This required to involve about 60,000 people on their own. 48% of PEC members represented a candidate Volodymyr Zelensky, 37% represented Petro Poroshenko. The crisis over the in-

complete use of candidates' right to form PECs once again demonstrated the need to improve the administration of the electoral process. In particular, it should also be about strengthening the financial motivation coming from the state for the citizens who organize the elections.

In order to organize the second ballot in the next presidential election, PECs were formed on the basis of submissions from two candidates. The legislation of Ukraine guarantees candidates for the post of President of Ukraine the right to form PECs on a parity basis. For large polling stations (more than 1,500 voters), each candidate could submit 8 candidates, for medium-sized (500 – 1,500 voters) – 7 people, for small stations (up to 500 voters) – 6 people each. Depending on the size of the polling station, PECs were composed of 16, 14, and 12 members.

Candidates for the post of President of Ukraine had the opportunity to submit their proposals to the PEC no later than eight days before the re-election day (until April 12, inclusive). Based on these submissions, DEC members were required to form a PEC no later than 5 days before the polling day (until 24 hours on April 15). In the event that the candidate failed to take the chance to submit the statutory number of nominees to PECs, the DEC members formed the PEC on the submission of the chairperson of this commission on the grounds of the DEC members' proposals. At the same time, district election commissions were obliged to comply with the total number of members of precinct election commissions (16, 14 or 12 persons) established by the Law of Ukraine.

Civil Network OPORA promptly monitored the process of forming precinct election commissions for re-election. According to the organization's observers, 192 DEC members (92% of their total) formed PECs in compliance with the statutory deadlines. Of these, 73 were formed on the last day reserved for this purpose.

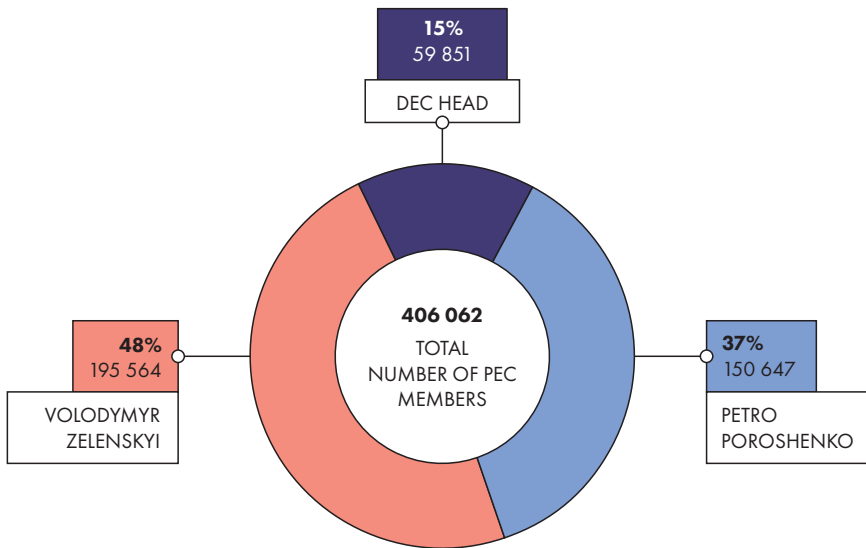
6 DEC members have established PECs in violation of time limits. The latest PEC was established in TEC No. 59 (Donetsk oblast) – on April 18, 2019, after the CEC intervened by adopting a separate resolution with the obligation to form a PEC.

Since the presidential candidates under-exhausted their quotas in PECs, district election commissions had to establish these election commissions on their own. DEC members used various forms of informing voters about the possibil-

ity to engage the PECs. On the other hand, the CEC circulated a statement calling on citizens to help solve the problem of completing the membership of these election commissions.

According to OPORA’s operational data, nearly 60,000 people were additionally attracted by DEC, nationwide. This number of PEC members was included in these commissions on the submission of DEC chairpersons. The estimated number of PECs that included at least one nominee on the submission of the DEC Chairperson is 11,330 commissions. The total number of the established PECs is 29,801.

Representation of candidates for the post of President of Ukraine in the PEC for re-election from the regular presidential election



Despite the fact that the candidates had a legislative opportunity to form a PEC with equal representation, they did not take full advantage of it. The candidate for the post of President of Ukraine Volodymyr Zelenskyi has secured representation in PECs at the level of 48% of the total number of members of these commissions. Instead, Petro Poroshenko was only 37% represented in the commissions. 15% of the members of the newly formed commissions were submitted by DEC chairpersons. Thus, failure of presidential candidates to nominate the maximum delegates to PECs caused difficulties in DEC activities during the formation of lower level commissions.

More than 30% of PEC members were involved by DEC members on their own within the constituencies of Cherkasy, Luhansk, Kherson, Odessa, Transcarpathian oblasts. In a number of other areas, this was also high. Instead, in Rivne, Vinnytsia, Lviv, Khmelnytsky and Ternopil oblasts, candidates made the most of the right to form a PEC on an equal footing.

The Law of Ukraine “On the Election of the President of Ukraine” provides that in the distribution of senior positions in the PEC, an equal number of posts of the chairperson and the secretary of the precinct election commission shall be ensured for each candidate. However, the chairperson and the secretary of the polling station election commission shall not be representatives of the same presidential candidate. According to OPORA, the candidate for the post of President of Ukraine, Petro Poroshenko, received 27,884 top positions in the PEC, while Volodymyr Zelensky – 29,798.

OPORA welcomes the efforts of the CEC and DEC members to resolve the problematic situations in PEC establishment, which helped avoid the scenarios of possible destabilization of the electoral process in preparation for re-election. At the same time, in 4 DEC members, representatives of the organization encountered attempts by DEC members to prevent them from observing the PEC formation process.¹²

Establishment of Polling Stations for Servicemen of the Armed Forces of Ukraine

Taking into account measures to counter Russian armed aggression in Donetsk and Luhansk oblasts, the Central Election Commission created 80 special polling stations in the territory of military units and formations. 79 of them were located on the territory of Donetsk and Luhansk oblasts, one was created on the territory of Lviv oblast. Such a decision of the Commission was adopted on the basis of part 10 of Article 20 of the Law of Ukraine “On Elections of the President of Ukraine”, upon the submission of the Ministry of Defense of Ukraine. The established polling stations had the status of a special polling station established in an exceptional case. Of the 16

¹² Such facts were recorded in TEC No. 39 (Dnipropetrovsk oblast), No. 91 (Kyiv oblast), No. 122 (Lviv oblast), No. 132 (Mykolaiv oblast).

members of the CEC, 14 people supported the decision to create special polling stations. Two CEC members abstained from supporting the relevant resolution due to doubts about the expediency of establishing a precinct at the Yavoriv training grounds in Lviv oblast. The doubts were related to the fact that this polling station was not established on the territory of the operations to counteract Russian aggression.

The powers of the Ministry of Defense of Ukraine to present to the CEC a submission on the formation of polling stations on the territory of military units are provided only by the Law of Ukraine “On the Election of the President of Ukraine,” and do not apply to parliamentary elections. The latter circumstance confirms the need for comprehensive regulation of the voting of military personnel at all national elections before the end of armed aggression. In the Law of Ukraine “On Elections of People’s Deputies of Ukraine,” the Ministry of Defense of Ukraine is not empowered to file a submission on the formation of special polling stations in the territory of military units, which attests to an unequal approach to ensuring the rights of citizens at different elections.

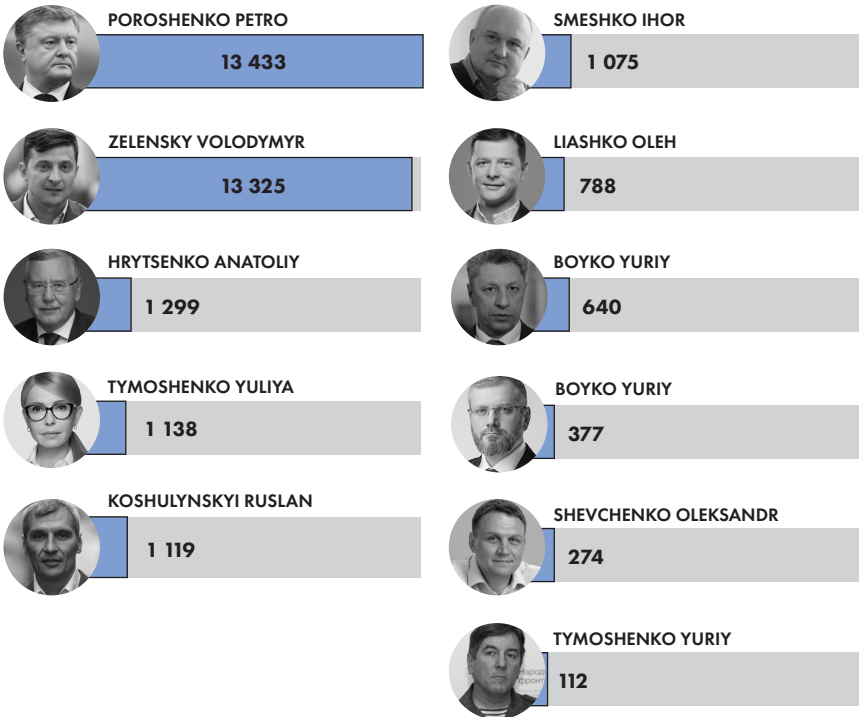
According to the legislation of Ukraine, PEC members in special polling stations in the territory of military units are the military personnel themselves. Such a feature has caused concern with some electoral subjects because of the possibility to pressurize voters. Instead, the results of the March, 31 and April 21, 2019 polls showed the competitiveness of voting of military personnel at special polling stations. The distribution of votes among the candidates for the post of President of Ukraine allows us to state that the servicemen voted under conditions of free expression of will.

36,926 voters participated in the re-election at the special polling stations in the territory of the military units. 5% of all ballots cast were declared invalid. The winner of the presidential election, Volodymyr Zelensky, received 17,044 votes or 46% of the votes from all citizens who voted at such polling stations. Petro Poroshenko gained the support of 18,020 voters (49% of those who voted). The voting results in support for pro-government and opposition candidates attest to the democratic and free nature of elections at special polling stations for the military. Given the closed and military nature of the groups that voted at these polling stations, the Ukrainian state demonstrated its ability to prevent unlawful administrative pressure on voters.

Equally competitive were the results of the military vote during the first round of the presidential election. At 36 special polling stations, 36,147 vot-

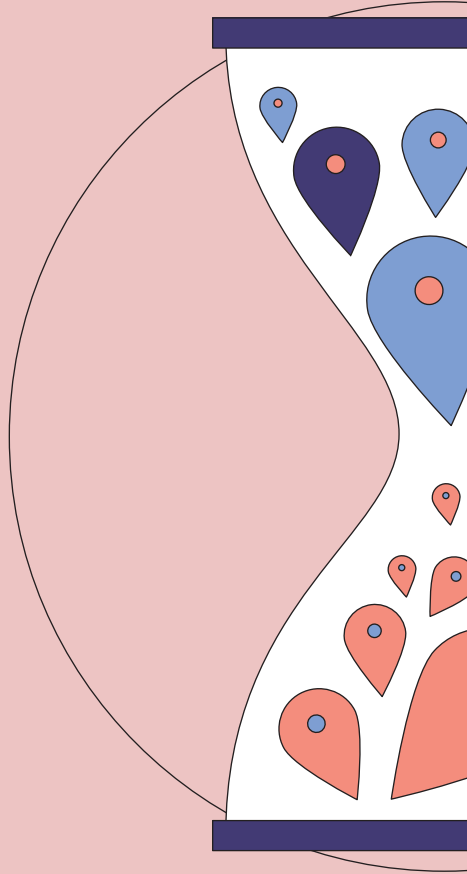
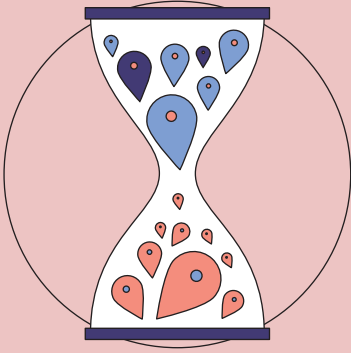
ers took part in the voting. Nearly 4% of ballots were declared invalid by PEC members. In the “military” polling stations, 11 candidates received over 100 votes, with Petro Poroshenko and Volodymyr Zelensky actually sharing the first position. The winner of the ballot in the first round of elections gave way to the then President of Ukraine by only 108 votes. Other candidates also received significant support from the military.

Voting Results on March 31, 2019 at special polling stations for military personnel

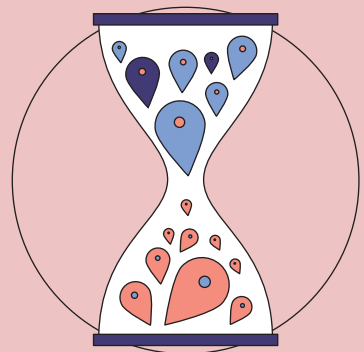
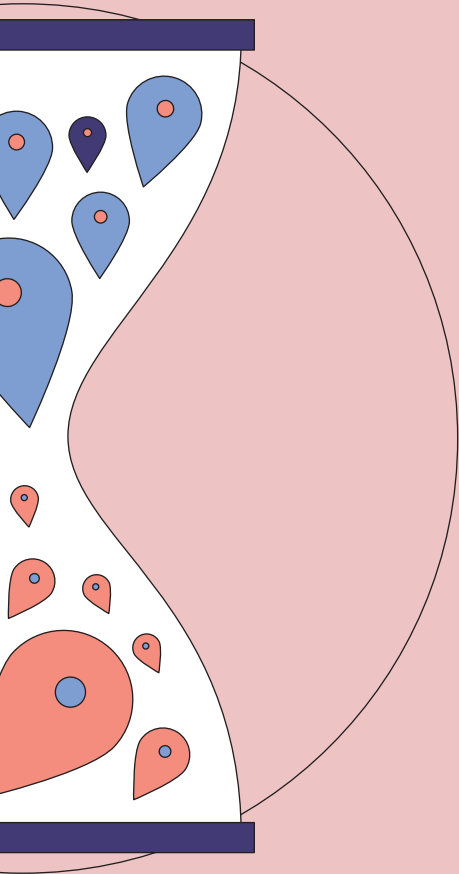


A positive experience of creating conditions for free expression of the will of citizens at special polling stations on the territory of military units indicates to the possibility of proper organization of elections in other polling stations. In fact, the Verkhovna Rada of Ukraine should systematically regulate the voting of military personnel during a military operation against an aggressor state. Establishment of special polling stations for military per-

sonnel is a good practice in resolving the problematic situation. However, according to OPORA, the state should also follow the principle when special polling stations for the military are formed only when the security conditions and the nature of service in the territory of the JFO do not allow to refer this category of voters to ordinary polling stations.



PROCEDURE FOR TEMPORARY CHANGE OF VOTING LOCATION WITHOUT CHANGE OF ELECTORAL ADDRESS



Ukrainian law stipulates that during the election of the President of Ukraine, voters whose electoral addresses refer to a particular polling station are automatically included in the voter lists. According to the Law of Ukraine “On the State Register of Voters”, the electoral address is usually determined by the registered place of residence. Elections of the President of Ukraine were held under the conditions of temporary occupation of certain regions of Donetsk and Lugansk oblasts, the Autonomous Republic of Crimea and Sevastopol. The occupation resulted in the fact that over one million voters with the status of internally displaced persons from these territories could not be automatically included in voter lists at their actual place of residence at the time of the elections. These citizens usually had an electoral address referring to the occupied settlements. No less numerous were those who did not automatically join the voting lists, such as labor migrants and other mobile citizens within the country. Their electoral addresses are in areas where they are officially registered but do not actually reside. Unfortunately, the Verkhovna Rada of Ukraine failed to simplify the procedures for internally displaced persons and labor migrants to participate in elections as set in a draft Law No. 6240 registered in the Parliament of the 8th convocation. It has been extensively peer-reviewed and supported by internally displaced persons and migrant workers. If Parliament passed the draft law No. 6240, citizens would have the right to change the electoral address on a permanent basis long before the next election and vote in elections of all levels at their actual place of residence. The draft law envisaged significant safeguards to prevent abuse of the liberalized procedure of changing the permanent electoral address.

Due to the lack of progress in the adoption of draft law No. 6240, internally mobile voters had only one option: to temporarily change the voting location without changing the electoral address. This procedure can be a one-time operation. If such citizens were going to vote in the first and second round of elections of the President of Ukraine, they were obliged to apply twice to the body administering the Register of Voters with an application asking for temporary change of the place of voting without changing the electoral address.

For persons who were not staying at their electoral address on the election day or during the re-election, the law provides for the possibility to temporarily change the polling station without changing the electoral address. To be included in the voter list, citizens had to contact the bodies of the State Voter Register at least 5 days before the election day. According to the by-law of the CEC, citizens whose electoral addresses is located within the

occupied territories were not obliged to document the justification for the temporary change of the voting place. Other categories of citizens were required to submit documents to the State Register of Voters to confirm their application. According to OPORA, the requirement for citizens to submit additional documents to confirm the application for a temporary change of voting location is unjustified. Each citizen has one vote in the election of the President of Ukraine, which realization should not depend on their actual place of residence. The state, in our opinion, did not have a legitimate ground in the presidential election to require supporting documents from citizens who did not reside at their electoral addresses. OPORA has repeatedly drawn the CEC's attention to the need to repeal the provision to confirm the motivation of a citizen's application for a temporary change of voting location without changing the electoral address. However, the lack of such a decision from the Commission created inconveniences for a large number of citizens who were forced to seek help and claim some supporting documents from work or find other documents. As confirmed by the CEC's decision on the eve of the regular elections of the People's Deputies of Ukraine on July 21, 2019, the cancellation of the requirement for all, without exception, citizens to submit applications for temporary change of voting place did not present any difficulties. OPORA believes that the CEC had every opportunity to simplify the procedure for temporary change of the polling place without changing the electoral address also for the regular presidential election.

According to the State Register of Voters and a partner organization "Hrupa Vplyvu" ("Impact Group")¹³, during the first round of voting in the presidential election, 315,725 voters have temporarily changed the polling station without changing their electoral address, of whom 75,737 persons had their electoral addresses in the temporarily occupied territories. Before the second ballot in the presidential elections, the procedure was used by 325,604 citizens, of whom 75,607 people with electoral addresses in the occupied territories.

OPORA calls on the CEC to enhance its efforts to simplify the procedure for temporary change of the polling station without changing the electoral address, including the introduction of the opportunity to file a relevant application online. In addition, OPORA urges the Parliament to ensure that the suffrage of internally displaced persons and migrant workers be fully secured on the legislative level.

.....
¹³ <https://www.vplyv.org.ua/archives/3160>

Court Disputes to Clarify Voter Lists

State Voter Register is a key authority in charge of compiling and clarifying voter lists. A voter could file an application to clarify the voter lists either to the DEC, or to the State Register administrative authority at least 5 days before the election day. If the deadline was missed, a voter could only go to court (at least 2 days before the election day) requesting to clarify voter lists. The court engaged as a respondent party the authority administering the State Voter Register.

The Unified State Court Register published 9,825 court decisions to clarify voter lists at the regular presidential election. Of these, 9,712 decisions were on cases of local administrative courts, 96 – administrative courts of appeal, and 17 decisions came from the Administrative Court of Cassation of the Supreme Court of Ukraine.

Most court decisions regarding voter lists were registered in the city of Kyiv (approximately 1,000 decisions). The large number of court cases in the capital can be explained by the large number of voters and the mobility of the population. In Luhansk oblast, for example, courts have taken only 45 decisions on clarification of voter lists.

According to OPORA's provisional estimates, the courts upheld claims in 3,126 cases, and rejected claims in 465 cases, claims upheld in part – in 86 cases, left without consideration – in 386 cases, left without action – 81, returned – 60 (this information may be clarified after updating the register of court decisions).

OPORA analysed the decisions on voter lists and divided them into 3 main groups.

Group one of court disputes included clarifications of voter lists due to incorrect or incomplete voter data, absence of a citizen in the State Voter Register or voter list, exclusion other voters from voter lists at the address of the claimant.

In the totality of court decisions on clarification of voter lists, there is a distinct group of rejections to uphold voter claims. These decisions highlight the gaps in the laws of elections and on the State Voter Register. Their elimination will help ensure the electoral rights of citizens.

The courts denied the claims for clarification of the voter lists on the following grounds:

- the courts interpreted the claimant's lack of a registered place of residence as a reason to believe that s/he did not have an electoral address and, accordingly, the right to be included in the voter lists;
- claims from voters without a registered place of residence were considered untimely, since citizens had not previously applied to the centers for registration of homeless persons, or State Register administration authorities with a statement on the approval of the electoral address.
- the claimant did not provide the court with evidence of their residence at the address specified in the claim, or did not provide evidence of previous appeals to the state authorities to include them in voter lists.

OPORA hereby notes the positive decisions of the courts to include citizens without a registered place of residence on the voter list. Their participation in voting at national elections cannot depend on the fact of the available or unavailable registered place of residence. But, in our opinion, the state is obliged to establish a uniform practice of ensuring the electoral rights of citizens without a registered place of residence.

Official case law generalizations still link a voter's registered place of residence to the exercise of their electoral rights. Such position is, in particular, reflected in the Resolution of the Plenum of the Supreme Administrative Court of Ukraine No. 9 dated September 12, 2014 "On generalizing the practice of administrative courts to resolve disputes about changing the electoral address and place of voting, on clarifying voter lists that emerged during the early presidential elections and election of deputies of local councils and village, town and city mayors."

According to OPORA, the dependence of the possibility to vote on the place of registration violates the principle of equal suffrage. It is advisable for the Supreme Court of Ukraine to review the position of the Supreme Administrative Court from 2014 on the link between the registered place of residence, electoral address and inclusion in the voter lists. Changing approaches should be based on the priority of electoral rights of citizens, and take into account high voter mobility within the country.

Concerns have been raised regarding the requirement of a number of courts for voters to provide evidence of prior claims to PECs and to the Register administrative authorities for clarifying voter lists. Ukrainian law does not

stipulate a mandatory pre-trial consideration of cases concerning clarification of voter lists, and therefore the position of judges regarding the need for prior referral to other authorities is rather doubtful.

The technical peculiarity of considering claims to clarify voter lists is the court's obligation to contact the bodies of the State Register of Voters for information on voters. Submitting a request and receiving a response from a SRV body may delay the consideration of cases of the specified category. The information of the State Register of Voters is officially available in the electronic voters office. Some courts have ignored the need to submit requests to the SRV, and have taken into account the information provided in the citizens' passports.

The second category of cases concerned the temporary change of the voting place without changing the electoral address. The judicial practices in these cases has been heterogeneous and require a unified approach. As in the case of clarification of the voter lists, the decision on rejecting a claim for temporary change of the voting place without changing the electoral address is of particular interest.

According to the results of the court proceedings, it was found that there is no regulation on the voting in the territory of Ukraine for citizens whose electoral address is outside the country. Due to poor regulation, voters were unable to temporarily change their place of voting abroad, and could not exercise this right in Ukraine. Often, citizens arrive to Ukraine on the eve of the election day, after the deadline for applying for a temporary change of voting location.

The practical difficulties and legal problems proved yet another time the challenge to exercise the voting right by citizens of Ukraine who stay or reside abroad. Despite the problems in the legislation, some courts have demonstrated positive approaches to protecting the suffrage of citizens. In particular, some court rulings indicated that a voter's right to vote cannot be restricted because of the well-reasoned inability to apply for a temporary change of voting location. According to judges, the suffrage of such citizens is subject to protection by including a voter in the voter list at the polling station, with the simultaneous exclusion of this voter from the voter list at the place of registration to secure no abuse of this right.

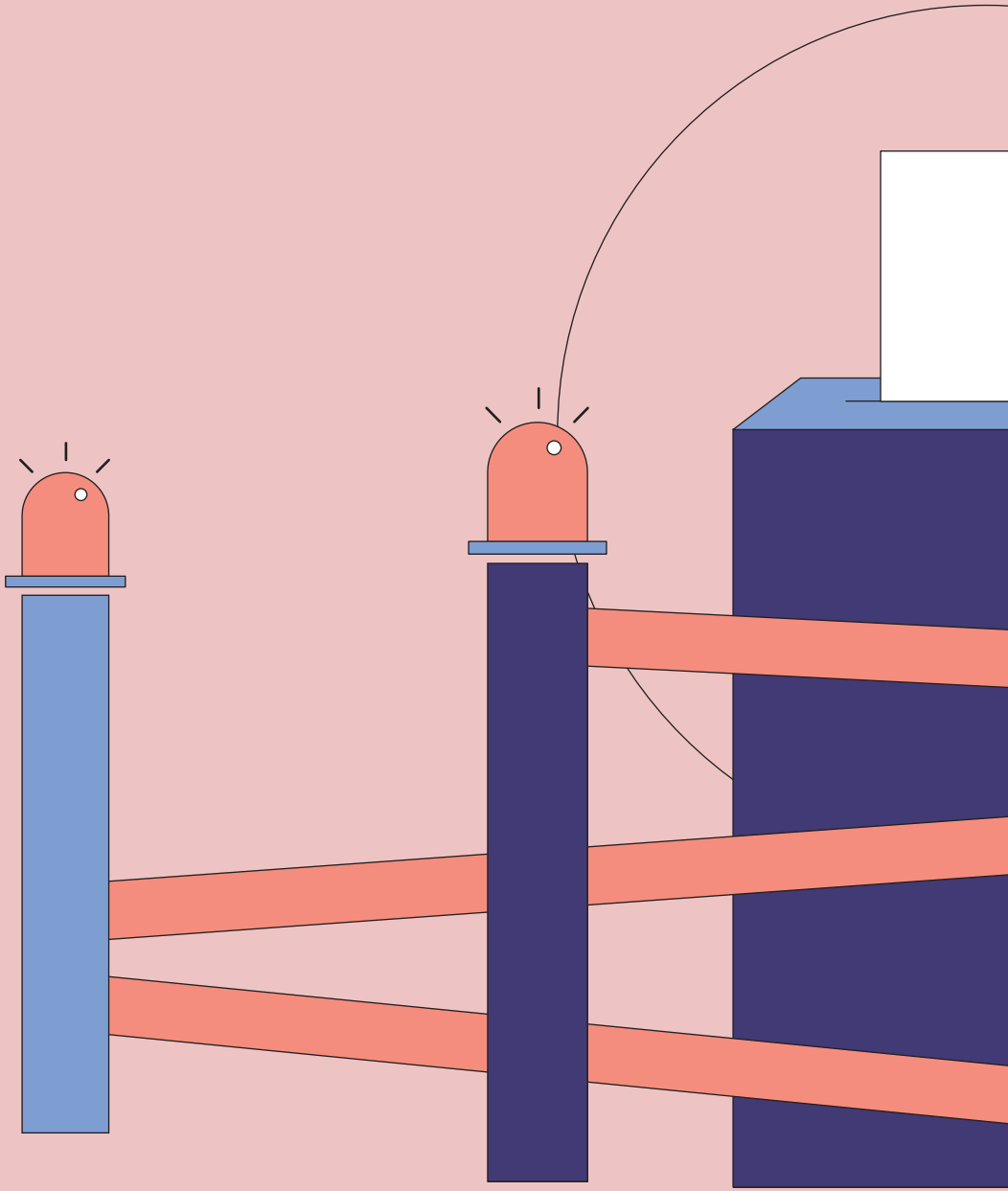
In our opinion, voters should be guaranteed the right to change their place of voting through the judicial protection procedure, whereby court deci-

sions should be sent to election commissions and SRV bodies at the voter's permanent electoral address. Submission of electronic court decisions to election commissions and SRV bodies can be an effective way of preventing multiple voters from being included in the lists.

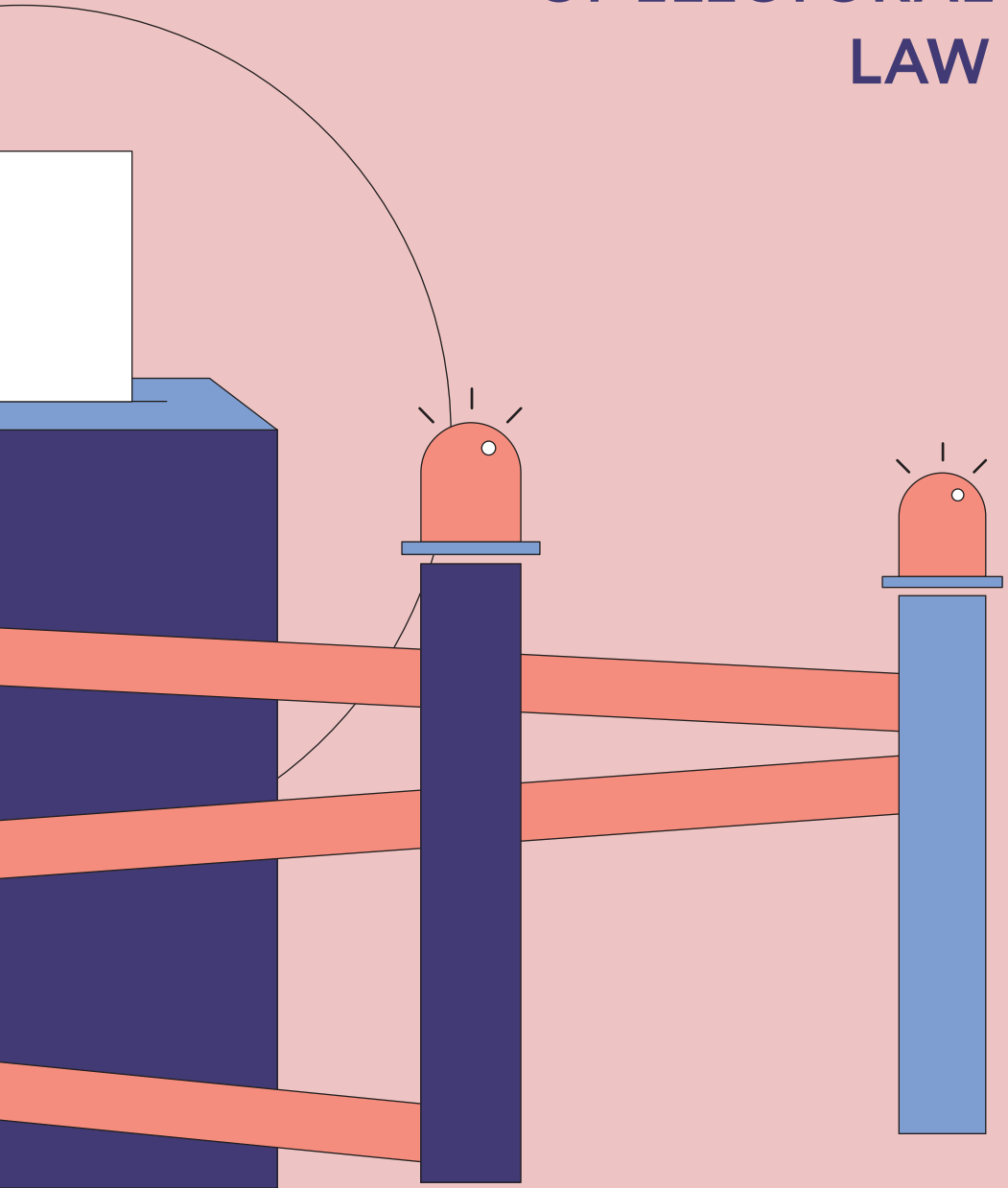
Category three includes all matters that do not relate to clarifying voter lists and temporarily changing the voting place without changing the electoral address. One of the issues raised in this category concerned the possibility of using an international passport of Ukrainian citizens to receive a ballot paper.

Analysis of judicial practices shows that this passport must be recognized as a valid voting document in Ukraine. This solution will prevent the problems of voters in case of loss or replacement of the internal passport. No less important will be such a step for voters who reside abroad but have changed their place of voting in Ukraine. For example, persons with a permanent residence permit abroad have only a "foreign" passport, but could stay on the day of voting in Ukraine. At present, unfortunately, such voters are only able to exercise their right to vote in the territory of an overseas constituency.

OPORA identified cases of court suits that were filed in violation of the time limits provided by law. The judicial practices demonstrate the need for an awareness raising campaign among citizens, and the training of judges on compliance with the deadline to apply to court with a lawsuit claiming to include a voter in the voter list.



VIOLATIONS OF ELECTORAL LAW



Despite the high level of competitiveness in the regular election of the President of Ukraine, the election campaign was accompanied by serious violations of the electoral law, and had cases of non-compliance with the standards of democratic expression of will. During the election campaign, OPORA observers noted the high number of violations of campaigning rules, cases of material incentivizing for voters, and misuse of administrative resources during the election campaign. Counter-campaigning against presidential candidates and obstruction of campaigning by electoral subjects were a particular problem.

The violations and incidents identified could not influence the election winner, but they clearly demonstrated the need to improve legislation and strengthen the institutional capacity of law enforcement agencies.

According to OPORA, a significant part of the detected violations could be avoided in case of timely improvement of the Election Law, the Criminal Code of Ukraine and the Code of Administrative Offenses. Back in February, 2019, long before the elections began, the Cabinet of Ministers of Ukraine registered with the Verkhovna Rada of Ukraine a draft Law of Ukraine No. 8270 on strengthening the liability for violations of electoral law. The draft law, drafted jointly by the National Police of Ukraine, the Ministry of Internal Affairs of Ukraine and by OPORA, proposed to improve the provisions of the law on electoral fraud and to strengthen sanctions for the most serious violations. The Verkhovna Rada of Ukraine failed to review the government document before the start of the election campaign. Parliament's self-removal from full-fledged electoral reform has adversely affected the legal possibilities of preventing and investigating violations in the regular 2019 presidential election.

Bribery and Technology for Financial Incentives to Voters

During the presidential election campaign, the issue of voter bribery was extremely relevant and at the same time conflicting for electoral subjects and law enforcement agencies. This was due to three main factors: 1) lack of regulation for financing procedures on the activities of campaigners in favour of a particular candidate; 2) statements by law enforcement agencies on revealing large-scale technologies of voter bribery; 3) having local

self-government bodies implement local programs of financial assistance to citizens during the elections. In this respect, OPORA observers independently identified only a few incidents with elements of direct (monetary) bribery of voters.

Another politically and legally challenging issue was that of payment or compensation to voters who provided candidates with election campaigning services. The Law of Ukraine “On Election of the President of Ukraine” directly prohibits any conclusion of campaigning contracts on a paid basis, at the expense of the election fund (part 6 of Article 64 of the Law). However, it is not allowed to fund any campaigning from sources other than the candidate’s election fund.

This legislative restriction is aimed at preventing the bribery of voters under the guise of paying for campaigning. At the same time, the issue remained unresolved for financing campaigning networks in favour of candidates who had de facto functioned at the regular elections of the President of Ukraine and at the previous national and local elections. Under these legislative conditions, it was impossible to clearly differentiate between candidates’ expenses for organizing campaigning and attempts to financially incentivize voters.

The issue of cash payments to citizens involved in campaigning activities has become resonant after the deployment of a network of campaigners in support of a Presidential candidate Petro Poroshenko. In January, 2019, that is, in the first month of the election campaign, OPORA observers began to record the training of candidate campaigners, and the subsequent campaigning activities. Such activities were carried out under the guise of a public opinion poll campaign on behalf of an NGO.

During the election campaign, observers of the organization repeatedly made promises to pay for the work of the candidate’s campaigners. It was supposed to be administered via formally independent organizations (NGO “Institute for Development and Promotion of Democracy” and others). In some cases, promises were made to pay for campaigning activities in cash, and without compliance with tax obligations. As part of their regular reports, OPORA observers reported that the amount and criteria of possible cash payments differed significantly in different regions of Ukraine (Ternopil – UAH 1,000 / month; the cities of Lutsk, Rozhyshe, Kamin-Kashirsky in Volyn oblast – UAH 1,000 for the identification of 10 supporters of the candidate; Mykolaiv – UAH 1,000 / polling 50 – 70 vot-

ers; Pyatykhatky in Dnipropetrovsk oblast – UAH 400 / one polling round; Ivano-Frankivsk – UAH 1,000 / polling of 60 voters; Novopskov district of Luhansk oblast – UAH 500 / 50 questionnaires).

The large-scale training and deployment of campaigner groups, the use of third-party legal entities for campaigning by the Candidate Petro Poroshenko's campaigning offices, and the legal ban on paying for services to voters raised broad discussions between electoral subjects and law enforcement agencies. The key risks of such measures on the part of the candidates were the possibility of hidden financial incentives to voters and violation of the principle of equality of rights and opportunities of electoral subjects. If such payments were made to citizens, unequal conditions for campaigning for candidates for the post of President of Ukraine would arise. Some candidates adhered strictly to the legislative ban on paying for campaigning services to citizens, while other election participants made such payments. In addition, OPORA observers noticed that groups of campaigners were recruited and organized before the official registration of a candidate Petro Poroshenko. This fact raised the issue of transparency of financing such activity, considering the possibility of financing election campaigning only at the expense of candidates' election funds.

Taking into account the resonance of the issue of payment for campaigning services to citizens from election funds of presidential candidates, on February, 22, 2019, the CEC approved Resolution No. 376 on clarifying certain issues regarding bribery of voters and peculiarities of involving citizens in campaigning in favour of candidates for the President of Ukraine. The clarification was based on the recognition of the right of the candidates' election fund managers to conclude with the voters only pro-bono agreements for the campaigning. Besides, the document explained to the Commission the legitimate possibility for reimbursing voters for the costs associated with campaigning (transport, travel, telephone, etc.). At the same time, the CEC indicated the candidates' right to conclude pro-bono election campaigning contracts. In doing so, the Commission recognized reimbursement to voters for the actual costs incurred within the campaigning as legitimate.

The CEC's explanation of the possibility to compensate voters for the expenses associated with campaigning caused a mixed reaction from the candidates for the post of President of Ukraine. Candidate Anatoliy Hrytsenko challenged the decision of the Commission in court, referring to the CEC's establishment of new legal rules that created new legal conflicts (Case

No. 855/57/19¹⁴). Following the court consideration, the Sixth Administrative Court of Appeal upheld the applicant's complaint only partially. On the one hand, the court recognized as legitimate the main provisions of the CEC Clarification regarding compensation to voters of the costs incurred in election campaigning. On the other hand, the court abolished the provisions on the exemption of legal entities that provide election campaigning services from paying a unified social contribution. The Administrative Court of Cassation of the Supreme Court of Ukraine de facto validated the decision of the Sixth Administrative Court of Appeal, finding unlawful the provision of the Clarification regarding the exemption of campaigning services providers (legal entities) from paying a unified social contribution. As stated in the ruling of the Administrative Court of Cassation of the Supreme Court of Ukraine dated 04.03.2019 on case No. 855/57/19, the CEC went beyond its powers, explaining the issue of payment of a unified social contribution by legal entities.

Due to the importance of regulating the whole range of candidates' legitimate expenses during the elections, OPORA hereby notes the positive intentions of the CEC to provide clarification on the issues of interaction between the election participants and the citizens involved in the campaign. But, according to the organization, the clarification does not provide for effective mechanisms for monitoring and detecting cases of abuse in the context of the candidates' compensation for expenses incurred by citizens within the election campaigning. In the absence of realistic mechanisms for verifying the reporting of legal entities contracted by election fund managers, the process of compensation may be accompanied by covert voter bribery technologies. In the near future, the Ukrainian Parliament is bound to find an effective balance between preventing voter bribery and ensuring the transparency of candidates' campaign expenditures.

One possible legislative solution could be to establish the maximum number of campaigners involved in each territorial constituency, followed by reporting to the election fund account manager about the amount of reimbursement for each of them. Such a personalized model will prevent the involvement of citizens in illegal activities and, at the same time, guarantee the transparency of the costs of campaigning logistics. This is just one of the options available to solve the problem at the legislative level.

.....
14 <https://reyestr.court.gov.ua/Review/80217738#>

The current system of reporting of account managers of election funds of presidential candidates in Ukraine and their contractors does not allow to estimate the actual amounts of financial expenses for compensation to voters for the organization and conduct of election campaigning. In particular, non-governmental organizations that have been widely involved in organization and conduct of campaigning are required to submit a report once a year in a simplified form. This does not allow observers and state controlling authorities to study in detail the use of election funds by contracted NGOs.

During the election process, various law enforcement agencies stated that large-scale attempts were being made to organize the bribery of voters by individual candidates for the post of President of Ukraine. At the time of drafting this report, OPORA was not aware of the results of these investigations, but they had an extremely high resonance during the election campaign. In February, 2019, the Security Service of Ukraine accused the People's Deputies of Ukraine, members of the *Batkivshchyna* UO faction, Valery Dubil and Ruslan Bohdan, of organizing an illegal voter bribery network with a budget of USD 82 million.

The SBU also stated the involvement of individual citizens of the Russian Federation in the formation of this network. Observers were aware of the call for interrogation of the People's Deputies of Ukraine, but their results and procedural implications are inaccessible to the public. On the eve of the vote on March, 31, 2019 the Prosecutor General's Office of Ukraine announced a detention near the city of Dubno, Rivne oblast, of a citizen who had UAH 2.5 mln on him. Allegedly, the money had to be spent on bribery of voters in favour of one of the candidates. From the public statements of the leaders of the Prosecutor's General Office of Ukraine, it was clear that a presidential candidate Yuliya Tymoshenko was implied.

In the context of these statements by the SBU and the Prosecutor's General Office, OPORA notes a number of problems in the interaction between law enforcement agencies during election campaigns. First, the National Police of Ukraine is vested with basic powers to investigate electoral fraud. Other law enforcement agencies in the country should facilitate the exercise of electoral authority by the police, but should not assume its functions. During the regular election of the President of Ukraine, the activities of law enforcement agencies showed signs of political competition, which reiterated the need to intensify the processes of their depoliticization. Second, law enforcement agencies have yet to strike a balance between resonant statements, the secrecy of the investigation, and the demonstration of evidence of wrongdoings, as public accusations against candidates during the

election campaign affect their chances of being elected. If the public is not provided with convincing evidence of committing crimes in the interests of the electoral process, then suspicions of politically motivated actions by law enforcement will be actively spread to citizens.

During this campaign, for the first time in the history of the Ukrainian elections, the candidate for President of Ukraine declared the attempted bribery offer to him for refusal to run for office. The self-nominated Yuriy Tymoshenko, who received 117,583 votes (0.62%), reported to the Prosecutor's General Office about the alleged attempt by the chairman of the "Zakhysnyky Ukrayiny" (lit. — 'Defenders of Ukraine') party, Taras Konstantchuk, to bribe him for UAH 5 mln. to encourage him to abandon the election. Representatives of the presidential candidate Yuliya Tymoshenko accused Yuriy Tymoshenko of intent to mislead voters by running a ballot. Yuliya Tymoshenko and Yuriy Tymoshenko were included in the ballot paper, with similar personal data. Representatives of Batkivshchyna party called on the CEC to make a decision to indicate candidates' numbers in the ballot paper so that voters would not mistakenly vote for another candidate. Referring to the absence of a statutory requirement on the numerical order of candidates in the ballot, the Central Election Commission denied the representatives of Yuliya Tymoshenko's team in such a decision. The CEC's position was confirmed by the court's consideration of this election dispute, and the ballot text did not include the candidate's counting number.

While not assessing the merits of the allegations of bribery of a particular candidate, OPORA notes the need to clearly resolve in the Criminal Code of Ukraine the problem of bribery of a candidate in order to influence his / her intention to run for office or to abandon the election. Proposals for legislative changes regarding the liability for voter bribery are included in the draft Law of Ukraine No. 8270 (on the irreversible nature of punishment for electoral fraud). This draft law was developed jointly by OPORA and the National Police of Ukraine, and was registered in a governmental status in April, 2018.

During this and previous election campaigns, Civil Network OPORA has repeatedly drawn attention to the need for effective prevention of misuse of budgetary administrative resources for election purposes. In the regular presidential election, the problem of misuse of budget funds has received a new negative dimension. Budget funds from state and local social programs could be used to bribe voters and/or to pay for the campaigners and

members of election commissions of individual candidates for the post of President of Ukraine. During the election campaign, the National Police of Ukraine investigated the facts of voter bribery at the cost of local budget programs allocated to provide material assistance to socially disadvantaged groups of the population. OPORA recorded active benefit payments to socially disadvantaged groups in different regions of Ukraine (it was especially active in Dnipro city, and in Odessa oblast). At the same time, programs for financial assistance to citizens were approved with increased funding scope in December, 2018, before the start of the Presidential election.

During the election campaign, the National Police of Ukraine investigated the alleged use of local material assistance programs to bribe voters, which could have taken place in January – February, 2019. In particular, the Main Investigation Department of the National Police of Ukraine reported on the pre-trial investigation of officials of the Vasylkiv City Council of the Kyiv oblast under part 4, Art. 160 of the Criminal Code of Ukraine. This part is about giving a voter an undue benefit that was repeatedly committed or conspired by a group of persons, or an election commission member, or a person authorized by a political party or a local political party organization, or by an official election observer. In addition, the National Police of Ukraine is conducting an investigation into the spending of budget funds under the articles of the Criminal Code on misappropriation of property through abuse of office, illegal possession of a passport, etc.

At the time of publication of this report, it was known that the suspected Vasylkiv mayor had been served an allegation, which was subsequently overturned by the Pechersk District Court of Kyiv later, in August, 2019 (pre-trial investigation No. 12019000000000332). The reason for the court's decision was serving an allegation by a prosecutor who had no procedural right thereto. It is noteworthy that the mayor was not served under the article of the Criminal Code concerning bribery of voters, but for the waste of budget funds and abuse of office.

OPORA repeatedly draws the attention of the government to the need to intensify the counteraction to the use of budgetary funds in the interests of political parties and candidates. Besides counteracting the politically motivated practice of increasing payments from budget funds during election campaigns, it is also important to strongly prevent attempts to use these funds to directly bribe voters.

Abuse of Administrative Resources

During the election campaign, OPORA observers repeatedly drew the attention of electoral subjects to the inappropriateness of abuse of administrative resources in the interests of presidential candidates. Unfortunately, these appeals did not have a significant impact on the practices used. At the time of the elections, a number of candidates had the opportunity to involve representatives of different levels of government in their own election campaigns. In particular, it could be explained by the party composition in local councils, and by political appointments to posts of various levels. Although single cases with elements of misuse of administrative resources concerned different candidates (Oleh Liashko, Ruslan Koshulynskyi, Oleksandr Vilkul, Yuriy Boyko, Yuliya Tymoshenko), the main problems were manifested during the campaigning of Petro Poroshenko. Participation of the incumbent President in the elections challenges the political impartiality of the governance system in any country. On the other hand, the states with unstable institutes and unestablished practices have these issues even more pressing.

The key forms of abuse of administrative resources were:

- intensifying of social programs and raising budgetary payments during elections;
- the organization of events by the public authorities and local self-government bodies, the content and nature of which were indicative of election campaigning;
- violation of the standards of political impartiality by civil servants and officials of local self-government bodies;
- attempts to use the funds of local programs to provide material assistance to voters to bribe voters¹⁵.

Notably, not all cases of abuse of administrative resources were a direct violation of the Law of Ukraine “On the Election of the President of Ukraine.” Quite often, certain electoral subjects and officials did not differentiate between political and administrative activities, which put candidates on an unequal basis.

.....
¹⁵ This form of abuse is detailed in the voter bribery block (page 100).

Instead, the current legislation of Ukraine guarantees the non-interference of officials and civil servants into political and electoral processes. Thus, the laws of Ukraine “On the Election of the President of Ukraine” and “On Civil Service”, and other regulations are based on the principle of equal suffrage. Civil service law, for example, contains a provision disabling any influence of political views on actions and decisions of civil servants. Ukraine has a criminal liability for officials interfering with the exercise of powers by an election commission, and for any coercive or deceptive actions of officials preventing the free will of a voter.

Comprehensive evaluation of the Ukrainian legislation implies that it generally corresponds to basic international instruments in the field of democratic election standards. However, the legislative guarantees for political impartiality and non-interference of officials from central authorities and local self-government bodies have very proven to be declarative in nature. It is due to the fact that candidates and officials used covert forms of abuse of administrative resources.

An illustration of such practice was the holding in all regions of Ukraine of the Regional Development Councils chaired by the current President of Ukraine, a candidate Petro Poroshenko. The Decree of the President of Ukraine established the Regional Development Council at the national level. At the same time, local state administrations were obliged to establish similar councils at the local level. During the elections, regional and local councils were actively used to cover Petro Poroshenko’s election program, and served as platforms for his personal activity at the oblast level. The problem was that the candidate’s campaigning and regional development council meetings were de facto linked. OPORA observers have repeatedly recorded cases where participants of official events were brought in an organized manner to rallies in support of the candidate. In this respect, the boundary between the campaigning and official activity of the President of Ukraine Petro Poroshenko was provisional.

Parallel to meetings of the Regional Development Council, materials with information on initiatives of the President of Ukraine in the sphere of decentralization and development of territories, discussion of plans for development of territorial communities and regions were widely disseminated in the settlements of the regions. As a rule, the materials were accompanied by a postal envelope for citizen feedback to the Regional Development Council addressed to the Presidential Administration of Ukraine in Kyiv. During the information campaigns, it was noted that the discussion of

perspective plans for the development of districts and oblasts was based on the Presidential Decree “On Additional Measures to Ensure Decentralization of Power” dated December, 06, 2018. During the election campaign, OPORA observers have repeatedly tried to find funding sources for information materials about initiatives of the President of Ukraine in the field of decentralization. However, requests to the Presidential Administration of Ukraine and the state-owned enterprise “UkrPoshta” were left ineffective. De facto campaigns to disseminate information about the initiatives and activities of the incumbent head of state were financed from non-transparent sources and had elements of covert campaigning.

A problematic block of activity of the Government and the President of Ukraine during the elections was the state measures on indexation of pensions and monetization of subsidies covering public utilities costs for citizens. In particular, the planned indexation of pensions before the election covered about 10 million citizens, based on public announcements of the Ministry of Social Policy of Ukraine. OPORA highlights the Government’s right to a stable and regular functioning of the Government during elections. But in these and future elections, it is unacceptable to ignore the recommendations of international organizations that draw the attention of the states to the need to refrain from using budgetary payments as a basis for candidate engagement with voters. As noted in the joint recommendations of the Venice Commission and the Council on Democratic Elections on Prevention of Abuse of Budget Administrative Resources (2016), no important announcements aimed at creating a favorable promotion campaign about a particular party or a candidate should be made in order to prevent violations of the principle of equal opportunity of candidates and parties during campaigns. In its recommendations on preventing abuse of administrative resources, the Venice Commission also stressed that the electoral process is not a good time to create new programs or actions related to budgetary funds and not planned in advance before the campaign. Such programs and actions, according to the Venice Commission, can easily be qualified as misuse of budgetary administrative resource.

In this context, it should be noted that President Poroshenko, while holding the status of a candidate, was involved in governmental activities to allocate budget payments to citizens. The only way to prevent abuse of administrative resources during elections is the strict adherence to the principle of distribution of powers between authorities when implementing budget programs. According to OPORA, the Pension Fund of Ukraine and the Cabi-

net of Ministers of Ukraine had a unique role in informing citizens about the process of making social payments. This would help avoid any reasonable suspicion that one of the candidates intended to use ambitious government programs to increase social benefits for electoral purposes. The Venice Commission's comments on the need to avoid intensification of budgetary payments are also relevant to the initiative of the President of Ukraine Petro Poroshenko to raise salaries to servicemen, which was decided during the election.

There have been quite widespread cases of public statements by local officials of the role of President of Ukraine in providing state funding for infrastructure projects and social programs. As a rule, the decisions on these programs did not concern the constitutional powers of the Head of State, but were within the competence of the Cabinet of Ministers of Ukraine. Thus, local and national officials did not adhere to the Venice Commission's recommendation for a clear division of powers between authorities in order to avoid a situation where an electoral candidate uses their contacts with the Government for election purposes.

OPORA observers noted the active public involvement of local executive authorities in campaigns supporting Petro Poroshenko throughout the election period. This was reflected in the public statements of the chairmen and deputies of the RSAs and the DSAs, who were quite active in the media and social networks. In the run-up to the presidential second ballot, certain facts were revealed of calls by DSAs heads to representatives of local election offices of Volodymyr Zelensky to hold a debate with them about the benefits of candidates running in the second round (Poltava oblast). Despite the fact that shortly before the elections the RSAs and DSAs were withdrawn from the regulation of the law of Ukraine "On Civil Service," the practice of their participation in campaigning violates the principles of political impartiality in the public administration system.

It should be noted that another common problem was identified at the RSA and DSA levels. Official web-resources of local executive bodies actively placed pre-election materials in support of the incumbent President of Ukraine. Authorities should inform citizens about the activities of the country's leaders, even if they are registered candidates in elections. However, such communications should not be accompanied by campaign calls or information on the activities of an official involved in the election. OPORA observers actively cooperated with local authorities, urging them to stop violations of the statutory requirements on reporting about activities of of-

ficials who are running for presidency. In some regions, such appeals were effective, and the authorities discontinued undue practices.

At the regular elections of the President of Ukraine, OPORA observers did not find any facts of pressure on voters, or threats by officials who would have a criminal record. But there have been some cases with elements of centralized involvement of employees of budget organizations to the work of local election offices (probably paid) or into mass events.

According to the observation findings at the election of the President of Ukraine, OPORA states an urgent need for the state to continue its efforts to depoliticize the activities of public administration. Equally important is the elimination of misuse of budgetary funds in the electoral interests of individual candidates. The last task will require decisive steps by the state, including the ability to impose restrictions on launching new budget programs during elections.

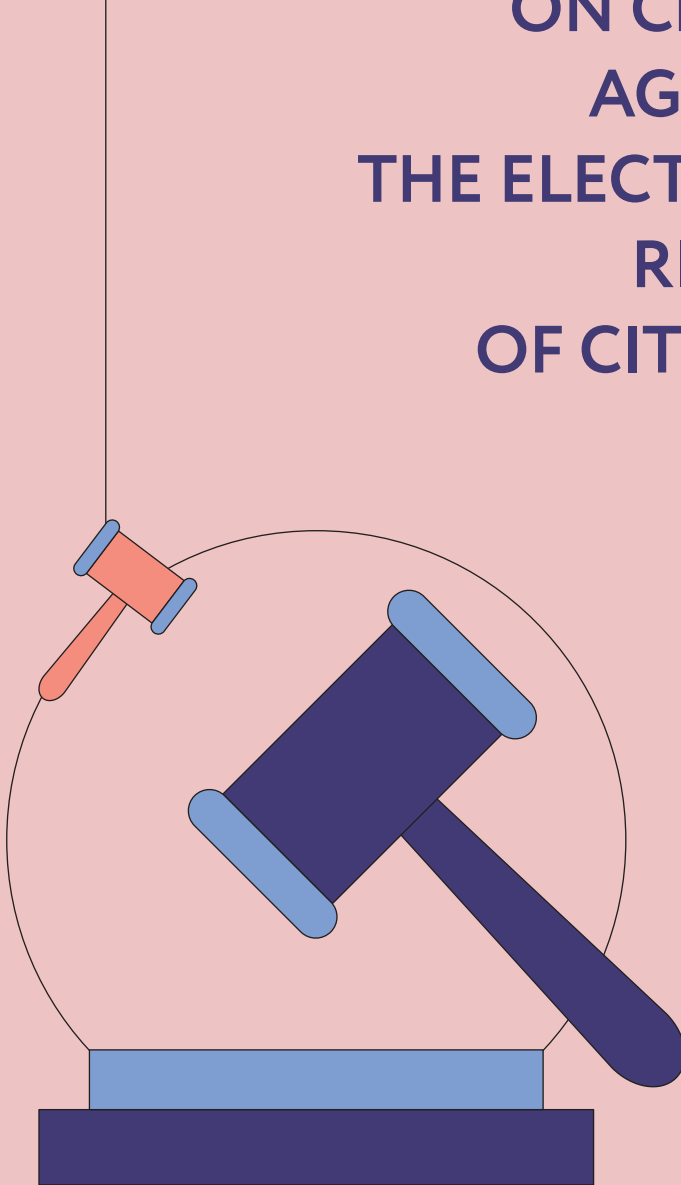
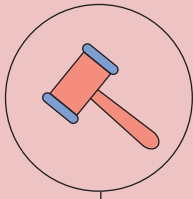
Counter-campaigning and Misinformation at the Regular Presidential Elections

At the regular presidential elections, competitors and their support groups were running intensive counter-campaigns against election opponents. Counter-campaigning was carried out by placing negative content in the local media, by distributing printed negative materials of unknown origin to voters, by using outdoor advertising media to discredit candidates for the post of President of Ukraine. Quite often, direct information about candidates, their political positions and election programs was spread among voters. Such activity did not comply with the provisions of the Law of Ukraine “On Election of the President of Ukraine” that prohibit the sharing of deliberately false information about a candidate.

Throughout the election process, the largest mass campaign was against Volodymyr Zelensky. It was particularly acute between the first and second rounds of voting. Negative campaigning was also massive against Petro Poroshenko, Yuliya Tymoshenko, Anatolii Hrytsenko, Andriy Sadovy and some other candidates for the post of President of Ukraine.

Intense counter-campaigning against the candidates proved the opacity of political and electoral finances in Ukraine. Much of the media coverage of the candidates did not contain any information about their commissioners, nor was it known about the initiators and sponsors of the production of negative printed materials. Considerable debate in the presidential election has also provoked the practice of NGOs' participation in counter-campaigns against specific candidates. Some non-governmental organizations have de facto spent substantial amounts of money discrediting candidates without having to report on the source of the money spent. The legal possibility for the National Police of Ukraine to respond to the dissemination of anonymous materials against candidates for the post of President of Ukraine was also uncertain. For example, on the eve of the second ballot, the National Police of Ukraine stopped the process of spreading negative materials against candidate Volodymyr Zelensky. Such police actions provoked discussions about the balance between the requirements of the electoral legislation and the right of citizens to disseminate publicly important information. According to OPORA, the state should focus on preventing any spending from unspecified or illegal sources on campaigning or counter-campaigning. It will reduce the incidence of anonymous and misinformation campaigns.

**CRIMINAL
PROCEEDINGS
ON CRIMES
AGAINST
THE ELECTORAL
RIGHTS
OF CITIZENS**



In the period from 01.01.2019 to 31.05.2019, the National Police of Ukraine received 11,317 reports. Of these, 318 included information on criminal offenses, 642 included administrative offenses, 10,357 related to other aspects of election organization and conduct, or breaches of election law.

At the regular election of the President of Ukraine, the National Police opened 318 criminal proceedings under Articles 157–160 of the Criminal Code of Ukraine. These articles establish liability for crimes against the voting rights of citizens.

Ukrainian law stipulates that criminal proceedings should be initiated in case of information about the offense being received by investigation bodies. Thus, the number of criminal proceedings reflects the general tendencies of law enforcement during the elections, but it cannot testify to the fact that the cases of non-compliance with the election law have been proven.

The Number of Criminal Proceedings in the 2019 Regular Presidential Election^o

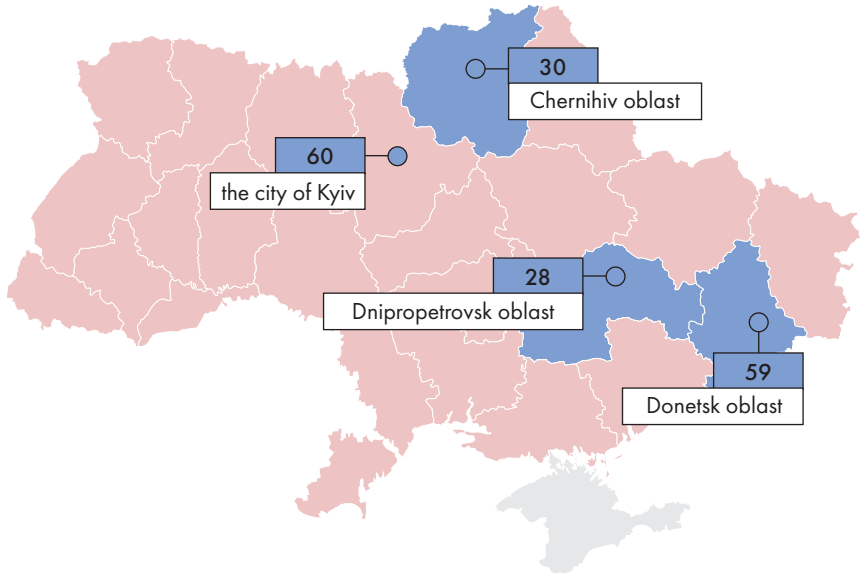
Number of proceedings under articles of the CCU	318
Article 157. Obstruction of suffrage	46
Article 158. Falsification of election documents and election results	34
Article 158-1. Illegal issue of ballot papers`	56
Article 158-2. Destruction of election documents	1
Article 159. Disclosure of secret ballot	13
Article 159-1. Illegal financing of campaigning	0
Article 160. Bribing voters (obtaining or providing illegal benefits)	62

^o From certain regions, the information is only available about the total number of proceedings, with no details about the Articles of the Criminal Code involved.

The regions with the highest number of criminal proceedings are the city of Kyiv, Donetsk, Chernihiv and Dnipropetrovsk oblast.

Top Regions of Ukraine by Number of Criminal Proceedings in the Regular Presidential Election

Number of criminal proceedings under Articles 157 – 160 of the Criminal Code



The territorial units of the National Police have initiated most of criminal proceedings under Article 160 of the Criminal Code of Ukraine – 62 proceedings. This article provides for liability both for the voter who improperly obtained the benefit for his vote, and for the commissioner or performer of the bribery technology.

Voter Bribery

Among the oblasts of Ukraine, the most frequent cases filed by law enforcement officers concerning the bribery of voters were investigated in Chernihiv oblast (17 cases, or 27% of all proceedings under Art. 160). In the region, several elections in a row have revealed resonant incidents with evidence of the use of material incentive technology to bribe voters. More than 5 criminal proceedings on bribery of voters were initiated in 4 regions of Ukraine: Kharkiv oblast (7), Dnipropetrovsk, Donetsk, Kirovohrad oblasts (6 proceedings in each, respectively).

Illegal Issuance and Use of Ballot Papers

After bribing voters, law enforcement officers most often investigated cases of illegal election ballot issue or use, voting over one time (56 proceedings). For illegal acts with ballots, liability is provided under Article 158-1 of the Criminal Code, which applies to voters and members of election commissions.

The Donetsk oblast became the leader in the region in the number of such proceedings. In Donetsk oblast, resonant incidents with elements of illegal use of ballot papers (20 proceedings) were most often detected. In other regions of Ukraine, proceedings under Article 158-1 have been initiated much less frequently. Dnipropetrovsk (6) and Kharkiv (5) occupy the second and third positions in the number of investigations into the illegal issuance or use of ballot papers.

Obstruction to Suffrage

Article 157 of the Criminal Code (46 proceedings) holds the third position in the number of proceedings. It covers a wide range of illegal activities: obstruction of free expression of the will of voters, activities of official observers, members of election commissions, other subjects of the electoral process, unlawful interference of officials in the work of election commissions. Most of the proceedings under this article were initiated in Donetsk (11), Chernihiv (8), Dnipropetrovsk (7), and Kharkiv (4) oblasts.

Falsification of Electoral Documentation and of Election Results

34 criminal proceedings at the presidential election in Ukraine concerned incidents with elements of falsification of election documents (Article 158 of the CCU). The list of illegal acts covered by this article of the Code includes cases of illegal filling in of the protocol on vote count at the polling station, falsification of such protocol or its signing outside the session of the election commission. In Donetsk oblast, the most frequently studied data were falsification of election documents (21 proceedings). In other regions, such incidents were recorded much less frequently (Dnipropetrovsk – 5, Chernihiv – 4, Volyn – 2).

Disclosure of Secret Ballot

Under Article 159 of the Criminal Code on ballot secrecy, only 13 proceedings were initiated, 4 of which concerned incidents in the Dnipropetrovsk oblast. Violations of the secrecy of voting were not widespread during the regular elections of the President of Ukraine, and they are difficult enough to reveal during the voting.

There was only one criminal proceeding on the illegal destruction of election documents recorded in the presidential election (Article 158-1). No criminal proceedings were initiated under Article 159-1 for violating the procedure for financing election campaigning.

Many of the criminal proceedings were closed due to the inability to identify the offenders or to gather a proper evidence. For example, in Dnipropetrovsk oblast, 24 of the 28 criminal proceedings were closed as of May, 2019. But at the moment of publication of this report, it is already known about court sentences for violations at the regular election of the President of Ukraine.

Effectiveness of Criminal Proceedings on Crimes Against the Suffrage of Citizens

As of November 5, 2019, the courts of Ukraine have handed down 15 sentences and 3 rulings on criminal liability under Article 158-1 of the Criminal Code. This article establishes liability for the unlawful use, issuance, and receipt of ballot papers. Another verdict was made under Article 158 of the Criminal Code of Ukraine (falsification of election documents). At the moment, no person has been convicted to serve their sentence, and those

involved in the case have actively entered into plea bargaining. It is noteworthy that there are no judicial decisions on large-scale cases that could significantly affect the results of the vote.

The investigation of a number of potentially resonant violations in the regular presidential election is still ongoing. Such criminal proceedings include cases of bribing a presidential candidate Yuriy Tymoshenko, alleged bribery of 148 prisoners of Chernihiv correctional facility No. 44 by transferring funds to the accounts of “UkrPoshta” JSC, falsification of protocols on vote count at 9 polling stations in constituency No. 60 (Donetsk oblast), organizing a voter bribery network in Donetsk oblast in favor of one of the candidates. Donetsk voter bribery proceedings have been launched on the basis of media coverage.

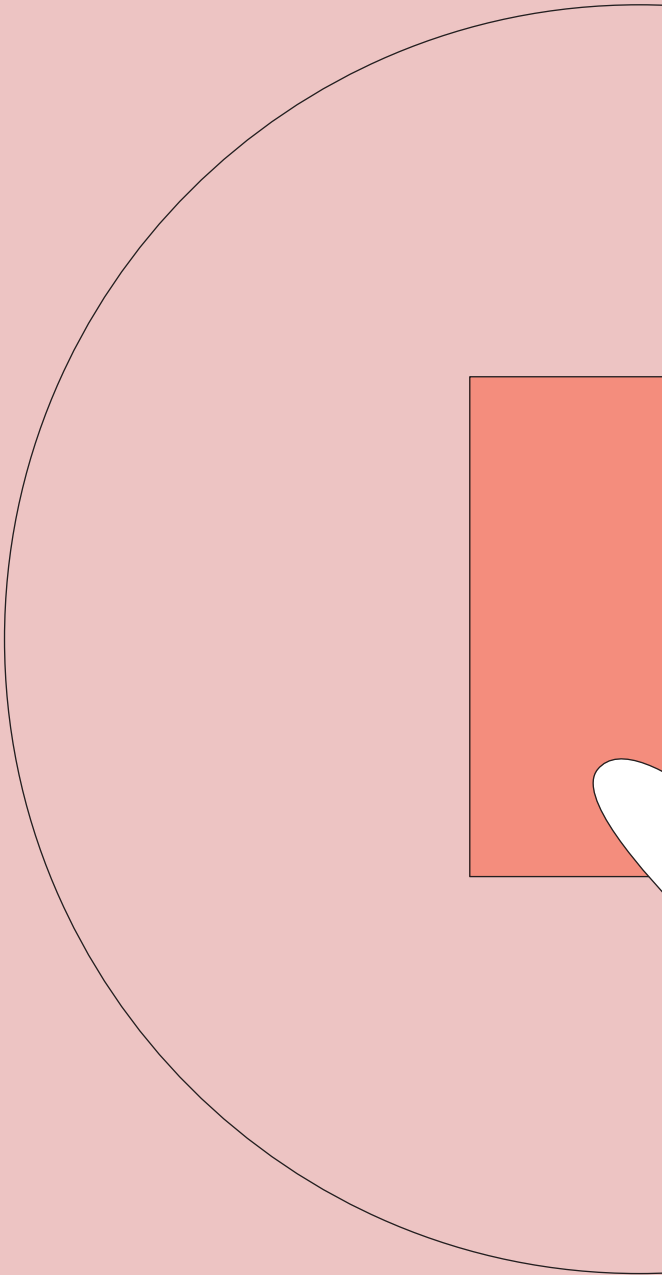
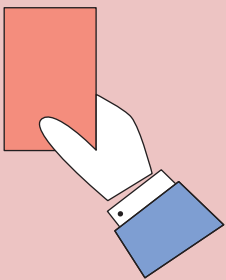
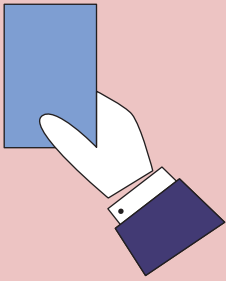
The Kyiv District Court of Odessa city issued an arrest warrant for the funds of UAH 800,000 and \$ 22,700 and for documents in a bank branch in Podilsk city. According to the investigation, these funds could be used to bribe voters. The documents withdrawn under judicial procedures included a questionnaire of a survey. According to the investigation, the offenders might have used the Viber app to offer unlawful advantage to voters.

Investigators were given access through legal action to the ballot papers from Stanichno-Luhansk district of Luhansk oblast during the second ballot in the election of the President of Ukraine. The illegal balloting was detected by an OPORA observer, but the investigation is still underway.

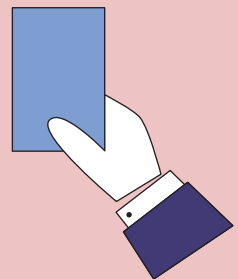
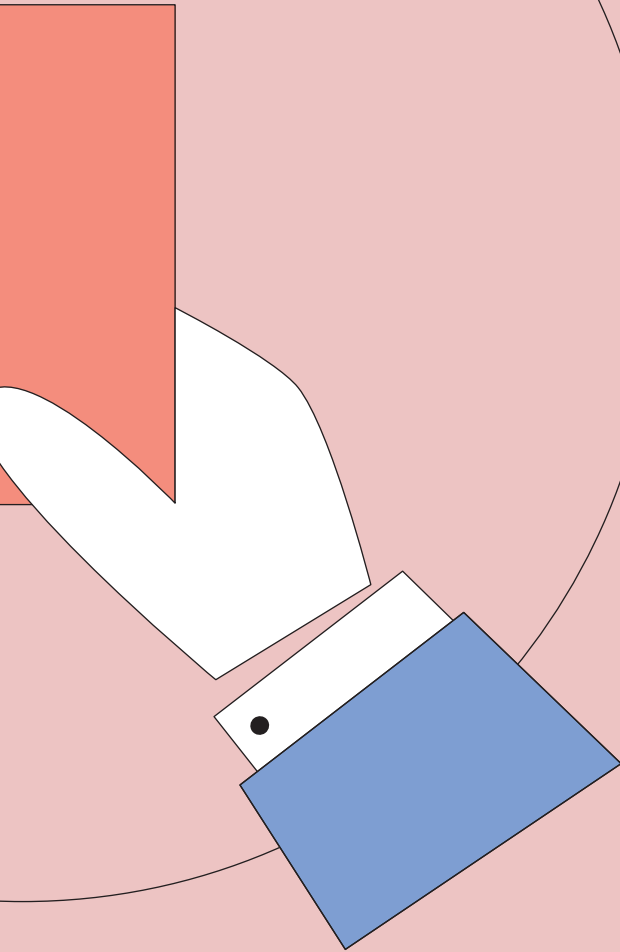
Law enforcement officers requested from the court to expropriate evidence for possible bribery of voters from the premises of the public deputy consulting office in the city of Chernihiv (according to journalists), related to mass calls to voters offering a bribe in Dnipropetrovsk, Kirovohrad, Chernivtsi, and Poltava. Measures were taken within legal action to substantiate the facts of finding 563 ballot papers with the signs of fraud referred to one of the territorial districts of Zaporizhzhya region (No. 74). They were discovered in a car with license plates of the Republic of Lithuania. Moreover, investigations are ongoing in Kramatorsk about lists with contact details of voters that could receive money for the vote. According to the Register of Court Decisions, 76 persons were included in these lists, who may have received money for voting in the election of the President of Ukraine.

The Register of Court Decisions contains rulings on proceedings for possible bribery of voters by issuing funds to campaigners in favor of one of

the candidates. The criminal proceedings concerned the handing over of money intended for campaigners of one of the candidates in a village house of culture in the Volyn region. Following the investigative actions, the proceedings were discontinued, and the arrested funds returned to the owners (about UAH 70,000). Following the investigative actions, the proceedings regarding the issuance of UAH 1,000 to each PEC member in Dolynska town, Kirovohrad oblast, were closed.



SENTENCES DELIVERED ON ELECTORAL FRAUD



Hiding the Ballot Paper (Article 158-1 of the CCU)

11 of the 18 court decisions concerned voters' attempts to hide their received ballots and take them outside the voting room. In some of these cases, the offenders were stopped by election commission members or observers (2 cases), or returned to the premises and cast their ballots in a ballot box (1). Failed voters' attempts to take the ballot outside were interpreted by the courts as an attempt to hide the ballot.

In most of these cases, the stealing or destruction of the ballot paper was due to the unwillingness of voters to vote, while they did not intend to transfer the ballots to other persons. Courts imposed fines of UAH 1,700 (6 cases), UAH 2,500 (1), and restriction of liberty with relieve from serving a penalty (1). One voter was relieved from criminal liability for attempting to steal the ballot, due to effective repentance.

In several cases, during or after stealing or hiding of the ballot papers, voters tore the ballots (3 cases) or even ate the document while intoxicated (1 case).

At the same time, on case 225/3387/19, in addition to Part 1, Art. 158 of the CC of Ukraine, the court qualified the stealing of ballot papers with the ripped control vouchers also under Art. 158-2 of the CC of Ukraine, as damage to election-related documents. There are grounds to believe that the court and the pre-trial investigation body wrongfully qualified the actions under Art. 158-2 of the CCU, since they failed to take into account the mandatory presence of such objective elements (*actus reus*) as time (after elections) and place (CEC, archival institutions). It is a common error made by courts and mentioned by the Supreme Court of Ukraine in the Generalized Court Practices 2018 when Ukrainian courts apply the law on the liability for administrative offence that infringe on the popular suffrage and the established procedures to ensure it (Articles 212-7 – 212-21 of the Code of Ukraine on Administrative Offenses), and for crimes against electoral rights and freedoms (Articles 157 – 160 of the Criminal Code of Ukraine).

According to OPORA, it reinforces the need to further explore court practices and conduct trainings for judges on qualifying crimes against citizen's electoral rights.

Illegal Voting, Use of the Ballot Paper (Article 158-1 of the CCU)

In 7 sentences, the courts considered illegal acts on the issue of ballots or voting exercised by voters and members of precinct election commissions. The list of violations committed by voters includes:

- Receiving ballot papers, both at the place of stay and in the polling station.
- Illegal receipt of the ballot by a voter on the basis of a “written consent” of a relative. In this particular case, it is a matter of illegal voting when a mother attempted to vote on the grounds of a letter from her daughter and her passport. In this case, investigators did not investigate the role of members of the election commission and did not establish any elements of a crime in their actions, although their involvement in the crime was evident. As to the mother accused of illegal voting in place of her daughter, a plea bargaining agreement was concluded, and she was penalized with UAH 1,700.
- A voter destroying 18 of the 23 previously stolen ballots. These ballots were filled in favor of a particular candidate, and their destruction took place at the polling station. Investigators entered with the offender into a plea bargaining agreement, while a person was relieved from serving a sentence of restriction of liberty, with the trial period of one year. It should be noted that the citizen was found guilty under Part 1 of Art. 158-2 of the Criminal Code of Ukraine, which provides for the liability for the unlawful destruction of election records at state archival institutions or at the Central Election Commission of Ukraine, and after the elections or a referendum. Taking into account the destruction of ballots on the day of voting in the premises of the polling station, the verdict was upheld in violation of substantive law regarding the qualification of the crime.

In three cases of illegal issue of ballots, members of election commissions were prosecuted. In two of the cases, PEC members signed up for voters in the voter list and received ballots instead of them. Informed about the non-participation of voters in voting, commission members illegally received 2 ballots, in one case, and 4 ballots in another. The defendants entered into plea agreements, which resulted in the person being relieved from serving a sentence of restriction of liberty, with a one-year trial period.

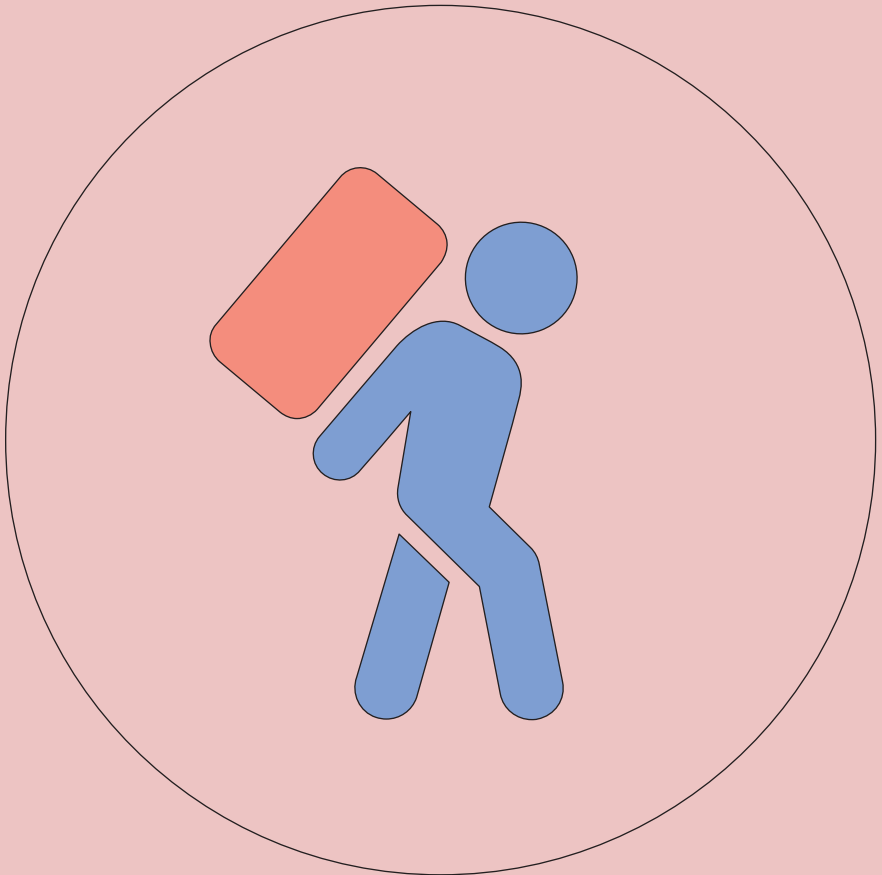
Based on OPORA observer report, the head of the PEC (the village of Lazy in Transcarpathian oblast) was brought to account. The chairman of the commission issued a ballot to a person who was not included on the voter list.

Election Document Falsification (Article 158 of the CCU)

At the time of publishing the report, members of one of the PECs of the Volnovakha District were convicted of illegally filling election ballots, relevant control vouchers, and voter lists. These unlawful acts were carried out in the presence of a police officer who informed the National Police of Ukraine about the crime.

Among other things, a cause for the inconsistency in the number of criminal proceedings and the persons brought to criminal liability for electoral crime stems from the imperfections of the criminal law. A joint draft law No. 8270 produced by the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine and by OPORA on ensuring the irreversible punishment for electoral fraud provides for the establishment of legal certainty on issues related to qualification of electoral fraud, which will foster higher efficiency of their investigations.

ADMINISTRATIVE LIABILITY FOR VIOLATION OF ELECTORAL LAW



According to OPORA, 642 protocols on administrative offenses were drawn up during the presidential election in Ukraine. 457 protocols, or 71% of them, concerned the production or distribution of printed campaign materials without source data (Article 212-13 of the Code of Administrative Offenses). The electoral law stipulates that all the printed materials of election campaigning must contain information about the printing company, their circulation, information about the persons responsible for the issue.

The second largest number of protocols was in relation to Article 212-10 of the Code of Administrative Offenses (87 protocols). This Article provides for the liability for violating the restrictions on the exercising of electoral campaigning, which include: 1) the campaigning by a person whose participation in such activities is prohibited by law; 2) conducting campaigning with violation of terms; 3) campaigning in forms and means prohibited by law; 4) violation of other restrictions in the conduct of election campaigning.

The third position is taken for violation of the procedures for placement of campaigning materials or placement in prohibited locations (67 protocols under article 212-14). 21 protocols were drawn up under Article 212-20 of the Code, which establishes responsibility for violation of the procedure for publishing electoral documents.

4 protocols were drawn up for violation of the procedure for the use of premises during the election campaign (Article 212-12), the same number of protocols concerned non-compliance with the requirements for maintaining the State Voter Register and voter lists. Only one protocol was drawn up under Articles 212-8 (violation of procedures of familiarization with voter lists), and 212-9 (violation of campaigning involving mass media).

Most of the protocols under all articles of the Code of Administrative Offenses were recorded in Kyiv (66), Zaporizhia (48), Dnipropetrovsk (46) and Kirovohrad (44) oblasts.

According to OPORA estimates, the courts received 329 reports of administrative offenses, or 51% of their total.

During regular elections of the President of Ukraine, local courts most often considered cases of campaigning without the source data (205 materials). Liability for this violation is provided for in Article 212-13 of the Code of Administrative Offenses. The second position in the number of court decisions is Art. 212-10 of the Code, which provides for liability for non-compli-

ance with a broad list of restrictions on campaigning (74 submissions). This article covers instances of campaigning by an improper person, or with the use of prohibited forms and means of campaigning, violations of campaigning terms, etc. The third most prevalent provision is Art. 212-14 of the Code concerning the violation of the order of placement of campaigning or its placement in prohibited places (46).

The court cases of non-observance of the candidates' right to use the premises were solitary (3 materials under Art. 212-12), and violation of the procedure for publication of election documents or decisions of commissions (1 material under Article 212-20 of the Code).

Statistics of local courts considering cases on administrative liability for violation of electoral law

KUPAP article	Content of violation	Number of violations considered by courts
212-13	campaigning without the source data	205
212-10	violation of campaigning restrictions	74
212-14	violation of the order of placement of campaigning materials or political advertising, or placement in prohibited locations	46
212-12	violation of the right to use the premises during the election campaign	3
212-20	violation of the procedure for publishing documents related to the preparation and holding of elections, or referendum	1
Total		329

According to OPORA estimates, 329 cases of administrative violations were brought to local courts in the regular presidential election. According to the results of the court proceedings, the observers noted the low efficiency of the preparation of the relevant materials by law enforcement. 33%, or 109 proceedings were closed by the courts due to absence of the event of

administrative offense. 75 cases, or 23% of them were returned for further elaboration by local units of the National Police of Ukraine. Thus, over 50% of administrative proceedings were closed or sent for further elaboration.

It shall be emphasized separately that the materials returned for further elaboration went to court within the time disabling the possible prosecution of offenders. A total of 49 cases were closed by the courts due to the expiry of the time-limits for bringing them to justice. However, in 16 cases the courts found guilty of citizens, but due to the end of the prosecution term, it was impossible to impose a penalty.

OPORA analysed the key reasons for the courts to return materials to the National Police for revision.

The key reasons to return materials of administrative proceedings for the follow-up revision were:

- No references in the protocols to specific statutory provisions that have been violated by citizens.
- False definition of the qualification of a violation, its qualifying features, lack of a clearly articulated essence of the administrative offense. For example, the content of the protocols made it impossible to determine the kind of offense committed by a citizen: production, ordering or distribution of printed campaign materials. Cases were also common with incorrect qualifications in cases on violation of the rules of providing public amenities, which were mistakenly interpreted as campaigning in prohibited places.
- Absence of written evidence, no witnesses to the offense, or personal and contact details of offenders, a broad list of shortcomings in the processing of evidence.
- Absence of the offender during the drafting of the protocol on the administrative offense, receiving his/her explanations in the manner not provided by the Code (for example, by telephone).
- Absence or incomplete description of time, place, method of committing the violation.
- Absence of any explanation of the persons on being brought to administrative liability.

The issues identified by the courts in the registration of administrative proceedings indicate to the need for further implementation of measures to increase the competence of police officers. The National Police of Ukraine conducted training for police officers during the election process, but there is an obvious need for training in between the elections. This would enable law enforcement officers to be prepared in time to perform their functions in the context of a fast-paced election process.

Effectiveness of Administrative Proceedings on Violations of the Law at the Regular Presidential Election

At the regular 2019 presidential election in Ukraine, the courts adopted 106 decisions on bringing persons to administrative liability.

According to OPORA provisional estimates, 83 persons were found guilty of distributing campaigning materials without the source data thereon (Article 212-13 of the Code of Administrative Offenses). These kinds of offenses have most often been proven in the courts on with consideration of administrative offense protocols. This may be due to a fairly simple process of gathering evidence.

20 citizens of Ukraine were brought to administrative liability for violating the procedure of campaigning or political advertising, placing campaigning in prohibited places (article 212-14 of the Code of Administrative Offenses). On the other hand, 3 persons were punished for non-compliance with restrictions on conducting campaigning (article 212-10 of the Code of Administrative Offenses).

In most cases explored by OPORA, the courts imposed penalties in the form of a fine, in some decisions judges were limited to verbal remarks. In particular, in 27 decisions the courts relieved the guilty persons from administrative liability due to the minor nature of offense.

OPORA noted the unequal and contradictory practices of local courts in dealing with similar cases of administrative offenses.

This contradiction and ambiguity was manifested in the following:

- Dependence of court decision about bringing to the administrative liability on whether a person pleaded guilty. In the case of a guilty plea, the courts imposed penalties on such a person. In the case of a person denial, the courts closed the proceedings.

- The dissimilar practices of courts regarding the placement of printed materials with names of candidates and no source data thereon, when they were posted on outside carriers prior to the candidate's registration but not withdrawn after obtaining the status of electoral subjects. In some of these cases, courts proceeded from the presence of the event of an administrative offense. In other cases, the absence of the event of an offense was found in connection with the placement of outdoor advertising prior to the official registration of the candidate.
- The practice of releasing persons from liability for lack of the event of an administrative offense due to court's misapplication of substantive law.
- Application of dissimilar approaches to the establishment of the person responsible for the illegal identification of places to post election campaigning on the objects of communal property. For example, in some decisions the heads of village councils were responsible, in other cases such officials of the local self-government bodies were relieved of responsibility, since the places for campaigning were determined by the collective executive committee of the local council.

OPORA hereby recommends that the State Judicial Administration, local courts and other judicial institutions conduct trainings of judges during the inter-election period in order to prepare them properly for the next election campaigns. Such measures should contribute to the formation of a uniform case law and the effective implementation of the principle of equal application of election law.

ELECTION CAMPAIGN FINANCING AND REPORTING OF ELECTORAL SUBJECTS



Legal background

The 2019 Presidential election, as compared to the previous elections, occurred under new conditions regarding the financing of election campaigning and reporting of electoral subjects. Thus, in 2015 upon adoption of the Law of Ukraine “On Amendments to Some Legislative Acts of Ukraine on Preventing and Combating Political Corruption,” substantial amendments have been introduced to the Code of Ukraine on Administrative Offenses (hereinafter – CUAO), to the Law of Ukraine “On Political Parties,” the Law of Ukraine “On Elections of the President of Ukraine” and to the laws governing the conduct of other elections. Major changes were related with the establishment of a National Anti-Corruption Agency in Ukraine (hereinafter – NAZK). Among other things, legislators assigned to it the sphere of control over the reporting of electoral subjects. The rules for making contributions to election campaigning and filing of financial statements by electoral subjects have also changed. In fact, the 2019 election was the first election of the President of Ukraine when the effectiveness and efficiency of legislative changes in this area, which were adopted in 2015, could be fully monitored. In order to coordinate their work during these elections, the NAZK and the CEC set up a respective working group to oversee the formation of candidates’ election funds and the use of these funds, as well as to audit financial statements.

For the first time, the financial statements were published in open data format (on the CEC website) and in the form of texts and spreadsheets (on NAZK website), compared to the 2014 election, when access to report transcripts containing details of candidates’ contributions and expenditures had to be obtained via information requests. This is a step forward which indicates that the CEC and the NAZK have the technical capacity to publish publicly relevant information in an open data format. At the same time, the available legislation in this area still contains rules that do not support efficient public control over party funding. For example, the law does not require the CEC or NAZK to publish operational information on the date of opening election funds. In fact, in the context of early political activity of potential candidates, it created additional tension at the beginning of the election campaign. Also, the timing of the public release of the interim and final financial statements, which are defined by the law, does not contribute to the quality and operational control of observers in this area. Moreover, attempts of the Civil Network OPORA to get prompt information about payments from the election fund of candidates by means of information

request resulted in the CEC refusing to provide this information. Thus, they became the subject of a lawsuit. It should be noted that the CEC and NAZK receive daily up-to-date information on election fund revenues and expenditures. However, posting of this daily up-to-date data only occurs twice.

Discipline and Reporting of Electoral Actors

According to the analysis of interim and final financial statements of Ukrainian presidential candidates approved by CEC and NAZK, they were submitted on time (within the deadline set by the Law) to all 44 candidates for President of Ukraine (including candidates whose registration was cancelled by the Commission). Reports, transcripts and analysis thereof were published on the CEC and NAZK websites.

The analysis of submitted reports was carried out by a joint working group. Its findings were approved at the NAZK sessions and separately by the CEC.

According to the CEC election report¹⁶, the following violations of the Law were found during the control of election funds of presidential candidates and in the analysis of relevant reports:

1. Having a presidential candidate appoint administrators of the Cumulative Account of the Electoral Fund other than from among the proxies (breach of part one of Article 42 of the Law).
2. Making contributions by persons who have an outstanding tax debt (violation of part three of Article 43 of the Law).
3. Making contributions by persons without indicating in the payment documents full information in accordance with the Law (violation of part four of Article 43 of the Law).
4. Conclusion of contracts (agreements) on the purchase of goods in accordance with the established procedure, performance of works, provision of services related to the election campaigning of the candidate for President of Ukraine by the candidate himself, rather than by the manager of the current account of the election fund (violation of the second part of Article 42 of the Law, part nine of Article 61 of the Law, parts five and six of Article 63 of the Law).

.....
¹⁶ <https://bit.ly/2ECMeOR>

5. Non-compliance with the procedures of control over the receipt, accounting and use of funds of election funds of candidates for the post of President of Ukraine, approved by the Resolution of the Central Election Commission No. 252 of December 20, 2018, by the Decree of the Ministry of Infrastructure of Ukraine No. 646 of December 20, 2018, Decision of the Board of the National bank of Ukraine No. 860-рш dated December, 19, 2018, and approved by the decision No. 3100 of the National Anti-Corruption Agency as of December 14, 2018 (regarding the correspondence of payment to the codes of expenditure items).
6. Inaccuracies in the presentation of certain report metrics.

The NAZK, in turn, responded to the request¹⁷ that as of May 14, 2019, based on the results of the analysis of financial reports on the receipt and use of money from election funds of presidential candidates, the Agency failed to identify any signs of administrative offenses in their actions.

Protocols of administrative offenses were drawn up against election fund managers and individuals who contributed to election funds in violation of the law.

According to Article 212-21 of the Code of Ukraine on Administrative Offenses, a protocol was drawn up regarding the cumulative account manager of the presidential candidate Yuliya Tymoshenko election fund – Matviychuk V.M. According to the court register, this protocol was considered in court¹⁸. The substance of the violation was that in the interim financial report the information on the use of the election fund resources, indicated in section 3 of the Consolidated statement on the receipt of funds into the current accounts of the election fund of the candidate for President of Ukraine and their use, were filled in breach of the law, in particular the column “Payment Assignment” did not correspond to the codes of articles established by the Procedure for Control of Receipts, Accounting and Use of Funds of Electoral Funds of Candidates for President of Ukraine. The administrator of the election fund, Volodymyr Matviychuk, was found guilty and fined UAH 5,100.

All other protocols (as of May 14, 2019 – 106 protocols) have been drawn up under Article 212-15 of the Code of Administrative Offenses in respect

.....
¹⁷ <https://bit.ly/2NmrGJd>

¹⁸ <https://bit.ly/2P1agGf>

of individuals who had an outstanding tax debt at the time of making contributions to the election fund of presidential candidates. An analysis of the court register indicates that courts have differently ruled on such cases. As of May 29, 2019 the following decisions are recorded in the court register:

- Donor Struzhenko Kateryna (in favor of Yuriy Boyko): fine – UAH 1,190, debt – UAH 1,515.40, contribution – UAH 132,600.
Court ruling: <https://bit.ly/2KVLXJl>
- Donor Fetisov Serhiy (in favor of Yuriy Boyko): fine – UAH 1,445, debt – UAH 249.55, contribution – UAH 149,000.
Court ruling: <https://bit.ly/2KK16yl>
- Donor Zozulya Mykola (in favor of Anatoliy Hrytsenko): fine – UAH 700, debt – UAH 1,819.01, contribution – UAH 148,000.
Court ruling: <https://bit.ly/2NjhvnX>
- Donor Shablovskya Tetiana (in favor of Yevheniy Muraev): fine – UAH 1,190, debt – UAH 1,517.77, contribution – UAH 149,000. Court ruling: <https://bit.ly/30hLUhy>
- Donor Onufriyenko Kseniya (in favor of Yuriy Boyko): closed due to lacking elements of administrative offense – as of the date of making the contribution, the donor had no knowledge about the outstanding debt in the amount of UAH 413.40, contribution – UAH 86,000.
Court ruling: <https://bit.ly/30jNpvJ>
- Donor Kolotsey Dmytro (in favor of Volodymyr Zelensky): closed due to lacking elements of administrative offense – as of the date of making the contribution, the donor had no knowledge about the outstanding debt in the amount of UAH 282.95, contribution – UAH 100,000.
Court ruling: <https://bit.ly/2ZgkEyx>
- Donor Yarmolenko Serhiy (in favor of Vitaliy Skotsyuk): closed due to lacking elements of administrative offense – as of the date of making the contribution, the donor had no knowledge about the outstanding debt in the amount of UAH 1,701.46, contribution – UAH 15,000.
Court ruling: <https://bit.ly/31ULcar>
- Donor Kamenev Erwin (in favor of Yuriy Boyko): closed due to lacking elements of administrative offense – as of the date of making the contribution, the donor had no knowledge about the outstanding debt in the amount of UAH 56.70, contribution – UAH 147,700.
Court ruling: <https://bit.ly/2HhwL8g>

Also, according to the analysis of interim and financial reports of the candidates, it became known that the NAZK sent materials on possible elements of a criminal offense to the National Police of Ukraine regarding the violations found in the reports of the following candidates: Bondar Viktor Vasyliovych, Hrytsenko Anatolii Stepanovych, Derevyanko Yuriy Bohdanovych, Karmazin Yuriy Anatoliiyovych, Koshulynskiy Ruslan Volodymyrovych, Kryvenko Viktor Mykolayovych, Murayev Yevheniy Volodymyrovych, Skotsyk Vitaliy Yvstafiyevich, Smeshko Ihor Petrovych, Solovyov Oleksandr Mykolayovych, Taruta Serhiy Oleksiyovych, Zelensky Volodymyr Oleksandrovych. All these cases concerned the violation of part three of Article 43 of the Law of Ukraine “On Election of the President of Ukraine,” as well as of paragraph 8, part one, Article 15 of the Law of Ukraine “On Political Parties in Ukraine.” NAZK was identifying donors who among natural persons who allegedly had a tax debt as of the date of contribution to the election fund, and notified the relevant election fund managers thereon. According to the law, such contributions should be transferred to the central budget, instead, the managers returned some funds to the donors themselves rather than to the budget. It was this fact, if established by the NAZK, that presented the grounds for contacting the police.

According to the reply to the request received on May 15, 2019, 16 documents were received by the Chief Investigative Directorate of the National Police coming from the NAZK in 2019, of which 6 documents were related to the financing of election campaigning of presidential candidates from the 2019 campaign. In addition, the response stated that, according to the Unified Register of Pre-trial Investigations, investigative units of the National Police in 2019 initiated and are investigating 13 criminal proceedings under Art. 159-1 of the Criminal Code of Ukraine (violation of the procedure for financing a political party, election campaigning, campaigning on an all-Ukrainian or local referendum).

Thus, it can be argued that the NAZK carried out its analysis of the election financial statements only on the basis of the information contained in the reports themselves, without taking into account the actual situation that occurred during the election process. This approach is formal in nature. One reason for its application is that NAZK did not have regional units to provide for receipt of operational information during the election process. Receiving such data from observers is also complicated because they, in turn, lack access to up-to-date information on candidates’ contributions and expenses.

Revenues and Expenses

According to the CEC election report¹⁹, the total amount of election funds of presidential candidates was over UAH 1.775 billion. Revenue structure:

- political party funds – UAH 634.8 mln, or 36%;
- Presidential candidates' own funds – UAH 556.1 mln, or 31%;
- voluntary contributions from legal entities – UAH 63.24 mln, or 4%;
- voluntary contributions from individuals – UAH 521.1 mln, or 29%.

The contributions from individuals and legal entities make up only one third of the total amount of revenues. It can be explained by two reasons: the complexity and the bureaucratic nature of the procedure for making such a contribution. On the other hand, such a situation may indicate an attempt to postpone the “verification of contributions” for the future. Thus, party expenses should be reflected in quarterly reports to NAZK (1st quarter for first round participants, 1st and 2nd quarter – for the participants of the second ballot). It largely postpones such a review by the NAZK in a time period where the potential violations identified will no longer be reputational for the candidates. The same applies to candidates' own funds, which can be verified in NAZK declarations, but after a long period of time.

4 candidates failed to establish their election fund: Danylyuk Oleksandr Volodymyrovych, Nasirov Roman Mykhailovych, Vashchenko Oleksandr Mykhailovych, Hnap Dmytro Volodymyrovych.

Another 7 candidates have established their funds under UAH 100,000:

- Ryhovanov Ruslan Oleksandrovych – UAH 100 UAH of voluntary contribution from an individual;
- Haber Mykola Oleksandrovych – UAH 500 of voluntary contribution from an individual;
- Balashov Hennadiy Viktorovych – UAH 27,700 of voluntary contributions from individuals and UAH 1,000 of political party funds;
- Kyva Illia Volodymyrovych – UAH 30,000 of voluntary contributions from individuals;

.....
¹⁹ <https://bit.ly/2ECMeOR>

- Kryvonis Serhiy Hryhorovych – UAH 30,500 of voluntary contributions from individuals;
- Tymoshenko Yuriy Volodymyrovych – UAH 76,800 of voluntary contributions from individuals;
- Novak Andriy Yaremovych – UAH 86,500 of voluntary contributions from individuals.

The candidates spent UAH 1.73 billion to finance their election campaign. The largest share in the total expenses went on the use of mass media (67.1% or UAH 1.16 bln.). Other services related to campaigning make up 16.7% of the total amount, the cost of producing (purchasing) campaigning materials – 12.4%, other expenses for election campaigning – 3.8%. It should be understood that the entries “Other Campaigning Services” and “Other Campaigning Expenses” make up 20% of the costs, which is a fairly general cost item. Unfortunately, cost breakdowns by transcripts to reports do not often contain any information about a particular transaction. This information is available exclusively to the CEC and the NAZK, who have access to the relevant contracts and other accounting documents annexed to the financial statements. Such details are not available to the public.

The highest amounts were contributed for election funds by the following candidates (the table below lists candidates with funds over UAH 10 mln):

Candidate	(candidate's personal funds)	Voluntary contributions of individuals	Donations from legal entities	Political party funds	Total amount
Poroshenko Petro	584 507 591				584 507 591
Tymoshenko Yuliya				228 917 754	228 917 754
Vilkul Oleksandr		153 659 490	11 566 033		165 225 523
Zelensky Volodymyr	11 654 393	71 755 763	7 130 000	65 865 218	156 405 374
Hrytsenko Anatoliy		84 239 348	312 200	39 192 500	123 744 048
Liashko Oleh		9 433 440		104 026 258	113 459 698
Taruta Serhiy	32 943 883	62 731 681		9 532 946	105 208 510
Boyko Yuriy		64 764 735	12 194 500		76 959 235
Shevchenko Oleksandr		26 699 999	1 600 000	44 830 900	73 130 899
Sadovyi Andriy	200 880	4 415 538	28 893 800	10 508 570	44 018 788
Koshulynskiy Ruslan		11 468 905		8 581 196	20 050 101
Murayev Yevheniy		15 063 799	900 000		15 963 799
Kaplin Serhiy		10 896 534			10 896 534
Nalyvaichenko Valentyn		6 583 285		3 548 256	10 131 541

Return of Contributions to Candidates' Election Funds in Accordance With the Final Financial Statements

Candidates	Returns to persons who have received contributions from the Fund after election day	Repayment of contributions to persons individual that have been waived by the cumulative account manager	Refunds to persons of amounts exceeding the contribution amount	Total return
Zelensky Volodymyr	0	12 948 692	0	12 948 692
Hrytsenko Anatoliy	0	11 117 409	0	11 117 409
Sadovyi Andriy	0	5 900 200	0	5 900 200
Shevchenko Oleksandr	0	4 900 000	0	4 900 000
Vilkul Oleksandr	0	4 245 000	27 000	4 272 000
Solovyov Oleksandr	0	1 000 000	0	1 000 000
Boyko Yuriy	0	855 500	0	855 500
Liashko Oleh	0	598 500	0	598 500
Smeshko Ihor	0	90 582	0	90 582
Koshulynskiy Ruslan	0	38 010	0	38 010
Skotsyk Vitaliy	0	23 920	0	23 920
Derevyanko Yuriy	0	19 800	0	19 800
Nalyvaichenko Valentyn	0	19 530	0	19 530
Balashov Hennadiy	0	8 412	0	8 412
Tymoshenko Yuriy	0	7 670	0	7 670
Kryvenko Viktor	0	300	0	300

Transfer of Funds to the Budget According to the Analysis of Candidates' Financial Statements

Candidates	Transfers to the State Budget of Contributions Received to Election Funds After Election Day	Transfer to the State Budget of the contributions that the Fund Account Manager has declined (in case it cannot be returned to persons)	Transfer to the State Budget of contributions of persons who are not entitled to make them	Transfer to the State Budget of Ukraine exceeding the amount of the contribution in case it is impossible to return them to the persons	Total return
Boyko Yuriy	0	0	1 938 900	0	1 938 900
Vilkul Oleksandr	0	0	1 890 000	0	1 890 000
Sadovyi Andriy	0	100	568 500	0	568 600
Hrytsenko Anatoliy	0	10	0	222 435	222 445
Smeshko Ihor	0	56 888	83 067	0	139 954
Zelensky Volodymyr	0	4 349	90 633	0	94 982
Skotsyk Vitaliy	0	0	51 201	0	51 201
Murayev Yevheniy	0	0	8 672	0	8 672
Nalyvaichenko Valentyn	0	0	4 985	0	4 985
Derevyanko Yuriy	0	0	1 985	0	1 985
Taruta Serhiy	0	0	754	0	754
Koshulynskyi Ruslan	700	0	0	0	700
Haber Mykola	0	500	0	0	500
Tymoshenko Yuriy	0	100	0	0	100

Table of Expenses of Candidates Over UAH 10 mln

Candidate	Production of election campaign materials	Use of printed media	Other expenses for election campaigning	Other services related to campaigning	Total
Poroshenko Petro	121 217 304	346 152 344	31 416 875	85 721 069	584 507 591
Tymoshenko Yuliya	26 315 894	169 977 373	2 231 051	30 393 437	228 917 754
Vilkul Oleksandr	6 874 190	138 716 722	466 750	13 005 616	159 063 278
Zelensky Volodymyr	3 199 695	109 920 223	6 034 676	24 207 107	143 361 701
Liaško Oleh	14 209 262	86 581 466	3 200	12 067 270	112 861 198
Hrytsenko Anatoliy	18 434 759	61 918 254	3 054 592	28 996 588	112 404 193
Taruta Serhiy	1 837 559	87 745 486	5 173 929	10 450 782	105 207 756
Boyko Yuriy	3 835 506	54 350 421	319 097	15 659 810	74 164 835
Shevchenko Oleksandr	1 705 252	38 716 690	7 803 500	19 309 873	67 535 315
Sadoviy Andriy	4 640 867	10 888 392	944 552	21 076 109	37 549 920
Koshulynskiy Ruslan	795 435	15 185 231	191 664	3 839 062	20 011 391
Murayev Yevheniy	1 306 662	11 108 963	57 182	3 482 320	15 955 127
Kaplin Serhiy	973 178	5 185 378	3 700	4 734 278	10 896 534
Nalyvaichenko Valentyn	407 433	8 993 316	209 970	496 307	10 107 026

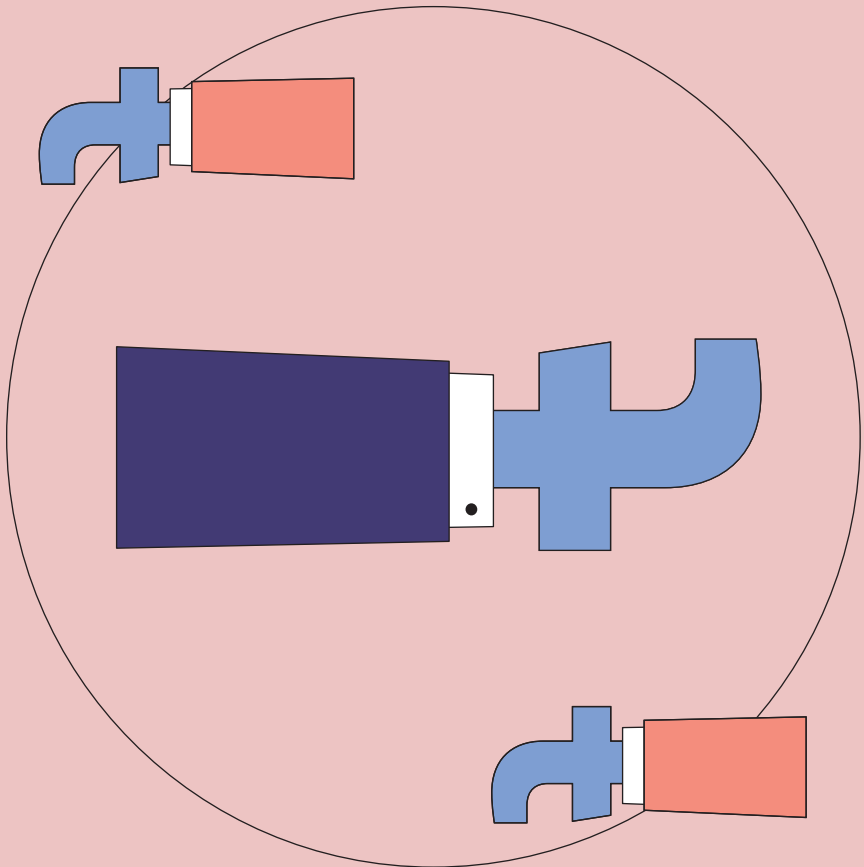
Election fund of a candidate Petro Poroshenko shall be highlighted. Over UAH 6 mln. From the fund was transferred to NGOs. According to the financial report, non-profit NGOs were involved in the election campaign as executors of “commercial” agreements (payment for printed space; rent/sublet of premises; organization and holding of public events, including campaigning, meetings with voters; distribution of campaign products). Unfortunately, the NAZK did not pay attention to this. As non-profit entities, NGOs shall submit their reports once a year, in a simplified form. Accordingly, NGO involvement into the election process as executors of commercial agreements contains elements of concealing details of the use of election funds.

Expenditures on Non-Governmental Organizations of Candidate Petro Poroshenko, With the Total Amount Above UAH 100,000

Name of NGO	The total amount of transactions	Number of transactions
Institute for the Development and Promotion of Democracy	2 337 000	5
Solidarity	607 199	23
Ukraine-Europe Center for Public Initiative	418 935	10
Volyn Center for Governance Development	358 793	15
Volunteer Space	300 256	1
Kirovohrad Regional Information and Resource Center	211 882	17
Patriots Team	158 500	11
Team Kherson	138 000	8
Research and Consulting Agency	127 000	6
Foundation for Promoting Civil Society Development	117 460	3
Regional Development Council	113 356	1
Ukraine, the Center For Democratic Society	105 720	4
Local Strategies	103 000	1

According to OPORA, the state should reinforce the law on electoral and political finance. First, it is advisable to substantially increase access to the public and other stakeholders for operational information on the dates of opening of election funds, their administrators, the contributions and expenditures from the accounts of such funds. It is also necessary to simplify the forms of reports of election fund administrators and to ensure that they are published in an open data format. Secondly, the state needs to strengthen the NAZK institutional capacity to detect electoral finance violations. This can be done by organizing the work of the Agency's regional units to gather operational information during the election process. Third, the aspect of early campaigning of candidates and the practice of involving NGOs in election campaigns should be regulated at the legislative level. It is also advisable to consider granting electoral subjects the right to open election funds prior to their official registration in order to ensure complete transparency of all candidates' expenses.

CANDIDATE CAMPAIGNING ON THE FACEBOOK SOCIAL NETWORK



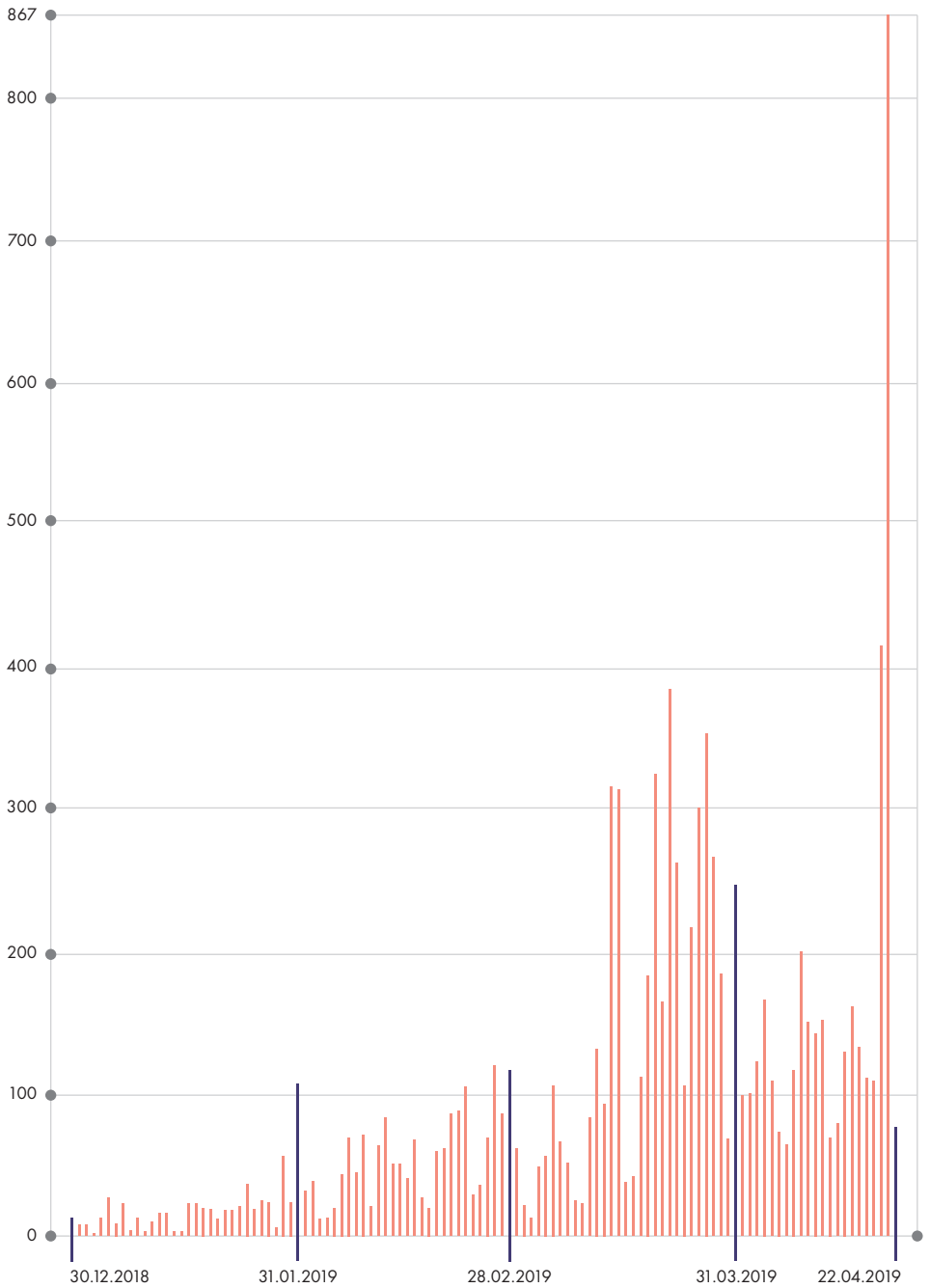
During the election process, OPORA not only monitored conventional forms of election campaigning, but also recorded the candidates' activity on the Internet and social media. According to the monitoring findings, the organization's observers have grounds to claim a significant role of such kind of campaigning in the electoral process. Against the background of the active use of new forms of campaigning by presidential candidates, the issue of effective control and transparency of financial expenditures in this area becomes especially relevant.

Ukrainian law lacks legal instruments to regulate election campaigning on the Internet (except for online outlets) and in social networks. However, the Law on the election of the president prohibits the use of presidential candidates' own funds or other sources for election campaigning, including as initiated by voters. Thus, the payment by third parties of advertising on social networks is not an acceptable form of campaigning. At the same time, there are no explicit statutory prohibitions to hold a person responsible for placing election campaigning on the Internet and social networks at the cost other than the election fund.

On March 18, 2019, the Facebook social network introduced new rules for the publication of political advertising in Ukraine, which allow you to find out about the commissioners of the advertising, the target audience, the targeted number of views, the cost of it, and more. The rules introduced were intended to prevent hidden foreign interference in the electoral process, and increase the transparency of political advertising funding. Thus, since March, 18, 2019, all political ads on Facebook should have been labeled (a disclaimer) and included into the Facebook Ad Library to be stored for seven years. Based on this data, OPORA explored how presidential candidates used the social network in their election campaigning and compared the cost of hosting election campaigning on Facebook with the costs indicated in the final financial statements.

From December, 31 to March, 22, the Political Ad Library on Facebook hit 10,634 advertisement posts, 15% of which were posted on the social network on days of silence – March 30-31, and April 20-21. The graph below shows the distribution of ads by the date they started running.

Number of Facebook advertising posts by date



37 out of 44 presidential candidates had their public profiles on Facebook. However, only 13 of them posted advertising campaigning posts online. According to our estimates, based on the Political Ad Library, over the campaign period, presidential candidates have spent on their Facebook official pages from UAH 9.2 mln to UAH 48 mln. Instead, according to the final financial statements, presidential candidates spent about UAH 13.5 mln on advertising online.

Comparison of Candidates' Spending on Political Advertising on Facebook Showing the Costs in the Final Financial Statement

Candidate	Provisional spending on political advertising on Facebook (from-to, UAH)	Advertising costs on the Internet according to the final financial statement (UAH)
Volodymyr Zelenskyi	934 000 – 9 227 000	259 197
Petro Poroshenko	2 432 700 – 10 692 000	1 199 900
Yuliya Tymoshenko	877 500 – 3 340 000	1 018 000
Yuriy Boyko	459 000 – 3 526 000	156 700
Anatoliy Hrytsenko	310 500 – 1 496 000	2 392 743
Oleksandr Shevchenko	1 903 500 – 7 252 000	7 650 000
Yuriy Derevyanko	626 400 – 3 609 000	396 000
Serhiy Taruta	469 800 – 2 389 000	350 000
Oleksandr Vilkul	332 100 – 1 491 000	0
Oleh Liashko	248 400 – 1 102 000	0
Ihor Shevchenko	151 200 – 682 000	0
Ruslan Koshulynskyi	132 300 – 677 000	60 000
Yuliya Lytvynenko	118 800 – 595 000	0

Analysts and observers from OPORA have studied the specifics of the most active candidates on the Internet.

Volodymyr Zelensky

Most candidate-sponsored advertisements were shared on the page of “Команда Зеленського” (“Komanda Zelenskoho” / lit. – Zelensky Team, facebook.com/ze2019official/) – 2,258 advertisements, and from regional pages of “Komanda Zelenskoho” – 558 ads (page titles could change upon completion of presidential elections). The total cost of political campaigning on the social network Facebook ranges from \$ 43,000 to \$ 426,000. According to the Political Ad Library, all political ads on the “Komanda Zelenskoho” page was paid by the same-name NGO headed by the curator of the candidate’s online campaign Mykhaylo Fedorov (Digital Transformation Minister in the current Government of Oleksiy Honcharuk). There are two payments in the candidate’s final financial statement – “for placing advertising on the Internet” amounting to UAH 259,197, equivalent to about US \$ 10,000. It is also worth noting that despite the prohibited campaigning on the day before and during the elections, the “Komanda Zelenskoho” page continued to actively advertise on Facebook. Thus, during March, 30-31, 168 ads were posted there. On April, 20-21 – 1,170 posts. Political ads campaigning against Volodymyr Zelensky were shared on 8 pages:

- “Zelenka” (facebook.com/zelenka2020/) – 21 ads at the cost ranging from \$ 17,800 to \$ 66,679;
- “Бойкот Партиї Регионов” (“Boykot Partiyi Regionov” / lit. – Boycott to the Party of Regions, facebook.com/BoycottelInUkraine/) – 37 ads worth from \$ 12,900 to \$ 43,263;
- “Міністерство бариг” (“Ministerstvo Baryh” / lit. – Ministry of Pushers, facebook.com/MinBaryg/) – 55 ads costing from \$ 33,800 to \$ 151,745;
- “Жовта Стрічка” (“Zhovta Strichka” / lit. – Yellow Tape, facebook.com/ZhovtaStrichka2.0/) – 18 advertisements worth from \$ 17,000 to \$ 81,982;
- “Зрада/Перемога” (“Zrada/Peremoha” / lit. – Betrayal/Victory, facebook.com/ZradaPeremoga/) – 35 ads costing from \$ 15,300 to \$ 54,265;
- “Слуга урода” (“Sluha Uroda” / lit. – Freak Servant, facebook.com/SlugaUroda/) – 59 advertisements costing from \$ 28,400 to \$ 116,741;

- “Коломойський – президент” (“Kolomoisky Presydent” / lit. – Kolomoisky the President, [facebook.com/PresidentKolomoisky/](https://www.facebook.com/PresidentKolomoisky/)) – 1 advertisement costing from \$ 100,00 to \$ 49,999;
- “Бенин клоун” (“Benin Kloun” / lit. – Benya’s Clown, [facebook.com/Benin-Clown-278792979496874/](https://www.facebook.com/Benin-Clown-278792979496874/)) – 12 advertisements costing from \$ 5,300 to \$ 23,788.

Petro Poroshenko

Most of the advertising posts for the candidate were posted on the candidate’s official website. According to the Facebook Political Ads Library, during the election campaign, 109 ads were posted on the page, ranging in value from \$ 90,100 to \$ 395,991. In the presidential candidate’s final financial statement, 6 payments are stated “for advertising on Internet” in the amount of UAH 1,199,900 (about USD 45,000). In addition to the official page, the campaign for the candidate was shared by the pages “Успішна Україна” (“Uspishna Ukrayina” / lit. – Successful Ukraine)²⁰ – 46 posts, “Блок Петра Порошенка Солідарність” (“Blok Petra Poroshenka Solidarnist” / lit. Solidarity Bloc of Petro Poroshenko)²¹ – 44, “Вінниччина з Порошенком” (“Vinnychyna z Poroshenkom” / lit. – Vinnytsia Region Supports Poroshenko²²) – 39, “Порошенко2019” (“Poroshenko2019”)²³ – 31, that spent from \$ 70,000 to \$ 296,640 on advertising. Also, advertising campaigns in favour of Petro Poroshenko were shared by public pages that were mainly discrediting other candidates, such as: “Міністерство бариг” (“Ministerstvo Baryh” / lit. – Ministry of Pushers)²⁴, “Zelenka”²⁵, “Жовта Стрічка” (“Zhovta Strichka” / lit. – “Yellow Tape”)²⁶, “Зрада/Перемога” (“Zrada/Peremoha” / lit. – Betrayal/Victory)²⁷ and “Бойкот Партії Регіонів” (“Boykot Partiyi Regionov” / lit. – Boycott to the Party of Regions)²⁸.

.....
20 [facebook.com/SuccessfulUkraine/](https://www.facebook.com/SuccessfulUkraine/)

21 [facebook.com/EuropeanSolidarity.official](https://www.facebook.com/EuropeanSolidarity.official)

22 [facebook.com/poroshenkovn/](https://www.facebook.com/poroshenkovn/)

23 [facebook.com/PetroPoroshenko2019/](https://www.facebook.com/PetroPoroshenko2019/)

24 [facebook.com/MinBaryg/](https://www.facebook.com/MinBaryg/)

25 [facebook.com/zelenka2020/](https://www.facebook.com/zelenka2020/)

26 [facebook.com/ZhovtaStrichka2.0/](https://www.facebook.com/ZhovtaStrichka2.0/)

27 [facebook.com/ZradaPeremoga/](https://www.facebook.com/ZradaPeremoga/)

28 [facebook.com/BoycotteInUkraine/](https://www.facebook.com/BoycotteInUkraine/)

Yuliya Tymoshenko

According to the Facebook Political Ad Library, during the election campaign period, the verified page of Yuliya Tymoshenko has published 93 ads costing from USD 32,500 to USD 123,707. Most of them were paid by Modern Advertising Solutions LLC, the founder of which is the chairman of the Kyiv city organization “Batkivshchyna Moloda” Oleksiy Zakharchenko. The candidate’s final financial statement shows 2 payments for advertising on the Internet in the amount of UAH 18,000 and one payment for providing services by “Modern Advertising Solutions” LLC amounting to UAH 1 mln (about USD 38,000). In addition to the official site, campaigning for the candidate was shared by the following pages: “Я за Тимошенко – Фан Клуб” (“Ya za Tymoshenko – Fan Klub” / lit. – I’m for Tymoshenko – Fan Club)²⁹ – 34 ads worth from \$ 8,200 to \$ 38,266 and “Воєнний кабінет Юлії Тимошенко” (“Voennyi Kabinet Yuliyi Tymoshenko” / lit. – Yuliya Tymoshenko’s Military Cabinet)³⁰ – 86 ads costing between \$ 2,500 and \$ 16,314. Posts campaigning against the candidate were shared by the following pages:

- “Невір’ю” (“NevirYu” / lit. – I do not believe to Yu, facebook.com/tymoshenko.breshe/) – 28 advertisements costing from \$ 11,900 to \$ 50,972;
- “ЮлеСтоп” (“YuleStop” / lit. – Stop to Yulia, facebook.com/TymoshenkoStop/) – 10 advertisements worth from \$ 7,600 to \$ 21,990;
- “Баронеса Брехні” (“Baronesa Brekhni” / lit. – Baroness of Lies, facebook.com/brehJulia/) – 6 advertisements worth from \$ 2,700 to \$ 12,094;
- “Міністерство бариг” (“Ministerstvo Baryh” / lit. – Ministry of Pushers, facebook.com/MinBaryg/) – 55 advertisements costing from \$ 33,800 to \$ 151,745;
- “Жовта Стрічка” (“Zhovta Strichka” / lit. – Yellow Tape, facebook.com/ZhovtaStrichka2.0/) – 18 advertisements worth from \$ 17,000 to \$ 81,982.

.....
29 facebook.com/tymoshenkofanclub/

30 facebook.com/voennyikabinet/

Yuriy Boyko

According to the Facebook Political Ads Library, during the election campaign, 615 advertisements with a price ranging from \$ 17,000 to \$ 130,585 were posted on the page of a presidential candidate Yuriy Boyko. According to Facebook data, 225 out of 615 publications were paid from the candidate's election fund. Other posts do not contain any information about the payer. The final financial statement of the candidate reflects 10 payments for advertising on the Internet in the amount of 156,700 UAH (about USD 6,000). The campaigning supporting the candidate were also shared by the following pages:

- “Запорожье – за Бойко” (“Zaporozhye za Boyko” / lit. – Zaporizhzhia – for Boyko, facebook.com/opzjzp/) – 63 advertisements costing from 0 USD to USD 6,237;
- “Харьковщина за Бойко” (“Kharkovshchina za Boyko” / lit. – Kharkiv for Boyko, facebook.com/kharkovshchina.za.boyko/) – 16 advertisements costing from 0 USD to 1 584 USD.

Anatoliy Hrytsenko

According to the Facebook Political Ads Library, during the election campaign, 94 ads ranging from \$ 11,500 to \$ 55,406 were posted on the verified page of a Presidential candidate Anatoliy Hrytsenko. The candidate's final report shows 171 payments totalling UAH 2,392,743 (about USD 90,000). The candidate campaigning supporting posts were also circulated on the “ДемАльянс” (“DemAlyans” / lit. – DemAlliance)³¹ – 37 promotional posts costing between \$ 4,100 and \$ 18,563. The campaigning against the candidate was published by the following pages:

- “Реальный Грищ” (“Realnyi Hryshch” / lit. – Real Hryshch, facebook.com/realnygrysh/) – 11 advertisements worth from \$ 3,700 to \$ 17,489;
- “Міністерство бариг” (“Ministerstvo Baryh” / lit. – Ministry of Pushers, facebook.com/MinBaryg/) – 55 ads costing from \$ 33,800 to \$ 151,745.

Other candidates

Oleksandr Shevchenko – during the election campaign, posted on his Facebook page 192 ads costing \$ 70,500 to \$ 268,608. The final financial statement of the candidate reflects 34 payments for “Internet advertising services” amounting to UAH 7,650,000 (about USD 290,000).

.....
³¹ facebook.com/DemAlliance/

Yuriy Derevyanko — during the election campaign, posted on his Facebook page 540 ads worth \$ 23,200 to \$ 133,860. The final financial statement of the candidate reflects 2 payments for “placement of advertising materials on the Internet” in the amount of UAH 396,000 (about USD 15,000).

Serhiy Taruta — during the election campaign, posted on his Facebook page 205 ads worth \$ 17,400 to \$ 88,495. The candidate’s final financial statement shows 1 payment for “advertising online” amounting to UAH 350,000 (appr. USD 13,000).

Oleksandr Vilkul — during the election campaign, posted on his Facebook page 84 ads for \$ 12,300 to \$ 55,216. The candidate’s final financial statement lacks information about any payments for online advertising.

Oleh Liashko — during the election campaign, posted on his Facebook page 89 promotional posts ranging from \$ 9,200 to \$ 40,811. The candidate’s final financial statement lacks information about any payments for online advertising.

Ihor Shevchenko — during the election campaign, posted on his Facebook page 44 promotional posts ranging from \$ 5,600 to \$ 25,256. The candidate’s final financial statement lacks information about any payments for online advertising.

Ruslan Koshulynskyi — during the election campaign, posted on his Facebook page 50 ads worth \$ 4,900 to \$ 25,050. The final financial statement of the candidate reflects 2 payments for “election campaigning on the Internet” for the amount of UAH 60,000 (about USD 2,200).

Yuliya Lytvynenko — during the election campaign, posted on her Facebook page 78 ads worth between \$ 4,400 and \$ 22,022. The final financial statement of the candidate does not contain any information about payments for online advertising.

As the OPORA’s research findings show, presidential candidates have been actively campaigning for themselves on social networks and via the Internet. Mechanisms of state control over the costs for such campaigning remain ineffective, and national legislation does not yet take into account new forms of campaigning in the context of the growing role of new technologies in the electoral process. OPORA believes that Ukrainian legislators should launch a broad discussion on the formats of electoral campaigning on the Internet, mechanisms to control candidates’ respective expenditures, and the possible functions of the regulator in this area.

The role of social networks in the election campaign is not limited to political advertising of candidates. During the election, the activity of the electoral process on the Internet is combined with the problems of covert campaigning, the sharing of misinformation and fake messages, “dirty” counter-campaigning, and engaging popular pages to post in favour of the candidates.

OPORA comprehensively analyzed the course of the regular presidential election campaign on Facebook.

The main objects under monitoring were the following:

1. The activities of presidential candidates and other constituencies on the Facebook social network.
2. Activities of Facebook pages created primarily with the purpose to discredit presidential candidates.
3. Pages sharing misinformation and fake messages.
4. Promotion of posts through political advertising on Facebook.
5. Operations of mass media and public pages popular in Ukraine.

OPORA study covered 370 public pages on the Facebook social network that published about 280,000 posts during the election campaign. Of them, 37,000 posts were grouped content-wise by OPORA monitors.

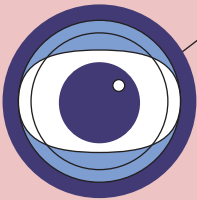
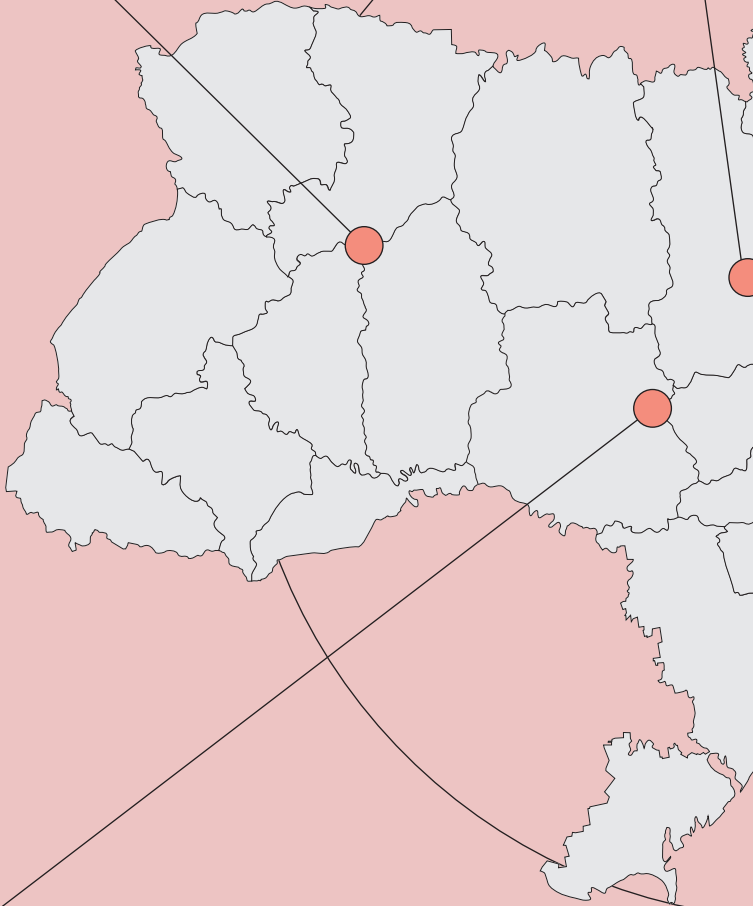
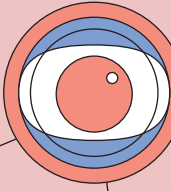
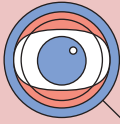
Based on the information obtained during the monitoring, the following can be summarized:

- The largest-scale campaigns on Facebook were the campaigns of Volodymyr Zelensky, Petro Poroshenko and Yuliya Tymoshenko. In addition to the significant costs for political advertising, it was on this social network that a considerable number of pages were created to support the candidates. They posted texts, photos and videos in favour of candidates, as well as a variety of reports (memes, photoshopped images, video clips) discrediting other candidates.
- The topics used in the election campaign on Facebook did not differ significantly from those used by candidates in the offline campaign. In addition to direct campaigning for or against a particular candidate, focus was made on reforms and their evaluation, conflict in the East, corruption, biographical information of candidates, housing and utility rates, etc.

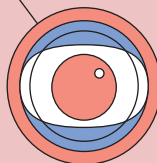
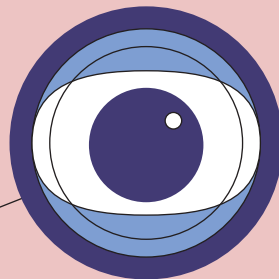
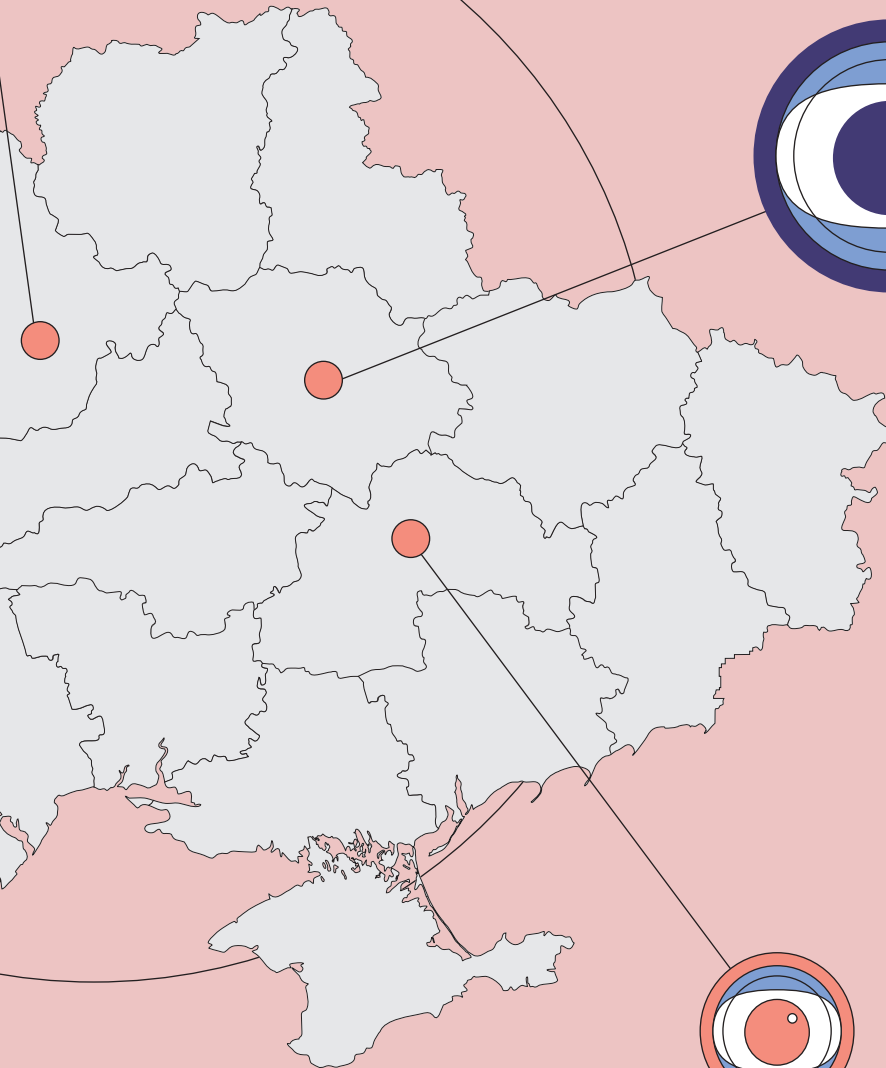
- For the front-runners, Petro Poroshenko and Volodymyr Zelensky, it was common to have a different focus of campaigning, depending on the election round. In the case of campaigning for the first round of elections, the main focus was on positive coverage of candidates (61% of all posts supporting Volodymyr Zelensky, and 62% of all posts campaigning for Petro Poroshenko were published), and fewer discrediting posts (only 20% of all posts that negatively covered Volodymyr Zelensky, and 42% of all posts that defamed Petro Poroshenko). In campaigning for the second round of elections, we see a significant increase in the discrediting campaigns against both Petro Poroshenko, and Volodymyr Zelensky. During this period, 58% of all posts published discredited Petro Poroshenko, and 80% of posts negatively presented Volodymyr Zelensky in a bad light. At the same time, less attention is paid to campaigning as such: 38% posts in favour of Petro Poroshenko, and 39% posts supported Volodymyr Zelensky. Such changes in campaigning are indicative of candidates' desire for a change in public opinion, which demonstrates their focus primarily on discrediting a competitor rather than on ways to attract the electorate to their side.
- The use of an administrative resource was also peculiar to the campaign of Petro Poroshenko: the Facebook pages of regional state administrations were used for campaigning. A particularly large number of posts supporting Petro Poroshenko was characteristic of the Mykolaiv (28.78% of posts), Kirovohrad (14.03%), and Khmelnytsky (10%) RSAs. It should also be noted that during the campaigning for the second round of elections, the support of the then President on these pages generally has dropped 5 to 10 times, and disappeared altogether after the elections.

Among other things, OPORA also investigated the activity of the Facebook pages of the mass media, in particular, the click-bait outlets. Most of them published both positive and defamatory material against Petro Poroshenko and Volodymyr Zelensky. It is noteworthy that among the publications related to Volodymyr Zelensky, the more positive ones (approving) were more popular. Conversely, among those referring to Petro Poroshenko, negative and defamatory posts prevailed were more popular.

The election campaign on Facebook was also marked by violations of electoral law: campaigning in the days of silence and on election days (including the use of a large number of targeted political advertisements by the "Komanda Zelenskoho" page), Facebook advertising covered other than from the election fund, disseminating exit polls before the voting process was completed.



NATIONAL OBSERVATION



OPORA analyzed the peculiarities of the non-party affiliated observation and activities of observers at the regular presidential elections in Ukraine. The law on the election of the president of Ukraine grants the right to have official observers to three subjects: 1) candidates for the position of the President; 2) political parties nominating their candidates; 3) NGOs granted permission to conduct observation. The 2019 presidential elections in Ukraine showcased the intention of political subjects to use non-governmental organizations to imitate an independent observation for their own interests. At that, the law grants political parties and candidates with all legal capacity to control the legitimacy of electoral process. OPORA calls for political parties to avoid practices of manipulating with the possibilities of non-partisan observation, since they affect social trust to independent observers.

A legitimate participation of non-partisan or unbiased observers in the electoral process, providing for due conditions for their unimpeded activities are the integral elements of democratic elections. Ukrainian legal framework ensures the right of NGOs to receive the permission to conduct observation at the elections. Upon receiving the permit from the CEC, NGOs can register their official observers who act as electoral subjects. Ukraine provides for due conditions to conduct a non-partisan observation at elections of all levels. However, unfortunately, parallel to official procedures, there are practices when political groups use the formally non-partisan observers to their own advantage.

At the regular presidential elections in Ukraine, OPORA explored into practices of possible engagement of NGOs entitled to conduct observation into the candidates' election campaigns. Analysis of issues of non-partisan or unbiased observation during elections is an important part of a broad social and political dialogue about the quality and non-manipulative electoral process in Ukraine. Instead, the experience of presidential elections shows that candidates were trying to gain non-competitive advantages during elections by using local or related NGOs.

The Law of Ukraine "On Election of the President of Ukraine" establishes only two requirements to non-governmental organizations willing to observe the elections. Thus, the electoral process may allow observers from NGOs registered under the applicable law, which statutory activities include electoral process engagement and observation therefor.

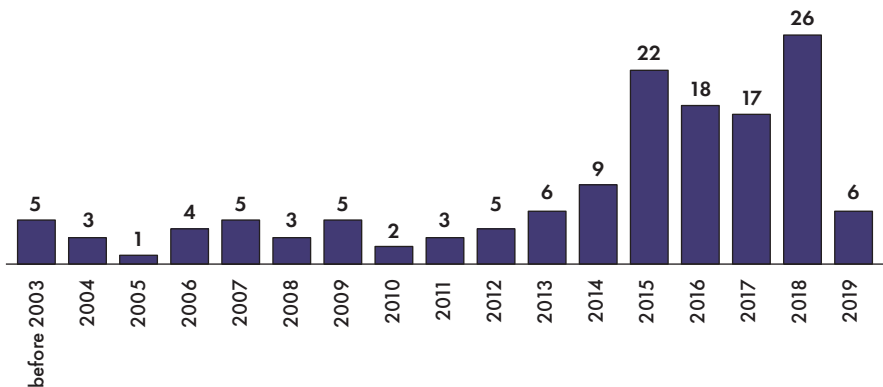
Over the electoral campaign, CEC received 152 applications from NGOs, 139 of them have been given permit to have their official observers at the elections of the President of Ukraine. 13 organizations were rejected due to lack of electoral aspects and observation activities in their statutes.

85 of 139 NGOs had not had any prior observation experience at elections in Ukraine. It was only 5 of 139 NGOs who have taken part in observation at the 2014 special presidential elections, while 14 NGOs have conducted observation over the electoral process only once – at the elections to the amalgamated hromadas on December, 23, 2018.

Most of the 139 organizations were registered after 2014. In particular, 6 NGOs were registered during the campaign proper:

- “Fair Ukrainian Village” NGO;
- “Strong Communities” NGO;
- “POLIS Center for Social Research” NGO;
- “Team ZE” NGO;
- “Free Choice of Ukraine” NGO;
- “Civil Association of Luhansk Region”.

Year of NGOs registration



Using the open sources, OPORA verified all non-governmental organizations for their possible connection with the presidential candidates, political parties and well-known politicians. Thus, we identified that 39 NGOs were directly related to presidential candidates. Thus, at least 12 out of 39 candidates had links to at least one NGO.

Next follow the names of non-governmental organizations that might have been related with candidates for the Presidential position in Ukraine and with political groups supporting them:

Oleksandr Vilkul and Yevhen Muraev (two candidates reached agreement during the presidential elections about political support):

- Non-governmental organization “Center for Industrial Ecology”;
- Non-governmental organization “Institute for Peace and Development”;
- Non-governmental organization “International Organization “Triumvirat”;
- Non-governmental organization “Voters League”;
- Non-governmental organization “Non-governmental Media Advocacy Group”;
- Non-governmental organization “Public Authority Group”;
- Non-governmental organization “European Self-Government of Local Communities”;
- Non-governmental organization “Center of Public initiatives: For Odesa!”;
- Non-governmental organization “Council for Law and Order”;
- Non-governmental organization “All-Ukrainian Association “NASHI”.

Yuliya Tymoshenko:

- All-Ukrainian non-governmental organization “Women of Batkivshchyna”;
- Non-governmental organization “I Support YVT”;
- Non-governmental organization “Hearts of Batkivshchyna”;
- Non-governmental organization “All-Ukrainian Movement “Power of Law”;
- Non-governmental organization “All-Ukrainian Association “Anticorruption Movement of Ukraine”;
- Non-governmental organization “All-Ukrainian Association “Anticorruption Movement of Batkivshchyna”;
- Non-governmental organization “Environmental Ukraine”;

- Non-governmental organization “Development of Democratic Initiatives”;
- All-Ukrainian youth non-governmental organization “Youth Sports Movement”;
- Non-governmental organization “Social Justice “Conscience”.

Petro Poroshenko:

- Non-governmental organization “All-Ukrainian non-governmental organization “Solidary Youth”;
- Non-governmental organization “Ukrainian center for Democratic Society”;
- Non-governmental organization “All-Ukrainian Department for Corruption Detection and Prevention in Public Authorities and in Local Self-Government”;
- Non-governmental organization “UDAR (Ukrainian Democratic Alliance for Reforms) of Vitaliy Klitschko”.

Volodymyr Zelensky

- Non-governmental organization “Servants of the People”;
- Non-governmental organization “ZE Team”.

Anatolii Hrytsenko + Andriy Sadovyi + Dmytro Dobrodomov:

- Non-governmental organization “Center for Control of Electoral Agendas”;
- Non-governmental organization “Self-Reliance Union”;
- Non-governmental organization “Popular Control of Chernihiv”;
- Non-governmental organization “Popular Control of Transcarpathia”.

Viktor Bondar:

- Non-governmental organization “Party of Mykolayiv Citizens”;
- Non-governmental organization “All-Ukrainian human rights group “Rule of Law”.

Danyliuk Oleksandr:

- Non-governmental organization “Institute of Political Strategies”;
- Non-governmental organization “All-Ukrainian Association “Shared Task”.

Viktor Kryvenko:

- Non-governmental organization “All-Ukrainian non-governmental organization “Youth Popular Movement”.

Illya Kyva:

- Non-governmental organization “Popular Lustration Center”.

Arkadiy Kornatskyi:

- All-Ukrainian Association “Movement of Free Village Citizens”.

Roman Bezsmertnyi:

- Non-governmental organization “Center for Electoral Systems”.

Yuriy Derevyanko:

- Non-governmental organization “VOLIA!”.

Despite the big number of NGOs related to candidates eligible for observations, not all of them made use of the right to register their observers in constituencies. Out of the 139 NGOs granted with the CEC permit, only 86 (61%) NGOs made use of their right to have observers and register at least one observer. It illustrates a staffing problem at electoral campaigns of Ukrainian political parties and candidates. Electoral subjects often have an intention to manipulate electoral procedures but lack human capacity for efficient implementation of electoral technologies.

According to the CEC data, at the regular 2019 elections of the President of Ukraine, 83,230 observers were registered from NGOs. The highest number of official observers registered in the following organizations:

	Name of NGO	Number of registered official observers
1	Non-governmental organization “Ukrainian Center for Democratic Society”	27 279
2	Non-governmental organization “ZE Team”	11 447
3	Non-governmental organization “All-Ukrainian non-governmental organization “Solidary Youth”	7 186

4	All-Ukrainian non-governmental organization "Advanced Legal Initiatives"	6 898
5	All-Ukrainian non-governmental organization "Civil Network "OPORA"	5 133

The largest number of NGO observers was registered in the following constituencies TECs:

- TEC № 47 (Donetsk oblast) – 1,195 observers;
- TEC № 132 (Mykolayiv oblast) – 864 observers;
- TEC № 20 (Volyn oblast) – 860 observers.

OPORA calls political parties and candidates during the next elections to avoid practices of using NGOs related thereto in the interests of their election campaigns. A non-party affiliated and unbiased observation during the elections can only win trust of the society when its factual dependence on political powers is provided. In practice, voters find it difficult to differentiate the true genuine non-party observation and activities of "fake" civil observers. Political parties and candidates have all legal leverage to conduct a diverse control over the course of electoral process and shall not manipulate the procedures by engaging loyal or controlled organizations. Instead, the discussion may focus on the justified and moderate enhancement of requirements to NGOs claiming the exercise of non-party observation.

Official observers from presidential candidates and political parties

During the regular presidential elections, DEC registered 177,456 observers from presidential candidates during the first round, and 6,236 observers during the second round.

The highest number of observers registered:

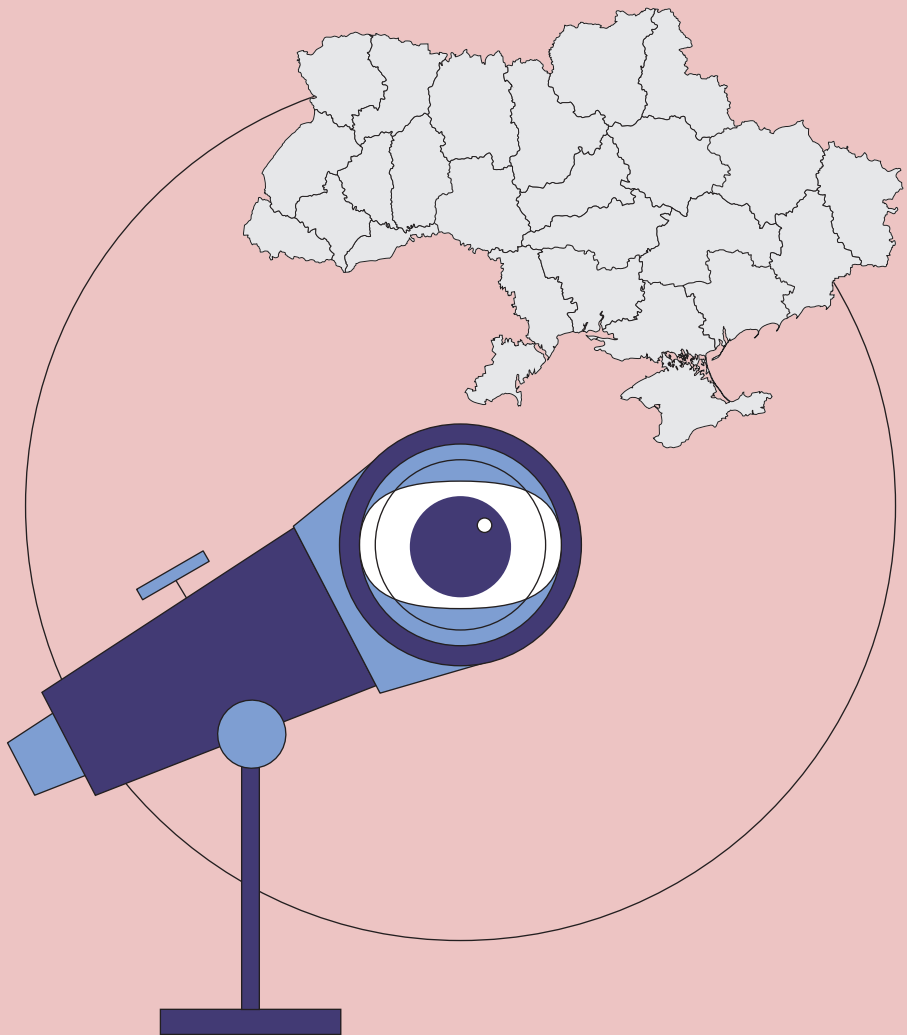
- Tymoshenko Yuliya Volodymyrivna – 37,766;
- Poroshenko Petro Oleksiyovych – 31,571;
- Liashko Oleh Valeriyovych – 24,549;
- Hrytsenko Anatoliy Stepanovych – 21,380;
- Boyko Anatoliy Yuriyovych – 14,252.

In terms of candidates' constituencies, the highest number of registered observers in the following TECs:

- TEC № 101 – 2,350 observers;
- TEC № 20 – 2,156 observers;
- TEC № 70 – 2,035 observers.

Additionally, 9 political parties used their right to have official observers. Upon the whole, they registered 23,470 observers, of which 20,451 observers represent the “Batkivshchyna” AU.

INTERNATIONAL OBSERVATION



In Ukraine, observers from international organizations and foreign organizations play an important role in providing for legitimacy of elections. Political parties, candidates, and social groups usually highly evaluate the significance of international observers to comply with legitimacy of elections and prevention of negative elements in the campaign.

During the regular Ukrainian presidential elections, the number of registered official observers from international organizations and foreign states was 2,700. To compare, during the early 2014 elections of the President of Ukraine, 3,607 observers were registered.

The CEC registered 215 observers from 22 foreign states. Of them, the highest number of observers represented the United States of America – 65, the Republic of Poland – 45, French Republic – 17.

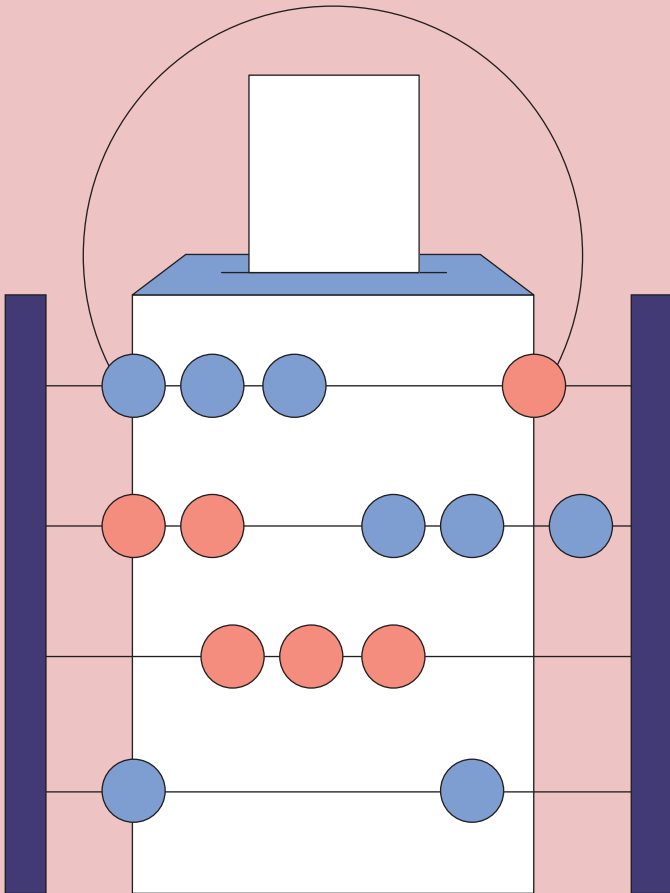
In addition, 2,485 international observers from 22 international organizations observed the elections of the President of Ukraine. The most numerous observation missions were conducted by the following entities:

- Bureau of Democratic Institutes and Human Rights of the Organization of Security and Co-operation in Europe – 997 observers;
- European Network of Election Monitoring Organizations (ENEMO) – 384 observers;
- Ukrainian World Congress – 249 observers;
- International Non-Governmental Organization “CANADEM” – 203 observers.

Before the elections, the Parliament of Ukraine banned citizens of the Russian Federation to engage in observation over elections in Ukraine. Under this Law, the CEC rejected registration applications from 24 citizens of Russia nominated for official observers at the regular presidential elections in Ukraine by the Bureau for Democratic Institutes and Human Rights of the Organization for Security and Co-operation in Europe (OSCE).

According to OPORA, the reputable international organizations shall apply additional effort to prevent politically biased monitoring from international observation. The task is especially important to provide for unbiased observation.

ELECTION DAY, VOTE COUNT AND ESTABLISHMENT OF ELECTION RESULTS



Voting and Vote Count on March, 31, 2019

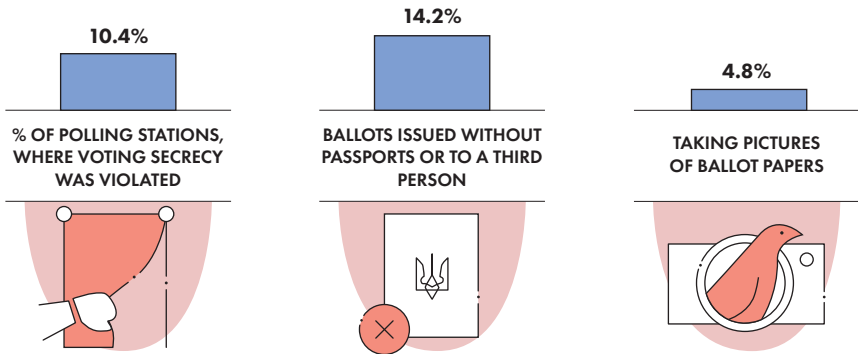
On election, Civil Network OPORA used the verified statistical data collected by observers on the representative number of polling stations in terms of Ukraine as a whole, and conducted a comprehensive quality assessment of election commissions for conformity with legal procedures. The objective was to identify key issues and typical violations of electoral law on the stage of conducting a preparatory session of polling station commissions, and on the stage of opening polling stations, during the exercise of voting, during the vote count at the PEC and transportation of documentation to district election commissions. All violations and problematic incidents recorded by OPORA observers were statistically generalized during the election day and classified in order to evaluate the nature of abuse and the level of illegitimate impact on the course of election process.

The most frequent violations recorded by OPORA observers on the election day on March, 31, were the attempts undertaken by election commission members to issue the ballots without having voters present their due IDs (a passport or a temporary IF of a citizen of Ukraine, a military identity card – for army conscripts). The abuse coming from electoral subjects took place at 14.5% of polling stations. However, there have been no elements of using it either on a system-based level, or as deliberately. Due to rapid response from OPORA observers to such cases, in most situations they managed to prevent the factual breach of law.

Voters disclosing the secrecy of voting by showing their voting results was another most frequently recorded violation on election day. Such cases were identified by observers at 10.4% of polling stations. At 4.8% of polling stations, cases were recorded when voters photographed their ballots in the booths or outside.

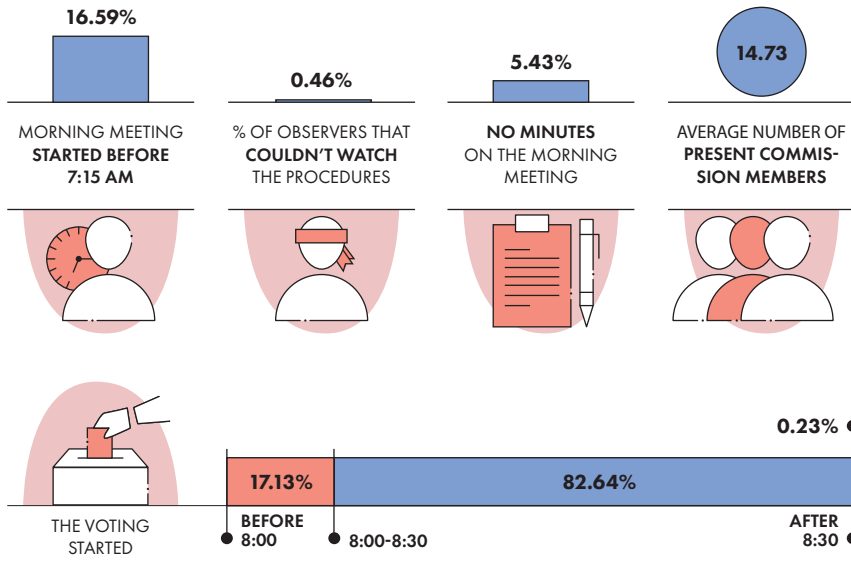
No other substantial fraud in terms of scale or consequences have been identified on election day. In particular, OPORA observers failed to identify any episode or facts of unlawful casting of ballots to ballot boxes at 99.4% of polling stations. Additionally, at 99% of polling stations, no cases have been identified when a large number of voters (over 20) faced any impediments or infringement in the exercise of their voting right at polling stations.

Violations of Election Day



On the stage of conducting preparatory sessions, operations of election commissions was generally organized in a proper manner. However, slightly over 5% of polling station commissions, against the fact that the Law includes a direct provision thereon, failed to provide for taking minutes of the preparatory session. 99.8% commissions held morning sessions in a legitimate status. No issues have been recorded with attendance or presence of election commission members. Almost 83% of polling station commissions started the voting procedures on time – within the time span between 8:00 and 8:30 a.m. Significant delays in opening, according to OPORA, were recorded only at 0.23% polling stations. Instead, 17% of PECs opened for voting slightly earlier than 8:00 a.m., the time set by the law.

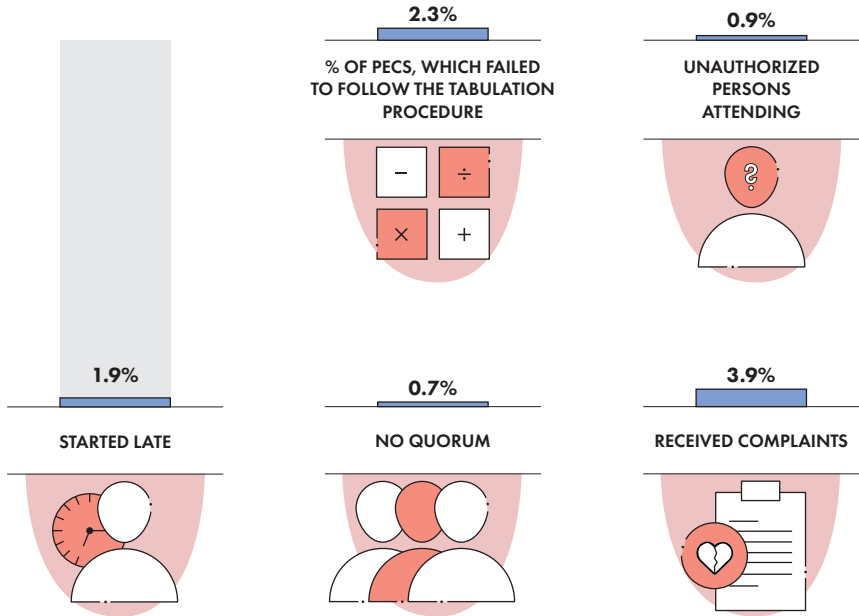
Morning meeting. PEC Operations



Observers of the Civil Network OPORA and other electoral subjects had a possibility of an unimpeded observation over the course of all electoral procedures on the stage of conducting a morning session and the start of voting. Under 1% of observers reported about certain organizational issues or impediments caused by election commission members that prevented their presence at the stations to exercise observation.

According to OPORA observers estimates, 97.7% of polling station commissions complied with the lawful vote count procedure. At 99.3% of PECs, no issues have been identified related to the capacity (presence of quorum) of election commissions on the stage of vote count. Cases of presence of unauthorized persons during the vote count have been recorded at 0.9% of PECs. Observers failed to record any issues related to impediments caused by electoral subjects for the vote count at 99.3% of polling stations.

Evening meeting. PEC Operations

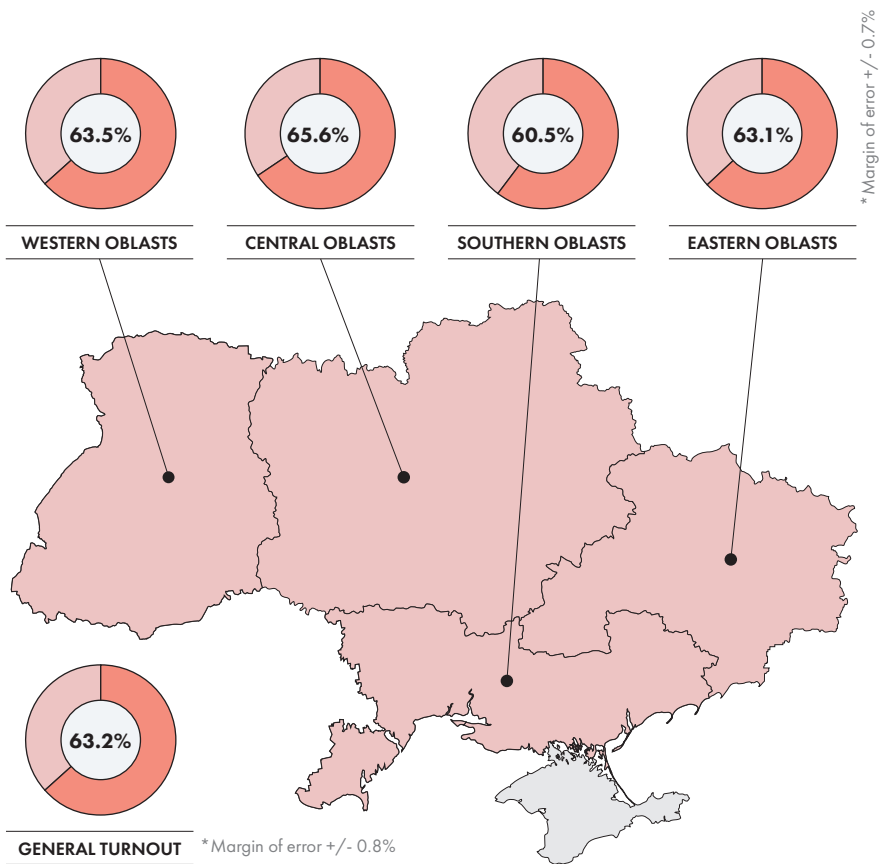


Upon the whole, operations of the absolute majority of polling station commissions on election day ran in line with provisions of the Ukrainian law, and with no expressed elements of system-based abuse.

Voter Turnout

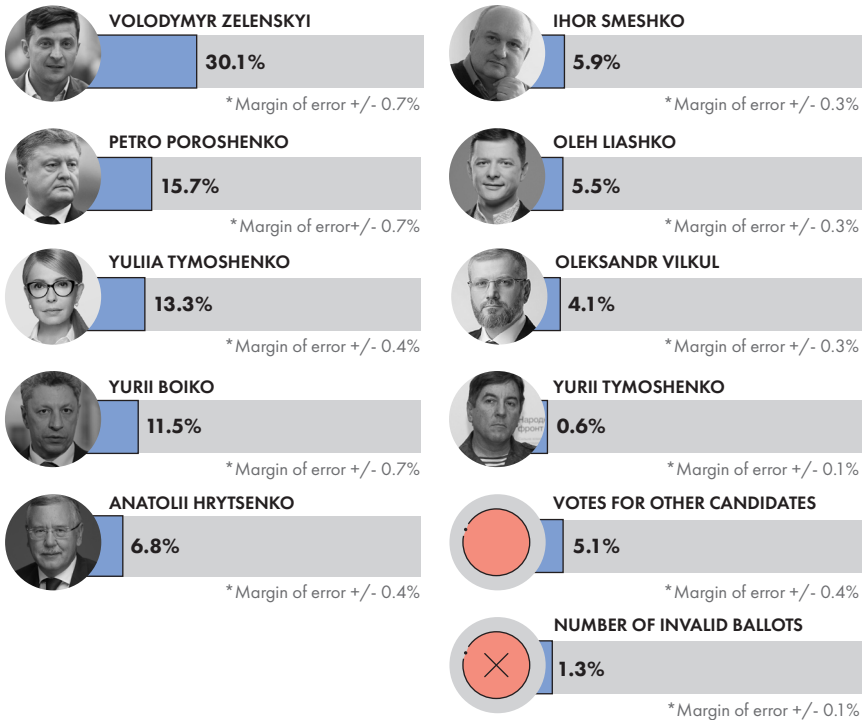
During the observation over the course of election day, Civil Network OPORA conducted a parallel tabulation for voter turnout. The data was recorded as of 12:00, 4 p.m., and 8 p.m. and was taken by observers at the representative number of polling stations, in terms of entire Ukraine.

On the nationwide scale, the turnout at the Presidential elections, as of 8 p.m. on March, 31, was 63.2% (error \pm 0.8%). It shall be stated that during voting at the 2014 early presidential elections, activity levels of voters, according to OPORA parallel tabulation, was somewhat lower and made 60% (according to the CEC official data – 59.48%).



Parallel Vote Tabulation Results

On March, 31, Civil Network OPORA conducted a parallel vote tabulation on the basis of the representative and statistically verified sampling. Based on the reports from 1,296 out of 1,304 specially trained and officially registered observers, OPORA stated with 95% of certainty about the following results of presidential elections (99.4% of polling stations out of 836,047 votes):



Analysis of official voting results on March, 31, 2019, and of support of candidates in the regions

According to voting results at the presidential elections on March, 31, 2019, none of 39 candidates received an absolute majority of voter support (50% plus one vote) needed to establish a winner in the first electoral round. The highest number of votes (5,714,034 or 30.24% of the participating voters) was received by Volodymyr Zelensky nominated by the “Servant of the People” party. He won in 19 (out of 24) oblasts and in the city of Kyiv, thus demonstrating higher results in central and southern regions of Ukraine. The smallest support he received was in Lviv (12%) and Ternopil (14.7%) oblasts, the highest support came from his home region – the Dnipropetrovsk oblast, supported by 45.3% of voters. In terms of constituencies, the lowest number of voters (10%) voted for Volodymyr Zelensky in constituency No 120 (center – Horodok town) and No 118 (center – Lviv city) in Lviv oblast, the highest number (50%) – in Kryvyi Rih (constituencies No 31 – 33).

The current President Petro Poroshenko was supported by 15.95% of voters (or 3,014,609) participating in the elections. The highest support levels was recorded in western regions of Ukraine. In particular, according to voting results, on March, 31, Petro Poroshenko was leading in Lviv (35.32%), Ternopil (24.4%) oblasts, and also in the overseas constituency (38.9%). The lowest support (6.6%) was given to him in Luhansk oblast. In terms of constituencies, a similar situation was recorded: the highest support in constituency No 118 with the center in Lviv city (45.5%), the lowest support – in constituency No 112, with the center in the town of Rubizhne of Luhansk oblast (5.4%).

In addition to the above-mentioned candidates, two more candidates received the support from over 10% of voters, on the scale of entire Ukraine. They were Yuliya Tymoshenko, voted by 13.4% (or 2,532,452) of voters, and Yuriy Boyko supported by 11.68% (or 2,206,216) of voters. Specifically, he led in Donetsk (36.9%) and Luhansk (44%) oblasts, showing high support levels among voters in eastern and southern regions of Ukraine, and lack of support from voters in western regions of Ukraine. On the other hand, even though Yuliya Tymoshenko failed to receive the majority of votes in any oblast of Ukraine, she still showed a rather high support levels in most regions, except for Donetsk and Luhansk oblasts. Thirty candidates running for presidency on March, 31, 2019, received under 1% of votes.

Voting and Vote Count on April, 21, 2019

During the election day, OPORA observed over all polling station commissions and other electoral subjects in terms of conformity with procedures inscribed in the law. Recording the statistics of violations was done on the stage of preparatory session of polling station commissions and of opening of stations, during the voting at the stations, during the vote count at the PEC and acceptance of documentation from polling station commissions at the DEC session.

According to OPORA estimates, the course of second round of voting ran in a conflict-free environment, in compliance with the provisions of the Ukrainian law, and in line with international democratic standards. No electoral fraud significant in scale or potential consequences was identified on the second round on election day, April, 21, 2019. OPORA observers recorded similar types of most frequent violations on the election day on March, 31, and on election day in the second round, but their intensity has dropped.

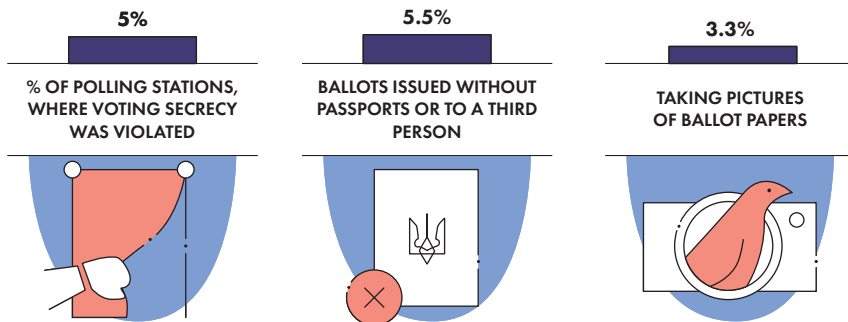
The most frequent violation on the election day in the second round recorded by OPORA observers at 5.5% of polling stations were attempts of election commissions members to issue ballots and their acceptance by voters, with no relevant IDs presented by voters. In the first voting round, such abuse by electoral subjects took place at 14.5% of polling stations. Due to response from OPORA observers to such situations, in most cases they succeeded in preventing this type of fraud. However, the unlawful voting practice without the IDs is still the most widespread phenomenon in the context of election day.

Another type of the most frequent violation recorded on election day in the second round was intentional disclosure of the secrecy of voting by the voters. Such cases were identified by observers at 5% of polling stations, throughout the country. During the election day, on March, 31, the share of such violations was higher and was recorded at 10.4% of polling stations.

Cases when voters took photos of their ballots at the premises of the polling station (in the voting booth or beyond) on April, 21, were recorded by OPORA observers at 3.3% of polling stations. In the first election round, the scale of such violations was somewhat higher – 4.8% of polling stations.

Intensity and the scale of other types of violations recorded by OPORA on the election day during the second round was much lower. In particular, cases of unlawful casting of ballots to ballot boxes were identified only at 0.2% of polling stations (in the first voting round – at 0.6% of polling stations).

Typical Fraud on Election Day



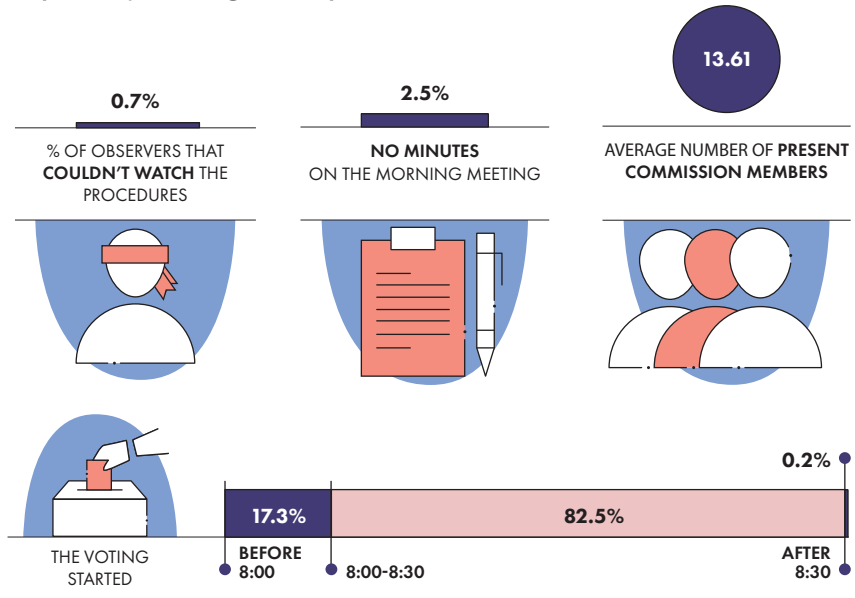
OPORA observers have not recorded any grave violations on the stage of preparatory sessions of polling station commissions, on the stage of opening the polling stations, and during the first hours of voting. Most polling stations opened on time, or with insignificant delay, and lunched their operations and under normal conditions.

82.6% of PECs opened in the period between 8:00 and 8:30 a.m. Whereas 17.3% of polling stations, conversely, started their work earlier than the formal time established by the law, such as – before 8:00 a.m. The polling stations that opened 30 minutes later or more made 0.2%.

The PECs have duly conducted preparatory sessions. During the morning session and at the beginning of voting, it was only 0.7% of polling stations where observers failed to monitor the procedure.

99.8% of election commissions started their work in full capacity composition (with more than half of commission members present), thus providing the due quorum to fulfil their functions. At the sessions of 2.5% PECs, commission members did not take the minutes for the preparatory session.

Preparatory meeting. PEC Operations



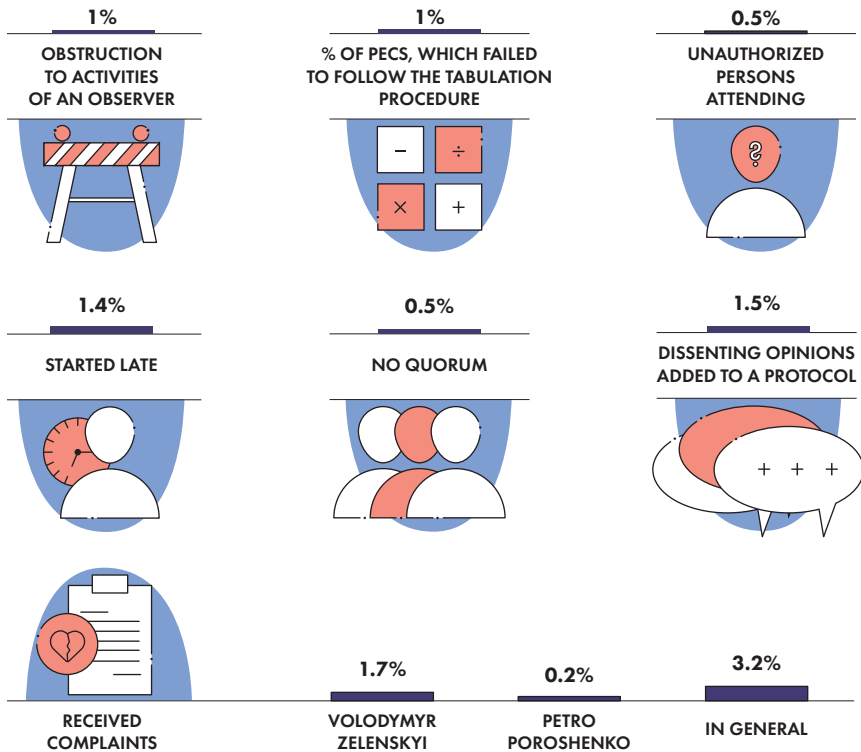
The average numerical composition of polling station commissions who operated on election day was almost 14 members (in the first ballot, the average number of commission members was almost 15 persons in each PEC).

Upon the whole, the vote count process on April, 21, 2019, ran in a lawful way, with no expressed abuse or systemic violations. Almost all commission heads started their evening sessions without delays, immediately after end of voting. 1.4% of PECs started the vote count with delays. Observers reported that 3.2% of commissions considered complaints that have been submitted before the start of the evening session (in the first voting round, there were 3.9% of such commissions).

According to OPORA observers attending at polling stations on April, 21, 1% of the polling stations failed to comply with the legal procedure of the vote count (in the first ballot, breaches of the vote count procedure was recorded at 2.2% of polling stations).

In fact, no issues have been identified related to capacity (available quorum) of election commissions on the stage of vote count. Observers reported the lack of quorum at the session of 0.5% PECs (on March, 31, it was recorded at 0.7% PECs).

Evening meeting. PEC Operations



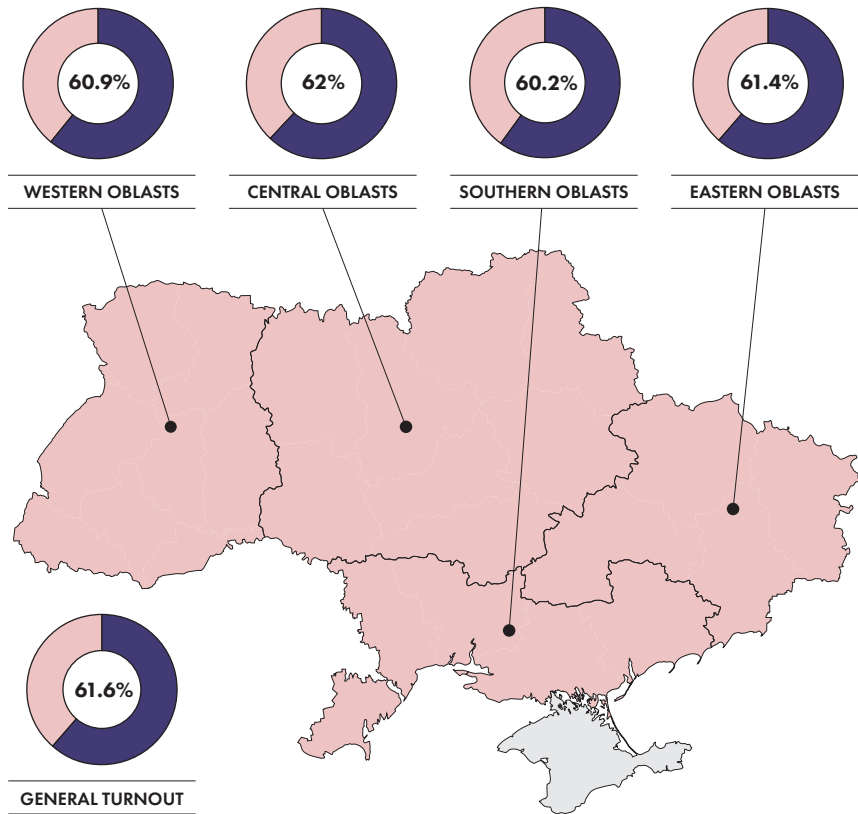
Cases of having unauthorized persons at the vote count were recorded at 0.5% of PECs on April, 21, and at 0.9% PECs on March, 31, 2019. Observers failed to identify any grave issues related to having electoral subjects or unauthorized persons prevent the vote count procedure. Thus, during the second ballot, cases of impeding the vote count were recorded at 0.2% of polling stations (0.7% of polling stations on March, 31).

OPORA observers confirmed that at 99% of polling stations they had a possibility to take records of the course of all stages of the vote count. In particular, they could see the marks on the ballot papers during the vote count. Additionally, at 99% of PECs OPORA observers did not have any problems receiving copies of protocols on the vote count at the polling stations.

At 1.5% of PECs, cases were recorded when PECs members added certain opinions to the vote count protocol (in the first ballot – at 4.5% of PECs).

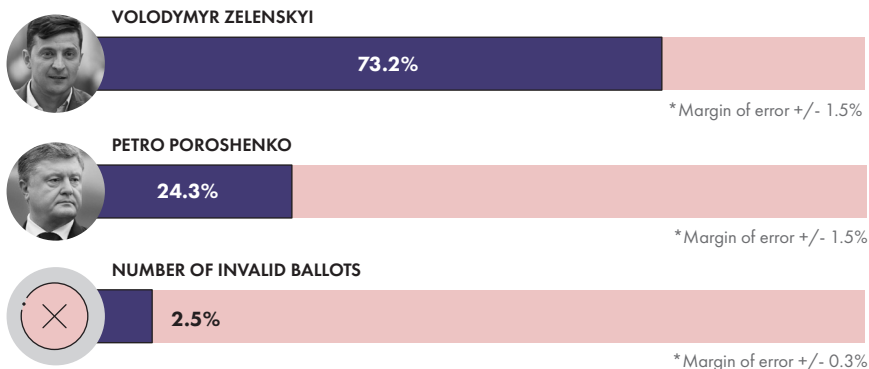
Activity of Voters

During the observation over the course of the second ballot, Civil Network OPORA also conducted the parallel turnout tabulation. The data was recorded as of 12:00, 4 p.m., and 8 p.m. The data was collected by observers at the representative number of polling stations on the scale of Ukraine. Nationwide in Ukraine, the turnout in the second round at presidential elections of 8 p.m. on April, 21, was 61.6% (error \pm 0.8%). During the voting on March, 31, activity of voters, according to OPORA's parallel tabulation, was somewhat higher and amounted to 63.2% (error \pm 0.8%). According to official CEC data, activity of voters over Ukraine in the first and second ballots was 63.5% and 62.09%, accordingly.



Parallel Vote Tabulation Results

During the second ballot at the elections of the President of Ukraine on April, 21, 2019, OPORA conducted the parallel vote tabulation on the basis of a representative and statistically valid sampling. Based on reports, 1,299 out of 1,305 of specially trained and officially registered observers, OPORA stated with 99% of certainty the following results of the second round of presidential elections (99.6% of polling stations with 811,907 votes):

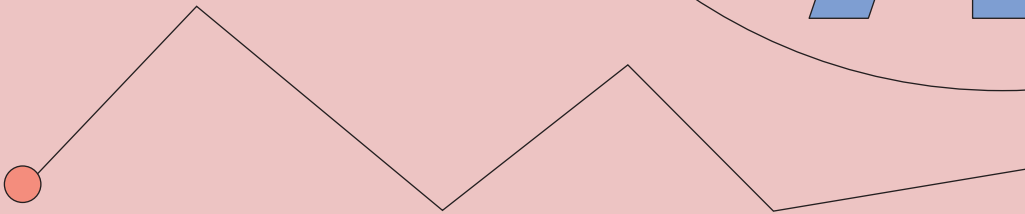
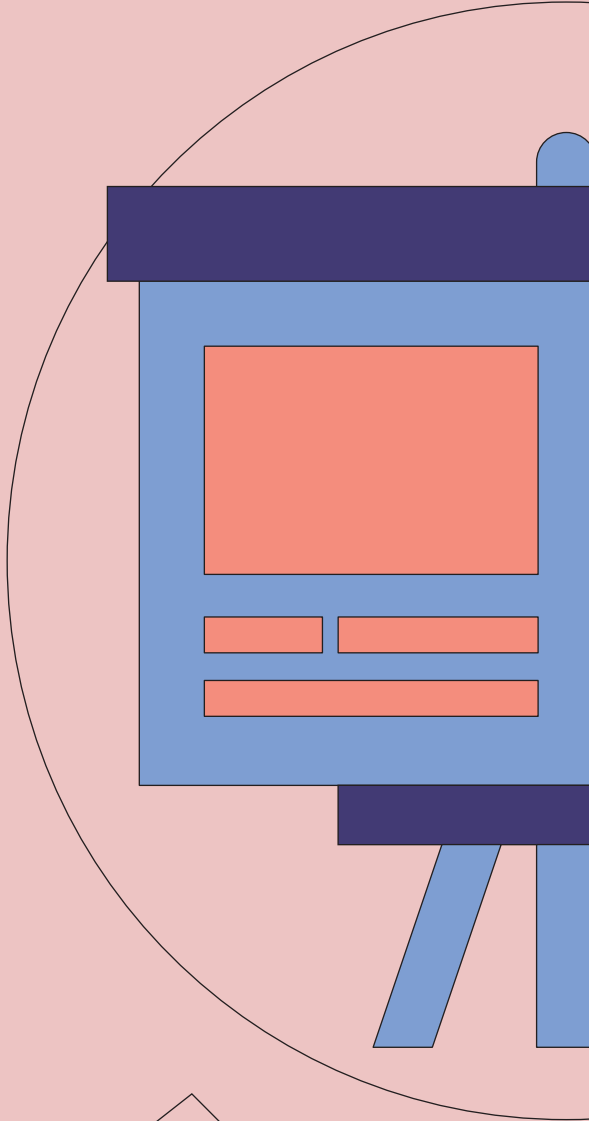
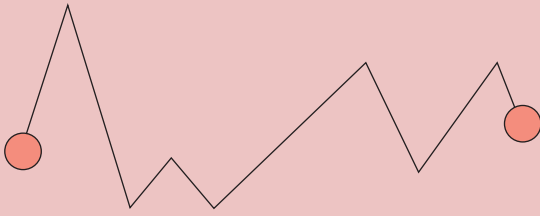


Analysis of official voting results on April, 21, 2019, and support of candidates in the regions

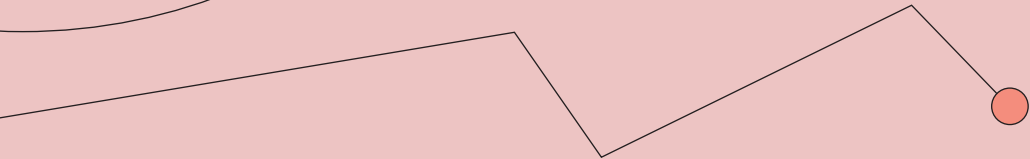
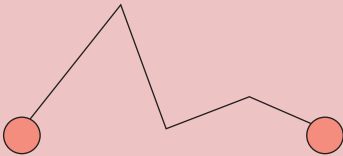
During the second ballot, on April, 21, 2019, according to official results, Volodymyr Zelensky received 73.22% (or 13,541,528) of votes, while Petro Poroshenko gained 24.45% (or 4,522,450) of votes. At the same time, Volodymyr Zelensky won almost in all oblasts of Ukraine, except for Lviv oblast. In most regions of the country, his results exceeded the 70% rate of voter support reaching the record-breaking 89% in Luhansk oblast. Conversely, Petro Poroshenko won only in Lviv oblast (62.8% votes), and also in the overseas constituency where he was supported by 54.7% of voters.

In terms of constituencies, the largest support from voters (90.9%) for Volodymyr Zelensky was given in constituency No. 143 in Odesa oblast, with Izmail as a center. At the same time, Petro Poroshenko gained in this constituency the lowest voter support. Other record-breaking results in the voting positive for Volodymyr Zelensky (90.8%) were seen in constituency No. 37 in Kryvyi Rih (Dnipropetrovsk oblast), No 178 in the city of Balakliya

(Kharkiv oblast), No 57 in Mariupol (Donetsk oblast), No 176 in Chuhuyiv (Kharkiv oblast), No 113 in Svatove (Luhansk oblast). On the other hand, the lowest support for Volodymyr Zelensky came from constituency No 118 with the center in Lviv (23.2%). The constituency hit the records in support for Petro Poroshenko.



REPORT CONCLUSIONS



Regular elections of the President of Ukraine were organized by the government in compliance with the basic standards for democratic expression of will. Election campaign run by candidates for the post of the President of Ukraine was competitive. It was characterized with participation of candidates with high personnel and financial resources. Record-breaking number of candidates was registered to run for this race (44), whereas 39 persons were included into the ballot paper.

Competitiveness of elections and the available broad alternative for voters were not regretfully supported by the timely and comprehensive electoral reform.

The key issues of electoral law included aspects of election campaigning, such as early campaigning, regulation of participation of voters in candidates' events, transparency and accountability of financing candidates' events. The laws of Ukraine and the by-laws did not fully provided for the possibility of election participation for citizens mobile within the country (labour migrants, and internally displaced persons), citizens without a registered place of residence, voters residing abroad. Central Election Commission did not regretfully manage to liberalize the procedure of temporary change of voting location without changing the electoral address, that required voters to present their confirming documents to vote at national elections.

With account for the armed aggression from the Russian Federation on parts of territories of Donetsk and Luhansk oblasts, the government managed to guarantee the security at elections in frontline territories, and to provide for cybersecurity of activities to organize and conduct the voting. The legal ban to nominate observers from international organizations and foreign states who held citizenship of the aggressor state showed the need to further adopt actions (on the level of international institutions) to counteract the "fake" and politically biased election observation. At the same time, OPORA calls public authorities to study the experience of conducting elections at frontline territories and cases with elements of voting falsification at the respective polling stations. Taking into account the lack of common institutional conditions for normal functioning of local authorities in conflict affected areas, guarantees shall be reinforced to provide for free expression of will by citizens entitled to vote.

Legitimacy and impartiality of candidates registration process for the post of the President of Ukraine allowed to avoid political opposition and provided for high legitimacy of election process. CEC did not resort to exces-

sive formalism when considering candidates documents, and provided for the priority of passive suffrage of citizens. The key ground for rejecting candidates registration was the failure to submit the monetary deposit. The CEC position was not justified only in 4 out of 33 court decisions on certain aspects of considering candidates documents. Conflict-free registration process of candidates fostered the public trust for the activities of the newly established CEC. At the same time, the presence of candidates with the similar personal data in the ballot paper caused several conflicts between the electoral subjects and the candidates (Yuliya Tymoshenko and Yuriy Tymoshenko). Candidates were listed in the ballot paper in an alphabetical order, without indicating any counting number. It made some candidates demand from the CEC change the content of the ballot paper established by the law. The same as in the previous elections, the law did not include any specific criteria to verify the candidates' compliance with the constitutional residency requirement. The problem did not cause any possible opposition in the elections but should be eliminated by the parliament in the near future.

The process of pre-election campaigning was divided into unofficial and official stages. OPORA monitoring showed the active launch of campaigning 3 – 4 months before the official start of electoral process, involving at least 20 candidates. According to the organization observers, the largest scale efforts were the early campaigns supporting Yuliya Tymoshenko, Petro Poroshenko, and Oleh Liashko.

It was the first time that the CEC responded to the early campaigning of candidates. Nevertheless, the acting law did not allow for restraining the campaigning supported by the undeclared financing beyond the official terms of electoral process. It shall be noted that the runners of the second ballot Volodymyr Zelenskly and Petro Poroshenko failed to follow the allowed campaigning terms. In fact, they started their campaigning immediately after the first voting round without waiting for the official announcement of the second round. The important need to regulate campaigning before candidates' registration is stipulated by the need to secure accountability of all political finance and equal rights and opportunities for electoral subjects. The scale of early campaigning to support a high number of candidates allows to state that the government lacks complete information on costs of candidates incurred during the informal and the official stages of electoral process.

Official campaigning period was highly competitive, financially costly and rather conflicting. In terms of diversity of campaigning forms and its intensity, the leaders were Petro Poroshenko and Yuliya Tymoshenko. In certain campaigning segments, these candidates were overtaken by Anatolii Hrytsenko and Oleh Liashko. The winner of presidential elections Volodymyr Zelensky also ran a large-scale public campaign. However, the campaigning to support him did not include any traditional meetings with voters or dissemination of promotional materials but was rather based on the candidate's creative media events.

Volodymyr Zelensky and Petro Poroshenko did not clearly distinguish between their campaigning and professional activities. Zelensky made use of his creative activities and his media business to attract voters' attention. On the other hand, the acting President of Ukraine at the moment of elections Petro Poroshenko, would often campaign under disguise of activities and events within his presidential capacity. Combining professional (related to office) and candidate status were not usually a direct violation of the law. However, the cases did undermine the principle of equal opportunities of candidates.

The 2019 presidential elections indicated to the need to further support from the government to facilitate voluntary participation of voters in financing the candidates' campaigns. Candidates for the post of the President of Ukraine officially raised UAH 1,775 bln for election campaign. Key donors of election funds were political parties – electoral subjects and personally the presidential candidates (36% and 31% of the total revenues of funds). As little as 29% of election funds contributions came from natural persons, 4% – from legal entities. In fact, a candidate Petro Poroshenko was the only donor of his election fund.

More active engagement and participation of citizens in the all-round support of candidates will foster competitiveness of elections, since presently, key financial sources of campaigns are parties and wealthy candidates. Another high obstacle for citizen participation was the legal ban for making contributions to election funds for citizens who have even the insignificant or short-term tax debt. According to OPORA, the parliament should review the legal provisions and remove the ban for citizens with insignificant tax debt to make contributions to candidates' election funds.

According to the monitoring of election campaign and the court dispute with the CEC, OPORA hereby insists to promptly publish payment trans-

actions from accounts of candidates' election funds. No access to data on costs of candidates before they generate their interim and final reports reduces the opportunities to identify the facts of illegal finance of campaigning activities. Success stories from other countries show that there are technological solutions to publicize on a daily basis, or in an online mode the expenditures of the candidates' election funds. At the same time, the CEC and NAZK do have the prompt access to such data. Despite a number of issues in providing for transparency and accountability of electoral finance, Ukraine was first to implement the law in the domain of political and electoral finance.

The regular elections of the President of Ukraine are characterized with a huge growth in the impact of political advertising on the Internet and in social media. This kind of activity of candidates coincided with the introduction of new regulations on a Facebook transnational platform on transparency of political advertising.

The provisional data from the Facebook Political Ad Library show the costs of candidates ranging from UAH 9.2 to 48 mln. On the other hand, the final reports of election funds included UAH 13.5 mln as costs for posting advertisements online. Correlation of official reports of candidates and the data from the Facebook social network indicate to the possible shadow financing of political advertising on the Internet. An important part of the pre-election competition on the Internet are the anonymous and cost unaccountable pages on social media. They were used to promote or discredit the candidates, whereas the intensity of negative or "dirty" campaigns has increased after the first voting round.

At the presidential elections, there was a heated public debate between the CEC and the candidates about the lawful formats of funding the cost for personnel and organizational support of campaigning activities. The law directly bans the candidates from concluding paid contracts to run pre-election campaigns, while the special Explanation of the CEC on the possible reimbursement of logistical costs to campaigning voters does not exclude the chance of abuse.

OPORA has multiple times stated the importance of providing for accountability of all organizational and personnel costs required by candidates for successful campaigning. However, the procedures of legalizing organizational costs shall provide for the guarantees that they would be transformed by unfair candidates into concealed tools to bribe voters. For example, in

case voters receive a compensation for campaigning they shall be individually included into a report of election funds managers. Moreover, it is relevant to establish a limit on the number of voters who could be engaged in an organized manner to campaigning within a territorial district.

Reports of non-governmental organizations that received funds from candidates for rendering services are not sufficient to control the legitimacy of funding campaigning activities. Reports are submitted by CSOs on an annual basis. Therefore, it is not possible to evaluate the legitimacy of third persons using the finance of the election funds of the presidential candidates. This circumstance will require from the Parliament to enforce the accountability mechanisms for third persons engaged into the candidates' campaigning activities.

Civil Network OPORA recognizes a due level of administering the regular elections of the President of Ukraine. OPORA observers recorded a series of issues in the operations of the CEC, DEC and PECs. However, they were not critical for due organization of electoral process. According to OPORA estimates, the most controversial decision of the CEC was the Explanation on issues of indirect voter bribery and the possibility to reimburse their logistical costs incurred within campaigning from the candidates' election funds. In terms of practices related to organizing CEC operations, one problematic issue was still the closed sessions they conducted. Their format had elements of breaking the standards of openness and collegiality in the Commission's operations. Key discussions were taking place at such sessions rather than during CEC public sessions.

Official observers from NGOs did not regretfully have the full possibility to control CEC operations. Ukrainian law has ambiguous provisions setting conditions to exempt observers from their right to attend CEC sessions without due permit and invitation. The provisions contradict the general provisions of the law on elections and on the CEC that guarantee democratic observation standards at elections. According to OPORA, the Parliament of Ukraine needs to promptly eliminate the violation of democratic elections standards in part of securing the rights of politically independent observers. One of the possible options to eliminate the problem can be the procedure of registering a limited number of observers from NGOs on a nationwide constituency.

The low competence levels and the shadow pay to members of DEC and PECs were the key challenges in administration of elections. During the DEC composition, there was a common insufficient level of responsibility on the part of electoral subjects. Candidates submitted to the DEC the unduly filed lists of possible DEC members, they resorted to falsifications of written consents from persons to act as DEC members, or failed to exercise their full rights to establish lower levels election commissions. At least up to 28% DEC received the same candidates to PECs positions from different electoral subjects. One of the especially critical situations was with establishing PECs for the second voting round, when the two candidates failed to fill their own quotas in the commissions. Petro Poroshenko was entitled to submit 50% of members of election commissions but he only nominated candidates only to 37% PECs. The same metrics for Volodymyr Zelensky was much higher but still underfilled – 48%. A huge gap between the candidates rankings lowered their motivation to provide for the mutual control. It led to the need to find about 60,000 PEC members through DEC efforts.

Composition of DEC and PECs underwent significant rotation. It affected the stability of election commissions and efficiency of the advance training for their members. OPORA established that as of March, 31, 2019, the DEC upgraded by 37%, as compared to their initial composition. The replacement index in the PEC composition was even higher. During the enrollment into election commissions, some practices were recorded when influential election participants used the quotas of “nominal/technical” candidates for their own benefit. In order to professionalize election administration, it would be reasonable to include into the law the mandatory knowledge certification of DEC members in between the elections.

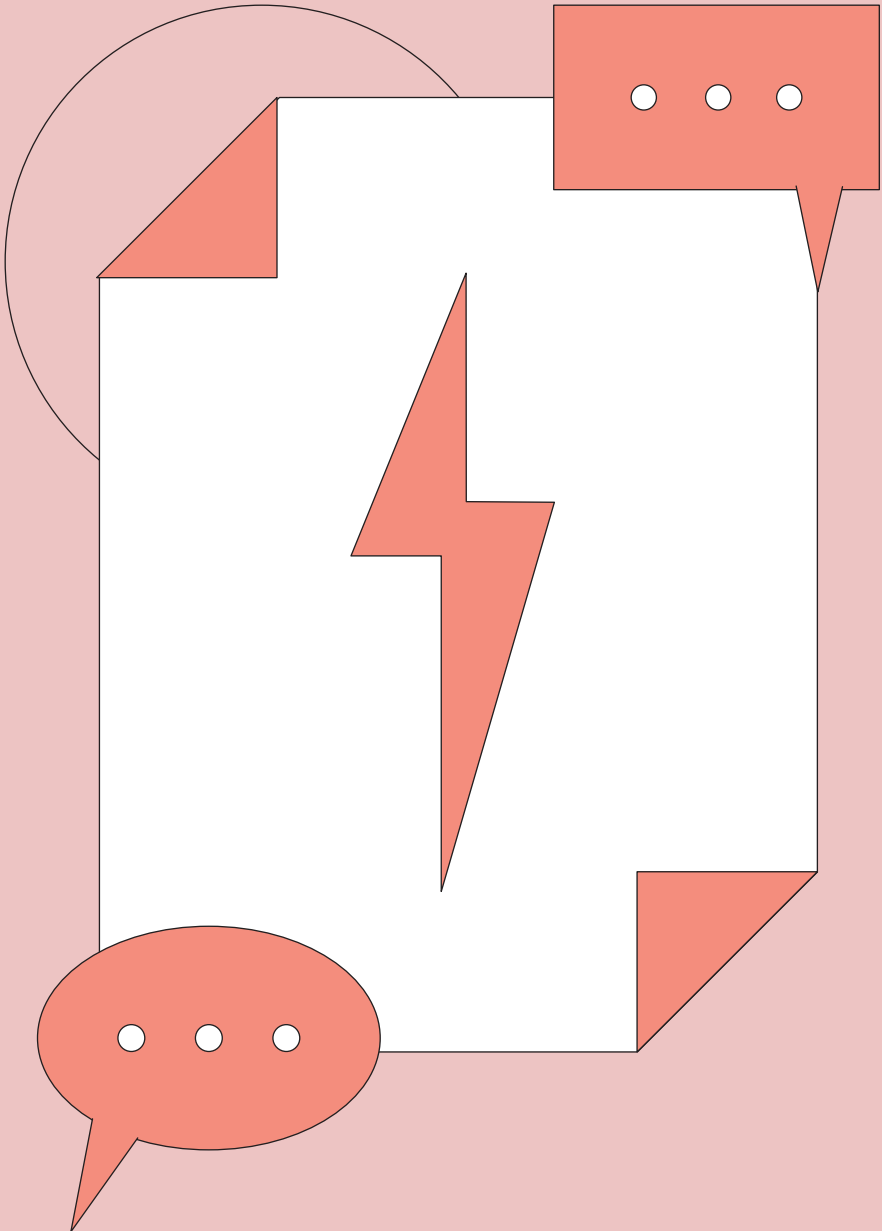
The 2019 presidential elections in Ukraine have repeatedly shown the urgent need for further depoliticizing of public service and of local self-government officials. During the election campaign, a large number of public officials failed to comply with the principles of political impartiality and offered their either direct or indirect support to candidates. An important component of the government’s efforts shall be the prevention of practices of using budget funds for latent campaigning in favour of electoral subjects. The Government of Ukraine shall, among other things, improve the procedures for allocation of state subventions for social economic development of territories that would disable political abuse in this area. Local authorities shall subsequently improve the policy making for the process of using the funds of financial assistance to citizens, in order to prevent unlawful practices on the part of candidates at the national and local elections.

At the 2019 elections of the President of Ukraine, certain issues have been identified related to securing voting rights to internally mobile citizens and to voters who take a permanent or a temporary residence abroad. Excessive formal restraints for internally mobile voters and the lack of accessible infrastructure for voting of citizens located abroad — these are key challenges on the way to provide for true inclusion of electoral process. According to OPORA, the rights of NGOs to conduct election observation failed to be fully secured (there was no legal certainty for observation over CEC activities, access to familiarize with the documents of election commissions, the right to be present at the premises of election commissions, etc.).

Based on the data received from the representative selection of polling stations, OPORA calls the law-enforcement bodies and other public institutions to enforce the preventive measures for cases when voters could receive the ballot papers without due presentation of their IDs or due grounds. Illegal issuance or receipt of ballot papers remains a widespread practice at elections in Ukraine. It creates prospective preconditions for grave fraud. OPORA's monitoring also confirms the need to reinforce the guarantees for the secrecy of voting, since voters themselves break it in different ways. Taking into account the elements of voter bribery and abuse of administrative resources, disclosure of the ballot content of voters contributes to controlled voting technologies. The vast majority of polling station commissions provided for due organization of voting. However, at certain locations, law-enforcement officers and observers took record of sporadic cases with elements of fraud.

According to the parallel vote tabulation by OPORA, during the first and second voting rounds, the voter turnouts were 63.2% and 61.6%, respectively (error 0.8%). Activity levels of voters at the regular presidential elections were slightly higher than at the 2014 early elections of the head of state (60%).

RECOMMENDATIONS



To Verkhovna Rada of Ukraine

- To finalize the full-scale electoral reform in Ukraine by further finetuning of the adopted Electoral Code in an inclusive and open manner.
- To provide for voting rights of citizens residing outside the country by further liberalization of the procedure for temporary change of voting place without changing the voting address.
- To regulate on the legislative level the issues of running electoral campaigns online, and with the help of global information platforms, as well as to determine peculiarities of engaging NGOs and other third persons to the candidates' election campaigns.
- To regulate the rights of observers from NGOs to run the observation over CEC operations by introducing a procedure of their registration in a nationwide constituency.
- To enhance the rights of official observers from the non-party monitoring organizations to appeal against electoral fraud.
- To enhance legal guarantees for political impartiality of public service and local self-government service.
- To regulate in the law the terms and conditions for sharing political advertising from political parties and potential candidates before the official start of electoral process.
- To approve the draft Law on Providing for the Irreversible Nature of Punishment for electoral fraud by improving the Criminal Code of Ukraine and the Code on Administrative Offense.
- To legislatively oblige the CEC, NAZK, banking institutions, and electoral subjects publish in real time the payments from accounts of election funds of candidates in order to provide for due transparency of candidates' expenditures.
- To introduce a mandatory certification of knowledge of members of district election commissions in order to professionalize the operations of election commissions.
- To regulate the process of establishing special polling stations for military servicemen on the territory of running the Joint Forces Operation at all national elections, since the current procedure is only provided for presidential elections.

- To increase transparency of electoral finance by legalizing candidates expenditures on campaign offices, logistics, and human resourcing, while establishing quantitative restrictions on hiring voters for running election campaigns.

To Central Election Commission

- To launch an internal reform of the Commission in terms of planning its operations, conducting consultations with the public, expansion of the list of open electoral data.
- To simplify the procedure for temporary change of voting place without changing the electoral address for all categories of citizens by cancelling the mandatory presentation of supporting documents and by using new technologies to submit the respective applications from citizens.
- On their own initiative, to extend the list of electoral data open to citizens (in case of no legal restraints on disclosure of such information).
- To refuse from the practice of conducting operational sessions of CEC members closed for observers, and to provide for compliance with the principles of transparency, openness, and collegiality in the Commission's operations at all stages of drafting and approving the decisions.
- To develop and implement a comprehensive awareness campaign for voters on liability for violating the electoral law and the exercise of election procedures.

To Cabinet of Ministers of Ukraine

- To provide for the drafting and implementation of the plan to enhance accessibility of electoral process for persons with disabilities, including access to polling stations and materials for election campaigning.
- To consider the possibility to increase the salaries for members of election commissions in order to incentivize motivation of citizens to exercise the respective duties.

To the National Police of Ukraine

- To publish a public report on interim findings for investigation of electoral fraud detected at the regular presidential elections in Ukraine.
- During the period between elections, to implement a series of training events for police staff and investigators in order to raise the efficiency of response to electoral fraud.

National Agency on Corruption Prevention (NAZK)

- To optimize the process of responding to electoral fraud by collecting and analyzing of information from constituencies and by organizing the operations of the Agency's territorial offices.

To political parties

- To avoid further use of legal possibilities to imitate a of non-party observation for electoral benefits.
- To provide for timely training of prospective election commissions members to ensure unimpeded operations of election commissions at the next elections.
- On their own initiative, to publish information on electoral and political finance in the open data format.

NOTES

NOTES

NOTES

NOTES

NOTES

Signed to printing 04/03/2020. Format 60x84/16
Offset paper. Circe, Futura PT typefaces. Offset printing.
Phys. print. sheet 16 Cond. print. sheet 14.9 Cond. impr. 7.45
Order No.2312-2. Copies 500
“Papuha” Printing House LLC
19/158 Patona St., Lviv
Phone: +38 (0322) 297 18 50
Printing certificate:
LV No.15 of 11/21/2001