

## UKRAINE POLICY ALERT

# Ukrainian authorities' legitimacy when elections are impossible

*Part II: Maintaining the political legitimacy of elected authorities in Ukraine when elections are impossible*

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*In the wake of Russia's full-scale invasion of Ukraine in February 2022, the political system has fronted 'militant democracy,' compelling authorities to protect Ukraine's democratic regime and strengthen its defenses. While Part I of the Ukraine Policy Alert "Ukrainian authorities' legitimacy when elections are impossible" examined the limitations imposed by a full-scale war on the conduct of elections in Ukraine, as well as the legal legitimacy of representative bodies that cannot be re-elected, Part II attempts to answer the question of how to maintain a sufficient level of trust in the authorities in a situation where elections are impossible. Unlike legal legitimacy, political legitimacy is not determined by the Constitution, but by the ever-changing political reality. The latter remains the main problem for the Ukrainian authorities, growing with each passing year without elections.*

## **PART II: Maintaining the political legitimacy of elected authorities in Ukraine when elections are impossible**

While there are no legal grounds to doubt the legitimacy of the elected authorities in Ukraine, whose mandate is extended due to the inability to hold elections, there is still political reality, political competition, and public sentiment forming the essence of political legitimacy. Meanwhile, it has been demonstrated that with each passing year without elections, the level of trust in the Ukrainian authorities will naturally decline.

[The public opinion poll](#) conducted by the Kyiv International Institute of Sociology (KIIS) in October 2023 on the eve of the upcoming parliamentary elections is an essential component of the issue of the political legitimacy of the authorities in Ukraine, who cannot be re-elected. Answering the question, "This autumn, the powers of the Verkhovna Rada will expire, and in the spring, the powers of the President will end; when should the elections be held?" 81% of Ukrainian respondents did not support holding elections during the war and believed they should be held after the war. In comparison, only 16% supported the idea that elections should be held despite the war.

At the same time, the level of trust Ukrainians have in elected authorities is gradually declining, which is natural and predictable. According to the latest [sociological survey](#) conducted in early December 2023 by the KIIS, 62% of respondents trusted the President (with 18% distrusting him), while in December 2022, 84% trusted him (with only 5% distrusting him). The situation with support for the Verkhovna Rada is almost mirrored: In December 2023, only 15% of respondents trusted the Parliament (with 61% distrusting it), while in December 2022, the level of trust in the Parliament was 35% (with 34% distrusting). Although before the full-scale invasion, the level of support for these authorities was much lower than it is today (27% and 11% trusted the President and Parliament, while 50% and 67% distrusted them correspondingly), trust in central government is declining and is likely to continue to fall. As for the local authorities (mayor and local council), in [the October survey](#), the level of trust in these authorities was 50%, while distrust was 46%, and this trend has been observed since 2022. This highlights that the trust in state institutions has consistently been low in Ukraine, and, therefore, it could be too easy to attribute only to the lack of voting capacity.

The growing level of distrust and the decline in public support for legitimately elected authorities in the face of the inability to hold elections may lead to a crisis of their political legitimacy. And with each year of the Russian-Ukrainian war, the issue

of the crisis of public distrust in the authorities may grow. This means that even though there will be no questions about the authorities' legal legitimacy, questions about their political legitimacy will periodically appear. This is likely to be a cause for domestic political debates, for example, on the eve of the next presidential elections in the spring of 2024 and of the following local elections in 2025 and as the situation on the battlefield deteriorates and living standards fall. For Ukraine's Western partners, some authoritarian tendencies in Volodymyr Zelenskyy's governance, slowdown in reforms, or corruption scandals could impact political debates. This situation questions the legitimacy of the President's power, the Verkhovna Rada, or local councils in Ukraine.

## **How will the authorities in Ukraine maintain their political legitimacy without elections?**

The constitutionality of postponing elections and the legality of extending the term of office of elected authorities during martial law is not an automatic guarantee of their political legitimacy, preservation of public trust in the authorities and prevention of degradation of the democratic regime. The challenge for a government with no alternative in a situation where elections are not possible is preserving democracy when there is no political competition and no quality political debate. Consequently, there is a need to maintain national unity among political forces and society. The situation is much easier when there are military successes on the frontline and a sense of imminent victory. Still, it is much more difficult when the military situation deteriorates, the war becomes protracted and positional, with no prospects for a quick end, and citizens' economic and social situation is affected. The ruling party faces these challenges, as it is the ruling party that, along with full powers, bears full responsibility for the situation in the country.

The experience of the United Kingdom can be helpful to identify shortcomings. The United Kingdom continued a functioning and survival of democracy during the Second World War with delayed elections, the idea of a coalition government of national unity with a military cabinet, internal party competition, and the rapid decline in the ratings of the ruling party with each subsequent year without elections. As well, there was Churchill's self-deception and short-sightedness in his vision of the country's development after the war as well as the expectations of the British society. These factors highlight risks in such an approach. However, we can also learn some positive practices from this experience.

However, the Office of President Volodymyr Zelenskyy and the leadership of the "Sluha Narodu" (Servant of the People) party have categorically rejected the possibility of a national unity government in Ukraine since the first days of the full-scale invasion. The reasons why this scenario is impossible go back to the 2019

election campaign, when the irreconcilable competition with the previous president, Petro Poroshenko, continued in the confrontation with Poroshenko's political party, "Evropeiska Solidarnist" (European Solidarity). Instead, "Evropeiska Solidarnist", as the main opposition political force in the current convocation of the Verkhovna Rada, is actively calling for the formation of a government of national unity. However, for the acting government, doing so would mean destroying the entire governance system it has been building over the past four years and the beginning of the end of Zelenskyy's rule. Volodymyr Zelenskyy does not plan to leave politics, while Petro Poroshenko intends to return to it.

Meanwhile, MPs of the current 9th convocation of the Verkhovna Rada are increasingly shrinking in number. Immediately following the 2019 elections, the Ukrainian parliament was formed with an incomplete composition. 424 out of 450 MPs were elected, as 26 seats were reserved for majority constituencies located in the temporarily occupied territories of the Crimea peninsula and certain districts of Donetsk and Luhansk regions. However, due to the early resignation of MPs, which intensified significantly after the full-scale invasion (through parliamentary decision for reasons of collaboration with Russia as an aggressor country, withdrawal of MPs by parties, but primarily voluntary resignation), there are currently 400 MPs in the Verkhovna Rada.

The number of MPs who want to leave parliament is much higher, but the presidential party blocks such initiatives to prevent a situation of parliamentary incapacity when the parliament cannot work and make decisions. There is information that another 17 MPs from the "Sluha Narodu" faction want to give up their mandate, which will make it significantly more difficult for Zelenskyy's team to make decisions in the parliament. Unlike the UK experience, there is no possibility of holding by-elections during martial law to fill vacant seats in Ukraine. The Central Election Commission has adopted several resolutions on the impossibility of holding midterm elections due to the active phase of hostilities and "consideration of the issue of calling the relevant elections to take place after the termination or cancellation of martial law". Therefore, each subsequent case of early termination of parliamentary powers will make it increasingly more difficult for the authorities to make the necessary decisions and maintain the level of political legitimacy of the Ukrainian parliament.

Even though the presidential party "Sluha Narodu", which won 254 seats (60% of all mandates) in the Verkhovna Rada in the 2019 elections, has not had a monopolistic majority for a long time, it still managed to gather a regular inter-factional majority. However, it is unclear whether the presidential party would have maintained at least an ordinary majority today if it had not been supported by some MPs from "Platforma za zhyttia ta myr" (Platform for Life and Peace) (part of the former "Opozyciyna platforma - za zhyttia!" (Opposition Platform – For Life!) party faction, banned by the

court in 2022) and "Vidnovlennya Ukrayiny" (Restoration of Ukraine), as well as by non-factional MPs. At all costs, the government needs to avoid the situation of 2018, when Poroshenko's pro-presidential majority in the previous Verkhovna Rada de facto ceased to exist due to conflicts between coalition members, which was the formal reason for newly elected President Volodymyr Zelenskyy to call early parliamentary elections in 2019.

At the same time, since February 2022, an informal "defence coalition" of four factions – "Sluha Narodu", "Evropeiska Solidarnist", "Batkivshchyna" (Motherland- the party headed by former PM Yulia Tymoshenko), and "Holos" (Voice)- has existed in the Ukrainian parliament. This coalition is a kind of analogue of the "coalition of national unity", but it is limited to voting on decisions necessary for Ukraine's defence capability and reforms for Ukraine's membership in the European Union. Even though it declared in the first months of the full-scale war that it would end internal political strife and ensure national solidarity, it did not extend beyond voting on priority legislative initiatives, and political competition within the "defence coalition" remains.

Instead, representatives of President Zelenskyy's team propose to limit themselves to making certain concessions to the parliamentary opposition and focus on implementing three priorities:

1. Implementing parliamentary reform, including amendments to the Rules of Procedure of the Verkhovna Rada to expand the rights of the opposition, primarily to provide additional opportunities to work in permanent parliamentary committees.
2. Adopting new legislation on political parties, amendments to which were prepared by a working group before the full-scale invasion.
3. Drafting a separate ad hoc law addressing the specifics of the first post-war elections in Ukraine and adapting Ukrainian legislation to the exclusive needs of the electoral process for the election of MPs, the president, and local self-government bodies, as well as considering strengthening the legislative guarantees of the independence of the Central Election Commission.

These proposals are an alternative to a national unity coalition for Ukraine at war. However, as long as the process of discussing these proposals has not yet begun, and there is no practice of applying these proposals, we can only speak of them as a declaration of the authorities' intentions to seek ways to overcome the problem of competition between parties. At the same time, we can't say whether this will allow the current government to share power with the opposition to remove the fair



criticism of the Presidential Office's sole management of the state. Otherwise, the process becomes just a simulation of overcoming the crisis of its lack of alternatives in a situation where elections are impossible for the unsatisfied part of society and Western partners.

At the same time, Volodymyr Zelenskyy's team believes that Ukraine's European integration course towards EU membership and its external commitments in this regard can guarantee that Ukraine does not deviate from its democratic path in the face of the objective impossibility of holding elections during the war. It is unclear whether relying solely on an external locus of control is sufficient; however, another factor of internal control in the conditions of the legal regime of martial law is neither voiced nor visible.

Overall, while we can reasonably claim there is legitimacy on the Ukrainian elected authorities by not holding elections during wartime, there are still challenges that president Zelensky and the Ukrainian parliament, the Verkhovna Rada face. This article served to highlight these challenges, the attempts to find solutions, and the viability of these attempts. Nevertheless, the issue of finding political legitimacy elected authorities in Ukraine remains complex and multifaceted, and will largely depend on how the Russian-Ukrainian war will develop



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