

The CEC has formed oblast, raion, and city election commissions

Formation of commissions

The Central Election Commission and local organizations of political parties have properly realized their functions in regard to formation and staffing of key collegial bodies responsible for the organization of local elections on 25 October 2020 and overall election administration in oblasts, raions and cities.

On 10 August, the deadline established by the law, the Central Election Commission has formed all 22 oblast (except for Donetsk and Luhansk), 119 raion (except for the certain areas of Donetsk and Luhansk oblasts, and the AR of Crimea), and 381 city election commissions. Besides that, it has formed 10 district election commissions in Kyiv. By the end of August, the newly formed district election commissions will form village and settlement election commissions, and the formation of precinct election commissions will become the final stage in the system of election administration bodies.

Territorial election commissions are permanent collegial bodies, which are responsible for the formation of election districts, registration of candidates, preparation of ballots and establishing the results of elections to the relevant council (oblast, raion, city, district in the city, settlement or village) and results of local mayoral elections, or election of village or settlement heads. TEC members will exercise their powers until the next regular elections and the formation of new election commissions, ie in fact for the entire term of local councils to be elected in October 2020.

Given the unprecedented number of nominees for membership in TECs (over 28,000), which is more than two times above the number of available seats (9,576), almost all commissions were formed in the maximum possible membership (18 people). Perechyn city TEC (Zakarpattia oblast) with 16 members, and Kitsman and Storozhynets city TECs (Chernivtsi oblast) with 17 members each are the exception. The maximum number of members in each commission provides a balanced party representation, and efficient distribution of functions between commission members. On the other hand, this may bring complications to discussions and decision-making, and even destabilize their functioning if rotations add on.

The Election Code defines three subjects entitled to nominate candidates to the territorial election commissions: 1) local cells of parties that have formed factions in the Verkhovna Rada of the current convocation - had the right to delegate two candidates to each commission; 2) local cells of parties that have concluded an agreement on political cooperation with a parliamentary group of MPs - one candidate each; 3) local cells of parties registered in the relevant administrative-territorial unit - one candidate each. Candidates from the first two subjects (parliamentary political parties) were included in the commissions on a mandatory basis, and from the other subjects (non-parliamentary political parties) - through the draw of lots, regulated by a separate CEC resolution. Thus, 12 of 18 seats (67%) in each territorial election commission were reserved for five factions and two parliamentary groups, and the rest 6 seats divided between all interested parties, including those represented in the Parliament.

It is not the first time that the law-maker has granted parliamentary factions and groups a priority in the formation of territorial election commissions. A similar approach to the formation of commissions has already been used during previous election campaigns in Ukraine. For example, in 2015 regular local elections, parties that were represented in the Parliament could nominate two candidates to each TEC, and in 2010 - three candidates. However, giving parliamentary groups the same imperative right for commission formation as factions had, is a novelty. Given the legally uncertain role of parliamentary groups in the party system and the election process as a whole, such a legislative decision may result in a weakening of mutual party control and an increased politicization of election administration bodies.

In practice, parliamentary groups could nominate candidates to TECs via a political cooperation agreement with a political party. Thus, the Dovira group of MPs signed such an agreement with the Solidarity of Women

of Ukraine party, and the For the Future group of MPs signed an agreement with a namesake political party "For the Future".

According to the results of the distribution of seats reserved for parliamentary political forces, it turned out that three parliamentary factions (their local party cells), namely European Solidarity, Servant of the People and Batkivshchyna, submitted two candidates to each of 532 territorial election commissions, formed by the CEC. The Opposition Platform - For Life faction also used almost all (96%) its quota on nomination of commission members. Instead, local cells of the Holos party submitted 716 out of the total number of candidates they could submit to TECs without participation in the draw of lots (2 in each of 532 commissions = 1,064), and thus formally used 67% of their quota. Parties that have concluded agreements with parliamentary groups have also in different ways exercised their right to delegate candidates to TECs: For the Future party has submitted one candidate to each of 532 TECs (using 100% of the quota), while Solidarity of Women of Ukraine - to more than half of commissions (309 or 58%).

Local party cells	Number of TEC members	Mandatory inclusion	Draw of lot inclusion	Percentage of TEC members	Percentage of oblast, rayon and city TECs where the party is represented
Servant of the People	1211	1065	146	12.70%	100%
Batkivshchyna	1,197	1060	137	12.50%	100%
European Solidarity	1195	1065	130	12.50%	100%
Opposition Platform - For Life	1,136	1026	110	11.90%	97%
Holos	757	716	41	7.90%	68%
For the Future	644	533	111	6.70%	99%
Solidarity of Women of Ukraine	356	309	47	3.70%	60%
New Policy	139	0	139	1.50%	26%

Peasant Party of Ukraine	113	0	113	1.20%	22%
Radical Party of Oleh Liashko	103	0	103	1.10%	20%
Victory of Palchevskyi	99	0	99	1.00%	19%
Svoboda	87	0	87	0.90%	16%
Syla i Chest	83	0	83	0.90%	16%
Party of Sharii	73	0	73	0.80%	14%
Za Odeshchynu	65	0	65	0.70%	12%
Ukrainian Strategy of Hroisman	60	0	60	0.60%	11%
Socialists	53	0	53	0.60%	10%
Other parties	2,201	0	2,201	23%	---

Thus, local cells of parties represented by factions in the Parliament (Servant of the People, Opposition Platform - For Life, Batkivshchyna, European Solidarity, Holos), as well as parties Solidarity of Women of Ukraine and For future, have fully exercised their right for priority in the formation of election commissions. Thus, in total they submitted 5774 (or 90%) of 6384 available nominees who were subject to mandatory inclusion. Thus, the dominating influence of parliamentary political forces on commission formation allows them to organize all commissions in at least quorum-size membership even without candidates from other political subjects.

A total of 256 local political party cells exercised their right to submit TEC members, total number of which exceeded 28 thousand. 1,092 of them were rejected by the Central Election Commission because the submitted documents were not in line with the legislative requirements, and 842 persons the nominating entities have withdrawn themselves. Since 5,774 persons were included in TECs on a mandatory basis, more than 20,000 persons (20,571) remained, applying for 3,798 vacant commission seats. To allocate these seats, the Central Election Commission conducted a draw of lots, which determined the order in which candidates submitted by the relevant local political party organizations were included in the relevant TECs. The draw was held simultaneously for all territorial election commissions. Thus, 527 out of 532 participated because

five commissions had equal to or less than the maximum number of nominated candidates. The CEC conducted the draw of lots online openly and transparently, in accordance with the procedure established in Resolution #113 of 25 June 2020.

According to the results of the draw, 205 local party cells delegated their representatives to TECs. The following parties received the largest number of candidates in commissions (one in each commission): Servant of the People (146 commissions), New Policy (139), Batkivshchyna (137) and European Solidarity (130).

Taking into account both results of the draw and the mandatory inclusion of candidates for territorial election commissions, local cells of parliamentary parties (factions and groups) received the largest representation, as expected. Together, the following political forces delegated 68% (or 6,496) of candidates to TECs: Servant of the People, Batkivshchyna and European Solidarity - about 13%, Opposition Platform - For Life - 12%, Holos - 8%, For the Future - almost 7%, Solidarity of Women of Ukraine - about 4%. At the same time, parliamentary parties (factions) have three representatives in many commissions. For example, the Servant of the People party received three seats in each of 151 (or 28%) territorial election commissions. Other parliamentary factions have a similar representation (except for the Holos) - three members in about a quarter of TECs. The Holos party, for its part, has three members in only 29 TECs formed by the Central Election Commission (5% of the total). The remaining vacant seats in election commissions, particularly 3,076 (32%), were divided between local cells of 198 political parties.

When forming the management of oblast, raion, and city election commissions, the CEC was obliged to appoint heads, deputy heads, and secretaries of each commission representing different nominating entities. At the same time, the Election Code does not require to distribute management positions in election commission proportionally in local elections (although there is such a requirement in presidential and parliamentary elections). Thus, the CEC had a good opportunity to ensure a more or less balanced distribution of management positions between nominating entities.

Local party cells	Number of TEC members	Number of Heads	Percentage of Heads (of the total number)	Number of Deputy Heads	Number of Secretaries	The total number of management positions	Percentage of management positions of the number of candidates nominated by a party	Percentage of management positions (of the total number of positions)
Servant of the People	1211	139	26.1 %	85	99	323	26.7%	20.2%
Batkivshchyna	1,197	86	16.2 %	64	79	229	19.1%	14.3%



European Solidarity	1195	76	14.3 %	76	70	222	18.6%	13.9%
Opposition Platform - For Life	1,136	66	12.4 %	76	83	225	19.8%	14.1%
Holos	757	52	9.8%	59	51	162	21.4%	10.2%
For the Future	644	49	9.2%	44	58	151	23.4%	9.5%
Solidarity of Women of Ukraine	356	24	4.5%	26	31	81	22.8%	5.1%
New Policy	139	0	0.0%	0	2	2	1.4%	0.1%
Peasant Party of Ukraine	113	2	0.4%	0	0	2	1.8%	0.1%
Radical Party of Oleh Liashko	103	4	0.8%	8	6	18	17.5%	1.1%
Victory of Palchevskiy	99	0	0.0%	1	2	3	3.0%	0.2%
Svoboda	87	1	0.2%	12	6	19	21.8%	1.2%
Syla i Chest	83	4	0.8%	3	0	7	8.4%	0.4%
Za Odeshchynu	65	0	0.0%	3	2	5	7.7%	0.3%
Ukrainian Strategy of Hroisman	60	1	0.2%	3	1	5	8.3%	0.3%

Other parties:	2,201	28	5.3%	72	42	142	----	8.9%
Total	9,572	532	100%	532	532	1,596	----	100%

The Central Election Commission has made significant effort to ensure proportional representation of local party cells in management of election commissions, but it's still not entirely balanced as a result. In total, TEC management includes candidates from 94 political party cells. Candidates from local cells of the Servant of the People have received the biggest number of positions of heads, deputy heads, and secretaries. Thus, 323 of 1,211 candidates from the party are in management (almost 27%). At the same time, the European Solidarity and Batkivshchyna parties, which have about the same number of TEC members as the Servant of the People (1,195 and 1,197 respectively), received a 19% representation in the management (222 in the European Solidarity in and 229 in the Batkivshchyna). Representatives of the Servant of the People not only predominate in all categories of management positions, but also clearly have the biggest number of TEC heads. Thus, 139 persons nominated by the Servant of the People were appointed as commission heads, what is much above the number (and percentage) of heads from other subjects with similar representation. In particular, the Batkivshchyna received 86 commission heads, European Solidarity - 76, and the Opposition Platform for Life - 66. The CEC has introduced an additional criteria for the selection of management, based on professional qualification and experience in electoral matters. Although it is reasonable, the gap in representation does not speak in favor of it.

In terms of gender balance in territorial election commissions formed by the CEC, women predominate. Thus, the ratio of men to women in TECs is 29% to 71%. This indicator was similar in the previous regular local elections in Ukraine: the percentage of women in TECs formed by the CEC in 2010 was 68%, in 2015 - 74.5%. Women also predominate in commission management (75% women to 25% men), especially commission secretaries (80%). However, the situation is quite different at the level of oblast election commissions, where women hold only 32% of head positions. If we compare local cells of parties, which have delegated the biggest number of TEC members, the ration of men and women is almost equal. The Holos has the smallest percentage of women in TECs (68%), the Servant of the People - the biggest (77%).

Gender balance in commissions

	Number of Persons	Men	Women	Percentage of women
Total	9,572	2,781	6,791	70.9%
Head of Commission	532	142	390	73.3%
Deputy Head of the Commission	532	153	379	71.2%
Secretary of the Commission	532	108	424	79.7%
Commission Member	7,976	2,378	5,598	70.2%

Gender balance in management of TECs - heads

	Number of Persons	Men	Women	Percentage of women
Heads of oblast commissions	22	15	7	31.8%
Heads of raion commissions	119	43	76	63.9%
Heads of city commissions	381	82	299	78.5%

Launch of TECs

(Based on the results of OPORA's monitoring of meetings at 115 of 552 election commissions)

TECs, that have been formed by the CEC were obliged to hold their first meetings not later than the second day after their formation. Taking into consideration that election commissions have been formed on August 10, TECs were supposed to hold their first meetings not later than August 12.

OPORA's representatives have observed the first meetings at 115 TECs, comprising 22 oblast, 31 raion and 60 city TECs. The publicity of these meetings was also guaranteed by journalists, which were present at 35 of 115 commissions, covered by OPORA's observation. The CEC has formed 532 commissions in total.

According to the Election Code, TEC members shall take an oath on the first meeting. If a member refuses taking the oath, it means the rejection of seat in commission. The quorum for TEC's meeting requires at least a half of its membership. All the TECs observed by OPORA comprised 18 members. Thus, there should be 10 persons on a meeting to gather the quorum.

OPORA's observation findings of the first meetings at 115 TECs are as follows:

- 113 of 115 monitored TECs have gathered in time for their first meetings, and the main item on the agenda was to take the oath;
- 10 of 115 monitored TECs have had less than a half (less than 10) of members on their first meetings, the other commissions have gathered the quorum.
- in 12 of 115 TECs, the number of members who took the oath on the first meeting was less than required for a quorum. This was because some newly-appointed TEC members refused to take the oath and start to work.

According to estimated calculations from observers, 61 persons (almost 3% of members at covered TECs) refused to enter into office. Thus, 12 TECs did not gather the quorum at their first meetings and had to postpone the oath taking for the next meetings. There may be more such TECs in total, as long as OPORA did not observe the first meetings of all TECs formed by the CEC. Find more details about the first TEC meetings in territorial communities and regions on the OPORA's website, section "Regional News" <https://www.oporaua.org/region-news>.

Major challenges at the start of TEC functioning

- A key challenge the TECs faced on the start was the absence of payment for their work. According to the current legislation, members and employees of TECs receive payment only with the start of the

election process. At the same time, election commissions begin functioning yet before the start of elections, and are obliged to realize some important tasks. For example, these commissions must form village, settlement, ration in cities TECs, and prepare draft resolutions on the creation of election districts etc. To realize its powers, TECs require ongoing involvement of commission members, as well as supporting staff like system administrators, lawyers, clerks, etc.

The absence of regulations ensuring payment for TEC members before the official election process has impacted their motivation to work in such conditions. OPORA calls on state authorities to resolve the issue with remuneration for the work realized by commission members and employees in August 2020.

- Restricted access to administrative facilities of government bodies as a part of measures against COVID-19 has led to problems with journalists and representatives of the public on the first meetings of TECs. For example, there were some difficulties with access of observers to the first or other meetings of Kyiv, Kryvorih, Lviv city TECs, Lviv oblast TEC, Zolochivsk and Yavoriv raion TECs etc.

The uncertain procedure for activities of election commissions in conditions of COVID-19 remains a pressing challenge and requires specific and agreed decisions from the state. For example, during the first meetings of TECs, OPORA's representatives noticed newly-appointed commission members don't have face masks and disinfectants. Some election commissions have already officially addressed the authorities suggesting to provide the necessary items to members of election commissions (in particular, the Zhytomyr Oblast Territorial Election Commission).

OPORA welcomes efforts of the CEC developing the set of measures to ensure the safe working conditions of election commissions during the pandemic and calls on state authorities to provide them with everything they need in a timely manner. At the same time, we draw attention of the state that de facto restriction of the rights of electoral subjects, resulting from implementation of measures against the spread of COVID-19, is inadmissible, and must not replace the requirements of electoral legislation. Given the experience of holding elections in foreign countries, it is possible to both realize the election procedures comprehensively and implement measures to combat the pandemic.

- OPORA's observers noted a number of problems related to providing the TECs with premises, computer equipment, Internet communications, etc. According to OPORA's observation at the first meeting of TECs, only 19% of TECs were provided with information boards on their facilities, only 42% of TECs had access to the Internet, and 21% of TECs had a stand for official materials from commissions.

These problems usually do emerge in Ukrainian elections and they are usually resolved during the work of election commissions. Unfortunately, members of some TECs had to either apply to government bodies for premises or other means needed to do their job, or solve the problems themselves. For example, members of the Kaluha City TEC (Ivano-Frankivsk oblast) informed OPORA's observers that they purchased stationery, seals and TEC signs at their own expense. Members of the Ivano-Frankivsk commission also informed about the need to temporarily spend personal funds on the organization of TEC work. The Chernihiv City TEC, for its part, applied to the oblast council and the oblast state administration with a request to resolve problems with material and technical assistance. OPORA's representatives call on the authorities to promptly ensure proper conditions for the stable functioning of TECs in local elections.

- Many TEC premises were not prepared in terms of accessibility. Thus, TEC premises are sometimes located on the upper floors with no elevators, do not have ramps, or do not comply with other accessibility standards. As a result, persons with disabilities can not work at or communicate with election commissions.

OPORA calls on the authorities to urgently analyze the current situation and bring TEC premises in line with accessibility standards, ensuring inclusiveness of the election process.

RECCOMENDATIONS

To the Verkhovna Rada of Ukraine:

- To include in the Election Code the principle of proportional division of management positions in TECs for local elections.

To state authorities and local self-government bodies:

- To assess the current condition of the premises and take measures to ensure the provision of good material and technical conditions for territorial election commissions, as well as an unimpeded access for people with disabilities.
- To develop a set of measures and quarantine restrictions in timely and open manner, to minimize the hazards for election administration or unauthorized restriction of voting rights of citizens.
- To resolve the issue with remuneration for the work realized by commission members and employees before the start of election process.

To political parties:

- To refrain from unjustified and excessive substitution of TEC members, which have adverse impact on the functioning of commissions and question the independence of their members.

Reference: OPORA's observation is aimed to provide an unbiased assessment of election administration and process, facilitate free and fair election, and prevent violations. Civil Network OPORA has been realizing a wide-scale observation of regular local elections, to be held on October 25. We have deployed 188 observers nationwide, and short-term observers will join them on the Election Day. OPORA also monitors the use of budget resources for indirect campaigning, and civic ombudsmen inspect polling premises in terms of accessibility, as well as protect voting rights of citizens.