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UKRAINE ELECTION ALERT #1

Ukraine local elections 2020 - a challenging context and a test for Zelensky's party

The upcoming local elections in Ukraine will take place in a very challenging context. First, the electoral legislation, which was adopted too close to the voting day - on July 16 (Venice Commission recommends „no legal changes in the year prior to elections“), introduces a lot of innovations and changes, to which various players have had to adapt. One of the important innovations is that the local council members in cities/towns with more than 10,000 voters will be elected exclusively through party lists (smaller communities will have a majoritarian system). As a result, 45% of all communities will elect deputies according to a new system. Second, the elections coincide with the final stage of the decentralization reform in Ukraine, which has been ongoing since 2014. In June 2020, the new administrative-territorial division of Ukraine was introduced, which reduces the number of districts (rayons) from 490 to 136 and the number of territorial communities from 11,794 to 1,469. The electoral legislation innovations in a way contradict with the principles of decentralization. The latter gives more powers and resources to the local level, whereas the party lists in municipalities over 10,000 voters subordinate individual, otherwise independent candidates to the parties, often in an artificial way. Third, the elections are heavily marked by the context of the COVID-19 pandemic and the situation/war in Donbas, the latter disabling voters in some districts to exercise their voting rights. Finally, these elections will test the political power of President Zelenskyi and his political party, the Servant of the People, anew.

A test for Volodymyr Zelenskyi and his political party

By autumn 2020 not much has been left from the popular support of Volodymyr Zelenskyi and the so called “mono-majority” that his party, the Servant of the People, used to enjoy. Although Zelenskyi is still a leading candidate in a potential presidential election, 57% of voters are not satisfied with his work (only 35% are satisfied), according to [a poll of the Rating Group](#) conducted in September 2020. The Servant of the People is still leading in the polls compared to other parties, who have chances to get seats in the local councils, but this support is nothing compared to the popularity the party enjoyed during the parliamentary elections last summer. According to [a poll from Rating Group](#) conducted in October 2020, the Servant of the People leads with 16,7% of support, followed by the Oppositional Platform – For Life (13,5%), the European Solidarity of Poroshenko (13,2%), Fatherland of Tymoshenko (8,6%) and For Life (7,4%). Moreover, the parliamentary faction of the Servant of the People, which has become very heterogeneous, already for a long time has been forced to seek support for passing laws from other factions. Thus, Zelenskyi and his party badly need to boost their popularity to get more seats in the forthcoming local elections. In the case that his party shows good results, Zelenskyi will get a chance to prove that people still trust him and support his policies. But if his party fails, this would further undermine his support and might weaken his political power, even leading to potential early parliamentary elections.

The popular poll initiated by Zelenskyi

In this context, the popular poll, which Zelenskyi initiated, looks like a „trick“ that is supposed to increase the turnout, but also stimulate the voters to vote for the Servant of the People. According to OPORA such an undertaking, which has the characteristics of campaigning, should be funded from the budget of the election campaign, not from private sources, which is the case now. Until recently it was not known at all who finances the poll. On October 20 the Servant of the People Party through its Facebook account announced that it will cover the expenses related to conducting the poll, initiated by Zelenskyi, and will hire a sociological company for this purpose. The Facebook post says that the polling will take place outside of the polling stations and will not contain any campaigning elements. Moreover, since the party allegedly refused to receive public funding envisaged by the legislation, the funding of the poll contains no taxpayers' money.

The five questions, which Zelenskyi wants the people to express their opinion on, concern introducing life-long sentencing for large-scale corruption, creating a free economic zone in Donetsk and Luhansk regions, reducing the number of MPs to 300, legalizing cannabis for medical purposes, and the right of Ukraine to claim security guarantees, envisaged by the Budapest Memorandum, which was signed back in 1994, when Ukraine gave up its nuclear weapons. Most questions are rather vague and it is not clear what these ideas, if implemented, are supposed to produce. In other words, it looks like a very populist initiative, which has other hidden purposes, such as attracting voters. According to OPORA, this undertaking in a way violates the Constitution, since the latter does not envisage the president initiating such polls. Moreover, this initiative borders closely on abuse of state resources, since for the poll Zelenskyi uses the same slogan his party uses - „Ukraine is You“. The announcement of the party that it would fund this poll only confirms this. This actually shows that Zelenskyi as the president, who is the guarantor of the Constitution, has failed to stay above and equally distant from all political parties that compete in the elections.

The challenging COVID-19 context

The upcoming elections are taking place in the middle of the COVID-19 pandemic, which has hit Ukraine rather badly. Ukraine registers 6.000-7.000 infected persons daily with the total number of those infected on the eve of elections having reached 181.398 cases (322.879 since the pandemic started) and the health care system has reached its limits. Polling stations, if not properly organized, might become dangerous places, leading to the deterioration of an already bad situation. Moreover, there have been a lot of misunderstandings between the central authorities and Zelenskyi personally, who introduced a quarantine to slow down the spread of COVID-19, on the one side, and mayors of several cities and towns, who refused to follow them fearing negative economic consequences, on the other side. For instance in Kharkiv, a large industrial city in Eastern Ukraine, the mayor refused to stop the metro for quite some time, before he eventually did so and was himself in a critical condition delivered to Germany for COVID treatment.

On July 22 and later on during an extraordinary session on September 14, the government adopted decrees, which outlined the measures related to COVID-19 to be followed by all participants of the election process during the campaign and the very day of elections. Although the measures are very

detailed and straightforward, especially when it comes to the day of elections, there are big chances that they will not be implemented by all polling stations due to the lack of resources. For instance, the polling stations should provide disinfectants for all voters, organize frequent cleaning of surfaces, and separate entrance and exit routes, whereas the voters are supposed to bring their own pens (what if someone forgets to take one?), to mention just a few requirements. On October 10, the Central Election Committee expressed its concern that poor implementation of the measures might undermine the voting processes and asked the Cabinet of Ministers and other central and local authorities to make sure that the measures are implemented. Yet, until now there has been no convincing information that sufficient funding has been allocated and that the polling stations will indeed be ready to follow all the necessary provisions.

On October 20, an MP of the Servant of the People Party registered a draft resolution proposing to cancel all second rounds (which should take place sometime in November within two weeks after the results of the first round are announced) in towns with over 75.000 voters if none of the candidates get above 50% of votes in the first round following the October 25 local elections for the duration of the COVID-19 pandemic quarantine period. The resolution has already triggered negative reactions from the party faction itself and independent observers and is therefore not likely to result in a decision. Yet, this move shows that the pandemic might be used as a pre-text for manipulations that might undermine the voting process.

Donbas: security vs. the right to elect and be elected

The war in Donbas, which has been ongoing for over six years now, also has implications for the electoral process. Thus, the voters, who reside in the constituencies close to the front line in Donbas, will not be able to exercise their constitutional right to vote. At least, this will not be possible this time and this year, but this might happen next year. The Central Election Commission in theory will be ready to organize elections there next year, but this remains to be seen.

The problem with the upcoming elections is that the Central Election Commission of Ukraine on August 8 decided to cancel elections in 18 constituencies of the six rayons of the Donetsk and Luhansk regions, which are under the control of the Ukrainian Government. This decision was based on the opinions of the so-called civil military administrations (temporary government units in some parts of Donetsk and Luhansk regions, which are controlled by the Government of Ukraine), who suggested that it would be too dangerous to hold elections there from a security standpoint (too close to the front line). This means that some half a million voters will not be able to cast their votes. Yet, the elections were not canceled altogether: although the elections of village, settlement and city councils and mayors in these areas will not take place, the candidates for the six rayon councils from these communities will be on the ballot in the October 25 local elections. Still it is not clear, whether they eventually will be elected since we do not know, whether local organizations of political parties will place the candidates from these local communities in potentially winning positions on their party lists (according to the new election system, the parties decide where to place each candidate and, although the voters can express their preferences on candidates, it is almost impossible that this will influence the preference of the party, since for a candidate to move up on the list, she/he has to receive a large share of votes). There is potentially a danger that the respective communities will not receive their representatives in the rayon councils.



Civil society and experts have expressed concerns over such a decision, especially since elections were held in these communities during the 2019 presidential and parliamentary elections. IFES stated that this move deprives citizens of their constitutional rights through administrative decisions. There has been no clearly defined legal criteria, which would stipulate that elections in these communities would not be possible or dangerous. OPORA assessed this move to be a political decision, aimed at protecting the current authorities, who govern poorly, yet do not want to be replaced. This will undermine the trust between the people and the current local authorities. This especially concerns the towns of Severodonetsk and Lysychansk, which are rather remote from the front line and where the decision of the Central Election Committee provoked protests.

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