

OPORA CIVIL NETWORK INTERIM REPORT BASED ON NONPARTISANT LOCAL ELECTION OBSERVATION IN SEPTEMBER 2020

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EXECUTIVE SUMMARY

In September 2020, the local election process continued amid ongoing discussions in the parliament about the legislative regulation of the election in a pandemic. The government's key objective is to introduce clear action algorithms for the election commission members and voters, as well as to conduct proper outreach campaigns to explain the algorithms. The remaining uncertainty about the adoption of special legislative amendments undermines the ability of the election commissions and the central and local government agencies to adapt in advance to meet the new standards of safe voting. There is no clear understanding of the sources and amounts of financing of the measures preventing the spread of COVID-19. This clarity is, however, key to proper preparations for the election amid the pandemic. The election process stability was also negatively affected by ongoing discussions of potential amendments to be introduced to the Electoral Code to regulate certain election procedures, in particular discussions of the grounds for counting or invalidating ballots under the proportional representation system. Thus, the parliament has not provided sufficient legal certainty of the election process amid the adoption of the final Electoral Code and further discussions of the Code improvements.

OPORA recognizes the professional competences of the Central Election Commission (the CEC) in the local election process and welcomes the Commission's efforts to reach out to the voters and ensure their voting rights. In the reporting period, the procedures have been completed for the voters to submit their change of the voting address applications to the agencies responsible for keeping the State Register of Voters. This was supported with accessible e-services. Between July 1 and September 10, 2020, about 100,000 persons had taken the opportunity to change their voting addresses on the electoral rolls for their actual place of residence. Despite a short period allowed for communicating the new procedures to the voters, the government authorities, especially the CEC, demonstrated the ability to make information available and accessible to the public. No proper procedures have been fully introduced to ensure the certainty of punishment for election offenses, therefore questionable increases in the number of voters have been observed in some precincts because of the change of voter addresses. OPORA is set to closely monitor such polling stations and calls on the law enforcement agencies to pay special attention to them as well.

Certain deficient provisions of the Electoral Code have made the CEC explain the election procedures additionally. In isolated instances, such explanations by this higher election administrator were excessive, particularly regarding indirect vote buying. The CEC has also approved a ballot form under the proportional representation system. In terms of the format for indicating sequence numbers of the candidates, this form contradicted the information communicated during previous outreach campaigns. Therefore, it is advisable to explain promptly all the aspects of voting under the new electoral system to the voters.

Nomination and registration of candidates in the local election were key developments in the reporting period. Monitoring of the meetings held by local organizations of the political parties to nominate their candidates showed that the legal requirements to the transparency and openness should be tightened. This is necessary to both strengthen the democracy inside the

parties and prevent changes in the electoral lists that can be introduced after their final approval.

The final version of the Electoral Code was adopted immediately before the election process, therefore the local party organizations, candidates, and members of the election commissions could not properly prepare for the candidate registration. These preparations were also negatively affected by time constraints and statutory procedures that were insufficiently clear. This resulted, in particular, in the unequal application of the Code's provisions about gender representation in the lists of the local party organizations, as well as about cash deposits and correction of mistakes and inaccuracies in the candidates' documents. OPORA has documented the registration of candidates by the territorial election commissions that breached the Electoral Code and the denial of registration on flimsy grounds.

OPORA has to point to a fairly widespread technology of the “clone” candidate registration that is used to divert the support of real candidates. Amendments to the Criminal Code allow law enforcement agencies to counter this technology by proving bribery of the sham candidates. Our observers welcome the investigations launched into the registration of clone candidates in several regions. The proactive position of law enforcement agencies must demonstrate the inevitability of punishment for misleading voters and obstructing passive suffrage rights.

The unresolved financial and technical issues have complicated the work of territorial election commissions that carried out such key election procedures as the registration of parties and candidates. According to the observers, the quality of the equipment and facilities used by the territorial election commissions was not critical, but the commissions suffered from the shortage of office equipment (computers and printers). This made the commission members use their own technical resources. Despite the general expectations that the problems were temporary and would be largely resolved in the near future, the local governments should pay more attention to the quality of equipment and facilities of the election commissions and respond promptly to reasonable requests from the commission heads. According to the observers, the commissions have insufficient supplies of antiseptics, disinfectants, and other means of personal protection. This poses a threat to the commission members and election process actors who have to communicate regularly with the commissions. Potentially, the establishment of precinct election commissions could give rise to much bigger problems and large-scale risks in this context, as the commissions would face the inability or unwillingness of village councils to provide computer equipment and personal protection means.

Although the formation of the election commissions took place outside of the election process timelines, the parliamentary factions and groups (local organizations of the relevant political parties) have assumed the main responsibility for their establishment. For the first time, the Central Election Commission had responsibility for consideration of the nominations and establishment of all oblast, raion, city, and town commissions. However, the issue of frequent replacements and relocations of election commission members remains pressing. As of September 25, the entities nominating the territorial election commission members had made 3,915 replacements (including multiple recalls and readmissions) of the commission members. Thus, the oblast, raion, and city/town territorial commissions have been renewed by 41% compared to those initially established by the CEC on August 10, 2020.

The completion of party and candidate registration has resulted in a clear legal framework established for all the election actors. This had a positive impact, scaling down the electioneering efforts at the pre-campaign stage that showed signs of vote buying (so-called electioneering gifts). Despite the decrease in the number of attempts by some potential candidates to distribute electioneering gifts in late September, the continued operations of charitable foundations connected with the election participants for whom the actual campaigning takes place (mostly in a covert form) require close attention and proper response of the law enforcement agencies. Equally important are preventive actions and response to campaigning violations, which were most often reported by OPORA observers in September.

The need to address the misuse of administrative resources, the issue that is becoming systemwide because of the broad participation of local government officials and elected representatives in the local election campaigns as candidates, goes beyond purely legal regulation or law enforcement intervention. It requires a holistic approach involving voluntary self-restraint of the stakeholders and their public commitment to adhere to the democratic standards. To intensify the fight against the misuse of administrative resources, OPORA developed a [Code of Conduct for Local Government Officials and Civil Servants in the Election Process](#) back in 2019. In the 2020 local election process, ten mayors, village and town heads have signed the Code, committing to adhere to the broad standards of combating the misuse of administrative resources.

In general, we can state that the election campaign is competitive at this stage, given the number and political spectrum of active parties and candidates (73 parties, of which 18 campaign on a large scale), as well as the intensity and variety of campaigning. However, the non-transparency of significant financial spending on electioneering at a pre-registration stage created unequal conditions for law-abiding election process actors.

Analyzing various forms of campaigning in the local election, we see that online campaigns are gradually becoming a dominant form for the parties and candidates. According to OPORA observers, campaigning in social networks and the Internet is the second most common form of campaigning after outdoor advertising. Monitoring of political ads on Facebook also shows a rapid growth in the magnitude and spending on political advertising. Last month, more than 36,000 political ads were posted online, costing from \$1,150,000 to \$1,400,000 in total (for comparison, 20,000 posts worth about \$400,000 were posted on Facebook in August). In this situation, the absence of special requirements or restrictions for online campaigning in the election laws is particularly dramatic, resulting in opaque financing of promotion materials on the web and in the unregulated legal relations between all players that place orders, create and distribute the campaign content.

In the period under review, the CEC did not reconsider its decision, based on the conclusions of the civil-military administrations, regarding the impossibility to hold the first local elections in 18 communities in Donetsk and Luhansk Oblasts. The Commission took steps to examine the situation once again, sending requests to the National Security and Defense Council and the civil-military administrations, but the security agencies stuck to their conclusions. This restriction of the right of the communities, which are home to about 475,000 voters, to self-

governance requires that the President of Ukraine, the Government, and the Parliament should give a definite legal answer about the terms and conditions of the relevant local elections there.

The 2020 local election is an important test for the Ukrainian law enforcement system's ability to implement new laws that was adopted to prevent, combat, and investigate election offenses. In particular, the Criminal Code of Ukraine and the Code of Administrative Offenses have seen significant improvements. It gives one hope that much of the obstacles preventing unavoidable punishment for electoral offenses have been removed and that this election campaign will have a better quality of investigations.

According to the National Police of Ukraine, 271 administrative offense reports have been drawn so far in the 2020 local election. Article 212-13 of the Code of Administrative Offenses was the record holder in the number of reports. The article establishes liability for the production and distribution of promotion materials without source data (194 reports). In the same period, the police initiated 150 criminal proceedings, of which 35 involved vote buying (Article 160 of the Criminal Code), while proceedings about obstruction to the voting rights (Article 157 of the Criminal Code) ranked second (26 proceedings).

PERFORMANCE OF THE CENTRAL ELECTION COMMISSION

In the reporting period, the CEC completed the procedures to change voting addresses and published the updated information. It provided a number of much-discussed comments to the Electoral Code and election procedures, issued observation permits to national NGOs, and accredited observers from international organizations and foreign states. In some cases, the Commission had to respond to headline-making refusals by territorial election commissions to register candidates and to ensure rotations within the territorial commissions on an ongoing basis. For the CEC, it was another challenge to explain the procedures for the election of councilors in those raions in Donetsk and Luhansk Oblasts where the first elections would not be held in a number of communities.

The Central Election Commission was quite active in its outreach projects and awareness-raising campaigns about the local election. In addition to the local election, the CEC worked to hold midterm elections in single-member constituency No. 208 (Chernihiv Oblast) and to reform its own Secretariat and executive support service.

OPORA believes that the CEC's efforts to organize and hold the local election were largely lawful, transparent, and open. OPORA observers welcome the Commission's commitment to prioritize people's voting rights in the process of changing the voting addresses, or when the CEC discussed NGOs' observation requests and reviewed complaints about controversial denials by some territorial election commissions to register candidates.

Because of imperfect laws, the Central Election Commission provided extensive comments on the legislation. This contravened the principles of legal certainty of the election procedures. The problem surfaced when the Commission offered explanations about the costs of promotion materials (image-building products or souvenirs), as the distribution of such promo materials

is not considered vote buying. The CEC's position was rather controversial when it decided on the form of ballots and the indication of sequence numbers of the candidates running under the proportional representation system. Some CEC meetings lacked open discussions of pressing issues in the election process, for example, the forms of ballots. As the national and international observers repeatedly noted in their previous reports, working formats for drafting decisions should not substitute the Commission's meetings, which are the main format of activity of this high election administration agency. Real open discussions by the Commission's members at its meetings are in the interests of the election participants and contribute to building credibility and confidence in the Commission's decisions.

[Explanations, procedures, and recommendations by the Central Election Commission](#)

In September, the CEC adopted a number of important explanations of the Electoral Code, some provisions of which lacked legal certainty. Imperfect election laws forced the Commission to present broad comments that occasionally looked like new provisions of the election law. The poor quality of some provisions of the election laws was a major challenge for the CEC, as excessive comments provoked political accusations against the Commission.

In the period under review, the most controversial comment by the CEC related to the costs of promotion materials, where the distribution thereof among voters was not considered indirect vote buying.

The current Electoral Code establishes that campaigning that involves the provision of money, food, alcoholic beverages, and goods to voters, institutions, or organizations of any subordination or form of ownership is the indirect vote buying. The exception is the provision of promo materials to the voters during campaigning, where the materials are produced at the expense of the campaign fund of a candidate or a local party organization, contain images of party symbols and campaign branding, and mention the candidate's name or image. Pursuant to the Electoral Code, the cost of such materials must not exceed 6% of the non-taxable minimum income of individuals, i.e. UAH 1.02, which is 6% of UAH 17.

When discussing the Electoral Code, the Verkhovna Rada of Ukraine made a mistake in establishing the limits of the cost of the promo materials that could be legally provided to the voters. The legislators failed to take into account the transitional provisions of the Tax Code of Ukraine whereby the non-taxable minimum income of individuals shall be UAH 17 if any law refers to the minimum income. Only in case of the liability for an administrative or criminal offense, the non-taxable minimum amount shall be set at the level of a tax social benefit, which makes 50% of the subsistence minimum for working-age population or UAH 1,051.

Confusing the provisions of the election laws and the Code of Administrative Offenses, the members of parliament of Ukraine have drastically changed the limits of the cost of promo materials (including souvenirs) that could be provided to the voters and were not considered indirect vote buying. As established by the Electoral Code, the cost of such materials is extremely low and creates excessive obstacles for the parties and candidates to campaign, imposing significant restrictions on the production and distribution of image-building products.

To create enabling environment for campaigning in the local election, the CEC clarified that the non-taxable minimum income referred to in the Electoral Code meant the non-taxable minimum set at the level of the tax social benefit as established by the Code of Administrative Offenses. Thus the CEC's explanation has allowed the parties and candidates to distribute promotion materials (goods with party symbols, names of candidates, etc.) costing not more than 6% of the tax social benefit, i.e. not more than UAH 63.06.

Despite the obvious mistake made by the legislators in the Electoral Code, the CEC's explanation provoked a mixed response among political parties and national experts. In our opinion, the Commission's decision on indirect vote buying looks like an attempt to introduce a new provision in the Electoral Code. This goes beyond the Commission's mandate. As mentioned before, the cost of image-building goods set at UAH 1 in the Code creates certain difficulties for the parties and candidates to implement their campaign technologies. However, these difficulties did not put in doubt the very possibility of campaigning and did not pose a critical risk to the election process.

If these CEC's practices of "correcting" mistakes made by MPs become legitimate, it would put the Commission at risk of political attacks, would not contribute to improving the quality of the parliament's work, and can potentially lead to abuses in its further attempts to resolve controversial issues. We would like to emphasize specifically that the Verkhovna Rada of Ukraine has actually distanced itself from the shortcomings in the Electoral Code as it failed to consider amendments thereto on time, in particular draft law No. 3971.

In addition to the much-discussed decision on indirect vote buying, the CEC gave a number of other comments. It clarified the procedures for establishing precinct election commissions in the regular election of Kyiv City Council members and Kyiv Mayor. This comment was useful because the Electoral Code lacked certain provisions on the entities nominating candidates to the precinct election commissions in Kyiv, taking into account the city's status and its administrative structure. The CEC decided that **city/town** or **city district** organizations of the political parties represented in the parliament or the parties that had entered into agreements with parliamentary groups may submit nominations to the precinct commissions, and these nominations were required to be considered. If the candidates to territorial election commission are simultaneously nominated by city/town and city district level organizations under the so-called parliamentary quota, the submissions by the relevant city/town organizations shall prevail. Instead, only city party organizations that have presented candidate lists for the Kyiv City Council election can submit their candidates to the precinct election commissions (there are no provisions for such nominations by the relevant party organizations in city districts).

The CEC has also approved the procedures for the production, transfer, use, and storage of the *Vybuв Seal* [Deregistered Candidate] in the local election. The Commission made a separate decision to approve recommendations on monitoring the receipt, accounting, and use of the election funds of the local political party organizations, councilor candidates, and candidates for the position of village/town/city mayors, where the election funds were approved by the National Bank of Ukraine. The recommendations covered the procedures for opening and closing election fund accounts, appointing the account managers, accumulating and using the

election funds, and selective inspection of the election funds by territorial election commissions and banks. The CEC recommended that territorial commissions should monitor, in particular, the legitimacy of the sources of election funding, the observance of the contribution limits, the legality of funding, targeted use of the funds, the agreements concluded to purchase goods and services from the election funds, etc. A territorial election commission shall, within five (5) days of finding signs of violations in the reports, notify in writing the competent authorities responsible for holding those at fault liable and analyze the interim and final reports on the use of election funds. In turn, banking institutions should control the availability of documents required for opening election fund accounts, the timeliness of transactions to return the unused funds, and the termination of settlement operations.

The territorial election commissions shall publish the reports within two days of their receipt on their official websites, the websites of the relevant local councils, if any, or make them public in another way at their discretion. Local party organizations must also publish interim and final financial reports on their official websites, if any, or otherwise on the Internet within two days of receipt.

[Approving the form and color of local election ballots](#)

The CEC is responsible for approval of the form and color of the local election ballots. Although this competence is a formality, the Commission's decision was controversial in terms of the format for indicating the sequence numbers of the candidates running for local council elections in the constituencies where the elections would be held under the proportional representation system. Pursuant to the Electoral Code, in every constituency, a local party organization may nominate five to twelve candidates for oblast, raion, and local council elections in the communities with 10,000+ voters. In this case, voters can support an individual nominee of the party in addition to the entire party list.

Considering that the voters vote in a personalized way under the proportional representation system, it is important how a sequence number of a candidate in the ballot is indicated and how it is used by voters when they want to support a particular nominee of the party organization. Having adopted Decision No. 295 on September 24, 2020, the CEC established that, in the election under the proportional representation system, the party organization's candidates on the territorial party lists shall be listed under numbers 1 to 12 in the ballots, without "0" (zero) digit indicated before 1 through 9. This decision contradicted the prior information provided to the voters about the voting method, and it was in conflict with the CEC's outreach campaign where the Commission had announced that the sequence numbers of the candidates would have "zero" (0) indicated before the numbers 1 to 9. It should be noted that the box for the sequence numbers of candidates has two cells. According to OPORA, this Commission's decision can facilitate falsifications of personalized voting through illegal indication of an extra number in the ballot and mislead voters about the voting method. Unfortunately, the CEC meeting that covered this issue failed to discuss openly the pros of the decision. OPORA draws the Commission's attention to the need for additional clarifications of the voting method under the proportional representation system and for the arguments supporting such format of indication of the sequence numbers of the candidates from party organizations in the ballots.

CEC's proposals for legislative regulation of the local election amid the pandemic

In the period under review, the Central Election Commission offered some solutions for the legislative regulation of the local election amid the current pandemic. The Commission had adopted a special resolution on proposed legislative improvements to hold the election in the lockdown. These improvements later became a framework for draft law No. 4117. As of the date of this report, the Verkhovna Rada of Ukraine has not considered this draft law.

The CEC's key proposals were: 1) adopt a law on the special aspects of this election and the relevant procedures for the application of the Electoral Code; 2) impose an obligation to take into account the lockdown rules and restrictions officially established by the Government during the election campaign; 3) prohibit entrance and stay in the polling stations and election commission's offices for people without personal protective gear; 4) ask people whether they have symptoms of respiratory diseases and conduct non-contact thermometry as they enter a polling station or are admitted for voting at the place of their stay, and deny entrance/admission to persons who refuse to undergo thermometry or have fever or other symptoms of respiratory disease, except voters; 5) require that as many voters can enter the polling station at the same time as it is possible to keep at least a 1.5m distance between them; 6) install separate booths and ballot boxes for voters showing signs of respiratory diseases and having fever; 7) require that members of precinct election commissions should use additional personal protective equipment (protective shields, goggles, and gloves) during voting and wear hazmat suits when voters vote at medical institutions and in the places of self-isolation; 8) establish the grounds for early termination of the powers of an election commission member if he/she is ordered to self-isolate, placed under medical supervision, or tests positive for coronavirus (with the nominating entity to reserve the right to nominate a new candidate).

OPORA believes that the CEC's proposals to regulate the election procedures during the pandemic at the legislative level are sound and well-grounded. Bylaws and recommendations will not be as binding on the election process actors as a law. Moreover, a significant number of the election procedures cannot be brought in line with the coronavirus preventing measures without amending the law. Some CEC's proposals require honest and politically impartial conduct of the territorial election commission members when they are implemented by precinct election commissions. In particular, it relates to the prohibition for observers, representatives of the candidates or other persons with signs of respiratory diseases or fever to stay inside the polling stations.

Financing the measures to fight the pandemic during the election process is another critical issue. According to the CEC's proposals, the responsibility for adoption of the procedures for provision of personal protective equipment to the election commission members lies with the Cabinet of Ministers of Ukraine. Local authorities are required to keep election commission offices in compliance with sanitary standards. OPORA believes that the full implementation of preventive measures during the election is only possible if they are fully financed by the government.

Although the CEC proposals on the election process during the pandemic are included in draft law No. 4117, it is not clear when the members of parliament will make them into law. OPORA

calls on the Verkhovna Rada of Ukraine to urgently develop a public policy for safe voting during the pandemic and enshrine the decision in law.

Responses by the Central Election Commission to high-profile refusals to register candidates in local elections

Public outcry was triggered by the CEC's decision following a complaint filed by Cherkasy regional organization of the Proposition party regarding the refusal by the territorial election commission in Uman to register a mayoral candidate, the incumbent mayor Oleksandr Tsebriy. The territorial commission justified its refusal on the following grounds: 1) the candidate himself had filed his registration documents, and not the local party organization that nominated him. In case of nomination of only one candidate in all multi-member constituencies, submission of documents by a nominating entity is a must for registration of candidates; 2) his CV lacked full information on the absence of convictions preventing him from running for the election; 3) in his consent to run for the local party organization, the candidate allegedly mentioned incorrectly that he had carried out no activities incompatible with the mayor's office and did not manage or own businesses or equity rights. Appealing against the refusal by Uman territorial election commission, the Proposition party organization asked the CEC to recognize that the inaction of the territorial commission was illegal, as it had failed to notify the nominating entity of mistakes found in the documents. It also asked to cancel the relevant decision of the territorial commission and restore the right to correct mistakes in the documents. The CEC replied that it could address the complaint only in regard to the territorial commission's failure to notify about the mistakes in the documents, but the territorial commission's decision itself should be challenged in court. When considering the complaint, the CEC found it unsubstantiated in terms of the notification of the party organization about the identified mistakes. This was confirmed by the fact that the candidate submitted a new CV and amended his consent for running for the party organization. Having dismissed the complaint in regard to the inaction of the territorial election commission, the CEC voluntarily considered the facts set out therein and revoked the refusal of the territorial commission to register Oleksandr Tsebriy as a candidate. The mistakes found in the documents by the territorial election commission are not grounds for registration denial, as these inaccuracies are not an obstacle to understanding the submitted information and should be corrected. The CEC ordered the territorial election commission to review the documents submitted by the mayoral candidate running for the Proposition's local party organization in Uman.

OPORA welcomes the CEC's response to such controversial refusals to register candidates in the local election, as these refusals could potentially destabilize the electoral process and restrict people's voting rights. However, the CEC should take a holistic approach to responding to similar situations, as it virtually lacked such approach in the previous local election.

CEC Secretariat reform

In the reporting period, the CEC decided to approve a new structure, table of organization, Secretariat size, and the support service of the Central Election Commission. The key change was the liquidation of the Service of State Voters Register Administrator and establishment of a corresponding department at the CEC Secretariat. Earlier, the Service of the State Voters Register Administrator was not a part of the Commission Secretariat and had its own

regulations approved by the CEC. Following the adoption of amendments to the Law of Ukraine *On Central Election Commission* in July 2020, the Service of the State Voters Register Administrator has become a part of the Commission Secretariat. The rationale behind these legislative changes was the need to streamline the CEC performance and avoid duplication of its organizational structures and respective public expenses. OPORA recommends the CEC to make a public presentation of the new structure of its Secretariat after the local elections to inform the public about the internal reform of the supreme election administration authority.

Court appeals involving CEC

Inaction of the Central Election Commission was challenged in five cases, and in all the cases the courts confirmed the validity of the CEC's legal position. In case No. 855/46/20, the Supreme Court confirmed the right of the CEC to consider requests within 30 days instead of 5 days if a request was filed outside the electoral process. In four appeals the Supreme Court ruled that the CEC indeed had no legal grounds to include into the list of parties, that have decided to run in local elections, those parties that had not submitted their documents by September 6, 2020, i.e. the documents had not been submitted with a missed deadline set in the Electoral Code.

In cases No. 855/29/20 and No. 855/30/20, an individual filed a suit with the CEC demanding that it cancel resolution No. 161 of the Central Election Commission of August 8, 2020 *On impossibility of holding the first election of members of certain rural, village, town councils of Donetsk and Luhansk regions and respective rural, village, town heads on October 25, 2020*. The lawsuit was transferred to the District Administrative Court of Kyiv *within its jurisdiction*.

In addition, the District Administrative Court of Kyiv took the case on cancellation of the CEC resolution № 160 of August 8, 2020 *On the first election of members of rural, village, city councils of territorial communities and the corresponding rural, village, city heads on October 25, 2020*". The preliminary hearing is scheduled for October 2.

ELECTIONS OF RAION COUNCILORS IN DONETSK AND LUHANSK OBLASTS IN THE CONTEXT OF NON-CONDUCT OF FIRST LOCAL ELECTIONS IN 18 TERRITORIAL COMMUNITIES

The established impossibility of holding local elections in 18 communities of Donetsk and Luhansk Oblasts has led to a problematic situation with the election of raion councils in the raions where the communities are located. The decision not to hold local elections in these communities affects about 475,000 voters and has a significant impact on representation of common interests of the territorial communities on the raion level.

At the same time, elections of raion councilors will be held in the government-controlled part of Donetsk and Luhansk Oblasts. OPORA has repeatedly drawn attention to the lack of clear rationale behind the opinions of the civil-military administrations and the criteria on the basis of which they had been drawn, forcing the CEC to establish impossibility of holding the first elections in 18 communities. In our opinion, the government's top priority is to give a clear response regarding the procedures and conditions for restoring constitutional rights of the people.

In view of this problematic situation, the CEC issued, within the reporting period, its explanatory comments on holding local elections in Donetsk and Luhansk Oblasts.

With regard to the elections to raion councils in Bakhmut, Volnovakha, Mariupol, and Pokrovsk Raions of Donetsk Oblast, Severodonetsk and Schastie Raions of Luhansk Oblast, the CEC explained the following:

- voting in the elections of raion councilors will not take place in the communities covered by the decision regarding the impossibility of holding there the first local elections;
- territorial constituencies shall be established throughout the entire raion, including the territories where the voting is not held;
- local party organizations nominate candidates in all territorial constituencies without exception, including the constituencies where the precincts are not covered by the voting;
- territorial election commissions shall establish the results of raion council elections on the basis of the protocols of voting results within the territorial constituencies regardless of the number of precincts or constituencies, where the election was not organized and conducted in accordance with the Code.

Thus, certain raion councils in Donetsk and Luhansk Oblasts will be formed without accounting for the voters of the territorial communities, where the first local elections will not be organized. Although the CEC has no legal grounds not to hold elections to such raion councils, the situation is rather dubious from the viewpoint of the Constitution of Ukraine and the legislation on local self-government. According to Article 140 of the Constitution of Ukraine, raion and oblast councils are the local self-government bodies that represent common interests of the territorial communities of villages, settlements and towns. Thus, the state has recognized the impossibility to ensure common interests of territorial communities at the level of Donetsk and Luhansk Oblast Councils, but it violates the same principle when forming individual raion councils in these regions. Raion councils without a significant part of territorial communities will have doubtful public and political legitimacy. It is questionable whether the elected members of raion councils should be kept unchanged in case the first elections are held in the future in those communities that will not vote on October 25, 2020.

OPORA calls on the President of Ukraine, the Verkhovna Rada of Ukraine, and the Cabinet of Ministers of Ukraine to start an urgent dialogue on the mechanisms to restore the right of the territorial communities of Donetsk and Luhansk Oblasts to have local self-government, and discuss the legislative procedures that are required to take into account security challenges. A proactive stance of the national leadership and the parliament in resolving the situation should demonstrate the absence of politically biased motives for not holding elections in certain communities of Donetsk and Luhansk Oblasts as well as help restore the trust of a significant number of people towards the institution of elections.

CAMPAIGNING BY PARTIES AND CANDIDATES

The first month of the election process showed growing electioneering by the parties and candidates that were potential election participants, although the registration of candidates

only started on September 15. The registration is a key legal requirement for the launch of any campaigning activities.

The number of individuals who resorted to campaigning has significantly increased. Thus, OPORA observers recorded noticeable campaigning activities of 73 political parties in September. The number of candidates running for positions of mayors and councilors who independently rolled out early campaigning has grown significantly. This has largely increased the scale and intensity of campaigning in all regions. Campaigning in the context of public positioning of the participants is special as many potential candidates for the posts of local mayors are formally campaigning as self-nominated and "independent" from political parties, while at the same time they enjoy public support of certain parties.

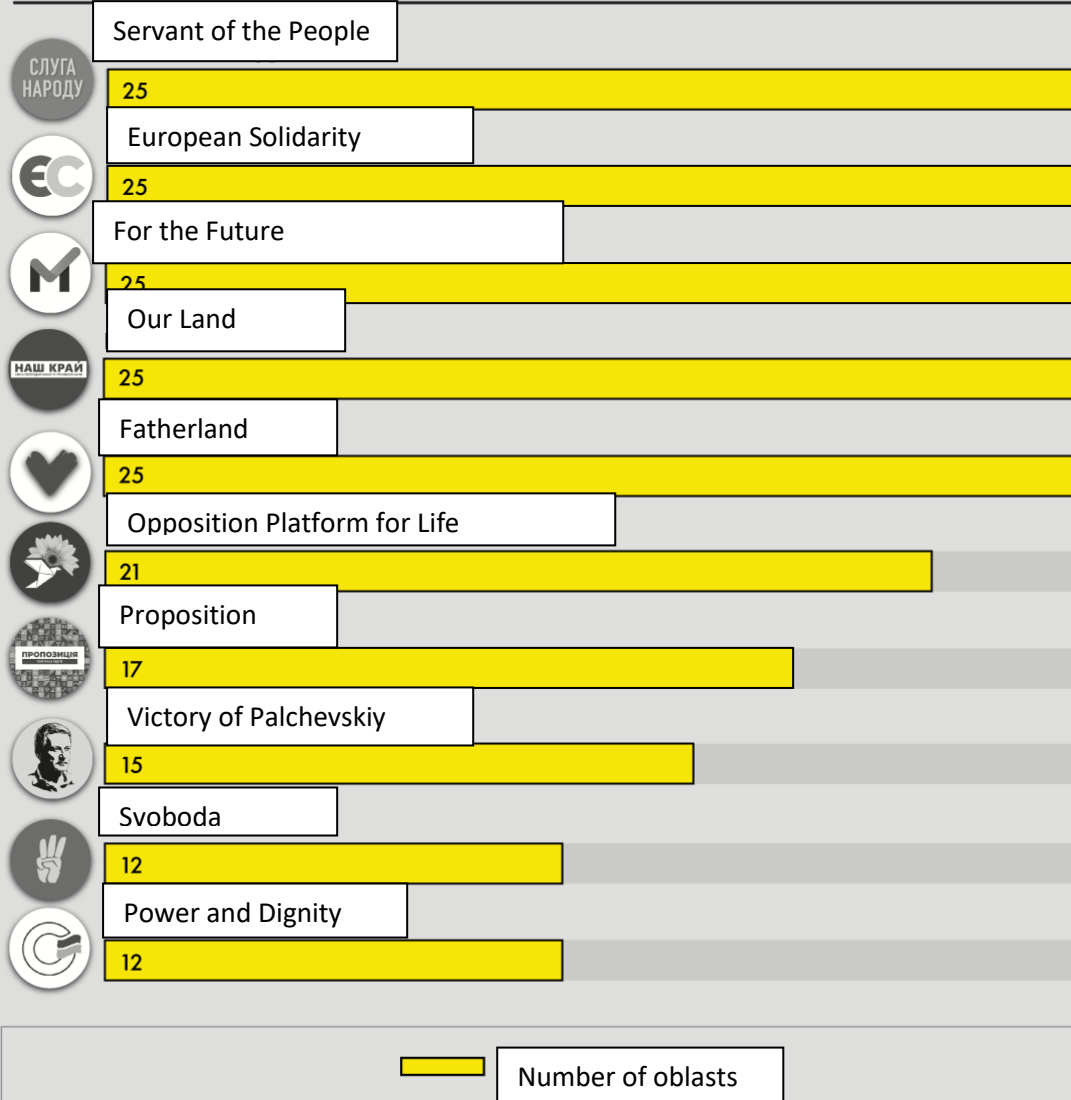
Five political parties led in terms of the scale of campaigning in the regions, namely Servant of the People, *Za Maibutnie* [For the Future], European Solidarity, *Batkivshchyna* [Fatherland] and *Nash Krai* [Our Land] that conducted full-scale national campaigns in all the regions of Ukraine in September. Three other political forces, the Opposition Platform — For Life, *Proposytsiya* [Proposition], and *Peremoha Palchevskoho* [Victory of Palchevsky], were campaigning in the majority of Ukrainian regions. Observers estimate that ten other political parties are actively campaigning in many regions of Ukraine, but not in the national dimension. The rest of the active participants of the local elections (over 50 parties) concentrated their campaigning efforts on specific regions (oblasts).

Campaigning

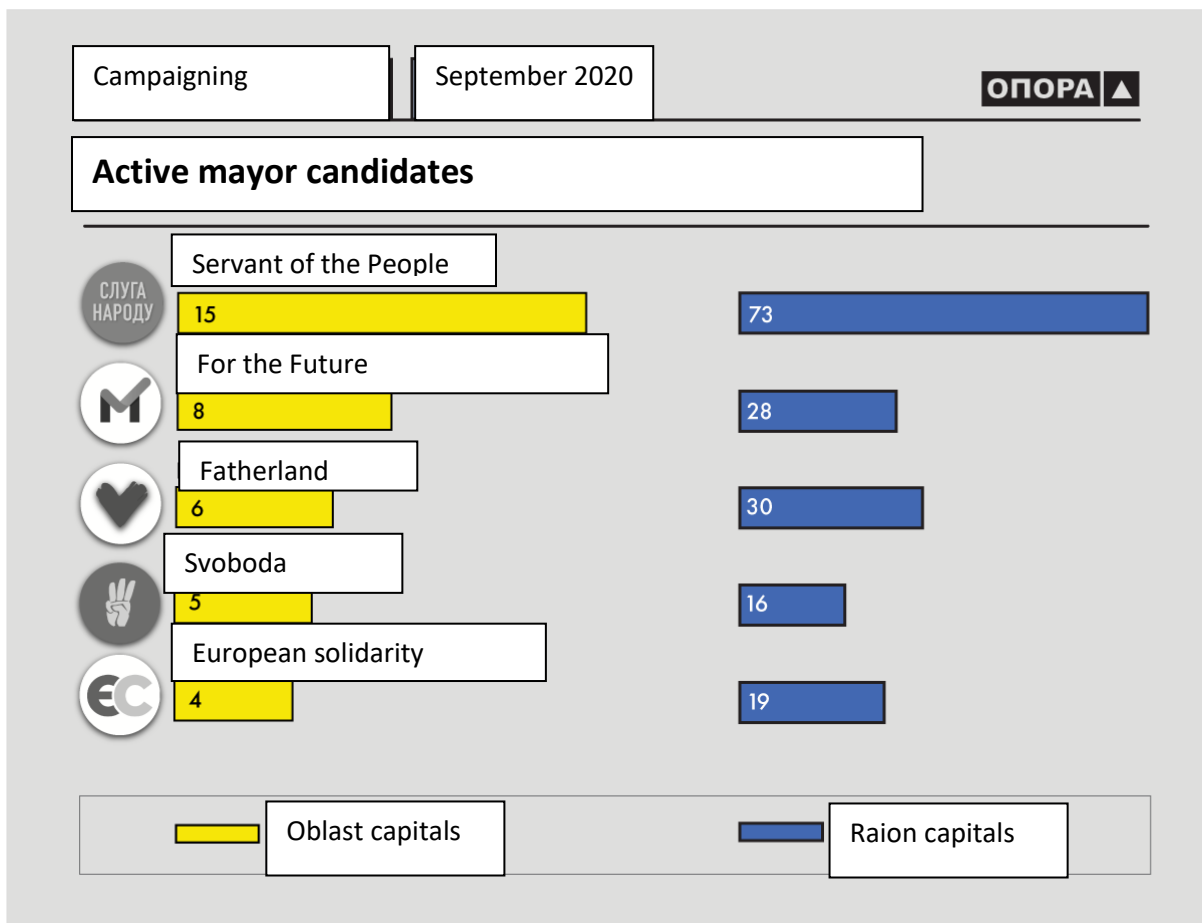
September 2020

ОПОРА ▲

Campaigning activity leaders



Representatives of the Servant of the People (active in 73 raions and 15 oblast capitals) are the most visible in terms of campaigning done by the candidates running for local mayor positions in raion and oblast capitals. The parties For the Future and Fatherland have a comparatively smaller yet still a significant number of potential candidates running for local mayors in raion and oblast cities, who are actively campaigning.



In September, the territorial coverage of the regions with early campaigning grew noticeably, to include not only oblast capitals and large cities but also rural areas. At the same time, it should be noted that campaigning is not equally active in every raion and it largely depends on local dynamics of the fight between the parties and the competitive levels of the participants.

OPORA observers indicate that the overall ratings of the most common campaigning formats in the raions and oblast capitals of Ukraine looked as follows in September:

1. Outdoor campaigning.
2. Campaigning in social media and online.
3. Street communication of campaigners with the voters.
4. Direct communication of the candidates and parties with the voters.
5. Traditional media campaigning.

The campaigning format has not changed much as public actions of candidates and their teams are significantly limited due to the hard epidemic situation. Outdoor political ads are used by every party and individual candidates without exception as the most common campaigning format. The content of campaign materials predictably changed compared to the previous month, largely due to the official registration of candidates and parties and the need to mark all campaigning materials. Yet not all of the election participants respected the requirements as to the placement of source data on campaign materials (see the section on election violations for more details).

The share of direct interaction with the voters has grown and is now regularly used by most parties and potential candidates. A positive effect of such activities is increased voter awareness of the intentions and substance of each candidate's political declarations, which is especially important given the local nature of the election process. However, amid the spreading COVID-19 epidemic, such methods should be applied in a balanced and selective way due to potentially excessive risks to people's safety and health. Direct campaigning formats remain traditional for local elections: localized meetings with voters (in neighborhoods, yards, and streets), targeted contacts with members of homeowner associations and employees, open discussions (roundtables, debates, presentations) on topical and important local development issues. Local party cells do that in a more comprehensive and structured manner by dividing candidates into small groups and assigning them to specific territories and voter groups. Despite quarantine restrictions, door-to-door campaigns along with the distribution of party newspapers, leaflets, and questionnaires are also widely used.

Compared to the previous regular local elections of 2015, this campaign is marked by much more massive use of the Internet and social media for campaigning, and it is used by everyone, even the potential election participants who are least active in terms of their direct public presence. Regular and extensive placement of paid political advertising is the main campaign trend in the context of various campaigning formats. Social media campaigning that used to be typical for audiences of large cities (oblast capitals) is now conducted by politicians on the level of central raion towns and large communities. It enables potential candidates to interact with the voters remotely even in rural areas, where the level of interpersonal communication is traditionally higher, yet faces transformation, too, because of COVID-19. According to many observers, social media campaigning is the second most popular and most widely used form of campaigning among parties and candidates. It is used even by those parties that are not active in other campaigning formats.

The overwhelming majority of campaign materials are promoted in the format of political advertising with appropriate marking and payment. At the same time, parties and candidates also seek to use various public groups and technically independent online news resources for campaigning. Potential election participants video-broadcast their public events, meetings with voters, declarations of their programs and political goals via online channels. Using the Internet in this way expands people's access to important electoral information. On the other hand, the growing role of the Internet, insecurity of personal data and poor regulation of campaigning procedures under these conditions lead to numerous abuses that prevent the exercise of one's rights to receive objective and comprehensive information about available political alternatives, which is necessary to make an informed choice. In general, the situation needs to be carefully studied by law enforcement authorities, observers and research organizations to prepare recommendations on how to oversee the costs and increase the transparency of online campaign financing.

Street campaigning is mainly used by political parties in the form of traditional street tents that hand out printed campaign materials and conduct various opinion polls, often collecting voters' personal data. A popular campaigning form is the placement of portable advertising constructions, e.g. mobile trailers, campaign cubes etc., in crowded places and mainly in large cities.

Campaigning in the traditional local media is also quite popular, though not all the parties and candidates have equal access to regional media. Coverage of different parties and candidates often depends on the editorial policy that is influenced by the owner of a TV channel, radio station, website or newspaper. Even local media typically tend to selectively criticize political competitors fighting for votes. Observers report problems with objective coverage of the electoral situation by local media and offering equal access of all the election actors. For print media, the problem of frequent placement of campaigning materials without proper marking remains typical. Newspapers are still an important source of information that is popular in former central raion towns and rural areas. Therefore, they have a lot of political advertising and, accordingly, sponsored stories that are not properly marked.

Non-compliance by potential election participants with the established rules regarding the length of the campaign roll-out period violates the principle of equal opportunities and disfavors those parties and candidates who strictly comply with the legislative requirements. On the other hand, the recurrence and mass nature of the early campaigning problem point to the need to revise the law to expand the current narrow campaigning terms and legalize campaigning activities that are de facto carried out before the registration of candidates.

VIOLATION OF ELECTION LEGISLATION AND DEMOCRATIC STANDARDS

The beginning of the official stage of the election campaign and acquisition by potential candidates of the official status of the election process actors have not restricted much the substance and structure of electoral violations and abuses committed by election participants during the past month. OPORA highlighted that in its previous report.

In particular, campaigning is the most problematic aspect of the election campaign in September 2020, given the number of abuses and incidents detected by OPORA observers (detailed information on all cases is posted asap on the organization's website). Candidates and parties have not been sufficiently careful or responsible in following the official norms that clearly regulate the terms and conditions of election campaigning. Traditional placement of campaign materials without source data in places prohibited by law and in violation of the infrastructure rules are the most typical displays of such attitude. Early placement of campaign materials before the registration and opening of election funds by parties and candidates can also be mentioned.

Statistically, most of the cases recorded in September were related to illegal campaigning. However, in terms of consequences and negative impact on the democratic character of the electoral process, most threatening are the incidents with elements of misuse of administrative resources and material incentives offered to voters.

Unauthorized collection of voters' personal data during campaigning by the election process actors is the violation of the legislation witnessed by OPORA observers increasingly often. In particular, this happens under the guise of a survey or registration of contact data of the participants of public events organized by parties and candidates (reported in Vinnytsia, Lviv oblasts). Such a practice breaches the Law of Ukraine *On Protection of Personal Data* that

prohibits to process data about an individual that belong to confidential information without his/her consent, except for the cases determined by law, and only in the interests of national security, economic welfare and human rights.

As campaigning gets more intensive, conflicts in the electoral process increase along with public confrontations between parties and candidates, who often resort to discrediting methods, black PR, damage to property, and creating obstacles to the campaigning activities of competitors.

Illegal campaigning

As expected, the prevalence of outdoor campaigning over other formats used by parties and candidates is mostly reflected in the general statistics of violations, where breaches of campaigning rules prevail. Thus, during the second half of September (when candidate registration started) OPORA observers began to regularly see billboards of already registered candidates and parties that are election process actors, without source data - information about the customer, printing organization, circulation etc. Also, billboards of already registered candidates were found in streets of Ukrainian settlements in most regions of Ukraine with the source data that give rise to doubts as to their funding from the election funds. The reason being is that these advertising media with that campaigning materials were placed even before the end of candidate registration of respective parties (in particular, candidates from the parties For the Future, Fatherland, the European Party of Ukraine, Servant of the People, etc.) and opening of election fund accounts.

According to Part 1 of Article 52 of the Electoral Code, election campaigning begins by a candidate, party (organization of the party) on the day after the day when the election commission decides to register the candidate (candidates) and ends at 12pm on the last Friday before the voting day. According to Section 3 of Article 52 of the Electoral Code, the pre-election campaigning is prohibited during the election process outside the time limits established in this article. Although the legislation entails administrative responsibility for such abuses (campaigning outside the time limits), the scale of campaign materials published by potential election process actors before the official registration and left unchanged further on is disproportionate to the actual abilities of the authorized agencies (and observers) to detect and properly document all such cases. We have to state that the information about actual election funds expenses to be indicated in reports of certain parties and candidates will not fully meet the actual indicators of financial expenses for campaigning. OPORA has repeatedly publicly stressed that party organizations, which had nominated their candidates for local elections, should refrain from campaigning until such candidates are registered by the relevant territorial election commissions. But the final opinion of the legality or illegality of such party activities should be made by law enforcement agencies and courts. Discussing the correlation and coordination of legal campaigning with the actual timing of the election campaign is equally important to further address the issues.

Electioneering gifts

In September, OPORA observers registered a higher number of cases where electioneering gifts and other material incentives were distributed among voters. This was a consequence of the general increase of the number of potential candidates and intensity of campaigning. From the

legal viewpoint the charitable activity of election process actors can be considered as vote buying in the context of official roll-out of the electoral process and completion of candidate registration. But even outside the electoral process or in situations when people and organizations not directly related to the candidate engage into electoral charitable activities in favor of a candidate (party), such actions lead to distortion of the principle of free voting (prevent voters from developing their position freely) and are increasingly seen internationally as a display of social corruption. Especially threatening in this regard is the activity of those charitable foundations, which are regarded by unfair candidates as a semi-legal instrument of providing material assistance for electoral purposes (such foundations are most active in Kyiv, Volin, Ivano-Frankivsk, Sumy, Vinnytsia, Odessa, Luhansk, Ternopil, Kharkiv and Poltava oblasts). T Since the law technically prohibits charitable organizations to take part in campaigning, in practice such activities are hidden and not positioned de jure as campaigning.

The most of the reported incidents were related to the new academic year and campaigning directly aimed at the audience of schools and higher education institutions (teachers, parents, students, and lecturers). This form of activity was most often used in oblast capitals and large cities by both councilor candidates and mayoral candidates (mainly self-nominated). Some local organizations of political parties that occasionally distributed electioneering gifts in August (in particular, Fatherland, European Solidarity, Opposition Platform — For Life, Svoboda, and the Servant of the People) continued this common practice in the first half of September, predominantly through various entertainment events for children and youth, football, chess, and athletics tournaments, as well as celebrations of the days of the cities (villages, settlements) involving a large number of party symbols and gifts given to children, socially vulnerable groups, and socially oriented institutions (schools, kindergartens, health resorts, hospitals, etc.). In late September, the scale of such electioneering shrank, given the end of the candidate registration process and the risk of holding election process actors accountable for vote buying.

A separate form of indirect vote buying that is gaining traction is the promise to provide material benefits or other social and economic benefits to voters in exchange for support and under condition that the candidate is elected for the nominated position. The danger and negative consequences of such abuses grow when an election promise relates to the use of public resources, which can also be classified as a sign of budgetary resource misuse. OPORA observers are recording increasingly more instances, when campaign communications (only verbally and in writing - in the form of "social agreements" and "guarantee obligations") include promises to implement infrastructure projects, address social problems or implement municipal programs from the local budget funds.

The importance and public attention to the spread of the COVID-19 epidemic also encourages candidates to use this topic not only for campaigning and voter mobilization but also as an additional reason to provide material benefits (such as free coronavirus antibodies tests), which shows elements of vote buying.

Key incidents:

- A telling example identified by OPORA observers was the handout of packages with leaflets and "commitment" to repair the yard of a high-rise building in Krasnova

Street (Odessa) on behalf of Dmytro Holubov running for mayor. The letter addressed to a voter said that the candidate "guaranteed" the repair of the yard within 2021 if he is elected the mayor.

- In Sumy, some health care institutions distribute an insurance card for the voluntary insurance against COVID-19. This card was a part of the Our Land social program implemented by Our Future charitable foundation of Andriy Derkach, a councilor of constituency No. 159 and the actual head of the oblast-level organization of Our Land. The booklet said that the Our Land social program from the Andrey Derkach Charity Fund "Our Future" and Ukrainian Insurance Group of Vienna Insurance Group offered the COVID-19 insurance to the amount of UAH 2,500 during six months. According to the booklet, the payment is made after doctor's conclusion or a PCR test. Such booklets were distributed among medical workers.
- Our Land Charity Foundation was distributing sugar in bags for voters with the Our Land label in the first half of September in Kremenna, Troitske, Novoaidar, and other localities in Luhansk Oblast. The action was not accompanied with campaigning, but was positioned as charity (gifts). After active police intervention at the end of the candidate registration period, the handout of sugar by the charity foundation actually stopped.

Signs of administrative resource misuse

The fact that officials and elected representatives have access to the staff of central and local authorities, administer resources of central and local budgets, facilities and public property, make and oversee staff appointments is crucial in the context of an election campaign as it can lead to non-competitive advantage for certain election process actors.

Election-driven attitude of officials of public and local administrations recorded by OPORA repeatedly before the official beginning of the electoral process remains a key problem indicating that fundamental principles and standards of democratic elections are being ignored.

In September, we witnessed not only an increased use of various forms of misuse of administrative resources – human, material and budgetary – but also an increase in the number of officials and civil servant, who resorted to this type of misuse or improper behavior. While in August sporadic unlawful actions were mostly committed by governors, September saw increased involvement to campaigning of heads of raion councils and administrations, as well as mayors. The officials who were registered as candidates for the posts of local heads did not only continue to perform their duties during the campaign, but also intensified their public activities, taking advantage of their status and reputation to win the voters' support. In accordance with requirements of the laws on civil service, the ethics of an official imposes the obligation to maintain political independence and neutrality in the exercise of their official duties. OPORA observers report that in practice the officials who are election process actors rarely comply with the legal requirements of political neutrality in their jobs during the election process. Situations in which official candidates combine the active exercise of their powers (resorting to covert campaigning during working hours) with campaigning outside working hours have signs of a conflict of interest and can undermine the trust in both the integrity of the electoral process and the activities of public administration agencies.

Key incidents:

- Public activities of the majority of incumbent mayors of oblast capitals include both active performance of their work duties accompanied with latent campaigning and formal participation in pre-election campaign events outside working hours.
- Telling examples in this context are the participation of officials of local councils and state administrations in conferences arranged to nominate local councilor candidates; observers in different regions of Ukraine put on record frequent complex violations of standards or legislation (for example, in Lviv Oblast the city mayor of Busk together with the head of Lviv oblast-level organization of Fatherland introduced the party team running for councils of Zolochiv Raion in the premises of Busk City Council).

"Clone" candidate technique in local elections: new opportunities for counteraction

The use of unfair techniques in form of registration of so-called clone candidates at national and local elections in Ukraine has a long tradition. Registration of candidates with similar or resembling first, patronymic and last names results in lower support to the real election participants. With this technology, a voter confuses a popular leader with "sham" candidates, which distorts the voting results. In the 2019 parliamentary elections, there were massive attempts to dilute the votes of popular candidates through the registration of sham individuals whose official jobs sounded similar to the names of influential political forces. The technology of "clones" at various elections demonstrated different effectiveness but its negative impact is definitely growing in small communities. The key negative consequence of participation of clone candidates is the violation of the passive voting right of real campaign participants and prevention of free expression of the will by citizens.

A number of communities registered candidates for local elections with similar or identical personal data, in particular:

- In Odessa mayor elections: Oleh Mykolayovych Filimonov (Servant of the People, Oleh Viktorovych Filimonov (Green Party), Oleh Anatoliyovych (Student Party of Ukraine), Vadym Viktorovych Filimonov (Our Land).
- In Uzhhorod mayor elections: Bohdan Yevstafiyovych Andriyiv, mayor of Uzhhorod, self-nominated, Bohdan Yaroslavovych Andriyiv (before September 24, 2019 - Pavlo Yaroslavovych Slobodyan), Ivan Mykhailovych Andriyiv, self-nominated.
- In Verkhniodniprovsk (Dnipropetrovsk Oblast) mayor election: Larysa Vasylivna Blokhina (Servant of the People), Larysa Mykolayivna Blokhina (self-nomination).
- For the position of Apostolove mayor (Dnipropetrovsk Oblast): Volodymyr Mykhailovych Proteniak, self-nominated, Oleksandr Mykhailovych Proteniak (Public Force).
- For the position of Boryspil mayor (Kyiv Oblast): Anatoliy Solovyovych Fedorchuk, mayor (Our Land), Artem Ihorovych Fedorchuk (self-nomination), Oleksandr Mykolayovych Fedorchuk (self-nomination).

- For the position of Starobilsk mayor (Luhansk Oblast): Yana Mykolayivna Litvinova, mayor (self-nomination), Anna Viktorivna Litvinova (self-nomination).
- For the position of Artsyz mayor (Odessa Oblast): Volodymyr Mykhailovych Mikhov, mayor (Servant of the People), Volodymyr Vasyliovych Mikhov (self-nomination).
- For the position of Oleshky mayor (Chernihiv Oblast): Vadym Oleksandrovych Haranenko, chairman of the Regional State Administration ("Servant of the People"), Artur Anatoliyovych Haranenko (self-nomination).
- For the position of Pryluky City Council (Chernihiv Oblast): Olga Mykhailivna Popenko, mayor (Fatherland), Olga Vasylivna Popenko (self-nomination).
- For the position of Kherson mayor: Igor Kolykhayev, MP of Ukraine (Igor Kolykhayev's Party "We Will Live Here"), Yuriy Kolykhayev, self-nominated, chairman of NGO "Public Initiative "We Will Live Here".
- For the position of Beryslav mayor (Kherson Oblast): Oleksandr Mykolayovych Shapovalov, mayor (We Will Live Here), Volodymyr Hryhorovych Shapovalov, self-nominated, chairman of the civil-society organization "Public Initiative "We will live here".
- For the position of Rakhiv mayor (Zakarpattia Oblast): Viktor Vasyliovych Medvid, Head of the Regional State Administration (Servant of the People), Oleksandr Anatoliyovych Medvid, self-nomination, Oleksandr Oleksandrovych Medvid, self-nomination.
- For the position of Kakhovka mayor: Andriy Andriyovych Diachenko, Mayor (Proposition). Andriy Serhiyovych Diachenko, self-nominated.

Three candidates with the last name of Tsebriy were also registered in the election of Uman mayor, while the current mayor, Oleksandr Tsebriy, was nominated by the local organization of the Proposition party. The acting mayor of Chernihiv Volodymyr Atroshchenko is a candidate from Our Home party, while Serhiy Atroshchenko is the first number of electoral list in the local organization of Our Home party in the elections of members of the corresponding city council (at the moment of preparation of this report we have been informed that the electoral list of the organization of Our Home party was cancelled by court).

Thus, a selective analysis of the results of candidate registration at local elections shows the wide spread of the clone candidate technique. The current Ukrainian legislation provides law enforcement agencies with legal opportunities to respond to voter misleading attempts. In particular, the Criminal Code amended just before the local elections imposes liability for bribery of a candidate (Article 160 of the Code). As of the date of this report, the legislative innovation had already been applied by law enforcement agencies. On September 23, 2020, law enforcers detained a regional councilor, a candidate for the post of mayor of Svitlovodsk in Kirovohrad Oblast, who was suspected of the transfer of UAH 10,000 to a clone candidate. On the other hand, Article 157 of the Criminal Code regarding the preclusion of the right to vote accompanied by deception or coercion also provides an opportunity to counter the technique of registration of clone candidates. For example, the National Police in Chuhuiv, Kharkiv Oblast, is investigating a criminal case concerning the preclusion of the right to vote, where a woman

with the personal data similar to the ones of the current mayor tried to get registered as a candidate. In addition to the Criminal Code, Articles 212-24 of the Code of Administrative Offenses of Ukraine also establishes liability for the preclusion of the right to vote or the activities of the election process actors.

OPORA calls on the National Police of Ukraine, other law enforcement agencies to respond actively to statements and reports of vote buying and other illegal techniques, as well as to inform promptly the public about the interim results of relevant investigations.

Offences relating to the local elections

According to the National Police, 1,808 election-related complaints and reports have been registered since the start of the election process (as of **October** 10, 2020)

Oblast/ Kyiv City	Number of reported cases	Number of reported cases from OPORA observers	Number of registered criminal proceedings
Kyiv	299	26	14
Donetsk	140	33	9
Dnipropetrovsk	133	60	4
Kyiv City	131	62	8
Zakarpattia	115	36	9
Kirovohrad	84	39	3
Chernivtsi	84	1	4
Odessa	79	28	17
Kherson	75	6	8
Luhansk	70	-	8
Poltava	65	10	9
Zaporizhia	61	21	16
Ivano-Frankivsk	58	49	-
Lviv	50	4	1
Volyn	47	26	-

Sumy	46	16	2
Vinnitsia	45	17	4
Mykolaiv	45	2	1
Chernihiv	40	10	3
Rivne	38	2	6
Cherkasy	33	3	11
Kharkiv	31	10	5
Ternopil	21	11	2
Zhytomyr	9	-	4
Khmelnyskyi	5	-	-
Central Department of the National Police	4	2	2
Total	1,808	472	150

The police authorities have issued 271 protocols of administrative offences relating to the election process:

Code of Ukraine on Administrative Offences	Number of election-related protocols:
212-13 (Campaign materials without the source data)	194
212-10 (Violation of campaign rules, in particular, participation of non-authorized persons, in the manner prohibited by law, etc.)	37
212-14 (Placement of campaign materials in prohibited places)	21
152 (Placement of campaign materials in violation of urban improvement rules)	6
173 (Petty hooliganism)	6
183 (Knowingly false emergency call)	3

212-9 (Violation of campaign rules involving mass media)	2
212-12 (Violation of the right of candidates and parties to the equal use of premises)	1
212-20 (Violation of the procedures for publishing documents related to the preparation and holding of elections, or referendums)	1

It's worth noting that according to Article 212-9 of the Code of Ukraine *On Administrative Offences* (Violation of campaign rules involving mass media) the police is not an authorised agency for issuing a protocol.

In total, 150 criminal proceedings were initiated, including 83 criminal proceedings in connection with violation of election laws.

Article of the Criminal Code of Ukraine	Number of criminal proceedings
160 (Vote buying)	35
157 (Obstructing in exercising the right to vote)	26
158 (Providing false information to the authorities keeping the State Register of Voters)	15
158-3 (Falsification of election documents)	5
158-1 (Illegal use of ballot papers)	1
159-1 (Violation of the procedures for financing political parties)	1

Notices of suspicion have been served in 5 criminal proceedings, 10 criminal proceedings have been closed and there are ongoing pretrial investigations in 137 criminal proceedings.

OBSERVATIONS OF THE NATIONAL NON-GOVERNMENTAL ORGANIZATIONS

The Electoral Code guarantees the right of NGOs whose statutory activity covers election-related issues to carry out election observation missions, both in the national and local elections. There are two stages to exercising the right by NGOs. At first the respective NGOs obtain the permit of the Central Election Commission for their official observers to oversee the

election. Then they submit the documents to the Territorial Election Commission for registration of observers in the respective local elections. NGOs had the right to apply to the Central Election Commission for obtaining the permit before September 14, 2020, while the documents for registration of the observers with the territorial election commissions can be submitted before October 19, 2020.

One hundred and sixteen NGOs whose statutory activity covers election-related issues were granted the permission of the Central Election Commission to monitor the elections. In 2015, there were only 83 NGOs which were permitted to register their official observers with the Territorial Election Commissions.

The Central Election Commission declined the applications of 6 NGOs (4 applications were declined in connection with violation of the timing requirements for submission of applications and 2 because the statutory activity of the NGO did not cover issues relating to the election process and observation).

At the same time, the discrepancies between the Electoral Code and the Law of Ukraine *On State Registration of Legal Entities, Sole Proprietors and Civil Society Organizations* and *On the Notary* were interpreted by the Central Election Commission to the benefit of the NGOs. The issue refers to the impossibility for NGOs registered through e-services to submit notarized copies of their statutes. The thing is that in case of NGO registration through e-services it does not receive hard copies of its statutory documents. Those NGOs which provided the CEO with the electronic access codes to administrative services results instead of the copies of statutes notarized according to the procedures established by the Law of Ukraine *On the Notary* were granted the permission to have official observers. This was done to secure the right of voters to carry out election observation missions. OPORA notes positive efforts of the Central Election Commission to ensure equal conditions for voter participation in the election process despite discrepancies and gaps in the legislation.

The same as before (at the previous national and local elections), the permission of the CEC to have official observers were granted to the NGOs affiliated with political parties and candidates. A number of NGOs have names, which are identical or similar to those of the political parties or they are publicly linked to them (*Zhinky Batkivshchyny* [Women of Fatherland], *Batkivshchyna Moloda* [Young Fatherland], Bloc of Vadym Boichenko, *Solidarna Molod* [Solidary Youth], *Doviriyay Spravam* [Trust the Deeds], *Symchyshyna Komanda* [Symchyshyn Team], *Partiya Mykolaivtsiv* [Mykolaiv Residents' Party], *Peremoha Palchevskoho* [Victory of Palchevsky], *Solidarna Sprava Hromad* [Solidarity Deeds of Communities], UDAR (the Ukrainian Democratic Alliance for Reform) of Vitaly Klitschko, *Za Konkretni Spravy* [For Real Deeds], etc). OPORA plans to provide a separate report with a comprehensive analysis of the ties of political parties and candidates with the NGOs engaged as observers as it was done during the presidential and parliamentary elections in 2019. However, public dependence of a number of NGOs on political parties poses risks to a non-partisan election observation process.

Internationally recognized standards of the election process show the importance of strengthening legislative guarantees and traditions of non-partisan election observation and monitoring. The Electoral Code of Ukraine provides for the observation of the elections by NGOs to ensure compliance of the electoral process with the above standards and principles.

Candidates and political parties have the opportunity to have their own official observers, so they do not have any legitimate need to establish and register loyal NGOs for observation missions. At the same time, the abuse of opportunities granted to the NGOs weakens the public impact of non-partisan observation. In practice, voters find it difficult to distinguish between truly independent public observers and politically affiliated organizations.

OPORA calls on the political parties, their local organizations, and candidates in the local elections to refrain from using NGO observers in their own electoral interests.

KEY PROBLEMS OF CANDIDATE NOMINATION AND REGISTRATION

Assessment of the candidate nomination process in the local elections

Nomination of candidates for local elections was one of the key events of the election process. The Electoral Code empowers regional level party organizations to nominate candidates for all local elections within their region. Other party organizations (of town, village and township level) may use this right only in case of failure of a regional party organization to nominate its candidates. Such “centralization” of the candidate nomination process in the local elections resulted from the interest of the key parliamentary parties that usually do not have a broadly ramified network of local cells.

OPORA's observers monitored the conferences of regional level party organizations of the Servant of the People, European Solidarity, *Batkivshchyna*, Opposition Platform — For Life, *Holos* [the Voice], *Peremoha Palchevskoho* [Victory of Palchevsky], *Za Maibutnie* [For the Future], *Svoboda* [Freedom], Proposition, and *Nash Krai* [Our Land]. In some cases, OPORA's observers monitored the conferences of local party organizations (in the City of Kyiv and Donetsk and Luhansk oblasts, where regional councils are not elected). The nomination of candidates for the upcoming local elections by the party organizations took place from September 14 to September 24, 2020. Overall, OPORA provided monitoring of the preparation and holding of 226 conferences of local organizations from 11 political parties. At the same time, OPORA observers personally attended 174 conferences.

The key aspects of OPORA's monitoring of the candidate nomination process at local party organizations included the following:

- Establish the fact whether the party organizations comply/fail to comply with the Electoral Code requirements, in particular the requirement to notify the territorial election commissions of the conference and publish the information about the date, time and venue of the candidate nomination conference and media accreditation on the official website of the organization or the party website.
- Establish the specifics of the discussion regarding the candidates at the nomination conferences, ensure they meet the minimum standards of intra-party democracy.
- Establish whether the conferences took place and whether there were (facts of) fictitious meetings to nominate local election candidates.
- Establish the specifics of the communication of party organizations with the media and the openness of their conferences to journalists and observers.

Following the results of the observation of the candidate nomination events conducted by the regional level party organizations as well as some local party organizations OPORA can state the following:

- Local party organizations do not really want journalists and observers to attend their conferences.

They often declined the requests of OPORA observers to attend the conferences and found different excuses to withhold the information from them about the date, time and venue of the respective events.

On the eve of the conference some party organizations declined the requests to provide information about the scheduled events (in 25 out of 226 cases covered by the OPORA observation mission) on the basis of a range of different excuses (Opposition Platform - For life – 7 cases, Nash Krai [Our Land] – 4 cases, Proposition – 3 cases, Servant of the People, European Solidarity and Za Maibutnie [For the Future] – 2 cases. The observations have shown that in about 50% of cases no announcements were made in mass media about the event on the eve of the conference (except for the official notice on the party website).

Instead, quite often OPORA observers faced the situation when they were not allowed to attend the candidate nomination conferences. These refusals cannot be qualified as a violation of the law. However, they show lack of motivation on the part of political forces to be open for the public and journalists during the candidate nomination process. There were cases when journalists were not allowed access to the conference on the day of holding the respective conference covered by the monitoring (22 cases out of 226).

- Lockdown restrictions have negatively affected the ability of journalists and observers to highlight and monitor the candidate nomination process in the local elections.

The necessity to comply with the lockdown restrictions was often used as an excuse by the local party organizations to refuse entry of journalists and observers to the candidate nomination events.

- According to the observations, not all party organizations followed the requirement to publish data about the time, venue and date of the event, and mass media accreditation rules on their websites or the websites of the parties.

As OPORA observers established, 15 out of 226 party organizations failed to post the respective information or it was not possible to locate it on the party websites despite all the efforts of the observers. In particular, this refers to the conferences of four regional level party organizations of Opposition Platform — For Life; *Peremoha Palchevskoho* [Victory of Palchevsky] and *Batkivshchyna* — 2 cases; Servant of the People — 1 case; *Za Maibutnie* [For the Future] and Proposition — 1 case.

- Some local party organizations failed to inform the TEC about the venue, time and date of the candidate nomination conference. According to the Electoral Code this constitutes a violation of the general procedures for nomination of candidates and may serve as the ground to refuse the candidate's registration.

In terms of the parties, the reported cases happened in *Peremoha Palchevskoho* [Victory of Palchevsky] (3), *Holos*, and Proposition (2). There were regional party organizations which thought that in case of nomination of candidates for different elections they were obliged to inform exclusively the regional TEC. The incidents were detected at the stage of candidate registration.

It's worth noting that in 21 out of 226 cases the party organizations provided fully or partially incorrect information about the date, time and venue of the candidate nomination conference. This made it really difficult and even impossible for the journalists and observers to get access to the candidate nominations events.

- In certain cases the observers and journalists were granted access to the conferences of local party organizations held in other regions. That is local party organizations from one region held conferences in other regions of Ukraine.

OPORA monitoring revealed that five regional level organizations of Proposition held conferences in Dnipro, and two regional organizations of the Servant of the People held conferences in Kyiv.

OPORA observers provided an assessment of the candidate nomination conferences from the point of possible awareness of their delegates about the election lists they had discussed and supported.

As a rough estimate, 50% of conferences attended by the observers announced all the proposed candidates during the nomination event.

However, in 9% of cases the observers had the ground to believe that the conference delegates did not have the candidate lists and therefore they were not announced. In fact, the delegates at the conference did not know which candidates they had formally supported.

In 8% of cases no names of candidates were announced at all, although the conference participants had full or partial lists of candidates. In some cases it was a "hybrid" model of candidate discussion: partial announcement of candidates and availability of certain lists of candidates. Following the monitoring results, OPORA applied to its representatives with a request to assess the availability of information about the nominated candidates for them personally. Thus, 35% of observers stated that they were partially informed about the electoral lists of the parties whose conferences they had attended. At the same time, 49% of observers believed that they had gained insight about all the nominated candidates during the conferences. And 11% of OPORA representatives left the conferences with information about the list of candidates nominated by the parties.

OPORA observers have often expressed concerns regarding full or partial absence of procedures for establishing the credentials of the conference delegates and counting the votes on the agenda issues proposed by them. It should be noted that the widespread practice of conducting candidate nomination conferences in several stages made it really difficult to provide a full-fledged monitoring of the election process.

Thus, there were certain problems with the candidate nomination process, including the problem of access for journalists and observers to the nomination events, and low motivation

of political parties to ensure transparency and openness of the respective events. Some conference participants did not have a real possibility to learn about the candidates and hold discussions about the candidates in the local elections. Thus, the problems revealed by the monitoring show the necessity for strengthening the intra-party democracy. It is important to encourage the development of local party organizations by using legislative incentives as currently their capacity is limited due to the dominance of higher-level party organizations in the election process. Strengthening the transparency of the candidate nomination process should be used as a safeguard against manipulation of party lists at the registration stage. The current stage of the election process shows the cases when changes are made in the party lists after the end of the candidate nomination process. It is necessary to provide legislative safeguards against this type of cases.

Review of the candidate registration process

OPORA provided comprehensive monitoring of the procedures for registration of candidates in the local elections. According to OPORA observers, the application of the new electoral law in practice was the key challenge facing the TECs and the candidates, since there wasn't enough time to properly study the laws. Due to incomplete knowledge of the election process actors and the ambiguity of certain provisions of the Electoral Code there were mistakes on the part of the local party organizations and the candidates as well as controversial decisions of the territorial election commissions.

In some cases, the observers reported about the conflicts between the candidates and the territorial election commissions, with elements of politically motivated actions taken by the latter. Similar to the previous elections, there were problems relating to the non-uniform application of the law by election commissions in similar situations. The cases with registration of the so-called clone candidates, with the personal data identical to the actual electoral participants, had a destabilizing effect on the candidate registration process.

The key problems of the candidate registration process in the local elections:

1. Failure of the local party organizations to comply with the requirement to include at least two members of each sex into each territorial/single electoral list of five.

For the first time, the Electoral Code included the requirement to ensure more equal representation of men and women: at least two men and two women in a single/territorial electoral list for the election of councilors to regional and raion councils, and local councils in the communities with 10,000 and more voters. In addition, the law established the requirement to alternate between male and female candidates in the last part of the electoral list where the number of candidates is not a multiple of 5.

OPORA reported the following problems in connection with the application in practice of the mechanism for equal representation of both genders in the election process:

- *Local party organizations failed to comply with the requirement to represent two genders in the electoral lists at the stage of candidate nomination. The failure was used as the ground for denial of candidate registration.*

There were also cases when the TEC members ignored the failure of the party organizations to meet the gender quotas in the electoral lists. For example, the electoral list of the Opposition Platform - For Life for the elections of Slavutych City Council in Khmelnytskyi Oblast did not fulfil the gender quota, but still was registered by the TEC. At the same time, the electoral lists of the Opposition Platform — For Life and Strength and Honor parties that were registered for the election of Volyn Regional Council met the gender representation requirements.

- *In case of any violations of the gender quota requirements, different territorial election commissions applied different approaches regarding the possibility to amend the electoral lists.*

Some territorial election commissions (TECs) referred to Article 227.7 of the Electoral Code, which states that the list and the order of candidates in the single electoral list, as well as the list and the order of candidates in each territorial electoral list as determined by the party organization, may not be changed after the documents have been submitted for registration with the TECs. The local party organizations often referred to the technical nature of the failure to ensure representation of two genders in their electoral lists and demanded to provide them with a possibility to change the lists. In fact, their position was that they had met the legal requirements during the candidate nomination event but there was a mistake in the preparation of documents which distorted the decision of the party organization. Thus, some TECs allowed the party organizations to amend the electoral lists, while other TECs refused to register the lists.

- *Different application of the law regarding the interrelation between the ground for the denial of registration of certain candidates and violation of the gender quota in the entire electoral list as a result.*

Article 230.1 of the Electoral Code establishes that the violation of the procedures for candidate nomination shall serve as the ground for denial of candidate registration. This also includes the failure to comply with the gender representation requirement in the electoral lists. OPORA believes that the gender quota requirement established by the Electoral Code refers to the candidate nomination stage only and TECs cannot refuse the registration of the entire electoral list of the party organization in case of problems with the registration of one of the candidates.

On the one hand, this provision of the Code helps prevent potential fraud on the part of the parties which can deliberately submit the wrong documents for certain candidates to violate the requirement regarding equal representation of male and female candidates in the lists. On the other hand, the Code prevents abuse of position by the TEC members who can create fictitious grounds for refusing the registration of the entire electoral list. In practice, the observers documented the cases of "dubious decisions" by some TECs. In particular, TECs refused to register the electoral list following the failure of the party organization to register a certain candidate from the list. For instance, this was the case with the decision adopted by Karolino-Bugaz TEC in Odessa Oblast. Following the refusal to register one of the candidates, the TEC decided that the party list of the party *Za Maibutnie* [For the Future] was no more in compliance with the Electoral Code in the part relating to the representation of both genders in the electoral lists. At the same time, the reason for refusing the registration of that specific

candidate was a mistake in her CV, in particular, the wrong data about the year of school graduation.

OPORA draws attention that the discussion of the Electoral Code also covered the possibility to make it obligatory for the local party organizations to amend their electoral lists in case of violation of the gender quota leading to the denial of registration of certain candidates or registration cancellation.

TECs' decisions to deny registration in connection with the violation of gender quota requirements or, on the contrary, to carry out the registration despite the failure to meet the requirements of the Electoral Code have been the subject of administrative court proceedings.

Thus, in the case No. **500/2791/20** Batkivshchyna appealed a resolution of Zbarazh City TEC that had refused to register candidates because of the failure of the party organization to alternate between male and female candidates in the last part with 4 candidates of the territorial list of one of the constituencies. According to the court judgment, it was a technical error and the TEC violated the rights of the defendant by having refused to provide a possibility to address the revealed deficiencies. The court partially granted the claims: it cancelled the resolution of the TEC and obliged the TEC to reconsider the registration of candidates nominated by the defendant.

On September 25, Sarny Town TEC refused to register the lists of candidates from the Proposition party due to their failure to comply with the gender quota requirements in the single electoral list with 26 candidates. In particular, the second and the fifth groups of five candidates included four females, while the fourth group of five included four males. Proposition party appealed the resolution of Sarny City TEC in the court (case No. **460/7091/20**). The court reasonably dismissed the claims of the political party.

In the case No. **460/7137/20** the court granted the claim and cancelled the registration of all the candidates to Korets Town Council (Rivne Raion, Rivne Oblast) in the single and territorial electoral lists that had been submitted by Rivne regional party organization from the Opposition Platform — For Life. This was the result of the failure to comply with the gender requirement in the second and third groups of five as well as the failure to submit a single electoral list during the registration of candidates.

However, the analysis of the court judgments shows that sometimes courts took an absolutely erroneous approach. Thus, there was the case No. **540/2767/20** relating to the refusal of registration of candidates because the lists for certain constituencies included only male candidates. The court granted the claim in full and obliged the commission to reconsider the documents. The court judgment was based on their belief that the failure to comply with the gender quota is not directly specified as a ground for refusal of registration. The court referred to the explanation of the Central Election Commission, approved by Resolution No. 362 dd. September 23, 2015, which was based on the requirements of the Law of Ukraine *On Local Elections*, which had expired with the entry into force of the Electoral Code.

2. Violation of the procedures for cash deposit payments, in particular, payment of the cash deposit by a political party instead of its local organization.

According to the Electoral Code, in the local elections the cash deposit is paid by a local party organization that nominates the candidates or a higher-level party organization (Article 225). The Central Election Commission provided a special explanation in which it drew attention of the TEC that the term "higher-level" party organization means a **local** higher-level organization of the respective party. The Resolution of the Central Election Commission No. 193 dd. September 21, 2020 "On the Procedures for Paying, Returning and Transferring the Cash Deposit in the Local Elections" does not include the central organization of the political party in the list of permitted payers. Thus, the payment of the deposit by a political party instead of its local organization that nominated the candidates or its local higher-level organization was regarded by the TEC as the ground for refusal of registration of the respective candidates and the electoral lists.

For instance, the TECs denied on this basis the registration in the following cases: electoral list of the Radical Party of Oleh Lyashko in the elections for Ternopil City Council, the Agrarian Party in the elections for Khust Town Council in Zakarpattia Oblast, Razom Syla [Together Strong] in the elections to Uzhhorod Raion Council, and Demokratychna Sokyra [Democratic Axe] in the elections of the council members for Kyiv City Council. OPORA observers documented the cases of unequal application of this ground for refusal of candidate registration (in particular, the electoral list of Demokratychna Sokyra in Kyiv and the candidate for mayor from the Radical Party of Oleh Lyashko).

Local party organizations appealed against the TEC's decision to refuse the registration of candidates on the basis of payment of the cash deposit by the wrong payers. At the moment of the report preparation it was possible to ascertain that in some cases the claims of the local party organizations had succeeded.

In certain cases, a wrong amount of the cash deposit also served as the ground for refusal to register the entire electoral list of candidates. For example, the Strength and Honor party paid a wrong amount of the deposit in the elections for Zhovkva City Council in Lviv Oblast. It was just a slightly different amount. It may be assumed that the party organization made their own calculations of the cash deposit without relying on the official decision of the Central Election Commission on the issue. OPORA believes that this only proves the necessity to adopt the election legislation in a timely manner and properly inform the voters.

There were many court cases in connection with the cash deposit. However, at the time of publication of the report OPORA was aware of five administrative cases relating to this problem. In particular, the courts considered the claims of citizens who tried to explain the failure to pay the cash deposit by their financial situation. Following the rules of practice established for such cases in other types of elections the court dismissed the claims (cases No. 580/4029/20 and No. 855/60/20).

In the case No. 160/11836/20, it was impossible to identify the payer of the deposit in the payment receipt because it did not specify the information about the payer, in particular the full name of the payer. In addition, the account specified in the payment receipt was identical to the account of another candidate from a different receipt that had been also submitted to the commission. Thus, this fact led to the conclusion that the deposit had been paid by a different candidate. The court established that the cash deposit had been paid by the right payer.

In the case No. **500/2792/20** Ternopil District Administrative Court dismissed the claim of Ternopil Regional Organization of the Radical Party of Oleh Lyashko against Shumsk Town TEC (Kremenets Raion, Ternopil Oblast) seeking to cancel the resolution on refusal of registration of candidates to the local council. The court made it clear that "the political party is not a higher-level party organization as specified by Article 225 of the Electoral Code of Ukraine" and thus "only an organization of the political party and not the political party itself can be the payer of the cash deposit in the elections". There is information about the appeal against this court judgment. A similar decision was made by Kyiv District Administrative Court in regard to Demokratychna Sokyra, which had also paid the deposit from the funds of the central party organization.

However, in the case **No. 260/3117/20**, Zakarpattia District Administrative Court granted the claims of the regional party organization seeking to cancel the decision on the refusal of registration of candidates that was made in connection with the payment of the deposit by Razom Syla [Together Strong] instead of its local party organization, as evidenced by the payment order. The court established that the regional party organization had been founded by the party on the basis of its statute, without a status of a legal entity, which meant it wasn't allowed to have a bank account or EDRPOU code [United State Register of Enterprises and Organizations of Ukraine code]. Thus, the deposit was paid in accordance with the deposit payment rules and the statute of the party.

3. Inclusion of members of a different party into the electoral lists and/or inclusion of the same persons in the lists of different parties.

It was a real challenge for the TEC to ensure that exclusively the members of the local party organizations or non-party persons are given the opportunity to run for the elections as required by the law. TECs do not have a real possibility to check the membership status of a person in any organization as the respective registers or verified data about the political parties are not available. For example, there were reports about the conflict during the consideration of the documents of the candidates from European Solidarity in the elections for Kalush City Council in Ivano-Frankivsk Oblast. Koziatyn TEC in Vinnytsia Oblast refused the registration of the sitting mayor Oleksandr Puzyr on the basis of the application from Batkivshchyna about his membership in this political party. OPORA states that membership in an organization is really important for voters. In order to avoid subjectivity when determining candidates' affiliation with political parties the respective TEC verification procedures should be subject to legal regulation.

Also, the Electoral Code states that a person can be included in the electoral lists of a local organization of only one political party. In the reporting period there were some cases when one and the same person was included in the electoral lists of different parties. For example, in the elections for Volnovakha Raion Council four candidates were included in the electoral lists of both, the Opposition Platform — For Life and Nash Krai [Our Land]. Representatives of the Opposition Platform -For Life stated that their political rivals had forged the documents. The National Police of Ukraine is currently investigating the incident.

In court cases **No. 460/7139/20** and **No. 460/7179/20** the court refused to cancel the registration of the candidates from regional organizations of *Za Maibutnie* [For the Future] and

Proposition in Rivne. According to the statement of the plaintiff, at the moment of registration the candidates from these political parties were members of other political parties and heads of other structural units. Still, the court established that before the registration on September 25, 2020 all these candidates had terminated their membership in other parties by having submitted the respective applications to the statutory bodies as to their exclusion from the membership of such political parties. Thus, **membership in political parties is suspended or terminated from the moment of submitting the respective application, with no additional decisions required.**

4. Failure to meet the requirements of the Code regarding the number of candidates standing for election in the single and territorial constituencies (under the proportional representation system) and in multi-member constituencies under the majority system (for example, local organization of the Agrarian Party in the election of councilors of Dnipropetrovsk Regional Council, local organization of the Za Zhyttia [For Life] Opposition Platform in the election of Ivano-Frankivsk Regional Council, and local organization of the Nash Krai [Our Land] in the election of Bibrka and Yavoriv Town Councils of Lviv Oblast).

The Election Code lays down clear requirements as for the number of candidates in the relevant local elections: under proportional representation – not more than the number of seats for the candidates standing for election – from 5 to 12 candidates for a single party organization list; under majority system – for a local party organization, the number of candidates should not exceed the number of seats in a multi-member constituency. The violation of these requirements by some local party organizations highlights the need for proper information about the special features of the election law.

Kyiv District Administrative Court passed a rather controversial decision in the case No. 320/8856/20. The court recognized the right of a political party that submitted a list of 35 candidates to resubmit, with the reference to the date and number of the congress decision indicated in the initial list, a revised list of 26 candidates standing for election to Uman City Council that met the requirements of the Code. The court concluded that the gaps in the Election Code of Ukraine regarding the mechanisms of updating the lists of candidates could not prevail over the right of citizens to stand for election guaranteed by the Constitution of Ukraine, and the Territorial Election Commission resorted to excessive formalities when refusing to accept the resubmitted list.

5. Failure of a local party organization to notify a territorial election commission about the date, time and place of its conference for candidate selection.

As follows from Article 218, part 2, of the Election Code, a local political party organization shall give the territorial election commission a one-day notice of its conference where candidates are selected. Failure to comply with this rule is a ground for refusal to register candidates (for example, the registration of the candidates of an organization of the Sila i Chest [Strength and Honour] Political Party in the election of Kharkiv City Council was denied).

Given the right of a regional party organization to nominate candidates for the election at different levels, such organization is to inform the territorial election commissions in all

communities where it nominates the candidates. The local organizations of political parties often had no understanding of this feature of the election law.

The resolution of Novomoskovsk Town Territorial Election Commission to deny the registration of candidates on the grounds that the candidate selection procedure had been breached due to **the failure to notify the election commission of the general meeting of the political party within the prescribed period** was challenged in court, administrative case No. **160/11835/20**. The court concluded that the violations of the candidate selection procedure could not produce legal effects insofar as denial of registration. In this case, the court found that the political party's authorized person violated the general procedure for candidate nomination by the political party organization. However, the court believed that such violations were purely formal, as the court found while hearing the case that the authorized persons had no intention to conceal the date, time and place of the general meeting. Thus, when passing the impugned decision, the territorial election commission failed to respect the principle of proportionality embodied in Article 2 of the Code of Administrative Procedures of Ukraine, in particular as regards ensuring an appropriate balance between any adverse impact on the rights, freedoms and interests of an individual and the objectives the impugned decision seeks to achieve.

At the same time, in the case No. **120/5192/20-a**, Vinnytsia District Administrative Court dismissed the claim of the regional organization of Nash Krai [Our Land] Political Party for the reason of not notifying a village territorial election commission of the party's candidate selection conference. Although the party organization put a notice on its website, reported it on the radio, and submitted a written notice of the meeting, the requirement to notify the territorial election commission was not met. The court found no justification in the plaintiff's arguments that it had met the requirements of Article 218, part 2, of the Election Code of Ukraine by notifying Vinnytsia Regional TEC as the oblast level commission, since Orativ Village TEC and Vinnytsia Oblast TEC are the actors of the election process in their own rights and are not subordinated to each other. Likewise, in the case No. **240/16705/20**, a territorial election commission denied registration of a candidate, as the party informed the commission of the date of the candidate selection conference on September 23, 2020, while the conference took place on September 17, 2020. The court upheld the TEC decision and pointed out that the Election Code mandates a party organization to give the relevant TEC a one-day written notice of the meeting or conference for candidate selection with the indication of the date, time and place of the meeting or conference.

Thus, the courts do not apply the substantive and procedural law provisions in the same way when considering the cases concerning notifications about the candidate selection conference.

6. Uneven application by the territorial election commissions of the Election Code provision stipulating that errors and omissions in the documents filed by the candidates cannot be the grounds for denying registration of candidates where they do not impede understanding of the content of the information provided.

A common problem for local elections in Ukraine is an excessively formal TEC approach when considering omissions or errors in the documents filed by the candidates. In a number of communities, its application by the election commissions has led to the denial of candidate registration, resulting in complex election disputes (for example, Uman City Election Commission as regards mayoral candidates of an organization of Propozitsia Party, Karolino-

Buhaz TEC that denied registration of a candidate of an organization of the Servant of the People Party who had failed to submit an application for personal data processing and his biography in electronic form).

The candidate registration process was accompanied by examples of denying the registration to a large part of local party organizations within a community. For example, in Rubizhne, Luhansk Oblast, the territorial election commission refused to register the electoral lists of organizations of the Za Zhyttia [For Life] Opposition Platform, Servant of the People, European Solidarity, and Oleh Liashko's Radical Party. Such cases require particular attention of the CEC to prevent potential anti-competitive attempts in the elections.

Certain local party organizations have reported some of their documents missing, while those had been duly submitted to the territorial election commissions. For example, representatives of the European Solidarity Party organization standing for election to Dobrovelichkivka Village Council of Kirovohrad Oblast complained about it. Of particular concern are the reports of TEC members that they are under pressure for registration or non-registration of candidates in the local elections. In particular, such a statement was made by the Chair of Hola Pristan Town TEC in Kherson Oblast. All incidents involving possible pressure on TEC members or falsification of electoral documents must be promptly investigated.

In the case No. **320/8740/20**, a territorial election commission returned the documents filed by a candidate for registration as his autobiography mentioned his place of birth that did not coincide with that in his passport, and a copy of the receipt confirming the payment of the cash deposit did not bear an ink stamp of the financial institution; the TEC thus ruled to cancel the registration. On September 24, 2020, the documents for registration were re-submitted, but Borshchahivka Village TEC refused the plaintiff's request referring to the resolution taken before. The court reasonably draws attention to the fact that **provisions of the Election Code of Ukraine impose no limitation as regards resubmission of documents by a candidate** for the position of the village mayor.

In the case No. **160/11834/20**, the court found, and the parties confirmed, that the **election platform** of Dnipropetrovsk Regional Organization of Za Maibutnie [For Future] Political Party **exceeded a standard length** of 4,000 printable characters established by the Electoral Code of Ukraine. At the same time, the court noted that the grounds for denying registration of candidates include the lack of a party platform or its non-compliance with the rules of the Election Code of Ukraine. The court decided that it was the content of the party program that was important, and not the number of characters. In the case No. **460/7090/20**, Zdolbuniv Town TEC denied registration of candidates as the **election program** of Rivne Regional Territorial Organization of Holos [Voice] Political Party contained 15,422 characters without spaces. The court granted the claim of the party organization and declared unlawful the decision of Zdolbuniv Town TEC and quashed it. The court ordered to reconsider the application for registration of candidates filed by the party organization, take into account the documents submitted to correct the mistake, and render a decision to register the candidates. As follows from the court ruling, the commission's decision did not meet the principle of proportionality, as due to the excessive formalities the commission failed to strike the

necessary balance between the adverse consequences for the rights of individuals to be elected and the objectives of the contested decision.

In the case No. 320/8744/20, Kyiv Regional Organization of UDAR of Vitaliy Klitschko Political Party put its candidate number one on the single electoral list onto the electoral list in one of the territorial constituencies as well. In support of its claim, the party maintained that it had not breached the nomination procedures but was just inaccurate when preparing the application, and such inaccuracy had been caused by a technical glitch and power outages. The court ruled that these mistakes in the electoral documents could be corrected and could not serve as the grounds for denying registration of the entire list of candidates.

In the case No. 460/7175/20, Rivne Regional Organization of the Servant of the People Political Party claimed that the TEC had not made a decision to correct some mistakes in the annexes to its resolution to register the candidates running for Rivne Regional Council. The error occurred due to the discrepancy between the territorial and single electoral lists in the digital format and paper documents submitted to the TEC for registration. In its legal opinion, the court applied the provisions of Article 222-1 of the Election Code. Saying that where a territorial election commission found discrepancies between the single electoral list and the territorial electoral list of a party organization, filed both as a paper document and in electronic form, the paper document shall prevail. The court granted the claim and ordered the TEC to amend the annexes to its decision to register the candidates standing for election to Rivne Regional Council.

As follows from the case **No. 300/2494/20**, the plaintiff took legal action challenging the TEC decision to reject his registration as a mayoral candidate of Nadvirna Town. When the candidate submitted his documents, the TEC members had not informed him about some **omissions or errors** in his documents: the plaintiff had incorrectly indicated the name of the local authority he was running for to and had failed to indicate in which election he was to participate. Instead, the territorial election commission denied the registration and stated at the hearing that it had informed the candidate of the errors in his documents by SMS and telephone. The court criticized such form of notification and pointed out that there was neither any evidence that the plaintiff had received that information, nor an indication of the errors to be corrected. Errors and omissions cannot be the grounds for denying the registration of a candidate where they do not hinder understanding of the content of the information provided; therefore, the court granted the claim and **ordered the territorial election commission to pass a decision to register the plaintiff as an independent mayoral candidate.**

As follows from the case No. 420/9420/20, Mikhailo Kuzakon, a candidate for mayor of Odessa, asked the court to cancel the decision on registration of Hennadiy Trukhanov, nominated by Doviriay Spravam [Trust the Deeds] Political Party as a candidate for the position of Odessa mayor. According to the plaintiff, prior to becoming a Ukrainian citizen, Mr. Trukhanov had acquired citizenship of the Russian Federation in line with the laws of the Russian Federation, was presently a Russian citizen and therefore a foreigner in terms of the Constitution of Ukraine and laws of Ukraine. The plaintiff claimed that Mr. Trukhanov had submitted an incorrect autobiography to Odessa City TEC, failing to indicate his Russian

citizenship. The court dismissed the claim, pointing out that all the reasoning and arguments of the plaintiff with the reference to Internet sources did not refute the court's findings that Mr. Trukhanov was a national of Ukraine and had no foreigner status; therefore, the court disregarded the arguments and declared the evidence inadmissible. The appellate court reviewed the case, but the decision was not published. However, as reported by open sources, the decision of the first instance court was upheld.

7. Failure to comply with the legal timeframe for submission of applications for registration as a candidate.

In the case No. 160/11834/20, the court found that representatives of Dnipropetrovsk Regional Organization of Za Maibutnie [For the Future] Political Party had come to the TEC office to submit their application and an updated single list of candidates on October 24 at 11.50 pm, but the doors of Kamianka Town TEC were closed. The court concluded that the plaintiff had submitted the revised documents in time, and therefore they were to be accepted by the defendant. The court observed that in this case the possibility to file documents for registration could not be restricted because of working hours, in particular 9 pm (decision-making time), and ending at midnight on the last day preceding thirty days prior to the election day.

There is information about the consideration by Odessa District Administrative Court of the case No.420/9717/20, where the regional organization of the Servant of the People Political Party had filed a claim against Odessa Regional TEC seeking revocation of its decision to register candidates of an organization of the Bloc of Dmytro Golubov Political Party. The claim suggested that the application for registration filed by the Bloc of Dmytro Golubov was registered on September 25, 2020. The court granted the claim and ordered Odessa Regional TEC to revoke the decision as regards the registration of candidates standing for election to Odessa Regional Council in the next local election, nominated by Odessa Regional Organization of the Bloc of Dmytro Golubov Political Party. The court pointed out that during the interrogation of witnesses and determination of the circumstances of the case, the court did not establish and the witnesses did not confirm that the party's representatives were inside the TEC premises before 11:59 pm on September 24, 2020.

In the case No. 580/4136/20, the court rendered a controversial decision as regards the application of Article 228-2 of the Election Code of Ukraine stipulating that the documents for the registration of candidates should be submitted to the election commission thirty days prior to the election day. The court was of the opinion that the plaintiff had the right to file the documents for registration as a candidate for election before midnight on September 24, 2020. However, the court disregarded the fact that the candidate had already submitted his documents to the TEC and it emerged that some clarifications were required. The court also disregarded the provision according to which the applicant, should the commission so request, may correct errors and omissions and submit the revised documents **not later than the following day from the date of such request.**

SPECIFICITIES OF POLITICAL ADVERTISING ON FACEBOOK IN SEPTEMBER 2020

Despite the growing role of social networks during election campaigns, the regulation of social media campaigning at the 2020 local election remains an issue. Such legal uncertainty regarding online campaigning and the inability to pay for political ads published by social media directly through the election funds create significant risks of hidden campaign expenses and unequal campaign conditions for the election participants.

In September, OPORA monitored the use of political advertising on Facebook by various parties and candidates. The social media activity of political forces grew significantly in September when the election process formally started. According to the Facebook Ad Library, more than 36,000 political messages costing between USD 1,150,000 and USD 1,400,000, were posted online during the last month (compared to 20,000 posts in Facebook in August, costing about USD 400,000).

At the same time, political parties also became more active on Facebook. 35 political parties used Facebook's promotional tools between September 1 and 26 and spent the total of almost USD 400,000 on advertising. Among the mayoral candidates, campaigning was particularly active among the candidates for mayors of Kyiv and Lviv.

Activity of political parties on Facebook during the campaign

Spending of political parties on political advertising

Party	Costs, USD	Quantity of advertising	Number of pages
Za Maibutnie [For the Future]	103,291	3,728	30
Nash Krai [Our Land]	64,472	4,306	5
Sluha Narodu [Servant of the People]	42,006	2,209	20
Yevropeyska Solidarnist [European Solidarity]	35,201	538	13
Peremoha Palchevskoho [Victory of Palchevsky]	28,149	217	3
Propozitsia [Proposition]	13,275	1,108	15

EkoPartia Berezy [EcoParty of Bereza]	12,235	242	1
Za Zhyttia [For Life] Opposition Platform	11,350	489	3
Holos [Voice]	11,341	283	6
UDAR of Vitaliy Klitschko	8,529	225	4

In September, Za Maibutnie [For the Future] Political Party remained number one among other political parties in terms of political spendings on Facebook: it published 3,728 advertisements costing more than USD 103,000. It is noticeable that the party presents itself as all-Ukrainian, targeting the entire territory of Ukraine. This is also evidenced by a large number of active regional pages of the political force. For example, 30 party pages were published as political ads on Facebook in September.

Even though Nash Krai [Our Land] Political Party was not very active in early September, in the middle of the month it began spending about USD 5,000 a day on Facebook ads. This helped it to come second in terms of spendings on Internet advertising, with more than USD 64,000 spent on 4,306 advertising messages. At the same time, Nash Krai almost never targeted young people under 35 and its advertising campaign was mainly carried out in Chernihiv, Sumy, Odessa, and Dnipropetrovsk Oblasts.

The Servant of the People Political Party spent USD 42,000 on political ads, having published 2,209 advertisements. In its ad campaign, the party focuses mainly on the middle-aged people (67% of the viewers are users aged 25-54). The party's campaign is largely focused in three regions of Ukraine – Zaporizhia, Dnipropetrovsk, and Vinnytsia Oblasts.

The European Solidarity Political Party spent a bit more than USD 35,000 on advertising posting just 538 messages on Facebook. The European Solidarity largely focuses on the middle-aged and older voters (79% of ad viewers are over 35). The party's campaign mostly targets Kyiv (over 64% of posts). Such number of posts is explained by the extraordinary activity of the European Solidarity-Kyiv page that has spent approximately 75% of the above amount.

Peremoha Palchevskoho [Victory of Palchevsky] Political Party spent more than USD 28,000 on 217 online advertisements. According to Facebook, the social media campaign was paid for by Peremoha Palchevskoho [Victory of Palchevsky] NGO. The party's campaign is largely focused on the users from Kyiv (60% of posts).

Propozitsia [Proposition] Political Party spent more than USD 13,000 on 1,108 advertisements. The party has a well-developed network of local pages, with ads posted on the main Propozitsia page and 14 other local pages. The target audiences of the party are the users from Dnipropetrovsk Oblast (31.85%) and Zhytomyr Oblast (34.24%). The party's advertising reached its activity peak on September 4 to 12.

EkoPartia Berezy [EcoParty of Bereza] that ranks 7th spent more than USD 12,000 on 242 advertising messages in September. The party's page was created shortly before the start of the election campaign on August 22, 2020. This party is also one of the few with mostly male target audiences (over 55% of ad viewers) and users from Kyiv only.

Za Zhyttia [For Life] Opposition Platform ranks the eighth in terms of online advertising, investing USD 11,000 on 489 ads in September. The most active are the pages of Dnipropetrovsk Oblast and Dnipropetrovsk City organizations of Za Zhyttia Opposition Platform. About 88% of the party's advertising messages target Dnipropetrovsk Oblast, and the rest is focused in Kyiv, Sumy and Ternopil Oblasts. The target audience is mostly female – more than 66.5%.

Holos [Voice] Party spent more than USD 11,000 a month on 283 advertising messages. On September 5, simultaneously with the formal beginning of the election process, the activity of the party on Facebook showed a significant rise. The audience of Holos is also mostly female – about 67% of its targeting.

In September, UDAR Party spent more than USD 8,500 on 225 advertisements, as the party had published almost no advertisements until then. The party publishes ads on 5 pages – UDAR of Vitaliy Klitschko, UDAR of Vitaliy Klitschko of Darnitsky District, UDAR of Vitaliy Klitschko Party of Dniprovsky District, UDAR of Vitaliy Klitschko of Sviatoshinsky District, and UDAR of Vitaliy Klitschko of Bila Tserkva. The targeted audience are the users aged 18 to 44, or 75.3% of ad viewers.

In September, considerable interactivity on Facebook was also shown by such political parties as Ekolohichna Alternativa [Ecological Alternative] (USD 5,227), Batkivshchyna (USD 4,295), Samopomich Association (USD 4,187), Sila i Chest [Strength and Honour] (USD 3,725), Dovira Poltavshchini [Trust of Poltava Region] (USD 3,727), Rukh Spravedlyvosti [Movement of Justice] (USD 3,505), Udovichenko's Team – Ridne Misto [Hometown] (USD 3,454).

Facebook campaigning by candidates running for city mayors

Mayoral candidates spending for political advertising on Facebook

Candidate	Costs	Quantity of advertising
Iryna Vereshchuk	31 976	3 503
Vitaliy Klitschko	7 551	48
Oleh Synyutka	4 523	307
Andriy Sadovy	4 023	39

Oleksandr Popov	3 691	578
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Iryna Vereshchuk, a candidate for Kyiv mayor and nominated by the Servant of the People Political Party, is an absolute leader in terms of political ad spending in September, with almost USD 32,000 for 3,503 advertisements. Users under the age of 24 and over 65 see the least amount of political ads of Ms. Vereshchuk's campaign; in total, these two age categories constitute 17.2% of her targeting.

Vitaliy Klitschko, another candidate for Kyiv mayor nominated by UDAR Political Party, spent more than USD 7,500 on 48 advertisements in September. The audience of Mr. Klitschko's posts is a bit younger, with about half of the posts targeting the 18-to-34 age group.

Oleh Synyutka, a candidate for Lviv mayor nominated by the European Solidarity Political Party spent more than USD 4,500 on 307 advertising messages. Mr. Sinyutka is one of the few mayoral candidates whose advertising has mainly targeted male audiences.

Andriy Sadovy is ranked fourth when it comes to the amount of money spent on political advertising on Facebook in September, with about USD 4,000 spent on 39 advertising posts. Mr. Sadovy has mostly reported on his work as mayor of Lviv over the past 5 years and presented his plans for the next term.

Olexandr Popov, a candidate for the capital city mayor nominated by Za Zhyttia Opposition Platform, who held the position in 2010-2014, has spent more than USD 3,500 on 578 advertising posts. He is the only candidate who has no targeted advertising reaching users under the age of 35, and almost a quarter of his posts targets female audiences aged 55 to 64.

In September, active on Facebook were also Serhiy Kalynchuk, a candidate for Odessa mayor (over USD 3,500), Taras Klyofa and Ihor Vasyunyk, candidates for Lviv mayor (over USD 3,200 each), Andriy Matkovsky, a candidate for Poltava mayor (over USD 3,200), and Serhiy Pritula, a candidate for Kyiv mayor (over USD 3,100).

CHALLENGING PROCEDURAL VIOLATIONS BY TERRITORIAL ELECTION COMMISSIONS IN COURT

The problem of appealing procedural violations by the territorial election commissions results from the excessively tight schedule of the election process. It is difficult to challenge violations of many procedures because of the absence of registered candidates and political parties.

The would-be candidates and parties could appeal against TEC decisions, actions, or inaction only as voters, and those only have the right to challenge violations of his or her personal rights. Thus, in the case No. 420/8369/20, the claim relating to the recognition of the expired deadline for the establishment and formation of the village TEC was dismissed on the grounds that the plaintiff was not a registered candidate (while the registration period had not yet started by law).

The possibility of judicial remedies for political parties is also limited by the candidate nomination procedures within the relevant type of local elections. Thus, in the case No. 360/3373/20, the court refused to recognize the inaction of a TEC that had not published the

details of the cash deposit account both on its official website and the information stand, for the plaintiff, Luhansk regional organization of Dovira [Trust] Political Party had not yet nominated its candidates, though the party had informed the CEC on its participation in the elections. In the case No. 260/2972/20, the court similarly dismissed a claim of the Transcarpathian regional organization of Batkivshchyna All-Ukrainian Union regarding the revocation of a decision on the establishment of constituencies passed by Khust City TEC. The problem could be legally resolved by linking the attainment of the election participant status to the moment when the central party organization notifies the CEC about its intention to participate in the local elections, rather than to the candidate nomination in a particular area.

At the same time, in the case No. 360/3219/20 involving an action brought by Luhansk regional organization of the Servant of the People Political Party, the court ordered Shchastia District TEC to include mandatory candidates in the village TEC (the decision to cancel the resolution was not taken as the relevant provision had already been revoked by the CEC Resolution No. 210 of August 30, 2020).

In the case No. 580/3738/20, the court developed an approach to calculating the number of votes necessary to render a decision by a territorial election commission. The court of first instance assumed that, at the time of adopting the contested decision, the commission comprised 15 members who had taken the oath, so the majority of votes should be counted against the number of serving members. However, the court of appeal came to the reasonable conclusion that the composition of an election commission could only be changed by the commission that had established it, and as the original commission had 18 members, the required number of votes was 10 or more.

Case No. 400/4108/20 involved a challenge to the decision of Yuzhnoukrainsk Town TEC to register a candidate for the position of the territorial community mayor on the grounds that the TEC Chairman had direct labor relations with the candidate, so a **potential conflict of interest** was present. The courts of first and appellate instances reasonably stated that the argument that there is a potential or apparent conflict of interest between the candidate and the head of the territorial election commission in no way affects the right to be a registered candidate for mayor.

In the case No. 320/8742/20, Borodianka Village TEC was ordered to reconsider the application for registration for the position of the village mayor filed by a candidate nominated by Kyiv Regional Organization of the Communist Party of Ukraine. The court found that the TEC had not referred in its decision to non-compliance of the applicant with the rules established by the Law On Condemnation of Communist and National Socialist Totalitarian Regimes in Ukraine and Prohibition of Propaganda of Their Symbols, but to the absence of the political party's registration, which was not true. Therefore, the application filed by the Communist Party must be reviewed again.

Thirteen lawsuits involved appeals against TEC decisions **on the organization** of constituencies.

Quite a common reasoning for claim dismissal was the position of the courts that the Electoral Code of Ukraine did not specify the right of the voters to participate in the process of election

district formation or oversee such a process, so the personal right of the voters was not violated (for example, cases No. 320/8059/20, 520/12110/2020, 420/8864/20). At the same time, the courts also passed decisions where the legal position was more substantiated in terms of ensuring voters' access to justice. Thus, in the case No. 240/15443/20 the Seventh Administrative Court of Appeal emphasized that since the claimant was a voter in a particular precinct of a particular constituency, his rights and interests were directly violated by the decision on establishment of the constituencies.

The courts also note that the provisions concerning consideration of the administrative and territorial structure and the number of election districts are supplementary and can be used by the election commissions at their discretion. The comments on the creation of constituencies for the organization and conduct of local elections approved by the decision of the Central Election Commission on August 28, 2020 № 204 (case № 320/7976 / 20) in the case of elections under a proportional representation system is also a recommendation, including the consideration of the approximate number of voters for the establishment of constituencies.

When refusing to cancel TEC decisions, the courts analyzed the fact that if the plaintiff's claims were to be granted and the TEC was obliged to re-establish multi-member constituencies with account of the approximate average number of voters, the principles of proportionality and fair balance would be violated, since ensuring an equal number of voters in one multi-member constituency could lead to imbalance in another constituency (case # 240/15443/20).

At the same time, Zaporizhia District Administrative Court reasonably overturned the decision of Novooleksandrivka Village TEC, having established through calculations set out in its reasoning, that fewer mandates would be distributed in a constituency with a larger number of voters - two mandates, in comparison with three mandates in each constituency with a smaller number of voters, and the deviation from the indicative average number of voters in a constituency per one mandate is over 15% (case No. 280/6301/20).

Cases on the establishment of territorial constituencies in Kyiv (cases No. 640/21368/20, 640/21488/20) have been widely discussed by the public. The key court findings were the following:

- Although the territorial election commission violated the deadline for the establishment of constituencies, the violation was not regular, significant, and sufficient to overturn the challenged decision, given the negative consequences that could have occurred if it had not been adopted;
- No constituency includes two or more districts or parts of districts in Kyiv, therefore such a division is consistent with the law and the CEC comments, in the court's opinion;
- At the time of consideration of the case 40/21488/20, the decision rendered in a previous case came into force (confirming the legality and validity of the TEC decision). The Court of Appeal found prejudice in the case No. 640/21368/20, so the claim alleging the violation of the continuity principle was also dismissed.

We can add to the general review of court proceedings that in some cases (No. 320/8743/20, 260/3115/20, 320/8742/20, etc.) the trials took place under a simplified procedure. We believe that electoral disputes are not cases of minor complexity and should therefore be tried according to the general procedures.

RECOMMENDATIONS

for the Verkhovna Rada of Ukraine

- Expeditiously and comprehensively develop legal regulations to hold local elections in the communities in the government-controlled territories of Donetsk and Luhansk Oblasts to ensure voting rights of the people.
- When amending the election law, take into consideration the urgent need to regulate the dissemination of electoral campaign materials and provision of online information on the election campaign.

for the President of Ukraine

- Initiate before the parliament the consideration of the urgent need to legally guarantee the right to local self-government of the territorial communities in the government-controlled territories of Donetsk and Luhansk Oblasts.

for the National Police of Ukraine

- Provide enhanced monitoring of the precincts that show uncharacteristic rise of the number of voters emanating from the change of the voting address.
- Promptly inform the public and the media about the intermediate results of the investigation of election crimes.

for the local governments and public authorities

- Examine and take control of the logistic support for the election commissions, compliance of the premises with accessibility standards, and the availability of personal protective equipment for the election commission members.