



Office for Democratic Institutions and Human Rights

# UKRAINE

## LOCAL ELECTIONS

25 October 2020

### ODIHR NEEDS ASSESSMENT MISSION REPORT

27-31 July 2020



Warsaw  
4 September 2020

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**UKRAINE**  
**LOCAL ELECTIONS**  
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**ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

Following an invitation from the Ministry of Foreign Affairs of Ukraine to observe the 25 October 2020 local elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 27 to 31 July. The NAM included Alexander Shlyk, Head of the ODIHR Election Department, and Keara Castaldo, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and preparations for the local elections. Based on this assessment, the NAM should recommend whether to deploy an ODIHR observation activity for the forthcoming elections and, if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions as well as with representatives of political parties, media, civil society, and the international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs for its assistance and co-operation in organizing the NAM. ODIHR would also like to thank each of its interlocutors for taking the time to meet with the NAM and for sharing their views.

**II. EXECUTIVE SUMMARY**

In the upcoming elections, voters will elect local councils in the regions, districts, cities, city districts, settlements and villages, as well as mayors of cities, villages and settlements. The elections follow the April and July 2019 presidential and parliamentary elections, in which President Zelenskyy and his Servant of the People party won with large margins. All ODIHR NAM interlocutors attributed great political importance to the upcoming local elections, which hold particular significance and will take place in the context of a recent reform of administrative-territorial boundaries, which may create some administrative challenges.

The electoral legal framework has been substantively revised since the last local elections, under the newly codified law regulating all types of elections. Adoption of the Election Code and its subsequent amendments followed long consultations with electoral stakeholders, who generally assessed this process to the ODIHR NAM as inclusive, despite some politicization of key amendments and COVID-related challenges to the legislative and consultative processes. The Code retains elements of previous systems for local elections, with several key changes. Several changes were welcomed by political party and civil society interlocutors, such as broader opportunities to update electoral addresses, an inclusive gender quota, revised definitions for vote-buying, and the introduction of proportionate sanctions for certain electoral offenses. Other amendments were widely criticized, including those related to adjustments to the already complicated electoral system. Some long-standing ODIHR recommendations remain unaddressed in the law, including steps to enhance the oversight of campaign finance and media obligations, which interlocutors also indicated as areas of concern in the conduct of the forthcoming elections.

The elections will be administered by a tiered commission structure led by the Central Election Commission and comprised of permanent Territorial Election Commissions (TECs) corresponding to administrative subdivisions as well as temporary Precinct Election Commissions (PECs). Most ODIHR NAM interlocutors expressed confidence in the overall professionalism of the election administration, but many shared practical concerns related to the complex implementation of the elections, including the administration of counting and tabulation procedures on election day. Interlocutors also shared reservations related to the ability of groups of members of parliament to nominate members of election commissions.

Voter registration is passive and voter lists are extracted from a centralized State Voter Register (SVR). These elections provide broader opportunities for citizens to update their electoral address, which is expected to facilitate participation, particularly for internally displaced persons (IDPs) and Roma, but creates potential challenges. Citizens of at least 18 years of age are eligible to vote in local elections, except for those revoked of legal capacity by a court on the basis of intellectual or psychosocial disability, contrary to international obligations.

Citizens with the right to vote are eligible to stand as candidates for local councils or mayor, unless they hold a conviction for certain serious crimes, including related to corruption or the violation of electoral rights. There is no requirement for residency within a respective community in order to stand for local office. Self-nomination of candidates is possible only for mayoral and council elections in communities of fewer than 10,000 voters, with no possibility of independent candidatures in other contests. ODIHR NAM interlocutors noted that the nomination process for partisan candidates is highly decentralized and often inextricably linked to local commercial interests.

Although several political parties are led by women or include prominent women politicians, women remain underrepresented in politics and its coverage in mass media. Stakeholders praised the inclusive requirement in the Election Code that each gender be represented in candidate lists, including by at least 40 per cent of candidates on party lists in proportional races for local councils, and by 2 of every 5 candidates sequentially. However, several noted that the need for large amounts of capital reinforces reliance of candidates on local commercial interests and creates additional practical barriers to the participation of women candidates.

The Election Code includes detailed provisions on acceptable forms of campaigning and the placement of campaign materials. New definitions and adjusted sanctions related to vote-buying were welcomed by stakeholders. Political parties met by the ODIHR NAM did not raise concerns with regard to the ability to conduct campaign activities freely, but raised concerns related to biased media coverage and possible abuse of state resources at the local level.

Campaigns may be financed by individual donations as well as parties' and candidates' own resources and must be maintained in an electoral fund, though there is limited control over possible circumvention of finance regulations. Positively, contestants' asset declarations and campaign finance reports must be published online. TECs hold responsibility to monitor campaign finance and to report administrative violations to the National Agency for Corruption Prevention, which has limited investigative authority and capacity, and criminal violations to the National Police. Most ODIHR NAM interlocutors cited an overall lack of effective oversight of the financing of election campaigns, owing to limited regulation and insufficient sanctions, insufficient oversight capacity, and ineffective or protracted investigations.

The national media landscape is diverse but remains marked by a concentration of politically vested ownership and a resultant lack of editorial independence among major networks. The public

broadcaster remains underfunded and its reach is limited. Several media stakeholders noted a decline in journalists' access to public information and officials, citing administrative barriers. Many described challenges related to organized disinformation and attempts to disrupt political processes, as well as potentially excessive regulatory efforts to prevent it.

The Election Code retains many existing regulations on the filing and adjudication of election disputes, but the legal framework introduces more proportionate sanctions for several categories of violations. Stakeholders did not raise major concerns to the ODIHR NAM related to procedures for election-related complaints, but many described low public confidence in the independence and effectiveness of some judicial bodies. Many welcomed the updates of certain sanctions, including those related to indirect vote-buying and inaccuracies in results protocols, expecting such provisions to be more proportionate and enforceable.

In considering an observation activity, the ODIHR NAM has taken into account the various findings outlined in this report, including recent substantive changes to the electoral legal framework, and the views expressed by stakeholders. The ODIHR NAM noted confidence in the overall conduct of the elections and expectation of contestants to freely campaign. However, stakeholders raised some concerns related to the practical implementation of the new Election Code and the complex systems of local elections, and highlighted several aspects of the process that would merit particular attention, including voter registration, campaign financing, media coverage of the elections and related oversight, and the formation and performance of election commissions at the local level. Many interlocutors welcomed a long-term ODIHR activity to observe the pre-election campaign environment throughout the country and in the media, and to systematically assess the conduct of election day, particularly the counting and results reporting procedures.

Based on the findings of this report, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM), subject to health and travel considerations related to COVID-19, to assess the local elections. In addition to a core team of experts, ODIHR would request the secondment of 80 long-term observers from OSCE participating States to follow the election process countrywide, as well as 600 short-term observers to follow election day proceedings. In line with ODIHR's standard methodology, the EOM would include a media monitoring element.

### **III. FINDINGS**

#### **A. BACKGROUND**

Ukraine is divided into 24 regions (*oblasts*) and the Autonomous Republic of Crimea, as well as the cities of Kyiv and Sevastopol. Regions are composed of districts (*rayons*), and the major cities are divided into city districts. In the upcoming elections, voters will elect local councils in the regions, districts, cities, city districts, settlements and villages, as well as mayors of cities, villages and settlements. The elections follow the April and July 2019 presidential and parliamentary elections, in which President Zelenskyy and his Servant of the People party won with large margins.

All ODIHR NAM interlocutors attributed great political importance to the upcoming local elections that will take place in the context of a recent reform of administrative-territorial boundaries, which may create some administrative challenges. On 17 July the *Verkhovna Rada* (parliament) passed Resolution No. 3650 "On Rayons Formation and Liquidation", which established a total of 136 districts and liquidated the previous 490 districts. On 8 August the CEC called first council and

mayoral elections in various levels of territorial communities, and on 14 August announced first elections for district councils, following some legal uncertainty.<sup>1</sup>

The elections take place in the context of ongoing armed conflict and other hostilities in the east of the country and the illegal annexation of the Crimean peninsula by the Russian Federation. Although a nominal ceasefire has been in effect for five years, the situation in conflict-affected parts of eastern Ukraine remains tense and volatile and is characterized by persistent attacks on fundamental freedoms and a deteriorating humanitarian situation.<sup>2</sup> The 15 July parliamentary resolution on holding local elections explicitly excluded elections in Crimea and in certain parts of the Donetsk and Luhansk *oblasts*, which are declared by the parliament as temporarily occupied territories.<sup>3</sup> The CEC can further determine not to hold elections in specific territorial communities, on the basis of information from the respective civil-military administrations in government-controlled areas affected by the conflict. On 8 August, the CEC announced that local elections would not be held in 18 territorial communities in Donetsk and Luhansk on 25 October.<sup>4</sup> On 18 August, citing constitutional and other legal protections of suffrage and self-governance, the CEC issued an additional resolution requesting further guidance from the respective civil-military administrations as well as from the National Security and Defense Council, Security Service, National Police, Commander of the Joint Forces on the possibility of holding local elections in these regions.<sup>5</sup> Following receipt of this additional guidance, the CEC did not amend its initial decision to not hold elections in these communities.

Ukraine is in a state of adapted quarantine, following the outbreak of the 2019 coronavirus disease (COVID-19). Amid other measures related to preventing the spread of the disease, public gatherings of more than 50 persons are prohibited.

ODIHR has previously observed 14 elections in Ukraine.<sup>6</sup> Most recently, for the 2019 early parliamentary elections, ODIHR deployed an Election Observation Mission, which concluded that “fundamental rights and freedoms were overall respected and the campaign was competitive, despite numerous malpractices, particularly in the majoritarian races. Generally, the electoral administration was competent and effective despite the short time available to prepare the elections, which were seen as an opportunity to consolidate reforms and changes in politics that Ukrainian voters are hoping for. In sharp contrast, the campaign was marked by wide-spread vote-buying, misuse of incumbency, and the practice of exploiting all possible legislative loopholes, skewing equality of opportunity for contestants. Intertwined business and political interests dictate media coverage of elections and allow for the misuse of political finance, including at the local level. Election day was overall peaceful, with observers of the IEOM assessing opening and voting positively in the overwhelming majority of polling stations observed, but procedural shortcomings were noted in the counting and tabulation”. ODIHR’s final report on the 21 July 2019 early parliamentary elections offered 29 recommendations, including 13 priority recommendations, for the authorities to improve the electoral process and bring it more closely in line with OSCE commitments.<sup>7</sup>

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<sup>1</sup> See the [8 August](#) and [14 August](#) Decrees № 160 and 176. The Election Code stipulates that the CEC may appoint district council first elections after a request from an authorized body, without specifying further. The CEC solicited guidance from the Parliamentary Committee on State Building, Local Self-Governance, and Government Reform, which affirmed the CEC’s legal authority to schedule the elections.

<sup>2</sup> See the [reports of the Office of the United Nations High Commissioner for Human Rights](#).

<sup>3</sup> See the [15 July 2020 Resolution № 795-IX](#).

<sup>4</sup> See [Decree № 161](#).

<sup>5</sup> See [Decree № 180](#).

<sup>6</sup> See all previous [ODIHR election-related reports on Ukraine](#).

<sup>7</sup> In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”.

## B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The local elections will be primarily regulated by the Constitution and a new codified law regulating all types of elections (“Election Code”, adopted in December 2019 and subsequently amended in June and July 2020), as well as by the Law on the CEC and the Law on the State Voter Register; this framework is supplemented by regulations of the CEC.<sup>8</sup> Ukraine is a party to major international and regional instruments related to the holding of democratic elections.<sup>9</sup>

The electoral legal framework has been substantively revised since the last local elections, including under a new Election Code, in line with a prior ODIHR recommendation to codify a number of election laws. Adoption of the new Code and its subsequent amendments followed long consultations with electoral stakeholders, who generally assessed this process to the ODIHR NAM as inclusive, despite some politicization of key amendments and COVID-related challenges to the legislative and consultative processes. Several changes to legislation were welcomed by political party and civil society interlocutors, such as broader opportunities to update addresses for purposes of voter registration, an inclusive gender quota, revised definitions for vote-buying, and the introduction of proportionate sanctions for certain electoral offenses. Other amendments were widely criticized, including those related to adjustments to the already complicated electoral system. Some long-standing ODIHR recommendations remain unaddressed in law, including steps to enhance the oversight of campaign finance and media obligations, which interlocutors also indicated as areas of concern in the conduct of the forthcoming elections.

The Election Code retains elements of previous systems for local elections, with several key changes. Mayors and village and settlement councils will be directly elected under a majoritarian system: by a first-past-the-post system in villages, settlements and cities with fewer than 75,000 voters and a two-round system for mayoral elections in cities with 75,000 and more voters.<sup>10</sup> Members of regional, district, city, and city district councils in any community with 10,000 or more voters are elected under a proportional system of multi-member constituencies with “open lists”. In these council contests, political parties will compete by putting forward a unified candidate list applicable to the entire district, as well as additional lists of designated candidates for each territorial constituency within the district.<sup>11</sup> Parties that receive 5 per cent of valid votes cast participate in the distribution of mandates; the first candidate on each district-wide party list is guaranteed a seat, while candidates on the “open”

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<sup>8</sup> Other relevant legislation includes the Law on Political Parties, the Code of Administrative Proceedings, the Code of Administrative Offenses and the Criminal Code, which was also revised. Additional draft amendments to the Election Code were registered by the parliament on 10 August, and comprised mostly technical revisions as well as a modification to the process of candidate nomination by local party organizations; these were not adopted as of an extraordinary session on 25 August.

<sup>9</sup> Including the 1966 International Covenant on Civil and Political Rights (ICCPR), 1979 Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), 1965 Convention on the Elimination of All Forms of Racial Discrimination (CERD), the 2003 Convention Against Corruption (CAC), and the 2006 Convention on the Rights of Persons with Disabilities (CRPD). Ukraine is also a member of the Council of Europe’s European Commission for Democracy through Law (Venice Commission) and Group of States against Corruption (GRECO), and is a party to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, 1995 Framework Convention for the Protection of National Minorities, and the 2001 Convention on Cybercrime.

<sup>10</sup> According to the Election Code, the determination of the system in place for each local contest is based on the number of eligible voters as of the first day of the month preceding the start of the election period.

<sup>11</sup> The territory of the community electing the council is divided into constituencies based on an established quotient, related to the number of councilors. The composition of councils at each level varies depending on the number of voters, with minimum 22 councilors in locations with up to 10,000 voters and 120 councilors in locations with over 2 million voters. The Code requires that equality of the vote be retained across constituencies in the same district, in relation to the number of mandates per constituency, with a maximum deviation of 15 per cent from the average.

territorial lists must receive 25 per cent of the vote to advance in the party list. Councilors in communities with fewer than 10,000 voters are elected in a relative majority system in which two to four councilors are elected from each multi-member constituency; candidates with the largest number of votes receive seats until the available seats in each constituency are filled.

Most ODIHR NAM interlocutors noted the complexity of the system for electing local councils, anticipating confusion related to the assignment of mandates across different lists, and pointed to a need for detailed ballot instructions. Many also criticized the low population threshold for proportional council races, noting the increased burden posed on the election commissions, particularly at the precinct level during the count and completion of detailed results protocols.

### C. ELECTION ADMINISTRATION

The elections will be administered by a tiered commission structure led by the Central Election Commission and comprised of permanent Territorial Election Commissions (TECs) corresponding to administrative subdivisions as well as temporary Precinct Election Commissions (PECs). Most ODIHR NAM interlocutors expressed confidence in the overall professionalism of the election administration, but many shared practical concerns related to the complex implementation of the elections on the local level, including the administration of counting and tabulation procedures on election day. On 14 August, national media reported that members of the presidential administration had exerted pressure on the chairperson and three additional CEC members to resign.<sup>12</sup> The allegation, denied by the presidential administration and later partially confirmed by the CEC chairperson, raises concerns about attempts to undermine the independence of the election administration.

The CEC holds overall organizational and methodological responsibility for the conduct of the elections. The current composition of the CEC was established in October 2019 and comprises 17 members (including 5 women). Members of the CEC are appointed by the parliament on the basis of presidential nominations for renewable seven-year terms. ODIHR NAM interlocutors generally expressed trust in the professionalism and impartiality of the CEC, and positively assessed its adoption of a five-year strategic plan. However, several noted that some elements of the preparations for the local elections had not been sufficiently clarified by the law nor subsequent CEC regulations, leading to some confusion, including related to the nomination of election commission members.

Key responsibilities of the TECs include the delineation of multi-member territorial constituencies within council districts, registration of candidates and other electoral subjects, consideration of certain complaints, and the establishment of district-level results. New TECs were established for these elections; members could be nominated by local organizations of parties with a faction in the *Rada* (each up to two nominees with two guaranteed seats on the commission) or those with a declared political co-operation with a group of MPs in the *Rada* (each up to one nominee with one guaranteed seat), as well as local organizations of parties registered in the respective administrative subdivision (up to one nominee with the seats allocated based on drawing lots).

PECs are principally responsible for the conduct of election day procedures and comprise 6 to 18 members, depending on the number of registered voters in the respective precinct; members may be nominated by the same entities as for the TECs, as well as by candidates registered in the respective districts. The head, deputy and secretary of each commission must represent different nominating entities. On 10 August the CEC established the composition of 532 TECs of regions, districts, regional capitals, and Kyiv and its districts; these TECs subsequently established the TECs for

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<sup>12</sup> See the [14 August report](#), the [response of the presidential administration](#), and the [response of the CEC chairperson](#).



remaining cities and smaller communities. The deadline for nomination of PEC members is 30 September and the PECs will be established by 9 October.

Many ODIHR NAM interlocutors criticized the possibility for MP groups to nominate members to TECs and PECs through establishing political co-operation with local party branches, anticipating the exploitation of this provision in order to gain more seats on commissions for political factions. Stakeholders also reported some confusion to the ODIHR NAM related to the apparent ability of multiple local organizations of the same party, within the same newly established rayon, to nominate members to the same TECs.<sup>13</sup> On 1 August, the CEC issued a resolution which acknowledged that the changes to administrative-territorial divisions created gaps and challenges in the application of the Election Code and partially clarified, based on guidance from the Ministry of Justice, certain conditions for nominations from local party organizations.<sup>14</sup>

Voters who cannot independently mark or submit the ballot may request assistance from another voter of their choice, in line with international obligations, and the Election Code obligates informational materials before and during the election day to be made available in accessible formats. However, disabled persons' organizations met by the ODIHR NAM indicated that many persons with limited mobility must rely on homebound voting due to the inaccessibility of polling stations. No assistive technologies, such as machine ballot readers, are currently provided to enable the autonomous participation of voters with visual impairments. The complexity of the territorial constituency ballots for these elections creates additional challenges for voters with visual impairments and those with intellectual disabilities who retain voting rights.

The national Computer Emergency Response Team (CERT), under the State Service of Special Communications and Information Protection, helps to augment the capacity of the CEC to defend against potential intrusions and other forms of cyber attacks, and informed the ODIHR NAM that these defences were successful against attempted DDOS attacks during elections in 2019. On 31 August 2020, the CEC established a working group related to the operation of a unified information and analytical system "*Vybory*" during the preparation and conduct of the local elections.<sup>15</sup>

The Election Code authorizes the CEC to pilot new technologies parallel to an election process without using the piloted technologies in the official conduct of the voting or results reporting. The election administration relies on ICT in a number of processes, including the use of the *Vybory* system to assist in tabulation and results reporting. Interlocutors informed the ODIHR NAM that the system would require updates to the source code to accommodate the high number of contests, many in newly structured territorial communities, and the complex electoral system. Many stakeholders raised concerns whether a technological tool could be sufficiently developed and tested, and personnel adequately trained, in advance of the upcoming elections. Others noted the challenges of completing complex results protocols and accurately tabulating the results without a partially automated process. According to the CEC, although the Electoral Code provides for the use of this system by lower-level commissions (TECs, PECs), the system will be used solely by the CEC due to lack of funding to develop software products and insufficient time to test such software in advance of the local elections.

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<sup>13</sup> The Election Code specifies that in case of nominations by a multiple local organization of the same party, the organization registered to the hierarchically superior administrative unit has priority.

<sup>14</sup> See [Resolution № 156](#).

<sup>15</sup> In addition to the representatives of CEC, this working group includes representatives of the State Service for Special Communications and Information Protection of Ukraine, the State Cyber Defence Centre, the Security Service of Ukraine, and the National Police Cyber Police Department, National Coordination Center for Cyber Security of the Service for Information Security and Cyber Security of the Office of the National Security and Defence Council of Ukraine.

On 4 August, the CEC issued recommendations of a cross-ministerial working group related to conduct of election procedures as well as safe preparation and administration, such as storage and transport, in the context of COVID-19.<sup>16</sup> Training for TEC and PEC members will be conducted online in September and October. After an initial proposal by the parliament to reduce the electoral budget in order to divert funds to the health crisis, the electoral budget was adopted in its usual amount; however, several ODIHR NAM interlocutors cautioned that the budget does not contain funds to cover increased costs resulting from additional measures and supplies related to COVID-19 considerations.

#### D. VOTER REGISTRATION

Citizens of at least 18 years of age are eligible to vote in local elections, except for those revoked of legal capacity by a court on the basis of intellectual or psychosocial disability, contrary to international obligations.<sup>17</sup> Citizens residing abroad or in active military service stationed outside of Ukraine, as well as citizens serving a prison sentence for any crime, may not vote in local elections. The Election Code also provides that voters with permanent or temporary health challenges must be provided with reasonable accommodation to ensure their participation in the electoral process.<sup>18</sup>

Voter registration is passive. Voter lists are extracted from a centralized State Voter Register (SVR) administered by an independent management body and are compiled separately for each polling station. The SVR is continuously maintained by 27 Registration Administration Bodies and 759 Register Maintenance Bodies (RMBs), based on information provided by local branches of state institutions.<sup>19</sup> RMBs must transmit preliminary voter lists by 14 October to PECs, who will make these lists available for public scrutiny by the following day to allow voters to verify their records and request amendments. PECs must also send a personal invitation to each registered voter by 16 October. Corrected final lists must be sent by RMBs to PECs by 23 October. Voters can also check their records, including their respective polling station, online or at the RMBs where they are registered.

Following changes to the legal framework, and facilitated by subsequent decisions of the CEC, voters may change their electoral address for participation in the local elections, without providing supporting documentation and without updating their permanent residence. A new online mechanism was introduced by the SVR management body to facilitate the submission of applications to change electoral address. All ODIHR NAM interlocutors supported this means to facilitate the electoral

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<sup>16</sup> See [Decree № 158](#). The working group includes representatives of the CEC, Ministry of Internal Affairs of Ukraine, Ministry of Health of Ukraine, Ministry of Development of Communities and Territories, National Health Service, State Service for Emergencies, National Security and Defense Council, Association of Ukrainian Cities, Parliamentary Committee on Budget, and the Parliamentary Committee on State Building, Local Self-government, Regional and Urban Development.

<sup>17</sup> Articles 12 and 29 of the [2006 CRPD](#). See also paragraph 9.4 of the [2013 CRPD Committee's Communication No. 4/2011](#), which states that "Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability, within the meaning of Article 2 of the Convention". Paragraph 41.1 of the [1991 OSCE Moscow Document](#) commits participating States "to ensure protection of the human rights of persons with disabilities".

<sup>18</sup> The Code further explicates in other articles that persons with permanent or temporary loss of mobility must submit an application by the Friday prior to election day to be included on special voter lists for homebound voting. Special polling stations can also be established in healthcare institutions.

<sup>19</sup> Transitional provisions of the Election Code which will not apply to the local elections transfer the SVR management body to the CEC and subsume the responsibilities of RABs and RMBs to the regional and territorial bodies of the CEC, once established.

participation of internally displaced persons (IDPs), economic migrants, and the Roma, and supported the online application system. However, many raised concerns of potential abuse by political interests to coerce voters to change their electoral address in order to attempt to manipulate electoral outcomes. On 4 August, the CEC requested that the National Police investigate a high volume of requests for changes of electoral address to identical addresses within communities in the Odessa region; a statement on the CEC website indicates that changes to the Criminal Code would be proposed to the parliament.<sup>20</sup> As of mid-August, some 7,000 voters had applied to change their electoral address.

## E. CANDIDATE REGISTRATION

Citizens with the right to vote are eligible to stand as candidates for local councils or mayor, unless they hold a conviction for certain serious crimes, including related to corruption or the violation of electoral rights. There is no requirement for residency within a respective community in order to stand for local office.

Candidate lists and candidates may be nominated by local organizations of political parties in the corresponding district.<sup>21</sup> Self-nomination of candidates is possible only for mayoral and council elections in communities of fewer than 10,000 voters, with no possibility of independent candidatures in other contests. Party organizations are required to notify the respective TEC as well as the mass media at least one day prior to the nominating convention for its prospective candidates. ODIHR NAM interlocutors noted that the nomination process for partisan candidates is highly decentralized and often inextricably linked to local commercial interests.

A person may be nominated (by the same entity) as a candidate in a multi-member district in up to two levels of local councils during the same elections; or may be nominated as a mayor in addition to one local council. The nomination period for candidates and lists begins 40 days prior to election day and lasts for 10 days. TECs must make a decision related to the registration of candidates within 5 days of receipt of the required documents and publish the decision within 3 days of its adoption. Candidate nominations must be accompanied by a monetary deposit ranging from 20 per cent of the minimum monthly salary to four minimum monthly salaries per 90,000 voters.<sup>22</sup> Mayoral candidates who win the elections and political parties that pass the 5 per cent threshold are entitled to a refund of the electoral deposit. Many ODIHR NAM interlocutors approved of the current candidate deposit, which was lowered for these elections.

Each gender must be represented by at least 40 per cent of candidates (2 of every 5 candidates sequentially) on party lists for local councils of communities of 10,000 or more voters, and 30 per cent in smaller communities. All ODIHR NAM interlocutors praised the inclusive gender requirements, which they expected would increase the number of women in public office. However, many noted that previously political parties nominated fewer women in winnable races. Women may also be more affected by financial barriers to candidacy; parties are not obligated to compensate candidates for the monetary deposit, and local councilors do not receive monetary compensation.

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<sup>20</sup> See the [4 August statement](#) (in Ukrainian).

<sup>21</sup> A draft amendment to the Election Code, registered in the parliament on 10 August, does not permit the respective local organization of a party to nominate candidates if the local organization of the party in a higher administrative territory has already done so.

<sup>22</sup> The current minimum monthly salary is 4,723 Ukrainian *Hryvnia* (UAH). One Euro is equivalent to approximately 32.40 UAH.

## F. ELECTION CAMPAIGN

A candidate or political party may begin campaigning upon the registration of the candidate or list; the law provides for a day of electoral silence immediately prior to and on the election day. Most ODIHR NAM interlocutors described as prevalent *de facto* early campaigning by political parties, including through billboards. Political parties met by the ODIHR NAM did not raise concerns with regard to the ability to conduct campaign activities freely, but raised concerns related to biased media coverage and possible abuse of state resources at the local level.

The Election Code includes detailed provisions on acceptable forms of campaigning and the placement of campaign materials, and contains explicit prohibitions on direct and indirect bribery, such as through the distribution of commodities of any value. Printed campaign materials must contain information related to the source and scale of its printing. Special informational brochures must be furnished by participants to PECs under specifications established by the CEC. Local authorities must designate public spaces for campaign materials at the start of the election period. Public institutions and officials are prohibited from interfering in the electoral process beyond any prescribed administrative responsibilities. Public employees may not participate in campaign activities during working hours, and campaign activities may not be merged with public events.

Contestants are obliged to produce campaign materials, including printed and audiovisual materials and official websites, in formats which comply with accessibility standards. ODIHR NAM interlocutors noted that parties occasionally nominate persons with disabilities as candidates and sign language interpretation is apparent at some rallies, but that much progress is needed to ensure universal access and participation in the electoral campaigns.

## G. CAMPAIGN FINANCE

Campaigns are financed by a party or candidate's own resources and private donations from individuals, through designated electoral funds.<sup>23</sup> All electoral funds must be maintained in a bank account (maximum one account per each territorial constituency) and managed by nominating party branches or self-nominated candidates. Maximum donations of individuals are ten minimum salaries (roughly UAH 47,230). Anonymous and foreign donations are prohibited, as are donations from legal entities. There is no limit to the amount of funds which a party may transfer to a nominated candidate, such transfers are not considered as donations, and donors to party funds are not included in campaign finance reporting.<sup>24</sup> Donations to electoral funds must be made through a bank or post office with the submission of identification forms; several ODIHR NAM interlocutors noted this process could be simplified, and that frequent circumvention through donations to parties rather than candidates resulted in less transparency of electoral funds.<sup>25</sup>

There are no expenditure limits in council or mayoral elections. Many ODIHR NAM interlocutors regretted the unlimited and high costs of conducting election campaigns. Several noted that the need for large amounts of capital reinforces reliance of candidates on local commercial interests and creates additional practical barriers to the participation of women candidates.

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<sup>23</sup> Contestants are not obliged to automatically open these accounts but must do so as soon as money is incurred or spent. Cash payments are prohibited for campaign expenditures, but there is no practical oversight.

<sup>24</sup> Political parties submit quarterly reports.

<sup>25</sup> Unlike for local elections, donations to electoral funds of presidential or parliamentary candidates may be submitted online.

The Election Code specifies that so-called “hidden campaigning” is to be considered and accounted as campaigning. The appearance of candidate at a public event such as a concert is considered campaigning and obligates the candidate to fund the event. Vendors of campaign venues or materials must provide equal renting conditions to all contestants; in-kind donations are prohibited.

Under the Code, oversight of electoral funds is the responsibility of the respective TEC and banking institution. All candidates must submit income and asset declarations prior to registration and all parties and candidates must immediately report on donations to electoral funds. New to these elections, these reports must be published online on the websites of TECs or of local councils. The National Agency for Corruption Prevention (NACP) reviews asset declarations of candidates as well as interim and final income and expenditure reports of electoral funds and ensures their publication. If TECs detect an administrative or criminal violation of campaign finance rules, they must report to the NACP or to the National Police. The NACP informed the ODIHR NAM that it forwards detected violations to law enforcement, as it lacks investigative authority and has no regional offices. Most ODIHR NAM interlocutors cited an overall lack of effective oversight of the financing of election campaigns, owing to limited regulation and insufficient sanctions, insufficient oversight capacity, and ineffective or protracted investigations.

## H. MEDIA

The national media landscape is diverse but remains marked by a concentration of politically vested ownership and a resultant lack of editorial independence among major networks. Television remains the primary source of political information, along with growing networks of online media; several interlocutors stressed the role of local newspapers in the elections. The public broadcaster was assessed by ODIHR NAM interlocutors as generally reliable and unbiased; however, it remains underfunded and its reach is limited.

Several media stakeholders noted a decline in journalists’ access to public information and officials, citing administrative barriers. Many described challenges related to organized disinformation and attempts to disrupt political processes, as well as potentially excessive regulatory efforts to prevent it. A few also noted recent isolated but serious cases of threats against journalists, including sexist and violent rhetoric directed at women journalists, incidents of arson, and intimidation arising from local governments.

Regulations on media coverage of local elections have not substantively changed. The Constitution guarantees the freedom of speech and prohibits censorship, and the legal framework provides for general media freedom, as well as conditions for equitable and unbiased coverage of electoral contestants.<sup>26</sup> New provisions in the Election Code provide the National Television and Radio Broadcasting Council (NTRBC) with additional enforcement tools. Draft laws on media and on countering disinformation have stalled in the parliament; the latter was widely criticized by ODIHR NAM interlocutors as overregulating media freedoms.

The NTRBC, comprising 8 members (four each nominated by the parliament and by the president), monitors the compliance of broadcast media with these regulations. In advance of the local elections, the Council has provided a series of seminars for broadcast media representatives, in its headquarters and regional offices, and distributed guidelines to broadcasters related to their obligations during local elections. The Council’s national capacity is supplemented by representatives situated in all oblasts, but local matters requiring legal intervention will be addressed by the Council’s lawyers in Kyiv. The

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<sup>26</sup> The legal framework does not contain quantitative requirements for airtime of coverage of contestants or paid political advertisements.

Council informed the ODIHR NAM that the practice of writing administrative protocols in response to violations was generally ineffective, due to a lack of subsequent action by judiciary or law enforcement, and that revisions to the election code explicate that the Council may initiate fines through these protocols. Several ODIHR NAM media stakeholders expressed a lack of confidence in the impartiality of the NTRBC, noting affiliations of a number of its members with politically-vested media organizations.

Several political parties are led by women or include prominent women politicians. However, women remain underrepresented in politics and subsequently in news coverage and discourse related to elections; several ODIHR NAM interlocutors noted that markedly fewer women than men are invited to the politically-relevant programmes as experts and described cases of sexist rhetoric in talk shows.

## **I. COMPLAINTS AND APPEALS**

The new Election Code retains many existing regulations on the filing and adjudication of election disputes, but introduced, together with changes to the Criminal Code and other laws, a new system of proportionate sanctions for several categories of violations. Stakeholders did not raise major concerns to the ODIHR NAM related to procedures for election-related complaints, but many described low public confidence in the independence and effectiveness of some judicial bodies. Many welcomed the updates of certain sanctions, including those related to indirect vote-buying and false information in results protocols, expecting such provisions to be more proportionate and enforceable.

Complaints related to decisions, actions or inaction of election commissions and of other electoral stakeholders may be filed both with (higher) election commissions and with first-instance courts. If a court receives an election-related complaint related to the decision of an election commission, it must notify the respective election commission and successive higher commissions, and in the case of a dispute related to voter registration, must notify the SVR management body. Complaints related to the conduct of voting and the establishment of results at PECs can be filed with TECs. Challenges to the election results as established by TECs are filed with the CEC; the CEC decision on election results can be appealed to the High Administrative Cassation Court.

Standing to file complaints is granted to candidates, political parties, accredited citizen observers and voters, and depends on the nature of the alleged offense; voters may only file complaints related to their personal voting right. Complaints on pre-election matters must be filed within two days of the respective decision or inaction, but no later than 22:00 on the day prior to election. Complaints related to election day procedures and the establishment of results must be filed within one day of the challenged action. Complaints to election commissions and most courts must be filed in hard copy, despite prior ODIHR recommendations; positively, complaints submitted to the High Administrative Cassation Court may be submitted electronically. Pre-election complaints must be considered by commissions within three days of receipt, and no later than 24:00 prior to election day. Election-day complaints must be considered by commissions within two days. Courts are obliged to consider election-related complaints under expedited timelines. The day prior to the elections as well as ten days following, the National Police must publish information on registered complaints and initiated criminal proceedings related to electoral violations.

## **J. CITIZEN AND INTERNATIONAL OBSERVERS**

The Election Code provides for citizen and international observation of the entire process and guarantees their right to receive or view key documents and materials. Citizen observers can be nominated by registered non-governmental organizations (NGOs) engaged in issues related to the

election process, as well as by local political party organizations and candidates, to observe within the respective district. NGOs may now also nominate a maximum of two observers to the CEC, and such observers have observation rights throughout the country.

#### **IV. CONCLUSIONS AND RECOMMENDATION**

In considering an observation activity, the ODIHR NAM has taken into account the various findings outlined in this report, including recent substantive changes to the electoral legal framework, and the views expressed by stakeholders. The ODIHR NAM noted confidence in the overall conduct of the elections and expectation of contestants to freely campaign. However, stakeholders raised some concerns related to the practical implementation of the new Election Code and the complex systems of local elections, and highlighted several aspects of the process that would merit particular attention, including voter registration, campaign financing, media coverage of the elections and related oversight, and the formation and performance of election commissions at the local level. Many interlocutors welcomed a long-term ODIHR activity to observe the pre-election campaign environment throughout the country and in the media, and to systematically assess the conduct of election day, particularly the counting and results reporting procedures.

Based on the findings of this report, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM), subject to health and travel considerations related to COVID-19, to assess the local elections. In addition to a core team of experts, ODIHR would request the secondment of 80 long-term observers from OSCE participating States to follow the election process countrywide, as well as 600 short-term observers to follow election day proceedings. In line with ODIHR's standard methodology, the EOM would include a media monitoring element.

## **ANNEX: LIST OF MEETINGS**

### **Ministry of Foreign Affairs**

Yevheniia Filipenko, Director General, Directorate for International Organizations  
Artur Oganov, Counsellor, OSCE Unit

### **Central Election Commission**

Sergii Dubovyk, Vice-Chairperson  
Andriy Hevko, Commission Member  
Oksana Boiarchuk, Commission Member  
Oksana Kostiv, Adviser to the Chairperson  
Sergii Postivyi, Commission Member

### **State Voter Register**

Oleksandr Stelmakh, Head of Administration of the State Voter Register

### **Office of the Deputy Prime Minister**

Oleksander Rezhnikov, Deputy Prime Minister  
Yuna Potomkina, Adviser to the Deputy Prime Minister

### **National Council for Television and Radio Broadcasting**

Valentyn Koval, First Deputy Secretary  
Yurii Zinevych, Executive Secretary

### **High Administrative Cassation Court**

Mikhailo Smokovych, Chair

### **National Agency for Corruption Prevention**

Hanna Chornutska, Head of Department for Prevention of Political Corruption

### **State Service of Special Communications and Information Protection**

Yevgen Bryksin, Information Security Specialist (State Center of Cyberdefense and Cyberthreats Counteraction)

### **Political Parties**<sup>27</sup>

Zhanna Usenko-Chorna, Fatherland  
Sergiy Podgorniy, Fatherland  
Oleksandr Puzanov, MP, Opposition Platform  
Andriy Klishko, MP, Servant of the People, Chair of Parliamentary Committee on State Building,  
Alina Zahoruiko, MP, Servant of the People, Deputy Chair of Parliamentary Committee on State Building, Regional and Urban Development

### **Media Representatives**

Nataliya Ligachova, Director, Detector Media  
Andriy Kulykov, Head of Journalist Ethics Commission; Journalist, Hromadske Radio  
Sergiy Tomilenko, President, National Union of Journalists  
Lina Kushch, First Secretary, National Union of Journalists  
Artem Marchevskiy, General Producer, 112

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<sup>27</sup> The ODIHR NAM offered meetings to all parliamentary parties.



**Civil Society**

Vita Dumanska, Coordinator, CHESNO Civic Movement  
Igor Feshchenko, Political Finance Analyst, CHESNO Civic Movement  
Olga Aivazovska, Chair of Board, Citizen Network OPORA  
Oleksii Koshel, Director General, Committee of Voters of Ukraine  
Viktoriya Luchka, Organization Director, Fight for Right  
Yulia Sachuk, Organization Head, Fight for Right  
Iryna Tekuchova, Inclusion Expert, Fight for Right  
Tetyana Durnyeva, Executive Director, Group of Influence

**International Community**

Harald Jepsen, International Senior Adviser, IFES Ukraine  
Oleksii Sydoruk, Senior Project Officer, IFES Ukraine  
Yevgen Poberezhny, Office of OSCE Project Coordinator in Ukraine  
Antje Grawe, Deputy Chief Monitor, OSCE Special Monitoring Mission to Ukraine  
Stephanie Huber, OSCE Special Monitoring Mission to Ukraine  
Oleksandra Ursu, Democratic Governance Specialist, UNDP  
Igor Gutsulyak, Democratic Governance Officer, UNDP