

INTERIM REPORT
23 September–5 October 2020

9 October 2020

I. EXECUTIVE SUMMARY

- Local elections will take place in Ukraine on 25 October 2020, following recent territorial-administrative and decentralization reforms. Voters will elect mayors and the members of councils of local-government units at various administrative levels, including in newly formed amalgamated communities (*hromadas*).
- The elections will be held under a new Election Code, adopted in December 2019 in line with a prior ODIHR recommendation for an overarching regulation for all types of elections. The Code introduced several key changes to the framework for local elections, including to the electoral system. Deficiencies in the Code caused by its expeditious adoption necessitated substantial subsequent amendments. As of 5 October, a draft law with substantial amendments to the Code was pending in parliament, including clarifications on the conduct of election-day procedures and campaign finance oversight. Pending the adoption of legal amendments, health-related adjustments to the electoral process are regulated by the government.
- The elections will be administered by the Central Election Commission (CEC), 1,660 Territorial Election Commissions (TECs), and some 28,500 Precinct Election Commissions (PECs). The current CEC was appointed in October 2019. ODIHR Limited Election Observation Mission (LEOM) interlocutors generally commended the CEC for its impartiality and openness but expressed concerns about the implementation of the complex election-day procedures by PECs and TECs.
- The State Voter Register (SVR) currently contains the records of some 35.3 million citizens. New provisions simplify the procedure for voters to change their electoral address. While this was aimed to help enfranchise about 6 million internally displaced persons (IDPs), economic migrants, and other citizens, only some 100,000 voters updated their voting address. According to the SVR Administration, the territorial-administrative reform presents logistical challenges and could complicate interaction between Register Maintenance Bodies and TECs and the compilation of voter lists.
- Candidates may be nominated by local branches of political parties. Self-nomination of candidates is possible only for mayoral elections, and for council elections in communities of fewer than 10,000 voters. The Election Code establishes inclusive gender requirements for candidate lists. By 5 October, TECs reported to the CEC the registration of 180,617 candidates for council members and 2,488 mayoral candidates. Some ODIHR LEOM interlocutors raised concerns about the selective and formalistic application of legal requirements by election commissions, particularly related to the gender quota and payment of the electoral deposit.
- Very few outdoor campaign activities were noted during the reporting period, due to limitations imposed by the adapted quarantine which restricted contestants' ability to conduct larger campaign events. Most contestants rely on outdoor advertising and social networks to reach out to the electorate.

- Election campaigns can be financed from a contestant's own resources and by private donations from individuals. Donations and expenditures must pass through dedicated bank accounts, and contestants must submit interim and final campaign finance reports. The ODIHR LEOM has received concerns about possible abuse of public resources at the level of region (*oblast*) and city administrations.
- The national media landscape is diverse but characterized by a high concentration of politically vested ownership and a resultant lack of editorial independence of major networks. The Election Code stipulates that both state and private media should offer unbiased and balanced coverage of electoral contestants.
- Most election-related complaints can be lodged either to higher election commissions or courts. The law provides for expedited deadlines, which in some cases are not aligned with the electoral process, as well as for strict formal admissibility requirements for complaints.

II. INTRODUCTION

Following an invitation from the Ukrainian authorities, and based on the recommendation of a Needs Assessment Mission deployed from 27 to 31 July 2020, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Limited Election Observation Mission (LEOM) on 23 September.¹ The mission, led by Ingibjörg Sólrún Gísladóttir, consists of a 16-member core team based in Kyiv and 66 long-term observers (LTOs) deployed from 29 September to 26 locations around the country. Mission members are drawn from 26 OSCE participating States.

III. BACKGROUND AND POLITICAL CONTEXT

On 16 July 2020, the *Verkhovna Rada* (parliament) called local elections for 25 October. 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.

The upcoming local elections will be held under a new administrative division. The previous 490 districts (*rayons*) subordinated to regions (*oblasts*) were consolidated into 136 districts.² Voters will elect the members of councils of regions, districts, cities, city districts, amalgamated territorial communities (*hromadas*), settlements and villages, as well as the mayors of cities, settlements and villages. No elections will take place in the Crimean peninsula and in certain parts of the Donetsk and Luhansk *oblasts*, which were declared by the parliament as temporarily occupied territories.³

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 *oblasts*.⁴ 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

¹ See previous [ODIHR election reports on Ukraine](#).

² Resolution No. 3650 “On Rayons Formation and Liquidation” was passed by the Parliament on 17 July 2020.

³ See the [15 July 2020 Resolution no. 795-IX](#), which explicitly excluded elections in Crimea and in certain parts of Donetsk and Luhansk regions (*oblasts*), which are declared by the parliament as temporarily occupied territories.

⁴ See [Resolution no. 161](#). The CEC published the reports it received from the civil-military administrations of [Donetsk oblast](#) and [Luhansk oblast](#).

National Security and Defense Council, Security Service, National Police, and the Commander of the Joint Forces on the possibility of holding local elections in these communities.⁵ Following receipt of this additional information, the CEC did not amend its initial decision to not hold elections in these communities.

President Volodymyr Zelenskyy won the April 2019 presidential election by a large margin, and his Servant of the People party gained an absolute majority in the July 2019 parliamentary elections. The upcoming local elections were characterized by many ODIHR LEOM interlocutors as a continued effort by the ruling party to consolidate power and establish a significant presence in local self-government bodies, while parties with strong local representation aim to preserve their positions in the regions. The outbreak of the COVID-19 pandemic and subsequent measures of adapted quarantine adopted by the national authorities have also influenced the election environment and campaign atmosphere.

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The local elections are primarily regulated by the Constitution, the new Election Code, the Law on the Central Election Commission (CEC) and the Law on the State Voter Register, which are supplemented by regulations of the CEC.⁶ The recent electoral reforms have been implemented concurrently with constitutional reforms⁷ and decentralization,⁸ affecting the system of local government and the respective electoral processes. Political participation in elections remains limited by the Election Code, in line with provisions contained in the Law on Condemnation of Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of their Symbols.⁹

The electoral legal framework has been substantively revised since the last local elections in 2015. In line with a prior ODIHR recommendation to consolidate regulations for all types of elections, a new Election Code was adopted in December 2019 following an overall inclusive but politicized and highly contested process. The Code introduced several key changes, including to the electoral systems for local elections, decreasing the threshold at which the systems change from plurality to absolute majority and to proportional representation systems in mayoral and councilor contests, respectively. Moreover, the Code established an open list system, introduced inclusive gender quotas for candidate

⁵ See [Resolution no. 180](#).

⁶ Other relevant legislation includes the Law on Political Parties, the Code of Administrative Procedures, the Code of Administrative Offenses, and the Criminal Code, as well as the anti-corruption legal framework and the regulation on the territorial and administrative division of the country, including the civil-military administrations (CMAs) in the Donetsk and Luhansk *oblasts*.

⁷ Since the 2019 presidential elections, eight proposals for constitutional amendments were submitted to the parliament by the president. Some proposals were criticized for lack of inclusive consultations and for potentially creating a disbalance of power by strengthening the presidential office and were subsequently revoked due to the Constitutional Court's negative assessment. Other proposed amendments on civic legislative initiatives are pending in parliament, while those on the structure of parliamentary expert bodies, and a decrease in the number of MPs elected under the proportional system have received preliminary approval by the parliament upon the consultation with the Constitutional Court. Amendments introduced into the Constitution in 2016 and 2019 *inter alia* granted individuals the right to address the Constitutional Court and limited the immunity of MPs; the latter was contested by MPs at the Constitutional Court and is pending decision.

⁸ The decentralization reform was initiated in 2014 with the stated aim of optimizing the local administration, facilitating infrastructural development, and increasing accountability of local government and public oversight. The reform was to be finalized with the adoption of the Law on the Foundations of the Administrative Division of Ukraine that was withdrawn twice from the parliament in January and September 2020, once following a negative expert assessment.

⁹ See the [Joint ODIHR and Venice Commission opinion on the Law on condemnation of communist and national socialist \(Nazi\) regimes and prohibition of propaganda of their symbols](#).

lists, and a revised definition for vote-buying.¹⁰ Some long-standing ODIHR recommendations remain unaddressed, including those related to campaign finance oversight and media obligations.

The expeditious adoption of the Code resulted in deficiencies which entailed substantial amendments in June, July and September 2020. These amendments concerned, *inter alia*, candidate and voter registration, campaign rules, election observation, and electoral dispute resolution. Work on the Code remained unfinished during the preparation for the local elections, depriving the electoral process of legal certainty and predictability of applicable regulation. As of 5 October, two draft laws on amendments to the Election Code were pending in parliament, including draft law No. 4117 which would further regulate the election process during the COVID-19 pandemic, campaign finance, the formation of some electoral districts and commissions, and the determination of ballot validity and of voting results. The amendments were put to a vote but failed to achieve the required majority on 30 September, when parliament decided to adjourn its plenary sessions until after the elections due to the pandemic.¹¹

Pending the adoption of legal amendments, health-related adjustments to the electoral process are currently regulated by the government. A protocol introduced on 14 September into the Cabinet of Ministers Resolution No. 641 of 22 July 2020 extends mobile voting to voters with symptoms of respiratory diseases, provides for special PECs at inpatient care institutions dealing with COVID-19 cases, allows commissions to conduct health-assessment procedures on voters, and establishes protective measures for election administration members and the organization of voting and commission premises.¹²

Local self-government bodies are directly elected for a five-year term. The Election Code determines the number of councilors in relation to the respective electorate.¹³ Mayors will be directly elected, under a one-round plurality system in administrative units with fewer than 75,000 voters, and under a majoritarian system in 37 cities with 75,000 and more voters, with a second round if no candidate receives an absolute majority in the first round. Councilors in regions, districts, cities, and city districts with 10,000 or more voters are elected under a proportional representation system with open lists, in multi-member constituencies.¹⁴ Political parties will compete by putting forward a unified candidate list for the entire district, as well as additional lists of designated candidates drawn from the unified lists for each territorial constituency within the district. Parties that receive 5 per cent of valid votes participate in the distribution of mandates; the first candidate on each district-wide party list is

¹⁰ The Code established the permissible limit for the cost of campaign materials, but due to an erroneously chosen quantitative component for the calculation of the cost, the CEC was required to issue an interpretation and modify the applicable amount.

¹¹ On 30 September, parliament [amended](#) its [Resolution 792-IX](#) on the calendar plan of the 4th session of the 9th convocation of the *Verkhovna Rada*, adjourning all but one plenary sessions planned in October, substituting them with work within parliamentary committees and with voters.

¹² The resolution further specifies that the implementation of anti-epidemic measures necessary for the conduct of the elections shall be covered from local budgets.

¹³ This number is subject to change in case of formation of amalgamated territories.

¹⁴ The composition of councils at each level varies depending on the number of voters, with a minimum of 22 councilors in locations with up to 10,000 voters, and 120 councilors in locations with over 2 million voters. The territory of the community electing the council is divided into constituencies. The number of constituencies is determined by dividing the number of councilors by the quotient of 3 for communities with less than 10,000 registered voters, or by 10 for communities with 10,000 or more registered 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 number of voters per mandate for the council elections in locations with up to 10,000 voters. For elections of upper-level councils and in locations with 10,000 or more voters, the number of electoral districts is determined by dividing the total number of councilor mandates by 10, and a certain deviation in the number of election districts is permitted in order to keep them aligned with territorial-administrative units.

guaranteed a seat, while candidates on open territorial lists must receive at least 25 per cent of the electoral quota (i.e. the ‘cost’ of a mandate) to advance in the territorial 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; the candidates with the highest numbers of votes receive seats until all seats are filled.

V. ELECTION ADMINISTRATION

Local elections are administered by the CEC, 1,660 Territorial Election Commissions (TECs) corresponding to the territorial-administrative division of Ukraine, and some 28,500 Precinct Election Commissions (PECs). The CEC consists of 17 members, who are appointed by parliament on the basis of nominations by the president. The CEC in its current composition was appointed in October 2019 and includes five women.¹⁵ The CEC established the first level of TECs (i.e. *oblast*, *rayon* and city TECs) by 10 August, almost a month before the start of the election process; these TECs, in turn, formed additional TECs (city *rayon*, settlement and village TECs) by 25 August. PECs will be established by the respective TECs by 9 October. On 14 August, national media reported that members of the presidential administration had exerted pressure on the CEC chairperson and three additional CEC members to resign, raising concerns about attempts to undermine the independence of the election administration.¹⁶

ODIHR LEOM interlocutors generally commended the CEC for its impartiality and openness, particularly for including civil society in consultations on electoral reform. However, some also mentioned the CEC’s practice of holding formal sessions to adopt decisions after substantial discussions take place at working sessions without public attendance. Interlocutors also opined that some aspects of the administration of the elections, such as the nomination of election commission members, issues related to TECs’ oversight of campaign finance, and the conduct of election-day procedures, had not been sufficiently clarified by the Election Code or subsequent CEC regulations.¹⁷

TEC and PEC members are nominated by local organizations of political parties with a faction in the *Verkhovna Rada* or those with a declared political co-operation with a group of MPs, as well as by local organizations of non-parliamentary parties registered in the respective administrative subdivision.¹⁸ PEC members may also be nominated by independent candidates. ODIHR LEOM interlocutors criticized the composition of election commissions, including the increased possibility for politicization of commissions by allowing MP groups to nominate TEC and PEC members by establishing political co-operation with local party branches.

Between 5 and 15 September, the CEC conducted 462 online trainings for 8,968 TEC members; PEC trainings have been scheduled and will also be conducted online. ODIHR LEOM interlocutors expressed concerns regarding TEC and PEC members’ capacity to manage complex election-day procedures, particularly counting and tabulation, especially in the absence of previously available

¹⁵ The previous CEC was dismissed before the expiration of its mandate following the 2019 parliamentary elections.

¹⁶ See the [14 August report](#), the [response of the presidential administration](#), and the [response of the CEC chairperson](#).

¹⁷ For instance, [CEC Resolution No. 156](#) of 1 August 2020 acknowledged that the administrative-territorial reform 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.

¹⁸ If members of an election commission are nominated by more than one organization of the same political party, the candidacy submitted by the higher-level party organization shall be taken into account.

technologies.¹⁹ ODIHR LEOM interlocutors also raised concerns about the ability of political parties to recall their commissioners at will and at any time, which may undermine the value of CEC trainings.²⁰

Voters who cannot independently cast their ballot may request assistance from another voter of their choice.²¹ No assistive tools are provided in polling stations for voters with visual impairments. The Election Code mandates that informational materials should be produced in accessible formats for use before and on election day, taking into account requirements established by the CEC. The complexity of the electoral system and of the territorial constituency ballots creates particular challenges for voters with visual impairments and those with intellectual disabilities who retain voting rights. In December 2019, the CEC created a working group on the electoral rights of persons with disabilities, with the participation of disabled persons' organizations. However, organizations met by the ODIHR LEOM explained that further efforts are required to enable the autonomous participation of voters with various kinds of disability, including legislative amendments to adjust national norms and standards to the requirements of universal design, which are beyond the CEC's mandate to implement.

VI. VOTER REGISTRATION

The right to vote is granted to Ukrainian citizens who are 18 years old on election day, except those declared incapacitated by a court on the basis of intellectual or psychosocial disability. Deprivation of the right to vote on the basis of disability is inconsistent with international obligations and standards.²² In local elections, citizens on active military service, living abroad or serving a prison sentence may not vote.

Voter registration is passive and continuous. The State Voter Register (SVR) is administered by the CEC and maintained by 27 Registration Administration Bodies and 759 Register Maintenance Bodies (RMBs). The SVR is updated once a month and, as of 30 September, contained the records of 35,265,503 voters. ODIHR LEOM interlocutors welcomed the publication of more detailed voter statistics on the SVR website.

A CEC resolution adopted in June simplified the procedure for voters to change their electoral address by abolishing the requirement for voters to submit supporting documentation to request to change their electoral address. This resolution was welcomed by most stakeholders as potentially facilitating the enfranchisement of some 6 million IDPs, economic migrants, and other citizens without a registered address. However, only 101,687 voters requested a change of their electoral address before the legal deadline of 10 September. The CEC published a list of PECs for which the number of

¹⁹ The CEC informed the ODIHR LEOM that it did not have sufficient time or financial resources to update the information and analytical system 'Vybory' to accommodate the complex new electoral system. The OSCE Project Co-ordinator in Ukraine and the CEC launched a 'TEC Electronic Cabinet', an online resource for TECs to enter and process data from PECs. On 2 October, CEC Resolution No. 331 clarified that TECs can use this software only as an additional tool and the information entered and posted there is preliminary, without any legal consequences.

²⁰ By law, nominating subjects are free to recall their nominees from commissions up to and after election day; a practice which ODIHR has previously recommended should be reviewed. Between 14 September and 5 October, the CEC issued 24 resolutions to replace 4,115 TEC members.

²¹ Assistance may not be provided by a member of the election commission, a candidate, a candidate's agent, a party organization's authorized person, or an official observer.

²² According to Articles 12 and 29 of the [UN Convention on the Rights of Persons with Disabilities](#) (CRPD), "State Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life" and ensure their "right and opportunity [...] to vote and be elected". Paragraph 48 of [General Comment No. 1 to Article 12 of the CRPD](#) states that "a person's decision-making ability cannot be a justification for any exclusion of persons with disabilities from exercising [...] the right to vote [and] the right to stand for election".

requested changes of the electoral address exceeded 15 per cent of the total number of voters registered at that precinct and called on citizen observers and party representatives to closely monitor the elections in these specific polling stations. In August, the CEC also appealed to law enforcement bodies to investigate instances of a high number of such requests from identical IP addresses, requesting a change of electoral address to the same buildings, in three communities in Odesa *oblast*.

According to the SVR Administration, the territorial-administrative reform and the reduced number of *rayons* present logistical challenges for RMBs and TECs, and confusion among those bodies regarding the territory for which they are responsible could complicate the compilation of voter lists. Voter lists must be compiled by RMBs for each election precinct under their responsibility and displayed at PEC premises for public review. Voters may request corrections until 20 October, including online, and RMBs must send the updated voter lists to PECs by 23 October. Voter lists will be closed at 18:00 on 24 October. Voter lists for special election precincts at inpatient care institutions must be established by the corresponding PECs by 18 October, based on information received from these institutions. If a voter is admitted to such an institution after that date, the institution must inform the PEC immediately, and the PEC must add the voter to the voter list. A resolution adopted by the Cabinet of Ministers establishes that persons subject to quarantine or self-isolation can apply for home-bound voting by submitting a request with a medical certificate to their PEC. On 25 August, CEC Resolution No. 201 established online voter-registration procedures for persons with reduced mobility.

VII. CANDIDATE REGISTRATION

Candidate lists for council elections and mayoral candidates may be nominated by local branches of political parties in the corresponding election district. 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 elections, and for council elections in communities of fewer than 10,000 voters.

A person may be nominated (by the same entity) as a candidate in a multi-member district in up to two different levels of local councils, or as mayor in addition to one local council. The candidate nomination period ran from 15 to 24 September.²³ Nominations had to be accompanied by an electoral deposit. Recent amendments to the law generally reduced the amount of the deposit for all contestants, but also introduced a deposit for elections in smaller communities, where no deposit was previously required.²⁴ Mayoral candidates who are elected and political parties that receive more than 5 per cent of valid votes cast are entitled to a refund of the deposit. Several ODIHR LEOM interlocutors stated that TECs do not have a unified approach to candidate registration, concerning possible inaccuracies and shortcomings in the submitted documents.²⁵ Respective TECs had five days to decide on candidate registration and three additional days to publish the decision. By 5 October, TECs had reported to the CEC the registration of 180,617 candidates for council members and 2,488 mayoral candidates.

Each gender must be represented by at least 40 per cent of candidates on party lists for local councils of communities of 10,000 or more voters (with no less than two candidates of each gender in each group of five candidates on the list), and 30 per cent in smaller communities. Failure to comply with the gender quota leads to the rejection of the entire candidate list for the respective council.

²³ By law, TECs had five days to decide on registration and three days to publish the decision.

²⁴ The amount of the deposit depends on the number of voters registered in the respective community and ranges from 20 per cent of the minimum monthly salary in communities with up to 10,000 registered voters, to four minimum monthly salaries per 90,000 voters in communities with more than 75,000 voters. The current minimum monthly salary is 4,723 Ukrainian *Hryvnia* (UAH; roughly EUR 143).

²⁵ ODIHR LEOM interlocutors alleged that some TECs immediately rejected candidate lists that did not comply with the gender requirements, while others sent such lists back to be amended.

VIII. CAMPAIGN ENVIRONMENT

Parties and candidates could commence their campaign activities on the day following the day of their registration by the respective election commission. The campaign period will end one day before election day. However, many ODIHR LEOM interlocutors noted that several parties held candidate nomination meetings and engaged in *de facto* campaign activities, including the placement of billboards, prior to the registration of their candidates.

During the reporting period, contestants conducted few campaign events, due to limitations on public gatherings imposed by the ongoing adapted quarantine. Most contestants rely on outdoor advertising and social networks to reach out to the electorate. Among the main contestants, Servant of the People, For the Future, European Solidarity, Victory of Palchevskiyi, Proposition, and Our Region are most visible in outdoor and social media advertisement. Campaign messages focus on social, economic, and local issues related to infrastructure, city management and regional development, and to a lesser extent security, safety, and peace.

Despite detailed provisions in the Election Code regarding acceptable forms of campaigning, the ODIHR LEOM received several reports about possible abuse of state resources at the level of *oblast* and city administrations. Specifically, the misuse of information materials and projects financed by local authorities for campaign purposes were raised as areas of concern.

IX. CAMPAIGN FINANCE

Election campaigns can be financed from a political party's or candidate's own resources and by private donations from individuals. Private donations are limited to ten times the minimum monthly salary, while donations by foreign citizens, legal entities, and anonymous donors are prohibited. Donations to electoral funds as well as campaign expenditures must pass through dedicated bank accounts, to be opened after candidate registration; cash transactions are prohibited.²⁶ There are no limits on campaign expenditure, and there is no ceiling on the use of a party's or candidate's own funds.²⁷ Contestants must submit interim and final campaign finance reports, and TECs are mandated to analyze and publish them online and report any violations identified to the National Agency on Corruption Prevention (NAPC) or the national police.²⁸ The NAPC is responsible for reviewing candidates' asset declarations prior to registration and also has a mandate to monitor the timely submission and accuracy of information included in interim and final reports of electoral funds, and ensuring their publication. Neither the NAPC nor TECs have investigatory powers to determine any circumvention of regulations.

Ukraine continues to implement its anti-corruption strategy, and draft legislation aimed at enhancing the transparency of political finance was recently submitted in parliament.²⁹ Additionally, draft law no. 4117, while proposed in response to the CEC's call for urgent legislation to regulate matters connected to the COVID-19 pandemic, also contains provisions which reduce the role of the election administration in campaign finance oversight to intermediate technical duties.

²⁶ To donate to a campaign, individuals must visit a bank or a post office and present identification documents.

²⁷ The origin of party funds used will only be known after the elections, when quarterly party finance reports are published.

²⁸ The CEC on 1 October by Resolution No. 324 established the templates of campaign finance reporting forms and approved the guidelines for completing the report and for analyzing them.

²⁹ Draft law No. 4135 on the principles of the state anti-corruption policy for 2020–2024 was registered in parliament on 21 September.

X. MEDIA

The national media landscape is diverse but characterized by a high concentration of politically vested ownership and a resultant lack of editorial independence of major networks. This contributes to the political polarization of reporting as well as a general lack of trust in the media sector. By 2019, social networks had become the main source of news information for Ukrainian citizens (68 per cent), followed closely by television (66 per cent) and news websites (59 per cent).³⁰ Regional media have a smaller audience compared to previous years: only 30 per cent of Ukrainians watch regional TV, 33 per cent read regional websites, and 22 per cent listen to regional radio stations.³¹

The Constitution guarantees 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.³² The National Television and Radio Broadcasting Council (NTRBC) is the regulatory body for broadcast media.³³ It is tasked to manage state television and radio frequency resources and to oversee broadcasters' compliance with the legal framework, including during an election period, and has the power to impose fines in case of breaches of the law. The Council's independence and impartiality were questioned by several ODIHR LEOM interlocutors, who noted that its members are political appointees, and the law does not require any specific professional qualifications.

The then-newly elected government initiated a new Law on Media in November 2019. According to Article 1 of the draft law, its objectives include ensuring the freedoms of expression and thought, the right to impart information, the protection of national interests and of media users' rights, and the stimulation of a competitive media environment and media independence.³⁴ The Law was widely criticized by media experts and practitioners due to the possibility of a broad application of excessive powers by the NTRBC.³⁵ As a result, the draft law was amended several times and was still under revision by various parliamentary committees in the weeks leading to the elections.³⁶

The conduct of the media during an election campaign is regulated by the Election Code, which stipulates that both state and private media shall offer unbiased and balanced coverage of electoral contestants. Article 55 of the Code prescribes a general approach for any election, whereby airtime used for campaigning shall be provided at the expense of the electoral fund of a candidate or party.³⁷ Paid campaign advertising is allowed on public and private media and must be clearly marked with the identity of the sponsoring party or candidate.

A relatively high number of violations against journalists' rights have been recorded by national and international human rights organizations, and despite legislation protecting journalists, numerous

³⁰ See the [2019 USAID – Internews Media Consumption Survey](#).

³¹ *Ibid.*

³² The legal framework does not contain quantitative requirements for airtime of coverage of contestants or paid political advertisements.

³³ The NTRBC consists of eight members appointed for five-year terms, renewable once. The *Verkhovna Rada* and the president each appoint four members.

³⁴ See the [March 2020 review of the draft law](#) by the OSCE Representative on Freedom of the Media (RFoM).

³⁵ See the [OSCE RFoM statement of 2 March 2020](#).

³⁶ See the [text](#) of the draft law (in Ukrainian).

³⁷ Paragraph 5 of Article 55 also prescribes that upon the written inquiry of the CEC, a TEC, or the NTRBC, media outlets shall inform them on the allocation of airtime for election campaigning and, if required, provide copies of the respective contracts, payment documents and audio or video recordings of such programs.

court cases are still pending.³⁸ Journalists in several locations in Ukraine have been physically attacked throughout 2019–2020.³⁹

On 1 October, the ODIHR LEOM commenced its media monitoring of the prime-time broadcasts of five national and five regional TV channels, including quantitative and qualitative analysis of their political and election-related coverage.⁴⁰

XI. COMPLAINTS AND APPEALS

Depending on the nature of the alleged violation, standing to file complaints is granted to candidates, political parties, accredited citizen observers and voters; voters may only file complaints related to their personal voting right. The Election Code determines matters within the exclusive jurisdiction of courts, whereas all other complaints can be lodged either to higher election commissions or courts, at the applicant's discretion.⁴¹ In case of parallel submission, the election commission shall terminate consideration of the complaints upon notification from the court.

Complaints related to the conduct of voting and the establishment of results at PECs can be filed with the TECs responsible for establishing the results, while actions by PEC members are challenged to the TEC that formed the PEC. Complaints against the CEC are lodged to the Sixth Administrative Court of Appeal in Kyiv, whose decisions can be appealed to the Administrative Cassation Court within the Supreme Court. Complaints regarding formation of electoral districts and election commissions, and voter and candidate registration can be filed to district administrative courts and appealed to appellate administrative courts with the respective territorial jurisdiction. The law provides for expedited deadlines, which in some cases are not aligned with the electoral process, as well as for strict formal admissibility requirements for complaints.

As of 6 October, 206 judicial decisions that were adopted on the merits of complaints concerned candidate registration, 3 concerned the formation of electoral districts and election commissions and 2 concerned voter registration.⁴² A number of complaints challenging rejections to register candidates and allegedly unlawful registration were pending after the registration deadlines before the administrative courts and at the Administrative Cassation Court. Moreover, two cases against the

³⁸ See the [30th Report on the human rights situation in Ukraine](#) by the United Nations Office of the High Commissioner for Human Rights and the [2020 Annual Report](#) by the partner organizations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists.

³⁹ On 11 June 2019, the [OSCE RFoM condemned the attack](#) on cameraman Vadim Makaryuk in Kharkiv. On 20 June 2019, the OSCE [RFoM issued a statement condemning](#) the fatal attack of the journalist and vlogger Vadim Komarov in Cherkasy and called on the Ukrainian authorities to investigate the incident. According to [Media Freedom Alerts by the Council of Europe](#), the editor-in-chief of the investigative TV programme 'Schemes' reported an alleged arson in the town of Brovary (Kyiv *oblast*) on 17 August 2020, in which unknown persons burned a car used by journalists working for the programme. The newspaper *Holos Sambirshchyny* in Lviv *oblast* on 19 December 2019 reported alleged arson of its newsroom premises.

⁴⁰ The public TV channel *UA:Pershyi* and four private channels *1+1*, *NewsOne*, *Ukraina 24* and *Priamyi* at the national level, and regional TV channels from Dnipro, Kharkiv, Lviv, Odesa and Zakarpattia. The ODIHR LEOM also follows related content in online media and social networks.

⁴¹ Matters within judicial jurisdiction include complaints against decisions, actions or inactions of the CEC or its members, TECs, candidates and their proxies, election-related activities or decisions of parties, public associations and their officials or proxies, of observers or NGOs accredited for the respective elections, local self-government bodies, institutions, enterprises and their officials, and of media and their owners.

⁴² Most reported decisions concerning rejections of candidate lists for failure to comply with gender requirements allowed applicants to make corrections, as well as in cases when the nominating entities lacked time to correct technical deficiencies in applications, while all refusals to register candidates based on formal deficiencies in financial documentation were rejected. Two appeals against decisions not to register prospective candidates with disabilities who had asked to be exempt from paying the financial deposit were rejected. One complaint on formation of an election commission filed by the Servant of the People party was satisfied and a change in the commission's composition was required. Two complaints on delineation of districts were rejected.

CEC's decisions to schedule first-time elections in two newly formed communities and one challenging the decision not to conduct local elections in some areas of the Donetsk and Luhansk *oblasts* were pending at the District Administrative Court of Kyiv, but the hearing of the latter has been scheduled for after the elections. Several cases regarding alleged vote buying were pending before the courts, while the police reported 2,477 election-related violations, for which 193 criminal and 400 administrative procedures were initiated.⁴³ The Constitutional Court rejected an individual petition to assess the constitutionality of the Law on the State Voter Register for alleged limitation of IDPs' right to participate in local elections.

XII. CITIZEN AND INTERNATIONAL OBSERVERS

The Election Code provides for citizen and international election observation and grants observers broad rights, including the right to attend meetings of election commissions and receive copies of results protocols. The Election Code bans citizens of countries that have been recognized by the Ukrainian parliament as an aggressor or occupying state from acting as official observers, which has previously been criticized by ODIHR as contrary to paragraph 8 of the 1990 OSCE Copenhagen Document.

Civil-society organizations (CSOs) whose statutes include election observation can request permission from the CEC to deploy observers. The respective deadline expired on 18 September, and the CEC registered 116 organizations, 85 with a nationwide observation mandate, and 31 with a regional one. Registered organizations can request the accreditation of individual observers at TECs until 20 October. TECs must decide on accreditation requests within three days of receipt. International observers may request accreditation until ten days before election day.

XIII. ODIHR LEOM ACTIVITIES

The ODIHR LEOM formally opened in Kyiv with a press conference on 23 September. The Head of Mission has met with the CEC Chairperson, the First Deputy Minister of Foreign Affairs, the OSCE Project Co-ordinator in Ukraine and the Chief Monitor of the OSCE Special Monitoring Mission, and members of the diplomatic and international community. The ODIHR LEOM has established regular contacts with the CEC, governmental institutions involved in the electoral process, parties' and candidates' campaign offices, political parties, civil society, the media, and the diplomatic community.

*The English version of this report is the only official document.
An unofficial translation is available in Ukrainian.*

⁴³ Most violations were reported in Kyiv, Donetsk and Dnipropetrovsk *oblasts* and the city of Kyiv. Some 1,755 cases concerned violations of campaign rules and production and distribution of campaign materials, while 132 concerned alleged vote-buying (44 criminal cases initiated) and 76 were about voter register maintenance.