

INTERIM REPORT
6 February–7 March 2019

15 March 2019

I. EXECUTIVE SUMMARY

- The presidential election will take place in Ukraine on 31 March 2019, in line with constitutional provisions. The president is elected for a five-year term by popular vote. If no candidate wins the absolute majority of valid votes cast, a second round takes place three weeks later between the two frontrunners.
- The electoral legal framework remains largely unchanged since the last presidential election, and most ODIHR recommendations have yet to be addressed, including for the adoption of a unified election code. The Constitution guarantees rights and freedoms that underpin democratic elections, and Ukraine has ratified major international and regional human rights instruments.
- The election is administered by the Central Election Commission (CEC), 199 District Election Commissions (DECs) and some 30,000 Precinct Election Commissions. The CEC has been holding regular open sessions. It also holds preliminary meetings, leaving the public sessions without substantial discussions. Around one quarter of DEC members, who are appointed based on nominations by candidates, have been replaced since DECs were formed on 18 February.
- The number of registered voters is around 35.6 million according to the State Voter Register Office. Voters can check their records online and request amendments with the Register Maintenance Body at their current residence. The electronic copy of the state voter register can be accessed by candidates, political parties and factions represented in parliament, but now only at the CEC premises. The CEC has aimed to facilitate the participation of internally displaced persons (IDPs) by easing the procedure for registering a temporary change of voting location.
- The CEC registered 44 candidates, among them 4 women. Five candidates withdrew by the legal deadline of 7 March. A total of 47 applicants were rejected, most of them for failing to pay the electoral deposit and several based on the vetting of their campaign platforms by the CEC. All complaints against denials of registration were rejected by the court.
- The campaign was off to a slow start but is expected to intensify in the coming weeks. The incumbent is touring the country extensively in his official capacity. The ODIHR EOM has received many allegations of vote-buying from across the country, and numerous criminal investigations into vote buying were opened, including into purported nationwide schemes. The ODIHR EOM has also noted persistent allegations of misuse of state resources.
- This will be the first election in which an enhanced framework for campaign finance will be applied. All campaign donations and expenditures must pass through dedicated bank accounts, and candidates must submit interim and final campaign finance reports. Law enforcement has launched several criminal investigations into reports of illegal campaign financing.
- The media environment is characterized by a wide range of media outlets, but the media market is largely divided along political lines. The high concentration of media ownership affects the general trust in the media and their autonomy. Journalists' safety remains a major concern. The election law stipulates that both public and private media shall offer balanced coverage of the

candidates. In line with the law, the CEC allocated free airtime to all presidential candidates on public media, starting on 1 March.

- Most types of election-related complaints can be lodged with either an election commission or an administrative court. The CEC's practice of handling complaints on an informal basis by way of letter signed by one CEC member, rather than in public sessions as required by law, was challenged in court, with limited success. All administrative court cases against the incumbent on misuse of state resources have been dismissed.
- A total of 139 Ukrainian non-governmental organizations (NGOs) were registered by the CEC for observation of the presidential election. Most ODIHR EOM interlocutors expressed concern about the affiliation of many of these NGOs to particular candidates. A recent amendment to the election laws in effect prohibits citizens of the Russian Federation and persons whose nomination was initiated or submitted by the Russian Federation from observing elections in Ukraine.
- The ODIHR Election Observation Mission opened on 6 February, with a 17-member core team in Kyiv, and 90 long-term observers deployed throughout the country.

II. INTRODUCTION

Following an invitation from the Ministry of Foreign Affairs of Ukraine, and based on the recommendation of the Needs Assessment Mission deployed from 20 to 23 November 2018, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 6 February.¹ The mission, led by Ambassador Peter Tejler, consists of a 17-member core team based in Kyiv and 90 long-term observers (LTOs) deployed on 13–14 February to 28 locations around the country. Mission members are drawn from 24 OSCE participating States. ODIHR has requested participating States to second 750 short-term observers to observe election day proceedings.

III. BACKGROUND AND POLITICAL CONTEXT

On 26 November 2018 and in line with constitutional provisions, the parliament scheduled the presidential election for 31 March 2019. The upcoming election is perceived to be an important test for the country's democracy and its ongoing reform and modernization efforts, but also as part of a larger electoral process culminating in parliamentary elections later in 2019. It takes place in a difficult political and security environment, against the backdrop of continuous challenges to Ukraine's territorial integrity. The overall context is characterized by the illegal annexation of the Crimean peninsula by the Russian Federation, ongoing hostilities in the east of the country, and the continued control of parts of Ukraine's territory by illegal armed groups.

Several ODIHR EOM interlocutors noted a lack of trust in state institutions, due to perceived widespread corruption and the poor economic and social situation, including the recent increase of utility fees.

The recent establishment of the independent Orthodox Church of Ukraine as well as the adoption of constitutional amendments enshrining Ukraine's aspiration to become a member of the European Union and NATO are portrayed by President Petro Poroshenko and the government as important

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

steps in the consolidation of Ukrainian sovereignty.² The independence of the church features prominently in the campaign of the incumbent, being presented as one of the key achievements of his presidency.

Despite resolute efforts by the authorities, the 2014 early presidential, parliamentary and 2015 local elections could not be held in the Autonomous Republic of Crimea, the City of Sevastopol and in certain areas of Donetsk and Luhansk regions which remain beyond the government's control and have been declared by the parliament as “temporarily occupied territories”.³ Although a nominal ceasefire has been in effect for four years, the situation in conflict-affected parts of eastern Ukraine remains tense and volatile and is characterized by persisting attacks on fundamental freedoms and a deteriorating humanitarian situation.⁴

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The president of Ukraine is elected by popular vote for a five-year term; the same person may not serve more than two consecutive terms, but there is no overall term limit. If no candidate wins the absolute majority of valid votes cast, a second round takes place three weeks later between the two candidates who won the most votes.

The 1996 Constitution guarantees rights and freedoms that underpin democratic elections. Ukraine has ratified major international and regional human rights instruments, which form part of domestic law. The elections are further regulated by the 1999 Law on Presidential Elections (‘election law’), the 2004 Law on the Central Election Commission (CEC), the 2007 Law on the State Voter Register (SVR), and the 2001 Law on Political Parties.⁵ CEC regulations and decisions supplement the legislation.

The legal framework remains largely unchanged since the 2014 early presidential election. Most previous ODIHR recommendations for improving the legal framework, including for the adoption of an election code that would consolidate and harmonize the various election laws, remain unaddressed. As part of a broad government initiative to combat corruption, new campaign finance regulations were adopted in 2015. These aim to increase campaign finance transparency and are in line with recommendations of ODIHR and the Council of Europe’s Group of States Against Corruption (GRECO), although some shortcomings still remain.

² Amendments made to three articles of the constitution, the preamble and transitional provisions, which went into effect on 21 February 2019, include “the confirmation of the European identity of the Ukrainian people and the irreversibility of the European and Euro-Atlantic course of Ukraine.”

³ See the 2014 Law of Ukraine “On citizens' rights, freedom assurance, and legal regulations on temporarily occupied territory of Ukraine”, the 2014 Law of Ukraine “On special procedure of local self-government in some districts of Donetsk and Luhansk regions”, the 2014 Cabinet of Ministers of Ukraine Order “A list of settlements on territory temporarily uncontrolled by government authorities, and list of landmarks located at contact line”, the 2015 Decree of the *Verkhovna Rada* (parliament) “On recognition of separate districts, cities, towns and villages of Donetsk and Luhansk regions as temporarily occupied territories”, and the 2018 Law “On the peculiarities of State Policy on ensuring Ukraine’s state sovereignty over temporary occupied territories in Donetsk and Luhansk regions”.

⁴ See the [United Nations reports on the human rights situation in Ukraine](#). In its [22nd report](#), the OHCHR highlighted that “with the official campaign season for 2019 presidential and parliamentary elections forthcoming, protection of the freedoms of opinion and expression, media, and peaceful assembly and association is imperative to ensure an open and constructive democratic and civic space.” In its [24th report](#), the OHCHR reiterated the need to safeguard freedoms of expression, association and assembly in the context of upcoming elections.

⁵ Other relevant laws include the Code of Administrative Procedure that regulates court procedures in administrative election disputes, and the Criminal Code and Code of Administrative Offences that establish electoral offences.

A draft unified election code underwent its first reading in November 2017, but its adoption has been delayed, due in part to disagreement over the system to be used for parliamentary elections. In 2016, the monetary threshold for determination of vote buying as a crime was lowered. A pending bill on electoral justice would establish a broader definition of vote buying and establish new election crimes and also strengthen criminal and administrative sanctions, some of which are particularly weak. A draft law that aims to facilitate the realization of electoral rights of persons with disabilities, submitted to parliament in 2016, has yet to receive first reading.⁶

In 2015, the Law on Condemnation of Communist and National-Socialist (Nazi) Totalitarian Regimes and Prohibition of Propaganda of their Symbols was adopted and the election law was amended to ban candidate nominations by such political parties.⁷

V. ELECTION ADMINISTRATION

The election is administered by the CEC, 199 District Election Commissions (DECs), and some 30,000 Precinct Election Commissions (PECs).⁸ Out-of-country voting will be conducted at 101 polling stations established in diplomatic representations in 72 countries.⁹

The CEC is the only permanent election commission. Its 17 members are appointed for renewable seven-year terms by parliament, on the basis of presidential nominations, taking into consideration proposals by parliamentary factions.¹⁰ By law, presidential candidates are entitled to appoint an authorized representative to the CEC, with an advisory vote. The current CEC was formed in September 2018, with one seat remaining vacant.¹¹ Some ODIHR EOM interlocutors opined that the new composition favours the political party of the incumbent president. The CEC has been holding regular open sessions attended by media, candidate representatives and observers. Most CEC decisions were adopted unanimously and posted on the CEC's official website. The CEC also holds preliminary meetings to review its draft decisions, leaving public sessions without substantial discussions.¹²

⁶ Other relevant draft laws aim to facilitate voting rights of internally displaced persons (IDPs) and labour migrants and to ease restrictions on identity documents for all voters. A draft law on the freedom of peaceful assembly was submitted to parliament in 2015.

⁷ Constitutional challenges to the new law were lodged by the Communist Party of Ukraine in 2016 and by a group of members of parliament (MPs) in 2017; both are pending.

⁸ On 12 February, in line with the laws concerning [temporarily occupied territories](#) and [rights and freedoms of citizens residing on those territories](#), [Presidential Decree 32/2019](#) and based on [a list of territories](#) provided by the military-civilian administrations of Luhansk and Donetsk regions, the CEC decided to organize voting in 12 out of 21 election districts in Donetsk *oblast* and in 6 out of 11 districts in Luhansk *oblast*. No DECs were formed in the Autonomous Republic of Crimea or the City of Sevastopol, based on a decision by the CEC of 12 February that it is impossible to hold elections there.

⁹ Polling stations in the Russian Federation were abolished by the CEC based on a request by the Ministry of Foreign Affairs of Ukraine, on grounds of the presence of risks and threats to elections there and the need to guarantee the security of Ukrainian citizens; four claimants unsuccessfully challenged this in the court. Voters residing in the Russian Federation were offered to vote in Finland, Georgia and Kazakhstan.

¹⁰ The Law on the CEC was amended in September 2018 to increase the number of CEC members from 15 to 17. Political actors and civil society criticized its hasty adoption and circumvention of parliamentary rules of procedure, claiming the change was intended to benefit the incumbent president.

¹¹ Eight of the new CEC members were nominated by the current ruling coalition (five by the Petro Poroshenko Bloc [PPB] and three by the People's Front [PF]). *Batkiivshchyna* (Fatherland), Revival Group, the Radical Party of Oleh Lyashko, *Samopomich* (Self-Reliance) and People's Will each nominated one member. One member was not formally nominated by a party. The two members remaining from the previous composition had been nominated by the Ukrainian Democratic Alliance for Reforms (UDAR, now part of PPB) and the Freedom Party (no longer represented in parliament). The Opposition Bloc, which argues that it is entitled to two seats on the CEC, is not represented in the current composition.

¹² The CEC in its Rules of Procedure defined these preliminary meetings as one of the organizational forms of its activity. Those interested may attend only upon permission or by invitation of the CEC.

On 18 February, the CEC formed 199 DEC, based on nominations from registered candidates, and proportionally allocated the positions of DEC chairpersons, deputy chairpersons and secretaries (so-called executives) to each candidate.¹³ The ODIHR EOM observed that some DEC could not achieve quorum at their inaugural meetings and thus failed to convene by the legal deadline, and also noted cases where DEC lacked either operational resources or proper office premises.¹⁴ DEC members received trainings on the legislation and their work, which the ODIHR EOM mostly assessed as being of good quality.

Since the initial appointments, the CEC has replaced 23 per cent of DEC members.¹⁵ 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.¹⁶ The ODIHR EOM noted that some DEC members were not aware of which candidate they represented or even of the fact that they had been appointed as members at all. In one instance, a DEC chairperson was physically attacked by a paramilitary group and forced to resign.¹⁷ Further, the withdrawal of five presidential candidates necessitated the reallocation of executive positions.¹⁸ However, the CEC appointed new executives from among the members based on their prior electoral experience, rather than redistributing them proportionally. This can lead to a slightly higher proportion of executives for certain candidates. DEC are to be formed by DEC no later than 12 March.

Women are well-represented at the DEC level, where they account for 56 per cent of all members. As of 7 March, 88 DEC are chaired by women, while there are 111 female deputy chairpersons and 121 secretaries. Nine of 16 CEC members are women, including the chairperson and the secretary.

VI. VOTER REGISTRATION

Citizens 18 years of age by election day are eligible to vote, unless declared mentally incapacitated by a court decision. Voter registration is passive and continuous. It is based on the centralized State Voter Register (SVR) administered by the CEC and updated monthly. Voters can check their records, including their respective polling station, online or at the Register Maintenance Bodies (RMB) where they are registered and request amendments and corrections.¹⁹

¹³ Each candidate is entitled to a proportionate share of chairpersons, deputy chairpersons and secretaries, who are allocated according to a formula established by the CEC. A candidate's specific 'entitlement' for his or her nominees to be appointed to DEC executive positions is determined by the CEC taking into consideration the number of appointed members of each candidate relative to the total number of appointed members of all candidates. ODIHR has previously recommended to reconsider this mechanism.

¹⁴ For instance, in Bilovodsk, Cherkasy, Chernihiv, Chernivtsi, Kherson, Kyiv city, Kyiv *oblast*, Pokrovsk, Severodonetsk and Volyn *oblast*.

¹⁵ As of 7 March. In many DEC, initially appointed members resided far from the district they were appointed to or in a different region. By law, nominees for DEC membership must submit a signed letter providing consent to serve as a commission member.

¹⁶ Section II.3.1.77 of the 2002 Venice Commission Code of Good Practice in Electoral Matters, recommends that "bodies that appoint members to electoral commissions should not be free to recall them, as it casts doubt on their independence. Discretionary recall is unacceptable...".

¹⁷ DEC 24 in Dnipro city failed to hold its inaugural meeting as DEC members protested against the presence of the DEC chairperson, who reportedly belongs to the "Union of Soviet Officers" which in 2014 held rallies in support of illegal armed groups controlling parts of Ukraine's territory. The Union was banned by court decision in 2017.

¹⁸ Neither the election law nor the relevant CEC regulation define the rules for redistribution of executive positions in DEC after the withdrawal of a candidate.

¹⁹ Eighty-two RMB in the Autonomous Republic of Crimea, the City of Sevastopol as well as those parts of Donetsk and Luhansk *oblasts* that are controlled by illegal armed groups are currently not functioning.

According to the SVR office, the total number of registered voters as of 28 February is 35,560,427, including 530,123 abroad. Most ODIHR EOM interlocutors expressed confidence in the overall accuracy of the voter lists, although some raised concerns about difficulties in adequately capturing data on internally displaced persons (IDPs), internal labour migrants, and citizens living abroad.²⁰

Voter lists are extracted from the SVR and compiled separately for each polling station. Preliminary voter lists, together with voter invitation cards, are transferred by the respective RMB to regular polling stations, no later than eight days before election day.²¹ PECs should display voter lists the day after receiving them, to allow voters to verify their records and request amendments if necessary. Voters may request amendments and corrections to their records to RMBs up to five days before election day, and to local courts of general jurisprudence up to two days before election day. Voters cannot register on election day.

Citizens can change their voting location without changing their residence, on a temporary basis for one election.²² Such a request needs to be justified, except for IDPs. Most RMBs met by the ODIHR EOM reported having received only a small number of such requests so far.

The law provides for the transfer, upon request, of an electronic copy of the SVR to candidates, parties that nominated a candidate, and factions represented in parliament. However, thus far access to the SVR has been limited to the CEC premises.²³

VII. CANDIDATE REGISTRATION

A citizen is eligible for the presidency if he or she is older than 35 years, has the right to vote, has resided in Ukraine for at least 10 years prior to election day, does not hold dual citizenship, and has command of the state language. A prospective candidate must submit a comprehensive set of documents, including a property and income statement, and pay a deposit of UAH 2.5 million (around EUR 79,000).²⁴ Campaign platforms must be submitted to and vetted by the CEC.²⁵

The candidate registration process started on 31 December 2018 and concluded on 8 February. The CEC received and considered applications from 91 nominees, including 11 women, within the legal deadline. The CEC registered 44 candidates: 20 self-nominated and 24 nominated by parties.²⁶ Four candidates are women.²⁷ The CEC rejected 47 applicants, the most common ground being non-compliance with the transfer of the deposit as prescribed by law.²⁸ Six applications were denied on

²⁰ According to [UNCHR](#), a total of 1,361,912 IDPs were registered with the Ministry of Social Policy.

²¹ Voter lists for special polling stations, such as in penitentiaries, are transmitted to the respective PECs 15 days before election day, or 7 days for in-patient facilities and special polling stations established by the CEC in exceptional cases.

²² Requests must be filed no later than five days before election day to the RMB where the voter is registered or where he or she requests to vote. Voters must submit a new request in the case of a second round.

²³ One candidate unsuccessfully challenged in court the CEC's decision to limit access to the SVR to its premises.

²⁴ The electoral deposit is returned to the rejected nominees, the elected candidate or his/her nominating party, and the candidate competing in a possible second round. At the start of the candidate registration period, EUR 1 was approximately UAH 31.71.

²⁵ For instance, platforms must not aim at violating the sovereignty and territorial integrity of the state, incite ethnic, racial and religious hostility, or infringe on human rights and freedoms.

²⁶ A party can nominate only one candidate.

²⁷ Women remain strongly under-represented in public life. Only five of 24 ministerial portfolios in the current government are held by female ministers, and women's representation in the parliament currently stands at 12.3 per cent (52 members).

²⁸ One candidate was rejected in part on grounds that his deposit was transferred by someone else.

grounds related to the campaign platform.²⁹ Five registered candidates withdrew by the 7 March deadline.

Twenty rejected nominees lodged court petitions against the CEC's decision denying them registration. Eight petitions were deemed inadmissible due to late filing, and the others dismissed, including the petitions of three candidates who were denied registration, in part, due to their campaign platforms. In seven of these cases, the unconstitutionality of the candidate deposit or of its amount was claimed.

VIII. CAMPAIGN ENVIRONMENT

Candidates can launch their official campaigns once the CEC has issued a decision on their registration. The official campaign ends at midnight on the Friday before election day (29 March). The election law contains provisions aimed at ensuring equal campaign opportunities for all contestants, including access to campaign premises and designated places for political advertising.

The campaign was off to a slow start but is expected to intensify in the coming weeks. Campaign activities are mainly conducted on television, in online media and social networks, as well as through the use of billboards, posters and campaign tents where campaign leaflets and newspapers are disseminated. Several candidates held rallies in the regions during the reporting period.³⁰ President Poroshenko and Yulia Tymoshenko appear to thus far be the most visible candidates, with the incumbent touring the country extensively in his official capacity.

The majority of candidate platforms focus on the economic situation and its development, the fight against corruption, social protection (including rising utility costs and healthcare), army and defense, conflict resolution and infrastructure. Future relations with the Russian Federation, the EU and NATO also feature in the campaign.

The use of social assistance programmes, salary increases and bonuses, and other financial incentives as campaign tools is the subject of widespread accusations levelled against the incumbent president. Instances of misuse of state resources by several candidates at national and local levels were reported to the ODIHR EOM, as were cases of public-sector employees instructed to attend campaign events.³¹ The ODIHR EOM has also received many allegations of vote-buying from across the country.

The direct involvement of the Prosecutor General in support of the incumbent, contrary to the law, raises concerns.³² According to the ODIHR EOM interlocutors he appeared at several campaign events of the incumbent and made a number of statements casting doubts on his office's independence. In addition, several candidates are reportedly the subject of ongoing criminal investigations, with at least three such investigations launched after the candidate announced their intention to run.

²⁹ One of the denied platforms referred to negotiations with the "self-proclaimed republics"; the platform was ultimately accepted after revision. Another nominee was denied registration for referring to the areas controlled by illegal armed groups as the "LPR" ('Luhansk People's Republic') and "DPR" ('Donetsk People's Republic') in the campaign platform, in the context of facilitating voting rights of citizens from these areas. One applicant was rejected as he was nominated by the Communist Party of Ukraine, which was banned in 2015 by a court under the law banning Soviet-communist ideology.

³⁰ So far, ODIHR EOM observers reported on 51 campaign events conducted by 11 candidates.

³¹ For example, the ODIHR EOM noted publicly owned vehicles and state, regional and local administration buildings used for campaign purposes.

³² Articles 3 and 18 of the Law on the Prosecutor's Office require the office to be politically neutral and prohibits prosecutors to participate in political events and rallies.

As of 4 March, more than 2,400 campaign-related complaints were received by police.³³ As a result, some 150 criminal investigations were opened, of which more than 50 concern vote buying, including a purported nationwide scheme in favour of the incumbent. The State Security Service, together with the Prosecutor General's Office and the State Bureau of Investigation, initiated an investigation into an alleged systematic vote buying scheme by *Batkivshchyna*. More than 400 administrative protocols were drawn up, the vast majority for campaign materials missing publishing information, as well as posters in prohibited places. Many administrative offence cases have been dismissed or courts have returned incorrectly completed protocols to police; some warnings or small fines have been issued.

IX. CAMPAIGN FINANCE

This will be the first election in which an enhanced framework for campaign finance will be applied. Candidates and nominating parties can contribute to campaign funds without limit, while citizens can donate up to 400 times the minimum salary (a total of approximately EUR 56,000) and legal entities double that amount.³⁴ Annual state funding for political parties, introduced in 2015, cannot be used for campaign purposes.³⁵ Certain types of donors are banned, as are anonymous donations. There are no limits on campaign spending.

All campaign donations and expenditures must pass through dedicated bank accounts, to be opened after candidate registration.³⁶ Interim campaign finance reports covering the period up to 12 days before election day are to be filed with the CEC and the National Agency for Prevention of Corruption (NAPC) not less than 5 days before election day, and must be published within one day.³⁷ Final campaign finance reports are to be filed within 15 days after election day.³⁸

By law, reports are to be analyzed by the CEC and the NAPC, which informed the ODIHR EOM that they will conduct parallel reviews, rather than consolidate efforts.³⁹ According to established procedures, the analysis will be largely technical, as neither oversight body has investigatory powers to determine any circumvention of transparency regulations, including a misuse of state resources. Also, these bodies have limited resources and tight timelines to execute their oversight mandate. Only courts are authorized to impose sanctions for breach of the rules, and ODIHR EOM interlocutors noted that the sanctions are relatively weak.

The ODIHR EOM was informed firsthand that campaigns use in-kind contributions and third-party financing at the local level.⁴⁰ As of 4 March, law enforcement agencies launched five criminal investigations into reports of illegal campaign financing.⁴¹ Five administrative court cases lodged

³³ Statistics are from the Ministry of Internal Affairs website. One of the main citizen observer organizations, OPORA, has been actively monitoring campaign-related irregularities and lodged a significant portion of these complaints.

³⁴ In January 2019, the minimum salary was UAH 4,173 (EUR 141).

³⁵ Political parties that received at least two per cent of votes in the most recent parliamentary elections are entitled to state funding; however, as per transitional provisions, until the next parliamentary elections, only parliamentary parties are entitled to funding.

³⁶ There were delays in the opening of accounts by almost a quarter of the candidates, with five candidates not having opened the accounts as of 27 February.

³⁷ The NAPC was established in 2016; following criticism over its effectiveness, a bill for its reform is pending.

³⁸ Detailed campaign finance reporting templates, including source and amount of each donation, were jointly drafted by the CEC, NAPC, and other institutions.

³⁹ The CEC and NAPC are also each analyzing, on an ongoing basis, the bank records of the campaign accounts that are provided to them on a regular basis by the respective banks.

⁴⁰ For example, the ODIHR EOM was informed that businesses donated campaign offices and citizens covered out-of-pocket campaign expenses.

⁴¹ In addition, an investigation was launched into allegedly fraudulent party finance reporting by the *Batkivshchyna* party that occurred in 2016 and 2017.

by candidates, alleging use of state resources and third-party financing in the campaigns of key electoral contestants, were dismissed.⁴²

X. MEDIA

The media environment is characterized by a wide range of outlets, both at national and regional levels. However, the media market is largely divided along political lines, and the high concentration of media ownership affects the general trust in the media and their autonomy. The main source of information remains television, despite the significant growth of news websites as well as social networks.

The Constitution guarantees freedom of speech and prohibits censorship, and the legal framework provides for general media freedom. Yet, journalists' safety remains a major concern as they face the threat of violence and intimidation, especially during the electoral process.⁴³ Moreover, a number of legal initiatives to counter threats to national security in the information sphere are pending in parliament and may affect the freedom of the media and free access to online information.⁴⁴

The Ukrainian Public Broadcasting Company (*UA:PBC*), established in 2017, remains severely underfunded, with its annual budget reduced for the second consecutive year. Interlocutors stated that the financial situation, together with internal management disputes, may affect the independence of the *UA:PBC* and its ability to perform its public-service role. On 31 January, Zurab Alasania was dismissed from his position of chairperson of the *UA:PBC*, prompting public criticism that his dismissal was politically motivated.⁴⁵

The conduct of the media during the campaign is regulated by the election law, which stipulates that both public and private media shall offer balanced coverage of the candidates. Private broadcasters are entitled but not obliged to organize TV debates among candidates, while *UA:PBC* is obliged to organize a debate financed from the state budget for a second round. Paid campaign advertising has to be clearly marked as such and is allowed on public and private media. However, several national media organizations reported on a widespread practice of unmarked advertising material, mainly within the news content, known as '*jeansa*'. Media compliance with legal requirements is monitored by the National Council for Television and Radio Broadcasting. In line with the law, the CEC allocated free airtime to all presidential candidates on public media, starting on 1 March.⁴⁶

⁴² Four cases alleged that the incumbent combined his official events with campaigning; one case alleged that candidate Volodymyr Zelenskyi circumvented campaign finance rules by campaigning in his professional performances.

⁴³ See Paragraph 11 of the [24th report](#) of the OHCHR.

⁴⁴ These initiatives include a series of provisions amending different laws which are already in force. See the [statement of the OSCE Representative on Freedom of the Media \(RFoM\)](#) from 6 July 2018.

⁴⁵ On 12 February, the *UA:PBC*'s supervisory board decided to terminate Mr. Alasania's contract effective 6 May. On 25 February, Mr. Alasania appealed the decision to court. See also [statement by the RFoM from 8 February 2019](#).

⁴⁶ CEC Resolution 354 adopted on 21 February 2019 defines the modalities for allocating free airtime and space in public and state broadcast and print media through a lottery system. Candidates will receive up to 30 minutes in the public media and up to 12,000 characters in state newspapers *Holos Ukrainy* and *Uriadovy Kurier*.

On 18 February, the ODIHR EOM commenced its media monitoring of the prime-time broadcasts of seven TV channels, with a quantitative and qualitative analysis of their political and election-related coverage.⁴⁷

XI. COMPLAINTS AND APPEALS

Electoral stakeholders can lodge complaints on breach of election laws and against decisions by or (in)actions of election commissions, authorities, candidates, and other electoral actors. Most types of complaints can be lodged with either an election commission or an administrative court.

In 2016, the judiciary underwent significant reform, aimed at strengthening judicial independence and competence. Following the reform, the High Administrative Court was abolished and its final instance jurisdiction over cases against the CEC was transferred to the Supreme Court. Its decisions on challenges to the election results can be additionally appealed with its highest chamber, which, for the first time, provides an appeal instance for challenges against election results.

The CEC is required to consider complaints in open sessions and to publish its decisions.⁴⁸ Its practice of handling complaints on an informal basis by way of letter signed by one CEC member was challenged in court by two candidates, with limited success.⁴⁹ In addition, several CEC regulations have been challenged, including two petitions against a regulation on clarifying vote buying that resulted in conflicting decisions of the first-instance court that adjudicates cases against CEC decisions.⁵⁰

In 2016, the right to lodge individual complaints to the Constitutional Court was introduced, once a final court decision is delivered. Following the dismissal of their cases by the Supreme Court, four presidential nominees who had been denied registration by the CEC submitted cases to the Constitutional Court, challenging the constitutionality of the deposit or of the amount. All cases were ruled inadmissible.

XII. CITIZEN AND INTERNATIONAL OBSERVERS

The law provides for observation of the electoral process by international and citizen observers, including non-governmental organizations (NGOs) whose statute includes election observation. An amendment to the election laws adopted in February effectively prohibits citizens of the Russian Federation and persons whose nomination was initiated or submitted by the Russian Federation from observing elections in Ukraine.⁵¹

In total, 139 NGOs were granted permission to have official observers.⁵² Out of these, 132 were registered to observe countrywide, while seven will observe in particular *oblasts* or

⁴⁷ The public TV channel *UA:Pershyi* and six private TV channels: *Ukraina TV*, *1+1*, *INTER*, *ICTV*, *112 Ukraina*, and *5 Channel*. ODIHR EOM also follows election-related content in the online media and on social networks.

⁴⁸ Technical filing requirements for the admissibility of complaints to the CEC are established in the law. In December 2018, the CEC amended its complaints procedures to prohibit the submission of complaints by email.

⁴⁹ In one case, the court ruled that the CEC should have considered in an open session a complaint against its own decision. In several other cases, the court upheld the CEC's manner of handling complaints that alleged violations of election rights by other candidates and third parties outside its open session.

⁵⁰ The CEC issued a statement criticizing the conflicting decisions and successfully appealed them.

⁵¹ The amended [legislation](#) bans "participation of the nominees or citizens of the aggressor state or the occupying power, as determined by the *Verkhovna Rada*".

⁵² Fourteen NGO applications were rejected, all in relation to their statute. Two NGOs were ultimately registered; one based on a second application and the other based on a Supreme Court decision invalidating the

cities.⁵³ Nearly all ODIHR interlocutors expressed concerns about the affiliation of many of these NGOs to particular candidates and doubted their intention to conduct election observation activities impartially. The CEC has thus far registered over 400 international observers from 13 organizations or foreign states. The process of registration of international observers will continue until 23 March.

XIII. ODIHR EOM ACTIVITIES

The ODIHR EOM formally opened in Kyiv with a press conference on 6 February. The Head of Mission has met with the CEC Chairperson, the Deputy Minister of Foreign Affairs, the Heads of the Constitutional Court and of the Administrative Chamber of the Supreme Court, candidates and their representatives, media, civil society, and members of the diplomatic and international community. The ODIHR EOM has established regular contacts with the CEC, governmental institutions involved in the electoral process, candidates' campaign offices, political parties, civil society, the media, and the diplomatic community.

The OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe, the European Parliament and the NATO Parliamentary Assembly have announced that they will deploy observer delegations for election-day observation. The OSCE Chairperson-in-Office has appointed Ilkka Kanerva as Special Co-ordinator and leader of the short-term OSCE observer mission for this election.

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

CEC decision based on inconsistency with a previous decision to register the same NGO for the observation of the 2018 local elections. Two other NGOs lodged unsuccessful complaints in court. For the 2014 early presidential election, ten NGOs had been registered to observe.

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25 March is the deadline for NGOs to apply to have observers. The accreditation of individual civil society and candidate observers is done by DECs.