

SEPTEMBER INTERIM REPORT (2ND) OF THE OPORA ON OBSERVATION RESULTS OF LOCAL ELECTIONS SCHEDULED FOR 25 OCTOBER 2015

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INTRODUCTION

Civil Network OPORA conducts citizen observation of local elections in Ukraine, scheduled for 25 October 2015. Civic monitoring conducted by OPORA - is a type of network activity, aimed at impartial assessment of the preparation and conduct of elections, as well as preventing electoral violations through comprehensive civic action. 144 long-term observers were deployed to all Ukrainian regions on 5 September, and 3000 short-term observers will join them on the election day.

REPORT SUMMARY

142 of 294 Ukrainian political parties have approved participation of their local organizations in regular local elections scheduled for 25 October 2015, in accordance with the Law of Ukraine on Local Elections.

However, only 132 political parties (45% of the total number of registered parties) have managed to submit to the CEC properly drafted documents proving they approved participation of their local organizations in elections. Thus, less than a half of Ukrainian political parties are going to participate in local elections.

According to OPORA, 51 political parties and their local organizations have started regional advertising campaigns in September 2015, related to local elections. Thus, political parties Petro Poroshenko Bloc 'Solidarity', Nash Krai, AUU Batkivshchyna, Ukrainian Union of Patriots – UKROP, Samopomich Union, AUU Svoboda, Radical Party of Oleh Liashko, Revival Party, Opposition Block, Agrarian Party of Ukraine, and Narodnyi Kontrol (People's Oversight) Civic Movement party have covered most of or a lot of regions, similarly to a nationwide election campaign. 40 more political parties were active only in the certain oblasts, cities and regions of Ukraine. Thus, election campaign will include nationwide and local strategies.

OPORA's observers have reported numerous violations of campaigning rules and campaign financing related to political activeness of candidates which haven't been registered yet as electoral subjects after election process has officially started. Political activities of parties and candidates have also involved conduct that could be characterized as misuse of administrative resource and voter bribery. This situation when some candidates get use of law which doesn't punish "potential" candidates and others choose to be law-abiding and don't use political manipulations, is contrary to the principle of equal opportunities.

Nomination and registration of candidates was conflict-free on the whole territory of Ukraine, except for incidents when journalists were barred from attending meetings/conferences of local party cells which have announced their participation in the election process. Campaign activities contrary to the principle of open election process were the most often used by the Opposition

Bloc (in 6 regions), Nash Krai (1 region), and Svoboda 1 region). Besides that, most of political parties have failed to fulfill gender quota requirements (minimum 30% of any gender in election lists), and the CEC has provided explanations which doesn't allow to reject the registration of candidates if Article 4 (3) of the Law of Ukraine on Local Elections is violated. At the same time, there were some resonant incidents when registration of candidate lists from political parties was rejected: Nash Krai party (in election to Zaporizhia Oblast Council), Opposition Bloc (to Berdiansk City Council), Party of Free Democrats – 20 candidates from the list rejected (to Cherkasy City Council). All the refusals are related to the way territorial election commissions interpreted requirements for candidate registration.

District formation has finished within time constraints established by the legislation. However, nearly a half of TEDs created for election of members to oblast councils have over 15% deviation from the average number of voters, as well as nearly 2/3 of TEDs created for election of members to raion councils. The highest departures from averages within a territorial election district reaches 790% for raion councils and 240% for oblast councils.

Rotation of commission members reaches only 8% as of 28 September, what is much less than usual.

ELECTORAL ACTIVITIES IN UKRAINIAN REGIONS

According to the Law of Ukraine on Local Elections, political parties must submit to the Central Election Commission (hereinafter - CEC) a copied decision of party's central administrative body concerning participation of its local organizations in the corresponding election, together with copies of its registration certificate and statute not later than 35 days before the voting day (till 19 September 2015 inclusive). Then, not later than 34 days before the voting day (till 20 September 2015 inclusive), the list of political parties which have approved participation of their local organizations in regular local elections must be published on official website of the CEC.

The CEC has passed on 20 September 2015 a Resolution #252 of 20.09.2015 “A list of 142 political parties which have approved participation of their local organizations in regular local elections, the first elections to councils of united territorial communities, and of the corresponding village, settlement, and city councils scheduled for 25 October 2015.”¹.

The CEC has received registration documents from 142 political parties within the timeframes established by the Law of Ukraine on Local Elections. However, 10 of 142 political parties have submitted to the CEC documents which didn't correspond to requirements established by the Law. Thus, local cells of 132 political parties will participate in local elections. Taking into consideration that 294 political parties are registered in Ukraine, almost 45% of them are planning and will have a chance to participate in the upcoming local elections.

¹ <http://www.cvk.gov.ua/pls/acts/ShowCard?id=41385&what=0>

On 21 September, nomination of candidates has started. Thus, candidates can be nominated by local cells of political parties which have approved participation of their local organizations in regular local elections, or they can nominate themselves. 30 September inclusive is a deadline for submission of registration documents to a territorial election commission. Thus, territorial election commissions must decide on registration of the corresponding candidates on 1 September.

OPORA's observers have reported that as of 27.09.2015 local cells of political parties and self-nominated candidates including those actively advertising themselves in territorial communities didn't hurry to submit documents to territorial election commissions in order to officially register. Such delay is not only due to the formal nomination procedure, but also because some potential candidates and parties nominating them conduct public events which would be banned by the election law if the candidates were registered officially.

According to the Law of Ukraine on Local Elections, local party cells may start campaigning on the next day after their candidates for council members are officially registered in a multi-mandate election district or a single-mandate electoral district, as well as candidates for village, settlement, or city heads, by the corresponding territorial election commission. Election campaigning shall cease at 24:00 on the last Friday before the day of voting. Besides that, campaigning before and after the period established by this Article is prohibited. We'd like to mention that according to the Law, election campaigning shall mean any activities, aimed to urge the voters to vote or not to vote in favor of the certain candidate.

Taking into consideration law regulations, a lot of local party cells and potential candidates have started engaging the voters before official registration of candidates without direct calls to vote for the certain party or candidate.

Thus, possible participants of the upcoming local elections were disseminating information about their political programs and benefits on public events and media campaigns. However, it's impossible to control their expenditure in accordance with the requirements established by electoral legislation. According to these law requirements, election campaigning shall be paid for from electoral funds of candidates for council members nominated in a single-member district, candidates for village, town, or city heads, or electoral funds of party local cells which have candidates registered in a multi-mandate election district. Although the law prohibits using other resources for campaign financing, it'd not applied to early campaigning conducted by non-registered candidates.

According to OPORA's data as of 9/27/2015, approximately 50 parties, which have local cells registered in the corresponding regions or territorial communities, started campaigning with varying intensity in Ukrainian regions before official registration of candidates.

Table 1. Political parties in 2015 local elections

Number of political parties registered in Ukraine	Number of political parties submitted to the CEC properly drafted documents proving they approved participation of their local cells in elections	Number of political parties which have started promoting themselves in Ukrainian regions too early (as of 9/27/2015, according to OPORA)
294	132	51

11 parties, which local cells are participating in local elections, have launched early nationwide campaigns (Petro Poroshenko Bloc 'Solidarity', Nash Krai, AUU Batkivshchyna, Ukrainian Union of Patriots – UKROP, Samopomich Union, AUU Svoboda, Radical Party of Oleh Liashko, Revival Party, Opposition Block, Agrarian Party of Ukraine, and Narodnyi Kontrol (People's Oversight) Civic Movement party). These political parties started engaging the voters using various methods in more than 5 regions of Ukraine.

Table 2. Political parties, which local cells have started early campaign in many regions (before official registration of candidates).

Parties	Number of regions where local party cells were noticed campaigning from time to time (using various methods)
Petro Poroshenko Block 'Solidarity' party	25
Our Ukraine political party	24
All-Ukrainian Union Batkivshchyna political party	22
Ukrainian Union of Patriots – UKROP political party	21
Samopomich Union political party	19
All-Ukrainian Union Svoboda political party	16
The Radical Party of Oleh Liashko	16
Vidrodzhennia Party	14
Opposition Block political party	14
Agrarian Party of Ukraine	12
Narodnyi Kontrol (People's Oversight) Civic Movement political party	7

According to OPORA's calculations, 40 more parties, which local cells will probably participate in the elections, have spread their activities over 1-5 regions of Ukraine.

Table 3. Political parties, which local cells have started early campaign in some regions of Ukraine

Number of regions covered	Political parties
5	Serhii Kaplin's Party of Simple People
3	Party of Pensioners of Ukraine, Volia political party, Civic Position, Democratic Alliance, Ridne Misto.
2	People's Movement of Ukraine, Party of Free Democrats, Party 5.10, New Faces party, Party of Local Self-Government, Syls Liudei, Soviet Ukrainy, Ukrainian Galician party
1	All-Ukrainian party of Spirituality and Patriotism, United Centre party KMKS-Party of Hungarians of Ukraine People's Party, Hromadska Syls party, Auto-Maidan party, Vinnytsia European Strategy, AUU Cherkashchany, Hromada i Zakon party, Good Samaritan party. Trust Deeds party, European Party of Ukraine For Real Deeds party, For Ukraine, New Policy, Republican Party, Movement for Reforms Syls Hromad party, Socialists party, Thetia Syls party, Khersontsi party, Socialist Party of Ukraine, Ukrainian Marine Party of Serhii Kivalov, Ukrainian People's Party, Yednist Ukrainian party, Party of Motherland Defenders

Geography of early campaigning by local party cells shows that some potential participants of local elections are going to hold universal nationwide campaigns, and some will focus on local level. For example, there are parties which spread their activities only over the certain regions or cities (Vinnytsia European Strategy party (Vinnytsia obl.), For Real Deeds party (Khmelnysk obl.), Good Samaritan party (Ternopil obl.), AUU Cherkashchany (Cherkasy obl.), Ukrainian Marine Party of Serhii Kivalov (Odesa obl.), Movement for Reforms party (Kyiv city), Khersontsi party (Kherson obl.), KMKS-Party of Hungarians of Ukraine (Zakarpattia obl.), Trust Deeds party (Odesa obl.) and others).

Thus, as long as subjects of local policy cannot nominate themselves for members of oblastm raion, city, and raion in city councils, they are interested in holding campaigns on behalf of political parties which activities are directed, in fact, on a single region, city, or raion.²

MAIN TYPES OF VOTER ENGAGEMENT WORK. POTENTIAL CANDIDATES GIVING THE VOTERS MATERIAL INCENTIVES

There following voter engagement efforts were used the most often by local party cells and potential candidates: media advertising, outdoor advertising, social and charitable events, street events, campaigning tents, providing the voters with goods and services, implementation of infrastructural projects in communities. It should be mentioned that voter engagement efforts were much stronger in oblast centers than in other cities or raions.

² There is also a party focused on the interests of the certain national minorities.

Similarly to 2010 local elections, potential candidates and local party cells, which haven't officially registered as electoral subjects yet, widely disseminate goods, provide free services, organize infrastructural, social, and charitable projects. However, after official registration of candidates such activities would be classified as voter bribery and receive the corresponding legal assessment as voting rights violation. Besides that, observers have noticed that officials at local self-government bodies and current local councils are increasingly active in realization of social and infrastructural projects which are directly or indirectly related to the election process. It should be mentioned that both local representatives of every parliamentary party and a lot of non-parliamentary parties have used material incentives.

The most widespread examples of social/charitable and infrastructure-related events of potential candidates³:

- Arrangement of surrounding areas, housing repairs;
- Road repairs, street lighting repairs;
- Providing the voters with food certificates, giving discounts in stores;
- Providing educational, social and communal establishments with equipment;
- Distribution of goods, prizes and tangible assets during public events;
- Providing medical, legal and other services to the voters;
- Organizing free excursions for the voters and giving free tickets to cultural establishments;
- Construction of playgrounds and sports grounds.

It's typical for this election process that officials and members of local councils who usually are potential candidates become quite active. For example, current members of Kyiv City Council started realizing multiple infrastructural and social projects in Kyiv city. For example, members of Kyiv City Council use 2015 local budget funds intended to address citizen needs (according to the

³ **Some demonstrative examples of 'social' and 'charitable' activities of local party cells and potential candidates (not registered officially):**

Movement for Reforms political party organized various charitable events in Kyiv city the most often, with the same-named NGO involved sometimes (prize lotteries, events for children, steamboat excursions, free English language courses, free health examinations etc).

In Odesa, the following services were provided on behalf of candidates for members of Odesa City Council Oleksandr Ivanitskyi, Serhii Strashnyi and Andrii Ternovskyi representing the Trust Deeds party: water supply system repairs, road repairs in one microdistrict of the city, painting elevation of a an apartment building, construction of playgrounds, providing a kindergarten with free equipment. We would like to remind that Odesa City Mayor Hennadii Trukhanov is nominated for city mayor by the Trust Deeds party.

In Vinnytsia, free zoo entrance was allowed for all citizens on 20 September, and all the visitors were informed that member of oblast council Yurii Iordanov from the AUU Batkivshchyna party has initiated it. It should be mentioned that the zoo is a communal enterprise. In the village of Kalynivka (Sharhorod raion, Vinnytsia oblast), local cell of the Agrarian party has provided assistance for road repairs and construction of a bus stop.

In Kyiv oblast, parties New Faces and Samopomich Union were providing free legal services. However, to receive such services, citizens had to fill their personal data in a questionnaire and receive a plastic card.

Playgrounds are being widely constructed in Cherkasy on behalf of representatives of parties Petro Poroshenko Bloc 'Solidarity' and Party of Free Democrats.

corresponding city program, each Member of City Council receives 500 thousand UAH to address citizen needs).

At the same time, information boards are often placed on landscaping or reconstructions spots in the city, saying that Kyiv City Mayor Vitalii Klychko has contributed to these works (Vitaliy Klychko is registered for election by the Petro Poroshenko Bloc 'Solidarity' party).

Activities of Kryvyi Rih City Mayor Yurii Vilkul (Dnipropetrovsk oblast), related to local infrastructure projects, are widely covered by the media. It was noticed that infrastructural projects of Odesa City Council are presented as activities of the Doviriai Dilam party (Trust Deeds), which have nominated the current Mayor Hennadii Trukhanov for mayoral election. Local project “Yard in Mykolaiv”, financed from the local budget, is used by the City Mayor Yurii Hranaturov for advertising purposes while he's nominated in the upcoming mayoral election by the Nash Krai party. Similar projects are also being implemented in other territorial communities by officials of local self-government bodies, as well as potential or registered candidates.

The law on Local Elections doesn't prohibit public officials and civil servants at state authorities, government bodies of the Autonomous Republic of Crimea, and local self-government bodies, who are the candidates for local election, to campaign during working hours.

At the same time, regards candidates holding offices in state authorities, governmental bodies of the Autonomous Republic of Crimea, local self-government bodies, military units (commands), state and communal enterprises, establishments, institutions and organizations (including those holding two or more offices), shall not use corporate vehicles, means of communication, equipment, premises, other objects or resources at the place of his or her work, staff or production meetings, or corporate meetings for election campaigning, or to engage the following persons in his or her election campaign activity or use them for any kind of activity associated with election campaigning (Article 60 (1-2) of the Law of Ukraine on Local Elections).

As we have already seen in 2010 local elections, if persons holding offices at state authorities and local self-government bodies mix their official duties and campaign efforts, there are serious threats to competitiveness of the election process and equal opportunities principle.

However, if they use local development projects and official events of government bodies to advertise themselves in public and, of course, use resources of government bodies in their de-facto election campaign, it's not considered to be a violation of electoral legislation. These circumstances have caused non-competitiveness of 2010 elections, and they must be taken into consideration in this campaign. Moreover, it's inadmissible when candidates who hold public offices don't conduct election campaign, because they can simply be active as officials to advertise themselves.

Thus, it's obvious that it would be better if such officials standing as candidates took a leave for the election period. On one hand, the voters will clearly see the difference between activities in duty and campaigning. On the other hand, the candidates will have a chance to demonstrate that they are ready to refuse from misuse of administrative resources in elections.

NOMINATION AND REGISTRATION OF CANDIDATES AT LOCAL ELECTIONS

On September 21, 2015, the process of nomination of candidates by the local organizations of political parties has started together with self-nomination of candidates. The right to nominate candidates at the elections of deputies of oblast, rayon, city, and city rayon councils is exercised by citizens of Ukraine through local organizations of political parties which adopted a decision on participation of their local organizations in the corresponding local elections. While nomination of candidates at the elections of deputies of village and settlement councils, as well as mayors of villages, settlements and cities is carried out by local organizations of political parties or through self-nomination.

As noted above, relevant documents about the decision to participate in local elections were submitted to the CEC by 132 political parties. “A list of 142 political parties which have approved participation of their local organizations in regular local elections, the first elections to councils of united territorial communities, and of the corresponding village, settlement, and city councils scheduled for 25 October 2015.”⁴.

The Law of Ukraine “On Local Elections” sets a number of requirements to general procedure for nomination of candidates by the local organizations of political parties. In particular, nomination of candidates by the local organization of political party must be done at the meetings (conferences) of this local organization which are conducted in the manner prescribed by statute of political party (part 1 of article 37 of the Law of Ukraine “On Local Elections”). For this purpose, the local organization of political party shall notify in writing the relevant territorial election commission about the date, time and place of holding meeting or conference for nomination of candidates no later than one day before the day of the meeting or conference.

Members of the territorial election commissions have the right to attend such meetings or conferences. In addition, the local organization of political party must also notify the mass media about the date, time and place of the meeting or conference for nomination of candidates (part 5 of article 37 of the Law of Ukraine “On Local Elections”).

OPORA's representatives in every region of Ukraine were visiting meetings (conferences) of various local party cells. Such events were mostly conflict-free, and territorial election commissions and media were timely informed about the date and place of their conduct, allowing

⁴ <http://www.cvk.gov.ua/pls/vm2015/PVM109?PT001F01=100>

free access of journalists. At the same time, mass media representatives have faced access restrictions in some incidents. Such incidents were noticed the most often on meetings (conferences) organized by local cells of the Opposition Bloc (Volyn, Kirovohrad, Dnipropetrovsk, Zaporizhia, Zhytomyr, and Khmelnytsk oblasts). However, journalist of the Tochka OPORY newspaper wasn't barred from entering meeting of Nash Krai party local cell in Mykolaiv oblast. In Ternopil oblast, a journalist attending a meeting of AUU Svoboda's raion local cell was asked to leave the premises after nomination of candidates. He was explained that a confidential agenda item was going to be considered.

Some local party cells in Volyn oblast were changing location of conferences (meetings) and didn't inform neither territorial election commissions, nor the media about the corresponding changes (Agrarian Party of Ukraine).

As noted by OPORA observers, the meetings (conferences) of local organizations of political parties only on rare occasions were followed by internal conflicts within the parties. In particular, after the meeting of Sambir city organization of political party "Petro Poroshenko Bloc "Solidarity" the territorial election commission received information from some representatives of this party that the meeting was conducted in violation of statutory requirements (in regard to proper notification about the meeting to members of the party). In the city of Chernivtsi internal conflicts in the process of preparation of the meetings (conference) were recorded in local organizations of political parties "Petro Poroshenko Bloc "Solidarity" and "Samopomich" Union".

At the conference of the local organization of political party "Nash Krai" (Troitsk rayon, Luhansk oblast), it was revealed that one of the nominated candidates still occupies the position of head of the local organization of another party. Whereas the Law of Ukraine "On Local Elections" allows local organizations of political parties to nominate only those candidates who are members of this party or those who are non-party people.

At the same time, internal conflicts within the parties were not widespread during the first days of the process of nomination of candidates at local elections. Among other things, this is due to quite significant influence of the governing bodies of political parties on their local organization within the framework of electoral process, as provided by new Law of Ukraine "On local elections".

Local organizations of political parties and self-nominated candidates are eligible to submit documents for registration of candidates to the territorial election commissions until and including September 30. October 1 – last day for adopting decisions on registration of candidates by the territorial election commissions.

OPORA is monitoring the process of registration of candidates, and after the end of registration period it will provide the public with detailed information about the revealed circumstances of compliance with laws in this respect.

Meanwhile, as of today, there were some irregularities recorded in the process of registration of candidates in certain regions:

- *Local organizations of political parties did not always comply with the Law of Ukraine “On Local Elections” in terms of providing for representation of the required minimum number of persons of the same sex in the lists of candidates for deputies of local councils in multi-mandate constituencies, which should amount at least 30 per cent of all candidates included in the lists of candidates (part 3 of article 4 of the Law of Ukraine “On Local Elections”);*

Given these circumstances, the CEC has adopted a special decision, according to which the refusal to register candidates for deputies in the multi-mandate constituency during the elections of People’s Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, as well as the elections of deputies of oblast, rayon, city, and city rayon councils on the grounds of non-compliance with provision of the Law on representation of persons of the same sex in the lists of candidates for deputies of local councils in multi-mandate constituencies is prohibited⁵. The CEC calls our attention to the fact that the above-mentioned provision is not included in the list of grounds for refusal to register candidates for deputy, candidates for mayor of village, settlement, or city, and candidates for head of village or settlement nominated at local elections, as provided by part 1 of article 46 of the Law of Ukraine “On Local Elections”⁶.

- *There were several high profile incidents of refusal to register candidates at local elections based on decisions of TECs which occurred during the first days of the process of nomination and registration of candidates (starting from September 21, 2015).*

In particular, on September 28, 2015, Zaporizhzhya Oblast Election Commission refused to register candidates nominated by the local organization of political party “Nash Krai” in multi-mandate constituency at the elections of deputies of Zaporizhzhya Oblast Council. In its decision the Oblast TEC stated that the owned property, revenue, expenditure, and financial obligation returns (transparency returns) of persons nominated by the local organization of political party “Nash Krai” were missing some information: the dates of birth, and passport numbers of members of families of applicants were not filled in, while in some other cases the incorrect information about the place of work was submitted, the date of filling out the return was not indicated, not all members of applicant’s family were named, the phone number specified in the return did not belong to the applicant (Decision №29 as of September 29, 2015 adopted by Zaporizhzhya Oblast TEC).

⁵ Resolution #362 of 23.09.2015 on explanations concerning application of some regulations of the Law of Ukraine on Local Elections when registering candidates for members of Verkhovna Rada of the Autonomous Republic of Crimea, candidates for members of oblast, raion, city, raion in city, village, and settlement councils, as well as candidates for village, settlement, city heads and village, settlement headmen nominated by local party cells for regular, early and first local elections.

⁶ According to the available information, representatives of Syla Liudei party and Samopomich Union party has appealed against the CEC resolution to the court.

Members of the election commission conducted visual inspection of submitted transparency returns and revealed differences in handwriting which, according to their opinion, points to the fact that the relevant documents were filled out by different persons. As stated in the decision of Zaporizhzhya Oblast TEC, the scope, form, and content of circumstances, as specified above, indicate that these circumstances can't be treated as mistakes and inaccuracies in the submitted transparency returns, which makes it impossible to correct them. For the foregoing reasons, the territorial election commission has adopted a decision to refuse registration of candidates for deputies of Zaporizhzhya Oblast Council nominated by the local organization of political party "Nash Krai". However, in accordance with article 46 of the Law of Ukraine "On Local Elections" only the absence of documents required for the registration of candidates (the list of such documents includes the owned property, revenue, expenditure, and financial obligation returns), as provided by Law, can be one of the reasons for refusal to register a candidate. However, mistakes and inaccuracies found in the submitted documents for registration of candidates, subject to correction and not a reason for refusal to register a candidate (Part 12 of Article 41 of the Law of Ukraine "On Local Elections"). Nevertheless, the Oblast TEC has recognized the absence of some details in the transparency returns of persons nominated by the local organization of political party "Nash Krai" as a reasonable cause to believe that the relevant documents were not submitted to the election commission at all. In their turn, the representatives of the regional organization of political party "Nash Krai" are going to lodge a complaint against this decision of the territorial election commission in court.

Meanwhile, on September 28, 2015, Berdiansk City Election Commission took a decision to reject registration of city council candidates from the Opposition Bloc. According to the Commission, the documents for registration of candidates submitted by the local organization of political party "Opposition bloc" included improperly completed autobiographies, incorrect dates of birth (according to the Election Commission, the dates of birth specified in the application forms and in the passports did not match), many application forms were filled out by one person, and so on. But the main reason for the refusal to register candidates was the violation of Article 41 (5) of the Law on Local Elections, as long as the authorized representative of the local organization of political party has filed a letter of authority issued by the oblast organization of political party instead of city organization of the same party. Moreover, this letter of authority wasn't an original document, but only a photocopy which wasn't certified by a notary⁷.

At the same time, on September 27, 2015, the Cherkasy city election commission refused to register twelve candidates for deputies of the City Council nominated by the local organization of the Party of Free Democrats. As noted in the decision of the election commission, the documents lodged by the local organization of this political party violated the legislative requirements concerning autobiographies of nominated candidates.

⁷<http://www.oporaua.org/news/8529-u-berdjansku-lopozycijnomu-blokur-vidmovyly-u-rejestraciji-vranci-partijci-zibrallys-na-mityng>

FORMATION OF TERRITORIAL ELECTION CONSTITUENCIES AT LOCAL ELECTIONS

The lack of consistency and orderliness in legislation and the inability of the CEC to ensure adequate control on the process of formation of election constituencies for the elections of deputies of local councils resulted in systematic abnormal deviation from average number of voters in territorial constituencies. In practice, the territorial election commissions found it difficult to adhere to the declarative approach in the process of formation of election constituencies for the purpose of reaching the closest number to the average number of voters in each territorial constituency. As a result, about half of territorial constituencies which were formed for the elections of deputies of oblast councils have a deviation of more than 15% (allowable on the recommendations of the Venice Commission) from average number of voters in the election constituency. At the elections of deputies of rayon councils the number of such anomalous constituencies reaches 2/3 of the total number of election constituencies. Sometimes the maximum deviation from average number of voters in the territorial constituencies within one multi-mandate constituency reaches 790% for the elections of deputies of rayon councils and 240% for the elections of deputies of oblast councils. As can be seen from the above, the election commissions have violated the principle of equality of votes, given that the votes casted in small election constituencies weigh significantly more than the votes casted in large election constituencies formed within one and the same multi-mandate constituency. This can be a crucial factor in allocation of seats in the presence of personalized proportional representation voting system.

District formation procedure

The law stipulates that the elections of People's Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, as well as the elections of deputies of oblast, rayon, city, and city rayon councils are held according to the proportional representation system in the multi-mandate constituency the borders of which coincide with those of the Autonomous Republic of Crimea, oblast, rayon, city rayon, and city correspondingly in accordance with the existing administrative-territorial structure or the territory of united municipal community created under the Law of Ukraine "On voluntary association of territorial communities".

Each multi-mandate constituency is divided into territorial constituencies, the total number of which should be equal to the overall composition (the total number of deputies) of the corresponding council. The size of each council is determined in accordance with part 3 and part 4 of Article 16 of the Law, depending on the number of voters who belong to the corresponding territorial communities.

At the same time, the elections of deputies of village and settlement councils are held according to the system of relative majority in the single-mandate constituencies the borders of which coincide with the borders of the corresponding village (several villages the residents of which voluntarily

merged into one village community), settlement, territory of united village or settlement territorial community created under the Law of Ukraine “On voluntary association of territorial communities”.

On September 3, the CEC adopted a Decision⁸ on determining the number of territorial, single-mandate constituencies on the grounds of information from the State Register of Voters. These territorial constituencies were to be created by the corresponding territorial election commissions in the territories of administrative-territorial units for holding the elections of deputies of all the local councils.

The duty of creation of territorial and single-mandate constituencies was assigned to the corresponding territorial election commissions, as provided by Law:

- Oblast election commissions created territorial constituencies for holding the elections of deputies of oblast councils;
- Rayon election commissions created territorial constituencies for holding the elections of deputies of rayon councils;
- City election commissions and city rayon election commissions created territorial constituencies for holding the elections of deputies of city councils and city rayon councils;
- Village and settlement election commissions created single-mandate constituencies for holding the elections of deputies of village councils and settlement councils

The election commission had to adhere to the declarative approach in the process of creation of territorial constituencies for the purpose of reaching the closest number to the average number of voters in the territorial constituency of the corresponding multi-mandate constituency.

Also, the election commission had to take into account the administrative boundaries of the respective territories when creating the election constituencies:

- At the elections of deputies of oblast councils – the administrative boundaries of each rayon and city of oblast subordination.
- At the elections of deputies of rayon councils – the administrative boundaries of each village, settlement, and city of rayon subordination.
- At the elections of deputies of city councils - the administrative boundaries of each village, settlement, and city rayon which forms part of this city.

At least one or more territorial constituencies should be created in the territory of each of the above-mentioned administrative units. Such territorial constituency may include the whole territory or part of the territory of only one administrative-territorial unit within the borders of

⁸ CEC Resolution # 216 of 03.09.2015 on the number of territorial, single-member electoral districts, which are formed by oblast, raion, city, raion in city (in cities having raion in city councils), village, and settlement election commission to organize election to local councils in regular and first elections to local councils as well as of village, settlement, and city heads on 25 October 2015.

multi-mandate constituency. This means that each separate constituency created for holding the elections of deputies of oblast councils can't cover the territory of two (or more) rayons or cities of oblast subordination.

Analysis of district formation

Civic Network OPORA has analyzed the results of formation of territorial constituencies for holding the elections of deputies of all the oblast councils, 150 largest rayon councils, and all the city councils in the cities of oblast subordination in Ukraine.

The compliance of the number of voters in each of the territorial constituencies with the average number of voters in territorial constituency of the corresponding multi-mandate constituency was the main criterion for conducting this analysis.

According to the recommendations of the Venice Commission set out in the Code of Good Practice in Electoral Matters, the maximum permissible deviation from acceptable criterion of distribution of voters among constituencies should not exceed 10%, and in no case exceed 15% except in special circumstances (such as protection of interests of compactly settled minority, administrative unit with low population density).

OPORA revealed that in almost half of the territorial constituencies created for holding the elections of deputies of oblast councils the extent of deviation from average number of voters is much higher than the permissible rate of 15%. In more than 50 territorial constituencies created for holding the elections of deputies of oblast councils the extent of deviation from the average number of voters is more than 100%. Territorial constituency №9 in the city of Kharkiv created for holding the elections of deputies of Kharkiv oblast council and totaling 60,779 voters which is 242% more than the average number of voters in territorial constituency within the boundaries of corresponding multi-mandate constituency. The number of voters in the territorial constituency №68 (the city of Zaporizhzhya) created for holding the elections of deputies of Zaporizhzhya oblast council is 191% more than the average number.

Table 4. Oblast Councils: territorial election constituencies with maximum deviation from average number of voters.

Local council	TED #	Number of voters in the TED	Average number of voters in a multi-mandate district	Discrepancy from the average number of voters
Kharkiv Oblast Council	9	60779	17764	242%
Zaporizhia Oblast Council	68	48490	16657	191%
Mykolaiv Oblast Council	49	36741	14135	160%

Odesa Oblast Council	81	53802	21259	153%
Lviv Oblast Council	1	45561	23290	96%

In average, the size of the largest constituencies created for holding the elections of deputies of oblast councils exceed four times the size (in terms of number of voters) of the smallest constituencies. For example, territorial constituency №9 created for holding the elections of deputies of Kharkiv city council totals more than 60,000 voters, while in territorial constituency №78 there are only about 5,000 voters. Territorial constituency №1 created for holding the elections of deputies of Lviv city council totals 45,000 voters, while in territorial constituency №21 there are less than 4 thousand voters.

Table 5. Oblast councils: territorial election constituencies with the largest and the smallest number of voters (by each oblast)

Local council	Number of voters in the largest TED	TED #	Number of voters in the smallest TED	TED #	Average number of voters in a multi-mandate district
Vinnitsia Oblast Council	24370	75	9455	10	15086
Volyn Oblast Council	17483	19	9186	9	12176
Dnipropetrovsk Oblast Council	42379	59	5671	3	21617
Zhytomyr Oblast Council	22836	34	6629	22	15431
Zakarpattia Oblast Council	20525	5	7031	64	14871
Zaporizhia Oblast Council	48490	68	6228	8	16657
Ivano-Frankivsk Oblast Council	17105	84	9601	37	12681
Kyiv Oblast Council	27214	51	4605	44	17340
Kirovohrad Oblast Council	18172	47	5892	64	11933
Lviv Oblast Council	45561	1	3821	21	23290
Mykolaiv Oblast Council	36741	49	7477	9	14135
Odesa Oblast Council	53802	81	7658	83	21259
Poltava Oblast Council	20229	1	9921	31	13892
Rivne Oblast Council	19215	19	10112	52	13494
Sumy Oblast Council	23439	48	9829	64	14137
Ternopil Oblast Council	18367	47	9487	34	13153

Kharkiv Oblast Council	60779	9	5277	78	17764
Kherson Oblast Council	25625	62	6859	16	13267
Khmelnytskyi Oblast Council	17300	58	7940	78	12216
Cherkasy Oblast Council	19176	84	6777	63	12172
Chernivtsi Oblast Council	11972	38	8268	8	9849
Chernihiv Oblast Council	24947	57	7972	37	13387

The difference in the size of territorial constituencies created for holding the elections of deputies of rayon councils is even more striking. Two thirds of territorial constituencies created for holding the elections of deputies of rayon councils have a deviation of more than 15% from average number of voters in the constituency. In more than 180 constituencies the deviation rate exceeds 100%. For example, territorial constituency №1 (Zbarazh city) created for holding the elections of deputies of Zbarazh rayon council (Ternopil oblast) totals 10,360 voters, which is 790% more than the average number of voters in the territorial constituency of the corresponding multi-mandate constituency (equaling to 1163 voters). Similar abnormal deviations were recorded in territorial constituency №1 created for holding the elections of deputies of Sokal rayon council (Lviv oblast) - 705%, in territorial constituency №1 created for holding the elections of deputies of Kolomyia city council (Ivano-Frankivsk oblast) - 677%, in territorial constituency №1 created for holding the elections of deputies of Pryluky rayon council (Chernihiv oblast) - 656%.

Table 6. Rayon councils: territorial election constituencies with maximum deviation from average number of voters. Top-20.

Oblast	Local councils	TE D #	Number of voters in the TED	Average number of voters in a multi-mandate district	Discrepancy from the average number of voters
Ternopil	Zbarazh Raion Council	1	10360	1163	790%
Lviv	Sokal Raion Council	1	15426	1916	705%
Ivano-Frankivsk	Kolomyia Raion Council	1	14420	1857	677%
Lviv	Yavoriv Raion Council	2	19420	2531	667%
Chernihiv	Pryluky Raion Council	1	5518	730	656%
Ternopil	Zboriv Raion Council	1	5724	808	609%
Chernihiv	Kozelets Raion Council	2	7849	1150	583%

Volyn	Horokhivsk Raion Council	1	6849	1022	570%
Kyiv	Vasylkiv Raion Council	1	7868	1267	521%
Chernihiv	Kozelets Raion Council	3	6663	1150	480%
Ternopil	Zboriv Raion Council	26	4570	808	466%
Lviv	Zhovkva Raion Council	1	10226	1813	464%
Donetsk	Mariinka Raion Council	6	11570	2136	442%
Ivano-Frankivsk	Tysmenytsia Raion Council	1	7733	1525	407%
Donetsk	Oleksandrivka Raion Council	1	4466	943	374%
Chernihiv	Kozelets Raion Council	1	5412	1150	371%
Ternopil	Husiatyn Raion Council	4	5991	1323	353%
Zhytomyr	Novohrad-Volynsk Raion Council	6	3937	882	346%
Kyiv	Vasylkiv Raion Council	2	5516	1267	335%
Lviv	Pustimyty Raion Council	1	9676	2241	332%

More than one third of territorial constituencies created for holding the elections of deputies of city councils in the cities of oblast subordination also exceed the permissible deviation rate of 15%. For example, territorial constituency №39 created for holding the elections of deputies of Ivano-Frankivsk oblast council has 65% less voters than the average territorial constituency does in the multi-mandate constituency. The size of four constituencies (№№ 6, 27, 14, 3) created for holding the elections of deputies of Ternopil city council is about 50% smaller than the average size of constituency in the multi-mandate constituency.

Table 7. City councils in oblast centers: territorial election constituencies with maximum deviation from average number of voters.

Local council	TED #	Number of voters in the TED	Average number of voters in a multi-mandate district	Discrepancy from the average number of voters
Ivano-Frankivsk City Council	39	1491	4258	-64.98%
Sumy City Council	8	2467	5657	-56.39%
Vinnytsia City Council	7	2451	5301	-53.76%
Ternopil City Council	6	1977	4250	-53.48%

Ternopil City Council	27	2002	4250	-52.89%
Ternopil City Council	14	2346	4250	-44.80%
Ternopil City Council	3	2373	4250	-44.16%
Lviv City Council	64	5512	9305	-40.77%
Lviv City Council	17	5624	9305	-39.56%
Lutsk City Council	40	2300	3724	-38.23%

ACTIVITIES OF TERRITORIAL ELECTION COMMISSIONS

A total of 10,619 territorial election commissions were created for holding the local elections on October 25, 2015.

In accordance with the Law of Ukraine “On local elections”, the CEC has appointed 22 TECs in oblasts, 146 TECs in the cities of oblast subordination, 462 TECs in rayons, 10 TECs in the city rayons of Kyiv.

In their turn, the territorial election commissions appointed by the CEC created 213 TECs in the cities of rayon subordination, 73 TECs in the city rayons, 567 TECs in settlements, 9126 TECs in villages. In accordance with the law, the territorial election commissions in rayons appointed the territorial election commissions in cities, villages and settlements (except for cities of oblast subordination, as well as those cities, villages, and settlements which form part of other cities). Meanwhile, the territorial election commissions in cities (in cities with division into rayons, except for the cities of Kyiv and Sevastopol⁹) appointed the territorial election commissions in city rayons. Territorial election commissions in those cities, which include territories of other cities, settlements, villages, were authorized to appoint the territorial election commissions in the corresponding cities, settlements, and villages (article 22 of the Law of Ukraine “On Local Elections”).

Turnover of members included in the composition of the election commissions is a common problem which hinders the activity of election commissions in Ukraine. OPORA monitors on a permanent basis the turnover of members of territorial election commissions formed by the CEC (TECs in oblasts, rayons, cities of oblast subordination, and rayons in the city of Kyiv).

As of September 28, 2015, as many as 793 members of territorial election commissions in oblasts, rayons, cities of oblast subordination, and rayons in the city of Kyiv were replaced as from the date of appointment of these election commissions (September 06, 2015). The number of replaced members of territorial election commissions accounts for nearly 8% of all the members of these election commissions.

⁹Local elections are not held in the city of Sevastopol on 25 October 2015.

Table 8. “Turnover of members of TECs appointed by CEC shown separately for each of the political parties with the highest representation of their members in the corresponding election commissions”.

Political parties with the highest representation in TECs, formed by the CEC	Portrait of TEC members	Number of substituted TEC members	Rotation in % to the total number of TEC members
Petro Poroshenko Block 'Solidarity' party	1730	113	6.5%
All-Ukrainian Union Batkivshchyna	1688	132	7.8%
Opposition Block	1362	75	5.5%
The Radical Party of Oleh Liashko	1315	97	7.3%
People's Front	1199	122	10.2%
Ukrainian Union of Patriots – UKROP	345	34	9.8%
Samopomich Union	313	13	4.2%
Nash Krai	255	23	9%
All-Ukrainian Union Svoboda	247	17	6.9%
Vidrodzhennia Party	165	3	1.8%
Nova Derzhava	160	11	6.8%
Liberal Party of Ukraine	127	3	2.3%
Agrarian Party of Ukraine	120	4	3.3%
UDAR (Ukrainian Democratic Alliance for Reform) of Vitalii Klychko	90	-	-
New Policy party	74	25	33.7%
SOCIALISTS	72	2	2.7%
People's Party	71	7	9.8%
Civic Position	61	9	14.8%
Strong Ukraine party of Serhii Tihipko	45	3	6.6%
Narodnyi Kontrol (People's Oversight) Civic Movement	40	1	2.5%

Rotation of TEC members is much lower if compared to rotation of DEC members in 2014 early parliamentary elections in Ukraine and, therefore, doesn't threaten their stability. This trend is linked to the term of office of the TECs which runs until the next regular local elections. Subjects of nomination of candidates for member of TEC were interested in choosing their representatives who are motivated to exercise the authority of member of TEC.

As noted by OPORA observers, most of the TECs exercise their powers at local elections in a lawful manner, while ensuring proper implementation of electoral procedures and conflict-free nature of their interaction with the subjects of the election process.

However, OPORA observers recorded the following issues regarding activity of TECs which were not widespread:

1) Failure to comply with the time limits for creation of the election constituencies and inadequate adherence to election procedures by election commissions.

In particular, the above-mentioned violations were committed by Gorokhiv rayon election commission (Volyn oblast), Poltava rayon and Dykan'ka rayon election commissions (Poltava oblast), Bucha city election commission (Kyiv oblast), Dubrovytsya city and Rokytne settlement TECs (Rivne oblast), Reni rayon TEC (Odessa oblast).

Representatives of OPORA also noted that the decision on creation of territorial constituencies for holding the elections of deputies of city council issued by Dnipropetrovsk city election commission differs significantly from the decision adopted at the relevant meeting of TEC¹⁰.

2) Failure to comply with the time limits for creation of TECs and problems with appointing their members.

The time limits for creation of TECs were breached, in particular by Novoselytsya rayon election commission (Chernivtsi oblast), Shatsk rayon election commission (Volyn oblast), and some other election commissions. Novomykolaivka rayon TEC, which created TECs in villages, settlements, and cities (in the cities of rayon subordination), failed to comply with deadlines for adopting the decision on nomination of candidates of the local organization of "Petro Poroshenko Bloc" "Solidarity" for membership in TEC. OPORA observers noted the low interest of local organizations of political parties in nomination of candidates for membership in TECs of villages and settlements.

3) Restrictions on the right of journalists to be present at the meetings of election commissions.

For example, Rubizhansk City Election Commission (Luhansk Oblast) has established a special procedure for submission of registration documents on commission meetings, what is not envisaged by the Law. Besides that, on 22 September, this very Commission has unanimously adopted a decision on non-admission of the journalist of "Tochka OPORA" newspaper to their meetings. At the same time, members of Dnipropetrovsk city election commission with the involvement of armed men wearing "Sicheslav" chevrons illegally denied the reporter of "Tochka OPORA" newspaper the right to attend the meeting of the election commission which was held on September 26, 2015.

Meanwhile, the activities of Kyiv oblast election commission performed in the premises of Kyiv Oblast State Administration, which has a special regime for public access, make it difficult for the subjects of electoral process to get acquainted with the decisions of this election commission, and also make it difficult for the representatives of mass media to attend its meetings.

¹⁰<http://www.oporaua.org/news/8426-u-dnipropetrovsku-pidroblyly-mezhi-vyborchyh-okrugiv>

VOTING RIGHTS OF INTERNALLY DISPLACED PERSONS IN LOCAL ELECTIONS SCHEDULED FOR 25 OCTOBER 2015

The problem of securing IDPs' voting rights remains topical while the government fails to resolve it. Participation of IDPs in local elections became pressing issue yet on the stage of drafting the Law of Ukraine on Local Elections.

In particular, mechanisms securing voting rights of internally displaced persons were provided by the Draft Law of Ukraine on Local Elections #2831-2, which was developed by a Working Group under the Chairman of the Verkhovna Rada in May-June 2015 comprising a number of NGOs and MPs. Before the second reading of the Draft Law of Ukraine on Local Elections #2831-3, which was adopted by the Verkhovna Rada later, it was corrected in a way to secure voting rights of internally displaced persons.

Despite there were propositions to the law, Ukrainian Parliament failed to resolve this problem or at least discuss it properly. Taking into consideration inaction of the deputy corps, Civil Network OPORA, Donetsk Oblast Organization of the Committee of Voters of Ukraine, Crimea-SOS, East-SOS, and the Right for Protection Charitable Fund in cooperation with a number of MPs, have registered in the Verkhovna Rada a Draft Law of Ukraine #2501a-1 on Amendments to Some Legislative Acts Guaranteeing Voting Rights of Internally Displaced Persons.

It was proposed in the bill to ascertain that internally displaced persons belong to the certain territorial community on the basis of their residence address, indicated in an IDP registration certificate received in compliance with the Law of Ukraine on the Rights and Freedoms of Internally Displaced Persons.

However, to change territorial communities for local elections, eligible to vote IDPs would have to submitting a personal application to a Voter Register maintenance body in order to change their election address in accordance with the Law of Ukraine on the State Voter Register. If IDPs don't apply to a State Voter Register maintenance body, their election address will remain the same, belonging to a temporarily occupied territory.

Thus, the bill provides that internally displaced persons who have chosen to integrate in new territorial communities can participate in local elections after filing in the corresponding personal application. Such approach, according to OPORA, will guarantee voting rights of internally displaced persons in local elections and corresponds to Guiding Principles on Internal Displacement (1998), Recommendation #1877 of the Parliamentary Assembly of the Council of Europe (2009), and Recommendation of the Council of Europe's Committee of Ministers on internally displaced persons (2009) (to provide internally displaced persons with an opportunity to choose among three alternatives: to come back home, to integrate at the place of residence, or to move to other safe region of the country). This legislative initiative would allow to avoid indirect discrimination of internally displaced persons concerning realization of their constitutional right to elect local self-government bodies. At the same time, participation of internally displaced persons in the elections could become an integration instrument.

There were also two alternative draft laws registered in the Parliament (**#2501a, 2501a-2**), providing other mechanisms to secure voting rights of internally displaced persons.

The closer the election day is, the less chances we have to get the law securing IDPs' voting rights. However state authorities including the Parliament have failed to take any public position on the issue of IDPs' voting rights. This fact contributes to neither integration of internally displaced persons, nor consolidation of Ukrainian society.

Recommendations

TO THE VERKHOVNA RADA OF UKRAINE:

- Review the requirements for registration of candidates in the multi-mandate constituency in terms of compliance with the gender quota of 30%, make provision for imposing sanctions against those political which fail to comply with part 3 of article 4 of the Law of Ukraine “On Local Elections”, and legislate the comprehensive set of requirements for submission of documents by local organizations of political parties, which plan to register the list of candidates, in order to avoid ambiguous interpretations of these requirements at the level of TECs;
- Determine the maximum permissible percentage of deviation from average number of voters in territorial election constituencies in order to ensure the equal weight of each mandate at the stage of their division into constituencies;
- Establish administrative liability of potential participants in the electoral process who began their activities with signs of campaigning after the official start of the election campaign, but prior to their actual registration as electioneers, in order to ensure equal opportunities for candidates;

TO THE CENTRAL ELECTION COMMISSION

- Analyze the results of creation of territorial election constituencies, and make public the conclusions on compliance with the internationally recognized standards for territorial organization of elections at the level of TECs, and forecasts on adherence to the principle of equal weight of each mandate. Make recommendations for settling the issue through law on the grounds of these conclusions;
- Promote the uniform application of the law of Ukraine on elections throughout Ukraine, especially at the stage of registration of candidates.