

## INTERNATIONAL ELECTION OBSERVATION MISSION Ukraine – Early Parliamentary Elections, 21 July 2019

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### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

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#### PRELIMINARY CONCLUSIONS

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In the 21 July early parliamentary elections in Ukraine fundamental rights and freedoms were overall respected and the campaign was competitive, despite numerous malpractices, particularly in the majoritarian races. Generally, the electoral administration was competent and effective despite short time available to prepare the elections, which were seen as an opportunity to consolidate reforms and changes in politics that Ukrainian voters are hoping for. In sharp contrast, the campaign was marked by wide-spread vote-buying, misuse of incumbency, and the practice of exploiting all possible legislative loopholes, skewing equality of opportunity for contestants. Intertwined business and political interests dictate media coverage of elections and allow for the misuse of political finance, including at the local level. Election day was overall peaceful, with observers of the International Election Observation Mission (IEOM) assessing opening and voting positively in the overwhelming majority of polling stations observed, but procedural shortcomings were noted in the counting and tabulation.

The elections took place in the context of ongoing armed conflict and other hostilities in the east of the country and the illegal annexation of the Crimean peninsula by the Russian Federation. As a consequence, the elections could not be organized in Crimea and certain parts of Donetsk and Luhansk *oblasts* that are controlled by illegal armed groups.

The Ukrainian Constitution guarantees rights and freedoms that underpin democratic elections. The legal framework remains largely unchanged since the last parliamentary elections, with the exception of the 2015 campaign finance reform. Although overly detailed and convoluted, it provides a sound basis for the conduct of democratic elections, if implemented in good faith. Some restrictions on the freedom of association and on candidacy rights remain despite prior ODIHR recommendations. A number of other ODIHR recommendations remain unaddressed, including on voter registration, composition of election commissions and simplification of dispute resolution process.

Parliament is elected for a five-year term. Half of the members are elected on the basis of a proportional system with closed party lists in one single nationwide constituency. Parties must receive at least five per cent of all votes cast in order to participate in the distribution of mandates. The other half of the members are elected in single mandate districts (SMDs) in a single round. This component was systematically criticized by many IEOM interlocutors as subject to corruption and fraud by powerful local interests. If the electoral code adopted on 11 July enters into force, the electoral system will be changed to a fully proportional one with multi-member districts and open party lists.

Despite a narrow timeframe, the Central Election Commission (CEC) administered the early elections in a technically efficient manner, approved the main procedural rules within the legal deadlines and overcame challenges created by the procurement rules and deadlines. While its sessions were open, the long standing practice of holding preparatory meetings prior to sessions and the resulting lack of substantive discussions in the sessions themselves decreased the transparency of the CEC's work.

District Election Commissions (DECs) and Precinct Election Commissions (PECs) were formed on time and performed in an overall professional manner. A significant number of members, including in executive positions, were replaced by parties who had nominated them until as late as election day. Large scale replacements undermined the stability and efficiency of the work of lower level

commissions and diminished the value of the training they received. Several “technical” contestants were registered in order to provide their positions in election commissions to other contenders. This practice does not ensure a balanced composition and proportional representation of contestants envisaged by the law and international good practice.

The State Voter Register includes some 35.6 million voters. Despite the exclusion of approximately one million voters without a registered address, the vast majority of interlocutors expressed confidence in the accuracy of the voter register. In a welcome development, the previously simplified procedure for internally displaced persons (IDPs) to change their voting address, has now been extended to all voters. Outreach and voter education activities to explain this change were limited; only some 47,000 IDPs changed their address. The blanket denial of voting rights of persons recognized by a court to lack legal capacity on the grounds of mental disability is at odds with international obligations.

Overall, candidate registration resulted in a diverse field of candidates with the registration of 22 political parties for the nationwide race, and over 3,000 candidates for the SMDs. However, disproportionate limitations on the right to stand based on a non-expunged criminal record for an intentional crime, regardless of its severity, and residency requirements, and restrictive interpretation of candidate registration rules negatively impacted the inclusiveness of the process.

Thirteen out of 22 party lists complied with the 30 per cent requirement for women candidates, and there is no enforcement mechanism. Of the total number of registered candidates, 23 per cent are female. While women representation in the nationwide constituency lists is at 31 per cent, only 16 per cent of SMD candidates were women. During the campaign, women candidates were less visible in the media than men. Women are underrepresented in public office, holding only 12 per cent of seats in the outgoing parliament. Women were well-represented at all levels of election administration. The majority of the CEC members are women, including the Chair and Secretary.

Overall, contestants were able to freely convey their messages to the electorate and fundamental freedoms of expression and assembly were respected. The campaign was competitive with a range of candidates representing a wide spectrum of political options. The misappropriation of one party’s brand name by several self-nominated candidates characterized these elections, and more than 46 investigations were opened into “clone” candidates. Vote-buying was widespread in these elections as evidenced by more than 125 criminal investigations. Misuse of incumbency did not ensure equality of opportunity for contestants.

Campaign finance amendments adopted in 2015 partly addressed some prior ODIHR and Council of Europe Venice Commission recommendations to increase transparency and accountability. However, the implementation of the regulatory framework does not ensure transparency of campaign finances and continues to allow for influence of patronage networks and big donors on politics, and undue influence of campaign spending on the will of voters. Existing sanctions are neither proportionate nor dissuasive. As required by law all parties opened dedicated bank accounts while some 25 per cent of majoritarian candidates failed to do so.

The Constitution guarantees freedom of expression and prohibits censorship, and the legal framework provides for general media freedom. The overall media market is diverse, but largely divided along political lines, and ownership is highly concentrated. The editorial policy and political agenda promoted by private media outlets exclusively serve the interests of their owners, which undermines media autonomy and public trust. Journalists’ safety remains a major concern. The public broadcaster *UA:PBC* is severely underfunded, which affects its ability to fully perform its public-service role required by the law. The media regulatory body chose not to exercise its powers to effectively respond to media violations.

ODIHR media monitoring results showed that provisions for balanced and unbiased coverage of the campaign and candidates were frequently violated by the monitored private TV channels. Broadcasters widely covered the contestants through the format of political debates. Paid advertisement was used extensively by the main parties. A high number of unmarked promotional materials were noted in prime-time news of most monitored private TV channels, a practice that violates the law, misleads voters and does not provide genuine information. In line with the law, *UA:PBC* provided all 22 parties with free airtime.

The Constitution provides for full political, civil and social rights for national minorities. However, the legal framework pertaining to national minorities is fragmented and outdated. Several interlocutors expressed concern that the SMD delimitation is not favourable to national minority representation. Candidates were able to use minority languages in campaign materials and while campaigning.

The right to seek effective legal remedy is guaranteed by law and provides for timely consideration. However, jurisdictions of election commissions and administrative courts overlap. An inconsistent and overly formalistic approach to addressing complaints did not ensure effective remedy. Prior to election day, the CEC received some 150 complaints, of which more than half were deemed inadmissible on technical grounds, contrary to good practice. Only one third of the complaints were reviewed in open sessions and the rest was behind closed doors, which undermined transparency. The police registered some 8,500 possible election-related offences and initiated over 500 criminal investigations.

The law provides for election observation by international and citizen observers. Following the reinstatement of voting rights of the Russian delegation to the Parliamentary Assembly of the Council of Europe (PACE), the Ukrainian authorities withdrew their invitation to the Assembly to observe the elections. The CEC registered 163 Ukrainian non-governmental organizations (NGOs) to observe the elections, most of them only recently created.

Election day was overall peaceful, with a voter turnout of 49.84 per cent announced by the CEC. IEOM observers assessed opening and voting positively in the overwhelming majority of polling stations observed. Voting was transparent and well organized with a high level of adherence to established procedures. There were cases of voters not allowed to vote because they were not on the voter list. Vote count was transparent; however, basic reconciliation procedures were often not followed and in over one third of observations steps prescribed for completing the protocol were not adhered to. The early stages of tabulation were assessed negatively in one fifth of DECAs, mainly due to tensions in or around the DECAs and inadequate conditions at DECAs that caused overcrowding and limited transparency, as well as restrictions on observers' access in eight DECAs. Copies of protocols were not systematically provided to those entitled to them. Throughout election day, candidate and party observers were present in the vast majority of polling stations while citizen observers were noted in approximately one third.

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## **PRELIMINARY FINDINGS**

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### **Background and Political Context**

On 20 May, the day of his inauguration, President Volodymyr Zelenskyy announced his intention to dissolve parliament and call early elections. The presidential decree issued on 21 May set the elections for 21 July, some four months ahead of the expiration of the current parliament's term. The president used his power to dissolve parliament on the grounds that the ruling coalition did not have the support of the majority in the parliament.<sup>1</sup> A constitutional challenge was filed against the decree by 62 members of

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<sup>1</sup> A vote of no-confidence in the ruling coalition can also be requested by president and one third of the MPs.

the parliament (MPs).<sup>2</sup> On 20 June, the Constitutional Court ruled in favour of early elections.<sup>3</sup> Since President Zelenskyy's inauguration, tensions have been visible in the relationship between parliament and the president.<sup>4</sup>

The upcoming elections are widely perceived as a continuation of the spring 2019 presidential race which resulted in Mr. Zelenskyy's landslide victory.<sup>5</sup> The result has been described as an expression of widespread disillusionment of voters with the current political establishment and a desire to break with the "old system" in which state institutions enjoy little trust, corruption is perceived to be rampant and powerful economic interests of wealthy businesspersons (known as "oligarchs") strongly shape political and decision-making processes.

The last parliamentary elections were also held early and took place on 26 October 2014. Following the elections, a government was formed by a five-party coalition between Petro Poroshenko Bloc (PPB, 146 seats), People's Front (PF, 83), *Samopomich* (Self-Reliance, 32), *Batkivshchyna* (Fatherland, 19) and Radical Party (RP, 22).<sup>6</sup> The ruling coalition fractured in February and March 2016, leaving only two of the original 2014 coalition parties – the PPB and the PF – supporting the government.

Women are underrepresented in public office, holding only 12 per cent of seats in the outgoing parliament and merely 4 out of 198 in single-mandate districts (SMDs). Six of the 24 ministerial posts are held by women.<sup>7</sup>

The elections took place in a challenging political, economic and security environment, against the backdrop of continuous challenges to Ukraine's territorial integrity. The overall context is characterized by ongoing armed conflict and other hostilities in the east of the country and the illegal annexation of the Crimean peninsula by the Russian Federation, resulting in the continued control of certain parts of Donetsk and Luhansk *oblasts* by illegal armed groups. Since 2014, elections could not be held in these territories. 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 persistent attacks on fundamental freedoms and a deteriorating humanitarian situation.<sup>8</sup>

## Electoral System and Legal Framework

Parliament is composed of 450 members elected for a five-year term. Half of the MPs are elected on the basis of a proportional system with closed party lists in one single nationwide constituency. Political parties must receive at least five per cent of all votes cast in order to participate in the distribution of mandates of the proportional component. The other half of the MPs are elected in SMDs under a

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<sup>2</sup> The plaintiffs claimed that the ruling coalition ceased to have the majority in the parliament on 17 May 2019, when the People's Front (PF) withdrew, that the legal deadline of a month for the parliament to form a new coalition would expire on 17 June and that the President dissolved the parliament before the expiration of this deadline.

<sup>3</sup> The Constitutional Court decision stated that the issue of the ruling coalition is not regulated by the parliament's Rules of Procedure and that the people of Ukraine are sovereign to resolve the constitutional conflict through early elections.

<sup>4</sup> President's legislative initiatives on the election law, public procurement, lifting the immunity of MPs and impeachment of the president were not included on the agenda by the parliament, which adopted a different law envisaging a procedure for a president's impeachment. This law "On temporary investigatory commission and temporary special commissions of the Verkhovna Rada" was neither signed by the president nor returned to parliament for reconsideration within the 15 day deadline.

<sup>5</sup> In the second round, Mr. Zelenskyy won 73.22 per cent of votes cast. Voter turnout was announced at 62.1 per cent.

<sup>6</sup> The remaining parliamentary seats were distributed among the Opposition Bloc (40), the Revival (19), People's Will (19) and non-affiliated members (43).

<sup>7</sup> Ukraine has ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). The periodic report of Ukraine Concluding observations of the Committee on the Elimination of Discrimination against Women was published in [March 2017](#).

<sup>8</sup> See the [reports of the Office of the United Nations High Commissioner for Human Rights](#).

plurality system in a single round (first-past-the-post). The majoritarian component has been criticized by several ODIHR EOM interlocutors as subject to corruption and fraud by powerful local interests. MPs elected on party tickets lose their seat if they fail to join or to leave the party faction, which is at odds with international commitments.<sup>9</sup> Pre-election coalitions of parties are not allowed.

Elections were held only in 199 of the 225 SMDs.<sup>10</sup> Contrary to international good practice, there is no legal requirement to regularly review district boundaries, which was last done in 2012. The number of registered voters in SMDs ranges from 129,668 to 200,070 with significant deviations of up to 23.91 per cent from the established average of 161,140.<sup>11</sup> Such deviations hamper the equality of vote.<sup>12</sup> In addition, a number of SMDs in the conflict-affected parts of eastern Ukraine have a much smaller number of registered voters.<sup>13</sup> See also section on *National Minorities*.

The Constitution guarantees rights and freedoms that underpin democratic elections. Parliamentary elections are further regulated by the 2011 Law on the Election of People's Deputies (hereinafter, election law, amended in 2019) and CEC regulations. The legal framework is overly detailed and convoluted but generally sufficient for the conduct of democratic elections, if implemented in good faith. It remains largely unchanged since the last parliamentary elections in 2014, with the exception of the 2015 campaign finance reform. On 11 July, an election code was adopted, which had been pending in the parliament since 2010 and passed the first reading in 2017. It introduces a fully proportional election system in multi-member districts and open party-lists.<sup>14</sup>

The legal framework contains some undue restrictions on the freedom of association, including a ban on communist and national-socialist parties and candidates nominated by such parties.<sup>15</sup> These bans were assessed as not fully in line with international obligations and standards.<sup>16</sup> In addition, the legislation provides wide discretionary powers to authorities to deny registration and to deregister political parties on the grounds of threats to national security and public order.<sup>17</sup> Moreover, a number of prior ODIHR

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<sup>9</sup> Paragraph 7.9 of the 1990 OSCE Copenhagen Document states “that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures”.

<sup>10</sup> They were not held in 26 SMDs in areas declared by the parliament as “temporarily occupied territories”, namely in the 12 SMDs in the Autonomous Republic of Crimea and the city of Sevastopol (Crimea), in 9 of the 21 in Donetsk *oblast* and 5 of 11 in Luhansk *oblast*. Subsequently, only 199 of the 225 majoritarian seats will be filled in the new parliament which will be composed of a total of 424 members.

<sup>11</sup> SMD 207 (Chernihiv *oblast*) has the smallest number of registered voters whereas SMD 95 (Kyiv *oblast*) has the largest.

<sup>12</sup> See Paragraph 7.3 of the 1990 OSCE Copenhagen Document. Section I.2.2.iv of the 2002 Code of Good Practice in Electoral Matters (Code of Good Practice) of the European Commission for Democracy Through Law (Venice Commission) recommends that “the permissible departure from the norm should not be more than 10 per cent and should certainly not exceed 15 per cent except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity)”.

<sup>13</sup> For instance, SMDs 45 (41,543 registered voters), 51 (2,698) and 52 (62,560) in Donetsk *oblast* and 105 (9,162), 112 (64,458) in Luhansk *oblast*.

<sup>14</sup> The code regulates all types of elections and, if promulgated by president, will be applicable as of 1 December 2023.

<sup>15</sup> The Law on condemnation of communist and national-socialist totalitarian regimes and prohibition of propaganda of their symbols was adopted in 2015. Subsequently, article 60 of the election law was amended. On 16 July 2019, the Constitutional Court ruled in favour of the constitutionality of the law. The ruling was made in response to challenges to the law filed by the banned Communist Party in 2016 and by a group of MPs in 2017.

<sup>16</sup> See the Venice Commission opinions on [“The Law on condemnation of communist and national socialist \(Nazi\) regimes and prohibition of propaganda of their symbols”](#) and [“On the amendments to the Law on Elections regarding the exclusion of candidates from party lists”](#).

<sup>17</sup> The Ministry of Justice did not provide information on the parties denied registration, but informed that political parties “Russian Unity” and “Russian Bloc” were deregistered in 2014.

recommendations remain unaddressed, including on candidate and voter registration, composition of election commissions and simplification of dispute resolution process.

## Election Administration

Parliamentary elections were administered by the Central Election Commission (CEC), 199 District Election Commissions (DECs) and 29,885 Precinct Election Commissions (PECs). Women were well-represented at all levels of election administration. Nine CEC members are women, including the chairperson and secretary, while in DECs women account for 59 per cent of all members. A total of 102 polling stations were opened in 72 countries for out-of-country voters.<sup>18</sup>

The CEC is a permanent body composed of 17 members appointed by parliament on the basis of presidential nominations for renewable seven-year terms.<sup>19</sup> All political parties registered in the nationwide constituency nominated their representative with a consultative vote to the CEC. Some election stakeholders publicly questioned the CEC's impartiality, which the commission saw as an attempt to influence its work and discredit its members. CEC sessions were open to party representatives, observers, media and streamed online by Civil Network OPORA; its resolutions and decisions were published on the CEC website. The lack of information on a host of issues including on the substance of some 150 complaints and 10,000 formal requests for information, and the long standing practice of holding preparatory meetings behind closed doors left most of the sessions without substantive discussion thereby decreasing the transparency of the CEC's work.

Following the call for early elections, the Ministry of Economic Development and Trade was compelled to agree with the CEC special conditions and exemptions from some of the procurement procedures by allowing the CEC to break up large purchases into several smaller ones to bypass some of the formal tendering procedures.<sup>20</sup> In addition, to ease its workload, the CEC transferred certain responsibilities to the DECs which some of them found cumbersome. These temporary solutions enabled the CEC to avoid blockages.

DECs were composed of 18 members, met on regular basis and performed in an overall professional manner. Members were nominated by parties with parliamentary factions and those that contested the last parliamentary elections. Contrary to a prior ODIHR recommendation, more than 60 per cent of the DEC members, including over 300 in executive positions, were replaced late in the process, mostly by their nominating party.<sup>21</sup> Some ODIHR EOM interlocutors alleged that DEC positions may have been traded among nominating parties. This practice negatively affects the independence and impartiality of the DECs, as well as continuity of their operations.<sup>22</sup>

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<sup>18</sup> Voters residing in the Russian Federation were offered to vote in Finland, Georgia and Kazakhstan.

<sup>19</sup> Presidential nominations are based on proposals of parliamentary factions and groups. The current CEC composition includes members nominated by: PPB (5), PF (3), Fatherland (1), Revival Party (1), the Radical Party (1), Self-Reliance (1), People's Will (1). 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; the members it proposed were not put forward by the then sitting president when the CEC was formed.

<sup>20</sup> The Law on Public Procurement does not contain special provisions for the implementation of early elections. Timeframes set in the law could have resulted in obstacles for the election administration to meet legal deadlines pertaining to key activities.

<sup>21</sup> Political parties aim to immediately fill their seats in DECs. At times, they do so by nominating persons who may be residing in a different area or who are simply unaware that they have been nominated. These members are subsequently replaced.

<sup>22</sup> Section II.3.1.77 of the explanatory report of the 2002 Venice Commission Code of Good Practice in Electoral Matters states 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...".



Parties with parliamentary factions and electoral contestants could nominate their representatives to the PECs.<sup>23</sup> Although the PEC nomination process was assessed as orderly overall, in some DECAs it resulted in a number of complaints and tensions with several contestants expressing mistrust in the process.<sup>24</sup> Nomination documents submitted by electoral contestants in some of the DECAs were of poor quality and names of some nominees were submitted by more than one electoral contestant.<sup>25</sup> In addition, some ODIHR EOM interlocutors alleged that so-called “technical” contestants had registered to obtain seats in PECs in order to subsequently provide them to other contenders. Such practices in addition to a high number of replacements do not ensure the commission’s stability, nor a balanced composition and proportional representation of the electoral contestants in PECs envisaged by the law and international good practice.<sup>26</sup>

Limited voter outreach was conducted by the CEC in collaboration with civil society organizations. Voter information in the media monitored by the ODIHR EOM was virtually absent throughout the election period. Information was, however, available through the CEC website and Facebook page as well as through its media briefings. While the trainings provided by the CEC training center to DEC and PEC members were overall positively assessed by the participants and ODIHR EOM observers, low participation at most trainings observed and the large number of replacements of commission members diminished the value of these efforts.

## Voter Registration

Citizens 18 years of age by election day are eligible to vote, unless declared mentally incapacitated by a court decision. The blanket denial of voting rights of persons recognized by a court to lack legal capacity on the grounds of mental disability is at odds with international obligations.<sup>27</sup>

Voter registration is passive and continuous. It is based on the centralized State Voter Register (SVR).<sup>28</sup> According to the SVR office, the total number of registered voters as of 30 June was 35,550,428. PECs made preliminary voter lists available for public scrutiny the day after they received them in order to allow voters to verify their records and request amendments. Voter lists extracted from the SVR did not include some 4.6 million voters registered in areas where voting could not take place and 1 million voters without a registered address. Despite a high number of voters not having a registered address, and difficulties for them to obtain one, most ODIHR EOM interlocutors expressed confidence in the accuracy of the voter lists.<sup>29</sup>

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<sup>23</sup> As a result of the lotteries carried out by DECAs for the distribution of PEC positions, 26 parties and 1,594 majoritarian candidates were represented in PECs. Due to a shortfall of nominees, some 16,000 of PECs members were nominated by DECAs.

<sup>24</sup> Tensions were observed in DECAs 26, 30, 37, 40, 47, 96, 134, 135. After all nominees of the European Solidarity Party were rejected by DEC 47 without legal grounds, the CEC dismissed the entire DEC and formed it anew.

<sup>25</sup> Duplications were identified for example in DECAs 36, 38, 120, 133, 189, 217.

<sup>26</sup> Replacement of PEC members started immediately after their formation and reached up to 70 per cent in some districts by election day.

<sup>27</sup> Articles 12 and 29 of the [UN Convention on the Rights of Persons with Disabilities](#) (CRPD) require that “State Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life” and ensure their “right and opportunity [...] to vote and be elected”.

<sup>28</sup> The SVR is administered by the CEC and updated monthly by 759 Register Maintenance Bodies (RMBs). Eighty-two RMBs located in territories outside government control, including Crimea, are currently not functioning.

<sup>29</sup> While the Law on SVR provides an opportunity for RMBs to establish a voting address for those who do not have one, it does not list the grounds for taking such a decision and leaves it to the discretion of the RMBs. RMBs lacked a common understanding of their mandate in this regard. Only 2,668 such voters were assigned a voting address. In over 70 cases, courts assigned a voting address based on various documents proving residence in a certain area.

Voters can change their voting address on a temporary basis, without changing their permanent registration. In a welcome development, voters were no longer required to provide proof of absence from their place of registration.<sup>30</sup> The majority of 280,922 voters who submitted such requests, intended to vote outside of their district, and were therefore only entitled to the proportional ballot.<sup>31</sup> Some ODIHR EOM interlocutors considered this to be a disenfranchisement of voters who are IDPs or internal migrants.<sup>32</sup>

There was no targeted nationwide information or awareness campaign to inform citizens, including IDPs, of the simplified procedure for change of voting address. Some civil society organisations prepared voter education materials addressing this issue but its delayed approval by the CEC and the National Council for Television and Radio Broadcasting (NCTRB) reduced the impact of their efforts. Some ODIHR EOM interlocutors noted that systematic and effective voter education could have contributed to an increased participation.<sup>33</sup>

### Candidate Nomination and Registration

While candidate registration resulted in an overall politically diverse field of candidates, disproportionate limitations on the right to stand, lack of clear instructions for filling in registration documents, and restrictive interpretation of candidate registration rules negatively impacted the inclusiveness of the candidate registration process.

The CEC had to decide on more than 6,300 registration requests within five days of receiving a nomination, with the vast majority of documents submitted three days prior to the deadline. A total of 5,967 candidates were registered: 2,747 on 22 party lists and 3,220 in SMDs of whom 1,404 were fielded by parties and 1,679 were self-nominated.

A citizen of Ukraine over the age of 21 on election day with voting rights can run for parliament. The right to stand is denied to individuals with a non-expunged criminal record for an intentional crime, regardless of its severity, and those not resident in the country for the five years prior to election day.<sup>34</sup> These restrictions are at odds with OSCE commitments and other international obligations.<sup>35</sup>

The election law stipulates numerous requirements for submission of nomination applications, including a plethora of documents and a financial deposit.<sup>36</sup> The CEC developed several templates for

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<sup>30</sup> In May 2019, the CEC simplified the procedure for submission of requests for changing one's voting address.

<sup>31</sup> Kyiv and Kyiv *oblast* received the majority of requests. The main reasons for requesting a change were: actual residence in a different location (29 per cent), registration in the parts of the territories of Donetsk and Luhansk *oblasts* not under government control (16 per cent), DEC/PEC members on duty away from their place of registration (16 per cent), holidays and/or travelling (11.3 per cent), and registration in Crimea (0.84 per cent).

<sup>32</sup> According to [UNCHR](#), as of 13 June there is a total of 1,385,062 IDPs registered with the Ministry of Social Policy. The draft Law on the voting right of IDPs and other mobile groups pending in parliament since 2017 aims to lift barriers to enfranchisement imposed by the residence registration system.

<sup>33</sup> Paragraph 11 of the 1996 CCPR [General Comment No. 25](#) to the International Covenant on Civil and Political Rights (ICCPR) underscores the importance of voter education and registration campaigns as necessary measures to ensure the effective exercise of political rights by an informed community.

<sup>34</sup> A total of 14 candidates were not registered due to non-compliance with the residency requirement. While the Law on Citizenship lists exemptions from the residency requirement, the courts took the exceptional circumstances of four candidates into account, broadly interpreting the law, and allowed them to run. The CEC de-registered two of these candidates, contrary to the court decisions, after reviewing evidence about their absence provided by the law-enforcement agencies.

<sup>35</sup> See paragraph 7.5 of the [1990 OSCE Copenhagen Document](#), paragraph 15 of the [1996 CCPR General Comment No. 25](#) and Section I.1.1.c of the explanatory report of the Code of Good Practice.

<sup>36</sup> The electoral deposit is approximately EUR 136,000 for party lists and EUR 1,360 for candidates in SMDs. 1 EUR equals approximately UAH 30.



applications, but did not provide clear instructions on how to complete them.<sup>37</sup> Moreover, the CEC did not consistently notify prospective candidates about errors or omissions in their documents to allow them to make timely corrections, leaving them at times unable to correct mistakes.<sup>38</sup> Overall, 487 nominees were not registered, mostly for minor omissions.

Some 70 CEC decisions were appealed to the Sixth Administrative Court of Appeal in Kyiv, and most of them further to the Supreme Court. In some cases, courts provided an inclusive interpretation of the law and overturned CEC denials of candidacy, and ultimately 1 out of 3 parties and 31 SMD candidates were registered based on court decisions.<sup>39</sup> Some of these cases remained under consideration by the courts during the campaign up to election day undermining the principle of equal opportunity to campaign. Moreover, the deadlines for appealing CEC or court decisions at times conflicted with the legal deadline for drawing lots for the numbering and positioning of parties on the proportional ballot, and affected the printing of SMD ballots.<sup>40</sup>

The Law on Political Parties stipulates that a 30 per cent quota requirement for either gender on electoral lists be written into party statutes; however, there is no enforcement mechanism. For these elections, 13 of 22 parties complied with the requirement.<sup>41</sup> Only 16 per cent of SMD candidates were women.

## Campaign Environment

Overall, contestants were able to freely convey their messages to the electorate and fundamental freedoms of expression and assembly were respected. The campaign was competitive with a range of candidates representing a wide spectrum of political options. The misappropriation of one party's brand name by several self-nominated candidates, which became known as "cloning", characterized these elections. Widespread vote-buying practices may have influenced voting choices and misuse of incumbency did not ensure equality of opportunity for contestants.

Contestants' platforms focused on the economy, the fight against corruption, the need for "*de-oligarchisation*" of political life and conflict resolution. Future relations with the EU and NATO were the overarching issue, particularly for the main contestants. Relations with the Russian Federation also featured in the campaign.<sup>42</sup> Majoritarian candidates additionally campaigned on local issues including infrastructure and tourism development, unemployment, healthcare and the environment.

As of 5 July, President Zelenskyy, who was nominated by the Servant of the People party in the presidential election, visited different regions introducing the newly appointed heads of regional

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<sup>37</sup> While parties are responsible for submitting documents on behalf of candidates on their proportional lists or in the SMDs, self-nominated candidates are required to submit their documents in person.

<sup>38</sup> Rejections were due to missing autobiographic data (106), the lack of data about candidates' social work (60), failure to declare willingness to resign from activities incompatible with an MP's status, if elected (15), failure to pay the financial deposit in person (more than 20), failure to provide a photo or telephone number, or other minor issues.

<sup>39</sup> For example, the CEC considered the decision of the congress of the political party *Rukh Novykh Syl* (Movement of New Forces) led by Mikheil Saakashvili as not being in line with its charter and rejected the whole party list as well as its majoritarian candidates. The decision was overturned by both the Sixth Administrative Court of Appeal and the Supreme Court on appeal.

<sup>40</sup> On 4 July, when some 5.2 million ballots had already been printed, the Sixth Administrative Court of Appeal ruled to annul the CEC decision to not re-draw lots for numbering parties on the proportional ballot. This ruling was overturned by the Supreme Court on 8 July.

<sup>41</sup> Of the total number of registered candidates, 23 per cent are female, while women representation in the nationwide constituency lists is at 31 per cent. However, the average representation of women candidates in the first 10 positions is 27 per cent. This figure rises to 34 per cent for women candidates placed in the last 10 positions.

<sup>42</sup> On 10 July, leaders of the Opposition Platform - For Life were received by the Russian Prime Minister Dmitri Medvedev in Moscow; on 18 July, Victor Medvedchuk, the chairman of the party's political council met President Vladimir Putin in Saint Petersburg. The conflict settlement and gas supplies were discussed on both occasions.

administration while also emphasizing some priorities of his presidency, which were clearly associated with the party's main electoral slogans.<sup>43</sup> Prime Minister Volodymyr Hroysman – the leader of the Ukrainian Strategy party – extensively toured the country praising his government's achievements, which was also promoted through political ads marked as such.<sup>44</sup> Such activities undertaken by incumbents provided them and the candidates they support with an undue advantage.

Most ODIHR EOM interlocutors opined that the majoritarian contests were subject to significantly more malpractices than the nationwide one, involving incumbents, candidates, oligarchs and local businesspeople. While parliament was still functioning throughout most of the campaign, some 70 per cent of outgoing MPs stood for re-election.<sup>45</sup> A number of incumbent MPs and mayors, who stood as candidates, often misused their incumbency, including through promising and providing benefits to entice voters.<sup>46</sup> In some instances, the state and local administration either clearly endorsed some majoritarian candidates or granted them preferential treatment.<sup>47</sup>

Widespread vote buying practices included charity works, free food or pharmacy packages, lottery tickets and awards, concerts, daily trips, meals, as well as cash. Over 125 criminal investigations into vote buying were initiated by the National Police.<sup>48</sup> The ODIHR EOM also received and observed instances of pressure on public and private sector employees and students to attend campaign events or to vote in a certain manner.<sup>49</sup>

In close to one third of SMDs (55), 79 self-nominated candidates appeared on the ballot under the brand name of “Servant of the People” running against candidates who were nominated by that party.<sup>50</sup> In

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<sup>43</sup> Between 5-18 July, President Zelenskyy visited Dnipro, Donetsk, Kherson, Kharkiv, Kyiv, Lviv, Luhansk, Mykolaiv, Odesa cities, and Transcarpathian and Zaporizhia *oblasts*.

<sup>44</sup> Paid-for political ads were aired on *ICTV* and *Ukraina TV* describing the achievements of the government. Between 10 June and 10 July, Prime Minister Hroysman visited Chernihiv, Kharkiv, Kyiv, Odesa, Poltava, Rivne, Vinnytsa, and Zhytomir *oblasts*.

<sup>45</sup> A total of 307 MPs stood for re-election, with 192 of them competing in SMDs.

<sup>46</sup> Incumbent candidates invited voters to apply for social benefits through party offices and the local councils; promoted as personal achievements on their campaign materials state infrastructure projects and increase of salaries in state companies, distributed their campaign materials for free in the post offices and public buses; workers on state infrastructure projects were wearing vests with candidates' names; mayors organised closed campaign events for municipal employees at employment places during working hours; mayors pressurised public employees to sign a memorandum declaring support for their preferred candidates. Six incumbent mayors stood as candidates including in key districts in the cities of Kharkiv, Lviv, Mariupol, Odesa, Uzhhorod and Zaporizhia.

<sup>47</sup> For instance, mayors and their preferred candidates addressed attendees at public events in the city of Mykolaiv, as well as in Dnipro and Kharkiv *oblasts*. The mayor of Chernihiv appeared on billboards of a self-nominated candidate. A candidate in Ivano-Frankivsk associated herself on billboards with the mayor. The mayor of Khust endorsed one of the self-nominated candidates. There were credible allegations that mayors limited equal access to billboards in the cities of Kharkiv, Mariupol, Zaporizhia and in Donetsk *oblast*.

<sup>48</sup> The National Police identified pyramid schemes for vote buying whereby voters were recruited to enroll other voters into the scheme in both cases through the offer of payment or goods. Individuals known as “*domovoy*” were in charge of gift or cash distribution to residents in certain buildings, in some cases on behalf of more than one candidate.

<sup>49</sup> For instance, on 10 July, students were pressured to provide organisational support for the event of one of the frontrunners in SMD 135 in Odesa. Also on 10 July, during a campaign event organized by the Civil Platform in Lviv *oblast*, participants were forced by campaign staff to return in the pouring rain to the event whose main speaker was the head of the party. In SMD 78 (Zaporizhia *oblast*) employees of a company owned by a party-nominated SMD candidate were required to identify 10 people who will vote for the candidate. Refusing to do so would result in dismissal from the work place. In Donetsk *oblast*, coaches of a football club were pressured to attend an SMD candidate's event as the latter sponsors the club. In SMD 38 (Dnipropetrovsk *oblast*), voters were instructed to distribute campaign material on behalf of a candidate nominated by Servant of the People. In Mariupol (Donetsk *oblast*), on 27 June public sector employees, including teachers, were instructed during working hours to attend a campaign event of an Opposition Bloc candidate.

<sup>50</sup> The ballot states that these majoritarian candidates are employed by the Servant of the People. The Ministry of Interior initiated actions based on a complaint filed by Servant of the People. Of note, the unified registry of legal entities held

addition, other candidates also campaigned with the same logo and colours as those of the party. In 45 SMDs, a total of 152 candidates had 69 identical or similar names and/or surnames, a persisting electoral malpractice. The police opened 46 investigations on “clone” candidates. Overall, these so-called “clone” candidates could have misled voters and impacted the election results of the majoritarian contests.<sup>51</sup>

A variety of means were used to reach out to the electorate including concerts, small gatherings and door-to-door canvassing.<sup>52</sup> Television, online and social media platforms were used in abundance, as were billboards and posters, often unmarked.<sup>53</sup> Some IEOM interlocutors raised concerns that disinformation in the social media played a significant role in the campaign.

Instances of physical assaults on candidates were noted.<sup>54</sup> In addition, disruption of campaign events and attacks on campaign tents were reported.<sup>55</sup> Over 100 investigations into hooliganism were initiated by the National Police. Extensive campaigning was conducted on behalf of contestants by public associations affiliated to them. See also section on *Campaign Finance*. On 19 July, the National Anti-Corruption Bureau and the State Investigation Bureau searched the offices of companies partially belonging to the European Solidarity’s leader, former president Poroshenko.<sup>56</sup>

Whereas most contestants chose to campaign in Ukrainian, others opted for Russian. The tone of the campaign was rather polarizing and some instances of inflammatory language and negative campaigning were noted.<sup>57</sup> Women participation in political TV programmes was limited to the most five well-known female politicians (from Fatherland, Servant of the People, and Opposition Party for Life). Some instances of gender stereotyping were noted in *112* and *1+1* private TV channels. On a positive note, *UA:Pershyi* strived to promote gender equality by inviting less known female political representatives. Women participated as speakers in some 35 per cent of observed campaign events, which rarely addressed issues of gender equality. Some interlocutors opined that women are reluctant to stand as candidates, particularly in majoritarian races, due to a harsher political environment.

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by the Ministry of Justice lists at least 44 entities with the name of Servant of the People. Self-nominated candidates used the *Holos* party brand name in 5 SMDs. Following complaints by the party Servant of the People, the CEC decided that the reference to employment places with the same name as the party for a few self-nominated candidates should be removed from the ballots. The number of such cases is unknown as well as whether ballots for these majoritarian contests were reprinted.

<sup>51</sup> In three separate SMDs there was one instance of a self-nominated candidate using the same name as the one fielded by the party. Specifically, Opposition Platform for Life, Opposition Bloc, and European Solidarity.

<sup>52</sup> The ODIHR EOM observed 159 campaign events of the main contenders across the country.

<sup>53</sup> The National Police reported 648 cases of unmarked campaign material. Defacement of campaign materials were observed in the cities of Berdyansk, Cherkasy, Chernihiv, Kharkiv, Kriviy Rih, Lviv, Mariupol, Mykolaiv, Slovyansk and Zaporizhia as well as in Donetsk, Kherson, Khmelnytsky, Kyiv, Rivne, Transcarpathia, and Zhytomyr *oblasts*.

<sup>54</sup> On 16 July an Opposition Bloc candidate contesting SMD 132 in Mykolaiv *oblast* was found dead; a murder investigation has been opened. On 13 July, a candidate nominated by Servant of the People to contest SMD 190 (in Khmelnytsky *oblast*) reported to the police death threats unless he withdraws his candidacy. A self-nominated SMD candidate in Sumy *oblast* was severely beaten, and another one was threatened at gun point in Vinnytsia *oblast*; a Freedom Party nominated candidate in Khmelnytsky *oblast* was attacked with a knife.

<sup>55</sup> City offices of Opposition Platform – For Life were attacked in Mariupol and Kharkiv, as were those of European Solidarity in Zaporizhia; the campaign office of a self-nominated candidate in Odesa *oblast* was also vandalized. Smoke bombs were thrown into the office of a self-nominated candidate and former head of the regional administration (dismissed on 27 June) of Zhytomyr. The campaign tents of the following parties were destroyed: Opposition Bloc in Mariupol, Fatherland in Chernihiv and Servant of the People in Kharkiv. Disruptions of campaign events were observed in Chernivtsi, Khmelnytsky, Khust, Odesa, Uzhgorod and Zhytomyr. Also, a vehicle belonging to a self-nominated candidate in Transcarpathian *oblast* was burned as was the vehicle of Svoboda political party in Rivne city and that of a campaign volunteer for Servant of the People in Rivne *oblast*.

<sup>56</sup> The European Solidarity described the searches as aiming to discredit the party and its leader on the eve of the elections.

<sup>57</sup> Including by four parties using derogatory terms against Russians: Civil Position, European Solidarity, Self-Reliance, and Freedom Party.

## Campaign Finance

Legal amendments in 2015 partly addressed some prior ODIHR and Council of Europe's Group of States against Corruption (GRECO) recommendations, including by harmonizing campaign finance rules in all types of elections and general party finances, adopting a template for disaggregated campaign finance reports and introducing independent auditing of party and campaign finances. However, the regulatory framework, as currently implemented, does not ensure the transparency of campaign finances, allows for undue impact of big donors on politics, clientelism, patronage and excessive influence of campaign spending on the will of voters. A political party may spend up to UAH 370 million (approximately EUR 12.6 million) whereas a majoritarian candidate up to UAH 16 million (approximately EUR 564,000).

All parties opened dedicated bank accounts (electoral funds), as required by law, 778 majoritarian candidates failed to do so and received warnings by the CEC.<sup>58</sup> As allowed by law, most electoral funds were opened as late as 3 July, which left earlier campaign incomes and expenditures unreported.<sup>59</sup> Many candidates cited obstacles by the banks whereas others may have chosen to delay the opening of accounts.<sup>60</sup> Banks are required by law to inform DEC's about the opening of electoral funds, which was often not done in a timely manner.

Contestants can use their own funds up to the expenditure ceiling, which gives affluent candidates an undue advantage. Despite a legal prohibition, several majoritarian candidates informed that they were funded by their nominating parties; this granted party-nominated candidates an unfair advantage over self-nominated ones. Contestants can also receive monetary donations which are subject to legal limits. An individual can donate up to UAH 1.6 million (approximately EUR 56,400) to a party or a candidate whereas a legal entity can donate twice as much. As permitted by law, most donations were deposited, rather than wire-transferred, into the electoral funds, which facilitates transfers of funds originating from untraceable sources.

Despite a cumbersome procedure for donations, there was credible information on donating schemes aimed at exceeding the legal limits or from unlawful sources, including by companies with public procurement contracts, owned by or affiliated with candidates, including current MPs. Extensive campaign activities were undertaken by public associations, including charitable ones, affiliated with parties and candidates.<sup>61</sup> Importantly, campaign finance regulations are not applicable to such third parties, leaving their incomes and expenditures unregulated and unreported.<sup>62</sup> For the first time, parties are entitled to state reimbursement of reported campaign expenditures beyond donations received, provided they enter parliament.

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<sup>58</sup> Power of the People party opened a bank account on 19 July. Some majoritarian candidates stated that they did not open funds as they used only their own funds.

<sup>59</sup> The law requires contestants to open electoral funds within ten days after they are registered by the CEC. Many contestants started campaigning before their registration.

<sup>60</sup> Candidates informed about delays in receiving their registration documents from the CEC as well as delays by the banks due to cumbersome procedures and bank employees with insufficient knowledge.

<sup>61</sup> Almost all political parties have such associations with names identical or similar to them and a large number of self-nominated candidates. Such associations paid for print campaign materials and social media advertisements, organized campaign events, offered goods and services to voters for free or at discounted prices and implemented infrastructure or social projects.

<sup>62</sup> Recommendation Rec(2003)4 of the Committee of Ministers of the Council of Europe "On common rules against corruption in the funding of political parties and electoral campaigns" states that "rules concerning donations to political parties should also apply, as appropriate, to all entities which are related directly or indirectly to a political party or are otherwise under the control of a political party".

Interim campaign finance reports of 21 parties and one 1,558 majoritarian candidates were published on the CEC and the National Agency for the Prevention of Corruption (NAPC) websites, as required by law. Final reports of parties and candidates are due 15 and 7 days after elections respectively, and have to be published by the CEC and NAPC within a day. The DEC and CEC conclusions are to be published 20 and 30 days after election day respectively. The NAPC informed that it verifies the legality of donations.<sup>63</sup> The CEC stated that it cross-checks the reported incomes and expenditures against the bank statements but is not required to identify unreported incomes and expenditures, which does not ensure meaningful oversight. DEC established working groups to deal with campaign finances but they were not confident about their capacity. No campaign finance violations were identified and no sanctions imposed prior to election day. There is no system of effective, proportionate and dissuasive sanctions.<sup>64</sup>

## Media

The overall media landscape is diverse but marked by a lack of autonomy from political interests. Five major private media groups owned by a handful of oligarchs have a combined audience share of more than 70 per cent.<sup>65</sup> The editorial policy and political agenda promoted by these private media outlets, both at national and regional levels, exclusively serve the economic and political interest of their owners. These interests also determine to a large degree access to media by contestants. This undermines media autonomy and public trust.

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; this often results in self-censorship.<sup>66</sup> Most recently, a prominent investigative journalist known for reporting on corruption died after a violent attack on 4 May in Cherkasy and another journalist was brutally attacked while performing his activities in Kharkiv on 7 June.<sup>67</sup>

Private television is the primary source of information, followed by news websites, social media and newspapers. On 14 June a new media holding company "News" was created by Mr. Taras Kozak following the purchase of *ZIK* channel with the intension to reach an audience in the western Ukraine.<sup>68</sup> A number of *ZIK* channel top managers and journalists announced their resignation fearing political interference in their work.

The Ukrainian Public Broadcasting Company (UA: PBC), remains severely underfunded, with its annual budget reduced for the second consecutive year, contrary to legal requirements.<sup>69</sup> This reduces its ability

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<sup>63</sup> There is a ban on donations from foreign and anonymous sources, unregistered civil society, charitable and religious organisations, other political parties, individuals and legal entities with public procurement contracts or with tax debts, and state and public administration bodies and legal entities fully or partly owned by them or affiliated with state or local administration officials.

<sup>64</sup> Possible sanctions include fines ranging from UAH 1,200 – 6,770 (EUR 40 – 227) and suspension of public funding, including reimbursement of campaign expenditures.

<sup>65</sup> The five major media groups are Star Light Media, 1+1 Media, Inter Media, Media Group Ukraine and *Novyny* News.

<sup>66</sup> See the [26<sup>th</sup> report of the Office of the United Nations High Commissioner for Human Rights](#).

<sup>67</sup> The OSCE Representative on Freedom of the Media (OSCE RFoM) strongly condemned the attacks. See statements from [6 May 2019](#), [11 June 2019](#) and [20 June 2019](#).

<sup>68</sup> Mr Kozak is an MP running in 10<sup>th</sup> position on the party ticket of Opposition Platform-For Life. He is also the owner of TV channels *112* and *NewsOne* purchased in 2018. With the newly purchased *ZIK* TV, they form the new media group *Novyny* (News) with five per cent of total viewership in the broadcasting sector. Mr. Kozak is also a close ally and party proxy of Mr. Viktor Medvedchuk, a long-standing Ukrainian politician and an oligarch close to the Russian president Vladimir Putin. Mr. Medvedchuk is positioned third on the list of Opposition Party-For Life.

<sup>69</sup> The current state budget only allocates around half of the legally required funding to the public-service broadcaster. The law on Public Television and Radio Broadcasting guarantees UA:PBC a fixed amount of 0.2 per cent of the previous year's state budget.

to effectively compete with private media and ability to perform its public-service role at the national and local level as required by law. Moreover, UA:PBC's low audience share shows that despite its quality programmes it does not yet represent an alternative to the deeply politicized private media sector.

Media compliance with legal requirements is monitored by the National Council for Television and Radio Broadcasting (NCTRB). The NCTRB chose not to exercise its powers to effectively respond to media violations during the election period.<sup>70</sup> Unlike in previous parliamentary elections, parliament did not adopt a moratorium on media inspections to ensure freedom of expression and uninterrupted coverage of election-related events by media outlets. On 9 July, the NCTRB initiated an inspection of *NewsOne* TV following the latter's announcement to launch on 12 July a live telecast in partnership with a Russian state-owned TV Channel.<sup>71</sup> On 8 July, the Prosecutor General launched criminal proceedings against *NewsOne* TV on the grounds of state treason. On 13 July, *112 Ukraina*, part of the same media holding, was subject to a grenade attack against its premises.<sup>72</sup>

ODIHR EOM media monitoring showed that broadcasters widely covered the contestants through the format of debates and talk shows.<sup>73</sup> The election coverage of private TV Channels focused mainly on seven parties while *UA:PBC* also invited smaller ones and SMD candidates to present their platforms.<sup>74</sup> Moreover, in line with the law, free airtime was allocated to 22 political parties on the public TV and Radio.<sup>75</sup> All but one party used this opportunity.

Legal provisions for balanced and unbiased coverage were frequently violated by the monitored private TV channels. Several journalists and hosts showed strong bias towards certain party leaders and members also by favouring particular invitees and making partisan declarations. In *112 Ukraina* and *Priamyi*, Opposition Platform-For Life and European Solidarity were respectively favoured in terms of amount and tone of editorial coverage.<sup>76</sup> *I+I* extensively and positively covered Servant of the People while covering European Solidarity representatives and its party leader negatively. *ICTV* allocated 25 per cent of its coverage to the Ukrainian Strategy of Hroysman, 23 to Fatherland, 22 to the Servant of the People, 15 to the European Solidarity, 14 to the Voice, mostly neutral in tone.

According to the election law, paid campaign advertising is allowed on public and private media but has to be clearly marked as such after candidates are registered by the CEC. Throughout the campaign, paid

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<sup>70</sup> The NTRBC consists of eight members appointed for five-year terms renewable once. Parliament and the President each appoint four members. The body was not fully operational until 7 July due to an inability to meet the quorum.

<sup>71</sup> The telecast 'We Need to Talk' was an initiative by *NewsOne* TV and *Russia24* TV Channel, banned in Ukraine since 2014. The NCTRB initiated an inspection based on the outlet's alleged violation of legal provisions prohibiting incitement of hatred, and challenging Ukraine's territorial integrity. Public protests, criticism from President Zelenskyy and the National Security and Defence Council's special session on 7 July prompted the station to cancel its plans.

<sup>72</sup> See OSCE RFoM [statement from 13 July 2019](#) condemning the attack.

<sup>73</sup> The ODIHR EOM monitored six TV channels with nationwide coverage during prime time (18:00-24:00): public *UA:Persnyi* and the five private channels *Ukraina TV*, *I+I*, *ICTV*, *112 Ukraina*, and *Priamyi*. The ODIHR EOM also followed election-related content in national and regional news websites and social media accounts of some of the contestants.

<sup>74</sup> European Solidarity, Fatherland, Opposition Bloc, Opposition Platform-For Life, Radical Party, Servant of the People, Ukrainian Strategy.

<sup>75</sup> The parties received up to 60 minutes divided in two blocks of 30 minutes each. Allocation of free airtime in the regional public TV was decided locally by DEC in cooperation with UA:PBC local branches.

<sup>76</sup> *112* devoted 63 per cent of its election coverage to Opposition Platform for Life, 18 to Ukrainian Strategy, 11 to Fatherland, 5 to Servant of the People. *Priamyi* provided 68 per cent to European Solidarity, 8 to Opposition Platform-For Life, 9 to Servant of the People often negative in tone, 6 to Radical Party, 4 to Ukrainian Strategy, 3 to Voice and 2 to Fatherland.



advertisements were extensively used by nine parties.<sup>77</sup> Contrary to the election law, a high number of unmarked promotional material (a practice known as *jeansa*) was noted in the prime-time news of most of the monitored private TV channels predominantly featuring the Opposition Platform-For Life, European Solidarity, Radical Party, and Opposition Bloc. Representatives of regional and local media informed the ODIHR EOM observers that it is a widespread practice for media to publish political content in exchange for payment especially during election periods. This misleads voters and does not provide genuine information on political platforms.

## National Minorities

The Constitution guarantees the equality of all citizens and provides for full political, civil, and social rights for national minorities.<sup>78</sup> It also provides for the use of the national minority languages, while rendering Ukrainian the state language.<sup>79</sup>

The legal framework relevant to national minorities is fragmented and outdated.<sup>80</sup> It does not provide for any special measures promoting national minority representation. While the law does not prohibit political party activity based on linguistic or ethnic basis, the requirement that a political party form its base from two-thirds of the country's *oblasts* and the five per cent threshold for party lists discourages the emergence of parties specifically promoting the interests of national minorities.

The number of national minority representatives in the nationwide party lists was limited. Seven representatives of the Crimean Tatar population were included in nationwide lists of five political parties.<sup>81</sup> National minority candidates in Transcarpathia noted that the current boundary delimitation in SMDs is established in a manner not favourable to national minority representation.<sup>82</sup> Several ODIHR EOM interlocutors expressed concern that this issue coupled with the existence of "clone" candidates may result in reduced representation of the Hungarian national minority in parliament.<sup>83</sup>

The pre-election period coincided with the entry into force of the new law 'On ensuring the functioning of the Ukrainian language as a State language' which makes Ukrainian the sole language for the conduct of elections and referenda. Nevertheless, national minority representatives were able to use minority languages along with the Ukrainian language in campaign materials and while campaigning. On 17 July, the Ministry of Foreign Affairs (MFA) raised concerns with regard to the illegal involvement of foreign citizens in the campaign in the areas populated by the Hungarian minority.<sup>84</sup>

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<sup>77</sup> Civil Position, European Solidarity, Fatherland, Opposition Platform for Life, Opposition Bloc, Radical Party, Servant of the People, Voice, Ukrainian Strategy.

<sup>78</sup> According to the last census of 2001, the majority of citizens are Ukrainians (77.8 per cent), followed by Russians (17.3 per cent). Other national minorities include Belarusians, Moldovans, Crimean Tatars, Bulgarians, Hungarians, Romanians, Poles, Roma, Jews and many other smaller groups.

<sup>79</sup> Ukraine has ratified the Framework Convention for the Protection of National Minorities, and the European Charter for Regional or Minority Languages.

<sup>80</sup> The Law on National Minorities dates back to 1992, before the adoption of the current Constitution in 1996.

<sup>81</sup> European Solidarity, Holos, Party of Greens of Ukraine, Strength and Honour, and Ukrainian Strategy of Hroysman.

<sup>82</sup> According to the election law, 'where possible' SMD boundaries should be established taking into consideration the interests of national minorities residing in the respective territory. Where the number of the national minorities living in the territorial unit is higher than necessary for the creation of one SMD, the districts should be delimited in a way that in one of the districts the national minority population constitutes the majority.

<sup>83</sup> Two self-nominated candidates out of total 16 in the DEC 73 have the same name, surname, and patronymic. One of them is a member of parliament, while the other is a local resident without prior experience in politics.

<sup>84</sup> See the [MFA statement](#).

## Complaints and Appeals

Despite an expedient process provided for by law, the dispute resolution, as currently implemented, does not ensure effective protection of electoral rights and transparency could be improved. Concurrent jurisdiction of courts and election commissions on most issues resulted in inadmissibility of some complaints.<sup>85</sup> Contrary to good practice, voters may file complaints only on violations of their personal rights and there is no template for complaints.<sup>86</sup> Whereas courts inform the CEC about complaints received, DEC's do not, nor do they upload their decisions on complaints on the *Vybory* online system. The CEC obtains information on complaints from DEC's and publishes statistics, but only after elections.

Prior to elections, the CEC informed that it received over 10,000 applications and some 150 complaints. Of the latter, some 62 were deemed inadmissible by the CEC secretariat due to technical inaccuracies, contrary to international good practice.<sup>87</sup> The remaining were reviewed in public CEC sessions and decisions on 58 of them were published, often not in a timely manner. In addition, some 200 complaints and appeals were filed to the courts, mainly on candidate registration and membership in election commissions. The decisions were published online on the unified state register for court decisions. On complaints upheld, the court in some cases ordered the CEC to register the nominees and parties denied registration whereas in other cases only to reconsider their applications.<sup>88</sup> In some cases of reconsideration, the CEC issued again the same decision as the one overturned by the court, contravening the law.<sup>89</sup>

The National Police registered some 8,500 possible election-related criminal and administrative offences on an interactive portal. It has initiated investigation into over 500 criminal and over 900 administrative cases, mostly linked to unmarked and defaced campaign materials, clone candidates, vote buying, and hooliganism. The ODIHR EOM has not been made aware of any action taken to stop violations or to hold perpetrators to account.

## Citizen and International Observers

The law provides for observation of the electoral process by international and citizen observers, including non-governmental organizations (NGOs) whose statutes include election observation. In addition, each majoritarian candidate has the right to nominate proxies and observers to represent the candidate and observe the entire electoral process. An amendment to election laws adopted in February

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<sup>85</sup> The CEC denied admissibility to complaints filed against DEC decisions, citing that only DEC inactions may be challenged to the CEC whereas decisions and actions should be challenged to court. Paragraph 97 of the [Code of Good Practice](#) states that “the appeal procedure and, in particular, the powers and responsibilities of the various bodies should be clearly regulated by law, so as to avoid conflicts of jurisdiction (whether positive or negative). Neither the appellants nor the authorities should be able to choose the appeal body”.

<sup>86</sup> Paragraph 96 of the [Code of Good Practice](#) stipulates that “the procedure must also be simple, and providing voters with special appeal forms helps to make it so”, while paragraph 99 states that “all candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections”.

<sup>87</sup> Namely, missing contact information of the complainant and complaints filed after the legal deadline. Paragraph 96 of the [Code of Good Practice](#) reads that “it is necessary to eliminate formalism, and so avoid decisions of inadmissibility, especially in politically sensitive cases”.

<sup>88</sup> For instance, the Sixth Administrative Court of Appeal in Kyiv ordered the CEC to register O.Onishchenko, Y.Polino and the Liberal Party of Ukraine whereas the same court ordered the CEC to reconsider the applications of A.Kornatsky, Y.Plastun, O.Molodtsova, A.Yevlakhov and the political party Movement of New Forces led by Mikheil Saakashvili.

<sup>89</sup> The election law stipulates that “the election commission shall adopt a decision in accordance with the court’s judgment [...] may not issue, may not adopt a decision essentially repeating the one found by the court to be illegal, unless the previous decision was invalidated for formal reasons”.

2019 effectively prohibited citizens of the Russian Federation and persons whose nomination was initiated or submitted by the Russian Federation from observing elections in Ukraine.<sup>90</sup> This is at odds with paragraph 8 of the 1990 OSCE Copenhagen Document.<sup>91</sup> Following the decision of the Ukrainian authorities to disinvite the Parliamentary Assembly of the Council of Europe (PACE) due to the reinstatement of voting rights of the Russian delegation to the assembly, the PACE cancelled its participation in the IEOM.

In total, of 170 NGOs which applied to the CEC, 163 were granted permission to have official observers, including 143 that applied to observe nationwide. Most of these NGOs were only recently created. In a number of cases, their names are similar to those of several political parties, which raised concerns about their affiliation to particular parties or candidates. Misuse of citizen observation can negatively impact the perception of impartiality of citizen observers and their role in the electoral process. The ODIHR EOM noted only a few NGOs active throughout the country in the pre-election period. According to the CEC website, a total of 27,901 citizen observers were accredited, most of whom were from four NGOs.<sup>92</sup> The CEC registered over 1,719 international observers from 33 organizations or foreign states.

## Election Day

Campaign silence must commence at midnight on Friday before election day. Nevertheless, campaign materials were not removed in most *oblasts* across the country and new unmarked posters and billboards appeared.<sup>93</sup> Extensive use of political advertisements on the Facebook pages of the main parties also continued.<sup>94</sup> Throughout election day, *Priamyi TV* in partnership with Channel 5 aired a live broadcast entitled “Stop Revenge” – one of the main slogans of European Solidarity. Party representatives used the telecast to inform voters of policy successes of the party and its leader Petro Poroshenko. Television channel *112 Ukraine* aired at least three prayer services in the name of ‘For Life’, a clear reference to the electoral contestant Opposition Platform – For Life. Mr. Rabinovich - second on the party list - appealed to voters to exercise their right to vote otherwise ‘For Life’ would lose.

According to the CEC, there were very few instances of candidates’ names on SMD ballots that were erroneously marked with the stamp “withdrawn” and reprinted in time for election day.<sup>95</sup> The practice of replacements of DEC and PEC members continued throughout election day.<sup>96</sup> Opening procedures were

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<sup>90</sup> The amended legislation bans “participation of the nominees or citizens of the aggressor state or the occupying power, as determined by the Verkhovna Rada”. The Director of ODIHR in a [statement](#) of 7 February expressed her regret over this decision, as did the OSCE Chairperson-in-Office in a [statement](#) of 8 February.

<sup>91</sup> Paragraph 8 of the [1990 OSCE Copenhagen Document](#) states that “participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process...”. The ODIHR EOM’s request for accreditation included short-term observers seconded by the Russian Federation, but they were not accredited by the authorities.

<sup>92</sup> Civil Network OPORA, Committee of Voters of Ukraine (CVU), Civil Movement Ukrainian Strategy, and Leading Legal Initiatives.

<sup>93</sup> For example, on 20 July numerous newly erected billboards appeared throughout Zhytomyr and Poltava with the slogan of Servant of the People “let’s beat them one more time”. While the billboards do not contain the party name, they use the same colours and patterns as those used on the party’s campaign materials. In Chernihiv, Kharkiv and Pokrovsk, Opposition Bloc erected billboards that no longer contain the party logo but are otherwise identical to those used during the campaign. In Dnipro, Opposition Platform – For Life erected billboards with the party logo, but no text. In Melitopol (Zaporizhia *oblast*), the incumbent mayor and self-nominated candidate advertised a concert through billboards with the same graphic design and colours as those of his campaign materials.

<sup>94</sup> European Solidarity, Fatherland, Freedom, Opposition Party - For Life, Power and Honour, Servant of the People, and Voice.

<sup>95</sup> The names of candidates who withdrew from the race as late as one day before election day were stricken off the ballot. In SMDs 27 (Dnipro), 32 (Krivih Rih) and 65 (Zhytomyr), the PECs applied the stamp to the wrong name.

<sup>96</sup> On election day, following the request by the Self Reliance party, DEC 94 replaced Self Reliance PEC members in 54 polling stations in SMD 94 in Kyiv *oblast*. A complaint filed by Self Reliance on election day requesting the dismissal of the entire DEC was not considered by the CEC. In DEC 198 (Cherkasy *oblast*) two commissioners were replaced.

assessed positively in 191 of the 200 polling stations observed. With few exceptions, established procedures were followed. Voting was assessed positively in 99 per cent of polling stations observed. IEOM observers characterized the process as transparent and well organized with a high level of adherence to established procedures.

Issues related to the secrecy of the vote were noted; voters did not always mark their ballots in secrecy in 5 per cent of observations and mostly did not fold their ballot prior to casting it in 19 per cent of observations. Overcrowding was reported in 3 per cent of observations, possibly also contributing to challenges to the secrecy of the vote. In 10 per cent of observations, one or more voters were not allowed to vote mostly due to not presenting proper identification documents, and also for not being included in the voter list. Some 62 per cent of polling stations were not accessible to persons with physical disabilities, and in 24 per cent of observations the layout was not suitable.

Persons not authorized to be inside the polling station were noted in 5 per cent of observations, approximately half of whom were police or security officials. Candidate and party observers were present in 97 per cent of observations and citizen observers in 31 per cent.

The vote count was assessed positively in 242 of the 273 polling stations where it was observed. Counting was transparent, and candidate and party observers were present at almost all counts observed, while citizen observers were present at one third. Unauthorized persons inside the polling station were noted in 15 cases and were mostly police or security officials. Undue interference in the count was noted in 23 cases, usually by candidate or party observers.

IEOM observers report that basic reconciliation procedures were often not followed, including the PEC failing to announce the number of voters on the voter list (37 cases), of voters' signatures on the main and homebound voter lists (58 and 56 cases, respectively), or of used ballot counterfoils (59 cases). In 73 counts observed, the figures established during reconciliation were not entered into the protocols before the ballot boxes were opened. During 44 counts, the PEC did not determine the validity of contested ballots by voting. The sequence of steps prescribed for completing the protocol was not strictly adhered to in over one third of observations. PEC members had pre-signed the results protocols in 27 cases and in 2 cases IEOM observers noted an attempt to deliberately falsify the results. Forty-six PECs observed had problems completing the protocols. In one quarter of observations they were not posted at the PEC.

The early stages of tabulation were assessed negatively in 37 out of 134 DEC observed, mainly due to tensions in or around the DEC and inadequate conditions at DEC that caused overcrowding and limited transparency, as well as restrictions on observers' access in 8 of them. Overcrowding, tension or unrest were noted in close to half of the DEC observed. Observers reported 53 cases of PECs changing protocol figures in DEC premises which contravenes the law and undermines the integrity of the tabulation process. By 06:00 am on Monday morning, only 6 of the 130 DEC observed had processed half of the protocols, which is indicative of a slow process. Tabulation was interrupted in at least two DEC and was expected to resume as of midday. Negative assessments of the tabulation were due to the chaotic nature of the process and the overload of the electronic system for the processing of protocols. Copies of the tabulation protocols were not provided to those entitled to receive them in 37 cases.

Voter turnout was announced at 49.84 per cent.

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

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## **MISSION INFORMATION & ACKNOWLEDGEMENTS**

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Kyiv, 22 July 2019 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the European Parliament (EP) and the NATO Parliamentary Assembly (NATO PA). The assessment was made to determine whether the elections complied with OSCE commitments, Council of Europe and other international obligations and standards for democratic elections and with national legislation.

Mr. Ilkka Kanerva was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and to lead the OSCE short-term observer mission. Ms. Sereine Mauborgne headed the OSCE PA delegation, Mr. David McAllister headed the EP delegation and Ms. Madeleine Moon headed the NATO PA delegation. Ambassador Albert Jónsson is the Head of the ODIHR EOM, deployed from 11 June.

ODIHR, OSCE PA and the EP have endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The OSCE PA will present its report at its Autumn meeting in Marrakesh in October 2019. The EP will present its report at a forthcoming meeting of its Committee on Foreign Affairs. The NATO PA will present its report at its Standing Committee in London X in October 2019.

The ODIHR EOM includes 24 experts in the capital and 96 long-term observers deployed throughout the country. On election day, 811 observers from 45 countries were deployed, including 695 long-term and short-term observers deployed by the ODIHR, as well as a 60-member delegation from the OSCE PA, a 17-member delegation from the NATO PA and a 15-member delegation from the EP, and. Opening was observed in 200 polling stations and voting was observed in more than 2,634 polling stations across the country. Counting was observed in 285 polling stations, and the tabulation in 134 DEC's.

The IEOM wishes to thank the authorities for their invitation to observe the elections, and the Central Election Commission and the Ministry of Foreign Affairs for the assistance. They also express their appreciation to other state institutions, political parties, media and civil society organizations, and international community representatives for their co-operation.

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