



STABILITY OF UKRAINIAN ELECTORAL LEGISLATION



Elections and referenda in Ukraine

Elections conducted in Ukraine on a regular basis:

- Elections of the President of Ukraine;
- Elections of members of Parliament (People's Deputies);
- Local elections;

Ukrainian laws provide for holding:

- Nationwide referendum;
- Local referenda.

1990 – 2016

Elections and referenda conducted in Ukraine



The following elections and referenda were conducted in Ukraine since 1990:

- 8 parliamentary election campaigns (including 3 extraordinary elections) – in 1990, 1994, 1998, 2002, 2006, 2007, 2012, 2014;
- 6 President election campaigns (including 2 extraordinary elections) – in 1991, 1994, 1999, 2004, 2010, 2014;
- 7 local election campaigns (including 1 extraordinary elections) – in 1990, 1994, 1998, 2002, 2006, 2010, 2015;
- 2 nationwide referenda – in 1991, 2000 and a number of local referenda.

1990 – 2016

Frequency of changes in the laws on elections and referenda



Parliamentary elections:

- 8 election campaigns were held on the basis of 6 different election laws;
- the laws on elections of members of parliament of 1989, 1993, 1997, 2001, 2004, **2011** (currently in effect) were amended 3, 7, 7, 3, 9, **12** times respectively.

Presidential election:

- 6 election campaigns were held on the basis of 2 election laws;
- the law on elections of the President of Ukraine of 1991 was amended 4 times, the law of **1999** (currently in effect) – **32** times.

Local elections:

- 7 election campaigns to local self-government bodies were held on the basis of 6 different election laws. The laws on local elections of 1994, 1998, 2004, **2010** and 2015 were amended 2, 2, 8, **13** and 3 times respectively.

1990 – 2016



Electoral systems for local elections

Six various electoral systems were applied for local elections since 1990:

- **1990, 1994** – absolute majority system, with single mandate constituencies and an equal number of voters therein;
- **1998, 2002** – relative majority system, with multi-mandate constituencies (for district and regional councils); relative majority system (for villages, towns, cities, district councils in cities), with single-mandate constituencies;
- **2006** – closed party list proportional system (for regional, district, city, district in city councils), with multi-mandate electoral district, 3% electoral thresholds; relative majority system (for village councils), with single mandate constituencies;

1990 – 2016



Electoral systems for local elections

- **2010** – mixed system (proportional-majoritarian) – 50% of council members were elected under closed party lists in multi-mandate electoral districts, with a 3% electoral threshold; and 50% - under majoritarian system of relative majority in single mandate constituencies (for regional, district, city, district in city councils); relative majority system in single mandate constituencies (village councils);
- **2015** – mixed system (proportional-majoritarian): proportional electoral system where candidate are nominated on a party list with allocation to an electoral district, with a 5% threshold (for regional, district, city, district in city councils); relative majority system in single mandate constituencies (for village councils).

1990 – 2016



Mayor elections

Since 1994 Ukraine holds direct elections of village, town and city mayors. Since 1998 such elections are held simultaneously with elections of local councils.

Electoral systems:

- 1994 – majoritarian system of absolute majority;
- 1998, 2002, 2006, 2010, 2015 – majoritarian system of relative majority;
- 2015 – majoritarian system of relative majority (mayors of villages, towns, cities with less than 90,000 voters); majoritarian system of absolute majority in the first round and relative majority system in the second round for mayors of cities with more than 90,000 voters.

1990 – 2016

Referenda in Ukraine



Since independence referenda were regulated by two laws:

- Law "On Nationwide and Local Referenda" – in effect between 1991 and 2012 (amended 4 times) – 2 referenda were held on the basis thereof;
- Law "On Nationwide Referendum" – in effect since 2012 (amended once). No referendum was held on the basis thereof.

N.B. Currently there exists no legal framework for holding local referenda.

1990 – 2016

Basic provisions of the legislation on elections of members of parliament in 1990 and 1994



- 450 members of parliament were elected on the basis of majoritarian system of absolute majority in single-mandate constituencies;
- The right to nominate – citizens of Ukraine, political parties, electoral blocs of parties and labour collectives of enterprises and institutions;
- Elections in a constituency were invalid if the turnout was less than 50 percent or in case registration of all candidates was cancelled;
- Only a candidate who obtained absolute majority of votes was deemed elected.

1990 – 2016

Basic provisions of the legislation on elections of members of parliament in 1998, 2002, 2012, 2014



- 450 members of parliament were elected on the basis of mixed (proportional-majoritarian) system: 225 – in single-mandate constituencies with relative majority system, 225 – in a multi-mandate constituency on closed party lists;
- The right to nominate – citizens of Ukraine (self-nomination) in single-mandate constituencies, political parties (in 1998, 2002 – also blocs of parties);
- Electoral threshold: elections of 1998, 2002 – 4%, elections of 2012, 2014 – 5%.

1990 – 2016

Basic provisions of the legislation on elections of members of parliament in 2006 and 2007



- 450 deputies were elected on the basis of proportional system in a nationwide multi-mandate constituency on closed party lists;
- The right to nominate – only political parties and electoral blocs thereof, no self-nomination;
- Electoral threshold – 3%;
- A very distinctive feature – both elections were held on the basis of one very slightly amended law.

1990 – 2016

Basic provisions of the legislation on elections of the President of Ukraine



- Elections of the President of Ukraine are held since 1991;
- 1991, 1994 – the President of Ukraine was elected on the basis of a majoritarian system of absolute majority in the first and second round;
- Since 1999 – the President of Ukraine is elected on the basis of a majoritarian system of absolute majority in the first round or a relative majority system in the second round;
- Exception – 2004: according to the Supreme Court decision and based on a special law the 3-rd round was organized and conducted.
- The right to nominate – political parties, self-nomination.

1990 – 2016

Election administration system until 1997



- **Central Election Commission** on Elections of People's Deputies of Ukraine and elections of the President of Ukraine was formed by the parliament (Verkhovna Rada) of Ukraine upon submissions by political parties;
- **district, territorial and precinct election commissions** (formed by relative local councils upon submissions by political parties, NGOs, labour collectives, conferences of voters);
- **local self-government bodies** (formed polling stations and composed voters lists).

1990 – 2016

Election administration system after 1997 (modern system)



- **Central Election Commission** – is a permanent special collegial independent state body. CEC forms district and territorial election commissions of higher level, polling stations on a permanent basis.

The Commission consists of 15 members.

Members of the Commission are appointed by the parliament (Verkhovna Rada) of Ukraine upon submission made by the President of Ukraine, which takes into account nominations by parliamentary factions and groups formed in the current convocation of the parliament.

The term of office of a Commission Member was 6 years between 1997 and 2004 and is 7 years thereafter.

- **District election commissions** are formed by CEC for elections of members of parliament and the President of Ukraine (territorial election commissions - for local elections).
- **Precinct Election Commissions** are formed by district or territorial commissions depending on the type of elections.

1990 – 2016



Constituencies and precincts

- The total number of single-mandate constituencies formed for elections of members of parliament and the presidential elections on a permanent basis – **225**;
- The total number of precincts formed on a permanent basis throughout Ukraine – **33 546**;
- The number of electoral districts and polling stations where the voting was organised in 2014-2015:
 - Extraordinary elections of the President of Ukraine of 25 May 2014 – **189** electoral districts, **29 213** precincts;
 - Extraordinary elections of members of parliament of 26 October 2014 – **198** constituencies, **29 796** precincts;
 - Local elections of 25 October 2015 – **173 192** electoral districts and **29 262** precincts.

1990 – 2016

Factors which currently determine the need to reform electoral legislation



- The need to eliminate vote-buying and electoral fraud widely spread in single-mandate constituencies existing due to majoritarian component of the current electoral system;
- The need in levelling passive role of an individual voter in the proportional electoral system with closed party lists, which significantly limits the voter's choice in voting as it does affect the order of candidates in a party list;
- The increased public demand for proportional system with open party lists and political obligation of the ruling coalition to introduce that system for next elections.

1990 – 2016

Negative consequences of instability of electoral legislation



- Difficulties with uniform application of the law by many stakeholders;
- Legal uncertainty;
- Lack of stable and uniform law enforcement practice by courts and election commissions;
- Difficulties with training and selection of qualified lower level commission members;
- Increased risks of misuse of law by particular election competitors;
- Lack of confidence in the results of the elections and public distrust thereto. Consequently – lower turnouts in the future elections.

1990 – 2016

Negative consequences of instability of electoral legislation



These negative consequences can be eliminated to a large extent if the electoral legislation is stabilised.


BUT: does the current state of electoral legislation represent what we really want to stabilise? – Further changes are inevitable.

Adoption of Electoral Code is only one of possible solutions.

The main factors that hinder the adoption of the Electoral Code:

- Lack of consensus on the need of codification, as well as on the conceptual provisions of the Electoral Code among politicians;
- Continued public discussion as to the area of application of the Electoral Code.
- Lack of political will to create legal rules for elections which will not be a soft pillow under heads of ruling parties and a hard stone under heads of opposition.

1990 – 2016



**Thank you
for your attention!**