

# Ukraine Election Watch - Final Bulletin

October 30, 2020

*The National Democratic Institute offers this analysis of the environment and procedures surrounding Ukraine's October 25, 2020 local elections with the aim of supporting a peaceful, credible process. NDI's analysis is being conducted in accordance with the Declaration of Principles for International Election Observation and in light of constraints imposed by the covid-19 pandemic, which precluded deployment of additional international personnel to Ukraine. NDI therefore adapted its methodology to accommodate intensive remote engagement in addition to its activities on the ground. This analysis is based on in-depth virtual interviews conducted from August 25 to October 23 with representatives of the Ukrainian government, political parties, electoral administration, civil society, media, and domestic and international observer organizations; ongoing interaction with the full range of electoral stakeholders; virtual observation of electoral processes, such as sessions of the Central Election Commission (CEC) and trainings of election officials; and the Institute's expertise and relationships developed over almost 30 years of programming in Ukraine and conducting international election observation around the globe. NDI's assessment of election-day procedures, in particular, reflects the findings of credible nonpartisan citizen monitors who were deployed throughout the country on October 25. This report highlights the electoral framework and administration; the campaign environment; gender and inclusion; the information environment; and the impact of the covid-19 pandemic. This analysis builds upon the findings of NDI's Ukraine Election Watch of September 29, 2020.<sup>1</sup>*

## Summary of Findings

Ukraine has demonstrated, yet again, the capacity to organize credible elections, and the people of Ukraine have reaffirmed an unwavering desire to live in a democratic system. These elections, in spite of myriad internal and external challenges, were generally well conducted and the Ukrainian people were able to freely participate in all aspects of the process. According to Ukrainian observer groups, election day procedures were generally orderly and professional. The pre-election period was dominated by competitive campaigning, last minute procedural changes and concerns over public health. Despite efforts to mitigate the challenges of covid-19, the pandemic negatively impacted many aspects of the process. Electoral stakeholders identified a number of mostly longstanding challenges that merit concerted attention in the immediate future. As of drafting, results are being counted and tabulated; however, it is clear that a second round will be needed in many mayoral races across the country and that the results appear to reflect the pluralism of Ukraine's electorate.

<sup>1</sup> NDI Ukraine Election Watch, September 29, 2020. Link: <https://www.ndi.org/publications/ukraine-pre-election-report-efforts-needed-ensure-preparedness-enfranchisement-and>

## Political Context

The 2020 local elections were the first elections to take place following Volodymyr Zelenskyy's and the Servant of the People's (SoP) landslide wins in the presidential and parliamentary elections of 2019 that brought unprecedented optimism and renewed hope for change. Since that time, confidence in political parties has dropped, public trust in government has decreased, and pessimism about the future and direction of the country has grown.<sup>2</sup>

The local elections also took place amid decentralization and territorial reorganization processes that began in 2014. Since that time, more than 1,400 communities have undergone amalgamation, in which villages and small towns combine to form a new consolidated community. This exercise shifts significant control of resources away from the central government to local territorial structures. These elections presented a test for both old and new parties in this new system, as the increased responsibilities afforded to local governments prompted more competitive races, in turn requiring more organized candidate recruitment processes and better coordination between national and local party branches.

The elections were also a test for all the country's election stakeholders including election administration bodies, parties, candidates, voters, election observers, and public health officials, as they were conducted amid the global coronavirus pandemic. Rates of infection increased in the country during the electoral period, reaching a record high in new daily cases just days before the election. The global pandemic contributed to an already long list of concurrent external threats that includes ongoing Russian military aggression and occupation, disinformation attacks, and economic challenges.

These were also the first elections conducted under a complex system introduced by the new election code adopted in December 2019, with final amendments made in September 2020. The new code largely reflects recommendations of civil society and election experts to broaden inclusion of different stakeholder groups in the electoral process.

## Election Day

The Institute's virtual analysis of election day processes is based on the findings of credible domestic and international organizations that conducted in-person observation of voting, counting, and tabulation procedures, particularly those of the Civic Network OPORA, which used the parallel vote tabulation methodology to assess the quality of the process and provide an independent verification of the voter turnout.

On October 25, voting took place in 29,084 polling stations across Ukraine, including 28,156 regular and 928 special precincts. In addition, home-bound voting was allowed for more than 465,000 voters who were marked as "permanently incapable of moving independently" on the voters list as well as anyone with a valid medical certificate confirming temporary immobility due to illness (including covid-19) or self-isolation. The CEC accredited 116 domestic observer organizations to monitor the voting and counting process across the country.

According to domestic monitoring organizations, election day was mostly calm and orderly. The vast majority of polling stations around the country opened on time and the voting process continued without major

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<sup>2</sup> NDI Poll: Opportunities and Challenges Facing Ukraine's Democratic Transition, September 30, 2020. Link: <https://www.ndi.org/publications/ndi-poll-opportunities-and-challenges-facing-ukraine-s-democratic-transition-0>

interruptions. According to OPORA, the most frequent election day violations included: improper issuance of ballots, violations of the secrecy of the vote, and some cases of voters taking photos of ballots. Most violations were procedural, however. According to OPORA observers, significant violations that could affect the results of the elections took place in only 0.8 percent of precinct election commissions (PECs) observed. Other significant violations reported included isolated attempts of vote buying, ballot stuffing, and illegal campaigning.<sup>3</sup> Following the receipt of 5,006 reports of potential irregularities, the police launched 159 criminal cases and issued 324 administrative protocols.<sup>4</sup>

According to CEC preliminary data, voter turnout was just 36.88 percent, which is an almost 10 percentage point reduction from the 2015 local elections.<sup>5</sup>

Despite the CEC's efforts to ensure safe voting for the citizens of Ukraine, domestic observers reported that anti-pandemic measures were not consistently or uniformly applied across the country. According to OPORA, Chesno, and the Committee of Voters of Ukraine (CVU), not all PECs were equally supplied with personal protective equipment, pointing to inadequate preparations on the part of the central and local governments to properly address covid-19 mitigation measures for the conduct of elections.

## Electoral Framework And Administration

The October 25 local elections were held under a new electoral system and a new territorial-administrative division of the country, following years of decentralization reforms that shifted political, financial, and administrative responsibilities to local communities. Ukrainians elected 43,122 councilors for oblast, rayon, city, rayon-in-city, settlement, and village councils and 1,421 city, settlement, and village mayors. Constituencies with fewer than 10,000 voters elected their representatives through multi-member first-past-the-post districts, while seats representing larger constituencies were allocated based on an open list proportional system to parties that cleared a five percent threshold. Most mayoral seats will go to the candidates that gained a plurality of votes. However, for constituencies with more than 75,000 voters, the winner must gain an absolute majority or face a second round.

The instability of the electoral legislation remained a feature of the electoral process. While most interlocutors assessed the legal framework as conducive to holding democratic elections, many noted that the late adoption of some changes, the complexity of the new system, and various technical gaps presented challenges. In contrast to established best practice, changes continued throughout the electoral process and many proposals and decisions remained unresolved by both the government and the Verkhovna Rada. Some of the unresolved issues were critical to the process, including clarification for determining the validity of ballots and various covid-19 mitigation measures.

The CEC worked diligently to ensure preparedness for the elections amid the pandemic and evolving legal framework. Parties and civil society organizations (CSOs) characterized the Commission as open, transparent, and proactive. The CEC live-streamed all of its sessions online and regularly published information on

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<sup>3</sup> Statement of OPORA following the preliminary results of observation of the local election, October 26, 2020. Link: [https://www.oporaua.org/report/vybory/mistsevi-vybory/mistsevi\\_2020/21970-zaiava-opori-za-poperednimi-rezultatami-sposterezhennia-na-mistsevikh-viborakh-2020](https://www.oporaua.org/report/vybory/mistsevi-vybory/mistsevi_2020/21970-zaiava-opori-za-poperednimi-rezultatami-sposterezhennia-na-mistsevikh-viborakh-2020)

<sup>4</sup> Report of the Ministry of Interior, October 26, 2020. Link: [https://mvs.gov.ua/ua/news/35567-Zagalom\\_za\\_den\\_golosuvannya\\_policeyski\\_vidkrili\\_159\\_kriminalnih\\_provadzhen\\_za\\_faktami\\_porushen\\_pid\\_chas\\_vibori\\_v.htm](https://mvs.gov.ua/ua/news/35567-Zagalom_za_den_golosuvannya_policeyski_vidkrili_159_kriminalnih_provadzhen_za_faktami_porushen_pid_chas_vibori_v.htm)

<sup>5</sup> CEC publication on the voter turnout, October 26, 2020. Link: <https://www.cvk.gov.ua/novini/yavka-vibortsiv-na-mistsevikh-viborah-25-zhovtnya-2020-roku-sklala-3688.html>

resolutions adopted. OPORA noted positively the voter education efforts undertaken by the Commission. However, many acknowledged the difficult role the CEC faced balancing the need to clarify certain provisions of the election code while not overstepping its mandate. This balance at times appeared hard to maintain. In a controversial decision, the Commission raised the cap for the cost of campaign materials beyond limits set by the election code. In other cases the CEC had to provide explanations on provisions that legislators left unaddressed, such as the determination of the validity of ballots with non-standard voter markings.

With covid-19 infection rates rising during the campaign, the CEC took a number of steps to mitigate health risks posed by the pandemic. In mid-September the Cabinet of Ministers approved an order to implement covid-19 mitigation measures during the elections - which closely followed the recommendations developed by an Inter-Agency Working Group convened by the Commission.<sup>6</sup> The CEC then requested the Verkhovna Rada to enshrine the measures in legislation and secure adequate funding. In addition, the Commission petitioned the Cabinet and the relevant ministries, as well as local authorities, to act within their competencies to ensure appropriate conditions to prevent the spread of covid-19, including the allocation of funding for the purchase of necessary protective equipment for commission members across the country. The CEC's attempts were amplified by joint advocacy efforts of OPORA, Chesno, and other local CSOs and the International Foundation for Electoral Systems (IFES). However, the uncertainty about funding mechanisms and money available was not resolved until very late in the process, resulting in some polling stations and commissioners being inadequately equipped.

The decision to not conduct elections in 18 communities of Luhansk and Donetsk oblasts, representing almost 500,000 voters, was a feature of political discussions throughout the election process. The CEC was obligated to comply with the recommendations of the oblast-level civil-military administrations (CMAs) regarding those communities. While these communities are expected to elect their local councils once the security conditions are met, higher-level rayon councils were elected without the participation of voters from the 18 communities, cementing their lack of representation until the next local elections. In addition, the Verkhovna Rada suspended elections for the Donetsk and Luhansk oblast councils, citing "the impossibility of ensuring representation of common interests of territorial communities of villages, towns, and cities of Donetsk and Luhansk Oblasts."<sup>7</sup>

The local elections were administered by 1,642 territorial election commissions (TECs), formed in August 2020. TECs were responsible for drawing district boundaries, registering candidates, printing ballots, establishing PECs, registering candidate/party proxies and observers, and overseeing campaign finance in addition to tabulating votes and certifying results. Despite concerns raised in the pre-election period about the capacity and impartiality of the commission members, they largely performed professionally throughout the election process.

The candidate registration process commenced on September 15 and was not completed until days before the elections due to court challenges and the non-compliance of some TECs with court decisions. In total, according to the CEC, more than 280,000 candidates were registered. In general, the candidate registration process proceeded smoothly. The main reasons for denial of registration included technical mistakes in candidate application forms, non-compliance with gender quotas and payments of deposit by unauthorized party structures. Decisions and court rulings related to denial of registration due to technical mistakes were generally consistent. However, decisions and rulings regarding deposits were less uniform.

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<sup>6</sup> Cabinet of Ministers of Ukraine: covid-19 mitigation measures for the elections are approved, September 14, 2020. Link: <https://www.kmu.gov.ua/news/zatverdzheno-protiepidemichni-zahodi-pid-chas-provedennya-viboriv>

<sup>7</sup> Verkhovna Rada Resolution on the Appointment of the Local Elections in 2020. July 7, 2020. Link: <https://zakon.rada.gov.ua/laws/show/795-20#n7>

# Recommendations

Every effort should be made to ensure that future significant changes to the legal framework governing elections are enacted at least one year prior to election day. This would be consistent with international best practice, and provide election authorities, political parties, candidates, observers, and citizens with clear expectations about the election process.

Based on a comprehensive analysis of the application of the current legislation and recommendations from citizen and international observers, the Verkhovna Rada, together with the CEC, should identify shortcomings and inconsistencies of the electoral framework and amend the election code accordingly to ensure uniform reading and clarity of the provisions.

The Verkhovna Rada should define and publicize clear and objective criteria for CMAs to determine whether future elections are feasible in specific communities, and establish an appropriate review and appeals process.

# Campaign Environment

The ongoing covid-19 pandemic impacted every aspect of the campaign. Despite the limitations on gatherings and in-person party activities, the campaign was vibrant, with parties quickly adapting their campaigns to online platforms. The political landscape included established parties, newer parties that only started their activities in the last year or so and often did not have territorial representation beyond the oblast level, and self-nominated candidates. Many mayors of bigger cities established their own regional parties while parties with fewer prominent local incumbents registered their MPs as candidates in order to attract voters.<sup>8</sup> While campaigning was dynamic, there was a noticeable lack of substance to party and candidate platforms. The parties' electoral programs tended to be general and to give scant attention to issues of local concern, limiting the ability of voters to make informed decisions.

Candidates were officially permitted to begin formal campaign activities upon completion of their registrations in September. However, some political parties started voter outreach as early as May. OPORA reported that some 70 political parties started campaigning unofficially in July-August under the guise of public outreach.<sup>9</sup> Chesno, OPORA, and the media reported that political parties and their prospective candidates distributed goods (food, school supplies, toys), and that the practice was not legally considered vote buying as it was done before the electoral period. In addition, many parties have affiliated nongovernmental organizations, through which they were able to fundraise and conduct off-the-record campaign activities. While these activities are not prohibited, they circumvent campaign finance provisions.

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<sup>8</sup> Chesno: imitation of participation in the local elections - why MPs run as candidates for the local councils? October 22, 2020. Link: <https://www.chesno.org/post/4278/>

<sup>9</sup> OPORA Intermediary report for September, October 2, 2020. Link: [https://www.oporaua.org/report/vybory/mistsevi-vybory/mistsevi\\_2020/21113-promizhnii-zvit-gromadianskoyi-merezhi-opora-za-rezultatami-pozapartiinogo-sposterezhenia-na-mistsevikh-viborakh-za-veresen-2020-roku](https://www.oporaua.org/report/vybory/mistsevi-vybory/mistsevi_2020/21113-promizhnii-zvit-gromadianskoyi-merezhi-opora-za-rezultatami-pozapartiinogo-sposterezhenia-na-mistsevikh-viborakh-za-veresen-2020-roku)



Electoral contestants used a variety of campaign tools, reaching out to voters both online and through more traditional forms such as billboards, leaflets, street tents, meetings, and door to door campaigning. Due to covid-19, parties generally opted for open-air gatherings and refrained from holding massive rallies. Throughout the electoral period, Ukraine operated under a green/yellow/orange/red “zone” system that imposed varying levels of restrictions on public gatherings. Parties reported that campaigning in the areas qualified as red zones due to covid-19 prevalence was difficult.

Even though voters could choose from a diverse pool of candidates, their platforms were not easily accessible, and parties and candidates placed more emphasis on slogans than on concrete proposals. In many cases, where platforms existed, they largely echoed 2019 parliamentary or presidential platforms or, if they were localized, they focused primarily on infrastructure projects and social policies. A comparative analysis of leading candidates’ platforms by the Center of United Actions showed that political parties often had no programmatic focus in the areas under the purview of local government. The scope of the programs varied between the regions, with more comprehensive platforms developed in parties’ strongholds.<sup>10</sup>

In mid-October, President Zelenskyy announced that he would hold a national survey on election day, asking five questions outside of selected polling stations.<sup>11</sup> Political parties and CSOs strongly criticized the survey, voicing concerns over the security of the electoral process, unnecessary exposure to covid-19 risk, and the lack of legal basis for the initiative. The survey was financed by the Servant of the People party, raising concerns by some that it gave the party additional opportunities to campaign on election day.

The Ministry of Internal Affairs (MIA) consistently and publicly encouraged election stakeholders to abide by the law. The Ministry published daily updates on the number and types of electoral violations throughout the campaign and dedicated 75,000 police officers to support election day.<sup>12</sup> Violations reported included cases of vote buying, campaigning in state and educational institutions, and incidents of physical attacks on candidates, activists, and party property.

Politicians at both the national and local levels were accused of misusing their incumbency and administrative resources during the course of the campaign. According to OPORA’s observers, political parties in power in different territorial units commenced infrastructure projects and social support programs shortly before the electoral period. CSOs underlined that some local elected officials used budgetary funds to secure the political support of the electorate.<sup>13</sup>

## Campaign Finance

In 2015, the Verkhovna Rada adopted a new regulatory framework for party and campaign financing that increased transparency. However, some shortcomings that international and domestic observers have raised remain unaddressed: the process for making small individual donations is burdensome; regulation of spending prior to the official campaign is inadequate; and election administrators lack the resources to

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<sup>10</sup> Center UA Instrument for analysis of election platforms. Link: <https://www.centreua.org/vybory2020/>

<sup>11</sup> President Zelenskyy’s announcement about a nationwide poll on the election day, October 13, 2020. Link: <https://www.facebook.com/100007211555008/posts/2656165557967137/?extid=o&d=n>

<sup>12</sup> The Ministry of the Interior will engage mobile groups and aviation in order to prevent violations during local elections, October 7, 2020. Link: [https://mvs.gov.ua/ua/news/34865\\_Miscevi\\_vibori\\_2020\\_MVS\\_zalucha\\_mobilni\\_grupi\\_ta\\_aviaciyu\\_dlya\\_reaguvannya\\_na\\_vsi\\_protipravni\\_dii.htm](https://mvs.gov.ua/ua/news/34865_Miscevi_vibori_2020_MVS_zalucha_mobilni_grupi_ta_aviaciyu_dlya_reaguvannya_na_vsi_protipravni_dii.htm)

<sup>13</sup> OPORA How members of oblast councils spend local budget funds, January 22, 2020. Link: <https://www.oporaua.org/en/report/vybory/19616-iak-deputati-oblasnikh-rad-vitrachaiut-koshti-deputatskikh-fondiv>

effectively monitor and enforce laws and regulations. The campaign was financed predominantly by the candidates themselves, but the transparency of funding was limited. The provisions related to the management of electoral accounts proved to be too demanding for smaller political parties, and public scrutiny of financial reports was restricted due to delays in their publication. The sanctions envisioned for non-compliance are too low to serve as an effective deterrent.

Campaign-like activities conducted prior to candidate registration are legally considered political party public outreach. As such, any related expenses should be reflected in political party quarterly reports submitted to the National Agency for Corruption Prevention (NACP), as opposed to being included in campaign finance reports. In March, in light of the covid-19 pandemic, the Verkhovna Rada amended the legislation to extend the deadline for submission of party finance reports until at least 40 days after quarantine restrictions are lifted by the Cabinet of Ministers.<sup>14</sup> In practice this means that information about parties' income and expenditures will not be made publicly available in 2020. Research by CSOs, however, suggest that significant expenditures were involved. Bihus.Info, an investigative journalism group, reported that the SoP and For the Future parties spent at least \$565,000 USD and \$512,000 USD, respectively, on pre-election outdoor advertising. In addition, the report also showed European Solidarity spending \$230,000 USD and Palchevsky's Victory spending \$170,000 USD on outdoor advertising during the pre-election period.<sup>15</sup> Financing of the President's national poll by Servant of the People further highlighted the lack of transparency in political parties' funding. The most recent publicly available figures for party financing indicated that Servant of the People had just over \$1,000 USD cash on hand as of the end of 2019. OPORA and other CSOs have encouraged SoP to voluntarily disclose the source of funding for this poll, which cost an estimated \$3,000,000 USD.<sup>16</sup>

Transparency of campaign spending on the internet is currently unregulated by the election code. Information is unavailable from most platforms with the exception of spending on Facebook political ads. According to OPORA's monitoring of the electoral contestants' expenditures on Facebook ads, the biggest spender was For the Future, which spent more than \$385,000 USD, followed by Nash Krai and Servant of the People, which spent \$173,235 USD and \$164,333 USD, respectively. Political spending online is growing quickly, with OPORA finding that the number of political ads has doubled since 2019, and meaningful regulation is needed to ensure voters have access to this information.<sup>17</sup>

Campaign finance reports are due both five days before and seven days after elections, at which time they are reviewed by TECs. An amendment to the electoral code that obligated TECs to publish the received reports online within two days was implemented erratically, according to Chesno. It was also difficult to assess the number of contestants that failed to meet their reporting obligations. While a failure to report is subject to a fine ranging from \$180 to \$240 USD, this is too low to deter non-compliance. Political parties and CSOs note that an electronic reporting system would improve compliance with the reporting provisions, allow for better oversight, and increase public scrutiny.

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<sup>14</sup> Draft law on Amendments to Certain Legislative Acts Aimed at Providing Additional Social and Economic Guarantees in Connection with the Spread of Coronavirus. Link: [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=68479](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68479)

<sup>15</sup> Report of Bihus.Info on campaign advertisement, October 29, 2020. Link: <https://bihus.info/slugy-rozvisyly-v-kyievi-bordiv-na-ponad-16-miljoniv-palchevskiy-vidstav-majzhe-v-4-razy/>

<sup>16</sup> OPORA Third interim report, October 23, 2020. Link: [https://www.oporaua.org/report/vybory/mistsevi-vybory/mistsevi\\_2020/21618-tretii-promizhnii-zvit-za-rezultatami-pozapartiinogo-sposterezhennia-opora-na-mistsevikh-viborakh-zhovten-2020-roku#\\_Toc54340546](https://www.oporaua.org/report/vybory/mistsevi-vybory/mistsevi_2020/21618-tretii-promizhnii-zvit-za-rezultatami-pozapartiinogo-sposterezhennia-opora-na-mistsevikh-viborakh-zhovten-2020-roku#_Toc54340546); Servant of the People finance report for the 4th quarter of 2019. Link: <https://nazk.gov.ua/wp-content/uploads/2020/02/PDF-356.pdf>

<sup>17</sup> OPORA Features of political advertising on the social network Facebook in the local elections 2020 (September 5 - October 20). Link: [https://www.oporaua.org/report/vybory/polit\\_ad/21640-osoblivosti-politichnoyi-reklami-u-sotsialnii-merezhi-facebook-na-mistsevikh-viborakh-2020-5-veresnia-20-zhovtnia?fbclid=IwARoonSHKL2Z23pdGdZiLy0RqrgRjMLqTQCLKVYCBQv9jyoVtftpJNpjzbsI](https://www.oporaua.org/report/vybory/polit_ad/21640-osoblivosti-politichnoyi-reklami-u-sotsialnii-merezhi-facebook-na-mistsevikh-viborakh-2020-5-veresnia-20-zhovtnia?fbclid=IwARoonSHKL2Z23pdGdZiLy0RqrgRjMLqTQCLKVYCBQv9jyoVtftpJNpjzbsI)

The TECs are the campaign finance oversight bodies mandated to analyze the accuracy of submitted reports and pass on to the NACP information about any inaccuracies and violations. IFES provided extensive training to TEC members responsible for campaign finance oversight but as TEC members represent parties, and have significant responsibilities beyond reviewing campaign finance reports, the majority of parties and CSOs expressed concern that they lacked the will or capacity to enforce regulations.

## Recommendations

*The Verkhovna Rada should:*

Develop legislation to regulate the role of third parties, such as affiliated civil society organizations, in political and campaign activities to allow for adequate transparency of political and campaign finance.

Address the abuse of administrative resources with appropriate changes to the law, including prohibitions on activities by public officials that provide undue partisan advantage.

Amend the political finance reporting calendar to allow voters to be fully informed before election day on parties' incomes and expenditures during and before the electoral period.

Empower the CEC and other relevant governmental agencies to regulate online spending on political advertisements.

Amend campaign finance provisions in the law so that sanctions for non-compliance are proportional to the violations and sufficient to deter.

Assess the viability of campaign finance oversight by the TECs, and consider a more institutionalized approach to campaign finance oversight.

*The CEC and the NACP should develop an electronic system for reporting on campaign finance to allow for increased transparency and improved oversight.*

## Gender and Inclusion

Women comprise 53 percent of the Ukrainian population and NDI polls have repeatedly shown support among citizens for a better balance between men and women in politics. Under the mandatory gender quota introduced in the new election code, in communities with 10,000 or more voters, “no fewer than two candidates of each gender shall be present in each five candidates in the electoral lists,” or 40 percent. In communities with fewer than 10,000 voters, lists had to include at least 30 percent of candidates of each gender. While women’s rights organizations, candidates, and political parties assessed the new 40 percent quota mechanism as contributing to the increased political participation of women, many parties reported difficulties recruiting women candidates to meet the quota for their proportional lists, especially in rural areas



and smaller cities. According to data provided by the CEC, 102,263 women registered as candidates (approximately 45 percent) in the proportional lists of parties, a significant increase from the 35 percent in the 2015 local elections.<sup>18</sup> However, according to OPORA, women led only 22 percent of unified multi-member district proportional lists and 30.5 percent of territorial district proportional lists, which could have impacted their chances of being elected.<sup>19</sup> The number of elected women was not available at the time of drafting this bulletin.

Enforcement of the 40 percent gender quota was inconsistent. According to data provided by the CEC, approximately 17 percent (1,354 out of 7,943) of the party lists registered for the 792 local councils elected by the proportional system were not compliant with the spirit of the quota provisions. In these cases, individual candidates failed to be registered or withdrew after parties submitted their lists for registration. In addition, NDI heard reports of parties placing female “technical candidates” on their lists with no intention of actually seating them. The election code does not ensure that the quota is upheld beyond the submission of a list. Several women’s rights CSOs, who joined together in the Elections Without Sexism initiative, noted a concern that withdrawals of female councilors may occur after the election results are finalized.

According to the CEC, women made up approximately 16 percent of mayoral candidates, which represents a minor increase from 2015. However, of the 38 major cities that are either oblast centers or have more than 75,000 registered voters, only two had no women mayoral candidates, compared to nine such cities in 2015.

There are no legal requirements regarding gender balance in the composition of election commissions. Of the 17 members of the CEC, only five are women. However, they were well represented at TECs, constituting 74 percent of members and 67 percent of chairs.<sup>20</sup> Disaggregated voter data by gender is not available, which hampers assessment of trends in women’s participation and the ability of political parties and candidates to conduct targeted campaigning.

Many women candidates were visible and active in the campaign, according to OPORA and CVU. General awareness regarding sexism and discrimination toward female candidates was raised by the 77-CSO coalition initiative, Elections Without Sexism. Activists and female candidates submitted approximately 50 reports of incidents of sexism in the campaign through the initiative’s dedicated chatbot and hotline. The Ukrainian Women’s Fund (UWF) reported that approximately one third of women candidates in the 10 oblasts where they monitored were subject to violence such as verbal threats, bullying on social media, “black PR,” damage to campaign materials, and physical violence against campaign staff at the beginning of the election campaign.<sup>21</sup> NDI also received some similar reports regarding incidents affecting women candidates during the campaign in other regions. The European Network of Election Monitoring Organizations (ENEMO) also reported the use of black PR and misogynistic messages against women candidates.<sup>22</sup>

The new legal framework has given internally displaced persons (IDPs) the first opportunity to run for local elections since 2014, and has reduced their barriers to voting. This reflects a longstanding recommendation from CSOs such as OPORA and Group of Influence, as well as political parties and international organizations. Eligible citizens are now able to register to vote where they actually reside through a simplified procedure available online, in-person, and through a proxy. As a result of this change, IDPs, labor migrants,

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<sup>18</sup> CEC candidate data as of October 29, 2020

<sup>19</sup> OPORA Third interim report, October 23, 2020. Link: [https://www.oporaua.org/report/vybory/mistsevi-vybory/mistsevi\\_2020/21618-tretii-promizhnii-zvit-za-rezultatami-pozapartiinogo-sposterezhenia-opora-na-mistsevikh-viborakh-zhovten-2020-roku#\\_Toc54340548](https://www.oporaua.org/report/vybory/mistsevi-vybory/mistsevi_2020/21618-tretii-promizhnii-zvit-za-rezultatami-pozapartiinogo-sposterezhenia-opora-na-mistsevikh-viborakh-zhovten-2020-roku#_Toc54340548)

<sup>20</sup> Data provided to NDI by a CEC representative on October 23, 2020

<sup>21</sup> Ukraine Women’s Fund: Statement No. 2 on the Interim Results of Gender Monitoring of Ukraine’s Local Elections on October 25, 2020. Link: <https://www.uwf.org.ua/en/news/11934>

<sup>22</sup> ENEMO Statement of preliminary findings and conclusions, October 27, 2020. Link: [http://enemo.eu/uploads/file-manager/Preliminary\\_Statement\\_in\\_English.pdf](http://enemo.eu/uploads/file-manager/Preliminary_Statement_in_English.pdf)

students, people without a registered place of residence, and others were able to vote. Approximately 100,000 voters changed their electoral address. While the CEC, State Voter Registry (SVR), and CSOs engaged in limited public information efforts on the change in procedure before the September 10 deadline, the need for greater efforts in the future to reach the approximately 5.5 million affected voters was expressed by numerous interlocutors. In addition, concerns were raised about “electoral tourism” or manipulation of voter registration by political forces to influence the outcome of elections in a particular territory.

The new election code includes provisions intended to improve the accessibility of persons with disabilities to the voting process, such as simplified procedures for changing one’s voter registration status, and electoral information available to voters who are blind, have low vision, are deaf, or are hard-of-hearing in adapted formats, accessible through a QR code printed on posters placed in all polling stations. However, disability rights advocates noted a lack of campaign materials in accessible formats. NDI was informed of at least six candidates with disabilities running for local council seats with various parties, all of whom advocated for rights of persons with disabilities in their campaign messages.

According to a survey conducted by Fight for Right, a CSO advocating for the rights of voters with disabilities, 74 percent of persons with disabilities surveyed wished to vote at a polling station while only 7 percent wished to vote at home.<sup>23</sup> However, only 3 percent of polling stations were fully accessible, with the remainder assessed as either partially accessible (56.2%) or totally inaccessible (40.8%) to persons with disabilities or reduced mobility, according to OPORA.<sup>24</sup> While both the CEC and the Ministry of Development of Communities and Territories adopted resolutions to improve accessibility to both polling stations and election information to help voters to make an informed choice, they came too late to be enforced on election day.

Although lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals are still subject to homophobic harassment and intimidation in Ukraine, the 2020 local elections saw significant advancements in their political participation: at least 12 LGBTI candidates ran for local councils. The candidates ran with different political parties in big cities, such as Kyiv and Kharkiv. Leaders and LGBTI candidates of two parties made public statements in favor of LGBTI rights in response to the cancellation of a Kyiv Pride event following the pressure of radical groups in October. Incidents of hate speech directed at LGBTI candidates were not reported to NDI.

As during previous elections, many members of the Roma community were unable to register as voters, as some members of the community, mostly women, do not possess valid identification cards and many don’t have the fixed address required for their inclusion on the voter lists. Positively, more than 20 Roma candidates ran for local councilor positions, including six women, which represents a significant increase in participation compared to any previous Ukrainian election, according to Roma rights CSOs. Notably, the Roma candidates were not confined to a single party or movement, but rather were included on several party lists.

NDI reviewed available oblast-level platforms of the five parliamentary parties. Platforms were not available for all oblasts and not all parties competed in every oblast. Of the 91 oblast-level platforms available from the five parliamentary parties, only one mentioned gender equality, while one mentioned support for human rights, and two included mention of equal rights. Support for IDPs was included in nine of the available oblast-level platforms of the five parliamentary parties while support or programs for persons with disabilities or other vulnerable groups, including children, was included in 24. LGBTI rights were not mentioned in any of the analyzed platforms.

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<sup>23</sup> Fight for Right report published on October 25, 2020. Link: <https://www.facebook.com/fightforright.ua/posts/3431655686950652>

<sup>24</sup> OPORA report on the accessibility to the polling stations in Ukraine. October 13, 2020. Link: <https://www.oporaua.org/report/vybory/vyborchi-ombudsmeni/dostupnist>

# Recommendations

The Verkhovna Rada should amend the election code to ensure the balance between men and women on party lists is maintained in the event of candidate replacement or withdrawal before or after the election.

CSOs should continue to raise public awareness of sexism and violence against women in elections.

The CEC, political parties, and CSOs should develop robust public information efforts on the new accessibility measures for voters with disabilities and new procedures for changing voter addresses for IDPs and other people residing in places other than their permanent addresses.

The government should coordinate with local authorities to strengthen existing accessibility measures, making sure that all electoral processes are accessible to persons with disabilities.

# Information Environment

The media in Ukraine is free from government control, and citizens have the ability to access information largely unimpeded. Reporters are generally able to do their jobs free from interference, although there have been high-profile attacks on journalists in recent years. A more sustained challenge to the ability of voters to get reliable information about the elections is largely due to a system of heavily-concentrated media ownership. According to the Ukrainian Media and Communication Institute, most outlets give their preferred mayoral candidates and parties biased news coverage.<sup>25</sup> As a result, voters have limited access to impartial political information.

Interlocutors also cited the practice, known as “*jeansa*,” of paying for favorable news coverage. Monitoring conducted by the Institute of Mass Information (IMI) suggests that in some areas of the country as much as 4 percent of news content is *jeansa*, and its survey of reporters found that a substantial percentage believed their outlets would not be able to survive without selling favorable coverage.<sup>26</sup> An additional concern is lower journalistic standards in some regional outlets, which publish low-quality or faked public opinion data in order to influence public perceptions of the campaign. To address this issue, the media watchdog organization Texty has compiled a “Sellers of Ratings” database, which documents firms and individuals that appear to be producing and distributing fake or low-quality public opinion research.<sup>27</sup>

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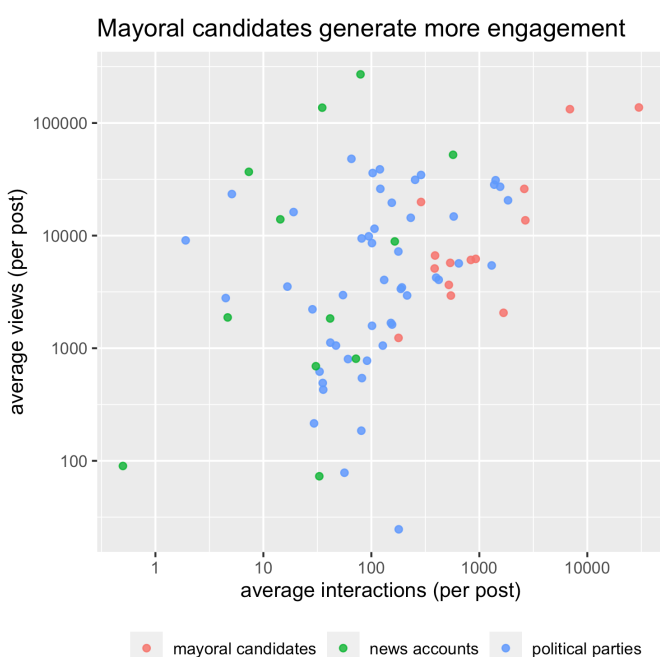
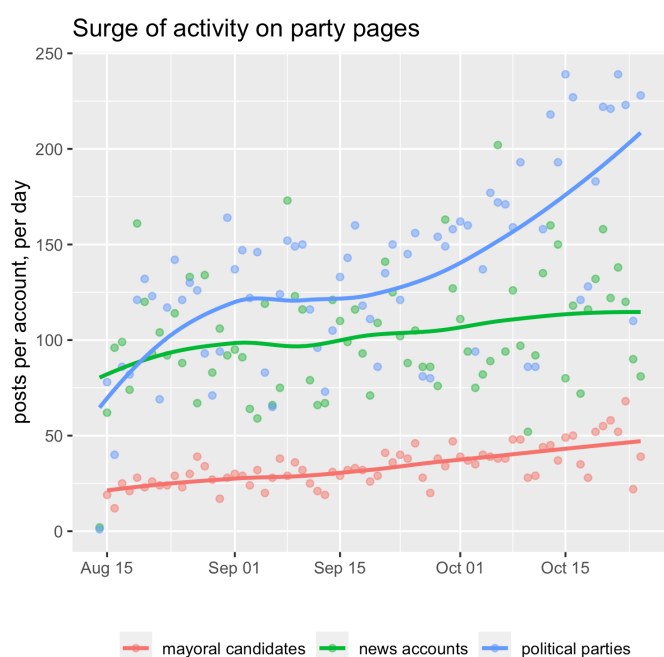
<sup>25</sup> Council of Europe First interim report of online media and Facebook during the local election campaign. September 5-25, 2020. Link: <https://rm.coe.int/zvit-oct-2020/16809fdf52>

<sup>26</sup> IMI report on *jeansa* in mass media, September 30, 2020. Link: <https://imi.org.ua/en/monitorings/37-of-jeansa-in-regional-online-media-ordered-by-local-politicians-imi-research-i34731>

<sup>27</sup> TEXTY: On the eve of the election, pseudo-sociologists publish pseudo-research, which is commented on by pseudo-experts and distributed by garbage outlets, October 16, 2020. Link: <https://texty.org.ua/articles/102089/v-ukrayini-mnozhasya-prodavci-rejtynhiv/>

The public broadcaster is a bright spot in the media landscape, producing high quality programming despite years of underfunding and political pressure. Interlocutors mentioned the increased volume and quality of the public broadcaster’s digital offerings in recent years and, in light of its national broadcasting reach, cite it as a potential alternative to media that reflects the political preferences of ownership. Still, viewership is low, and the political challenges that it faces are serious, with a Servant of the People MP recently introducing legislation in the Verkhovna Rada to cut the outlet’s funding. Further, interlocutors stressed the importance of maintaining an independent board to oversee the public broadcaster so that management is insulated from pressure to grant politically favorable coverage to certain parties or candidates.

Starting in September, NDI collected and analyzed more than 17,000 Facebook posts from the accounts of media outlets, candidates for mayor in oblast centers, and political parties in Donetsk, Odesa, Ternopil, and Zaporizhyya oblasts, as well as in Kyiv City. Political party pages, in particular, dramatically increased activity in the final days of the campaign, although throughout, mayoral candidates were more successful at generating interaction with voters.



While there was an increase in attention paid to the local elections during the course of the campaign, to a significant degree these accounts focused on national political issues. President Zelenskyy was mentioned far more than any other figure, with former President Petro Poroshenko being the second most-mentioned individual, despite the fact that neither appeared on a ballot in the local elections. These posts regularly criticized both Zelenskyy and Poroshenko. There was a large gender imbalance among the pages monitored, with the ratio of men-to-women mentioned at 4-to-1 on Facebook. Of the top ten most-mentioned individuals across the accounts monitored, only one, Yuliia Tymoshenko, was a woman.

The mission also monitored 50 news and current events-related Telegram channels in the final days of the campaign. Similar to the Facebook pages and groups monitored, the Telegram channels frequently mentioned Zelenskyy and subjected him to intense criticism. However, unlike the activity on Facebook, which tended to be more run-of-the-mill political criticism, the Telegram channels tended to feature sarcasm, innuendo, and rumor. Many claimed to have anonymous sources reporting from inside the presidential administration.

Disinformation remained a threat to the integrity of the information environment during the electoral period, with the most serious and sustained threat in the form of pro-Russia disinformation narratives. These narratives seek to undermine the legitimacy of the Ukrainian state and its government; weaken ties between Ukraine and its partners in the West; and promote the image of the Russian government.

Rather than targeting particular mayoral races or engaging with local issues, ongoing disinformation campaigns tended to repeat narratives that, if believed, could have led to a warped perception of politics in Ukraine that could have directly affected how voters perceived their choices at the ballot box. For instance, in the final days of the electoral period, StopFake reported on false claims that the Ministry of Education and Science was persecuting history teachers for their teaching of World War II, part of a narrative that “Nazis” control the Ukrainian government, that Russia is unfairly persecuted in Ukraine, and that American drug companies have harmed Ukrainians in coronavirus vaccine trials.

Representatives of Detektor Media and StopFake reported that major political parties often trafficked in pro-Russia narratives or amplified these types of disinformation themes.<sup>28</sup> Disinformation related to covid-19 was also rampant, with Internews reporting that 80 percent of respondents in a nationally representative survey had been exposed to disinformation about the pandemic.<sup>29</sup>

Representatives of political parties, CSOs, and the government acknowledged that disinformation was a serious problem. There was, however, variation in how the problem was described. Representatives from Opposition Platform for Life and Shariy Party argued that they were the victims of disinformation campaigns, and that their designation as “pro-Russian” was itself a form of disinformation.

CSOs have taken the lead and done commendable work monitoring disinformation, fact-checking, raising awareness of the dangers of disinformation, and promoting media literacy efforts. Still, the challenge is substantial, and many interlocutors said that the volume and sophistication of disinformation has increased this year.

Despite President Zelenskyy’s recent calls for an international counter-disinformation hub to be headquartered in Ukraine, there is little evidence of coordinated mitigation efforts on the part of the government. The Ministry of Foreign Affairs intends to work with other government agencies to develop disinformation countermeasures, but these efforts are still in the planning stages. The Ministry of Culture and Information Policy plans to conduct awareness and media literacy campaigns, but it is still recovering from a recent bureaucratic reorganization. The Ministry of Internal Affairs and its subordinate agencies deal with violations of the law, including cybercrime, but not disinformation. The National Council on Television and Radio Broadcasting lacks the ability to sanction violations of electoral law in broadcast media or address disinformation. There is no meaningful regulation of campaigning online outside of a new requirement that campaigns disclose spending. While a step forward, the spending disclosure provision still leaves internet campaigning as an unregulated area, relying on platforms to police their content.

Facebook removed accounts engaged in coordinated, inauthentic behavior originating from Russia in late September,<sup>30</sup> and OPORA reported that another group of accounts engaged in similar behavior was made inaccessible just days before voting.<sup>31</sup> Improvements to Facebook’s ad library increased the ability of civil society actors to analyze patterns in political ad spending, including by making enhancements to the search function of its political ad library. But in many cases, reactions by Facebook came only after accounts had engaged in inauthentic activity for a sustained period of time, meaning that substantial damage was likely already done. Additionally, Facebook’s requirements for disclosing spending created loopholes that made it

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<sup>28</sup> Council of Europe: Does the media manipulate while covering the 2020 local elections in Ukraine – the results of two monitoring sessions, October 22, 2020. Link: <https://www.coe.int/en/web/kyiv/-/do-the-media-manipulate-while-covering-the-2020-local-elections-in-ukraine-results-of-two-monitori-1>

<sup>29</sup> USAID Internews 2020 media Consumption Survey, August 20202, Link: <https://internews.org/sites/default/files/2020-10/2020-Media-Consumption-Survey-FULL-FIN-Eng.pdf>

<sup>30</sup> Facebook: Removing Coordinated Inauthentic Behavior, September 24, 2020. <https://about.fb.com/news/2020/09/removing-coordinated-inauthentic-behavior-russia/>

<sup>31</sup> OPORA: Facebook has deleted a network of pages and fake accounts previously identified by OPORA, October 23, 2020. Link: <https://www.oporaua.org/en/article/vybory/disinformation/21666-facebook-vidaliv-merezhu-storinok-ta-feikovikh-oblikovikh-zapisiv-iaku-ranisce-identifikuvala-opora>



difficult to identify the true source of payment. OPORA also noted multiple violations of the campaign silence required in the 24-hour period before election day.<sup>32</sup>

## Recommendations

Ukrainian and international donors should provide sufficient funding to support independent media outlets, including the public broadcaster, as viable alternatives to oligarch-owned media. The Verkhovna Rada should meet its current funding obligations and reject legislation that would reduce or eliminate the statutory requirement to fund the public broadcaster.

The government should devise and implement a comprehensive plan to respond to sustained disinformation threats.

CSOs, the donor community, and government should collaborate to substantially increase funding and programming around monitoring and countering disinformation, on the one hand, and investing in long-term media literacy and education about disinformation on the other.

Political parties and candidates for public office should voluntarily report disaggregated data about their spending on political advertisement on all social media platforms.

Technology companies should follow Facebook's lead and create searchable libraries of political ads to enable all electoral stakeholders to better understand how spending on advertisements may affect the outcome of elections. For its part, Facebook should release exact figures on daily spending data, rather than reporting thresholds of spending, e.g., "below \$100."

Technology companies, especially Facebook and other social media platforms, should establish or increase their in-country presence in the period leading up to and during elections in order to ensure rapid response to complaints from electoral actors.

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<sup>32</sup> OPORA: Which of the candidates and parties is campaigning on social networks on election day, October 25, 2020. Link: [https://oporaua.org/news/vybory/polit\\_ad/21768-khto-z-kandidativ-ta-partii-agituie-v-sotsialnikh-merezhakh-v-den-golosuvannia-onovliuetsia](https://oporaua.org/news/vybory/polit_ad/21768-khto-z-kandidativ-ta-partii-agituie-v-sotsialnikh-merezhakh-v-den-golosuvannia-onovliuetsia)

electoral environment is being conducted in line with the Declaration of Principles for International Election Observation. For more information about NDI and its programs, please visit [www.ndi.org](http://www.ndi.org).

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