



EDPE Policy Alert – Electoral Reform in Ukraine #5

The European Platform for Democratic Elections (EPDE) monitors the progress of electoral reform in Ukraine. Issue no. 5 of the “EPDE Policy Alert - Electoral Reform in Ukraine” concerns the registration of a draft law which aims to strengthen sanctions for election violations.

On 13 April, the Cabinet of Ministers of Ukraine submitted the Draft Law “On Introducing Amendments to Certain Legislative Acts of Ukraine Aimed to Strengthen the Liability for Violation of Electoral Legislation” to the Parliament ([Draft Law No. 8270](#)). This Draft Law was elaborated in close cooperation between the election watchdog and EPDE member “Civil Network OPORA,” the Ministry of Internal Affairs, the Ministry of Justice, the Prosecutor’s General Office, the Central Election Commission, and the National Police. The elaboration lasted for almost two years and underwent thorough discussions among stakeholders and experts of the election process in all regions of Ukraine.

Independent observers consistently record large numbers of violations of the electoral legislation during elections and election campaigning in Ukraine ([most recently in the course of the local elections in 2015](#)). However, those who commit election violations usually remain unpunished, or virtually unpunished, due legal loopholes and small penalties. This leads to a sense of impunity for those who violate electoral provisions and contributes to a low level of trust among Ukrainians toward the institution of free and fair elections. The draft law, which proposes to introduce amendments to the Criminal Code, the Code of Administrative Offences, and the national and local electoral legislation, aims to address impunity and to improve the current flawed enforcement system for electoral crimes by harmonizing legislation and strengthening sanctions for election violations. The draft law also aims to facilitate the prevention, investigation, and detection of electoral fraud.

According to the draft law, tougher sanctions for election violations include, among other measures, up to two years of imprisonment for illegal use of ballot papers and ballot-box-stuffing; for violations of the secrecy of the vote committed by members of an election commission, candidates, or observers; and for the unlawful receipt of benefits relating to the exercise of the right to vote or to stand as candidate. In this regard, the draft law for the first time also imposes criminal liability for the bribery of candidates, with the intention of countering the phenomenon of spoiler candidates. Moreover, the draft law proposes to increase the maximum prison sentence from three to six years for electoral offences such as direct and indirect bribery of voters and forgery of election documentation. On the other hand, the draft law proposes to decriminalize minor violations of the electoral legislation; under the new law, voters who conceal or destroy their own ballots would not be held on criminal charges. The decriminalization of minor violations that have no impact on the election results aims to save resources and enable law enforcement officers to investigate major offences more effectively. Finally, the draft law aims to create preconditions to detect and investigate electoral fraud. This includes granting impunity to people who voluntarily report about vote bribery or election falsifications, as well as enabling law enforcement officers to conduct secret investigative surveillances during the election campaign.

Election watchdogs in Ukraine have long been calling for the [introduction of timely, proportionate, effective, and dissuasive penalties for electoral violations](#). Draft Law No. 8270 is an attempt to improve the current enforcement system and, therefore, a first step toward addressing impunity for electoral violations and raising the quality and fairness of elections in Ukraine.



This issue is part of a series of EPDE Policy Alerts to inform relevant stakeholders and decision makers in Ukraine, the European Union, and globally about reforms in the field of electoral legislation, the composition and performance of the election administration, and the positioning of the main political forces in Ukraine. Please feel free to forward and share our analysis.

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