



### **EPDE Policy Alert - Electoral Reform in Ukraine #13**

*The European Platform for Democratic Elections (EPDE) monitors the progress of electoral reform in Ukraine. Issue no. 13 of the “EPDE Policy Alert - Electoral Reform in Ukraine” informs about the recent adoption into law of the Draft Electoral Code No. 3112-1 which provides for the introduction of a proportional electoral system with open regional party lists for parliamentary elections.*

On July 11, i.e. ten days before the snap parliamentary election on July 21, the Ukrainian Parliament adopted an Electoral Code ([No. 3112-1](#)). This Electoral Code provides for the introduction of a proportional electoral system with open regional party lists for parliamentary elections. Moreover, the Electoral Code harmonizes Ukraine’s electoral legal framework by combining provisions of five different electoral laws: on presidential elections, on elections of people’s deputies, on local elections, on the Central Election Commission, and on the State Register of Voters. The Electoral Code also specifies the procedures of vote counting and vote tabulation. Furthermore, it provides for a stronger differentiation between election campaigning and election media coverage, and a gender quota requiring that no more than three out of every five candidates on party lists be of the same gender.

To come into force, the Electoral Code needs to be signed by the President. However, even if signed by the President, the Electoral Code would enter legal force only in December 2023. Therefore, the Electoral Code and the introduction of a proportional electoral system with open regional party lists will not apply to the next regular parliamentary elections which are to be held in October 2023 (i.e. on the last Sunday of October of the fifth year of the Parliament’s term). The Electoral Code will also not apply to the upcoming local elections scheduled for 2020.

Since Ukrainian lawmakers have made little effort during their current term to reform Ukraine’s electoral legal framework, it seems likely that the adoption of the Electoral Code ten days prior the snap parliamentary elections is driven first and foremost by election campaigning of the current Parliament and its deputies. Moreover, experts in Ukraine have already [pointed out](#) that the adoption of the Electoral Code probably occurred with violations of the Rules of Procedure of the Verkhovna Rada. Amendments to the Draft Electoral Code were voted in a “package”, which received a majority only after the 17th voting attempt. Violations of the Rules of Procedure of the Verkhovna Rada could serve as grounds to challenge the newly adopted Electoral Code in the Constitutional Court. Allies of the President already indicated that Zelensky may veto the Electoral Code.

The EPDE member Committee of Voters of Ukraine (CVU) welcomed the adoption of the Electoral Code in principle. However, [CVU stressed](#) that the Electoral Code needs not only a thoroughly revision, but also fundamental modifications. Apart from the requirement that the Electoral Code enter into force earlier than December 2023, this concerns, in particular, stronger regulations of political advertising in order ensure a level playing field for all parties and candidates, mechanisms to facilitate the participation in elections for Ukrainian citizens

residing abroad, more transparency of elections funds and the introduction of mechanisms for electronic counting of Precinct Election Commissions (PEC) protocols.

Flaws of the newly adopted Electoral Code have been also [pointed out](#) by the International Foundation for Electoral Systems (IFES): The open-list proportional system established in the Electoral Code provides that the allocation of seats to election districts is based on turnout rather than the number of registered voters. Lower voter turnout could therefore lead to underrepresentation of certain regions in the Parliament. Furthermore, the Electoral Code lacks instruments to enfranchise IDPs and other internal migrants. Therefore, the adoption of the Electoral Code does not relieve from the need for adopting other electoral bills pending in the Ukrainian Parliament, such as Draft Law No. 6240 aimed to enfranchise IDPs in all elections, Draft Law No. 5559 aimed to increase the electoral accessibility for voters with disabilities, and Draft Law No. 8270 aimed to [strengthen the liability for violations of the electoral legislation](#).

The adoption of the Electoral Code is, nevertheless, a step in the right direction. However, the Ukrainian civil society must continue to be supported in pursuing an inclusive electoral reform process and a thorough revision of the Electoral Code by the new Parliament.

A draft of the newly adopted Electoral Code was originally submitted to the Ukrainian Parliament in 2015 by the Speaker of the Verkhovna Rada Andriy Parubiy and Members of Parliament Oleksandr Chernenko (Bloc Petro Poroshenko) and Leonid Yemets (People's Front). Roughly two years later, in November 2017, it was approved by the Parliament in the first reading. In March 2019, a working group of the Parliamentary Committee on Legal Policy and Justice finished the consideration of more than 4,000 amendments, which were proposed by Ukrainian lawmakers to the Draft after its first reading.

The harmonization of Ukraine's electoral legal framework and the introduction of a proportional electoral system with open regional party lists is in line with long-standing recommendations of international organizations, above all the Venice Commission of the Council of Europe and the OSCE Office for Democratic Institutions and Human Rights (ODIHR). A comprehensive reform of Ukraine's electoral legal framework and, in particular, the introduction of a proportional electoral system with open regional party lists is also a long-lasting demand of the Ukrainian civil society.

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*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. EPDE is financially supported by the European Union and the Federal Foreign Office of Germany. The opinions expressed here do not necessarily reflect the opinions of the donors.*