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# **Elections in Ukraine**

## *October 25 Local Elections*

Frequently Asked Questions

Europe and Asia

International Foundation for Electoral Systems

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# Frequently Asked Questions

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*Disclosure:*

*These FAQs reflect decisions made by Central Election Commission of Ukraine as of October 21, 2015, to the best of our knowledge. This document does not represent any IFES policy or technical recommendations.*

## When and where will elections take place?

Under Article 141 of Ukraine's Constitution, local elections are held on the last Sunday in October for Mayors and various levels of Councils (*oblast*, *rayon*, city, village, etc.) in their fifth year in elected office. Because the last local elections were held in October 2010, the 2015 local elections are scheduled for October 25, 2015.

Elections will be held in all territories except in the Russia-backed separatist-controlled territories of Donetsk and Luhansk oblasts, as well as in Russia-occupied Crimea and Sebastopol. In August 2015, the Central Election Commission, based on proposals from the Donetsk and Luhansk civil-military administrations, approved the list of territories where the elections will not be held.

Although the separatist governments of the unrecognized Donetsk and Luhansk People's Republics had previously planned to hold their own elections in fall 2015, they later decided against it. The prospects for holding any elections in Crimea still remain unclear as the whole territory was annexed by the Russian Federation, while the prospects for elections in the Donbas territories controlled by the rebels depend on implementation of the Minsk II Agreement.

## Why are these elections important?

The 2010 local elections, which were held under former President Viktor Yanukovich, were widely criticized for falling short of democratic standards and resulted in many local government bodies and offices being dominated by the formerly ruling Party of Regions. The *Maidan* revolution, the popular movement that resulted in former President Yanukovich's removal from office and flight from the country, helped spur the formation of a new system of governance at both national and local levels while significantly increasing public support for the previous opposition and newly formed parties.

In the 2014 snap parliamentary and presidential elections, the former opposition secured the presidency and received a significant majority of seats in Parliament. However, at the regional and local levels, the elected bodies have remained largely the same since 2010 despite low levels of public confidence and support in a changing political environment. The most recent [2015 annual survey](#) by the International Foundation for Electoral Systems (IFES) finds that only 47 percent of Ukrainians have at least a fair amount of confidence in their Mayor as well as in their city or village Council, and only 30 percent have confidence in their Rayon Administrator. Holding local elections in terms prescribed by the Constitution could contribute to positive changes in this trend for the better.

Survey findings also provide insight into public perceptions on government institutions and leaders, current affairs, democracy and foreign policy in Ukraine.

## What are the most important issues in this election?

Given that elections are held at different levels and for different local Councils and offices, the most important issues differ depending on the specific election. However, many voters are concerned

about opaque distribution of resources (including land resources, communal property, etc.) by the local Councils and Mayors, corruption, lack of transparency in budgeting and decision making, and poor quality of services provided by the local self-governance bodies. However, most of these issues are not reflected in the parties' and candidates' election platforms and campaign materials for 2015 local elections, which tend to focus on more general national policy issues, such as army conscription, high gas prices and pension reform.

## **What institutions will administer this election?**

In contrast to both presidential and parliamentary elections, the system of electoral administration for local elections is more complicated and, depending on the elections in question, might include a three- or four-tiered electoral administration.

At the highest level, the local elections are administered by the Central Election Commission (CEC), whose powers in terms of preparations for the elections are limited to establishing lower-level election commissions, issuing clarifications of the Local Election Law provisions, and establishing the election results if the lower-level commissions are not able to establish them on time. The CEC is also entitled to cancel the decisions made by the lower-level commissions, as well as consider complaints related to inaction by the Territorial Election Commissions (TECs), which are authorized to establish election results.

The intermediary level of election administration is comprised of TECs at every sub-national administrative level: oblast; rayon or city (those subordinate directly to oblasts); and village, settlement and city (those subordinate to rayons). Councils are elected for each of these local administrative levels/areas. Mayors are elected for cities, villages and settlements. Executives of oblasts and rayons are appointed by the President. Each TEC is responsible for establishing the result for the races pertaining to its respective area. Each TEC, except the oblast TEC, is also responsible for intermediary tabulation of higher-level races and transportation of these results to the next-level-up TEC. For example, when polls close, the polling station staff, who fall under the Precinct Election Commission (PEC), count all races, then send village/settlement/city and rayon/city results to the respective TEC. The PEC also sends oblast results directly to the respective rayon TEC. The village/city/settlement TEC establishes the results for the village/city/settlement races and tabulates and forwards the rayon results for its area. At the rayon/city level, the TEC establishes the rayon/city level results and tabulates and forwards the results for the oblast level to the oblast TEC, which then establishes the result for the oblast Council.

As in past elections, PECs represent the lowest level of electoral administration, operating as the actual polling station staff, administering voting in hospitals and mobile voting for homebound voters such as people with severe disabilities. Voting is not offered in prisons and detention centers nor for diaspora abroad.

Overall, the 2015 local elections will be administered by 10,619 TECs. These include: 22 oblast TECs, 608 rayon/city TECs and 9,989 village/city/settlement TECs.

## Who will observe the local elections?

Ukrainian law allows for observation of elections by both domestic and international observers. Party, candidate and NGO observers will have the same legal status in the elections and are all allowed to file complaints and lawsuits against certain violations with either the election commissions or courts.

By October 19, 2015, the Central Election Commission (CEC) had registered [1,554 international observers](#) from a variety of countries and institutions including: the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights, Ukrainian Congress Committee of America, the European Network of Election Monitoring Organizations, the National Democratic Institute, Council of Europe, European Parliament, European Platform for Democratic Elections, International Commission on Human Rights, Austria, Canada, Czech Republic, Denmark, Estonia, France, Germany, Hungary, Japan, Lithuania, Poland, Slovak Republic, United Kingdom and the United States. In order to be registered as international observers for Ukraine's local election, international organizations and foreign embassies must have applied to the CEC by October 14, 2015. [Eighty-three NGOs](#) have also received approval from the CEC to participate as domestic observers in the 2015 local election.

Ahead of the October 25 election, IFES has produced and distributed a "Brief Guide for International Observers" as a reference for registered international election observers. The Guide identifies the rights and obligations of international election observers as well as the procedures that should be followed on Election Day. It also provides information on Ukraine's electoral process and key provisions of the new Law on Local Elections.

## How will disputes be adjudicated?

Electoral disputes in the 2015 elections will be adjudicated through courts and the election commissions at all levels. Although the parallel system of election dispute resolution (i.e. the system where a party concerned may decide which body to file a complaint to) has been repeatedly criticized by the Venice Commission and the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights, the respective recommendations have never been fully addressed in Ukraine. Failure to address these recommendations is due in part to the fact that Ukraine's Constitution grants the right to directly challenge any violation of the law in court.

Depending on their type, timing and location, electoral violations can be challenged through the respective Precinct Election Commission (PEC), Territorial Election Commission (TEC), Central Election Commission (CEC) and/or in courts. The actions, inactions and decisions of the PECs can be challenged in courts or through the TECs that established the respective PECs. Violations committed by the TECs can also be challenged in court or through the TECs that are responsible for establishing the election results for the area in which the TEC in question operates. Actions and decisions of the TECs entitled to establish the election results can be challenged in court only, while inactions of those TECs can be challenged either in court or through the CEC. If an observer, candidate, proxy or political party agent commits a violation *during voting* at the polling station, the violation can be challenged within the respective PEC. All other violations committed by observers, proxies or

political party agents must be adjudicated in the courts. Only courts are entitled to consider lawsuits against the CEC, media, public servants and public bodies. Finally, if a violation is committed by a political party organization or candidate in elections, it can be challenged in court or through the TEC that registered the respective candidate.

The deadline for filing complaints and lawsuits against violations is often within five days of when the violation took place. The decision/verdict on the case must generally be delivered within two days from the day that the commission or court received a complaint or lawsuit.

## **What type of electoral system will be used in the October 25 election?**

The new Local Election Law adopted in July 2015 introduced significant changes to the electoral system of the past. The new law provides for three different electoral systems:

1. A first-past-the-post system for election of village and settlement Councils, as well as Mayors of villages, settlements and of cities with less than 90,000 voters;
2. A two-round system for mayoral elections in cities with at least 90,000 voters; and
3. An “open list proportional system” for elections of Councils for oblasts, rayons and cities of any size.

Under the “open list proportional” system, the elections will be held in one multi-member proportional district with a territory that corresponds to the race in question, be it oblast, rayon or city. This one multi-member district is divided into smaller sub-districts, the number of which will be equal to the number of seats in the local Council in question (with a few exceptions to this rule). A registered political party will nominate a list of candidates for the entire race in the multi-member district, for a given council. This candidate list will have one lead candidate who will receive the first seat won, if any, and who is not assigned to any specific sub-district. In addition to the one lead candidate, the remaining candidates on the party’s candidate list can be assigned to one, some or all of the sub-districts, provided that there is only one candidate assigned per sub-district.

Each sub-district has a unique ballot paper. This ballot includes: the political party name; the name of the leading candidate of the political party; and, if the political party has a candidate assigned to that sub-district, also the name of this candidate. The voter will mark the ballot paper one time, thereby casting a vote for: 1) the political party and its top candidate; and 2) if listed, for the political party candidate assigned to the sub-district in question.

The seats on the Council will first be distributed among the political parties themselves in proportion to the number of votes received in the respective multi-member district. Political parties must pass a five percent electoral threshold to be entitled to any seats.

Once the seats are proportionately distributed among each qualifying political party, it has to be determined which candidates from the political party lists receive seats. The first seat won by a political party always goes to that political party’s lead candidate – the top candidate on the list who was not assigned to any specific sub-district but appeared on all versions of the sub-district ballots within the Council race. If a party wins more than one seat, the subsequent seats go to the most

successful candidates on the political party list, as determined by the highest percentage of direct votes a candidate received in the sub-district race in which he or she was on the ballot. In other words, the candidate list is re-ordered to rank the candidates by the percentage of votes received in their respective sub-district. Political party seats – beyond the first one which is assigned to the leading candidate – are distributed among party candidates starting from the top of the re-ordered candidate list.

While this system may produce a mathematically proportional seat distribution between political parties within the constituency of the race, it might also result in highly irrational or seemingly illegitimate outcomes. Possible examples include: 1) sub-districts that have no elected candidates, while neighboring sub-districts within the same multi-member district have two elected candidates; and 2) sub-districts where the highest vote-getter receives no seat while the second highest vote-getter receives a seat.

It is unclear why the government chose to adopt this system when more straightforward alternatives were both available and proposed. Some national experts speculate that the system was favored by leading Parliamentarians who thought that it would compensate for the declining popularity of their larger parties by allowing them to benefit from prominent candidates, thus nearly guaranteeing the election of their political party leaders in their respective races.

In an effort to educate Ukrainian voters as well as domestic and international observers about the electoral system for the upcoming local election, IFES has developed a series of education and outreach materials. These include two voter education public service announcements (one on the [electoral system](#) and one on the [gender quota](#)) and [a multi-episode training video](#) to educate stakeholders on transfer and receipt of ballots, vote tabulation, and counting of ballot papers, among other Election Day procedures.

## **Who is eligible to vote?**

All Ukrainian citizens who are at least 18 years old on Election Day are legally allowed to participate in the local elections. Article 3 of the Local Election Law notes that in order to be eligible to vote in a local election, a voter must be a citizen of Ukraine and be a member of the territorial community as denoted by their registered place of residence. Concerns have been raised over the inability of internally displaced persons (IDPs) to vote on Election Day in their current places of refuge due to this permanent registration requirement. In September 2015, the number of IDPs in Ukraine was as high as 1.43 million people according to the United Nations High Commissioner for Refugees. Likewise millions of migrant workers cannot vote in their actual place of residence, as permanent registration is discouraged or blocked by their landlords.

## **How are voters registered to vote?**

Upon turning 18 years old, Ukrainians are allowed to register to vote. When a citizen turns 18 or when someone becomes a new citizen, the Ministry of Internal Affairs provides the citizen's information to the State Register of Voters of Ukraine, making voter registration automatic. According to Article 19 of the Law on State Register of Voters of Ukraine, in order to register, a

Ukrainian citizen who finds himself/herself not on the list can submit a written application with data about his/her place of residence as well as a copy of their passport or temporary citizenship certificate. No amendments to the voter lists are allowed on Election Day.

## **Who can be a candidate?**

According to Article 9 of the Local Election Law, any Ukrainian citizen who is entitled to vote under Article 70 of the Constitution of Ukraine is able to be elected to serve in local government. This allows any Ukrainian citizen aged 18 and over to run for office, unless he or she has an active criminal record for committing an intentional crime. Unlike for voter registration, residence requirements do not apply to candidature, meaning that a citizen can be nominated for any local Council or any mayoral office.

Independent candidates may run only in mayoral elections and elections to village/settlement Councils. In all other local elections, candidates must be nominated by a registered political party. This restriction counters paragraph 7 of the Organization for Security and Co-operation in Europe Copenhagen document, which recommends that independent candidates be entitled to run in all elections, both national and local.

## **What are the rules for the election campaign?**

The rules governing election campaigning, as outlined in the Local Election Law, are similar to the rules set out in the Parliamentary Election Law and the Presidential Election Law. Private television and radio channels as well as billboard owners must provide contesting candidates and parties with equal access to advertising and airing election-related messages, with the price per unit of airtime and printed space the same for all candidates. There are certain restrictions in place that aim to reduce the abuse of administrative resources in elections, such as prohibiting public servants from participating in election campaigning during working hours and prohibiting campaigning on public authorities' premises, among others.

In contrast to the national elections, the Local Election Law makes it clear that political parties and candidates are entitled to neither free printed space in public newspapers nor free airtime on public television and radio stations. Political parties and candidates alike must fund these aspects of their election campaign themselves.

## **What are the rules governing the media?**

The Local Election Law establishes a number of requirements for debates for political parties and candidates on television and radio, including rules on the selection of participants, the order of speakers, and the conduct of participants. The Law explicitly prohibits the dissemination of deliberately false or defamatory information about candidates. The Law also gives candidates the right to reply to information published about them that they consider "untrustworthy." Such rules are not uncommon in international practice. However, clearer explanations of the circumstances under which the right to reply may be exercised would help both contestants and media organizations to better understand their rights and obligations. Additionally, while dissemination of

certain kinds of speech (e.g., speech that advocates violence or incites inter-ethnic hatred) during an election campaign is prohibited under the Law, the Law does not make clear what sanctions should be imposed on media that violate the rules governing coverage of elections and election campaigns.

## **What are the rules for campaign finance?**

The Local Election Law mandates pre- and post-election disclosure of campaign donations and expenses by majoritarian candidates and party organizations to the relevant Territorial Election Commissions (TECs). TECs are required to publically disclose information both before and after the elections. However, the Law neither specifies that reports must be published in full nor requires the identities of donors to be disclosed. Furthermore, it is left to the TEC's discretion to decide how to make reports public, which in some cases may mean that voters have limited access to disclosure data. Another issue is the lack of capacity among TECs that, despite being tasked with analyzing the reports to identify mistakes or violations related to campaign finance, may lack the training to effectively exercise this responsibility. This capacity issue is particularly relevant at the village and settlement levels. Lack of sanctions for both failure to submit pre- and post-election reports and for including incorrect data on the reports further undermines enforcement.

Under the Law, election contestants have the right, but not the obligation, to establish a dedicated election account to pay for campaign expenses. The Law does not allow candidates running under the "open list" system to establish their own electoral accounts or disclose campaign expenditures independent of their parties. To some extent, this approach might help restrict internal party competition among the candidates.

Overall, regulation of campaign finance in the Law remains flawed and is unlikely to contribute to enhancing the transparency of political finance.

## **Who are the registered parties for the October 25 elections?**

The Local Election Law states that in order to be eligible to nominate candidates for the local elections, political parties' congresses must adopt decisions to run in the elections. The respective decisions had to be filed with the Central Election Commission (CEC) by September 19, 2015. If the party failed to adopt the decision, its local branches cannot nominate candidates for elections. By September 19, the CEC received party congress decisions from 142 political parties. The CEC approved 132 of these decisions, enabling the respective political parties to nominate candidates for the upcoming local elections. In the case of 10 parties, their party congress decisions were not approved due to applications that failed to comply with the legal requirements under the Local Election Law.

## **What is the gender balance among candidates for local government?**

Article 4 of the Local Election Law establishes a 30 percent gender quota for all local election party lists under the proportional system. However, on September 23, the Central Election Commission (CEC) adopted Resolution No. 362, which asserts that failure to comply with the 30 percent quota requirement is not grounds for refusing registration of a political party's candidate list for the

respective election. The CEC clarified that because the quota provision is not included in the Law's list of grounds for refusal of candidate registration, Territorial Election Commissions (TECs) cannot refer to the quota provision in Article 4 of the Local Election Law as a reason for rejecting a party list.

On September 30, the CEC Resolution was challenged in court. Although the Resolution was initially overturned, the court decision was later challenged by the CEC in the High Administrative Court of Ukraine (HACU). The HACU ultimately upheld the initial CEC Resolution, namely that non-compliance with the 30 percent gender quota is not grounds for rejection.

Data collected by civil society organizations working on gender issues indicates that all major political parties represented in the legislature failed to ensure 30 percent representation of women on their political party candidate lists. In some cases, the TECs initially refused to register such lists, but their refusals were successfully challenged in courts by the respective parties, thus forcing the TECs to complete the registration.

## Resources

- Central Election Commission ([English](#)) ([Ukrainian](#))
- IFES: Local Elections in Ukraine 2015 ([Ukrainian](#))
- IFES: New electoral system for local elections in Ukraine ([Ukrainian](#))
- [IFES: September 2015 Public Opinion Survey in Ukraine](#)
- IFES: Two Years after *Maidan*: Ukrainians Committed to Democracy, Disappointed with Unmet Aspirations ([English](#)) ([Ukrainian](#))
- IFES: Why is a Gender Quota Important? ([Ukrainian](#))
- United Nations High Commissioner on Refugees: Internally Displaced Persons in Ukraine ([English](#)) ([Ukrainian](#))