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Part 1. Parliamentarism

1. The most important developments in the area of public policy after the Revolution of Dignity and signing of the EU-Ukraine Association Agreement

After adoption of the Law [№ 742-VII](#) dd. February 21, 2014 that restored the provisions of the 2004 Constitution of Ukraine and reinstated the parliamentary-presidential form of government, a proper basis for rebooting the state institutions was created.

As a result, early parliamentary elections were held on October 26, 2014. Ratification of the EU-Ukraine Association Agreement strengthened cooperation between the European Parliament and the Verkhovna Rada of Ukraine aimed at reforming the work of the Ukrainian Parliament.

In 2015, the parliaments of Ukraine and the EU signed the Memorandum of Understanding on a joint framework for parliamentary support and institutional capacity building¹. For supporting implementation of the Memorandum, Needs Assessment Mission led by Pat Cox was launched. As a result of its work, the Mission prepared the Report and the Roadmap on Internal Reform and Institutional Capacity Building for the Verkhovna Rada of Ukraine². This document was approved by the Resolution of the Verkhovna Rada of Ukraine [№ 1035-VIII](#) of March 17, 2016 and the work was carried out to implement it.

The Law [№ 2680-VIII](#) of February 7, 2019 approved Ukraine's course towards the European integration stipulated in the Constitution of Ukraine. Among other things, the powers of the Verkhovna Rada of Ukraine included defining the principles of domestic and foreign policy, implementing the strategic course of the state to gain full-fledged membership in the European Union and the North Atlantic Treaty Organization³.

¹ The following priority areas of work were identified: a) ensuring efficient fulfillment of the constitutional functions of the Verkhovna Rada of Ukraine – legislative, controlling and representative; b) improving the quality of Ukrainian parliamentarism; c) increasing transparency, predictability, efficiency and openness of the Verkhovna Rada of Ukraine; d) implementation of the EU-Ukraine Association Agreement.

²<https://www.europarl.europa.eu/resources/library/media/20160301RES16508/20160301RES16508.pdf>

³ Clause 5 Part 1 Article 85 of the Constitution of Ukraine

In May 2019, the newly elected President of Ukraine issued the Decree [№303/2019](#) setting early parliamentary elections for July 21, 2019. Despite many contradictions and ambiguities the Constitutional Court of Ukraine recognized it as constitutional (see the CCU Decision [№ 6-p/2019](#)).

The newly elected Parliament began its work by adopting the law on abolishing MPs immunity⁴. The draft law itself was tabled by the previous convocation and received a favorable opinion from the Constitutional Court of Ukraine, but with certain reservations. Instead of finalizing it, the Verkhovna Rada of Ukraine adopted respective amendments to the Constitution of Ukraine on September 3, 2019 violating several procedural rules. On November 1, 2022 the Constitutional Court of Ukraine recognized the law on lifting MPs immunity as constitutional by Decision [№ 2-p/2022](#), contrary to its previous practice.

Abolition of MPs immunity was not the last attempt to change the current system of parliamentarism. Almost on the first day of the Verkhovna Rada's work, President Zelenskyy introduced seven draft laws on amending the Constitution, five of which directly concerned the Parliament and Members of Parliament of Ukraine:

- On Amending Article 93 of the Constitution of Ukraine (regarding the legislative initiative of the people) reg. [№ 1015](#);
- On Amending Articles 85 and 101 of the Constitution of Ukraine (regarding the Verkhovna Rada commissioners) reg. [№ 1016](#);
- On Amending Articles 76 and 77 of the Constitution of Ukraine (with regard to reducing the constitutional composition of the Verkhovna Rada of Ukraine) reg. [№ 1017](#);
- On Amending Article 81 of the Constitution of Ukraine (regarding early termination of powers and authorities of a Member of Parliament of Ukraine) reg. [№ 1027](#);
- On Amending Article 85 of the Constitution of Ukraine (regarding consultative, advisory and other auxiliary bodies of the VR) reg. [№ 1028](#).

These draft laws have no systemic connection and are not alternative ways to solve any problem, but together they create a strong imbalance in the current mixed form of government in Ukraine by strengthening the President and consistently weakening the

⁴ Lifting MP immunity was one of the main election promises of President Zelenskyy and the *Servant of the People* parliamentary party.

Verkhovna Rada of Ukraine. The Constitutional Court of Ukraine rendered negative opinions on Draft Laws № 1016 and № 1027. Furthermore, it expressed some reservations concerning Draft Laws № 1015 and № 1017. None of the five draft laws amending the Constitution of Ukraine have ever become effective⁵.

On December 19, 2019 the Law on Temporary Investigative and Special Commissions [№400-IX](#) was adopted, which expanded significantly the legal regulation of the status, organization and activities of these parliamentary bodies. In 2021, the Working Group on Preparation of Comprehensive Legislative Proposals for Amendments to the Laws of Ukraine in the Area of Parliamentary Law was established while amendments to the laws were identified as key areas of its work. Development of the draft laws *On Parliamentary Service* and *On Lawmaking* should be commended.

A positive step in implementation of the recommendations envisaged by VR Resolution [№ 1035-VIII](#) was establishment of the Research Service of the Verkhovna Rada of Ukraine by the Order of the Chair of the Verkhovna Rada of Ukraine [№438](#) dd. August 11, 2022. The new body has to provide information and analytical support for the Parliament's activities, as well as deliver professional training for MPs, their assistants, and employees of the Secretariat of the Verkhovna Rada of Ukraine⁶.

2. Key problems and challenges as of the beginning of 2022

The main problems and challenges as of the beginning of 2022 include:

- *Weakness of the Parliament* primarily in terms of forming the Government and exercising parliamentary oversight, with the President actually controlling these processes;
- *Weak role of the Government in the legislative process and inadequate interaction between the Parliament and the Government in performing the legislative function;*

⁵ Draft laws № 1028 and № 1017, after their preliminary approval, were not discussed at the next regular session, and therefore such amendments to the Constitution of Ukraine are considered not to have been adopted by the Verkhovna Rada of Ukraine (Part 1 Article 158 of the Constitution of Ukraine). Draft Law № 1015 was not discussed by the Verkhovna Rada of Ukraine at all.

⁶ Regulation on the Research Service of the Verkhovna Rada of Ukraine: <https://zakon.rada.gov.ua/laws/show/438/22-pr#n23>

- *Quality and quantity of draft laws.* A huge number of legislative drafts not of high quality and expediency as evidenced by the low percentage of their adoption as laws. This also leads to the so-called ‘legislative spam’, which significantly slows down the process of adopting laws.
- *Inconsistency of some provisions of the Rules of Procedure of the Verkhovna Rada of Ukraine with the Constitution of Ukraine and international standards.*
- *The role and functioning of parliamentary committees.* Because of a large number of draft laws and limited time for their processing, the work of parliamentary committees is inefficient.
- *Lack of proper regulation of the status and rights of the parliamentary opposition.* This would ensure pluralism and create a favorable climate for co-existence of parties within the parliament.
- *An imperfect mechanism of parliamentary oversight, in particular with regard to the executive branch.* The Government’s accountability to the Parliament is inadequate, which leads to the Government’s neglect to formulate and adhere to the program goals while evading respective consequences.
- *Poor communication between MPs and voters.*
- *Lack of expert capacity in the VRU Secretariat,* also due to the war. Lack of a parliamentary personnel service.
- *Low level of public trust in the Parliament,* also caused by the instances of unethical behavior of MPs.

3. Plans and actions of the state authorities in this area as of the beginning of 2022

As of the beginning of 2022, the Legislative Work Plan of the Verkhovna Rada envisaged development and adoption of several draft laws related to parliamentarism⁷. The agenda for the seventh session of the Verkhovna Rada of Ukraine of the IX convocation (see the Resolution of the Verkhovna Rada of Ukraine [№2035-IX](#)) also included a number of draft laws aimed at:

- improving the Rules of Procedure in line with EU law and recommendations (see reg. [№ 2058](#), [№ 3830](#), [№ 5178-1](#));

⁷ Draft Law on Parliamentary Service (see reg. [№4530](#)), Draft Law on Amending the Rules of Procedure of the Verkhovna Rada of Ukraine, Draft Law on Amending the Law of Ukraine On Committees of the Verkhovna Rada of Ukraine.

- eliminating the ‘legislative spam’ (see reg. [№ 2610](#));
- introducing a special procedure for examination of draft laws in the second reading (see reg. [№ 3415](#));
- changing the mechanism for withdrawing draft laws submitted by the Cabinet of Ministers of Ukraine (see reg. [№ 6338](#)).

No systematic work on parliamentary reform was carried out.

4. Impact of war and martial law on this area of public policy

Since February 24, 2022, the Parliament has been working in the wartime conditions, and the main problem has been the safety of MPs and proper organization of work of the Parliament under martial law. The Parliament’s activities should be assessed positively even in the face of real threats to the lives of MPs.

The large-scale war created extraordinary conditions for work of the Parliament. First of all, it affected publicity and transparency of the Verkhovna Rada of Ukraine⁸, created danger for holding plenary sessions of the VR, and impeded ensuring not only fast but also a high-quality legislative process. Equally important is the loss of the main ways of communication and interaction with voters and civil society. This leads to ‘closedness’ of the Parliament, and a decrease in the level of interest and awareness in the society.

The war highlighted the problems of the pro-Russian faction in the Verkhovna Rada of Ukraine, and the issue of cleansing the Parliament of pro-Russian forces and influences that destabilize the situation inside Ukraine is still on the agenda. On May 3, 2022 the Verkhovna Rada of Ukraine adopted the Law on Amendments to Certain Legislative Acts of Ukraine on the Prohibition of Political Parties [№ 2243-IX](#), which envisages a mechanism for banning political parties that justify/support/deny Russia’s armed aggression against Ukraine. A number of draft laws on the activities of MPs and local councilors who were elected from already banned political parties were also tabled at Parliament⁹.

⁸ Resolution [№ 7739](#) of the Verkhovna Rada of Ukraine suspended live broadcasts of open plenary sessions for security reasons. Public discussions and round tables are not held.

⁹ See reg. [№ 7318](#), [№ 7318-1](#), [№ 7672](#), [№ 7424](#), [№ 7476](#).

As a result of Ukraine's receiving the EU candidate status, the Parliament is facing an important task to prepare European integration laws quickly but carefully, and to bring the Ukrainian legislation in line with EU directives. It will be too difficult to implement this process successfully without a thorough change in the legislation concerning activities of the Verkhovna Rada itself. Therefore, there is already a need for parliamentary reform at the level of laws.

5. EU requirements and standards in this area, as well as other international documents that are mandatory for Ukraine

In the sphere of parliamentarism, European institutions have not produced many generalized documents that would contain all necessary standards and recommendations. The largest number of acts related to parliamentarism has been developed by the European Commission for Democracy through Law (hereinafter – the Venice Commission). The main of them include:

- Code of Good Practice in Electoral Matters: Guidelines and Explanatory Report ([CDL-AD\(2002\)023rev2-cor-ukr](#));
- Report on the Role of the Opposition in a Democratic Parliament ([CDL-AD\(2010\)025](#));
- Rule of Law Report [CDL-AD\(2011\)003rev](#));
- Report on the Scope and Lifting of Parliamentary Immunities ([CDL-AD\(2014\)011](#));
- Rule of Law Checklist ([CDL-AD\(2016\)007](#));
- Parameters on the Relationship between the Parliamentary Majority and the Opposition in a Democracy: a Checklist ([CDL-AD\(2019\)015](#)).

The requirements and standards also include the acts of the Venice Commission that are directly relevant to Ukraine¹⁰.

6. Relevant plans of the state authorities as of fall 2022, including the Recovery Plan for Ukraine

Today, the above-mentioned parliamentary working group continues its work developing amendments to the legislation in order to eliminate the key problems. The reform of the

¹⁰ Opinions of the Venice Commission on draft amendments to the Constitution of Ukraine: [CDL-INF\(1997\)002](#), [CDL-AD\(2003\)019](#), [CDL-AD\(2005\)015](#), [CDL-AD\(2008\)015](#), [CDL-AD\(2009\)024](#), [CDL-AD\(2015\)013](#).

Parliament is envisaged by the Recovery Plan for Ukraine in the materials of the Group on Public Administration¹¹. It is aimed at solving problems that have existed for a long time and are already being addressed. Implementation of the parliamentary reform measures opens up opportunities for:

- establishing procedures and mechanisms to ensure continuity of the Parliament work in the conditions of martial law or a state of emergency;
- strengthening the role of the Cabinet of Ministers of Ukraine in the legislative process;
- increasing efficiency of expert and analytical processing of draft laws;
- strengthening the parliamentary oversight function;
- expanding mechanisms for engaging citizens in activities of the Verkhovna Rada of Ukraine and creating new quality channels for communication with them.

Part 2. Elections and referendum

1. Most important developments in the public policy sphere after the Revolution of Dignity and signing of the EU-Ukraine Association Agreement

1.1. Electoral legislation

The Revolution of Dignity marked a new page in the history of Ukraine as a sovereign, legal state and the determination of its course toward European integration, which is reflected in the preamble and provisions of the Constitution of Ukraine (Law [№ 2680-VIII](#)).

After the early presidential elections in Ukraine on May 25, 2014 and the early parliamentary elections on October 26, 2014 the newly formed authorities declared their intention to modernize the electoral legislation. Ratification of the EU-Ukraine Association Agreement on September 16, 2014 emphasized the importance of this issue¹².

¹¹ Draft Recovery Plan for Ukraine. Materials of the Working Group on Public Administration": https://uploads-ssl.webflow.com/625d81ec8313622a52e2f031/62dea15d096a8b75415efd70_Державне%20управління.pdf

¹² The text of the Agreement itself does not specify the individual tasks to be solved by Ukraine in the election law sphere.

In 2015, on the eve of local elections, work began on changing the electoral legislation. An expert group was established to prepare a draft law on organizing and holding local elections (Order of the Chair of the Verkhovna Rada of Ukraine [№ 225](#)). The main idea was to introduce a proportional electoral system with open lists. However, the Parliament voted in favor of an alternative draft law that combined a proportional electoral system with preferences (for election of members of the Supreme Council of the Autonomous Republic of Crimea, oblast, raion, city, and city district councils) and a majority system of relative majority (for the election of members of village and settlement councils). On August 6, 2015 Law [№ 595-VIII](#) was signed by the President of Ukraine 30 days before the beginning of the local election process, which undermines significantly the principles of timeliness and stability of electoral legislation¹³.

On October 25, 2015 Ukraine held elections of local council members, village, settlement and city mayors. In its final report, the OSCE/ODIHR Election Observation Mission praised organization and conduct of the election process. Nevertheless, shortcomings were noted that emphasized the need for further reforms¹⁴.

In 2016, work on reforming electoral legislation began, which included unification, convergence of legal regulation of different types of elections, novelization of certain institutions and codification of regulatory material by adopting the Election Code of Ukraine (hereinafter – the Code). Different views on the definition of the electoral system and the lack of consensus within the Verkhovna Rada of Ukraine became commonplace. Nevertheless, on November 7, 2017 Draft Law [№ 3112-1](#) was adopted in the first reading, the main novelty of which was introduction of a proportional electoral system with open lists for election of Members of Parliament of Ukraine as opposed to other draft laws that proposed a proportional system with closed lists. Other major novelties of the Code are:

- enshrining gender quotas;
- changing the amount of cash deposit for the presidential elections;

¹³ Article 2 Section II of the Venice Commission Code of Good Practice in Electoral Matters. Link: https://eos.cartercenter.org/uploads/document_file/path/279/CoE_Venice_Commission_Code_of_Good_Practice_UK.pdf

¹⁴ Final Report of the OSCE/ODIHR Election Observation Mission. Link: <https://www.osce.org/files/f/documents/6/4/223811.pdf#page3>

- detailing the conditions and procedure for election campaigning in the general part of the Code, making these rules mandatory for all types of elections;
- introducing a possibility of establishing regional and territorial offices of the CEC;
- implementing innovative technologies by the CEC decision in the process of organizing and conducting elections (machine voting, electronic vote counting, information and analytical system, etc.).

A significant number of amendments, slow preparation for their finalization, and the change of political environment (after the regular presidential elections in Ukraine on March 31, 2019) postponed adoption of the Code. Eventually, on July 11, 2019 the Verkhovna Rada of Ukraine of the VIII convocation adopted the Election Code of Ukraine.

After the early parliamentary elections on July 21, 2019 the newly elected Verkhovna Rada of Ukraine began working on improving the electoral legislation almost immediately. The reason for this was that the Code was vetoed by the newly elected President V. Zelenskyy who provided his own proposals consisting of seventeen points¹⁵.

On December 19, 2019 the Verkhovna Rada of Ukraine examined the Election Code of Ukraine again, and adopted it taking proposals of the President of Ukraine into account.

Of course, this development was not the culmination of the election law reform. The Code, having become the main source of regulation for organizing and holding all types of elections, required further improvement and dialogue between the public and the Parliament. This was especially true for the local elections, which were to be held on October 25, 2020 in accordance with the rules set forth in the Code.

Nevertheless, in May 2020, the responsible Committee of the Verkhovna Rada of Ukraine began to develop amendments to the Code. Law [№ 805-IX](#) *On Amending Some Laws of Ukraine for Improving Electoral Legislation* was prepared within a fairly short period and

¹⁵ Proposals of the President of Ukraine for the Election Code of Ukraine dd. 11.09.2019. Link: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=66849&pf35401=499945>

adopted on July 16, 2020. It envisaged amendments to more than 200 out of the 289 articles of the Election Code of Ukraine¹⁶.

Although most of amendments were positive and contributed to improvement and elimination of shortcomings, they were adopted three months before the election day, which violates the principle of stability of electoral legislation. The last amendment was introduced a month before the election day and envisaged exclusion of a certificate of criminal record from the list of documents required for registration of candidates. The most significant was a serious restriction on the right to self-nomination of candidates as a result of introduction of the proportional system, which was negatively assessed by the OSCE/ODIHR Limited Election Observation Mission in its Final Report¹⁷.

On July 17, 2020 the Verkhovna Rada of Ukraine adopted Resolution № 807-IX *On Establishing and Eliminating Districts*, which was another step of decentralization reform that changed the administrative and territorial structure of Ukraine at the subregional level. The CEC was obliged to form new electoral districts. As a result, in local elections, voters elected members of district councils within the newly formed districts. Changing boundaries of electoral districts three months before the election day is clearly not a guarantee of stability and predictability of election law.

On October 25, 2020 regular local elections were held, which were assessed positively, but the need for further improvement of the electoral law was emphasized¹⁸. A significant problem for voters to understand was the election system functioning and filling out the ballot due to the lack of a broad public information campaign.

For the purposes of finalization of the election law, in February 2021 the Verkhovna Rada Committee created a working group for analysis and improvement of provisions of the

¹⁶ Major novelties: 1) Introduction of a proportional election system with open lists for election of members of councils of territorial communities with a number of voters of 10, 000 or more to be nominated exclusively by political parties or their branches. 2) Setting a 25% threshold as electoral quota for placing a party's territorial electoral list at the top. 3) Reducing the amount of cash deposit in local elections. 4) Setting restrictions on candidates to avoid simultaneous running in local elections. 5) Improving legislation on territorial organization of elections and the system of election commissions in local elections.

¹⁷ Final Report of the OSCE/ODIHR Limited Election Observation Mission. Link: <https://www.osce.org/files/f/documents/8/3/480326.pdf>

¹⁸ Final Report of the OSCE/ODIHR Limited Election Observation Mission. Link: <https://www.osce.org/files/f/documents/8/3/480326.pdf>

Election Code and other legislative acts in the election sphere¹⁹, but no draft laws have been submitted yet.

As of the beginning of 2022, one by-election of a Member of Parliament of Ukraine, nine early elections of village, settlement and city mayors, as well as a number of by-elections and repeat local elections were scheduled. The Verkhovna Rada of Ukraine was also examining a large number of draft laws on amending the electoral legislation (reg. [№ 1017](#), [№ 3452](#), [№3453](#), [№ 4043](#), [№ 4117](#), [№ 4440](#), [№ 6046](#), [№ 6552](#)) that were submitted earlier but have never been voted on or have not been voted on in the second reading. These draft laws will be discussed and hypothetically adopted in the future.

1.2. Referendum legislation

After invalidation of the Law of Ukraine *On All-Ukrainian and Local Referendums* and invalidation of its successor, the Law of Ukraine *On All-Ukrainian Referendum* (see Decision of the Constitutional Court of Ukraine of April 26, 2018 [№4-p/2018](#)), there was no mechanism in Ukraine for exercising this form of democracy. There was a situation where the provisions of the Constitution of Ukraine guaranteeing the right of Ukrainian citizens to exercise democracy through a referendum did not have a legislative mechanism for implementation. One of the key positions of President Zelenskyy was to ensure ‘power of the people’, i.e. the power to adopt laws that would determine the procedure for organizing and holding referendums. The newly elected Verkhovna Rada of Ukraine of the IX convocation has also prioritized addressing this gap. The first draft was prepared in March 2020 and presented for public discussion in April-May 2020.

A significant event was adoption of the Law of Ukraine *On All-Ukrainian Referendum* by the Verkhovna Rada of Ukraine on January 26, 2021 [№ 1135-IX](#), on which the Venice Commission rendered a positive opinion (see Opinion [CDL-PI\(2020\)009](#)).

Preparation of the draft law on local referendum began in May 2021 after the Law of Ukraine *On All-Ukrainian Referendum* came in force. Today, the draft law *On Local Referendum* (reg. [№ 5512](#)) is examined by the Verkhovna Rada Committee and included in the agenda for the eighth session. Holding local referendums is enshrined in the

¹⁹ Decision of the Committee on Organization of State Power, Local Self-Government, Regional Development and Urban Planning of 17.02.2021. Link: <https://komsamovr.rada.gov.ua/uploads/documents/42347.pdf>

Constitution of Ukraine and Article 7 of the Law of Ukraine *On Local Self-Government in Ukraine* [№ 280/97-BP](#); however, it requires further legislative detailing. On February 10, 2022 the Venice Commission issued an urgent opinion on draft law [№ 5512](#), which generally welcomed the Parliament's efforts to ensure practical implementation of respective provisions of the Constitution of Ukraine (see opinion [CDL-PI\(2022\)001-e](#)).

There is no doubt that development and eventual adoption of the draft law № 5512 will have a positive impact on the exercise of democracy through a referendum. Once it comes in force, a serious gap in the legal system of Ukraine will be eliminated, and Ukrainian citizens will be able to exercise their constitutional rights.

2. Key problems and challenges as of the beginning of 2022

2.1. Electoral legislation

The key problems related to the Ukrainian electoral legislation that need to be eliminated and comprehensively addressed are:

- *Failure to hold the first local elections in 2020 in ten territorial communities of Donetsk region and eight communities of Luhansk region that were on the government-controlled territory.* Based on the conclusions of Donetsk and Luhansk regional military-civilian administrations regarding the security level in these communities, in the absence of criteria for determining its presence or absence, the CEC decided that it was impossible to hold elections in respective communities;
- *incomplete and half-hearted reform of the administrative and territorial structure.* Formation of new district boundaries, which led to a change in the boundaries of electoral districts, almost before the next local elections on October 25, 2020, complicated the process of organizing elections and confusion among voters as to within which electoral district they elect local elected bodies;
- *Imperfect mechanism for recalling local council members on people's initiative.* This strengthens the role and influence of the party organization on elected council members, abuse of its power, which has repeatedly resulted in unlawful mandate termination;
- *Shortcomings and gaps in regulation of election financing and campaigning.* Regular local elections under the new Electoral Code of Ukraine have revealed systemic problems in these two areas. Ineffective system of analysis of financial

reports and control over the use of election funds, premature and hidden campaigning, etc.;

- *The need to improve provisions of electoral legislation in the context of inclusiveness, creating conditions for proper exercise of active suffrage by all citizens of Ukraine.* Accessibility of information materials, posters and ballots for people with visual and hearing impairments. Acceptable conditions at a polling station to ensure access for people with disabilities;
- *The threat of returning to the mixed system (proportional-majoritarian) of elections of Members of Parliament of Ukraine and postponing elections under the system envisaged by the Electoral Code.* In the end of 2021, two draft laws were registered (reg. [№ 6444](#), [№6444-1](#)), which have not yet been discussed but are included in the agenda for the eighth session of the Verkhovna Rada of Ukraine of the IX convocation.

2.2. Referendum legislation

The key problem of the referendum law as of the beginning of 2022 was non- adoption of the draft law [№ 5512](#) *On Local Referendum*, which would finally complete the system of legislative acts related to referendums.

3. Plans and actions of the state authorities in this area as of the beginning of 2022

3.1. Electoral legislation

At the beginning of 2022, one by-election of a Member of Parliament of Ukraine was scheduled to take place in single-member constituency № 206 (Chernihiv region), nine early elections of village, settlement and city mayors, as well as a number of by- and repeat local elections.

The Plan of Legislative Work of the Verkhovna Rada of Ukraine for 2022 (see Resolution of the Verkhovna Rada of Ukraine [№ 2036-IX](#)) envisages development and adoption of draft laws related to the Code's compliance with international electoral standards and regulation of the electronic voting principles.

The Central Election Commission, as a permanent body for organizing and preparing national and local elections, within the framework of the approved Strategic Plan of the Central Election Commission for 2020-2025, set forth the following areas of work:

- Implementation of electronic services for submitting appeals and complaints to election commissions;
- Approval of a certification system for members of election and referendum commissions;
- Identification of mechanisms for filling the database with information on trainers for members of election commissions, referendum commissions and other stakeholders, as well as specialists in the sphere of election law and referendum issues;
- Organization and delivery of training and awareness-raising activities for all stakeholders;
- Implementation of the latest technologies for voting, vote counting, and tabulation of election results.

3.2. Referendum legislation

The main focus of the state authorities in this area was on the final preparation for adoption of Draft Law [№ 5512](#) *On Local Referendum* by the Verkhovna Rada of Ukraine. On February 18, 2022 the Verkhovna Rada Committee on Organization of State Power, Local Self-Government, Regional Development and Urban Planning held a roundtable discussion on Legislative Support for Organization and Conduct of Local Referendum in Ukraine, where Opinion of the Venice Commission [CDL-PI\(2022\)001-e](#) was presented, and the Opinion comments and steps for further improvement of the draft law were discussed with members of the Working Group on Development of Draft Laws on Power of People and other participants.

4. Impact of war and martial law on this public policy sphere

4.1. Electoral law

The President of Ukraine by his Decree [№64/2022](#) of February 24, 2022 introduced martial law. Therefore, in accordance with Article 20 of the Electoral Code of Ukraine

and Article 19 of the Law of Ukraine *On Legal Regime of Martial Law*, elections at all levels are prohibited, and the election processes that started before introduction of martial law have been suspended until the latter is lifted. Aggression of the Russian Federation against Ukraine has led to the need to cleanse the state authorities, especially the Parliament, of pro-Russian forces and influences that destabilize the situation inside Ukraine. The current situation undoubtedly has a negative impact on the state and development of the electoral legislation, which demonstrated significant shortcomings even before the war.

4.2. Referendum law

Article 19 of the Law of Ukraine *On Legal Regime of Martial Law* prohibits holding referendums. Article 20 of the Law of Ukraine *On All-Ukrainian Referendum* envisages completion of all procedures for the all-Ukrainian referendum and its termination until the termination or abolition of martial law in Ukraine. Therefore, holding an all-Ukrainian referendum currently is not possible.

5. EU requirements and standards in this area, as well as other international documents that are mandatory for Ukraine

5.1. Electoral law

The first fundamental provisions on the exercise of political rights, including active suffrage, were formed in international legal documents on human rights:

- Universal Declaration of Human Rights (1948) (Article 21);
- Convention for the Protection of Human Rights and Fundamental Freedoms (1950), in particular the First Protocol thereto (1952) (Article 3);
- International Convention on the Elimination of All Forms of Racial Discrimination (1965) (Article 5);
- International Covenant on Civil and Political Rights (1966) (Article 25);
- Convention on the Elimination of All Forms of Discrimination against Women (1972) (Article 7);
- European Charter of Local Self-Government (1985) (Article 3);
- Convention on the Participation of Foreigners in Public Life at Local Level (1992) (Chapter C);

- Framework Convention for the Protection of National Minorities (1995) (Article 15).

These documents have been ratified by the Ukrainian Parliament, and they became part of Ukraine's national legislation. Being multilateral international treaties by their nature, they are binding, i.e. their provisions must be reflected in national legislation. For electoral legislation, these are the basic principles, on which it is built and improved.

The guiding principles are specified and disclosed in the documents of respected international and interregional (Council of Europe) organizations. They have a recommendatory nature:

- UN General Assembly Resolution A/RES/46/137 Enhancing the effectiveness of the principle of periodic and genuine elections;
- General Comment № 25 of the International Covenant on Civil and Political Rights, The right to participate in public affairs, voting rights and the right of equal access to public service (Article 25) UN Human Rights Committee;
- Declaration on the Criteria for Free and Fair Elections of the Inter-Parliamentary Union adopted by the Inter-Parliamentary Council (1994);
- Document of the OSCE Copenhagen Conference on the Human Dimension (1990);
- Current commitments to hold democratic elections in OSCE member states (2003);
- Recommendation concerning the Electoral, Civil and Social Rights of Prisoners (1962);
- Recommendation on measures concerning media coverage of election campaigns (1999);
- Recommendation on legal, operational and technical standards for e-voting (2004).

The judgments of the European Court of Human Rights, given their binding nature, are also a source of electoral standards, in particular in cases involving violations of Article 3 of Protocol 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

The most fundamental document in terms of international electoral standards is the 2002 Code of Good Practice in Electoral Matters of the European Commission for Democracy through Law (Venice Commission). This document is used to assess and analyze organization and conduct of elections in accordance with the electoral law principles:

universality, equality, freedom, secrecy, and directness. The 2020 Report on Election Dispute Resolution and the 2003 Recommendations on Political Party Financing are also fundamental documents.

Another well-known instrument that provides up-to-date information on the state of affairs and compliance with international electoral standards is reports of the OSCE/ODIHR missions on organization and conduct of specific elections. Other important documents of these organizations are the OSCE/ODIHR Guidelines for Reviewing a Legal Framework for Elections (2001), and Resolving Election Disputes in the OSCE Area: Towards a Standard Election Dispute Monitoring System (2000).

5.2. Referendum law

International standards for referendums are enshrined in a number of international and interregional documents:

- Universal Declaration of Human Rights (1948) (Article 21);
- Convention for the Protection of Human Rights and Fundamental Freedoms;
- International Covenant on Civil and Political Rights (1966) (Article 25);

The aforementioned international documents do not explicitly mention a referendum, but it is covered by the concepts of the right of a person's participation in governing their country and direct participation in its governance.

The largest number of international documents on regulation of referendums was adopted by the bodies of the Council of Europe, namely the Parliamentary Assembly of the Council of Europe (PACE) and the Venice Commission:

- Recommendation of the Cabinet of Ministers of the Council of Europe № R(96)2 On Referendums and Popular Initiatives at Local Level;
- Recommendation of the Cabinet of Ministers of the Council of Europe № 19(2001) on the participation of citizens in local public life;
- PACE Resolution № 1353 (2003) On strengthening democratic institutions as guarantee of the future of democracy;
- PACE Recommendation 1704 (2005) on referendums: towards good practices in Europe;

- Guidelines for Constitutional Referendums at National Level: Adopted by the Venice Commission at its 47th Plenary Meeting (2001);
- Code of Good Practice on Referendums, adopted by the Council for Democratic Elections and the Venice Commission (2007)

6. Relevant plans of the state authorities as of fall 2022, including the Recovery Plan for Ukraine

6.1. Electoral law

After the outbreak of a full-scale war, attention of both the society and public authorities was focused on military and humanitarian issues. Today, the Verkhovna Rada of Ukraine and the Central Election Commission being aware of the current and future challenges after the end of martial law in terms of organizing and conducting elections are working to improve the electoral legislation and expect to make changes and preparations in advance. The problems that need to be addressed include:

- Increased area of the temporarily occupied territories of Ukraine, including active hostilities in many of them (the danger may persist even after termination of hostilities/end of war/termination of martial law, which makes it impossible to hold elections);
- High level of infrastructure destruction, which, after the termination of hostilities/end of war/termination of martial law, will complicate the possibility of holding elections in certain territories;
- Massive displacement of the population that affect socio-demographic characteristics of territorial communities;
- - A large number of Ukrainian citizens staying abroad;
- - Inadequate adaptation of certain electoral norms to the conditions of post-war reconstruction.

In accordance of the Presidential Decree [№ 266/2022](#) dd. April 21, 2022 the National Council for Recovery from the Consequences of War was established, which envisages work of 24 working groups drafting sections of the action plan for post-war reconstruction and development of Ukraine. First of all, this concerns development of priority reforms in the respective sector and draft legal acts, adoption and implementation of which is necessary for ensuring efficient work and recovery of Ukraine during the war and post-war periods.

For instance, materials of the Working Group of Public Administration²⁰ contain a description of the problems relevant to the wartime and postwar periods and measures aimed at solving them. The following is envisaged:

- Electoral procedures at the local level that will be adapted to the challenges of post-war reconstruction (development of a draft law on improving the electoral system at the local level is planned);
- The electoral system for local elections will be no longer related to the number of people;
- Criteria and procedure will be determined for making a decision on impossibility of holding local elections in certain territories of Ukraine due to the lack of an adequate security level (the CEC has already developed its own draft law that provides for the NSDC to determine the possibility of holding or not holding elections based on the conclusions of the military civilian and civilian administrations depending on the security situation);
- The timeframe will be reduced for holding and expanding the grounds for calling early elections;
- Unified standards will be introduced for determining the size of the population of territorial communities taking into account the temporary nature of internal displacement, the residency requirement, pendulum migration of the population, etc.;
- A draft law will be developed on a mechanism for determining whether a person belongs to a particular territorial community for the purpose of participating in local governance (scheduled for adoption in November 2023);
- A law will be drafted on improving the electoral system at the local level (to be adopted in November-December 2023);
- A draft law will be developed on ensuring participation of Ukrainian citizens in local elections (to be adopted in 2024);
- A draft law will be developed on improving the procedure for formation of election commissions in local elections and professionalization of members of respective commissions (adoption is scheduled for September 2023);
- The electoral process will be digitalized.

²⁰ Draft Recovery Plan for Ukraine. Materials of the Working Group on Public Administration: https://uploads-ssl.webflow.com/625d81ec8313622a52e2f031/62dea15d096a8b75415efd70_Державне%20управління.pdf

Therefore, it should be mentioned that work on changing the electoral legislation and adapting it to post-war realities is on the agenda. The main goal is to ensure that a democratic, secure and transparent electoral process is in place after the martial law is lifted or terminated.

The desire to make changes in advance to ensure stability and predictability of electoral provisions is positive. It is extremely important to ensure a thorough discussion of legislative innovations with the public and provide sufficient media coverage to educate the public.

6.2. *Referendum law*

The main focus of the government's activities in this sphere is final adoption of the draft law [№ 5512](#) *On Local Referendum* by the Verkhovna Rada of Ukraine.

Working groups envisaged by the Presidential Decree [№ 266/2022](#) dd. April 21, 2022 on establishment of the National Council for Recovery from Consequences of the War did not develop any ideas for improving or reforming the referendum legislation. In the context of general trends, we can assume that it is possible to improve the procedure for initiating and holding referendums at the national and local level, to bring the procedures closer to the provisions of the Election Code of Ukraine, and to study international practices in the area of e-voting.