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## LOCAL ELECTIONS AND STAFFING OF LOCAL SELF-GOVERNMENT

### МІСЦЕВІ ВИБОРИ ТА КАДРОВЕ ЗАБЕЗПЕЧЕННЯ МІСЦЕВОГО САМОВРЯДУВАННЯ



Olena A. Lypynska, DEcon, Professor  
 Odessa National Polytechnic University, Odessa, Ukraine  
 ORCID: 0000-0002-6317-7511  
 Email: alenalipinskay2310@gmail.com

Alla A. Balan, PhD in Economics, Associate Professor  
 Odessa National Polytechnic University, Odessa, Ukraine  
 ORCID: 0000-0002-2017-8813  
 Email: allabalan@ukr.net

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**E**lections to local self-government bodies are an integral element of a democratic society and a political act on which depends the further development of the territorial community, on the basis of which relations between elected bodies are formed in the process of local self-government in the community.

Local elections are one of the exercise forms in democracy at the local level, which provides citizens' personal participation in the electoral process of local government officials and the elected local self-governments formation. Local elections can also be seen as a mechanism of representative democracy at a local level, on the basis of which citizens are not directly involved in governing society and solving community problems, but entrust it to their representatives, who are authorized to represent their interests.

#### Publications and status analysis

In Ukraine, the problem of local elections as well as staffing of such an event is an urgent issue of local democracy, sovereignty and legal regulation of elections, as well as the experience of electoral legislation were studied by V.D. Babkin, F.G. Burchak, R.K. Davidov, V.M. Kampl, M.I. Kornienko, M.I. Malishko, V.F. Melashchenko, G.O. Murashin, N.R. Nyzhnyk, V.F. Pogorilko, A.O. Selivanov, V.Y. Tatsiy, O.F. Fritsky V.M. Shapoval and others.

*The aim of the article* is to identify the main priorities of the study and to give examples of other countries in the creation of the optimal electoral apparatus of public authorities and to involve local human resources.

In order to achieve the stated objective, it is possible to identify the following task areas: identifying the peculiarities of the representative bodies formation of local self-government in

*Липинська О.А., Балан А.А. Місцеві вибори та кадрове забезпечення місцевого самоврядування. Науково-методична стаття.*

У статті узагальнюється світовий досвід проведення місцевих виборів та надаються вимоги до кандидатів і учасників виборчого процесу. Досліджуються відносини що формуються між органами публічної влади і територіальними громадами. Наводяться особливості формування представницьких органів місцевого самоврядування у ряду розвинутих демократичних країнах. Порівнюються іноземна практика проведення місцевих виборів та виявляються основні принципи та функції місцевих виборів. Надаються рекомендації щодо запозичення зарубіжного досвіду до організації місцевих виборів та при формування органів місцевого самоуправління. Аналізується українське законодавство щодо місцевих виборів та кадрового забезпечення місцевого самоврядування.

*Ключові слова:* місцеві вибори, місцеве самоврядування, органи місцевого самоврядування, кадрове забезпечення місцевого самоврядування

*Lypynska O.A., Balan A.A. Local elections and staffing of local self-government. Scientific-methodical article.*

The article summarizes the world experience of holding local elections and provides requirements for candidates and participants in the election process. The relations that are formed between public authorities and territorial communities are investigated. The peculiarities of the representative bodies formation of local self-government in a number of developed democracies are given. The foreign practice of holding local elections is compared and the basic principles and functions of local elections are revealed. Recommendations on borrowing foreign experience in the formation of local government in Ukraine are given. The article analyzes Ukrainian legislation on local elections and local self-government staffing.

*Key words:* local elections, local self-government, local self-government bodies, local self-government staffing

democratic countries; establishing the basic principles and functions of local elections; examples and generalizations of practices of foreign countries in conducting local elections and determination of recommendations for local self-government on election bodies formation and elections holding, foreign practices experience.

### **The main part**

The issue of the most optimal electoral system not only for local but also for parliamentary elections in Ukraine has been and remains one of the most controversial. The representative bodies of the territorial community often form it independently with the community members involvement, who in a concentrated form represent the interests of all social sections of definite settlements. In particular, these are the interests of the population that have diverse, multi-vector orientations, and aim to address these issues.

Based on the local elections peculiarities, the criteria of which can be divided: on a territorial basis (territorial-administrative unit); in terms of content, with different levels inclusion (intermediate, infranational) [1].

At the same time, based on fundamental regulations worldwide, the people's will must be the basis of government power: this will must be reflected in periodic and rigged elections, which must be held on the basis of universal, equal suffrage by secret ballot or other equivalent forms, that ensure freedom of voting [5]. As for the criteria for free and fair elections, they were adopted in 1994 by the Council of the Inter-Parliamentary Union at 154 sessions. On this basis, statutory instruments were formed that regulate local elections in the world and form a country's electoral system of as a whole. On these principles, the electoral law defines the following principles: suffrage universality, free elections, equal opportunities for suffrage, direct and indirect suffrage, secret ballot [6].

The most powerful political parties seek to expand their influence on the activities of representative authorities, which, in turn, allows them to influence decision-making at the national and local levels. The proportional representation system allows to ensure such influence, and due to the "technological" complexity of certain varieties of such a system, influential political forces representatives advocate maintaining one of its simplest options – voting for closed lists of political parties and blocs in a single multi-member constituency, based on the quota of T. Hera and the largest balances method. It is obvious that the corresponding system, although familiar and understandable to the ordinary voter (since it was tried out during the elections of the people's deputies of Ukraine in 1998 and 2002), hardly fully corresponds to his/her interests: at least by restricting the right to stand for election to councils at almost all levels, deprives the elector of his/her usual connection with the elected deputy in the single-member constituency. The understanding of the "optimal" electoral system among experts in the field of electoral law, local councils deputies and specialists

in the field of local self-government is also ambiguous.

In accordance with the principle of universal suffrage, it is possible to eliminate only those persons who are unable to carry out their actions or are not responsible for them (i.e. minors and incapacitated persons). But in some European countries there are certain conditions, compliance with which provides an opportunity to acquire the appropriate voting rights. Thus, in some countries (the example of Finland) the right to be elected and elected to local self-government bodies may belong to foreigners, provided they reside permanently in the community for at least 3 years. As for the requirement to connect the candidate with the community, it is stipulated that the local council deputy is a representative of his/her constituents from the territorial community and thus understands and is aware of all economic, social and other problems of his/her constituents, which will allow him/her to competently perform his/her duties.

In almost world countries the age limit for entering active suffrage is 18 years, and for passive suffrage there is a higher age limit, so in Greece and Romania this limit is 23 years old, in Belarus, Ireland, Poland and Russia – 21 years old, in Belgium and Italy 25 years old. But this is only for the elections to the lower chamber of parliament. As for the main restrictions on participation in local elections, it is no longer related to age, but to a person's affiliation to the territory where the local authorities are located. In many countries, candidates are required by law to reside in a community territory or a district for a specified period of time. For example, in order to obtain active suffrage in the parliamentary elections in Belgium and France, it is necessary to reside permanently in the territory of electoral administrative for 6 months and in Finland for 20 months. But in some cases, such as in France, the candidates' residence in the territory is not necessary, it is enough to pay local property taxes in the administrative district. Thus, the citizenship network provides for participation in local elections only in such a way and current persons who are citizens for a certain period of time of the state as provided by the country's legislation.

The principle of free elections determines voters' voluntary participation in elections and independence in decisions on the use of active and passive suffrage. This is freedom of expression, excluding the interference of political forces or state influence in the election process.

The equal suffrage principle means the equal opportunities provided by law for voters to influence the elections results and to have equal opportunities to be elected, which includes the following conditions:

- each voter has the same number of votes, often one vote, but there are other examples so in the elections to the Bundestag (Germany) the citizens of the country give one vote for the party list, the second one for a particular candidate;
- voters are not divided into groups and categories with different, pre-fixed representative;

- a deputy is elected from an equal number of voters;
- the law provides for the same requirements for the candidates' nomination and their registration and campaigning.

Direct suffrage provides for the right of citizens of the community to directly elect their representatives to the bodies of authority and local self-government.

The principle of secret ballot determines that voting takes place without external control and observation. In some countries, violating the ballot secrecy is punishable by law.

The significance of local elections is revealed through functions that primarily affect the relations in society and reflect the ability of local self-government system to function effectively. It should be noted that the local elections system has a number of features, such as integration into the system of national elections, the number and level of electoral restrictions, terms and conditions of elections, parliamentary composition, the constituencies features, as well as the type of electoral system.

In many world countries, preference is given to the voting electoral system, which consists in the fact that one part of the deputies was elected by a majority system of relative majority, and the other one - by a proportional system with party lists in the national constituency. Such experience in Ukraine did not provide incentives for the political parties development, but only caused significant fragmentation of the political field. There are currently various discussions on how to address the existing electoral system shortcomings.

In many European countries, elections to local councils are held for a certain period (a year or two) before parliamentary elections. It allows, on the one hand, to involve brighter public figures in local elections, and, on the other hand, it allows society to more meticulously and adequately assess the election results and draw conclusions.

Establishing a certain frequency of elections is one of the main principles of suffrage enshrined in the Declaration on Criteria for Free and Fair Elections adopted at the 154th session of the Council of the Inter-Parliamentary Union in 1994. That establishes the frequency of renewal and power structures formation, which satisfies the society interests and these society members' aspirations. This is the main purpose of elections in general. For example, the term limit of local councils in countries such as the United States (in some states), Mexico and Bolivia is one of the minimum in the world – 2 years. In Estonia and Sweden – is 3 years, in France and Belgium it is probably the longest term – 6 years. With the help of frequent elections, voters can carefully monitor their deputies' activities, as well as the election promises fulfillment. But conducting the elections itself requires significant expenses, and therefore the pain is associated with long-term financial savings and it is such an argument that local council deputies in a short term cannot have time to get acquainted with the features and specifics of local self-government bodies.

The number of deputies who will represent their community interests often depends on the number of community residents. This dependence is common to most countries, but possible options, such as in the United States from a local council with a population of 250-500 thousand inhabitants are allocated 10 seats, with a population of 500-1000 – 13 seats, more than 1 million – 22 seats [4]. Also, in many European countries, the number of MPs representing the interests of small territorial communities and populated areas differ significantly. For example, in Austria the composition of individual municipal councils ranges from 7 to 100 members, in Italy – from 12 to 80 members, in Germany – from 5 to 80, in Sweden – from 31 to 101 members, in Finland – from 17 to 85 members, in France – from 9 to 69 members, but even Paris has 163 representatives, Marseille – 101, Lyon – 73.

Thus, the majority system has established itself as an electoral system that has the ability to ensure the relative stability of local councils and local self-government bodies. The main disadvantage of this system is the lack of a unified programme for the entire territory development of the representative body, while each deputy, above all, seeks to address the voters' problems in his constituency, which can be attributed to the majority system. Varieties of majority vote system function in local elections in North America, India and New Zealand. Some time later, the majority system operated in local elections and in European countries. But today, the majority system is mostly used in local elections in Slovakia, the United Kingdom, Spain and Poland.

The proportional electoral system in local elections provides for the leading role of political parties in the municipal policy formation and implementation, when each party nominates its own list of candidates and a voter votes for the party list or has the opportunity to determine their attitude to the candidate and vote for the candidate. In particular, the proportional electoral system is more commonly used in local elections in most European countries, and the most common version of the proportional electoral system is to vote for ballots in one or more multi-member constituencies. For example, in local elections in Spain, Denmark, Romania, Lithuania, Latvia, Finland and Portugal, voting takes place in a single multi-member constituency. Whereas in Sweden, Poland and some parts of Germany it takes place at once in many districts. Also in Belgium, Austria, Estonia and some parts of Germany – is in one multi-member district, which may act as a municipality or several multi-member districts such as large municipalities, counties, provinces, etc.

In European countries, the proportional system of voting for ballot is used in the form of three modifications in local elections:

- the proportional system for closed lists (or rigid), voting is generally for the ballot and there is no possibility to influence the candidates' list. This system is applied in parts of Austria and Germany, in some provinces of Spain, in the municipalities

- of Portugal, in the local councils of Romania and Croatia;
- the proportional system for semi-closed lists (or semi-rigid), when voting goes for the entire ballot as a whole or the voter has one vote and can support only one candidate. This system is used in Estonia, Denmark, Belgium, Finland, Poland, Sweden, and partly in Latvia;
  - the proportional system for open lists, this is when each voter has one vote in favour for one candidate on the ballot. This system is used in Luxembourg in municipal elections where the number of voters exceeds 3,000 and in the Netherlands in local elections.

The disadvantage is not the stable connection of deputies' personal responsibility to voters, but the advantage is that it allows to express voters' general interests and solves the main task of the representative body, which is to develop a holistic and comprehensive development programme of territorial communities.

A mixed electoral system is a combination of a majority and proportional electoral systems. It is used in local elections. Most often, the implementation of such a system is carried out according to the scheme; one part of the deputy corps is elected by the majority, and the other one – by the proportional electoral system. Such a system is implemented in elections to London city council, the Scottish Parliament and the elections to the National Assembly for Wales, where in monotonous and multi-member constituencies each elector votes separately, i.e. each elector has two votes.

A completely different modification is present in the elections in Italy to the municipal councils, where the number of voters is up to 15,000. It is observed when voting in a single multi-member constituency for candidates on the lists and in a single-member constituency when electing for a mayor. Thus, an elector has the opportunity to vote for a candidate for the mayor and, separately, for one of the candidates from the descent of parties, but the votes received by the candidate for the mayor are joined by votes for the party to which the candidate belongs. Based on this, the mayor becomes the candidate who has received more votes for his/her support, and a third of the seats in the municipality are won by the party to which the mayor belongs, the remaining seats are distributed among other parties proportionally – depending on the number of votes received.

In the district and municipal elections in some parts of Germany, one of the forms of mixed electoral system with voting in single-member and multi-member districts on closed party lists is also implemented. In order for the party to get additional seats in the Landtag at the expense of single-member constituencies, it is necessary to overcome the 5% barrier of the vote in this part of the country. As in the example above, each elector has two votes to use: one in a single-member constituency and the other in a multi-member constituency. In municipal elections in polling stations where the number of voters is more

than 3,500, in France there is also a mixed party, which operates in two rounds in one or more multi-member constituencies on party lists. If in the first round the party receives an absolute majority of votes, half of it is overtaken - in the communes, or a quarter - in the territorial departments of seats in the councils. The remaining seats are distributed 50% and 75% respectively among all parties that have overcome the 5% barrier according to the number of votes received.

The local elections system in Greece is also a modification of the mixed electoral system. In which elections in communes with up to 5,000 electors a majority electoral system of relative majority with proportionality elements is used, and in elections where communes and prefectures number is more than 5,000 voters, then a majority electoral system of absolute majority with proportionality elements is implemented. Thus, if the candidates list received a relative majority of votes it gets 3/5 of the seats in the council, and the rest is distributed among other election process subjects in proportion to the number of votes received. Otherwise, as the candidates receives 50 or more percent of the electors' votes, they will receive 3/5 of the seats in the council, the last 2/5 of the seats are distributed proportionally among the other candidates according to the votes cast. If neither party receives a majority of votes in the first round, a second round of elections is held, in which candidates from the two parties that have received the maximum number of votes are admitted. But according to the results of the second round, the party that receives the most support votes it gets 3/5 of the seats in the council, other seats in the council are distributed proportionally among the candidates according to the results of the first voting round.

At the same time, the existing types of electoral system: majority, proportional and mixed allow to increase the essential criterion of differentiation of local elections. For example, the majority electoral system, a variety of which is operated in local elections in Canada, the United States, India, New Zealand and some particular European countries, ensures the relative stability of local councils and the bodies they form and, as a result, creates conditions for effective functioning of local self-government bodies. The proportional electoral system, which operates mainly in European countries, ensures the leading role of political parties in developing and implementating the municipal policy. Which promotes the political responsibility of local councils to voters on the basis of the forming and functioning their parliamentary majority and parliamentary opposition, which allows for the representation of national and other minorities in representative bodies and increase the party personnel provision. The mixed electoral system implemented in local elections of particular representative bodies of Germany, France, Italy, Greece, Great Britain seeks to combine the advantages of majority and proportional electoral systems, which will ensure the different social groups representation and the local councils stability.

In Ukraine, electoral legislation is constantly being improved to take into account the negative

lessons of previous election campaigns and bring it closer to international standards for democratic elections.

Now the elections will be held according to the norms of the new Electoral Code of Ukraine. As a result, the the game rules are changing compared to the previous elections to local authorities, which took place in 2015. In particular, a system of open party lists is being introduced, the number of deputies is being reduced and their recall opportunities are being expanded.

The main indicator of the electoral system is the number of voters in the community. Some councils will be elected according to the proportional representation system on open voter lists, the rest – according to the relative majority system in multi-member constituencies, i.e. – "majority".

According to the new Electoral Code, deputies' elections to regional and city councils (cities with 90,000 or more voters) were to be held on party lists, and all others were majoritarians with the possibility of self-nomination. According to the approved changes, candidates in communities with 10,000 or more voters are deprived of the right to nominate themselves by introducing the proportional party lists system. Elections even to rural communities should be party-linked. But one is not talking about party building and democratic processes, because only a registered regional organization is enough to nominate, which will be able to nominate all the lists and exercise total control over everything that happens: from the candidates' approval to commissions.

Thus, elections to city, district, village and settlement councils in settlements with less than 10,000 voters will continue to be held under a majority system of relative plurality. Two to four deputies can be elected in one constituency. The candidate with the highest number of votes will win. Similarly, under the majority system of relative plurality, village, settlement, city mayors and village headmen of settlements with less than 10,000 voters will be elected. And mayors in settlements with more than 10,000 voters will be elected by an absolute majority system. That is, the winner is the candidate who receives more than 50% of the votes. In addition, for settlements with more than 10,000 voters, the Electoral Code introduces an open lists system. It will elect deputies to district, district in cities, city, village

and settlement councils with the appropriate number of voters, as well as to regional councils. However, there will be no opportunity for self-nomination of candidates. Only political parties will be able to nominate. When compiling the candidates' lists, parties must maintain a gender balance - at least 40% of members of the same sex. The ballot paper for open lists will have a list and all parties numbers participating in the election and a field for a voter's mark. Under the name of each party there will be a list of names and numbers of candidates from the regional electoral list of this party.

Unfortunately, the legal framework for local elections is not ideal and creates additional difficulties and risks. Strengthening the imperative mandate makes deputies more dependent on the party leadership rather than the voters. The draft legislation 3971 [7] can solve a number of technical problems of the Electoral Code, but does not offer a solution to major political problems. A positive innovation will be, for example, a detailed explanation of how to take into account improperly filled ballots. At the same time, the draft legislation finally cancels the direct elections of the headmen, and this is mostly criticized on the ground. The draft legislation does not provide an answer to the district councils election. The CEC refused to call district council elections without explanation from the Verkhovna Rada's profile committee, and correspondence between the CEC and deputies raised the issue of calling elections and candidates' plans.

### **Conclusion**

Forms and methods of organizing and conducting local elections in different countries differ significantly in such parameters as the integration degree of the general election system, the presence and level of electoral qualifications, time and frequency, method of determining the number of deputies, constituencies, top electoral system, election methods of chairmen of local councils and mayors.

Based on this, one can conclude that local elections as a form of direct democratic governance and the main element of representative democracy directly depend on the staffing that is formed at the stage of educating young people in the country and is the main component between public authorities and territorial communities.

### **Abstract**

Local elections are one of the forms of exercise in democracy at the local level, which provides citizens' personal participation in the electoral process of local government officials and the elected local self-governments formation. Local elections can also be seen as a mechanism of representative democracy at a local level, on the basis of which citizens are not directly involved in governing society and solving community problems, but entrust it to their representatives, who are authorized to represent their interests.

The aim of the article is to identify the main priorities of the study and to give examples of other countries in the creation of the optimal electoral apparatus of public authorities and to involve local human resources.

The issue of the most optimal electoral system not only for local but also for parliamentary elections in Ukraine has been and remains one of the most controversial. The representative bodies of the territorial community often form it independently with the community members involvement, who in a concentrated form

represent the interests of all social sections of definite settlements. In particular, these are the interests of the population that have diverse, multi-vector orientations, and aim to address these issues.

The equal suffrage principle means the equal opportunities provided by law for voters to influence the elections results and to have equal opportunities to be elected, which includes the following conditions:

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Direct suffrage provides for the right of citizens of the community to directly elect their representatives to the bodies of authority and local self-government.

The secret ballot principle determines that voting takes place without external control and observation. In some countries, violating the ballot secrecy is punishable by law.

The local elections significance is revealed through functions that primarily affect relations in society and reflect the ability of local self-government to function effectively. It should be noted that the system of local elections has a number of features, such as integration into the system of national elections, the number and level of electoral restrictions, terms and conditions of elections, parliamentary composition, constituencies features, as well as the type of electoral system.

The proportional electoral system in local elections provides for the leading role of political parties in the formation and implementation of municipal policy, when each party nominates its own list of candidates and the voter votes for the party list or has the opportunity to determine their attitude to the candidate and vote for the candidate. In particular, the proportional electoral system is more commonly used in local elections in most European countries, and the most common version of the proportional electoral system is to vote for voter lists in one or more multi-member constituencies.

In Ukraine, the election legislation is constantly being improved to take into account the negative lessons of previous election campaigns and bring it closer to international standards for democratic elections.

Now the elections will be held according to the norms of the new Electoral Code of Ukraine. As a result, the rules of the game are changing compared to the previous local elections held in 2015. In particular, a system of open party lists is being introduced, the number of deputies is being reduced and opportunities for their recall are being expanded.

Unfortunately, the legal framework for local elections is not ideal and creates additional difficulties and risks. Strengthening the imperative mandate makes deputies more dependent on the party leadership rather than the voters. The draft legislation can solve a number of technical problems of the Electoral Code, but does not offer a solution to major political problems. A positive innovation will be, for example, a detailed explanation of how to take into account improperly filled ballots. At the same time, the draft legislation finally cancels the direct elections of the headmen, and this is mostly criticized on the ground.

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Forms and methods of organizing and conducting local elections in different countries differ significantly in such parameters as the integration degree of the general election system, the presence and level of electoral qualifications, time and frequency, method of determining the number of deputies, constituencies, top electoral system, election methods of chairmen of local councils and mayors.

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