



CHARACTER OF PROCEDURAL VIOLATIONS AT THE POLLING STATIONS IN UKRAINE DURING THE E-DAY ON OCTOBER 25, 2015

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Main violations of the electoral procedures at the polling stations in Ukraine during the Local Elections on October 25, 2015 are described in the article. Reasons of such violations have also been investigated and explained. Some improvements of the procedures have been suggested for the future elections.

Key words: electoral procedures, polling station, Law on Local Elections in Ukraine, violations, automated ballot counting system.

В статті проілюстровано основні порушення виборчих процедур на виборчих дільницях в Україні під час місцевих виборів, що відбулися 25 жовтня 2015 року. Також перелічено і проаналізовано їх причини та запропоновано деякі зміни у виборчі процедури заради покращення майбутнього виборчого процесу.

Ключові слова: виборчі процедури, виборча дільниця, Закон про місцеві вибори в Україні, порушення, система автоматизованого підрахунку голосів.

В статье проиллюстрированы основные виды нарушений избирательных процедур на избирательных участках в Украине во время местных выборов, которые состоялись 25 октября 2015 года. Также перечислены и проанализированы их причины и предложены некоторые изменения в избирательные процедуры ради улучшения будущего избирательного процесса.

Ключевые слова: избирательные процедуры, избирательный участок, Закон про местные выборы в Украине, нарушения, система автоматизированного подсчета голосов.

Ukraine is now on the way of reforming its electoral system in order to reduce number of violations of the electoral legislation. Step by step, under the pressure of the civic society Ukrainian legislatures make amendments to the electoral law. Among such steps are adoption of the Law on Amendments to Certain Legislative Acts of Ukraine on prevention and counteraction to political corruption [1] and, definitely, the Law on Amendments to the Criminal Code of Ukraine "(concerning strengthening of responsibility for violation of electoral rights)"[2].

The new Law on Local Elections was adopted in Ukraine in July 2015 and it also brought a lot

of changes to the implementation of the electoral procedures. However, there were no major changes to the procedures of organization of voting and counting of votes at polling stations made, thus, main violations of procedures stayed the same as during previous Ukrainian elections. These violations are the following: dividing into groups for counting ballots (violation of p.10 art.75 p. 26 art.79 of the Law on Local Elections which says that only one PEC Member reads out and shows the results of voting on the ballot papers); transporting results of the voting from a polling station to TEC by three PEC members not submitted by different political parties (violation of p.9 art.82);

breach of obligation of all other commissioners to wait the message on acceptance of documents by TEC at the polling station (violation of p.11 art.82); giving out ballots for voters only by one PEC Member when prescribed by two (violation of p.7 art.77) [3].

Such violations arise because of physical inability of PEC members to fulfil some provisions of Law. PEC Members work on the E-Day approximately for 14 hours before the votes counting starts (organization of voting, working with voters' lists after the closing of the polling station and packing of control talons and undrawn paper ballots). When Commissions divides for counting of votes, it takes another hour and a half to finish this procedure, packing of ballots (ballots for each party/candidate separately) from 30 minutes up to one hour, filling protocols on votes' counting for each PEC member and 4 copies for TEC – from 30 minutes up to one hour. Then procedure repeats for all other types of elections but length of the execution of procedures increases as the level of concentration falls significantly by this time. It is possible to assume that fulfilment of this provision of Law if possible will extend abnormal working day for other several hours.

The same matter of tiredness influence the unwillingness of all PEC members to transport the results to TEC because acceptance of protocols can last till late evening of the next day. Two most common practices of transportation have established in this regard – documents are transported by Head and two conscientious volunteers from any political parties (even the same one). Or it is done by Head, Deputy Head and Secretary, although it is written in the Law that Secretary must stay at the polling station with the stamp of the Commission. Such combination of PEC members (even when they are representatives of different parties) enables them to update protocols of votes' counting “on the knees” by faking other members' signatures and putting stamp on new protocols. This is a very severe breach of electoral Law, however, often made without malice. If a mistake is found in the protocol, TEC sends these three members back to the polling station according to p.4 art. 83 in order to compile an adjusted protocol. But it is impossible for these three ones to gather again other PEC members as

they always breach another obligation – to wait the message on acceptance of documents by TEC at the polling stations.

In this regard, provision of Law on Parliamentary Elections which stated in p.1 art.93 that documents should be transported by Head and Deputy Head and by one representative from two “winning” candidates/parties (in total 4 persons), clarified situation and added order to this process [4]. Probably, such provision could be added to other Electoral Laws, in particular to the Law on Local Elections.

Taking into account the fact that political parties stimulate discretely PEC Members by money (from 1000 UAH to 5000 UAH for PEC Board) there are two average type of PEC members – senior people with a low income level who have spare time but can not endure some electoral procedures because of age and younger people neither with high income who can not skip the following working Day. (This is another problem that Ukrainian employers very seldom obey the Law that obliges them to give a Day-Off for PEC Members when necessary). Official increase of PEC members' salaries (which makes up now approximately 300 UAH) will add responsibility for the quality of fulfilment of their duties and will make them less dependent from parties which submit their candidatures.

Giving out ballots for voters only by one PEC Member when prescribed by two happens because of shortage of PEC staff. The minimum composition of PEC Commission for the big polling station must be 14 people but situations when less people work are quite frequent. It happens because parties often submit candidatures without their consent who refuse to work as PEC members further, or parties give wrong telephone numbers of these people.

Often, listed violations are not considered as violations even by official observers who are also exhausted by the time when counting finishes. However, those official observers who were instructed by political parties to trace as many violations as possible in order to have grounds to appeal against poor results and to declare elections as illegitimate, always register acts on violation of electoral rights. Such official observers also try to interfere into the work of Commission and

sometimes advise voters on their choice. Candidates, who have the right to be present at any PEC meeting or at the polling station during the Election Day, put even more pressure on the polling workers threatening with criminal cases, media scandals or just making a turmoil.

Thus, Ukrainian electoral legislation needs further enhancement, especially concerning improvement of procedures at the polling stations. Increasing level of knowledge and general level of skills plays a very important role for reducing number of violations at the polling stations. Well-prepared commissioners count ballots quicker. They also make less mistakes while counting so that there is no need for the precinct election commission to recount ballots during the "Elections Night". Making the training program for commissioners obligatory could improve election process in general. However, as this norm in Ukrainian legislation stays declarative and there is no sanction for those commissioners who skip training, Ukrainian legislatures should think of amendment of this part of the Law. Introduction of automated system of counting could also be a

very good means of the process enhancement. It will save time for PEC Members, reduce level of violations and increase credibility of election results.

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