

**Agency for Legislative Initiatives**

**QUALITY OF ELECTIONS:  
MAKING DEMOCRACY STRONG**

*Conclusions of Regional Public Discussions  
and Recommendations*

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## INTRODUCTION

*Over July-September 2009, the Agency for Legislative Initiatives, with participation and support of the Directorate General of Political Affairs of the Council of Europe, the Venice Commission, the Parliamentary Committee for Public Authorities and Local Self-Governance Development, and the Central Election Commission in partnership with the Election Law Institute, as well as Odesa, Donetsk, and Lviv Oblast Organisations of the Committee of Voters of Ukraine, arranged a series of regional public discussions of the quality of elections in Ukraine (international conferences held in Odesa (2-3 July 2009), Donetsk (23-24 July 2009), Lviv (24-25 September 2009). These discussions concerned not only the problems of the existing legislative regulation of the presidential elections in Ukraine, due to take place on 17 January 2010, and compliance of the election legislation with international standards, in particular the European ones, but also a broader range of issues, such as the quality of political parties and the role of the media and civil society organizations in ensuring high quality of elections and political dialogue. The discussions involved members of the Ukrainian parliament, representatives of the Council of Europe, the Venice Commission, the High Administrative Court of Ukraine, the Secretariat of the President of Ukraine, the Central Election Commission, the Ministry of Justice, researchers, practicing lawyers, civil society organizations, and the media.*

*The conclusions and recommendations of these regional discussions are presented below.*

### 1. CONCLUSIONS OF REGIONAL PUBLIC DISCUSSIONS

#### 1.1. Legal Regulation

The majority of experts agreed that *the new version of the Law on Presidential Elections* is not just substantially worse in quality than its previous version, but is also *an essential step back in the development of the electoral legislation*. The law does not seem to meet the Constitution of Ukraine, and it also contradicts the recommendations made by the Venice Commission and OSCE/ODIHR on the improvement of the election legislation. In its current form, the new version of the Presidential Election Law can hardly become the basis for the next presidential elections to be held in accordance with the European standards. *The main drawbacks of the above law include the following:*

- Election constituencies are established on the basis of an equal number of voters, rather than an equal number of polling stations in the constituencies, which will result in an unequal division of workload among district election commissions (some district election commission will deal with 40-50 polling station election commissions, while others will have up to 300 of them);
- The cap number of voters that can be assigned to a polling station is preserved at the level of 3000 voters, which is not compliant with the Law on Parliamentary Elections and contradicts the recommendations made by the Venice Commission and OSCE/ODIHR on the results of their observation of 2004, 2006, and 2007 elections;
- The procedure for the establishment of special polling stations and polling stations abroad has a framework character;
- The dates set for the establishment of polling stations are inconsistent with the dates set for the establishment of district election commissions;
- There is no correspondence among the minimal composition of the district election commission (DEC), polling station election commission (PSEC), and the scope of workload put on the relevant commissions (the number of polling stations in a district that a DEC is supposed to manage and the number of voters at one polling stations that a PSEC is to deal with);
- The procedure set for the establishment of DEC and PSECs has a number of gaps and contradictions;

- The maximal number of DEC and PSEC members is not limited, which, in case of many presidential candidates, may result in an essential increase of their composition and complication of their work;
- Only local residents are entitled to become members of election commissions in the respective constituencies, which, on the one hand, may be seen as a restriction of the election right by the place of residence, and, on the other, as a violation of the procedural guarantees for the exercise of the election law set forth in the Code of Good Practice in Electoral Matters adopted by the Venice Commission, in particular envisaging that an impartial body should be in charge of applying electoral law;
- Only an absolute (simple) majority of the present members of the relevant commission may decide on the deprivation of the right to be present at the commission meeting, which will not be conducive to the efficient observation of the election commissions functioning;
- There is a discrepancy between the powers and functions of election commissions in terms of the oversight of the observance of the electoral legislation and uniform application of electoral law;
- The amount of the election deposit motives of its return seem to be rather ungrounded. Firstly, an average wage earner would need to work for 113 years and a top manager for 10 years to accumulate the funds necessary to make an election deposit; and secondly, should none of the candidates be elected in the first round, the election deposit is not supposed to be returned; in the case of the repeated voting, the deposit is returned to the candidates included into the repeated voting ballot paper, which contradicts the OSCE/ODIHR recommendations, according to which the deposit should be returned to the presidential candidates that have received no less than 3% of the voters support;
- The CEC has been made in charge of regulating practically all issues related to the access to the Register database, which enhances the CEC's discretionary powers; recording access rights are granted to all Register maintenance bodies, independently of their territorial competences;
- Provisions of the new version of the Presidential Election Law are not reconciled with the Law on the State Voter Register; a number of important provisions have been excluded from the Law on the State Voter Register, in particular as concerns the primary formation of the Register database;
- The right to vote in the foreign election constituency is granted only to the voters registered with consulates, which can be seen as a violation of Articles 22, 24, 64 and 70 of the Constitution;
- Absentee voting slips have been cancelled and, at the same time, no efficient guarantees have been offered to ensure the exercise of the voting right at the place of the voter's election address (which can be considered as violation of Article 22 of the Constitution);
- There is no clear procedure for the cooperation among the authorities entitled to change the voter lists (courts, Register bodies, election commissions), in particular as concerns the exchange of information on the voter's complaints accepted for consideration by any of such bodies (in particular, on the voting day);
- There is a possibility to make changes to the voter lists on the voting day, in particular on the decision of different authorities, which contradicts the Code of Good Election Practices;
- A PSEC may hold meetings to consider complaints during the voting process, which may paralyse the voting as such;
- The campaigning rules established by the Law on Presidential Elections and the Law on Parliamentary Elections are not reconciled with each other; the Law on Presidential Elections preserves a number of norms that do not meet the European standards and are not compliant with the previous recommendations made by the Venice Commission and OSCE/ODIHR;
- NGOs are not entitled to observe elections, which contradict the democratic election standards, which contradict Paragraph 8 of the Copenhagen Paper and the previous OSCE/ODIHR recommendations on the improvement of the presidential election legislation in Ukraine;

- The CEC may establish the election results only on the basis of those PSEC protocols that it has on the 10<sup>th</sup>-11<sup>th</sup> day after the voting, which enables election commissions, influenced by political forces, to adjust the results of the public will expression on the nationwide scale;
- Election of the President is formalised not through adoption of a decision, but through issuance of a protocol, which will not promote proper protection of the citizen's election rights;
- The official publication of the election results has been replaced by the official announcement, which does not meet the world practice;
- The subject of the extrajudicial contestation is narrowed, which may increase the functional load on courts and, consequently, weaken the possibilities to defend the violated election rights;
- The election commissions, which have committed a violation, preserve a possibility to consider complaints, which contradicts the generally recognised legal principles of "nemo iudex in causa sua";
- The law has established an exhausted list of issues that can be contested in the court, which contradicts Article 124 of the Constitution;
- There is a possibility to leave unconsidered the administrative lawsuits, which were not considered within the terms established by law, which contradicts Article 55 of the Constitution and Article 6 of the European Convention on Protection of Human Rights and Fundamental Freedoms;
- It is prohibited to issue rulings to secure administrative lawsuits in the disputes that concern announcement, preparation, and conduct of elections, which contradicts Articles 22 and 55 of the Constitution; and
- There is criminal liability envisaged for election commission members for the evasion of their work in the commissions without serious grounds, which does not meet the principle of efficiency, adequacy, and efficiency of sanctions; deficient wording of Article 158-1 of the Criminal Code of Ukraine.

## **1.2. Attitude to Law and Other Democratic Values**

In the course of the regional discussions, it has also been noted that *the quality of elections depends not only on the legal regulation*. Efficiency of law as an instrument for regulation of social relations is mainly defined by *the extent to which law is exercised* by the participations of the relevant relations *as a democratic value*. In Ukraine, it is not only unseen as a value, but is often disregarded. The general tone of such attitude is set at the higher levels of public power and is spread further "below" to the ordinary citizens. In practice, *this attitude is expressed in the following*:

- In a political struggle, it is not so much the contenders, as the institutions which they represent, that are criticised, which undermines the authority of and the public trust in the power institutions (this is reflected in the suggestions to eliminate administrative courts and the post of the head of state, to transform the President into "the British Queen", to decrease the number of MPs etc);
- Ukrainian politicians make no attempts and appear to be actually unable to achieve consensus on the values – the political forces, that are not in power, try to achieve understanding with their opponents only to get the power, and then they strike the short-lived balance and achieve an imaginary "compromise", which is fully built on the protection of their interests; on the other hand, the forces which are in power consider a compromise only as an imposition of their political position upon others (consensus is being understood only from the perspective of the strong side, as it can be seen in the authoritarian political party leadership, introduction of an imperative mandate, attempts to restrict competition in the struggle for power through transition to a two-party system, preservation of the banning for the independent candidates to participate in the elections; attempts are made to solve the institutional contradictions through concentration of all powers in the hands of a "strong" President or a "strong" Government; political black-mailing is developing, which is revealed in the permanent blocking of the parliamentary sittings; the idea of the National Unity Universal has been ruined etc);

- Provisions of the adopted laws are either not applied in practice on the consent of all agents of these relations (e.g. all political parties begin campaigning long before the official start of the election campaign, despite of the legislative restrictions), or are applied on the basis of double standards;
- Due to double standards, the legislation, including the electoral provisions, is characterised by a low level of stability and predictability – depending on the conditions, the same provisions can be seen both as positive and as negative, which results in the permanent revision of laws to adapt them to a specific situation; as a result law-makers periodically return to the mechanisms of legal regulation that were drastically revised in their time (e.g. as concerns the procedure of amendment of voter lists, contestation of violations etc);
- One of the features of the current electoral laws, that the Venice Commission also points out to, is their excessive specification, more characteristic of instructions rather than laws. This is conditioned by the law-maker's intention to make it impossible to use any gaps or contradictions in the legal regulation to by-pass the legislative norms or to violate them. Specification of legislative norms has partially resolved this task. At the same time, the attempts to use legal norms to regulate the relations that are not regulated by law have achieved no result, e.g. despite of the legal obligation of unbiased attitude to the election candidates, not every media observe this requirement. In a number of cases, having resolved certain problems, the specification of legal norms has generated a number of new ones. Thus, according to Part 9 of Article 30 of the Presidential Election Law (in its 2004 version), not less than 2/3 of the relevant election commission composition was entitled to initiate the decision on the replacement of the commission chairman. On the one hand, the obligatory requirement for this decision to be adopted by a qualified majority of votes ensure protection of the commission chairman from ungrounded dismissal on the political ground, while on the other hand, the commission chairmen, enjoying support of more than one third of the commission composition, got a possibility to systemically ignore their obligations and remain unpunished.

***The following needs to be done to ensure respect of democracy and law:***

- The authority of the parliamentarism, head of state, government, and judiciary institutes, undermined by the political confrontations, needs to be restored after the presidential elections;
- The politicians should realise the need to look for a value compromise and observance of the “rules of the game” laid into the basis of such a compromise; they need to look for a compromise and develop the relevant rules;
- The role of the law in the regulation of social relations should not be absolutised; there is a need to improve the efficiency of the law as an instrument for regulation of social relations; firstly, the legislation should not contain provisions which are detached from the real life and which cannot be fulfilled (including due to the lack of the political will or the wish of the major part of the participants of legal relations); secondly, certain areas of social relations should either be beyond the legal regulation, or be regulated by law only in a framework manner;
- The state should focus not only on the institutional reforms and improvement of the legal regulation of social relations (including as concerns relations), but also to the implementation of humanitarian and educational policies, aiming at the strengthening of democratic values;
- There is a need to improve the voter education and to raise the public awareness of the election law principles, the content of the election rights and the procedure for their exercise.

When the respect of the law and democratic values is ensured, this will take a number of important problems off the agenda, in particular those that are related to the legal support of the elections, as well as the need to review electoral laws in the interests of certain political forces being in power, the necessity to lay out the specifics of the legal regulation in order to narrow the legislative gaps and make it impossible to abuse the legislation and the principles of the law, and the need to solve the problem of the biased application of the law to election candidates etc.

### 1.3. Quality of Political Elite

The round table participants pointed out to the problem of the *quality of the political elite*, including political parties as its component. In general terms, experts consider that in reality political parties fail to fulfil the function that they are assigned by the Constitution, i.e. to promote formation and expression of the public political will. In particular, the following qualities of the political elites have been mentioned:

- **Lack of political responsibility** as a wish to shift the responsibility either to other branches of power, or to the political opponents, or to the voters that have brought such elite to the power;
- **Populism** as the majority of the election candidates offer either time-serving mottos (formed in accordance with social polls on the voters most pressing concerns), or unfeasible promises (e.g. presidential candidates promise to do something that does not belong to the President's competences due to the President's restricted constitutional powers, for example to restore the rural areas, to start the new industrialisation, to introduce strong presidential power), or instead of offering anything they criticise the actions previously taken by their political opponents;
- **Inability to look for a compromise** with political opponents and to achieve value consensus; **lack of respect to the power institutions and law** (specific examples of such inability have already been mentioned above);
- **A wish to disguise personal confrontations by ideological contradictions**, lack of such essential ideological confrontations between political parties (in the majority of cases) that could serve as a basis for rational political struggle between them.

The poor *quality of the political elite has become one of the reasons* why voters have been pushed aside (isolated) from the participation in the exercise of power, lack of a comprehensible model for Ukraine's further development, increasing public distrust in the politicians and in the power institutions represented thereby.

Such quality of the political elite is caused by a number of factors, such as monopolisation by political parties of the state and power resources, inefficient system used for the formation of the representative authorities, lack of the clear division of political responsibility in the "parliament – head of state – government" triangle, dependence of political parties on the private funding of a limited number of individuals, personal features of the politicians themselves, the role of the media in the coverage of the elections and political processes in general, modest demands of the voters the majority of which are not able to make a rational political choice.

Experts consider that the *quality* of the political elite can be *improved* through the following measures:

- There is a need to strengthen inter-party and internal party competition in the struggle for power (place in a political party), including through personification of the proportional representation election system, promotion of independent participation of political parties in elections (and not as part of election blocs), as well as introduction of the possibility for independent candidates to participate in elections through self-nomination;
- Public distrust to politicians and politics can be overcome through definition of a strategy for further development of the country on the basis of consensus between the key public policy-makers, as well as through the measures aiming at the implementation of this strategy, which will allow not only to overcome the public distrust to politics, but will also abate the level of populism in politics, and will help to transform the personal confrontation between politicians into the struggle of ideologies);
- The power and business should be separated through introduction of the state funding and restriction of the private funding of political parties, as well as introduction of the mechanisms to prevent the conflict of interest and observance of the ethical rules within public authorities; and
- The role of the media in ensuring the high quality political debate should be strengthened.

#### **1.4. Role of the Media**

The majority of experts consider that, despite of the essential democratisation of the media space as compared to 2004, the media have not been able to get transformed into a watchdog of democracy, and their potential in ensuring the high quality of the political debate remains mainly unused. The media actively participate in the “*dramatisation*” of the political process, focusing on the time-serving events and actions, which distract public attention from the problems and their solutions, the content of political manifestos, but look entertaining from the perspective of the end user – the voter), individual impressive politicians, personal contradictions between the participants of the political process. In its turn, such dramatisation has a direct impact on the quality of the political debate, where the importance of the public policy problems and their solutions is replaced by the importance of the discussion participants. It also weakens the probability that politicians will look for the ways to solve any long-term problems. Some experts also noted that one of the main problems of the modern journalism is not so much the disguised political advertising, but rather *the fact that the majority of the media lack their own position*, which prevents the media space from having any impact on the society and politicians. The fact that many media lack their own position is explained both by the drawbacks of the existing legal regulation (lack of the adequate legal preconditions for denationalisation of the media, prevention of media ownership concentration in the hands of a small circle of financial and industrial groups and certain individuals), as well as by weak professionalism of the majority of journalists and media literacy of the voters themselves. This suggests that the problem of the secondary role of the media should be solved both in the legal dimension, and in terms of the relevant organisation measures. The main priorities for the solution of this problem may include the following:

- Adoption of legislative acts aiming at the further strengthening of the freedom of speech in Ukraine on the reform of the state and municipal media, establishment of public broadcasting, prevention of the concentration of media ownership, improvement of media ownership transparency, strengthening of the guarantees for protection of social and other journalists' rights, adequate sanctions for the violation of the media legislation, strengthening of the independence of the National Council for TV and Radio Broadcasting of Ukraine, clear definition of the concept of "election campaigning" etc);
- More active introduction of the self-regulating standards in the media area;
- Improvement of the journalists' professional level;
- Introduction of the media education programmes for voters, which will enable voters to have a more active influence on the media and, through the media, on politicians;
- Strengthened cooperation with civil society organisations in terms of ensuring high quality political dialogue.

#### **1.5. Role of Civil Society Organisations**

Despite of the existence of considerable drawbacks in the legal regulation of the activities of non-profit organisations, insufficient level of financial and staffing capacity of the “third sector”, participants of the expert discussions have agreed that the civil society organisations play an important role in ensuring the high quality of elections and in improving the quality of the political dialogue. This role, however, has been essentially brought down by the recent amendments to the Presidential Election Law, which did not envisage introduction of the election observation by civil society organisations. Proposals made by the participants of the regional public events make it possible to single out the following priorities in the activities of civil society organisation to ensure high quality of the upcoming presidential elections and any subsequent election campaigns:

- Efficient observation of the presidential election campaign (the necessity of such observation is conditioned by the low quality of the new version of the Presidential Election Law, which creates grounds for abuses and violations of the election rights);
- Training of the members of election commission and the concurrent formation of such legal positions that will prevent the application of the most deficient norms of the new Presidential Election Law;

- Analysis of the correspondence of the previous activities of the election process participants and the political forces that they represent with their election promises; analysis of election programmes in terms of their correspondence to the real social needs, Ukraine's international commitments, their feasibility etc;
- Unification of efforts of all civil society organisation; as a variant, this can be done through the setup of a coalition aiming at the following goals: a) prevention of mass violation of the election rights, use of dirty political technologies in the course of the upcoming presidential elections (in particular, through adoption of a fair elections declaration or another similar document by the political parties and presidential candidates); b) public education and improvement of the quality of the political debate (changing the demands of the society, refocusing the political discussions from populism and personal political confrontation to the discussion of programmes, problems, their solutions, mechanisms of cooperation with political opponents in the post-election period, raising voters' awareness on the key drawbacks of the election legislation); c) proper expert support to the activities of the media in order to help journalists to form their own positions, to improve the quality of the political dialogue, and to prevent further dramatisation of the political process; d) lobbying of the necessary legislative amendments, including to the electoral legislation, after the presidential elections; and e) activation of the public pressure on public authorities both during the election campaign, and in the after-election period.

## **2. RECOMMENDATIONS**

- 1. In order to ensure the proper quality of the election, there is a need to: 1) ensure respect of the law and democracy; 2) improve the legal regulation of the elections, functioning of political parties, the media, and non-governmental organisations; 3) improve the quality of the political parties and ensure the possibility for the high-quality circulation of elites; 4) review the current role of the media in ensuring the high quality of the political dialogue; 5) strengthen the role of civil society organisations in ensuring the high quality of elections and the political dialogue.**
- 2. Respect of law as a democratic value can be ensured through the following:**
  - The authority of the power institutions should be restored in their public perception;
  - Politicians should realise the necessity to look for value compromises and to observe the rules of the game put into the basis of such compromises; they should also look for compromises and develop the relevant rules;
  - The role of the law in the regulation of social relations should not be absolutised; there is a need to improve the efficiency of the law as an instrument for regulation of social relations;
  - The state should pay proper attention to the humanitarian and educational policies aiming at the strengthening of democratic values, political and legal education of voters.
- 3. Legal regulation of elections, activities of political parties, the media, and civil society organisations in the context of ensuring the high quality of elections can be improved through the following measures:**
  - Legal mechanisms should be introduced to strengthen inter-party and internal party competition in the struggle for power through personification of the proportional representation election system, promotion of independent participation of political parties in elections (and not as part of election blocs), as well as introduction of the possibility for independent candidates to participate in elections through self-nomination;
  - The power and business should be separated through introduction of the state funding and restriction of the private funding of political parties, as well as introduction of the

mechanisms to prevent the conflict of interest and observance of the ethical rules within public authorities;

- Legislative acts should be passed for further strengthening of the freedom of speech in Ukraine, in particular as concerns reformation of the state and communal media, establishment of the public broadcasting, prevention of concentration of the media ownership, improvement of the media ownership transparency, strengthening of social protection and other journalists' rights, introduction of the adequate sanctions for the violation of the media legislation, strengthening of the independence of the National TV and Radio Broadcasting Council, clear definition of the notion of "the election campaigning" etc);
- Legal basis should be established for the efficient functioning of NGOs;
- Stability of the electoral legislation should be ensured;
- Provisions of different election laws should be reconciled through adoption of an Election Code, which should take into account the following OSCE/ODIHR and Venice Commission recommendations:
  - i. the provision, under which any elections are considered to have taken place if no less than 50% of voters have participated in them, should be cancelled;
  - ii. independent candidates should get a possibility to register for the elections;
  - iii. there should be mechanisms established to promote gender balance in the representatives authorities;
  - iv. proper remuneration guarantees should be established for election commission members; and
  - v. the procedure for the acceptance and transfer of election documents and processing of election should be reviewed in order to improve their efficiency.
- There is a need to return to the version of the Code of Administrative Justice which was valid before the election related amendments can into force;
- The election territorial organisation should be reviewed, in particular:
  - i. polling stations should be divided into permanent and temporary with due consideration of the principles reflected in the Law on the State Voter Register; there should be procedure established for their set up, liquidation, change of details etc; and
  - ii. the optimal number of territorial constituencies should be established with due consideration of the type of the election system that will be used for parliamentary elections;
- The number of voters per polling station should gradually go down from 2,500 to 1,500 voters;
- The CEC's independence from political influences should be strengthened, including through definition of an exhaustive list of preterm termination of powers of the entire CEC;
- Members of election commissions (DECs and PSECs) should undergo a mandatory training; they should be able to get their powers only upon completion of such a training;
- Independence of election commission members from their nominators and other political influences should be strengthened, including through the following: a) election laws (Election Code) should contain an exhaustive list of grounds for recalling election commission members; and b) election commission should not be obliged to arrange meetings between candidates and voters;

- further measures should be taken to improve the voters' legal culture;
- the restrictions set for the period of a political party registration (1 year before elections) as a condition for its participation in elections should be reviewed;
- the size and grounds for the return of the election deposit should be reviewed, so that the circle of potential candidates in the election is not unjustifiably restricted:
  - i. the presidential election deposit should make up 500,000 UAH,
  - ii. a deposit should be returned to all presidential candidates (their nominators) if they get no less than 3%-support from the voters that have participated in the elections (which complies with the OSCE/ODHIR recommendations);
- The rules for the inspection of income and property statements filed by the presidential candidates should make it impossible to conduct selective inspections in relation to certain candidates;
- The grounds for the cancelation of any candidate's registration should be limited to the candidates incompliance with the established requirements;
- The State Voter Register IT system should be made fully operational;
- The new procedure for the compilation and specification of the voter lists for nationwide and local elections should be introduced; this will envisage in particular the following:
  1. deprivation of the election commissions of the right to consider the complaints related to the registration of voters, compilation and specification of voter lists – the relevant powers should be passed on to the State Voter Register maintenance bodies; decisions of such bodies should be contested in accordance with an administrative or judicial procedure;
  2. complaints about relevant violations should be submitted only to one body, and not to one of a number of bodies at the discretion of the complainer;
  3. there should be a deadline established after which no changes should be done to voter lists (such deadlines should take into account the terms of administrative and judicial contestation of decisions, actions, and omission of action by the Register maintenance bodies and the terms set for the consideration of relevant cases);
  4. it should be political parties (independent candidates), and not faction that should be entitled to exercise public control over the maintenance of the State Voter Register; and
  5. the election laws (the Code) should set clear mechanisms for the cooperation between the Register maintenance bodies, courts, and other authorities that are in charge of the proper voter registration;
- Campaigning rules should be brought into compliance with European standards, including by the following means:
  - i. political advertising quotas in audiovisual and printed media should be cancelled;
  - ii. the notion of the "electioneering" and its correlation with political advertising should be specified;
  - iii. regulation of commercial media should be liberalised, including through cancellation of a number of restrictions established for such media by the current election laws;
  - iv. the election laws should contain no provisions that establish liability of the media for dissemination of intentionally untrue information on the candidates;
  - v. the election laws should contain no provisions prohibiting electioneering in foreign media;

- vi. the election laws should contain no provisions prohibiting the media, their officials and staff to assess the candidates' election programmes and express their preference of any candidate in their materials and programmes not contracted by agreements;
  - vii. the election laws should contain no provisions prohibiting the media to comment on or assess an election programme 20 minutes before and 20 minutes after its broadcasting on radio or TV, as well as to disseminate any other information on a political party, a bloc, or an election candidate;
  - viii. improvement of the regulation of the right to a reply through definition of the cases in which the media should be entitled to refuse to ensure the right to a reply; there should also be a possibility to contest such a refusal in the court; and
  - ix. there should be a rule under which the social polling results can be published before midnight of the last Friday before the voting;
- bringing of political party and election finance rules into compliance with European standards, including Recommendation Rec 2003(4) of the CoE Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns;
  - Improvement of the election observation envisages the following:
    - i. official observers from NGOs should be entitled to present at the CEC meetings;
    - ii. there should be a uniform centralised approach to the accreditation of all official observers, so that they are able to observe election within the entire nationwide constituency, and not in individual territorial constituencies;
    - iii. the number of one media representatives that can be present at the meetings of election commissions should be increased; and
    - iv. photo- and video surveillance should be restricted on the election day (in order to ensure the privacy of voting);
  - there should be such a procedure established for the production of election bulletins that would allow their rapid reproduction in case any candidate cease to run so that members of the election commission do not have to stamp the election bulletins;
  - the "against all" option should be cancelled;
  - the 10%-thresholds, the excess of which can be used as the grounds to invalidate the voting, should be cancelled; the voting should be invalidated only on the basis of the grounds that have had an essential impact on the voting results;
  - the procedures of the judicial and extrajudicial (administrative) settlement of election disputes should be regulated on the basis of the relevant provisions of the current Parliamentary Election Act (the administrative contestation procedures should be defined by election laws (Election Code), while the judicial contestation procedure should be set by the Code of Administrative Justice) with due consideration of the following Venice Commission recommendations:
    - i. there should be a possibility to extend the terms set for the contestation of the election violations from 5 days to a longer term only in the cases when the complainer did not know and should not have known about the fact of violation;
    - ii. there should be such a procedure established for the consideration of complaints which would make it impossible that one complaint is considered both by a court and by an election commission;
  - Legal entities should also be made responsible for the violation of election legislation (such liability should be envisaged by the election laws or the Election Code); the current system

of sanctions for election violations (crimes) should be reviewed in order to ensure their adequacy and efficiency.

4. **Improvement of the quality of political parties and quality circulation of elites** requires introduction of mechanisms to stimulate inter-party and internal party competition and separation of business from power (see above), definition of the country further development strategy on the basis of consensus between various elite representatives, introduction of measures aiming at the implementation of such strategy.
5. **To strengthen the role of the media** in ensuring high quality political debate and elections, there is a need to implement reforms aiming at further reinforcement of the freedom of speech (see above), more active introduction of self-regulation standards in the media area, improvement of the journalists' professional level, introduction of the voters' medial literacy programmes, and more active cooperation with civil society organisations.
6. **Strengthening of the role of civil society organisations in ensuring the quality of the political dialogue and elections may envisage the following:**
  - Effective monitoring of the course of the presidential election campaign;
  - Training of the election commission members with concurrent formulation of such legal positions that would prevent the use of the most deficient norms of the Presidential Election Law;
  - Analysis of the correspondence of the previous activities of the election process participants and the political forces that they represent with their election promises; analysis of election programmes in terms of their correspondence to the real social needs, Ukraine's international commitments, their feasibility etc;
  - Unification of efforts of all civil society organisation; as a variant, this can be done through the setup of a coalition aiming at the following goals: a) prevention of mass violation of the election rights, use of dirty political technologies in the course of the upcoming presidential elections (in particular, through adoption of a fair elections declaration or another similar document by the political parties and presidential candidates); b) public education and improvement of the quality of the political debate (changing the demands of the society, refocusing the political discussions from populism and personal political confrontation to the discussion of programmes, problems, their solutions, mechanisms of cooperation with political opponents in the post-election period, raising voters' awareness on the key drawbacks of the election legislation); c) proper expert support to the activities of the media in order to help journalists to form their own positions, to improve the quality of the political dialogue, and to prevent further dramatisation of the political process; d) lobbying of the necessary legislative amendments, including to the electoral legislation, after the presidential elections; and e) activation of the public pressure on public authorities both during the election campaign, and in the after-election period.