

Valentyn Orlov*

The problem of the legal status of electoral commissions as organs of the public administration of elections in post-Soviet countries

Accession

Fair and free elections are unquestionably one of the most important foundations of a democratic society. Elections directly reflect the political system and influence it. Through elections, the will of the people is revealed, on the basis of which democratic power is created. Therefore, elections are an important component of modern politics as a way of forming governing bodies in accordance with the electoral system.

Electoral legislation varies from country to country. Electoral systems largely depend on the specific historical, cultural, political and social factors in each individual country. In addition, election laws are aimed at ensuring the functioning of national systems, taking into account national problems and experience. Through elections, citizens have an impact on the formation of public authorities and thereby exercise their right to participate in the management of public affairs.

The variety of electoral forms opens up ample opportunities for citizens to display political activity and exert influence on state and public affairs. With the help of elections, the majority of citizens are united around a certain political platform and the leaders representing it. A government is formed from the political will that dominates.

During the electoral process, citizens particularly intensively absorb political values and norms, acquire political skills and experience. At this time, the flow of political information sharply widens and attention is concentrated. Elections are meant

* Ph.D. in Public Administration, Associate Professor, Kryvyi Rih Institute of Economics, Vadym Hetman National Economic University in Kyiv.

to serve democracy, are inextricably linked to its general concept and values. Their main social purpose is to adequately reflect the opinion and will of citizens, to ensure the representation of the main social groups in government bodies, and also to form an effective government.

This article includes not only a discussion of the legislation of individual states, but also considers the issue of organising and holding elections as a form of direct popular will and the most important manifestation of democracy.

It should be noted that it is very difficult, within the framework of one article, to offer an exhaustive analysis of the process of organising elections in the post-Soviet states. Therefore, the main emphasis is placed on the activities of election administration bodies, which carry out the preparation and conduct of procedures, as well as a comparative analysis of their practices.

An important part of the analysis is to clarify the legal status of election administration bodies, which under the present conditions of the development of young democracies is a very indicative characteristic of the development of electoral systems.

Analysis of the practice of administering electoral procedures in Armenia, Azerbaijan, Moldova, Romania and Ukraine showed that, despite the diversity, there are many similarities in the organisation of elections in post-Soviet countries. Basically, the suffrage in the countries of the region corresponds to international legal standards and provisions of international instruments. This issue is considered by the Association of European election officials (<http://www.aceeeo.org/>).

The constitutions of these states stipulate the requirements for the frequency of elections, determining the terms of office of the legislative bodies. In most Member States, the legislature is elected for a period of four years (Georgia, Moldova and Romania) or five years (Armenia, Azerbaijan, Russia and Ukraine). However, it should be noted that political and economic instability makes the process of holding elections of different levels quite permanent.

Analysis of the main parameters of electoral systems of the post-Soviet countries

In the post-Soviet countries, different types of electoral systems are used: majority, proportional and mixed. Some states elect their parliaments on the basis of proportional representation (Moldova, Romania), while others use the majority system (Azerbaijan). In some countries, mixed systems containing proportional and majoritarian components (Armenia, Georgia and Ukraine) are used.

In the Republic of Armenia, the Central Election Commission, regional and precinct election commissions are formed to manage electoral processes. The election commissions ensure the implementation and protection of the electoral rights of citizens. The Central Election Commission consists of three members appointed by the Government, one member from each party that has a representative in the current

or dissolved parliament, one appointed member from the first five parties that do not have a parliamentary faction in the current or dissolved parliament (The Central Election Commission of Armenia, <http://www.elections.am>).

For the conduct of elections in the Republic of Azerbaijan, the Central Election Commission, regional and precinct election commissions are formed. The Central Election Commission consists of 18 members, who are elected by parliament. 6 members of the Central Electoral Commission represent a political party whose deputies constitute a majority in parliament, 6 members are deputies who do not belong to any political party (independent), and 6 members are from political parties whose members are a minority in parliament. The CEC is actively working on the preparation and organisation of elections in a timely manner and is developing the necessary rules (The Central Election Commission of Azerbaijan, <http://www.msk.gov.az/>).

The Central Election Commission in Georgia consists of the Chairman and 12 members. The Chairman of the CEC is elected in accordance with the procedure established by law. 5 members of the CEC are proposed by the President of Georgia. 7 members from parties represented in the Parliament of Georgia are appointed by the Parliament (The Central Election Commission of Georgia, <http://cesko.ge/>).

The Electoral Code of the Republic of Moldova establishes the procedure for organising and holding parliamentary elections and local government bodies. The Central Election Commission, regional and precinct election commissions are formed at the elections in the republic. The Central Election Commission consists of nine members, one of whom is proposed by the President of the Republic of Moldova, and the other eight by parliament, subject to proportional representation of the majority and the opposition, and approved by a resolution of parliament adopted by a majority vote (The Central Election Commission of Moldova, <http://cec.md/>).

The system of electoral administration bodies in Romania is rather peculiar. Elections here are held by the Permanent Electoral Body and the three-level structure of election commissions, which is formed for each election and which is headed by the Central Electoral Bureau. The second level is composed of 43 district election bureaus. At the third level, there are 18,456 precinct election offices.

The permanent electoral body is headed by the Chairman, who is appointed at the joint session of the two chambers of parliament. This body is engaged in detailing the legal framework in the field of elections, monitors the logistics of elections, reviews the boundaries of electoral districts, depending on the population change, monitors the implementation of rules on the financing of political parties.

The Central Electoral Bureau consists of 5 Supreme Court judges, selected from among all judges by drawing lots. Also represented in this body are the president and two vice-presidents of the Permanent Electoral Authority and up to 12 representatives of parties, political alliances and blocs participating in the elections, as well as a representative of the parliamentary group of national minorities in the Chamber of Deputies. Priority in the appointment of members of electoral bureaus of all levels belongs to

the parliamentary parties, as well as to organisations representing national minorities in parliament. The remaining seats in the bureau are distributed between non-parliamentary parties and coalitions, depending on the number of nominated candidates in single-member districts (Romania's Central Election Bureau, <http://www.roaep.ro>).

In Ukraine, the system of election commissions is also quite extensive – in addition to the Central Election Commission, which is included in the executive branch, there are district election commissions (for parliamentary and presidential elections) and territorial election commissions (for local elections). Direct voting procedures and work with voters are organised by precinct election commissions (The Central Election Commission of Ukraine, <http://www.cvk.gov.ua>).

It should be noted that in Ukraine the trends of frequent elections are most pronounced, since 7 election campaigns of different types of elections have passed here, and now local elections to the united territorial communities are constantly underway as a result of the processes of decentralisation and administrative reform.

At the same time, in Ukraine there are a number of contradictions in the system of election administration organisation. With a general tendency to reduce the influence of the administrative resource and its interference in electoral processes, there is a need to increase the level of professional competence of members of election commissions. The last local elections of 2015 clearly demonstrated this need, since quite a lot of court disputes accompanied this election campaign precisely because of unprofessional decision-making by collegiate electoral administration bodies.

In Ukraine there is a contradiction: for example, the organs of maintaining the state register of voters are included in the system of state executive bodies, as well as the Central Election Commission, and the regional and local level election commissions that manage the work with voter lists are temporary bodies with limited terms of office and are not part of the executive branch of government. This adversely affects the state of professional training of commission members. In addition, the legislation does not specify requirements regarding the level of professional training of members of election commissions or certify their activities related to the fulfillment of tasks and functions of the state.

In general, the electoral process in the post-Soviet states is carried out according to certain legal norms, rules contained in the constitution and electoral law. The main electoral regulator is the electoral system, which determines the general principles of the organisation of elections, as well as ways to transfer the votes of voters to mandates and posts.

As for the procedures on election day, most post-Soviet states have enshrined in their legislation the principles of universality, equality and secrecy of voting in accordance with international standards. The laws of the states detail the procedure for voting, counting votes and summing up the voting results.

Ways to increase the professional competence of members of election commissions

The work of the electoral administration at the central and local levels is of great importance for the implementation of election-related rights. The basic principles of holding elections that affect their fair and effective conduct are related to the composition and work of election administration bodies, in particular with regard to their impartiality, independence and transparency.

Ensuring the independence of these structures from the influence of government bodies or those with political interest in the election results is the most important guarantee for achieving the goal of holding free and fair elections. Although there is no single formula for the formation and composition of election administration bodies, there are similar methods of appointing and electing members of election commissions.

Most of the member states form central election commissions on the basis of a mixed system involving both public servants and party candidates at various levels; in other countries (Azerbaijan, Moldova) the party formula is used, in which the composition of the commission reflects the representation of political parties in parliament; in Turkey and Romania, for example, the system of appointing representatives of the judiciary is used.

International declarations, agreements and norms unequivocally place democratic elections as the basis of legitimate power. Elections are a regular periodic process of electing the composition of public authorities, enshrined in the constitution and other laws. In the conditions of modern democracies, elections are the main form of manifestation of the people's sovereignty and its political role as a source of power. They also serve as the most important channel for representing the interests of various social groups in government bodies. Universal elections presuppose the right of every citizen to participate in them. Elections extend to various institutions and levels of government: parliament, the president, representative and often executive bodies, local authorities.

Countries of the post-Soviet space achieve success in fulfilling international standards for democratic elections to varying degrees. They conduct elections that are aimed at achieving the goal of free and democratic elections. Nevertheless, more needs to be done to ensure that all people have access to democratic rights, and a key step in this process is to further improve the administration of elections.

In particular, the issues of continuing the education of the electoral process participants are quite relevant today. Continuing education is understood by us as an issue that should always be on the agenda of election organisers, since conducting election campaigns is a complex and multifaceted task. It requires organisers of elections, especially in the field, to have had good training in law, political science, other social sciences. They should also have the ability to effectively apply the available knowledge in practice, including in time-constrained situations, and to make the correct management decisions.

In these conditions, modern technologies, training tools (in particular, distance or online training) and the training of election organisers at all levels, are integral parts of the electoral process.

The main goal of the development of professional competence of the administrators of election procedures is to promote the development of modern electoral policies aimed at the consistent implementation of the rights and freedoms of citizens that meet the requirements of democratic electoral standards.

We believe that in the system of electoral administration in the post-Soviet countries a program of continuous training of commission members should be implemented with a view to improving the professional status of these individuals.

The program can include three main areas:

- raising the level of professional qualifications of election organisers and training specialists in the technologies of the electoral process;
- legal training of various categories of participants in the electoral process;
- creation of an effective information and analytical and educational electoral infrastructure.

The consequent improvement of the legal culture of the participants in the electoral process presupposes the following:

- formation of adequate representations about the electoral rights of the organisers of the electoral process;
- provision of systematic scientific, methodological and practical assistance to election organisers and other participants in the electoral process;
- organisation of targeted training of highly qualified specialists in the field of electoral law and administration of elections;
- the formation of a consultative network to work with the organisers of elections and referendums.

The program may allow students to learn about:

- the foundations of constitutional, electoral, civil, administrative and financial law;
- the organisational and technological basis of the electoral process at all its stages, modern methods of managing the electoral process, the skills of making operational administrative decisions for the implementation of certain electoral actions.

For each category of trainees it is necessary to provide a differentiated approach to determining the content, form and terms of training. Training should cover election commissions of all levels, heads of district election commissions, territorial election commissions, precinct election commissions, as well as the reserve of precinct election commissions.

Central election commissions, territorial election commissions, executive bodies that form state policy in education and science, representative and executive bodies of local self-government can participate in the implementation of these programs.

Conclusions

Increasing the professional training of the organisers of the electoral process, training specialists in the organisation and conduct of elections and referendums is the most important task of the state personnel policy at the present stage.

The main goal of legal training for the organisers of the electoral process is the formation of professional knowledge, skills of working with people, ensuring the electoral rights of citizens, increasing the use of automated systems in the activities of election commissions.

Training of election organisers is based on a combination of theory and practice of the electoral process, and provides for analysis of problem situations, seminars, business games and round tables.

Realisation of this task will allow the professional level of the organisers of the electoral process to be increased, which is a necessary condition for the qualitative preparation and holding of elections and referenda in the post-Soviet republics.

References

- Association of European election officials. Official site: <http://www.aceceo.org/>.
Romania's Central Election Bureau. Official site: <http://www.roaep.ro>.
The Central Election Commission of Armenia. Official site: <http://www.elections.am>.
The Central Election Commission of Azerbaijan. Official site: <http://www.msk.gov.az/>.
The Central Election Commission of Georgia. Official site: <http://cesko.ge/>.
The Central Election Commission of Moldova. Official site: <http://cec.md>.
The Central Election Commission of Ukraine. Official site: <http://www.cvk.gov.ua>.

Summary

The problem of the legal status of electoral commissions as organs of the public administration of elections in post-Soviet countries

The article analyses the current practice of forming election commissions and the way they fulfill their tasks as a part of public administration. The tasks and functions of the state in the sphere of elections administration are identified. The state shapes the legal status of electoral commissions and their members. This status requires the professional performance by the commissions' members involving attaining the position of public officer. The article focuses on solving this problem in Ukraine. It is argued that the foreign experience of developing electoral

commissions as bodies of public administration could be adapted to Ukrainian realities.

Keywords: elections, election commissions, electoral administration bodies, professionalisation, professional training of commission members