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## **Adoption of the Electoral Code as the Next Stage in Evolution of the Rules for Electing People's Deputies of Ukraine<sup>2</sup>**

**Keywords:** Electoral Code, election of people's deputies of Ukraine, Verkhovna Rada of Ukraine

**Słowa kluczowe:** Kodeks Wyborczy, wybory deputowanych ludowych Ukrainy, Rada Najwyższa Ukrainy

### **Abstract**

After the adoption of the Electoral Code, the Ukrainian electoral system entered a new state of evolution. The paper presents the basic principles of electing People's Deputies on the basis of the Electoral Code with regard to the earlier stages of changes in Ukrainian electoral law. The Polish literature has not dealt analytically with these solutions so far. Probably the time will come when they will be implemented. The author's intention is to describe the characteristics of the Code in the part concerning the election of popular deputies. The President of Ukraine's proposal to amend Art. 76 and 77 of the Constitution providing for the reduction of the number of deputies to 300, the introduction of censorship for speaking the mother tongue as a condition for running for the Verkhovna Rada and the constitutionalization of a proportional electoral system indicate that the process of shaping the principles of electing People's Deputies in Ukraine is not yet complete.

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<sup>2</sup> The analysis presented in this article concerns the legal regulations in force on April 30, 2020.

**Streszczenie****Uchwalenie Kodeksu Wyborczego jako kolejny etap ewolucji zasad wybierania deputowanych ludowych Ukrainy**

Wraz z uchwaleniem Kodeksu Wyborczego system wyborczy Ukrainy wszedł w nową fazę ewolucji. Artykuł przedstawia podstawowe zasady wybierania deputowanych ludowych w oparciu o Kodeks Wyborczy na tle wcześniejszych etapów przemian prawa wyborczego Ukrainy. W polskiej literaturze rozwiązaniami tymi dotychczas analitycznie się nie zajmowano. Zapewne przyjdzie na to czas, gdy zostaną one poddane dogłębnej ocenie przez doktrynę ukraińską, w szczególności zaś gdy zostaną zastosowane. Wniesienie przez Prezydenta Ukrainy projektu nowelizacji art. 76 i 77 Konstytucji przewidującej zmniejszenie liczby deputowanych do 300, wprowadzenie jako warunku kandydowania do Rady Najwyższej cenzusu władania językiem ojczystym oraz konstytucjonalizację proporcjonalnego systemu wyborczego wskazuje, że proces kształtowania zasad wybierania deputowanych ludowych w Ukrainie jeszcze się nie zakończył.

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**I.**

The electoral system of Ukraine has been changed many times since 1991<sup>3</sup>. From the declaration of independence to the adoption of the Constitution in 1996, there was a majoritarian system<sup>4</sup>, followed by a mixed (proportional-majoritarian) system<sup>5</sup>, and from 2006 to 2011 the proportional system in its absolute form with one nationwide constituency<sup>6</sup>.

<sup>3</sup> N.I. Yakovlyeva, *Dynamika zmin systemy vyboriv narodnykh deputativ Ukrayiny*, „Visnyk NTUU «KPI» Politolohiya. Sotsiolohiya. Pravo”, Visnyk No. 1/2, pp. 74–79.

<sup>4</sup> *Zakon Ukrayiny vid 27.10.1989 Pro vybory narodnykh deputativ Ukrayins'koyi RSR* (VVR URSR, 1989, dodatek do No. 45, p. 626) and *Zakon Ukrayiny vid 18.11.1993 Pro vybory narodnykh deputativ Ukrayiny* (VVR 1993, No. 48, p. 455).

<sup>5</sup> *Zakon Ukrayiny vid 24.09.1997 Pro vybory narodnykh deputativ Ukrayiny* (VVR 1997, No. 43, p. 280).

<sup>6</sup> *Zakon Ukrayiny vid 25.03.2004 Pro vybory narodnykh deputativ Ukrayiny* (VVR 2004, No. 27–28, p. 366) and *Zakon Ukrayiny vid 07.07.2005 Pro vnesennya zmin do Zakonu Ukrayiny “Pro vybory narodnykh deputativ Ukrayiny”* (VVR 2005, No. 38–39, p. 449).

W. Sokół distinguishes six development stages of the Ukrainian electoral system: “1) discussions before the new electoral law to the Ukrainian Parliament in 1990 related to the achievement of independence; 2) years 1991–1993 – a period of unsuccessful attempts to introduce significant changes to the electoral law from the Soviet era before the first post-Soviet parliamentary elections in 1994; 3) years 1994–1997 – a period when Parliament debated many issues related to the 1994 elections and adopted a mixed electoral system in a parallel version; 4) years 1998–2005 – a period during which further directions of reforms were considered and the principle of proportional representation was subsequently adopted; 5) years 2006–2011 – a period of critical assessment regarding the proportional system by the presidential team and the return to mixed system; 6) a period of functioning of the next mixed system and discussions on the next electoral reforms”<sup>7</sup>.

The next evolution stage of the electoral system in Ukraine is related to the adoption of the Electoral Code of Ukraine by the Verkhovna Rada of December 19, 2019<sup>8</sup> and signing it by the President on December 27, 2019<sup>9</sup>.

The Code, keeping the presidential election without any further reforms, definitely changes the way people’s deputies are elected. The provisions of the Code in this area generally follow the direction already expected at least from the Dignity Revolution.

In my opinion, it is worthwhile to trace the basic provisions of the Code in the context of current evolution regarding the principles of electing people’s deputies. This is also the aim of this study. In the Polish literature the Electoral Code of Ukraine has not been analyzed so far.

## II.

The first electoral law in independent Ukraine in 1993 required a 50% attendance rate and the absolute majority of votes in the district (also in the second

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<sup>7</sup> W. Sokół, *Polityka reform wyborczych na Ukrainie w latach 1990–2014*, „Wschód Europy. Studia Humanistyczno-Społeczne” 2015, No. 1, pp. 72–73.

<sup>8</sup> Закон України від 19.12.2019 Виборчий кодекс України.

<sup>9</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66849](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66849) (10.04.2020).

round of voting), i.e. no less than 25% of the votes of voters included in the electoral register of a given district<sup>10</sup>. As a result, the Verkhovna Rada started to work without sufficient members (slightly more than 2/3 of the constitutional number of deputies) and despite 11 attempts to complete<sup>11</sup> the mandate by the end of the term, not all the seats were filled<sup>12</sup>. Voters from 30 districts were not represented<sup>13</sup>.

The parliamentary elections in 1998 and 2002 were held in a mixed system, half of the deputies were elected in single-mandate districts, half in a proportional system in one nationwide constituency, with one list of candidates from each party (block of parties) and the possibility to vote only for the list in its entirety without the voters indicating personal preferences. The election threshold was established at the level of 4% of the voters participating in the vote and the distribution of seats was according to the method of the largest remainder (Hare quota). In single-mandate districts, results were established on the basis of relative majority rule and the 50% attendance requirement was abandoned<sup>14</sup>.

In 2001, the Verkhovna Rada passed a law introducing a fully proportional system, but it met with strong opposition from the then President of Ukraine<sup>15</sup>. Several times the Parliament adopted this solution, but the President always vetoed the election laws<sup>16</sup>. As a result, the Law on the Election of People's Deputies of October 18, 2001<sup>17</sup> retained a mixed system. In the elections held in March 2002, the opposition succeeded by winning proportion-

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<sup>10</sup> I. Pankiewicz, *Zmiany w prawie wyborczym Ukrainy: plusy i minusy dla integracji europejskiej*, "COLLOQUIUM WNHIS" 2012, No. 2, pp. 194–195.

<sup>11</sup> W. Sokół, *Polityka reform wyborczych...*, p. 77.

<sup>12</sup> The reason for this state of affairs most often indicated in the literature was the creation of the possibility of voting "against all" candidates, see N. Bohaszewa, J. Kluczkowski, *Ewolucja systemu wyborczego Ukrainy*, [in:] *O potrzebie zmian Konstytucji Polski i Ukrainy*, eds. W. Skrzydło, W. Szapował, K. Eckhardt, Przemyśl 2006, pp. 173–174.

<sup>13</sup> S. Sydun, *Efektywność zmian w ukraińskim systemie wyborczym w procesie transformacji*, "Środkowoeuropejskie Studia Polityczne" 2011, No. 2, pp. 149–150.

<sup>14</sup> P. Pietnoczka, *Wpływ ewolucji prawa wyborczego na zmiany zachodzące na scenie politycznej Ukrainy*, "Studia Prawnoustrojowe" No. 22, p. 72.

<sup>15</sup> W. Sokół, *Polityka reform wyborczych...*, pp. 82–84.

<sup>16</sup> N. Bohaszewa, J. Kluczkowski, *Ewolucja systemu wyborczego...*, p. 176.

<sup>17</sup> *Zakon Ukrainy vid 18.10.2001 Pro vybory narodnykh deputativ Ukrainy* (VVR 2001, No. 51–52, p. 265).

ally, but could not form a parliamentary majority because in single-mandate districts the candidates supported by the incumbent President won<sup>18</sup>.

According with the proportional system of nationwide (also “closed”, not allowing the voters to indicate their preferences<sup>19</sup>), the lists of candidates were held in 2006 and 2007<sup>20</sup>. The distribution of seats was designed in such a way that it favored smaller groups<sup>21</sup> and the electoral threshold was reduced to 3%<sup>22</sup>.

The Law on the Election of People’s Deputies of Ukraine of November 17, 2011 reinstated the mixed system, raised the electoral threshold to 5%, eliminated the possibility to vote “against everyone”<sup>23</sup> and made it impossible for voter coalitions to participate in the elections<sup>24</sup>. On the basis of this law, not only were elections held in 2012<sup>25</sup>, but also in 2014 and 2019, although after the Dignity Revolution, a return to a fully proportional system was postulated. Several draft laws aimed at changing the mixed system were registered, five of which were subjected to voting<sup>26</sup>. Opinion polls clearly indicated the greatest support for the proportional system with open lists<sup>27</sup>.

Among the submitted drafts, three were registered as drafts of the Electoral Code. One of them, the Electoral Code of Ukraine registered (No. 3112–1) on October 2, 2015, submitted among others by former President of Parlia-

<sup>18</sup> S. Sydun, *Efektywność zmian...*, p. 151.

<sup>19</sup> Zob. I. Koliushko, *Ohlyad zakonodavstva pro vybory narodnykh deputativ Ukrainy*, [in:] *Reformy prawa wyborczego w Polsce i na Ukrainie*, eds. P. Steciuk, J. Buczkowski, Przemysł 2004, p. 135.

<sup>20</sup> In the doctrine, the resignation from the mixed system was not unequivocally positively received. L. Boryslawski, *Nowa redakcja Ustawy Ukrainy „O wyborach deputowanych ludowych Ukrainy” zalety i ewentualne problemy*, [in:] *O potrzebie zmian...*, pp. 162–163.

<sup>21</sup> O. Kowal, K. Składowski, *Transformacja systemu wyborczego a Konstytucyjna reforma na Ukrainie*, [in:] *Zmiana ordynacji wyborczej a zmiana konstytucji*, eds. S. Grabowska, R. Grabowski, Rzeszów 2008, p. 257.

<sup>22</sup> S. Sydun, *Efektywność zmian...*, p. 153.

<sup>23</sup> I. Pankiewicz, *Zmiany w prawie wyborczym...*, p. 202.

<sup>24</sup> What was intended against the opposition. P. Pietnoczka, *Elekcja parlamentarna 2012 na Ukrainie*, “Przegląd Wschodnioeuropejski” 2014, No. V/1, pp. 92–93.

<sup>25</sup> For detailed analysis of the course and results of the elections in 2012 see *ibidem*, pp. 103–109.

<sup>26</sup> Analizę wskazanych projektów przeprowadził: P. Pietnoczka, zob. *Próby reformy systemu wyborczego do Rady Najwyższej Ukrainy w okresie przypadającym po Euromajdanie*, “Środkoeuropejskie Studia Polityczne” 2019, No. 1, pp. 79–85.

<sup>27</sup> *Ibidem*, pp. 88–89.

ment, was prepared on the basis of a draft elaborated under the leadership of Yuri Klyuchkovsky<sup>28</sup>. This draft, rather unexpectedly, was approved by the Verkhovna Rada on November 7, 2017 in the first reading and received the necessary minimum 226 votes<sup>29</sup>.

In the course of parliamentary proceedings, more than 4400 amendments were submitted to it<sup>30</sup>. In the second reading, the Code was approved just before the early parliamentary elections of July 11, 2019<sup>31</sup>. The President of the Verkhovna Rada signed it on August 27, 2019 and the draft was submitted to the President on the same day.

On September 13, President W. Zelensky presented the Code to the Verkhovna Rada with his proposals for reconsideration<sup>32</sup>. In his veto, he noted that as a rule, he supports the goal of consolidation of Ukrainian electoral law in one act. However, in his opinion, the law submitted for signing “contains provisions inconsistent with the Constitution, does not consider recent positive changes in electoral legislation aimed at its improvement, is inconsistent with the basic legal acts in this area, does not ensure proper regulation and organization of the electoral process, effective control of electoral procedures<sup>33</sup>”.

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<sup>28</sup> Ibidem, p. 84.

<sup>29</sup> Ibidem, p. 86.

<sup>30</sup> *Analiz stanu ta propozytsiyi shchodo doopratsyuvannya proektu Vyborchoho kodeksu* (no. 3112–1), Kyiv 2018, p. 4.

<sup>31</sup> 291 deputies took part in the vote, 230 voted in favor, 8 against, 9 abstained, 44 did not vote, see [http://w1.c1.rada.gov.ua/pls/radan\\_gs09/ns\\_golos?g\\_id=28987](http://w1.c1.rada.gov.ua/pls/radan_gs09/ns_golos?g_id=28987) (10.04.2020).

<sup>32</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=56671](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=56671) (10.04.2020).

<sup>33</sup> According to President V. Zelensky, the disadvantages of the Electoral Code in the vetoed version included, among others, the following: 1) although the Code provides for the introduction of a proportional system with open regional lists, in fact it is a proportional system with closed lists, 2) the mechanism securing the sex parity is ineffective, 3) proper guarantees of participation of disabled people in voting have not been introduced in the Code, 4) the regulations defining the candidate's compliance with the condition of permanent residence in Ukraine are too complicated, 5) the way electoral commissions are formed does not guarantee fair and transparent elections, 6) provisions regarding official election observers from non-governmental organizations do not provide sufficient opportunity to go to court in case of refusal to grant this status, 7) provisions regarding the registration of electoral lists are incompatible with the Law on Political Parties in Ukraine, 8) the right of a member of the Central Electoral Commission to submit to the Commission motions regarding applying to the Constitutional Court for interpretation of the provisions of the Constitution and statutes regarding elections and a referendum is unconstitutional, 9) provisions regarding the reimbursement of election

As already mentioned, the Verkhovna Rada adopted the Code on December 19, 2019. There were 330 deputies from all parliamentary factions and groups who voted for the adoption<sup>34</sup>. The final wording of the Code differs significantly from the 2017 draft.

The process of adopting the Electoral Code in Ukraine has a long history<sup>35</sup>. Since 2005, the Parliamentary Assembly of the Council of Europe, the Venice Commission and the OSCE have been systematically recommending Ukraine to develop and pass the Code<sup>36</sup>. In April 2008, on the initiative of the President of the Verkhovna Rada, a working group on elections under the leadership of Yuri Klyuchkovsky was established. After two years of work, it presented the draft of the Electoral Code to the Parliament (no. 4234-1). The Venice Commission, in the conclusion of its opinion on the Code, stated among others that regardless of many suggestions and criticisms, it is an important step forward in the process of electoral system reform in Ukraine<sup>37</sup>.

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campaign costs will place an excessive burden on the state budget, 10) source of financing for electoral commissions as permanent bodies operating also after the election process are not specified in the Code, 11) provisions on the control of state budget expenditure on electoral purposes are inconsistent with the Act on the Principles of State Financial Control in Ukraine, 12) provisions regarding the purchase of goods, works and services related to the preparation and conduct of elections are not according with the Public Procurement Act, 13) provisions on suspending the publication of certain publications while the court is considering an electoral dispute are inconsistent with the Print Media (Press) Act in Ukraine, 14) the provisions of the Electoral Code were adopted without taking into account previously adopted provisions aimed at improving electoral legislation, 15) The Code does not fully implement the recommendations of international experts regarding election observation, 16) it is envisaged to apply specific provisions of the current electoral law after the Code enters into force, 17) there are conflicting provisions in the Code – see *Predlozhenyya Prezydenta Ukrainy k proektu zakona Ukrainy ot 13.09.2019, No. 978*, [http://search.ligazakon.ua/l\\_doc2.nsf/link1/BI001070.html](http://search.ligazakon.ua/l_doc2.nsf/link1/BI001070.html) (10.04.2020).

<sup>34</sup> O. Roshchenko, *Rada pidtrymala propozytsiyi Zelens'koho do zavetovanoho Vyborchoho kodeksu*, “Ukrayins’ka Pravda”, <https://www.pravda.com.ua/news/2019/12/19/7235329> (10.04.2020).

<sup>35</sup> Yu.B. Klyuchkovs’kyy, *Pryntsypy vyborchoho prava: doktrynal’ne rozuminnyya, stan ta perspektyvy zakonodavoyi revlizatsiyi v Ukraini*, Kyiv 2018, pp. 683–687; P. Pietnoczka, *Próby reformy systemu...*, pp. 74–90.

<sup>36</sup> I.V. Drobush, *Perspektyvy ukhvalennyya Vyborchoho Kodeksu Ukrainy v konteksti reformuvannyya vyborchoho zakonodavstva*, “Porivnyal’no-analytichne parvo” 2018, No. 1, p. 42.

<sup>37</sup> *Opinion on the draft election code of the Verkhovna Rada of Ukraine* – Adopted by the Council for Democratic Elections at its 35th meeting (Venice, 16 December 2010) and by the

Since 2009, several draft election laws have been submitted to the Verkhovna Rada<sup>38</sup>, but the draft Electoral Code adopted in July 2019 was based on the one prepared by Y. Klyuchkovsky in 2010 and reviewed by the Venice Commission<sup>39</sup>. It was extensive (588 articles) divided into three books. Each of them consisted of sections (глава), and these in turn, of chapters. The first book entitled *General Part* (Art. 1 to 282) in seven chapters contained provisions common to all elections.

Among others, it regulated the basic principles of electoral law: universality, equality, directness of elections, rules for free and fair elections, the principle of voluntary participation in elections, secret, personal and one-off voting.

It indicated the procedures that consisted of the electoral process, the basic principles of this process and its entities, territorial organization of elections (regulations concerning constituencies, voting districts, polling stations). It regulated the appointment and composition of election commissions headed by the Central Election Commission, maintenance of the state register of voters and preparation of lists of voters, technical, financial and information security of elections, pre-election agitation.

A separate section was devoted to issues related to the preparation and conduct of elections, as well as vote counting and securing election documentation. The last section of the first book addressed complaints related to violations of electoral law.

The second book regulated national elections. In separate sections, the election of the President and the election of people's deputies.

Most of the President's comments made with the veto were of a very general nature and concerned issues dispersed in different parts of the Code, and therefore the draft had to be redrafted in the Verkhovna Rada. Representatives of the President's Office, the government, the Central Election Commission, non-governmental organizations and international experts were involved in its drafting. The result was a largely new document.

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Venice Commission at its 85th Plenary Session (Venice, 17–18 December 2010), [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2010\)047-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2010)047-e) (10.04.2020).

<sup>38</sup> Yu.B. Klyuchkovs'kyy, *Pryntsyvy vyborchoho...*, pp. 685–686; P. Pietnoczka, *Próby reformy systemu...*, pp. 74–90.

<sup>39</sup> *Ibidem*, p. 84.



After amendments, the Code was reduced from 588 articles to 289 (without final and transitional provisions). At first, it was to replace five laws, three on elections and the laws on the Central Election Commission and the State Electoral Register. After the amendments, the last two will remain in their current wording. At present, the Code consists of four books: the general part, the presidential elections, the elections of people's deputies and local elections.

The key provisions of the project have not been violated, especially in the parliamentary elections, the majority elections were abandoned.

### III.

The election of the people's deputies of Ukraine is currently regulated in detail in Book 3 of the Code. They are to be conducted in a proportional voting system for lists submitted only by political parties (Art. 133(1)). The lists of those parties which received at least 5% of the votes on a national scale will participate in the distribution of seats (Art. 133(2)). The conditions of candidacy have not changed significantly. The Code clarifies that a candidate meets the requirement of permanent residence, if the period of his single trip abroad in private matters does not exceed 90 days, the time of staying abroad for reasons other than those indicated in it during the last 5 years before the day of voting did not exceed 183 days each year (Art. 134(4)).

According with Art. 136(1) of the Code, the voting day is the last Sunday in October of the fifth year of the Verkhovna Rada's term of office (in early elections, the last Sunday of the sixty-day period from the publication of the Presidential Decree on the Order of Elections – Art. 136(3)). A nationwide electoral district is to be divided into 27 regional electoral districts (Art. 138). They will in principle overlap with the district boundaries.

The right to nominate candidates for the people's deputies is exercised by voters through political parties (Art. 154(1)). The parties will form a nationwide list of candidates. Each of the persons on the list, except for the first nine, will have to be on one of the regional lists of at least five and no more than seventeen candidates. The lists and the order in which the candidates will be placed on them will be approved by the party convention. The party will be required to inform on its official website, no later than five days

before the convention, of the date, venue and accreditation rules for media representatives. At least two candidates of each gender (Art. 154) will have to be submitted for every five candidates (first to fifth, sixth to tenth, etc.) on the electoral list.

There will be an obligation on the parties issuing the lists to pay a deposit equivalent to one thousand times the minimum wage. The security deposit is to be returned to those parties which, following an election, will take part in the distribution of seats (Art. 156(3)).

The Code provides the conditions and procedures for deciding not to register candidates (Art. 159) and cancelling a decision to register candidates (Art. 160).

When casting a vote, the voter is to mark on the ballot paper the party for which he is voting and the number of candidate he supports on the list. If the voter does not indicate a candidate by name, this means that he supports the entire regional list (Art. 173(7) and (8)).

When determining the election results the Central Election Commission will first determine which parties have exceeded the electoral threshold (Art. 182(3)) and then determine the “electoral quota” (i.e. the number of votes necessary to obtain one vote) by dividing the total number of votes cast in the regional lists of those parties which will be entitled to participate in the distribution of seats by the total number of seats to be filled (Art. 183(3)).

Parties which have exceeded the electoral threshold receive 9 seats each allocated to candidates in the order established in the national list of that party. The number of seats to be distributed in districts shall be determined by deducting the seats assigned in this way from the total number of deputies established by the Constitution (Art. 186(2)).

The number of seats on each party’s regional lists will be determined by dividing the number of votes cast for that party by the electoral quota. The total number obtained will be the number of seats on the regional list concerned (Art. 184(2)). The Central Election Commission will then determine for each party the number of “unused” votes for the distribution of seats in the region (Art. 184(3)), the number of all seats occupied in the region (Art. 184(4)) and the total number of “unused” votes in the region (Art. 184(5)).

The next step will be to establish which candidates have been elected in the region (Art. 185). Candidates for a particular party will be ranked according

to the number of votes received. Candidates who have received 25% or more of the electoral quota will be placed at the beginning of list in the order of the percentage of votes received, followed by candidates who have received a lower percentage of votes in the order of preference established by the party when the list was submitted. Those candidates will be considered to be elected if they are placed at the top of list in a number corresponding to the number of seats allocated to the party in that region.

According with the Art. 186 of the Election Code, the Central Election Commission is then to determine the total number of unused votes for each party on a county-wide basis. In order to determine the number of votes obtained by a party from the national list, the number of unused votes of that party will be divided by the electoral quota. The total number obtained as a result of this measure will be the number of seats per party. The remaining seats will be allocated according to the principle of the largest remainder. If two or more parties achieve the same fractional result, an additional seat will be allocated to the party which has received more votes nationwide (Art. 186(4) and (5)).

The number of candidates on the national electoral list of a given party will be considered to be the number of candidates determined in the order of their inclusion on the national list in the mentioned way, excluding those who obtained seats in the regions (Art. 186(6)).

Each elected person will be required to submit to the Central Electoral Commission, no later than the twentieth day after the official publication of the election results, a document stating that he or she has resigned from employment (position) which is incompatible with his or her office as a Member of Parliament, or a copy of the registered declaration of resignation of a non-parliamentary representative mandate submitted to the competent Council (Art. 188(1)).

In case of failure to comply with this obligation, the Central Electoral Commission will adopt an order for the resignation of a particular candidate and will consider the next candidate from the same list as elected (Art. 188(4)). The same applies in case of premature termination of a Member's mandate (Art. 190).

**V.**

It seems that with the adoption of the Electoral Code, the process of shaping the principles of electing people's deputies in Ukraine has not yet completed.

On August 29, 2019, President V. Zelensky submitted to the Verkhovna Rada several draft amendments to the Constitution. Among others, he proposed a new wording of Art. 76 and 77, which is to apply after the next elections. The amendment provides for: 1) reduction of the number of deputies to 300, 2) introduction of censorship in the mother tongue as a condition for running for the Verkhovna Rada, 3) a proportional electoral system<sup>40</sup>.

At its meeting on 3rd September, the Verkhovna Rada adopted resolutions to refer the President's projects to the Constitutional Court. Such resolutions were adopted for a total of seven draft amendments to the *Constitution*.

On December 16, 2019, the Constitutional Court considered the draft amendment to Art. 76 and 77 of the Constitution to be compliant with Art. 157 and 158 of the Basic Law, formulating only reservations concerning the wording, also introduced by the amendment, point 17 of Chapter XV "Transitional Provisions"<sup>41</sup>.

On February 4, 2020, the Verkhovna Rada of Ukraine initially adopted the draft in question. Its final adoption will require an amendment to the Electoral Code before it can be applied for the first time. However, the draft is not explicitly evaluated by experts. The prevailing belief is that the change in numbers of deputies requires further elaboration and broad discussion<sup>42</sup>.

Political life in Ukraine is very dynamic. The recent presidential and parliamentary elections reorganized the Ukrainian party system. So far, it is

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<sup>40</sup> *Proekt Zakonu pro vnesennya zmin do statey 76 ta 77 Konstytutsiyi Ukrayiny (shchodo zmeshennya konstytutsiynoho skladu Verkhovnoyi Rady Ukrayiny ta zakriplennya proporsiyanoi vyborchoyi systemy*, [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66257](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66257) (10.04.2020).

<sup>41</sup> *Vysnovok Konstytutsiynoho Sudu Ukrayiny vid 16.12.2019, No. 8-v/2019 u spravi za konstytutsiynym zvernennya Verkhovnoyi Rady Ukrayiny pro nadannya vysnovku shchodo vidpovidnosti zakonoproektu pro vnesennya zmin do statey 76 ta 77 Konstytutsiyi Ukrayiny (shchodo zmeshennya konstytutsiynoho skladu Verkhovnoyi Rady Ukrayiny ta zakriplennya proporsiyanoi vyborchoyi systemy) (reestr. № 1017) vimozam stamey 157 i 158 Konstytutsiyi Ukraïni*, <https://zakon.rada.gov.ua/laws/show/v008v710-19> (10.04.2020).

<sup>42</sup> *Ukraine 2019–2020: Broad Opportunities, Contradictory Results (Assessments)*, Kyiv 2020, p. 30.

impossible to predict to what extent these changes are permanent and thus to what extent the introduced reforms of the electoral law will maintain the shape given by the Electoral Code.

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