

THE PROBLEM OF ELECTION ADMINISTRATION PROFESSIONALIZATION IN MODERN PUBLIC ADMINISTRATION IN UKRAINE

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Abstract. The crisis of confidence in the authorities in Ukraine is largely caused by the lack of public confidence in the bodies performing public functions. Especially, it is true for election process which accumulates problems of political choice and legitimacy. In most cases, voters' disbelief in the election results and fair ballot is caused by non-professionalism of election commissions. Since the elections in Ukraine have become a permanent phenomenon, there is a contradiction between the nature of the authorities of the election commissions and lack of professionalism of the members of these commissions which otherwise would facilitate the strict observance of electoral procedures and rules. This institutional problem of the current political spheres of society leads to negative trends in political life. Meanwhile elections at all levels are characterized by the experience of Ukrainian citizens of elections participation to seek earnings during campaigns. Commercialization of the election process creates the phenomenon where political power delegated to the election commissions as collegiate bodies performing public functions to legitimize power, is executed by not professionals but politically loyal mercenaries who stand not for compliance with election law but for earnings. The solution is seen in as wide as possible professionalization of election commissions of all levels. This will improve the system of election administration, increase public confidence in the election results and eliminate the tendency to commercialize the process.

Keywords: public administration, election administration, professionalization, election commissions, electoral procedures commercialization

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Introduction

The tasks and functions of state within constitutional model operating in Ukraine are assigned to various bodies of public administration. In the context of society democratization the possibilities of different elements of civil society to perform these functions are greatly expanding. Especially it concerns the community councils both as advisory body of government organizations, political parties, and as a part of the political system. One of the bodies performing the tasks of state character and simultaneously remaining essentially self-governing part of the electoral system is the election commission. As election administration bodies at all levels they ensure the implementation of electoral procedures and have the status extremely close to the status of authority. Quite relevant is the requirement of professionalism and special training of members of the administrative bodies who carry senior administrative functions.

The problems of conceptualization and theoretical comprehension of election in terms of governance and administration mechanisms of the electoral procedures are little researched

in the modern science of public administration. It should be noted that the research achievements of some legal authors who investigated the mechanisms of legal regulation (formation of legal status of election commissions) may be considered as a scientific comprehension of the legal institutional aspects of the problem.

Today there is an objective need for theoretical comprehension and the formulation of new functions and tasks of election commissions and their changing role in the election process. It is determined not only by the need in codification of the electoral legislation, but also by considerable differences in the interpretation of election commissions' tasks in legislative acts.

The investigation of profesionalization problem the subject of administration the electoral procedure

Ukraine's electoral system as a system of social relations associated with the formation of representative bodies through elections, today is not perfect. The reason for this is the existence of the following threats:

- the influence of individual officials, political parties and business groups on the election results;
- the influence on the election results from abroad;
- low level of training of the lower election commissioners, manifested in the conscious or unconscious violation of election law or their lack of ability to properly evaluate the election process in terms of electoral law;
- falsification and distortion of the will of the citizens in the post-election phase of the political process and, consequently, lack of legitimation of state and local governments.

In spite of the current system of legal regulation of election processes these threats appear in violations of electoral legislation, which adversely affects the efficiency of the process. It is the state that can prevent deepening of contradictions, as it is the institution that plays a central role in the mechanism of the election process.

The mechanisms of government administration of electoral procedures, in our opinion, are found in two main aspects. The first one concerns the organizational and legal support of the election process, and maximum simplification of the election process and procedures as well as the effort to make them understandable, transparent and economical. In doing so it is necessary to comply with the basic principles and standards of elections. The second aspect implies the formation of conscious activity and a high level of political and legal culture of the election process.

Tasks and functions of the state in the election process are imposed on election commissions, which have authority and powers to carry out their functions. The powers of election commissions are manifested in the mandatory enforcement of all the commissions' decisions by all subjects of election process; in commissions' control functions and administrative activities within certain types of elections.

V. Telipko stresses that the key role in the creation of the electoral infrastructure belongs to election commissions. The system of election commissions is a tool of civil society intended to perform these critical functions (Telipko, 2009).

At the same time, the structure of these election subjects endowed with a large degree of competence on the election process is not formed in the way provided by law on public service. This contradiction, in our opinion, under condition of lack of the mechanism of normativisation of requirements for people who perform the functions of the state, seriously

affects the efficiency of the process. Violation of electoral procedures can either distort the will of citizens or cause voters' distrust to the results of the election process due to election commissions' unprofessional performance of their duties.

As confidence in the authorities in Ukraine is a key political and legal institutional and managerial problem, the minimization of the negative consequences of unprofessional exercise of the duties by people charged with public functions becomes a key task of ensuring the efficiency of the entire system of elections administration. This is especially true of election processes that reflect the results of political choice, implement the will of the citizens and form the legitimate government. The current situation involves the frustration of voters in the election results and a fair vote made by unprofessionals in the conditions of lack of responsibility on the part of election commissions or individual members.

Modern election processes are marked by significant dynamics that are to be provided by the professional staffing component. Today political parties in Ukraine, that regularly take part in elections, are facing the problem of finding experienced members of election commissions at all levels, which often results in relying solely on those who are motivated for such work only by material factors.

Among the election commissions of all levels it is the Central Election Commission and the Central Election Commission of the Autonomous Republic of Crimea that are based on clearly defined qualification requirements for education, training and experience of their members and senior staff. Other election commissions consist of a number of citizens without restrictions on any requirements other than citizenship and residence in a particular locality. Thus, ubiquity and equal implementation of electoral law at all levels of election administration are not provided by the elections and referendum legislation of Ukraine.

Given the fact that the elections in Ukraine have become a virtually permanent phenomenon, there appears a contradiction between the nature of the powers carried by the election commissions, and the low level of professional training of the members of these commissions, which would facilitate the strict observance of electoral procedures and standards at all stages of the election process. This problem leads to a number of other negative tendencies in political life. It is particularly evident in the context of power decentralization, when the formation of local authorities may cause different legal evaluations, which negatively affect the process of legitimization of local authorities and their officials.

However, the practice of elections at all levels confirms the desire of Ukrainian citizens who have experience of participation in election campaigns to seek earnings as the members of election commissions of all levels except the central one do. The administration of electoral procedures is thus too commercialized; among the members of the commissions acting on behalf of different political subjects there are people who perform their functions in the interests of these political subjects, ignoring the rules of law and the interests of other actors.

Commercialization of the election process creates the phenomenon where political forces delegate to the election commissions as collegiate bodies performing public functions, loyal political mercenaries for which income is more important than compliance with election law. The solution can be found in professionalization of election commissions at all levels and their formation by people who have the status of civil servants. It will improve the system of election administration, increase public confidence in the election results and help to avoid further commercialization of the election process.

The analysis of foreign experience shows that there are two main implemented approaches to the formation of electoral management and administration procedures. The first

approach that emerged mostly in countries with developed democracy and has become a tradition of democratic electoral systems involves the performance of the tasks of election management and organization by public authorities (in some cases – local authorities). The advantages of this approach, in our view, are the minimization of the cost of the elections organization carrying them out by the state administration and professionalism of the subjects of electoral procedures. At the same time, the political corruption in public administration, the negative effects of other subjects' intervention in state activities, actualize the risks of illegal use of the state government officials as the administrative resource in achieving political goals.

Fairly right seems the opinion of N. Bogasheva that the advantage of formation of election commissions by the authorities is that they consist of the members having high professional level who are mostly civil servants and have the knowledge and experience of such activities. The election commission formed in that way will lack tough fight possible if including the supporters of some electoral subjects.

Formation of election commissions of civil servants may, however, affect the functioning of governmental bodies. It can be explained by a considerable number of election commissions, which distracts a significant number of officials from their direct duties and slows down the work of authorities. In addition, the government influence on the formation of election commissions can reduce the level of their independence as officials because of the temporary character of the committees and the need to return to their previous work, feel subordination to senior officials, which opens almost unlimited possibilities for the notorious "administrative resource" (Bogasheva, 2005: 535).

The second approach is implemented in most countries of the transitional type, where the development of democracy is an ongoing process. This approach implies that the public authorities are not allowed to interfere in the election process. Administrative functions, including the function of the election process organization, are entrusted to bodies formed of the citizens, who, as voters, carry out the objectives and functions of the state through the system of election commissions.

The advantages of this approach can be seen in the realization of the principle of self-government that enables civil society to organize the process of forming a government. However, the disadvantage of this alternative model of election administration is the lack of professional requirements in relation to members of election commissions as well as their large dependence on sometimes corrupted leadership of political parties, backed by powerful economic actors. This variant of system of electoral procedures management is very similar to the hidden and non-legal way of intervention in the process of forming the government, and sometimes overt dependence of individual members of election commissions on political subjects.

Ukraine has implemented some elements of both approaches: on the one hand there is a permanent central election administration body – the Central Election Commission, which is formed on the basis of quota allocation of opportunities to influence its composition between the President and the Parliament. On the other hand the electoral legislation stipulates a system of delegation of the political forces representatives to the election commissions which are sometimes not even the parties of the election process. These members of election commissions instead of performing the state's tasks fulfill exclusively the representative functions and functions of surveillance in favor of the subjects who delegated them.

The analysis of the election legislation leads to the conclusion that there are different approaches to the formation of the supreme bodies of administration and those of lower level

applied in Ukraine. Party-representative approach is implemented in organization and administration of elections to form precinct and district (territorial) election commissions, and mixed or executive-expert approach is applied to the creation of the Central Election Commission of Ukraine and the Central Election Commission of the Autonomous Republic of Crimea.

There is a paradoxical situation. On the one hand the possibility of applying a governmental or judicial approach in Ukraine has not yet been set, but the second approach to the formation of election commissions has clearly been exhausted as in actual conditions its application turns into overt political corruption. That means that the fundamental question of independence and impartiality of the election administration in Ukraine, unfortunately, is still unsolved.

In this regard, there is a need to find adequate models of election administration. This is so important because the solution of this problem determines the legitimacy of the public authorities formed within such system.

The problem of professionalization in the context of recent integration challenges in Ukraine should be considered in the complex of solving the questions of public administration reform in Ukraine. Today there is a need to solve the mentioned problem because:

1. The new standards of governance, including public governance, are being introduced in Ukraine. They are aimed to building a new system of professional public administration with its inherent features – professionalism, accessibility, quality, proximity to the customer.

2. The system of election administration that has developed in Ukraine today suffers to some extent from imbalance – on the one hand the election processes and procedures are characterized by high dynamics, legal complexity and specific organization of collective bodies. On the other hand, the performance of a significant amount of election procedures are appointed to the temporary bodies of administration created almost "temporarily" – from elections before elections, with almost any mechanism to guarantee responsibility of its participants' lawful execution of their duties.

3. The system of election commissions today is largely (according to the order of formation, and the basic principles of the organization) not able to carry out effectively its tasks imposed by the electoral legislation. The reasons include:

- The lack of an effective mechanism (described at least in one of the election laws) which would guarantee the formation of these bodies on the basis of selection according to professionalism criterion. This, in turn, directly contradicts the basic principles of accomplishment of the tasks and functions of the state, including professionals and bodies exercising public or non-public administration;

- The lack of real mechanisms to ensure continuous training of people involved in election commissions on a permanent and temporary basis;

- The lack of interest and will of the subjects of election process, including political parties that have the right to form the composition of election commissions, in professional performance of the duties of the delegated members. Moreover, there is an opposite trend when political actors encourage the misconduct of election commissions according to the interests of these political subjects. Thus, the basis of incompetence cultivated among potential members of election commissions is political corruption, which aims to achieve the objectives in election campaigns in any way including non-legal ones;

- The lack of real mechanisms of control by both the authorities and public of election commissions' activities in the implementation of and compliance with the current legislation.

Currently, there is a need in the formation of a new system of elections based on the

peculiarities of electoral legislation. Under these circumstances, we consider it necessary to carry out a radical reforming of the institute of election commissions in Ukraine, which will turn it into an effective mechanism for ensuring the legitimacy of the electoral procedures and of bodies formed in that way.

One should also pay attention to the problems of district election commissions. There is also a contradiction here. On the one hand there are quite a large number of people who in majority are the employees of budgetary institutions and have become quite professional participants in the procedures. On the other hand the dynamics of the number of violations by members of election commissions, according to long-term observations, on the contrary, increases. This is proved by the published results of the election monitoring carried out since 1998 by GO "Civic Network "Opora".

So, the problem is that on one hand there is an elaborated system of the professional and experienced electoral procedures executives, while on the other hand their professionalism is questionable because of the lack of need for constant improvement of skills and control over the development of their competences on the part of the state and public authorities.

Moreover, today the problem of organization and administration of electoral procedures goes beyond the exclusively political system or the system of election authorities. Similar procedures are increasingly used in other fields, particularly in personnel management of public authorities, institutions of public sector when positions are assumed according to the selection results and some of the specific procedures. The latest example is the election of rectors which recently were held in most higher educational institutions of Ukraine. This practice will continue to spread but the professionalism of the organizers and administrators of such campaigns is not actually confirmed by any authority.

The constant change of the statutes of elections doesn't resolve the problem. Every new election to Parliament or to local authorities is held under a new legal instrument, which means that the experience gained by the members of election commissions in the previous campaigns is virtually leveled. The way out of the situation can be the codification of electoral legislation that has long been an ongoing debate in academic and political circles.

We believe that the creation of permanent electoral administration bodies of electoral procedures to which the tasks and functions of the state during elections are entrusted will in perspective allow the solving of the staffing problem in each campaign.

Conclusions and suggestions

Thus, to solve the problem of improving election administration processes there is a need to apply an integrated approach that involves the following basic steps:

1. Codification of election laws, their unification with European standards. Although in fact there are no common European standards in this area, the model of electoral system should be institutionalized. It must be based on the type of electoral system and unified vision of the main elements' functions, including the election commissions. Codification will summarize the functionality and basic procedures of the election process, minimize differences between different types of elections in functional aspects.

2. Launch of e-governance principles in the basic electoral procedures. The problem is a part of the task complex of administrative reform in Ukraine and can be solved with the introduction in Ukraine a basic concept of e-government. At the core of this cluster the existing system "Elections" administrated by the Central Election Commission, resources of

public administration and local government that has recently undergone major improvements may be involved. Forms of e-democracy which are being actively implemented in developed countries, unfortunately, are not fully developed in Ukraine. The need for the general public participation in decision-making in the public sphere is growing, but the practice of such activities is virtually absent. Let us take for example the referendum in 2000 and leveling of its results. The same is true of local referendums and initiatives that along with decentralization could become a major element in ensuring the legitimacy and real participation of citizens in managing the affairs of the state and those of local communities.

3. Application of an expert approach to the formation of election commissions according to the principles of the Central Election Commission formation. It involves the inclusion of professional experts with appropriate training, adequate experience and their well-known independence to the election commissions on the basis of consent of all social and political forces.

4. Formation of professional training, retraining and advanced training of election commission members and their certification. To solve this problem it is necessary to create a single state register of members of election commissions that apart from personal information will accumulate their experience, results of attestation, forms of training, career changes and so on.

5. The determination of the legal status of election commissions. This tendency includes the change of this category to category of civil officers with all consequences of the status – creation of special standing regulatory authorities at the central and local levels, tools to control observance by officials of the legislation on public service in Ukraine, at alternative elections.

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