

# ЮРИДИЧЕСКИЕ НАУКИ

## ПРОБЛЕМЫ И ПЕРСПЕКТИВЫ ВНЕДРЕНИЯ ЭЛЕКТРОННОГО ГОЛОСОВАНИЯ В УКРАИНЕ

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## PROBLEMS AND PROSPECTS OF INTRODUCTION OF ELECTRONIC VOTING IN UKRAINE

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### АННОТАЦИЯ

В соответствии со статьей 69 Конституции Украины народное волеизъявление осуществляется через выборы, референдумы и другие формы непосредственной демократии, а частью первой статьи 38 Конституции Украины гражданам предоставлено право участвовать во всеукраинском и местных референдумах.

С принятием Избирательного кодекса в 2019 году было установлено совершенно новые правила подсчета голосов. Эти нововведения впервые были применены на практике на местных выборах в октябре 2020 года.

Основным недостатком новой системы является подсчет голосов избирателей. Здесь следует обратить внимание на том, что установление результатов выборов занимает очень длительное время. Продолжительность данного процесса обусловлено различными факторами. В частности, 25 октября 2020 в Украине проводились сразу 4 вида местных выборов - выборы в областной совет, выборы в районный совет, выборы городского головы и выборы в городской / сельской советы.

По мнению авторов, одним из путей решения данной проблемы является введение электронного голосования.

### ABSTRACT

According to Article 69 of the Constitution of Ukraine, popular will is exercised through elections, referendums and other forms of direct democracy, and part one of Article 38 of the Constitution of Ukraine (hereinafter - the Constitution, the Basic Law) gives citizens the right to participate in all-Ukrainian and local referendums.

One of the system-forming elements of the democratic political process is the institution of political elections. The formation of this institute reproduces the historical path of a long and controversial search by society for a better model of public administration.

With the adoption of the Electoral Code in 2019, completely new rules for counting votes were established. These innovations were first put into practice in local elections in October 2020.

The main disadvantage of the new system is the counting of votes. It should be noted here that the establishment of the election results takes a very long time. The duration of this process is due to various factors. In particular, on October 25, 2020, 4 types of local elections were held in Ukraine at once - elections to the regional council, elections to the district council, elections of the mayor and elections to city / village councils.

According to the authors, one of the ways to solve this problem is to introduce electronic voting.

**Key words:** democracy, direct democracy, electoral system, elections, electronic elections, voting, direct voting, electronic voting.

**Ключевые слова:** демократия, непосредственная демократия, избирательная система, выборы, электронные выборы, голосование, прямое голосование, электронное голосование.

One of the most important factors influencing the formation of a competitive society and political competition is civil society, because it is within its framework that the type of political culture necessary for political competition is formed.

Political competition for the modern Ukrainian political establishment poses some danger, because the competitive political environment is unpredictable, and this, at this stage of political development of our state is unfavourable to the authorities.

Elections are an extremely complex phenomenon, based not only on legislation, the reception of international norms and a strong judicial system, but also on the mass psychology of voters, historical traditions, political culture in the country, economic and political situation, religious and moral strata, democratic values in the election process, etc.

The basis of the entire legal system of the state and the system of electoral legislation in particular is the Constitution of Ukraine.

The Electoral Code of Ukraine is a codified legislative act that determines the principles of holding various types of elections [2].

The Laws of Ukraine «On the All-Ukrainian Referendum», «On the Central Election Commission», «On the State Register of Voters», etc. play a supporting role in this area.

In order for Ukrainian electoral legislation and its application to meet international and European electoral standards, attention should also be paid to the organization of the electoral process in Ukraine, which has a number of unexplained issues that require more in-depth research, and to electoral practice. which is characterized by systematic violations of democratic principles of elections, which is a significant obstacle to the democratization of the political system and the integration of our country into the European and world community.

At the same time, despite the normative stipulation of numerous requirements for regulating the organizational and legal framework for the electoral process, the real situation in this area constantly provokes criticism from citizens, NGOs, political parties, politicians and the media, etc., which is usually unfounded.

The organization of elections is a complex process of demonstrating the level of legal consciousness, political maturity, political and legal culture, civic consciousness, maturity of public institutions and government responsibility, etc., which can be combined with the concept of «political culture».

Therefore, one of the main problems of electoral management in Ukraine is the low political culture of society.

In ancient times, on the territory of modern Ukraine, the main opportunity for the people's will was the people's assembly (chamber), which is the prototype of modern elections. The people's councils addressed the main issues of community life, while modern elections determine the direction of both domestic and foreign policy of Ukraine, become a condition for choosing a certain ideology as a vector of political development. Ukraine has always been

characterized by heterogeneous ideological preferences of citizens, the main reason for which is the affiliation of Ukrainian territories to different empires (the eastern part – was part of the Russian Empire, the western – Austro-Hungarian).

Thus, the value field of Ukrainian political culture is formed by a set of multifaceted determinants: in the West, there is a predominance of rational principles, while in the East irrational, spontaneous, emotional and volitional components predominate.

Another important factor influencing the improvement of political culture and the efficiency of the electoral process is the presence of healthy political competition. One of the most important factors influencing the formation of a competitive society and political competition is civil society, which makes it possible to form the type of political culture necessary for political competition.

In Ukraine, the formation of healthy competition is a matter of the future, as the main democratic institutions are just passing the stage of their formation and institutionalization. Therefore, the most important political problem and task for modern Ukraine is the formation of truly "competitive" political elections.

Ukraine must also gain experience of democratic traditions regarding the participation of citizens in decision-making, in socio-political processes, public organizations and associations to protect their rights and interests. Thus, in different periods of existence of the Ukrainian people it is possible to show a steady desire of Ukrainians for self-identification, attempts to gain their own statehood. The democratic transition is hampered by a number of reasons: corruption in the political system, the absence of the middle class, geopolitical, cultural, religious differences, lack of basic political knowledge, manipulation of the influence of political technology on the minds of voters.

Thus, improving election campaigns and increasing their effectiveness requires taking into account national traditions, mentality of the Ukrainian people, use of new information technologies in the election campaign, voter awareness, development of political competition and political communication, development of mechanisms for managing social conflicts during the election campaign. Citizens to the political life of the country activates the electoral behaviour of citizens and qualitatively improve their political culture.

After all, the level of political culture of citizens, their behaviour and political consciousness has a direct impact on the organization and conduct of elections, on the management of the electoral process and is one of the factors preventing crises.

With the adoption of the Electoral Code in 2019, completely new rules for counting votes were established. These innovations were first applied in practice in the local elections in October 2020 [2].

The main disadvantage of the new system is the counting of votes. Having personal experience in the precinct election commission, I would like to draw attention to the fact that the amendments to the election legislation, which regulated the possibility of a citizen

to vote for the organization of a political party and at the same time for the respective candidate in the territorial constituency. self-government, where the number of voters is more than 10 thousand) are positive in terms of the fact that the community can choose its representative, but on the other hand in the practice of determining the election results takes a very long time.

The duration of this process is determined by various factors, firstly, the fact that on October 25, 2020 in Ukraine were held four types of local elections - regional council elections, district council elections, mayoral elections and city / village council elections. At each polling station, on average, about 1,800 people vote, including a turnout of 30-40 percent and about 700 elections take part in voting at each polling station. This means that members of the precinct election commission process 2,800 ballots.

Secondly, each ballot must be processed several times, because first you need to count the votes cast for the territorial list of the party organization, and then for a particular candidate. An alternative to this could be electronic voting.

First of all, it should be noted that it is necessary to understand the electronic election process. We have already noted that the election process in the sense of the Electoral Code is defined as a set of actions of election commissions on the preparation and conduct of local elections.

In our opinion, since the longest process is the counting of election results, first of all, it is worth considering the possibility of introducing electronic technologies in this process.

It is worth noting that on March 7, 2018 in the West African country of Sierra Leone, the presidential

election was held for the first time using blockchain technology in the voting system.

A blockchain is a secure and distributed database in which information is represented by chains of consecutive blocks. These blocks are stored on the computers of all users involved in the formation of the database. In the blockchain, each new block stores information about the previous ones, which serves as a kind of protection of the chain of blocks from forgery.

In preparation for the election, the Swiss startup Agora, which provided a private blockchain, took part. According to the developer of the system Leonardo Gammar, Voting using a blockchain is completely anonymous.

Anonymous votes / ballots are recorded on the Agora blockchain and made available to any party interested in reviewing, counting and verifying, a record of each vote being stored in the blockchain, which will be available for download and study after the election.

The use of blockchain in elections further reduces the cost of paper ballots, helps reduce corruption in the voting process, eliminates human error and quick public access to election results (announce results more quickly), and helps make elections fair, transparent and verifiable.

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### К ВОПРОСУ О ФУНКЦИИ ОБВИНЕНИЯ В СТАДИИ ПРЕДВАРИТЕЛЬНОГО РАССЛЕДОВАНИЯ

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### ON THE QUESTION OF THE FUNCTION OF THE PROSECUTION AT THE STAGE OF PRELIMINARY INVESTIGATION

#### АННОТАЦИЯ

Научная статья посвящена актуальной проблематике, связанной как с самой функцией обвинения в уголовном процессе, так и с процедурой предъявления обвинения, анализом особенностей процессуального статуса обвиняемого. Данная проблема актуальна для современной уголовно-процессуальной науки и практики в целом. Функции обвинения посвящено достаточное число научных исследований, однако остается ряд неразрешенных вопросов, связанных с конфликтующими положениями ее реализации.

#### ABSTARCT

The scientific article is devoted to topical issues related to both the function of the prosecution in criminal proceedings, and the procedure for bringing charges, the analysis of the features of the procedural status of the accused. This problem is relevant for modern criminal procedure science and practice in General. A sufficient number of scientific studies have been devoted to the prosecution function, but there are still a number of unresolved issues related to conflicting provisions of its implementation.

**Ключевые слова:** уголовный процесс, обвинение, привлечение в качестве обвиняемого, предварительное расследование, предъявление обвинения.