

## LEGISLATIVE PRINCIPLES OF SUFFRAGE IMPLEMENTATION IN LOCAL ELECTIONS: UKRAINIAN AND WORLD EXPERIENCE

**Viktor Sychenko**, Rector, Doctor of Sciences in Public Administration, Professor, CIHE "Dniprovska Academy of Continuing Education" (Dnipro), Ukraine

ORCID 0000-0001-9655-2317

**Volodymyr Berezinsky**, Professor of the Department of Educational Management, Public Policy and Economics, Doctor of Political Sciences, Associate Professor, CIHE "Dniprovska Academy of Continuing Education" (Dnipro), Ukraine

ORCID 0000-0002-6132-9606

**Valery Marenichenko**, Associate Professor of the Department of Public Management and Law, PhD in Public Administration, Associate Professor, CIHE "Dniprovska Academy of Continuing Education" (Dnipro), Ukraine

ORCID 0000-0002-0183-1354

*The purpose of the article is to substantiate the directions of improving the legislative framework for the suffrage implementation in local elections on the basis of Ukrainian and world experience. The purpose of the study identifies the features of modern suffrage. The world experience of the presence of qualifications in local elections is analyzed, in particular, the qualifications of active suffrage often include: settlement (living in a country, region for several months or years before the election); citizenship, age (standard - 18 years); denial of elections to the mentally ill, incapacitated and citizens who have committed a crime. The qualifications of passive suffrage usually include: the availability of basic education (in developed countries for high positions – the availability of higher*

*education); increased age requirement; increased official qualifications (on the basis of position, professional activity or spiritual rank). Aspects of suffrage realization at local elections in the Ukrainian legislation are characterized. Ways to improve the legal framework for the suffrage implementation in local elections, in particular, by introducing additional requirements in the Electoral Code of Ukraine to increase the competence of choice through the introduction of dynamic active suffrage, taking into account social status, professionalism, education, etc.; on the introduction of new educational and intellectual qualifications for candidates for elected positions; to improve the quality of institutions of public control over the procedure of local elections. Despite the fact that the electoral legislation of Ukraine, including the latest changes, generally complies with basic international norms, a number of these provisions should be specified, which will significantly strengthen the foundations of democracy in the electoral system of the state. Such detail will help increase the level of public confidence in the election procedure itself. The proposals presented in the article are the basis for further more detailed research of the legal framework for the suffrage implementation and the improvement of electoral processes in Ukraine.*

**Keywords:** *electoral code, suffrage, local elections, municipal councils, qualification*

Problem statement and its connection with important scientific or practical tasks. Elections are the basis of democracy, and the democratization of society and the state is impossible without the formation of a stable electoral legal culture. Indeed, the existence of free elections in the country is one of the principles of a democratic regime. In this regard, the study of issues related to the formation, development and existence of the electoral system, the legislative enshrinement of suffrage and its limitations, is a relevant and important task for modern science.

Analysis of recent research and publications, highlighting previously unresolved parts of the overall problem, which is the subject of this article. The

work of such well-known scientists as: O. Gubska, M. Duverger, L. Yefimova, D. Kovrizhenko, B. Mokhonchuk, A. Orlov is devoted to the issues of theoretical and methodological study of electoral systems, technologies of realization of electoral processes, normative-legal base of realization of electoral law. , N. Pisarenko, P. Romanyuk, M. Sapronova, M. Tsurkan and others. However, further research on this issue remains relevant, especially in the formation of ways to improve the legal framework for the implementation of suffrage in local elections.

Formulation of the goals of the article (task statement). The purpose of the article is to substantiate the areas of improving the legislative framework for the implementation of suffrage in local elections on the basis of Ukrainian and world experience.

Within the framework of the specified purpose the following tasks are set:

- to determine the features of modern suffrage;
- to analyze the world experience of qualifications in local elections;
- to characterize aspects of realization of the suffrage at local elections in the Ukrainian legislation;
- suggest ways to improve the legal framework for the implementation of suffrage in local elections.

Presentation of the main research material. According to M. Duverger's research, suffrage is an irreplaceable way of legitimizing power, an instrument of expression, formation and representation of public opinion [1].

Indeed, international practice proves the importance of the issue of suffrage in the formation of democratic principles. The Universal Declaration of Human Rights of 1948 enshrines the following provision: "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. The will of the people must be the basis of government power; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent equivalent free voting procedures. "

Today the main features of electoral systems are the following:

- generality;
- equality;
- secret ballot;
- minimum availability of qualifications.

It is expedient to conduct a study of world experience in the application of qualifications in the implementation of suffrage. Qualifications for active suffrage often include:

- settlement (residence in the country, region for several months or years before the election);
- citizenship, age (standard is 18 years).
- denial of elections to the mentally ill, incapacitated and citizens who have committed a crime.

The qualifications of passive suffrage usually include:

- availability of basic education (in developed countries for higher positions
- availability of higher education);
- increased age requirement;
- increased qualification (on the basis of position, professional activity or spiritual rank).

In the electoral systems of some countries, conditions are created for the development of suffrage, in particular, in Australia, active suffrage is not possessed by persons "who are unable to understand and comprehend the nature and significance of voting" [2].

In some US states, there is a rule that a voter receives the US Constitution at registration and must read a few lines and explain how he or she understands them. In other words, a certain level of political education and education in general should be demonstrated. In the United Kingdom, France and Germany, there are detailed requirements for candidates who are required to provide detailed reports on their professional activities. In China, there is a multi-stage system of indirect and unequal (the voice of the urban population has more weight than rural)

elections. As part of the research topic, it is important to consider the legal framework for the consolidation of suffrage in some countries.

According to the Constitution of the country, the system of local state bodies of the Arab Republic of Egypt (EEA) includes primarily local people's councils of various degrees, formed by direct elections. Half of the members of these councils should be workers and peasants (Article 160 of the Constitution). Chairmen of people's councils and their deputies are elected by members of people's councils from among their members. The EEA is divided into administrative units that have the status of legal entities - provinces, cities and villages. In the public interest, other administrative units that have the status of legal entities may be established. The state guarantees support for decentralization and identifies ways to empower administrative units, including the provision, development, and management of local services and public services. According to Article 4 of Law 73 on the Exercise of Political Rights, all Egyptians (men and women) exercising their political rights must be registered on the electoral rolls. Those citizens who obtained Egyptian citizenship by naturalization can be registered in the electoral lists only after 5 years from the date of acquisition of citizenship.

Municipal councils are elected at the local level in Iceland. The procedure for their election is regulated by the Law "On Elections to Municipal Councils". Regular elections to municipal councils (municipal elections) are held once every four years simultaneously throughout the country. The right to vote in municipal elections belongs to: first, Icelandic citizens who have reached the age of 18 by election day and who are legally residing in the relevant municipality; secondly, citizens of Denmark, Norway, Finland and Sweden who have reached the age of 18 before election day and have resided in Iceland legally for the three years preceding election day; thirdly, nationals of other foreign countries who have reached the age of 18 by election day and have resided in Iceland legally for the five years preceding election day. In Iceland, citizens with "impeccable reputation" can exercise their passive suffrage, but neither the Constitution nor the Law disclose the concept of "impeccable reputation" [3].

In Finland, municipal elections are held once every four years. The number of members of the municipality depends on how many people live in the commune.

You can vote in municipal elections if:

- you are a citizen of Finland, another EU country, Norway or Iceland, and you will turn 18 no later than election day. You must also live in the commune in which you vote for at least 51 days before election day,

- you are a citizen of any state, and you turn 18 no later than election day. You must also live in the commune in which you vote at least 51 days before election day. An additional requirement is that you have a place of residence in Finland continuously for two years [4].

The right to vote in modern Indonesia is determined by the Constitution of 1945, with a number of amendments, as well as electoral laws that take into account changes and adjustments since the previous elections. Citizens of Indonesia who have reached the age of 17 or younger but are married have active suffrage. Indonesian citizens must register on the voter lists to vote. Voter registration determines their number and establishes their compliance with the requirements of the election legislation. It is also a technical tool that allows electoral bodies to plan, organize, implement and control electoral mechanisms and mechanisms for public participation. The implementation of these principles should help to exclude the following categories of citizens from voter registration:

- who are in active service in the armed forces;
- legally deprived of the right to exercise political rights and public functions in connection with serious disciplinary sanctions or as a result of a court verdict in a criminal case;
- deceased citizens;
- persons who have not reached the established age;
- foreigners who do not have a naturalization certificate;
- persons illegally identified or with falsified identification.

Elections in Germany are general, direct, free, equal and secret. If you have German citizenship, you can participate in all elections. If you are a citizen of an

EU Member State and have lived in Germany for more than three months, you can run for municipal council elections as well as for elections to the European Parliament. Elections to local municipalities are governed by the law of the federal state, so the procedure may be different, but the above basic principles of general, direct, free, equal and secret elections are preserved [5].

Elections of municipal councils and mayors (bodies of lower-level territorial units) in the Slovak Republic are governed by the 1990 Law on Local Elections. Municipal elections, like other elections in the country, are held on the basis of universal equal and direct suffrage by secret ballot. Active and passive suffrage belongs to citizens who permanently reside in the relevant municipality, who have reached 18 years of age. The age limit for passive suffrage in mayoral elections is set at 25 years.

Deprived of suffrage in municipal elections a person:

- restricted in personal freedom on the grounds of public health;
- serving sentences in places of imprisonment;
- declared incapable.

For the election of deputies to municipal councils, the territory of the municipality is a single multi-member constituency, and for the election of the mayor - a single single-member constituency. In municipalities inhabited by national minorities and ethnic groups, these segments of the population must be represented in the municipal council in proportion to the number of national minorities and ethnic groups living in the territory of the respective municipality.

The Constitution of the Philippines enshrines universal equal and direct suffrage by secret ballot. On the basis of these general principles, the electoral corps of the country is formed, ie a set of persons who have the right to vote and on the basis of the law receive the legal status of a voter. To be included in the electoral corps, a person must be officially registered and included in the list of permanent voters of a city or municipality at the place of his / her permanent residence.

Every citizen of the Philippines who is not disqualified under the law, who has reached the age of 18 and has lived in the Philippines for at least one year, and in the city or municipality where he intends to vote, must have at least six months immediately prior to the election. included in the list of permanent voters. A citizen who at the date of registration has not reached the statutory age to vote as a voter or does not have a sufficient period of residence in the relevant constituency may be registered if he can document that on the day of voting he will be qualified and considered a voter.

The following categories of citizens have been suspended from voting on the basis of the law:

- sentenced by a final court decision to imprisonment for a term of not less than one year, if these citizens have not been pardoned or released under amnesty. In this case, any person deprived of the right to vote on the basis of imprisonment, automatically restores his right to vote after the expiration of five years of the conviction;

- convicted by a final court decision of any crime involving direct or indirect participation in actions such as insurrection, insurrection, violation of anti-terrorist legislation, firearms law and national security laws, as long as these persons do not will be fully restored to their civil and political rights in accordance with applicable law;

- incapacitated or mentally ill persons recognized as such in accordance with the decision of the competent medical authorities [6].

In the Republic of Croatia, the Law on Local Elections of 2012 regulates the election of members of representative bodies of local and territorial (regional) self-government, as well as the election of community leaders, mayors, prefects and their deputies (Article 1 of the Law).

Croatian citizens who have reached the age of 18 have the right to participate in local elections in the Republic. Voters residing in territorial units whose bodies are formed during such elections have the right to elect members of representative bodies of local and territorial (regional) self-government, as well as



heads of communities, mayors, prefects and their deputies. Citizens of other member states of the European Union have the right to elect members of representative bodies in accordance with the Law "On the right of citizens of other member states of the European Union in elections of representative bodies of local and territorial (regional) self-government" of 2010. elections by secret ballot. A voter who has a permanent place of residence on the territory of the territorial unit, the bodies of which are formed during the elections, may be elected a member of the representative body. Voters who permanently reside in the territory of the territorial unit whose bodies are formed during the elections for at least six months may be elected the head of the community, the mayor, the prefect and their deputies.

The Law on Local Elections establishes principles as components of the foundation of the electoral process at the local level. Thus, in local elections, freedom of election and the secrecy of the ballot are guaranteed. A voter may vote only once in the same election. No one can vote on behalf of another person. No one can demand a report on the electoral preferences of voters and their intentions during the voting. The voter has the right to announce his / her intentions to vote in the elections. No one may be held liable for voting or not voting.

The peculiarity of local elections in Ukraine is that they are held according to the rules of the latest election legislation, in particular the Electoral Code of Ukraine in force since January 1, 2020. The problems of application of the provisions of this Code are objectively complicated by the need to hold elections taking into account the new administrative-territorial structure of the state, which provides for the liquidation of old and the formation of new districts, the formation of territorial communities.

According to Article 1 of the Code, "elections in Ukraine are the main form of popular will, a way of direct exercise of power by the Ukrainian people. Elections are free and take place on the basis of universal, equal and direct suffrage by secret ballot "[7].

Qualifications regarding active and passive suffrage in local elections in

Ukraine should be considered in detail. Regarding active suffrage (voting rights, voting rights), the following qualifications are set in local elections:

- citizenship, according to which the right to vote in elections have citizens of Ukraine;
- age, which is required to reach 18 years of age on election day;
- legal capacity, according to which citizens who have been declared incompetent by a court do not have the right to vote;
- settlement, which presupposes the need for the voter's electoral address to belong to the relevant territorial community or territory.

Regarding passive suffrage in local elections in Art. 141 of the Constitution of Ukraine, Art. 193 of the Code provides for the following qualifications:

- citizenship, according to which citizens of Ukraine have the right to vote in local elections. The document certifying the identity and confirming the citizenship of Ukraine in the local elections, as well as the candidate for registration of the candidate required for registration is a citizen of Ukraine;

- age, which provides for the requirement to reach 18 years of age on election day;

- legal capacity, according to which citizens who have been declared incompetent by a court do not have the right to vote.

- moral, according to which a citizen of Ukraine who has a criminal record for a serious or especially serious crime, a criminal offense against the voting rights of citizens or a corruption criminal offense, if this criminal record has not been expunged, cannot be elected a deputy of a local council, village, settlement, city mayor or not removed in the manner prescribed by law (Part 2 of Article 193 of the Code). Thus, the severity and type of criminal offense are crucial to limit the exercise of passive suffrage in the application of this qualification in local elections in Ukraine. It should be noted that the Constitution of Ukraine provides for such a qualification only for MPs, in connection with which its application in local elections in scientific circles provokes a debate on the possibility of imposing additional restrictions on the exercise of passive suffrage at the sectoral level.

There is also a language qualification, but it should be noted that neither the Constitution of Ukraine nor the Electoral Code provides for a language qualification for candidates in local elections, in contrast to the presidential election.

At the same time, the Law of Ukraine “On Ensuring the Functioning of the Ukrainian Language as the State Language” includes deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils, and officials of local bodies self-government and persons applying for election to local self-government bodies (paragraph 2, part 1, part 2 of Article 9). Although these provisions have already entered into force, the requirements for documents confirming the level of proficiency in the state language will enter into force on July 16, 2021 [8].

Conclusions from this study and prospects for further exploration in this direction. Given the importance and relevance of the research topic, we propose the following ways to improve the legal framework for the implementation of suffrage in local elections, in particular, the introduction of additional requirements in the Electoral Code of Ukraine:

- to increase the competence of choice through the introduction of dynamic active suffrage, which takes into account social status, professionalism, level of education, etc .;
- on the introduction of new educational and intellectual qualifications for candidates for elected positions;
- to improve the quality of institutions of public control over the procedure of local elections.

Despite the fact that the electoral legislation of Ukraine, including the latest changes, generally complies with basic international norms, a number of these provisions should be specified, which will significantly strengthen the foundations of democracy in the electoral system of the state. Such detail will help increase the level of public confidence in the election procedure itself. The proposals presented in the article are the basis for further more detailed research of the legal framework

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