

THE STRUCTURE OF THE CONSTITUTIONAL AND LEGAL MECHANISM OF FINANCIAL SUPPORT FOR THE PREPARATION AND HOLDING OF ELECTIONS OF PEOPLE'S DEPUTIES OF UKRAINE

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The article emphasizes that Ukraine is a party to the Convention on the Protection of Human Rights and Fundamental Freedoms and is obliged in accordance with Art. 3 of Protocol 1 to the Convention to hold elections that would ensure the free expression of the people's opinion. Emphasis is placed on effective political democracy and the need to improve the constitutional and legal mechanism of financial support for the preparation and holding of elections of People's Deputies of Ukraine. Attention is focused on the fact that Russia uses financial instruments to exercise illegal effective control over parts of the territories of sovereign states for their further occupation, and most widely applies them during the elections of deputies of parliaments (Ukraine, Georgia, Moldova). Attention is drawn to the provisions of the Constitution of Ukraine, the Election Code of Ukraine, Recommendation Rec(2003)4 of the Committee of Ministers to member states «Regarding unified rules against corruption in the field of financing political parties and election campaigns.» It is emphasized that the concepts of «financial support for the preparation and conduct of elections of People's Deputies of Ukraine» and «material and technical support for the preparation and conduct of elections of People's Deputies of Ukraine» are not identical, and that material and technical support for the preparation and conduct of elections of People's Deputies of Ukraine» is not a component of financial ensuring the preparation and holding of elections of People's Deputies of Ukraine. It is established that the constitutional-legal mechanism of financial support for the preparation and conduct of elections of People's Deputies of Ukraine

consists of a system of organizational-legal and normative-legal means of influence, with the help of which financial opportunities are created for the preparation and conduct of elections, and in case of violation or threat of violation, the guilty persons bear responsibility in accordance with the procedure established by law.

Keywords: elections, elections of People's Deputies of Ukraine, financing, financial support, constitutional and legal mechanism, equality of rights and opportunities of candidates and parties, central election commission, material and technical support for the preparation and conduct of elections, state budget funds, state policy in the sphere of state financial control.

Formulation of the problem

Ukraine is a party to the Convention on the Protection of Human Rights and Fundamental Freedoms [1]. According to the Preamble to the Convention, fundamental human rights and freedoms are best ensured «through effective political democracy.» Article 3 of Protocol No. 1 differs from other main provisions of the Convention and the Protocols to it, as it formulates the obligation of the High Contracting Party to hold elections that would ensure the free expression of the opinion of the people, and not a specific right or freedom of an individual [2]. The fulfillment of such an international obligation of the state is impossible without an effective constitutional and legal mechanism of financial support for the preparation and holding of elections of People's Deputies of Ukraine. The experience of Ukraine shows that Russia

tried to use the shortcomings of this mechanism to exercise illegal effective control over parts of the territories of a sovereign state for their further occupation. The situation in Georgia and Moldova is similar.

The state of development of this problem

In the science of constitutional law, the question of the constitutional-legal mechanism of financial support for the preparation and holding of elections of People's Deputies of Ukraine was raised in the context of studies of elections of People's Deputies of Ukraine (research of Yu. Klyuchkovskiy [3], S. Martselyak [4], O. Martselyak [4], etc.), financing of the activities of political parties (research by O. Vasylchenko [5], G. Petryshyn-Dyug [6], etc.), election qualifications (research by L. Deshko [7], etc.), international and national security [8 -10]. With the beginning of Russia's aggression against Ukraine, young scientists intensified their scientific research (research of A. Vyhivska [11], etc.). The above testifies to the relevance of the chosen research topic.

The purpose of this article is to clarify the structure of the constitutional and legal mechanism of financial support for the preparation and holding of elections of People's Deputies of Ukraine.

Presenting main material

According to Art. 38 of the Constitution of Ukraine, citizens have the right to participate in the management of state affairs, freely choose and be elected to state authorities [12]. According to p.p. 4 clause 5 of Art. 12 of the Election Code of Ukraine, the equality of rights and opportunities of candidates, parties (party organizations) - subjects of the electoral process to participate in the electoral process of the respective elections is ensured by the prohibition of using funds other than the funds of the election fund of the party (candidate, party organization) to finance pre-election campaigning [13].

Support by the candidate (candidate), party (party organization) - the subject of the election process on behalf of himself or on behalf of the candidate (candidates) nominated by him to hold concerts, performances, sports competitions, film screenings, TV programs, holding

other public events, as well as holding the specified public events in support of the candidate (candidates), the subject of their nomination can be carried out only in case of full financing of such events from the election fund of the relevant subject of the election process (clause 4 of article 51 of the Election Code of Ukraine) [13].

Chapter XXVI of the Election Code of Ukraine is entitled «Financial and logistical support for the preparation and conduct of elections of People's Deputies of Ukraine.» Therefore, the financial support for the preparation and holding of the elections of People's Deputies of Ukraine is not the same, and does not include as a structural element the material and technical support for the preparation and holding of the elections of the People's Deputies of Ukraine. These are two equivalent concepts. According to Art. 147 of the Election Code of Ukraine, expenses for the preparation and conduct of elections of deputies are carried out exclusively at the expense of state budget funds allocated for the preparation and conduct of elections of deputies, funds from the election funds of parties - subjects of the election process, and funds from the own election funds of candidates for deputies, included in the electoral lists parties - subjects of the election process [13].

In order to finance its election campaign, including the financing of pre-election campaigning, the party is obliged to create its own election fund, which is formed in accordance with the procedure established by the Election Code of Ukraine. A candidate for deputies to finance his election campaign, including the financing of pre-election campaigning, can create his own election fund, which is formed in accordance with the procedure established by the above-mentioned code. Funding of the election campaign of parties, candidates for deputies from sources not mentioned above - regardless of the presence of agreement with parties or candidates for deputies, is prohibited [13].

Article 148 of the Election Code of Ukraine states that the Central Election Commission, which is the main administrator of these funds, provides financial support for the preparation and conduct of the elections of deputies at the expense of the state budget. The amount of budget funds for the preparation and holding of elections of deputies on the proposal of the

Central Election Commission is provided for in a separate line in the law on the State Budget of Ukraine for the relevant year. Expenses for the preparation and holding of extraordinary elections of deputies may be spent from the budget reserve fund in accordance with the procedure determined by the Cabinet of Ministers of Ukraine. Expenditures for the preparation and conduct of elections of deputies are carried out by the Central Election Commission and district election commissions (regional or territorial representative offices of the Central Election Commission) in accordance with the estimates approved by the Central Election Commission within the budget allocations established by the Law on the State Budget of Ukraine. Financial support of election commissions of foreign polling stations is provided by the Central Election Commission through the Ministry of Foreign Affairs of Ukraine. The financing of the production of election documentation by the bodies maintaining the State Register of Voters is carried out at the expense of state budget funds allocated for the preparation and conduct of elections of deputies, in accordance with the procedure established by the Cabinet of Ministers of Ukraine at the request of the Central Election Commission (paragraphs 1-3 of Article 148 of the Election Code of Ukraine) [13].

Budget funds for the preparation and holding of elections of deputies, the budget allocations for which are established by the Law on the State Budget of Ukraine, are transferred by the central executive body, which implements state policy in the field of treasury service of budget funds, to the Central Election Commission in accordance with the monthly list of allocations of the general fund of the State Budget of Ukraine, formed according to the proposals of the Central Election Commission, according to the budget program, according to which financial support for the preparation and conduct of elections is carried out (clause 4 of article 148 of the Budget Code of Ukraine). The Central Election Commission approves the average expenditure norms of the district election commission (regional or territorial representative office of the Central Election Commission), as well as the average expenditure norms for the needs of precinct election commissions, which must include, in particular, expenditure

on wages of commission members and persons involved in the work in the election commission, expenses related to ensuring the exercise of powers of the election commissions (payment of transport services, communication services, reimbursement for consumed communal services, etc.). The district election commission (regional or territorial representative office of the Central Election Commission) within ten days from the date of its (its) formation, based on the average norms of expenses, prepares a single estimate of expenses for the preparation and conduct of elections, including the expenses of the district election commission (regional or territorial representative office of the Central Election Commission) and expenses for the needs of precinct election commissions. The unified estimate of expenses of the district election commission (regional or territorial representation of the Central Election Commission) is approved by the Central Election Commission. Financing of election commissions is carried out in accordance with the procedure established by the Central Election Commission together with the central body of executive power, which ensures the formation and implementation of state financial policy (paragraphs 5-7 of Article 148 of the Budget Code of Ukraine) [13].

The district election commission (regional or territorial representation of the Central Election Commission) shall submit to the Central Election Commission a statement from the registration account and stop the movement of funds on this account no later than within seven days from the day of the official publication of the results of the elections of deputies. Within ten days from the day of the official publication of the results of the elections of deputies, the Central Election Commission shall withdraw the balance of unused appropriations allocated from the general fund of the State Budget of Ukraine for the preparation and conduct of elections of deputies, by providing a corrective distribution of open appropriations to the central executive body, which ensures the implementation of state policy in the field treasury service of budget funds. The district election commission (regional or territorial representation of the Central Election Commission) within a fifteen-day period from the day of the official publication of the election results draws up and

submits to the Central Election Commission a financial report on the receipt and use of state budget funds for the preparation and conduct of elections of deputies in the manner established by the Central Election Commission by the election commission, according to the form approved by the Central Election Commission together with the central body of executive power, which ensures the implementation of state policy in the field of treasury service of budget funds (clauses 8-9 of Article 148 of the Budget Code of Ukraine) [13].

The Central Election Commission, regional offices of the Central Election Commission, state financial control bodies and the State Treasury Service of Ukraine monitor the correct and targeted use of state budget funds allocated for the preparation and conduct of elections of deputies in the manner established by the Central Election Commission in agreement with the central the executive body, which ensures the formation and implementation of state policy in the field of state financial control, and the State Treasury Service of Ukraine (clause 10 of Article 148 of the Budget Code of Ukraine) [13]. Budget funds for the preparation and holding of elections of deputies, the budget allocations for which are established by the Law on the State Budget of Ukraine, are transferred by the central executive body, which implements state policy in the field of treasury service of budget funds, to the Central Election Commission in accordance with the monthly list of allocations of the general fund of the State Budget of Ukraine, formed according to the proposals of the Central Election Commission, according to the budget program, according to which financial support for the preparation and conduct of elections is carried out (clause 4 of article 148 of the Budget Code of Ukraine). The Central Election Commission approves the average expenditure norms of the district election commission (regional or territorial representative office of the Central Election Commission), as well as the average expenditure norms for the needs of precinct election commissions, which must include, in particular, expenditure on wages of commission members and persons involved in the work in the election commission, expenses related to ensuring the exercise of powers of the election commissions (payment of

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The Election Code of Ukraine took into account Recommendation Rec(2003)4 of the Committee of Ministers to member states «Regarding unified rules against corruption in the field of financing political parties and election campaigns» [14; 15]. In particular, in order to fulfill the provision specified in the Recommendation «... the governments of the member states should approve in their national legal systems anti-corruption rules in the field of financing political parties and election campaigns, which will be based on the uniform rules contained in the appendix to this recommendation - in that case, if states still do not have separate laws, procedures and systems that implement effective and properly functioning alternatives, and instructs the Group of States to Combat Corruption to monitor the implementation of this recommendation» [14].

Conclusions

The constitutional-legal mechanism of financial support for the preparation and holding of elections of People's Deputies of Ukraine consists of elements enshrined in the Constitution and constitutional-legal laws of Ukraine. The Basic Law of Ukraine does not distinguish between constitutional, organic or ordinary laws, as is done in the constitutions of other countries. However, the practice of using the

term «constitutional-legal law» to define a normative-legal act containing the norms of constitutional law is generally accepted. Such an act is the Election Code of Ukraine. The constitutional-legal mechanism of financial support for the preparation and conduct of elections of People's Deputies of Ukraine consists of a system of organizational, legal and normative-legal means of influence, with the help of which financial opportunities are created for the preparation and conduct of elections, and in case of violation or threat of violation, the guilty persons are responsible in according to the procedure established by law.

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СТРУКТУРА КОНСТИТУЦІЙНО-ПРАВОВОГО МЕХАНІЗМУ ФІНАНСОВОГО ЗАБЕЗПЕЧЕННЯ ПІДГОТОВКИ І ПРОВЕДЕННЯ ВИБОРІВ НАРОДНИХ ДЕПУТАТІВ УКРАЇНИ

В статті підкреслюється, що Україна є учасницею Конвенції про захист прав людини і основоположних свобод та зобов'язана відповідно до ст. 3 Протоколу 1 до Конвенції проводити вибори, які б забезпечували вільне вираження думки народу. Акцентується увага на дієвій політичній демократії та необхідності вдосконалення конституційно-правового механізму фінансового забезпечення підготовки і проведення виборів народних депутатів України. Фокусується увага на тому, що росія використовує фінансові інструменти для здійснення незаконного ефективного контролю над частинами територій суверенних держав для їх подальшої їх окупації і найбільш широко їх застосовує під час виборів депутатів парламентів (Україна, Грузія, Молдова). Звертається увага на положення Конституції України, Виборчого кодексу України, Рекомендації Rec(2003)4 Комітету Міністрів державам-членам «Щодо єдиних правил проти корупції у сфері фінансування політичних партій та виборчих кампаній». Підкреслюється, що поняття «фінансове забезпечення підготовки і проведення виборів народних депутатів України» та «матеріально-технічне забезпечення підготовки і проведення виборів народних депутатів України» не тотожні, і що матеріально-технічне забезпечення підготовки і проведення виборів народних депутатів України не є складником фінансового забезпечення підготовки і проведення виборів народних депутатів України. Виосновується, що конституційно-правовий механізм фінансового забезпечення підготовки і проведення виборів народних депутатів України складається з системи організаційно-правових і нормативно-правових засобів впливу, за допомогою яких створюються фінансові можливості для підготовки і проведення виборів, а в разі порушення чи загрози порушення винні особи несуть відповідальність у порядку, встановленому законом.

Ключові слова: вибори, вибори народних депутатів України, фінансування, фінансове забезпечення, конституційно-правовий механізм, рівність прав і можливостей кандидатів та партій, центральна виборча комісія, матеріально-технічне забезпечення підготовки і проведення виборів, кошти державного бюджету, державна політика у сфері державного фінансового контролю.