

Parliamentary Electoral Dialogue

Challenges and needs for holding out-of-country voting for Ukraine's post-war elections



Key Takeaways



European Parliament
Directorate-General for
EXTERNAL POLICIES
OF THE UNION





From upper-left corner: Oleh Didenko, Chair of the Central Election Commission of Ukraine; Sam van der Staak, Director for Europe, International IDEA; Olena Shulyak, Member of Parliament of Ukraine; Michael Gahler, MEP, Germany/EPP



From upper-left corner: Peter Wolf, Senior Expert on Digital Technologies, Global Electoral Processes, International IDEA; Meaghan Fitzgerald, Head of the Election Department, ODIHR; Irena Hadziabdic, Member of the Central Election Commission of Bosnia and Herzegovina, Venice Commission expert; Harald Jepsen, International Senior Advisor, IFES Ukraine; Hassan Sesay, Team Leader for Strategic Partnership, United Nations Electoral Assistance Division



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1. Context

Organising the first post-war elections will pose unprecedented challenges for Ukraine, as a significant part of the electoral infrastructure has been damaged and millions of voters are now displaced within or outside the country. One key challenge for electoral authorities will be to ensure voting rights and opportunities for the approximately 8.2 million displaced Ukrainian citizens in foreign countries, amounting to about 20 percent of the overall population. Given the scale of destruction from the ongoing Russian aggression, it is likely that a considerable number of these citizens will not be able to return home immediately after the war. This situation makes it necessary for Ukraine to consider out-of-country voting (OCV) opportunities for its war-displaced voters, conduct consultations and seek assistance from host countries to ensure sufficient preparations for the election campaign and voting process.

According to the constitution of Ukraine, regular parliamentary elections should take place in the autumn of 2023, presidential elections - in the spring of 2024, and local elections - in the autumn of 2025. However, elections cannot take place while martial law is in force. Despite the war, Ukrainian authorities are engaging in proactive preparations to seek a workable model for conducting out-of-country voting. To design a feasible model of OCV for Ukraine which complies with internationally recognized electoral standards, the authorities must consider existing comparative lessons from across the globe and conduct consultations with host-country authorities.

To help address these questions and mobilise international support for OCV in Ukraine, the European Parliament and International IDEA co-hosted a Parliamentary Electoral Dialogue **Challenges and Needs for Holding Out-of-Country Voting for Ukraine’s Post-war Elections**, held at the **European Parliament in Brussels on 30-31 May 2023**. The dialogue brought together an impressive community of members of the European and Ukrainian parliaments, the Central Election Commission of Ukraine (CEC), the Ministry of Foreign Affairs of Ukraine (MFA), civil society, electoral management authorities from across 21 countries and international electoral support organisations (UN, OSCE/ODIHR, CoE Venice Commission, and IFES). Participating countries included 16 EU member states (Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Poland, Romania, Spain, and Sweden), EU candidate countries such as Albania, Bosnia and Herzegovina, and Moldova, and representatives from Switzerland, the UK and the USA.

2. Summary

Throughout the Dialogue, the speakers from the European Parliament, International IDEA, the representatives of Ukraine’s Parliament and the MFA of Ukraine underscored the importance of international support to Ukraine in the ongoing war unleashed by Russia. Speakers highlighted that free and fair post-war elections will serve as a demonstration of Ukraine’s democratic vitality and its work towards compliance with

“Ensuring the electoral rights of our citizens abroad requires not only significant efforts of Ukraine’s state authorities but also the involvement of our international partners, as well as the assistance of foreign governments, particularly in those countries where a large number of our voters will reside at the time of future elections”.

Mr Oleh Didenko
Chair of the Central Electoral Commission of Ukraine

the Copenhagen criteria of EU membership– the stability of institutions guaranteeing democracy, the rule of law, and human rights.

The Ukrainian lawmakers and election officials recognise the significant work that lies ahead in order to successfully meet the challenges of post-war elections and OCV. The CEC is already engaging in comparative analysis of international practices and consultations with the relevant election and other state authorities. These efforts are led by the working groups of the CEC where MPs, CEC members, CSOs and international assistance providers discuss and deliberate on needs, with a particular focus on feasibility, security, and necessary resources.

The participants recognized the extraordinary challenges in holding OCV for millions of Ukrainian refugees, including legal, organizational, and security aspects and expressed readiness to support Ukraine.

The following are **key considerations** drawn from the interventions of national election management bodies and international election experts:

- OCV methods and modalities across the globe and within Europe vary greatly and include in-person voting at embassies, in-person voting in other specifically designed locations, postal voting, proxy voting, voting through a mobile ballot box, and online voting. While no 'one-size fits all' model for OCVs exists and methods may vary, the OCV must meet the same standards of transparency, security, secrecy, and integrity as are applicable to domestic electoral processes.
- Organizing OCV for post-war elections in Ukraine will be difficult. However, ensuring inclusive suffrage for millions of Ukrainians displaced to foreign countries will be crucial for the election of legitimate and representative authorities and in fostering Ukraine's successful recovery and reconstruction.
- Conducting OCV is a complex undertaking that requires significant resources and risk management. The main barriers include issues related to voter eligibility and registration; distance to and waiting times in polling stations; the risk of lost or compromised secrecy and integrity of ballots; and ensuring sufficient access for domestic and international observers.
- Impartial, transparent and consensus-based decision-making is crucial when establishing OCV modalities. Key aspects of this process are feasibility and security considerations, as well as voter trust in the chosen methods of voting. Furthermore, to avoid any actual or perceived political bias in these decisions, **objective criteria for defining the location and number of polling stations** should be established transparently and lawfully. A clear and feasible mechanism for **voter registration**, whether active or passive, must be established and executed in a systematic manner. **Voter information** should be carefully and thoughtfully designed, keeping in mind the context and risks unique to each country, to inform OCV voters about their rights and how to exercise them.
- Existing rules for election campaigning in each host country should be carefully considered to ensure a level playing field for competitors. To ensure that **election violations are effectively investigated and prosecuted**, consideration should be given to what support Ukrainian law-

“Out of this Parliamentary Electoral Dialogue emerges our appeal to the international community to support Ukraine democratic institutions. It is imperative to provide and electoral instrument for out-of-country elections to enable the millions of Ukrainian voters who became refugees abroad to exercise their right to vote” .

David McAllister

Chair of the Committee on Foreign Affairs of

enforcement and judicial authorities can request and expect from host-country governments, and where **electoral dispute resolution processes** should be established.

- Ukrainian authorities, civil society and electoral assistance providers are currently conducting feasibility studies to ascertain the scale and needs of Ukrainian voters abroad. The Ukrainian Parliament will have to decide on the OCV model; however, the matter has not yet been debated in the Verkhovna Rada of Ukraine. The chosen OCV model will have a varied impact on different actors in relation to their functions in the organisation of the OCV. These key stakeholders have yet to reach an agreement on the model. The Dialogue revealed the importance of further and more detailed discussions on the topic with political, state, and civil society actors.
- To hold large-scale voting abroad, Ukraine will have to expand its ordinary provisions for OCV so that adequate voter identification and registration processes are conducted, vote-counting is administered accurately and safely, and a large-scale voter information campaign takes place informing voters and candidates well ahead of elections. In addition to traditional in-person voting methods, options for postal and online voting are also being explored, albeit with caution as both methods are new for Ukraine and require building public trust.
- Representatives of the electoral management bodies expressed readiness to support the organization of the OCV for post-war elections in Ukraine within the limitations of their respective mandates. Such possibilities shall be further discussed with the governments and different national agencies. More research and consultations on national legislative requirements and assistance mechanisms are needed.

"The Millions of votes of these individuals will be critical for ensuring that Ukraine's post-war elections reflect a truly popular result and that it provides a broadly-based mandate to the government to lead Ukraine to its successful reconstruction".

Mr Sam van der Staak
Director for Europe at
International IDEA

3. Recommendations from the Dialogue

The Dialogue participants put forward the following recommendations:

To the European and other electoral bodies and state authorities:

- Continue to support Ukraine in learning from internationally recognised standards for out-of-country voting (OCV) practices and provide further assistance in organising OCV for post-war elections in Ukraine.

To the European Union institutions and EU member states:

- Explore possibilities of supporting OCV in Ukraine within their competencies.

To the Ukrainian actors:

- Hold inclusive parliamentary committee hearings and adopt the necessary legal framework in time to allow for preparations and avoid hasty decisions that may undermine the security or trust in the results;
- Ensure that candidates and voters are well-aware of all changes to the existing rules and procedures.

4. Follow-Up

International IDEA will continue to support the Parliament, the Central Election Commission, the Ministry of Justice and other state and civil society actors in setting out the next steps to pursue the above recommendations. The Institute plans to provide assistance regarding the following:

- Assist the CEC and the MFA Ukraine in identifying comparative global lessons in organizing OCV and assist them in assessing host-country circumstances in places with the highest potential voting population. This will be pursued through conducting consultative site visits, online consultations and exchange of information with host countries;
- Undertake thematic studies on particular issues of concern, e.g. holding campaign activities in foreign jurisdictions, policies of online platforms for placement of campaigning content and advertisements, voter registration processes, effective voter education campaigns for OCV voting;
- Facilitate discussion between Ukrainian authorities and EU institutions including the European Parliament and the European Commission to explore the adoption of relevant legal and policy instruments to support the conduct of OCV across all EU member states; This could build on the existing "Solidarity" platform established to support Ukrainian citizens under the temporary protection regime across the EU;
- Provide expertise to the CEC working group on OCV operations and costs, electoral risk identification and management;
- Facilitate the cooperation between Ukrainian authorities, Ukrainian CSOs and citizen initiative groups abroad and foreign media; support the development of an OCV communication strategy and a voter education toolkit.