

Artículo de investigación

Constitutional Regulation and Financing of Elections

Конституційно-правове регулювання виборів та їх фінансування

Regulación constitucional y financiación de las elecciones

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The article focuses on problems of constitutional regulation of elections and requirements for candidates for representative positions in a democratic society. The issue of financing elections and solutions for this problem were considered, taking into account the "financial" qualification that was set at the legislative level in many democratic states of the world. The terminology that is present in the constitutional legal science concerning the regulation of elections is analyzed, the stages in the election process are considered and the main problems that occur during this process are revealed. In the course of the study of the topic, the author concludes on the need for financial control and monitoring of expenditures from the state budget during the electoral process, not only to detect a violation of legislation or to identify financial crimes, but also to determine the profitability of the electoral process as a whole, for its reformation and to reduce budget expenses during the elections. Also, the author comes to the conclusion that it is necessary to bring the financial qualification to the financial capability of all citizens of the state for each subsequent election, proceeding from the official minimum and average salaries.

Keywords: constitutional regulation, electoral process, electoral rights, electoral subject, stages in the electoral process, financing of elections,

Анотація

Статтю присвячено розгляду проблем конституційно-правового регулювання виборів та критеріям до кандидатів на представницькі посади демократичного суспільства. Також була розглянута проблематика фінансування виборів та шляхи вирішення такої проблеми, з урахуванням «фінансового» цензу, який на законодавчому рівні встановлений в багатьох демократичних держав світу. Проаналізована термінологія, яка присутня в конституційно правовій науці щодо регулювання виборів, розглянуті етапи виборчого процесу та виявлені основні проблеми, які викають під час такого процесу. В процесі дослідження теми статі, автор приходить до висновку щодо необхідності фінансового контролю та моніторингу витрат з державного бюджету під час виборчого процесу не тільки на виявлення порушення законодавства чи виявлення фінансових злочинів, а ще й на рентабельність виборчого процесу в цілому, задля його реформування та зниження бюджетних витрат на вибори. Також, автор доходить до висновку про необхідність приведення фінансового цензу до відповідності фінансових можливостей усіх громадян держави на кожні наступні вибори, відштовхуючись від офіційних встановлених мінімальних та середніх заробітних плат.

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financial monitoring, financial electoral qualification.

Ключові слова: конституційно-правове регулювання, виборчий процес, виборчі права, суб'єкти виборчого процесу, етапи виборчого процесу, фінансування виборів, фінансовий моніторинг, фінансовий виборчий ценз.

Resumen

El artículo está dedicado a la consideración de los problemas de regulación constitucional y legal de las elecciones y los criterios para los candidatos a cargos representativos de una sociedad democrática. Se consideró el tema de la financiación de las elecciones y las formas de resolver ese problema, teniendo en cuenta la calificación "financiera" que se estableció a nivel legislativo en muchos estados democráticos del mundo. Se analiza la terminología que está presente en la ciencia jurídica constitucional relativa a la regulación de las elecciones, se consideran las etapas del proceso electoral y se revelan los principales problemas que se revelan durante este proceso. En el curso del estudio del tema, el autor concluye sobre la necesidad de control financiero y monitoreo de los gastos del presupuesto estatal durante el proceso electoral, no solo para detectar una violación de la legislación o para identificar delitos financieros, sino también para la rentabilidad del proceso electoral en su totalidad, para su reforma y reducción. Presupuesto de gasto en elecciones. Además, el autor llega a la conclusión de que es necesario llevar la calificación financiera a la correspondencia de las posibilidades financieras de todos los ciudadanos del estado para cada elección subsiguiente, a partir de los salarios mínimos y medios establecidos oficialmente.

Palabras clave: regulación constitucional y legal, proceso electoral, derechos electorales, sujetos del proceso electoral, etapas del proceso electoral, financiamiento electoral, monitoreo financiero, calificación de la elección financiera.

Introduction

The constitutional way of forming and verifying the existing level of trust between society and the state represented by its authorities is the electoral system. According to the leading democratic countries of the world, the bearer of sovereignty and the only source of power is the people, which is the main principle of a legal, democratic state and one of the fundamental principles of the constitutional system. Thus, it is possible to analyze the principle of national sovereignty, according to which the power of the people is the primary, the only and inalienable, that is, the state authorities and local self-government bodies exercise power in the state, originating from the people.

Institutions of direct democracy (elections, referendums, etc.) are closely linked to the implementation by citizens of subjective electoral rights. O. Bakumov (2015) notes that "electoral rights are citizens' constitutional and derivative measures of their choice to elect and be elected towards representative bodies, which are carried out through free expression of will."

Consequently, the category of electoral rights is complex, and includes different rights, not only active electoral right and passive electoral law,

but does not deny their nature and belonging to all people from birth.

The issue of constitutional and legal regulation of elections is rather deep, as modern democratic states of the world seek to make the electoral process more transparent and objective in relation to the results of such electoral races, but at the same time, to minimize the financial expenses imposed by the state each time when the electoral process comes under the domestic legislation of such a democratic state.

However, along with this, there are certain issues that arise from the procedural holding of elections by the state and their financing, since this process can not be materially cheap for the initiator of such a complex and multi-stage process as the electoral process.

The financial regulation of the elections is set on the example of Ukraine in the same Laws, which regulates their constitutional-legal, as well as procedural regulation, where it is clearly possible to trace what material costs are borne by the state and who is obligated to compensate such state along with the state.

An important issue in the exercise of electoral law is the "election qualifications", which constitute an important element of the constitutional and legal regulation of the electoral process.

According to O. Martseliak and S. Martseliak (2015), "Election qualifications are the requirements (conditions) provided for by the constitution or electoral law regarding persons to receive or exercise their electoral rights, which are determined by the needs of the society or are objective in nature (age, capacity), which clearly define the electorate of the country and outline the terms of the applicants for the mandate of the representative body, thereby guaranteeing the prohibition of privileges or discriminatory barriers for individual individuals or groups of individuals."

That is precisely the electoral qualifications that make it possible to identify such a subject of law as a voter or a candidate for election, or another member of the election (member of the election commission, official observer, etc.).

At the same time, the electoral qualifications not only regulate the establishment of the circle of persons who can take part in the election process, but also constitute a solution to the "financial" issue of holding elections for countries such as France, the United Kingdom, the Netherlands, Japan, Ukraine, and others.

On the example of Ukraine, the law provides for a "Money Pledge", which is defined by the Law of Ukraine "On Elections of the President of Ukraine". Thus, the aforementioned law, part one of Article 49 stipulates that "The money deposit shall be made by a party nominating a candidate for the post of President of Ukraine or a candidate for the post of President of Ukraine on a non-cash basis to the special account of the Central Election Commission (after the commencement of the election process and before the submission of documents The Central Election Commission for registration) in the amount of two million five hundred thousand hryvnia". (On the election of the President of Ukraine: Law of Ukraine from March 5, 1999). The money deposit is returned only to the candidate who has been recognized as the elected President of Ukraine or included in the ballot for re-voting. In other cases, the money deposit is not returned and is transferred to the state budget of Ukraine, which is enshrined in part two of the same article.

Thus, the analysis and research of the modern electoral system, its financing is a very topical

issue, as a democratic state, which assumes that the power belongs to the people, is forced to hold every local election, parliamentary, presidential election, which is not quite affordable for the taxpayer in such a state.

LITERATURE REVIEW

After each election, all the leading democratic countries of the world discuss the financing of the given election process, analyze the financial costs of the elections, since they represent a heavy financial burden for all taxpayers of the state, and discuss ways in which these financial expenses could be reduced.

Constitutional and legal regulation of elections constitutes the most important subject of constitutional regulation in constitutional science in general. This is due to the fact that regulating the "power of the people" by electing candidates for the most important positions of the state is a very acute issue, especially when it comes to requirements for these candidates and financing of the electoral process by the state.

Recalling the work of M. Parenti (2006) in the book *Democracy for the Few* or the work of R. Turovsky *Political Regionalism*, it is possible to conclude that the topic of elections will never lose its relevance ever since democratic societies develop and adapt to the modern world every year, which requires both the study of issues of constitutional and legal regulation of elections in the world and identification of the acute problems faced by the state during the electoral process, as well as the study of their financing.

The work of such authors as Tetyana Shulga, Mariia Perepelytsia, Pavlo Duravkin, Maxim Sharenko in the work of *International Standards in the System of Financial Monitoring of Ukraine: Issues of Implementation*, which was used to address the issue of financial control during the electoral process. The authors in the above-mentioned work differentiated types of financial monitoring as follows: administrative, financial and law enforcement. The type is determined depending on which public institutions include the financial monitoring units: 1) state financial control (in the Ministries of Finance, in central credit institutions), or 2) law enforcement agencies.

METHODOLOGY

The methodological basis of this article is a dialectical method that allowed to investigate the problems posed in the work in their interrelation,

unity and development. Taking into account the goal and objectives of the study, the following methods were used as a formal legal method, a systematic method of research, a comparative legal method, a structural and functional method, and other methods that allowed a scientifically based analysis of constitutional and legal regulation of elections and their financing, with the study of electoral qualifications that restrict passive and active electoral right during the electoral process. The above-mentioned methods allowed to identify and address the problems that arise during the conduct of the elections, as well as to consider proposals for their solution. The priority of the methods is used depending on the goals and objectives of this article.

PRESENTATION OF KEY RESEARCH FINDINGS

Constitutional regulation of elections, electoral process and election qualifications

Public relations, which are formed in the process of forming the election authorities of state power and local self-government – the election of the head of state – the President, deputies to parliament, deputies of local councils, are regulated by the norms of constitutional law. These norms are contained in the Constitution, election laws and other regulations governing the electoral process.

As an example of Ukraine, the basic principles of the electoral system and the procedure for holding elections to state authorities and local self-government are established and legally fixed in the Constitution of Ukraine. The basic principles of the electoral system established in the Constitution are developed and detailed in the following Laws of Ukraine: "On Elections of People's Deputies of Ukraine" from 2012, "On Elections of the President of Ukraine" from 1999, "On Local Elections" from 2015, "On the Central Election commission" from 2004 and other laws on which the state has set the goal to recreate an independent, democratic, objective electoral process of candidates for important representative positions of a modern law-governed state.

The electoral process, and first and foremost, the electoral rights of citizens constitute the same legal relations that the legislator regulates by the above-mentioned constitutional-legal norms, based on the democratic principles of the modern law-governed state. However, in the science of constitutional law, there are different approaches to the nature of electoral rights.

In the narrow approach, only active and passive electoral right are singled out. So, according to O. Kushnirenko (2001), the right to freely elect and be elected towards state authorities and local self-government bodies is realized by the fact that the election presupposes the nomination of candidates by the voters themselves; the possibility of self-determination, free election campaigning; established by law forms of participation in the formation of election commissions, in the counting of votes.

A broad approach to the nature of electoral rights includes other rights. In particular, the category of subjective electoral law includes active electoral law, passive electoral law and other electoral rights of citizens (the right to take part in the nomination of candidates, the right to participate in election campaigning, etc.). According to E. Lukashova (2010), the elements of electoral law are: 1) the right to elect – active electoral right; 2) the right to be elected to bodies of state power and local self-government – passive electoral law; 3) the right of recall of elected persons who did not justify the trust of voters. In the opinion of the scientist, the law also includes the right to take part in the nomination of candidates, election campaigning, election observation, election commission work, including the establishment of voting results, etc.

The essence of the electoral rights of citizens is very well described in his work by M. Mateykovich. According to the author, the electoral rights of citizens are the most important element in the mechanism of democracy. Collective realization by citizens of the right to elect and to be elected to state authorities is nothing more than the realization of the right to power belonging to the people, consisting of these citizens. The result of such a realization – the election of representatives of the people (or one representative to the elective office) – is the ruling decision, binding on all subjects of law, including the people themselves. At the same time, the decision of the people may not coincide with the will of each of their representatives, but the fact of such a difference in the will expression in itself does not reduce the authority of the decision, although it obliges the governing body (elected official) to take into account the opinion and act in the interests of the "disagreeing" included.

The author attributes to the voting rights the following:

- to elect (active electoral right);
- to be elected (passive electoral right);

- to participate in the nomination of candidates;
- to participate in pre-election campaigning;
- to participate in election observation, work of election commissions;
- to participate in other electoral actions.

(Mateykovich M. S. Elective Law and Election Process: Study Manual).

Thus, when investigating electoral rights and, above all, active and passive electoral law, we can conclude on the main subjects of the electoral process that fall under the constitutional legal regulation of electoral law, namely: the voter, election commissions, parties (blocs) that nominated candidates to representative positions registered in the manner prescribed by law, official observers at polling stations, and others.

Thus, considering the constituents of the electoral rights of the citizens, one can conclude that the election process is a sequence of events, a set of different forms of interaction and consistent actions for nomination, promotion and voting for political entities, the personal and structural composition of which is formed expressing the will of the part of the population, which is considered sufficient by law to legitimize the election results.

Election process, as an example of Ukrainian legislation, can be divided into such basic stages as: drafting and clarifying lists of voters, formation of territorial election districts, formation of polling stations, formation of election commissions, nomination and registration of candidates for deputy, election campaigning, voting, counting the votes of voters and the establishment of the results of votes, after which the results of the election ends with the official announcement by the Central Election Commission.

Emphasizing the basic stages that constitute the electoral process, it is important to note that each of them requires clear constitutional regulation by the state, as well as financing that must be coordinated with the state budget, since the financial costs borne by democratic states every time during the elections, due to their imperfections, may increase, which is additional costs to the state, and eventually for taxpayers.

The constitutional and legal constraints for the electoral process are the election qualifications that set certain criteria that should be met, for example, by voters or candidates for representative posts of a democratic state.

It is the electoral qualifications that make it possible to identify such a subject of law as a voter or a candidate for election, or another election participant (member of an election commission, official observer). So, proceeding from the provision of Part 1 of Art. 70 of the Constitution of Ukraine, which provides that the citizens of Ukraine who are 18 years old on the day of voting (the Constitution of Ukraine adopted at the fifth session of the Verkhovna Rada of Ukraine on June 28, 1996), can distinguish two electoral qualifications: citizenship and reaching the age of 18 years. That is, a citizen of Ukraine, who is 17 years old, has an electoral right, but cannot implement it. On this basis, we can conclude that the election qualifications characterize the election capability.

As in other countries, and in Ukraine, the idea of universal electoral right does not imply absolute unlimited electoral legal personality of citizens, also foreseeing certain limitations – qualifications, in the interests of establishing the actual will of the people. The establishment of such qualifications is mainly aimed at determining the specific circle of citizens who have the right to vote, as well as the requirements (criteria) that a candidate for a representative of a representative legislative body should meet. In this case, it is necessary to agree with V. Shapoval (2005), who emphasizes that such qualifications should "be objective in nature or conditioned by real social needs and appropriately justified, and should not create privileges or discriminatory barriers for individual individuals or groups of individuals, qualified by certain biological or, essentially, social features".

In the constitutional and legal science, there are quite divergent views on election standards, according to O. Martseliak and S. Martseliak (2015), "election qualifications are the requirements (conditions) provided by the constitution or electoral law for individuals to receive or exercise their electoral rights, which determined by the needs of the society or are objective in nature (age, capacity), which clearly define the electorate of the country and outline the terms of the applicants for the mandate of the representative body, thereby guaranteeing the prohibition of privileges or discriminatory barriers for individual individuals or groups of individuals" (which is impossible to disagree with, because the qualifications really constitute "conditions" or "restrictions" to the participants in such legal relations.

The constitutional-legal regulation of the election through electoral qualifications allows us to solve a variety of tasks: from consolidating the electoral filter to increasing the "degree" of stability and controllability of the political system as a whole, and to "improving the quality of people's representation."

The system of election qualifications is designed to ensure the qualitative formation, full functionality, professionalism of the elected authorities and officials. Election qualifications preventing persons who do not have the capacity to vote in the elections, which constitute an increased public danger for society and state power, contribute to the improvement of the mechanism of public administration and the stability of the political situation. However, the essence of electoral qualifications can be greatly distorted by separate political regimes, which use them as a legal cover for the massacre of political opponents, the struggle against the opposition. Thus, along with a positive, stabilizing purpose, electoral qualifications can become an effective instrument of political manipulation. Based on a dual understanding of electoral qualifications, ambiguous legislative practice, it is possible to distinguish two of their main functions in the system of regulation of subjective electoral rights:

- qualification, expressed in the fixation of the electoral body on the basis of consolidation of the conditions for the acquisition of electoral law;
- limiting, which consists in the limitation of the composition of the electoral body.

The international experience of using electoral credentials is a part of a variety of decisions across the world of leading democratic states that impose different restrictions on electoral participation.

To such limitations, in addition to the obvious, which are enshrined in the Constitution or other normative legal acts, include "procedural qualifications".

The "procedural qualifications" can include, in particular, the following:

- 1) the combination of "rigid qualifications" that offset passive electoral right for certain categories of applicants ("strangers"), for example, in Micronesia in the state of Chuuk, the residence permit for the governor is 25 years, the governor must still be born in the state or be his

representative for the origin of a kind (Turovsky, 2006);

- 2) complicated procedure for registration of citizens as voters for exercise of active electoral rights (exists in a number of countries of Europe and America);
- 3) there are laws in all fifty states of the United States that regulate the names of candidates from the third party (or Republican and non-Democratic) to the candidate lists (election ballots) (Parenti, 2006), which establishes a number of difficult enforcement requirements both for candidates and for the initiators of their nomination (for example, in some states the collection of signatures in support of the nomination of candidates from the third installment is reduced to one week, the requirement is established to the collector of signatures – to be a resident of the state, etc.)

Considering the international experience of "procedural qualifications", Ukraine's example is to analyze the electoral process in its stages, but only at those stages in which it is possible to see certain restrictions for the participants of such an election process.

Thus, the first stage of the electoral process dealing with electoral qualifications is the formation of polling stations, which are divided into ordinary and special ones. The selection of special polling stations is based on a separate "legislative" qualification of the actual place of the voter in connection with his state of health. Namely, the Law of Ukraine "On Local Elections" establishes that citizens of Ukraine who are in stationary health care institutions are included in the lists of voters at the respective special polling station and vote in local elections, provided they have the right to vote on the relevant local elections. Voter lists at special polling stations shall be drawn up not later than ten days before the day of voting by the respective polling station election commissions on the basis of information submitted not later than twelve days before the day of voting by the heads of the inpatient health facilities. (On Local Elections: The Law of Ukraine dated, 2015.) The submission shall indicate the information regarding the citizens of Ukraine who have the right to vote in the corresponding local elections and will be in appropriate institution on the day of the elections.

At the stage of formation of the personal composition of the election commission, which prepares and holds the correspondent local

elections, the Central Election Commission verifies whether the candidates for membership of the commissions meet the requirements of Art. 21 of the Law of Ukraine "On Local Elections", namely, their compliance with the qualification of citizenship of Ukraine, the age qualification (18 years old) and the residence permit (residence in the respective administrative-territorial unit within the respective territorial constituency and belongs to this territorial community). (On Local Elections: The Law of Ukraine dated 2015).

The compilation of voter lists, as a separate stage in the electoral process, also operates with the criterion of the place of residence of voters, which is a procedural electoral qualification.

The next stage of the election process, the purpose of which is to verify the person's eligibility to electoral qualifications, is the registration of candidates. At the same time, the candidates for the deputies of the village, settlement, city mayor, the elderly are not nominated for a residence permit (belonging to the respective territorial community), but there is a qualification of insanity, the representation of a political party and a "financial" qualification (making a deposit). Thus, according to Part 2 of Art. 9 of the Law of Ukraine "On Local Elections", a citizen of Ukraine who has a criminal record for committing a grave or especially grave crime, a crime against electoral rights of citizens or a corruption crime, cannot be elected as a deputy, village, settlement, city mayor, if the conviction is not extinguished or not removed in accordance with the procedure established by law. (On Local Elections: The Law of Ukraine dated 2015).

Despite the mixed (majority-proportional) electoral system at local elections, the current law eliminated the institution of self-nomination and, thus, established a new procedural election standard - the representation of a political party. In particular, in Part 1 of Art. 39 of the Law of Ukraine "On Local Elections" stipulates that the respective territorial election commission registers a candidate for deputy nominated by the local party organization in a single-mandate constituency; and in Part 1 of Art. 40 - the respective territorial election commission registers a candidate for the position of a village, settlement, city mayor, old man, nominated by the local party organization (On Local Elections: Law of Ukraine dated 2015).

And the last stage of the electoral process associated with the control of election credentials

is voting. After all, at the polling station, two members of the polling station election commission provide the voter with the opportunity to vote: one member of the polling station election commission provided that one of the documents (passport of a citizen of Ukraine or a temporary certificate of a citizen of Ukraine for persons recently admitted to the citizenship of Ukraine) is presented by a voter; the presence of the voter in the voter list at the relevant polling station and his right to vote at the relevant local elections (taking into account the note in the column "Note" regarding tiynoyi inability to move independently or recording "Votes at home") issued a ballot. At the same time, it is impossible to implement the legally-guaranteed lawfulness of the will of citizens who work at the time of the election campaign by members and heads of polling station election commissions residing in some constituencies, but working completely at other constituencies.

From the analysis of the listed stages of the election process it follows that the presence of a person in a set of election qualifications is the actual composition that serves as the basis for participation in the electoral process.

Thus, after analyzing the stages of the electoral process on the example of Ukraine concerning election credentials, it is important to note that candidates for executive positions, lowering all procedural qualifications, do not put forward any criteria for their "professional experience", which makes space for the consideration and analysis of the international experience. Is a candidate for the most responsible positions of a democratic state to meet only the standard of residence, age, citizenship and language competence? Is it enough to choose the right candidate, for example, for the presidency of the state?

As it is known, the US Constitution also states that no person other than a citizen on the right of birth or a citizen of the United States, at the time of adoption of this Constitution, cannot be elected to the post of President, nor how any person may be elected to this post, who has not attained thirty-five years and has not lived for fourteen years in the United States. (The Constitution of the United States from 1787).

Analyzing international practice, examining the issues of constitutional and legal regulation of the criteria for the election of candidates for representative posts of democratic states, such an analysis tends to more than the benefit of the "age rating" over the "professional" qualification, or,

as elsewhere possible to designate it, "educational" qualifications, replacing it.

However, the constitutional and legal regulation of election standards nowadays requires a modern reform of election standards and the electoral process in general in order to meet the modern needs of a democratic society in order to choose the state's political elite exclusively on professional, moral, cultural and ethnic races.

Financing of elections and financial qualifications as a component of constitutional and legal regulation of elections

All democracies in the world face the financing of elections, as the election process is not cheap according to historical experience. If, say, Ukraine, for example, according to the resolution of the Central Election Commission dated February 11, 2019, No. 285 "On Approval of the Distribution of the State Budget of Ukraine allocated for the preparation and holding of the regular elections of the President of Ukraine on March 31, 2019, and the average norms of expenditures of election commissions" (Resolution of the Central Election Commission of February 11, 2019, No. 285), the state spent UAH 2,354,880,000 on the preparation of the presidential election in 2019, which is equivalent to USD 88,746,181.94.

When analyzing the above-mentioned question, can a modern democratic state reduce the cost of elections? In accordance with the Constitution of Ukraine, the President is elected for a term of 5 years, which means that expenditures in the amount of 88,746,181.94 million US dollars are not a one-time "contribution" of taxpayers for the right to choose or be elected, let alone parliamentary or local elections, which are also separately allocated money.

In today's world, the issue of using an electoral system instead of paper-based voter voting during the electoral process has become more and more of a problem, which can significantly unload the financial burden on the state budget of the state. During the elections, the main budget expenditures of the state go to the election precincts, namely at the polling stations, which is said by the above-mentioned resolution of the Central Election Commission of Ukraine. Thus, about half of the allocated funds goes to the polling station election commissions that organize the electoral process in accordance with the legislation at polling stations. The above-mentioned resolution states that 1,146,616,619 hryvnias were spent by the polling station

election commissions in Ukraine in the presidential election, which is equivalent to 43 211 478.75 US dollars.

As a solution to this problem, it is first necessary to carry out financial monitoring of the election process on the profitability of using the old system of the will of the citizens to control the state body.

At present, in international systems, there are two main types of financial monitoring: administrative, financial and law enforcement. The type is determined depending on which government agencies include the financial monitoring units: 1) state financial control (in the ministries of finance, in central lending institutions), or 2) law enforcement agencies. Currently, administrative and financial units dominate the world. The institutional component of the financial monitoring system in Ukraine also belongs to the administrative-financial type. This is due to the fact that the main authorized state body responsible for the establishment and operation of the financial monitoring system (SCFM) belongs to the central executive body on issues related to the formation and implementation of state policy in the area of counteraction to money laundering and terrorist financing. Its activities are coordinated by the Cabinet of Ministers of Ukraine through the Ministry of Finance of Ukraine. (International standards in the system of financial monitoring of Ukraine: issues of implementation).

Thus, referring to the above, we can conclude that the state financial control by the body subordinated to the Ministry of Finance of Ukraine and conducting financial monitoring of elections on the expediency of using the old electoral system are necessary steps for reforming the electoral system, giving the financial monitoring authority the opportunity not only find financial crimes that may arise when distributing the state budget, but also the profitability of paper voting in general.

The duty to finance elections is set out in the same laws, which regulate the procedure for conducting elections, which specifies the special funds and the target use of funds, which is intended for elections to representative positions of a modern democratic state.

Thus, according to the legislation of Ukraine, it is possible to see that the Law of Ukraine "On the Election of the President of Ukraine" of 1999, Article 37, stipulates that the expenses for the preparation and holding of the presidential

elections of Ukraine are carried out solely at the expense of the state budget of Ukraine allocated for the preparation and conduct of the elections. The President of Ukraine, and the funds of the election funds of the candidates for the post of President of Ukraine. (On the election of the President of Ukraine: Law of Ukraine dated 1999).

Along with this, the presidential candidate for election campaigning is obliged to form his election fund. In addition, financing election campaigning or election campaign materials from sources not provided for by law, regardless of whether there is agreement with the parties - the subjects of the election process or candidates for the post of President, is prohibited. (On the election of the President of Ukraine: Law of Ukraine dated 1999).

Thus, by analyzing the above, it may be possible to investigate the legislator's desire to track the financial costs of candidates for the post of President of the country for campaigning and other expenses related to the electoral process, in order to prevent corruption and other financial crimes.

But, along with the financial control of candidates for the post of President of Ukraine, certain election standards also appear, the same criteria that such a candidate should meet when registering at the Central Election Commission of Ukraine.

As an example, in accordance with the current Law of Ukraine "On the Election of the President of Ukraine" of 1999, certain election standards are established regarding the implementation of passive electoral rights by candidates. Part one of Article 9 of the aforementioned law stipulates that "a citizen of Ukraine who has reached the age of thirty-five years on election day, has the right to vote, has the right to vote, has a right to vote, has a national language and resides in Ukraine during the last ten years before the election day" may be elected as the President of Ukraine. " (Constitution of Ukraine adopted at the fifth session of the Verkhovna Rada of Ukraine on June 28, 1996).

In this article, it is possible to determine the following electoral qualifications that restrict passive electoral law: citizenship qualification, age qualification, residency qualification, language competence, qualification capacity.

However, it should be noted that this is not all the restrictions of passive electoral law, which are

established by the Law of Ukraine "On Elections of the President of Ukraine". Thus, the aforementioned Law, part one of Article 49 stipulates that "a money deposit shall be submitted by a party that has nominated a candidate for the post of President of Ukraine or a candidate for the post of President of Ukraine in cashless order on the special account of the Central Election Commission (after the commencement of the election process and before the submission of documents The Central Election Commission for registration) in the amount of two million five hundred thousand hryvnia ". (On the election of the President of Ukraine: Law of Ukraine dated 1999).

That is, to all the above restrictions, the property qualification, which establishes the condition regarding the material condition of the presidential candidate, also joins.

It should be noted that UAH 2 500 000,00, equivalent to USD 94,215.18, is not returned to the presidential candidate who was not included in the ballot for re-voting or who did not win the election and did not become president.

The ability of various social strata of the population to implement their passive electoral law, and above all the correspondence of their material conditions to property qualifications, can be traced in the Law of Ukraine "On the State Budget of Ukraine for 2019", which was adopted in 2018. Thus, part of the first, Article 8 of the aforementioned law, establishes the minimum wage in the monthly amount from January 1, 4173 (four thousand one hundred seventy three hryvnias), which is an hourly equal to 25.13 (twenty five hryvnias, 13 kopyok). (Law of Ukraine "On the State Budget of Ukraine for 2019" from 2018).

The aforementioned is considerably narrowed by the circle of persons who could, by their professional, educational and moral qualities, occupy the post of the President of Ukraine, but were not connected with entrepreneurial or active social and sociological activities. This can give rise to a link of social problems, which will then be reflected in the political space of a democratic rule of law.

Thus, a financial qualification, although helping to solve financial problems during the election, generates other sociological problems that may arise due to a very large financial strain in general for the whole society in the implementation of its passive electoral law.

Such a qualification should be revised and established on the basis of the financial capacity of the citizens of such a state, referring to the official minimum and average wages in the country, and therefore the electoral process in each such country should change.

CONCLUSION

The leading democratic states of the world use the system of constitutional and legal regulation of elections based on the historical, educational, property, social needs of the society on the selection of candidates for more important representative positions in society, which can be seen by analyzing electoral qualifications that constitute certain regulatory restrictions for all participants in such legal relationships.

First, on the example of Ukraine it could be seen that procedural election censuses are more than the stipulations of the Constitution. No professional or educational criteria for a candidate for a representative position in the state have been established by the majority of democratic laws in the modern world, they are replaced by age and language qualifications, which supposedly should replace the "intellectual" criteria for a candidate. In the modern world, democratic societies are developing very rapidly, and the needs for the election process, as well as candidates, increase every year, so this system of qualifications should be revised in accordance with the needs of society.

Secondly, the issue of election financing faces all the leading democratic states of the world, since the electoral process according to historical experience is not cheap. The example of Ukraine considered the financial costs incurred by the state in the will of the citizens of such a state, which is at least "significant" expenditures for the budget of such a society. Such problems require the country to find solutions to the problems of financing elections, each election term that arises under its domestic law, to conduct financial control during the election process, to conduct financial analysis and to find alternative ways of holding elections, which should be electoral local elections, without human counting election ballots, which must significantly reduce the financial costs of such a process, but still make it as transparent as possible for a democratic society.

Thirdly, financial qualifications as an element of constitutional and legal regulation of elections are a rather "relative" qualification for the

financial capacity of a society, and it should change for each election process, referring to the minimum and average official salary in a modern democratic state, as the financial qualification does not cannot be the decision to finance the elections, as the very purpose of the election is an expression of the democratic will of the people for the candidates who, in their opinion, have all the professional, moral, ethnic, criteria to make You are the political elite of their state, regardless of their financial capacity.

Thus, one can conclude that the electoral system needs to be modernized and reformed, as well as review in many countries of the world, which seek to reduce the financial costs of the election process, without losing objectivity and transparency in the elections.

REFERENCES

- Bakumov O. S. Constitutional Right of Citizens of Ukraine to Participate in Elections and Referendums and Issues of its Implementation: Monograph. Kharkov: Pravo, 2015. 248 p.
- International standards in the system of financial monitoring of Ukraine: issues of implementation, vol.8 Revista Amazonia Investiga ISSN 2322-6307/ written by Tetyana Shulga, Mariia Peregelytsia, Pavlo Duravkin, Maxim Sharenko (Web resource - <https://www.udla.edu.co/revistas/index.php/amazoniainvestiga/issue/view/100>).
- Kushnirenko O. H. Rights and Freedoms of Man and Citizen. Kharkov: Fakt, 2001. 329 p.
- Lukashova E. A. Human Rights: Textbook. Moscow: Norma : Infra-M, 2010. 430 p.
- Martseliak O. V. Legal Nature and Types of Qualifications in Electoral Law / O. V. Martseliak, S. M. Martseliak // Scientific Bulletin of Uzhgorod National University. Seria : Pravo, 2015. Ed. 33(1). p. 79-93.
- Mateykovich M. S. Electoral law and the electoral process: training manual / M. S. Mateykovich. M.: Norma: Infra-M, 2010. 288 p.
- On Elections of President of Ukraine: The Law of Ukraine from March 5, 1999. Vidomosti Verkhovnoyi Rady Ukrayiny, 1999. № 14. (Web resource - <https://zakon.rada.gov.ua/laws/show/474-14>).
- On Local Elections: The Law of Ukraine from July 17, 2015. Vidomosti Verkhovnoyi Rady Ukrayiny, 2015. № 37-38. (Web resource - <https://zakon.rada.gov.ua/laws/show/595-19>).
- On the State Budget of Ukraine for 2019: The Law of Ukraine from 2018 (Web resource - <https://zakon.rada.gov.ua/laws/show/2696-19>).
- Parenti M. Democracy for the Few. Moscow: Pokoleniye, 2006.

Resolution of the Central Election Commission dated February 11, 2019, No. 285 "On Approval of the Distribution of the State Budget of Ukraine allocated for the preparation and holding of the regular elections of the President of Ukraine on March 31, 2019, and the average norms of expenditures of election commissions" (Web resource - <https://zakon.rada.gov.ua/laws/show/v0285359-19>).

Shapoval V.M. Modern Constitutionalism: Monograph. Kyiv : Law company «Salkom» ; Yurinkom Inter, 2005. 560 p.

The Constitution of the United States from 1787 (Web resource - <https://constitutionus.com>).

The Constitution of Ukraine adopted at the fifth session of the Verkhovna Rada of Ukraine on June 28, 1996. Vidomosti Verkhovnoyi Rady Ukrayiny. 1996. № 30. (Web resource - <https://zakon.rada.gov.ua/laws/show/254к/96-вр>).

Turovsky R.F. Policital Regionalism. Moscow: Izdatelskiy Dom GU VSE, 2006.