

The Feasibility and Necessity of Holding Elections in Ukraine During the Russian-Ukrainian War: A Legal Analysis

Abstract

This paper explores the legal feasibility and appropriateness of conducting or deferring elections in Ukraine during the ongoing Russian-Ukrainian armed conflict, within the framework of both national legislation and international legal standards. It examines relevant international legal instruments in the field of electoral law, with particular attention to the principles governing the periodicity of elections and the conduct of electoral processes during states of emergency, including armed conflicts. The study further analyzes the legal provisions of Ukrainian domestic law concerning the administration of elections under martial law. The paper argues that, under the current conditions of war, the postponement of presidential and parliamentary elections in Ukraine is consistent with national legislation and does not directly violate international legal obligations concerning electoral rights.

KEYWORDS: elections, international law, ukrainian legislation, martial law, Ukraine

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1 | Introduction

In 2014, the Russian Federation initiated an act of armed aggression against Ukraine, resulting in the occupation of the Autonomous Republic of Crimea and certain areas of the Donetsk and Luhansk regions. Pursuing its expansionist foreign policy, on 24 February 2022, the Russian Federation launched a full-scale military invasion of Ukraine, thereby escalating the conflict into a large-scale war that continues to the present day. In response to this act of aggression, the Ukrainian government declared martial law. Under this legal regime, not only are specific civil and political rights of citizens temporarily restricted, but certain democratic processes are also suspended. Notably, the conduct of elections is prohibited under the legal framework of martial law in accordance with Ukrainian national legislation.

The issue gained heightened relevance in 2023, as under Ukrainian legislation, regular parliamentary elections were scheduled for the autumn of 2023, followed by presidential elections in the spring of 2024. This situation sparked active discussions among experts, Ukraine's political elite, and international partners regarding the feasibility and advisability of holding elections during the ongoing full-scale Russian-Ukrainian war and under the legal regime of martial law, which remains in force to this day. These discussions revolve around various criteria for assessing the expediency of holding elections amid large-scale hostilities, including considerations of security, the ability to ensure the democratic nature of the elections, organizational capacity to conduct elections during wartime, and the potential consequences of such electoral processes^[1].

One of the key dimensions of the discourse on the advisability of holding elections in Ukraine under conditions of war with the Russian Federation is the legal dimension. This includes both the national (analysis of Ukrainian legislation) and the international (analysis of norms of international electoral law) legal frameworks and is further fueled by specific nuances and inconsistencies in the legal regulation of the electoral process within Ukrainian law.

The study of the feasibility of conducting presidential and parliamentary elections during the Russian-Ukrainian war is particularly important

¹ Lidiia Paliukh, Oksana Kaluzhna. "Cooperation Between Law Enforcement Agencies of Ukraine and the Republic of Poland in Countering Criminal Election Offenses During Ukrainian External Voting, Committed Outside the Diplomatic Institutions, in Post-War Conditions". *Prawo i Więż*, no. 3 (2024): 275 – 293.

in the context of Russia's ongoing propaganda and information warfare against Ukraine. The Russian Federation seeks to exploit the postponement of elections as a tool to destabilize Ukraine's socio-political landscape. To this end, Russia actively disseminates narratives questioning the legitimacy of Ukraine's political elite; blackmails the international community with statements suggesting it will only engage in peace talks with a newly elected Ukrainian government; and manipulatively accuses Ukrainian authorities of violating international legal norms and attempting to use martial law to usurp power. In doing so, the Russian leadership aims to pressure Ukraine into holding elections despite the ongoing war and legal constraints, understanding the complexity and risks of such elections and hoping to weaken international support for Ukraine and provoke internal societal divisions.

Furthermore, the relevance of this topic is underscored by the lack of comprehensive academic research on the issue—a natural consequence given the recent emergence and ongoing nature of the problem. This necessitates a complex political and legal analysis to determine the legal aspects of the feasibility and necessity of holding elections in Ukraine amid the Russian-Ukrainian war and to answer the question of whether the postponement of presidential and parliamentary elections in Ukraine complies with national legislation and international electoral law standards.

2 | Feasibility and Necessity of Holding Elections in Ukraine During the Russian-Ukrainian War: Analysis Through the Lens of International Law Norms

As an active participant in the international legal system, Ukraine has ratified the principal international legal instruments that govern electoral rights and democratic governance. Foremost among these is the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly on 10 December 1948. Article 21 of the UDHR establishes the right of every individual to take part in the government of their country, either directly or through freely chosen representatives. It further affirms that the authority of government shall be based on the will of the people,

as expressed through periodic and genuine elections that are free from manipulation or fraud.^[2]

The requirement for regular democratic elections is reaffirmed in the International Covenant on Civil and Political Rights (ICCPR), adopted by the United Nations General Assembly on 16 December 1966. Article 25 of the ICCPR guarantees all citizens the right to vote and to be elected in authentic periodic elections.^[3] Given that the Covenant has been ratified by approximately 130 states, it constitutes one of the most widely accepted international legal instruments in the field of electoral law and democratic participation.

A more detailed interpretation of the Covenant's provisions on electoral rights is provided by the United Nations Human Rights Committee in its General Comment No. 25. This authoritative interpretation elaborates on the normative content of Article 25, emphasizing that the right to participate in public affairs, to vote, and to be elected must be realized through elections held at intervals that are not unduly extended. According to the Committee, only through the assurance of periodic elections can democratic accountability be maintained and the legitimacy of public authorities, as derived from the free expression of the electorate's will, be preserved.^[4]

The importance of holding periodic elections is also emphasized by the Inter-Parliamentary Union (IPU), which in 1994 adopted the Declaration on Criteria for Free and Fair Elections. This document affirms that in every state, the legitimacy of authority must derive exclusively from the will of the people, as expressed through genuine, free, and fair elections held at regular intervals.^[5] Furthermore, in 1997, the IPU adopted the Universal Declaration on Democracy, a legal-institutional act that underscores the principle that free and fair elections, conducted at regular intervals,

² Universal Declaration of Human Rights, *Official website of the UNO*, 10 December 1948. <https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf>.

³ International Covenant on Civil and Political Rights, *Official website of the UNO*, 19 December 1976. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁴ General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service, *Office of the High Commissioner for Human Rights*, 12 July 1996. <https://www.equalrightstrust.org/ertdocumentbank/general%20comment%2025.pdf>.

⁵ Declaration on Criteria for Free and Fair Election, *Official website of the Inter-Parliamentary Union*, 26 March 1994. <https://www.ipu.org/impact/democracy-and-strong-parliaments/ipu-standards/declaration-criteria-free-and-fair-elections>.

constitute a fundamental component of democratic governance and are essential for ensuring the expression of the popular will.^[6]

In addition to universal international legal instruments, the principle of electoral periodicity is also embedded in regional international documents. Chief among these are the legal instruments of the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE). Notably, the First Protocol to the European Convention on Human Rights, dated 20 March 1952, obliges signatory states to hold free elections at reasonable intervals.^[7]

Also significant in the context of this study is the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, adopted on 29 June 1990. This document similarly obliges participating states to conduct free elections at reasonable intervals.^[8]

One of the benchmark documents in European electoral law, widely referenced by democratic states during electoral campaigns, is the Code of Good Practice in Electoral Matters, adopted in 2002 by the Venice Commission. Regarding electoral periodicity, the Code states that elections must be held regularly, and the term of office for members of legislative bodies should not exceed five years.^[9]

In addition to the legal codification of the principle of periodic elections, which is enshrined in the majority of international legal instruments – both universal and regional in nature – an even more pressing issue within the context of this study is the legal framework governing the conduct of elections under crisis conditions. The European Convention on Human Rights (ECHR) must be referenced in this regard. Article 15 of the Convention stipulates that, in times of war or other public emergencies threatening the life of the nation, a state may take measures derogating from its obligations

⁶ Universal Declaration on Democracy, *Official website of the Inter-Parliamentary Union*, 16 September 1997. <https://www.ipu.org/impact/democracy-and-strong-parliaments/ipu-standards/universal-declaration-democracy>.

⁷ Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, *Official website of the Council of Europe*, 20 March 1950. <https://rm.coe.int/168006377c>.

⁸ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, *Official website of the OSCE*, 29 June 1990. <https://www.osce.org/files/f/documents/9/c/14304.pdf>.

⁹ Code of Good Practice in Electoral Matters, *Official website of the European commission for democracy through law (Venice commission)*, 30 October 2002. https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Code_conduite_PREMS%2026115%20GBR.pdf.

under the Convention, including electoral rights. However, such measures must remain strictly within the limits required by the exigencies of the situation and must also be consistent with the state's other international obligations.^[10]

Of particular relevance to the issue under consideration is the 2020 report by the European Commission for Democracy through Law (Venice Commission), titled "Respect for Democracy, Human Rights and the Rule of Law during States of Emergency: Reflections," which was drafted in response to the COVID-19 pandemic. The report asserts that if a parliament's term expires during a state of emergency and prevailing conditions render regular elections impossible, the term should be extended until the state of emergency is lifted. The authors stress that all major political forces within the country must be included in consultations and deliberations regarding the postponement of elections. Any deferral of elections constitutes a restriction of the fundamental principle of electoral periodicity and must be legally enshrined, proportionate, and justified by specific circumstances, adhering to the principles of legality, proportionality, and necessity.^[11]

The report further acknowledges the risk of violating core electoral principles during a state of emergency, particularly the principles of equal opportunity and voters' freedom to form opinions. Importantly, the report notes that there is no universally applicable legal approach to whether elections should or should not be conducted during a state of emergency, as national legal frameworks vary significantly in their regulation of this issue.

Crucially, the authors of the Venice Commission emphasize that the postponement of elections may be necessary even in the absence of explicit legal provisions allowing such action in domestic legislation. It is argued that a state should not be compelled to hold elections under conditions where this is practically infeasible due to legislative gaps regarding deferral.^[12]

Another key point addressed in the report is that, during crisis periods, the dominant societal concerns – and hence the political preferences of the

¹⁰ European Convention on Human Rights, *Official website of the European Court of Human Rights*, 4 November 1950. https://www.echr.coe.int/documents/d/echr/convention_eng.

¹¹ Respect for democracy, human rights and the rule of law during states of emergency: reflections, *Official website of the European commission for democracy through law (Venice commission)*, 26 May 2020. [https://www.venice.coe.int/web-forms/documents/default.aspx?pdffile=CDL-PI\(2020\)005rev-ukr](https://www.venice.coe.int/web-forms/documents/default.aspx?pdffile=CDL-PI(2020)005rev-ukr).

¹² Respect for democracy, human rights and the rule of law during states of emergency: reflections.

electorate – tend to shift compared to non-crisis periods. Therefore, the Commission considers it reasonable to postpone elections even if, despite the emergency, it is technically possible to hold a full electoral campaign. This is based on the view that, after the state of emergency is lifted, there will be greater opportunity for a comprehensive discussion of pertinent issues, ultimately leading to fairer and freer elections.^[13]

Nevertheless, the report underlines that election postponement must be limited to the extent strictly required by the objective circumstances. This consideration is critical to prevent potential abuse through unjustified delays in the electoral process. As such, the report devotes substantial attention to this issue. In the context of this study, it is also important to differentiate between various types of emergencies – namely, natural disasters, pandemics, and armed conflicts. According to the report, the first two generally allow for the continuation of electoral campaigns and democratic deliberations, whereas the conditions associated with armed conflict are significantly more complex. As such, the conduct of democratic elections during wartime is, in most cases, deemed infeasible.^[14]

Furthermore, the Venice Commission underscores the need to consider a range of other issues when regulating elections under martial law. These include: the feasibility and methods of conducting electoral campaigns and political advertising; the financial costs of the election; the completion of electoral processes already underway prior to the declaration of a state of emergency; the safety of electoral participants; the use of alternative voting methods (e.g., postal voting, mobile ballot boxes, electronic voting); training for election organizers in emergency conditions; increasing citizen participation; the necessity of adapting electoral legislation to emergency realities; the problem of election monitoring; and the heightened risks of disinformation, manipulation, and electoral fraud under emergency regimes.^[15]

¹³ Respect for democracy, human rights and the rule of law during states of emergency: reflections.

¹⁴ Respect for democracy, human rights and the rule of law during states of emergency: reflections.

¹⁵ Respect for democracy, human rights and the rule of law during states of emergency: reflections.

Table 1. Regulation of Electoral Processes in Ukraine During the Russian-Ukrainian War Within the Framework of International Law

No.	International normative legal acts governing electoral processes	Arguments in Favor of Holding Elections in Ukraine During Wartime	Arguments Against Holding Elections in Ukraine During Wartime
1	Universal Declaration of Human Rights	manifestation of the will of the people in periodic elections	does not regulate (and therefore does not prohibit) the postponement of elections in conditions of war
2	International Covenant on Civil and Political Rights	the possibility to vote and to be elected in genuine periodic elections	does not regulate (and therefore does not prohibit) the postponement of elections in conditions of war
3	General Comment on Article 25 of the International Covenant on Civil and Political Rights	<ul style="list-style-type: none"> - holding elections at short intervals; - the periodicity of elections as a mechanism for ensuring the accountability of elected representatives; - the periodicity of elections as a guarantee of the free expression of citizens' will 	does not regulate (and therefore does not prohibit) the postponement of elections in conditions of war
4	Declaration of the Inter-Parliamentary Union on Criteria for Free and Fair Elections	the origin of the fullness of power solely from the expression of the will of the people, expressed in elections organized at regular intervals	does not regulate (and therefore does not prohibit) the postponement of elections in conditions of war
5	Universal Declaration on Democracy of the Inter-Parliamentary Union	the interpretation of elections held at regular intervals as a key element of democracy	does not regulate (and therefore does not prohibit) the postponement of elections in conditions of war
6	First Protocol to the European Convention on Human Rights	obligation to hold free elections at reasonable intervals	does not regulate (and therefore does not prohibit) the postponement of elections in conditions of war
7	Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE	obligation to hold free elections at reasonable intervals	does not regulate (and therefore does not prohibit) the postponement of elections in conditions of war
8	Code of Good Practice in Electoral Matters of the Venice Commission	<ul style="list-style-type: none"> - regularity of holding elections; - recommendation regarding a 5-year maximum term of office for the legislative body 	does not regulate (and therefore does not prohibit) the postponement of elections in conditions of war

9	European Convention on Human Rights	—	the possibility of derogation from obligations regarding the observance of human rights during war or other public emergency threatening the life of the nation
10	Report of the Venice Commission „Respect for democracy, human rights and the rule of law during states of emergency: reflections”	<ul style="list-style-type: none"> - importance of the principle of the periodicity of elections; - possibility of using the postponement of elections as a tool for abuse; - necessity of a balanced and reasoned approach when making a decision about postponing elections 	<ul style="list-style-type: none"> - absence of a universal approach to holding elections in a state of emergency; - understanding the risk of violating fundamental democratic principles during elections in a state of emergency; - possibility of extending the term of parliament under a state of emergency (if holding regular elections is impossible); - participation of all key political forces in the state in consultations regarding the postponement of elections; - necessity of legislative justification of the postponement of elections; - possibility of postponing elections in a state of emergency even in the absence of relevant norms in national legislation; - change in voters’ political preferences during crisis periods; - presence of obstacles to discussing current issues and making rational electoral decisions during elections in crisis periods; - distinguishing between crises such as natural disasters and pandemics (during which holding elections is more appropriate) and wars (during which holding elections is mostly impossible)

Source: Author

3 | Legal Regulation of the Issue of Holding Elections During Wartime in Ukrainian Legislation

According to the Constitution of Ukraine, regular parliamentary elections in Ukraine are held on the last Sunday of October of the fifth year of the Ukrainian Parliament's term of office. Meanwhile, regular presidential elections in Ukraine, in accordance with the country's Basic Law, must be held on the last Sunday of March of the fifth year of the President's term in office.^[16]

From the above, it can be concluded that, pursuant to the Constitution, regular elections to the Verkhovna Rada of Ukraine were to be held in October 2023. This is due to the fact that the previous parliamentary elections were early and took place in July 2019. Therefore, the current convocation of the Ukrainian Parliament was expected to function for slightly more than four years. In contrast, regular presidential elections were to be held in March 2024, since the previous presidential elections were held in the spring of 2019.

At the same time, the Constitution of Ukraine provides for the possibility of restricting certain civil rights during martial law. This also applies to the electoral process and citizens' voting rights. In this context, it is worth noting that the constitutional provisions on parliamentary elections in Ukraine during wartime are relatively clear. According to the Basic Law of Ukraine, if the term of the Verkhovna Rada of Ukraine expires during the period of a state of emergency or martial law, its powers are extended until the first session of the newly elected Parliament, which is elected after the termination of martial law or the state of emergency.^[17]

Conversely, the legal situation concerning presidential elections in Ukraine is less unambiguous. Unlike parliamentary elections, the Constitution does not contain a direct prohibition on holding presidential elections during martial law. Such restrictions are found in the Law of Ukraine "On the Legal Regime of Martial Law." Article 10 of this law, titled "The Inadmissibility of Terminating the Powers of State Authorities and Other State Bodies Under Martial Law," lists state bodies whose activities

¹⁶ Constitution of Ukraine, official website of the Council of Europe, 28 June 1996. <https://rm.coe.int/constitution-of-ukraine/168071f58b>.

¹⁷ Constitution of Ukraine.

may not be suspended during martial law. Among these are, notably, the Verkhovna Rada of Ukraine and the President of Ukraine.^[18]

This law also essentially duplicates the constitutional provision regarding the extension of the Parliament's powers until the first session of a new Parliament elected after martial law ends. Importantly, unlike the Constitution, the aforementioned law includes an analogous provision concerning the extension of the President's powers during martial law: the powers of the Head of State are extended until the newly elected President assumes office, following elections held after the termination of martial law. Moreover, Article 19 of the Law of Ukraine "On the Legal Regime of Martial Law" explicitly prohibits holding any elections in Ukraine during martial law, including presidential elections.^[19]

In the context of the legal regulation of elections in Ukraine during the Russo-Ukrainian war, it is also necessary to mention the Electoral Code of Ukraine. This normative legal act contains a provision that in the event of the declaration of a state of emergency or martial law, the electoral process is terminated on the same day the corresponding presidential decree is published. Thereafter, the Central Election Commission (CEC) must issue a decision on the termination of the electoral process. In its decision, the CEC must determine the procedure for completing all electoral procedures that were underway within a specific electoral process.^[20]

As demonstrated, the legal regulation of the issue of elections in Ukraine during wartime differs somewhat between presidential and parliamentary elections. This discrepancy has given rise to debate among scholars and legal experts. In particular, some researchers argue that presidential elections in Ukraine should be subject to constitutional restrictions in the same way as parliamentary elections. They justify this position by asserting the necessity of a unified legal approach to assessing both presidential and parliamentary elections, as their nature and principles are identical. Otherwise, conducting presidential elections during the Russo-Ukrainian

¹⁸ Pro pravovyi rezhym voiennoho stanu: Zakon Ukrainy, *Official website of Verkhovna Rada of Ukraine*, 12 May 2015. <https://zakon.rada.gov.ua/laws/show/389-19/ed20150512#Text>.

¹⁹ Pro pravovyi rezhym voiennoho stanu: Zakon Ukrainy.

²⁰ Electoral Code of Ukraine, *Official website of Verkhovna Rada of Ukraine*, 19 December 2019. <https://zakon.rada.gov.ua/laws/show/396-20?lang=en#Text>.

war would result in inconsistent application of the legal framework to the legislative and executive branches of power in Ukraine.^[21]

For example, former member of the Central Election Commission of Ukraine and constitutional law expert Andrii Mahera emphasizes that the Constitution is not a parrot that must repeat the same provisions in every section. Accordingly, in his view, if Section IV of the Constitution of Ukraine provides for the continuity of the functioning of the Verkhovna Rada during martial law, this does not necessitate repeating the same provisions verbatim in Section V, which governs the institution of the President of Ukraine. The same applies to Section XI of the Constitution, which regulates local self-government in Ukraine. Therefore, given the shared principles of electoral law for all types of elections, the Constitution of Ukraine, according to Mahera, should be interpreted holistically and systematically, recognizing the overarching legal intent embedded by the lawmakers during the drafting of the Basic Law.^[22]

However, there are proponents of an opposing view regarding the constitutional regulation of presidential elections in Ukraine. In their opinion, the provisions of the Law of Ukraine “On the Legal Regime of Martial Law” that prohibit presidential elections during martial law should be deemed unconstitutional. These researchers base their argument on the fact that the Constitution of Ukraine does not contain a direct prohibition on holding presidential elections during martial law (unlike the explicit ban on parliamentary elections during such periods). Therefore, they contend that the constitutional norms establishing the timing of presidential elections – the last Sunday of March of the fifth year of the President’s term – should be upheld. Unlike parliamentary elections, the Constitution provides no grounds for postponing presidential elections.^[23] Thus, the issue of constitutional regulation of presidential elections under martial law is significantly more complex and controversial than that of parliamentary elections.

²¹ Vplyv voiennoho stanu na provedennia vyboriv i povnovazhnist orhaniv vlady, *Civil Network OPORA*, 22 December 2023. <https://www.oporaua.org/vybory/vplyv-voennogo-stanu-na-provedennya-vyboriv-i-povnovazhnist-organiv-vladi-25059>.

²² Andrii Mahera, „Chy mozhlyvi vybory pid chas viiny? Vidpovidaie Andrii Mahera” *The Centre of Policy and Legal Reform*, 12 March 2024. <https://pravo.org.ua/blogs/chy-mozhlyvi-vybory-pid-chas-vijny-vidpovidaie-andrij-magera/>.

²³ Hlib Makarov, „Mozhlyvist provedennia zahalnonatsionalnykh vyboriv v umovakh voiennoho stanu” *National Institute for Strategic Studies*, 11 September 2023. <https://niss.gov.ua/news/komentari-ekspertiv/mozhlyvist-provedennya-zahalnonatsionalnykh-vyboriv-v-umovakh-voiennoho>.

In the context of the legal regulation of presidential elections in Ukraine during the Russo-Ukrainian war, another noteworthy consideration is raised by Mahera. In his view, at present, there are no constitutional or legal concerns about the decision not to hold presidential elections amid the ongoing war, and President V. Zelenskyy must continue to fulfill his duties. However, should the war persist for a prolonged period (seven years or more in total), legal challenges may arise. Mahera links this to the constitutional provision that prohibits the President of Ukraine from serving more than two consecutive terms (i.e., more than ten consecutive years). Hence, if the war continues until 2029, President Zelenskyy's continued tenure would contradict the Constitution, as it would exceed the constitutionally established term limit. Mahera believes that only the Constitutional Court of Ukraine can resolve this issue and clarify all related legal nuances.^[24]

Returning to the legal analysis of parliamentary elections, experts stress that the aforementioned constitutional prohibition on holding regular parliamentary elections during martial law or a state of emergency applies only to regular elections. There are no such restrictions concerning early parliamentary elections. However, in practice, the inability to dissolve the Parliament during martial law or within the last six months of its term renders early elections impossible during wartime. At the same time, as the experts correctly point out, *interim* parliamentary elections (i.e., elections to fill vacant seats) are not subject to constitutional restrictions and may be held in individual electoral districts even during wartime.^[25]

Researchers also emphasize another important aspect: according to the Constitution of Ukraine, the highest social values are the individual, human life and health, inviolability and security, honor, and dignity.^[26] However, scholars note that in the context of the Russo-Ukrainian war, it is impossible to fully ensure the protection of these social values. Consequently, the state has no right to knowingly endanger the lives and health of its citizens by holding elections and involving Ukrainians in the electoral process during wartime.^[27]

²⁴ Mahera, „Chy mozhlyvi vybory pid chas viiny?”.

²⁵ Hryniuk Roman, Hutsuliak Olena, *Vybory v umovakh voiennoho stanu: Konstytutsiia, zakonodavstvo, realnist. Uzhorod National University Herald*, Vol. 80, P. 1. (2023): 115.

²⁶ Constitution of Ukraine.

²⁷ Vplyv voiennoho stanu na provedennia vyboriv i povnovazhnist orhaniv vlady.

It should be noted that the current legal framework regulating elections in Ukraine during wartime – allowing for the legal extension of the powers of both the President and the Parliament – is, in our view, entirely logical. In this way, the continuity of governance is ensured, and the so-called “power vacuum” is avoided. These are critically important elements for safeguarding state sovereignty, ensuring constitutional stability, and countering Russian military aggression.

Table 2. Legal Regulation of the Issue of Elections in Ukraine under the Conditions of the Russian-Ukrainian War in Ukrainian Legislation

No.	National Normative Legal Acts Governing Electoral Relations	Arguments in Favor of Holding Elections in Ukraine During Wartime	Arguments Against Holding Elections in Ukraine During Wartime
1	Constitution of Ukraine	<ul style="list-style-type: none">- definition of the terms (timing) for holding regular elections in Ukraine;- absence of a direct prohibition on holding presidential elections under a state of emergency	<ul style="list-style-type: none">- possibility of restricting citizens’ electoral rights under martial law;- extension of the term of powers of the Verkhovna Rada of Ukraine, which expires during a state of emergency or martial law, until the first session of the newly elected parliament convenes after the end of the state of emergency or martial law;- the declaration of a person, their life and health, inviolability and security, honor and dignity as the highest social values (which are difficult to guarantee during elections held in wartime conditions)
2	Law of Ukraine „On the Legal Regime of Martial Law”	—	<ul style="list-style-type: none">- inadmissibility of terminating the powers of government bodies during martial law;- extension of the terms of office of the Verkhovna Rada of Ukraine and the President of Ukraine, which expire during a state of emergency or martial law, until the first session of the newly elected parliament is held (or until the newly elected President assumes office), after the end of martial law;- direct prohibition on holding any elections during martial law

3	Electoral Code of Ukraine	—	termination of the electoral process and all electoral procedures by decision of the Central Election Commission on the same day the Presidential Decree declaring a state of emergency or martial law is published
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Source: author

4 | Conclusions

International electoral law, in its current form, largely refrains from regulating the postponement of elections due to exceptional circumstances such as natural disasters, armed conflicts, or humanitarian crises. Nonetheless, the emergence of the COVID-19 pandemic has prompted increased scholarly and institutional attention to this issue, as evidenced, *inter alia*, by the publication of a relevant report by the Venice Commission. At the same time, comparative electoral practice offers multiple precedents wherein the conduct of scheduled elections was deferred owing to force majeure conditions, in order to preserve the democratic integrity of the process and safeguard fundamental political rights.

By contrast, international legal instruments governing electoral processes – at both the universal and regional levels – explicitly recognize the principle of electoral periodicity as a foundational element of democratic governance. By ratifying these instruments, Ukraine has incorporated their provisions into its domestic legal framework, thereby enshrining the principle of electoral periodicity within its national legislation. However, a critical analysis of these documents reveals a notable lacuna: international legislators, in formulating these norms, appear not to have accounted for the possibility of insurmountable barriers to holding regular elections – such as the outbreak of full-scale armed conflict. It is thus reasonable to infer that the normative expectation of electoral periodicity presupposes a peacetime context. Moreover, the absence of any unequivocal stipulation that the principle must be observed under all circumstances leaves the question of its absolute applicability during wartime unresolved within the framework of international law.

Furthermore, the suspension of elections during the ongoing Russian-Ukrainian armed conflict aligns with both the letter and the spirit of the

Constitution of Ukraine, as well as with the relevant provisions of domestic electoral legislation. Nevertheless, the divergent constitutional formulations governing presidential and parliamentary elections during martial law have resulted in varying interpretations of the legal framework and divergent views on the advisability of holding elections under such conditions. This divergence underscores the necessity of obtaining an authoritative constitutional interpretation. An appeal to the Constitutional Court of Ukraine for a formal exegesis of the relevant constitutional provisions and statutory norms would constitute a logical and jurisprudentially sound measure to resolve existing ambiguities and preclude further speculation. However, as of the present moment, no such appeal has been initiated by either the governing authorities or opposition forces, thereby leaving the legal and political discourse surrounding this issue open-ended and susceptible to manipulation.

In conclusion, the deferral of elections in the context of the Russian-Ukrainian war appears both legally justified and normatively defensible. It is consistent with Ukraine's constitutional and statutory framework and it does not contravene any binding norms of international law. This position is endorsed by the Ukrainian political establishment and broadly supported by the citizenry, and it has elicited understanding and approval by Ukraine's international partners. Conversely, the conduct of elections under wartime conditions would directly contravene the applicable legal provisions, lack broad societal legitimacy, and raise serious concerns regarding the democratic legitimacy of any government formed under such extraordinary circumstances.

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"Vplyv voiennoho stanu na provedennia vyboriv i povnovazhnist orhaniv vlady" *Civil Network OPORA*, 22 December 2023. <https://www.oporaua.org/vybory/vplyv-voyennogo-stanu-na-provedennya-vyboriv-i-povnovazhnist-organiv-vladi-25059>.



