

THE IMPORTANCE OF THE REFERENDUM

What is a referendum? Cambridge dictionary gives a definition of a referendum as a vote in which all the people in a country or an area are asked to give their opinion about or decide an important political or social question. A referendum from Latin – “things to be referred”. A referendum is different from an election and the difference is in the subject of voting.

Switzerland is the birthplace of the referendum because the first referendum was held in 1439 in the Swiss canton of Bern. Over the years, more and more democratic countries have started holding referendums and recognizing them as an important form of direct democracy. The first nationwide referendum in Ukraine was held on December 1, 1991, when people decided that Ukraine would be independent country.

Thomas Jefferson, the third president of the United States, said “That government is the strongest of which every man feels himself a part.” It goes without saying that referendum is a way of taking part in governance of the country.

It is logical to ask why are referendums so important and fundamental for democracy?

Many politicians and lawyers argue that referendum plays a crucial role in democratic country. First of all, a referendum is an embodiment sovereignty. Secondly, it is a guarantee of civil rights and freedoms. Besides, it helps to control public authorities. Undoubtedly it empowers people to decide the most important issues in the country, so decide the fate of the country.

What about referendums in Ukraine?

The people are the bearers of sovereignty and the only source of power in Ukraine. The people exercise power directly and through bodies of state power and bodies of local self-government (Part Two of Article 5 of Constitution). [1]

Part first of Article 38 Constitution of Ukraine says that citizens have the right to participate in the administration of state affairs, in All-Ukrainian and local referendums, to freely elect and to be elected to bodies of state power and bodies of local self-government. [1]

Part two of Article 69 of the Constitution approves that the expression of the will of the people is exercised through elections, referendum and other forms of direct democracy. [1]

Therefore at the highest level of legislation referendum in Ukraine recognized as a form of direct democracy, through which people exercise power. Even though, there are problems in Ukrainian legislation on holding All-Ukrainian and local referendums.

First of all, Law of Ukraine “On All-Ukrainian and Local Referendums” expired in 2012. A new law regulating local referendums has not yet been adopted. Consequently, there has been no legal regulation of holding local referendums since December 2012.

Moreover, The Law of Ukraine “On the All-Ukrainian Referendum” (2012) was declared unconstitutional by the Constitutional Court in April 2018. Furthermore, the Verkhovna Rada of Ukraine has not yet resolved this legislative gap. [2, с. 17]

Thus, there are currently no legislative mechanisms for exercising citizens' constitutional right to participate in all-Ukrainian and local referendums. Nevertheless, the election program of the President of Ukraine V. Zelensky provides the introduction of the bill "On People's Authority”.

So there is no doubt that referendum is an integral part of democracy. As a democratic state, legislative body of Ukraine is obliged to adopt laws regulating All-Ukrainian and Local referendums.

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