

<https://doi.org/10.31861/mediaforum.2023.12.170-181>

УДК: 327

© Євгенія Юрійчук¹

© Артем Комолов²

CIVIL SOCIETY CONTROL OVER THE USE OF DIGITAL TECHNOLOGIES IN THE ELECTORAL PROCESS IN THE CONTEXT OF EUROPEAN INTEGRATION

170

The digital revolution has changed the way we participate in democracy, in particular how we vote and participate in political discourse; however, it has also given rise to new types of electoral irregularities that can become a source of political crises and instability. The EU seeks to strengthen control over elections, their transparency and monitoring in order to maximise the democratic participation of citizens. Citizens' digital participation in the election process can increase voter turnout, improve accuracy and efficiency, and ensure greater transparency and accountability. However, it is essential to ensure the safe and transparent use of digital technologies and that citizens have access to information and resources that will allow them to participate fully in the electoral process.

Civil society plays a critical role in ensuring that elections are free, fair and transparent and in monitoring/observing the use of digital technologies in the electoral process. By providing oversight, observation, advocacy, and education of election participants, civil society can help ensure that the electoral process is accessible, fair, and reflective of the people's will.

Keywords: EU, e-democracy, digitalisation, elections, referendum, civil society.

¹ Доктор політичних наук, професор кафедри політології та державного управління факультету історії, політології та міжнародних відносин Чернівецького національного університету імені Юрія Федьковича. E-mail: yu.yurijchuk@chnu.edu.ua; <https://orcid.org/0000-0002-5288-4827>.

² Комунікаційний менеджер проекту EU4DigitalUA project (Іспанія). E-mail: artem@komolov.com

**Контроль громадянського суспільства
за використанням цифрових технологій
у виборчому процесі в контексті євроінтеграції**

Цифрова революція змінила форми участі у демократії, зокрема те, як ми голосуємо та беремо участь у політичному дискурсі проте й спричинила нові види виборчих порушень, які можуть стати джерелом політичних криз і нестабільності. ЄС прагне посилити контроль за виборами, їх прозорість і моніторинг задля максимального забезпечення демократичної участі громадян. Застосовуючи теорію е-демократії, принципи функціонування е-демократії на виборах і референдумах, концепцію «громадянського суспільства ЗМІ», конвенційної участі, демократичної легітимності, відповідно до рекомендацій ЄС проаналізовано переваги та недоліки/труднощі використання електронної демократії на виборах і референдумах; визначено особливості застосування цифрових технологій у виборчих процесах; охарактеризовано можливості та напрямки контролю громадянського суспільства в забезпеченні цифрової участі громадян у виборчому процесі.

171

Цифрова участь громадян у виборчому процесі може підвищити явку виборців, підвищити його точність і ефективність, забезпечити більшу прозорість і підзвітність. Однак важливо постійно підтримувати безпечне та прозоре використання цифрових технологій, а також наявність у громадян доступу до інформації та ресурсів, які дозволять їм брати повну участь у виборчому процесі.

Громадянське суспільство відіграє вирішальну роль у забезпеченні того, щоб вибори були вільними, чесними та прозорими, а також у моніторингу/спостереженні використання цифрових технологій у виборчому процесі. Забезпечуючи нагляд, спостереження, адвокацію та освіту учасників виборів щодо використання цифрових технологій, громадянське суспільство може сприяти тому, щоб виборчий процес був доступним, чесним і відображав волю народу та легітимував обрану владу.

Ключові слова: ЄС, е-демократія, цифровізація, вибори, референдуми, громадянське суспільство.

Problem statement. The development of digital technologies has caused significant changes in political life. The digital participation of citizens in the electoral process has become a critical problem in modern democra-

cies, which European structures have repeatedly emphasised. Digital tools for participation in the development of the electoral process gained relevance in Ukraine even before the start of a full-scale invasion. With the introduction of martial law, the electoral process was “frozen”, but the issue of involving citizens to participate in elections will become critically important in the process of post-war reconstruction of the country. The implementation of the right to vote is complicated for millions of Ukrainian refugees abroad, many of whom are not on the consular register, for internally displaced persons inside Ukraine, who still need temporary registration and, accordingly, are deprived of the right to vote. A possible solution to this problem will be the introduction of remote (electronic) voting, mainly through specially developed mobile applications. However, with an increase in the share of such voting, the probability of discrediting and losing the legitimacy of the electoral process increases proportionally. Voting interference and vote counting are only part of the risks that post-war Ukraine will face during its first post-war elections. Under such circumstances, civil society plays a significant role in ensuring control over the conduct of elections; therefore, the problem of civil society’s ability to monitor and control the election process during the election cycle requires additional study.

172

—

Recent research and publications analysis. In recent decades, the scientific discourse on the digitalisation of election processes has become extremely active in the world and Ukraine. Researchers are rethinking not only the theoretical aspects of the implementation of electronic democracy in the election and referendum processes, but also the practical consequences of their implementation (Lindner, Aichholzer, 2020); special attention is paid to the observance of electoral standards and the necessity of their correlation is considered (Norris, 2013); investigate the impact of digital policy on the emergence of online forms of participation, bloggers in particular (Gil De Zúñiga, Veenstra, Vraga & Shah, 2010); explore opportunities for citizens to influence policymaking in various ways and the relationship between decision-making transparency and trust (Mishra, 2020); explore a large number of examples of application or possibilities of implementing electronic voting in countries on different continents and in particular conditions: during an economic crisis, pandemic, natural disaster, local conflicts, influx of refugees, which requires appropriate digital technological solutions to ensure the implementation of electoral rights. Systematisation of theoretical developments and practical experience of

their implementation can be found in the collective work of Estonian scientists, where a separate chapter is devoted to electronic voting in elections (Troitiño, 2023). Ukrainian scientists are also paying attention to the digitalisation of election processes and mainly analyse the prospects and possibilities of introducing electronic voting in Ukraine.

To study the digital participation of citizens in elections and referenda, we apply the understanding of electronic voting as a type and tool of digital participation for decision-making - the function of engaging citizens in e-democracy (Lindner, Aichholzer 2020, 23), which can be schematically represented in the form of a formula: electoral e-democracy = “electronic voting” + “electronic participation = decision”, where “electronic voting” is a set of information and communication technologies that ensure the voting process, which is based on the principles of electronic governance. In order to ensure democratic decision-making, we will analyse the possibility of involving civil society institutions in public control of the activities of participants in election and referendum processes in the form of public monitoring of collective decision-making in elections and referenda. To do this, we will apply the concept of “civil society media” (CSM), where CSM is “alternative and media communities or mass media communities that are owned and controlled by members of civil society” (Hintz, 2004). Also, in the context of the functioning of civil society, the detailing of conventional participation in elections and referenda, or electoral participation (a factor of legal and rational legitimation), becomes particularly important.

173

To analyse the functioning of e-democracy in elections and referendums, we will be guided by the principles defined by European structures (Rec.CM/Rec(2009)1), which include freedom and quality of information; reorientation of power, i.e. redistribution of power between the state and citizens, between the state and civil society organisations; coordination and harmonisation of private and public interests; information and legal security; electronic participation and special identification system; general availability of e-democracy mechanisms; informational security (Committee of Ministers, 2009). These principles are inextricably linked to the concept of democratic legitimacy, which emphasises aspects of popular participation and regime accountability, ensured by free and fair elections combined with a system of political checks and balances.

Study objectives. The purpose of the article is to find out the possibilities and directions of civil society control in ensuring the digital participation of citizens in the election process following European standards.

Tasks: considering EU recommendations, analyse the advantages and disadvantages/difficulties of using e-democracy in elections and referenda; determine the specifics of using digital technologies in election processes; characterise the possibilities and directions of civil society control in ensuring digital participation of citizens in the election process.

Presentation of the main research material. In recent decades, many countries have introduced digital technologies into their election and referendum processes, allowing citizens to vote online, access information about candidates and political parties, the issues they are tackling, and engage in political discourse through social media that allow citizens to communicate with each other and candidates in real-time. European institutions legally established “preliminary voting, voting by mail, electronic and Internet voting” for voters” (EU, Euratom 2018, (5)). However, the violation of the previously mentioned principles of e-democracy during the elections to the European Parliament, which occur in the countries of both new and old democracies and, is “a source of instability and political crisis and can generally undermine the “soft security of society” (PACE, 2012) prompted the governing structures of the EU to warn of the likely spread of negative consequences of the digitisation of electoral processes and to take several decisions regarding their prejudice. In general, measures to improve the democratic nature of elections should meet three main requirements: foster participation, ensure transparency and strengthen supervision (PACE, 2012).

174

—

Strengthening control was supposed to be ensured through the implementation of a transparent and accessible mechanism for effective appeal of election violations in order to strengthen the public’s trust in the election process. Transparency – through the open reporting of the Election Monitoring Committee, cooperation with “international organisations with experience in the electoral field, including the stage of the pre- and post-election observation in order to achieve awareness of the recommendations formulated by the international community and monitor their implementation” (PACE, 2012). In our opinion, civil society organisations (CSOs) can also successfully perform these tasks.

Activation of conventional electoral participation in elections requires certain specifications of its components. It is about voting, participation in the work of electoral bodies, participation in observation, contacts with officials (candidates), campaigns supporting candidates, public approval of the activities of the subjects of the election process, initiative move-

ments (signatures in support), authorised demonstrations; rallies; financing of election campaigns. Note that most of them can be digitised; even sanctioned non-digital demonstrations and rallies are transformed into forums, blogs, etc. Digital participation in the electoral process involves using digital technologies to facilitate and strengthen the active activity of citizens in elections and referenda, including online voter registration, electronic voting and digital reporting systems on election results, etc.

One of the most important advantages of digital participation is the ability to reach a larger audience. Political parties and candidates can easily communicate with citizens and share their political agenda through social media platforms. In addition, citizens can also use social media to participate in political discourse, express their opinions and share their views with others. Such increased engagement can lead to a more informed electorate, as citizens can gain access to a broader range of viewpoints and opinions.

Digital participation also allows citizens to access information about the electoral process more easily. With the help of online platforms, citizens can easily get information about the election schedule, voter registration procedures and even the location of polling stations. This increased accessibility can help increase voter turnout by making it easier for voters to register and vote due to geographic distance or disability.

The use of digital technologies in electoral processes has become increasingly common in recent years. Online voter registration systems, electronic voting machines, and digital election reporting systems are just a few examples of how technology is being used to make elections more efficient and accessible.

Another advantage of digital participation is increased transparency and accountability in the electoral process. Digital technologies can give citizens better access to information about the candidates and the issues at hand, as well as the process by which elections are conducted. This can help increase trust in the electoral process and prevent fraud or other abuses.

Electronic voting allows citizens to vote electronically through a computer terminal at the polling station or remotely via the Internet.

Proponents of electronic voting argue that it can increase voter turnout, reduce the costs and administrative burden associated with traditional paper voting, increase the accuracy and speed of vote counting, and provide accessibility for voters with disabilities to ensure greater transparency and accountability in the election process. Digital election reporting systems,

for example, can enable real-time reporting of election results, increasing the speed and accuracy of reporting and reducing the potential for fraud or other abuse. However, electronic voting also raises concerns about the security and accuracy of the electoral process. Online voting systems are vulnerable to hacking and other cyber attacks that could compromise the integrity of the election.

What specific digital technologies were introduced into the election processes? One of the most common technologies is electronic voting machines, which record and count votes electronically; however, their use has been criticised for a lack of transparency and the possibility of errors or fraud. Biometric authentication is also used to verify the identity of voters. This technology uses unique biometric identifiers such as fingerprints, facial recognition and iris scans to ensure that only registered voters can vote. There are also a variety of online voting systems that allow voters to make their choices from the comfort of their home or office using a computer or mobile device; still, there are concerns about their security and reliability.

176

— Expression of voting via the Internet has not yet become an innovation. It has been successfully implemented in different forms at different levels in different countries of the world on different continents, including the USA, Canada, Estonia, Armenia, Panama and Australia; however, today, Estonia is the only country in the world that uses a digital voting alternative since 2005 with the largest effectively, involving young people at home and Estonians living abroad in the electoral and political process. Such success is due to several factors: people's trust in the authorities, a developed information protection system, and the availability of a technological base built long before the first attempt at electronic voting.

Optional electronic voting (e.g. polls, local initiatives, plebiscites) is widely used worldwide. Some countries introduce the possibility of voting for specific categories of citizens who, for various proper reasons, cannot physically visit the polling station. This is a reasonable opportunity for those who live abroad, military personnel, and employees of consular and diplomatic institutions.

In general, introducing digital technologies into electoral processes has helped to make the voting process more efficient, convenient and secure. However, it is essential to ensure that these technologies are implemented in a way that does not compromise the integrity of the electoral process. This requires strict control, which we believe civil society can implement.

In what way? Primarily through monitoring (identification of violations of electoral law) and election observation (as official observers for compliance with international standards), which are critical to ensuring transparency and integrity of elections, where CSOs play a crucial role by independently monitoring/observing the electoral process and reporting about any violations or abuses. CSOs monitor the electoral process to ensure it is free and fair, which can help build public confidence in the electoral process as citizens can be confident that their votes are being counted fairly.

CSOs can monitor not only various stages of the election process (voter registration, campaigning, voting, vote counting) but also the behaviour of election officials and report any cases of fraud, intimidation or violence, generalise election practice, and make conclusions and proposals regarding improvement of legislation. Such activity will contribute to the transparency and accountability of the election process. By identifying and reporting irregularities or abuses, CSOs can help prevent fraud and ensure that election results reflect the people's will.

CSOs, such as media organisations and mass media, can provide critical oversight during the electoral process. These organisations can monitor the electoral process, report any irregularities or violations, and help ensure a free and fair process by uniting their audience in the civil society media – CSM.

Digital technologies can potentially change how CSOs monitor/observe elections. By providing real-time data and information, digital technologies can enable CSOs to monitor the electoral process more effectively and quickly respond to violations or abuses. For example, digital platforms can be used to report cases of fraud or violence and provide real-time updates on the progress of the electoral process. At the same time, social media platforms can also be used to monitor election-related discourse and identify instances of misrepresentation or misinformation. In particular, in Russia, in September 2011, the “Map of Violations” project was created, designed to monitor election violations by citizens themselves. As the 2022 elections were held under conditions of massive suppression of the remnants of freedom of speech and expression, observers, commission members, candidate staff and voters continued to document violations of electoral law that they encountered at polling stations and during the election campaign. A total of 1,824 messages have been published since the start of the Violation Map on July 9. In 2017, when the previous cycle of elections for the same bodies and positions was held, Karta received 1,738 signals

of violations. In 2022, 709 reports of violations were received during the election campaign, and since the start of multi-day voting on September 9, 1,115 reports have been published (Kankiya, 2022).

In addition, digital technologies can increase the transparency and accountability of the electoral process. Digital election reporting systems, for example, can enable real-time reporting of election results, increasing the speed and accuracy of reporting and reducing the potential for fraud or other abuse. An eternal problem of the election process in Ukraine is the untimely announcement of the number of voters who participated in the vote (at the time of its end) and the election results, which allows manipulation of the results within the limits of sociological error. The online mode would eliminate this problem immediately.

The media also play an important role in monitoring elections. The media can provide critical coverage of the electoral process throughout the electoral cycle, reporting any inconsistencies or irregularities. Such coverage can help draw attention to any issues that arise during the electoral process and help ensure transparency and accountability in the process.

178

— Civil society is critical to ensuring that elections are free, fair and transparent. CSOs can monitor and observe the election or referendum process; draw conclusions regarding its compliance with international and European standards, domestic legislation and other general principles of democratic elections; provide voter education; and provide media support.

CSOs can also play a key role in monitoring digital participation in the electoral process. For example, they can monitor the security of on-line voting systems, ensure that voter registration systems are accessible to all citizens, and advocate for transparency and accountability in the use of digital technologies. CSOs can also monitor the activities of election management bodies (EMBs) responsible for election administration. By monitoring the activities of CSOs and reporting any violations or abuses, CSOs can help ensure fair and transparent elections. Likewise, to monitor the review of cases challenging the action or inaction of the subjects of the election process in courts or governing election bodies.

In addition, CSOs can propose reforms to improve the electoral process, including adopting international standards of electoral integrity, introducing independent monitoring and observation of elections and referendums, and creating reliable mechanisms for complaints and redress.

Despite the importance of CSOs in election monitoring/observation, there are several challenges that these organisations face in carrying out

their work. One of the main challenges is access to information. In many cases, representatives of election bodies are reluctant to share information with CSOs, which complicates effective monitoring of the election process.

Another problem is the lack of resources. CSOs may not have the funding or staff to monitor elections on a large scale, limiting their ability to provide comprehensive oversight of the electoral process.

In some cases, CSOs face harassment, intimidation or violence from political parties or other groups that try to prevent them from monitoring/observing the election process.

Problems also exist for digital participation. The most significant is the lack of digital literacy. Not all citizens have access to digital technologies or are uncomfortable using them. This leads to a digital divide where some citizens are excluded from the political process due to a lack of access or skills. That is, society is not fully ready for digital participation, either mentally, intellectually, or technically, especially for the elderly.

Another challenge is the issue of cyber security. As the use of digital technologies in the electoral process increases, the risk of cyber-attacks increases. These attacks can compromise the integrity of the election process, leading to inaccurate results or voter turnout. Associations of independent IT specialists as members of CSOs can also oppose them.

Finally, there is also the risk of digital disinformation and propaganda. Due to the ease with which information can be disseminated through social media, political parties and candidates can quickly spread false or misleading information to voters, leading to distrust in the electoral process and lower voter turnout.

In order to avoid the manipulation of personal data in the context of elections in the EU, amendments were made to the verification procedure related to violations of the rules on the protection of personal data in the context of elections to the European Parliament (EU, Euratom, 2019). New rules have also been introduced to protect the electoral process from disinformation by online campaigns that abuse voters' personal data and limit the spread of fake content. These rules make it possible to punish criminals who deliberately influence the results of European elections or try to influence them by taking advantage of breaches of data protection rules.

An example of implementing these norms is the pan-European Code of Practice proposed by the Commission, which was signed by three Internet platforms in 2016 (European Commission, 2016). Later, in December 2018, the "Action Plan Against Disinformation" was adopted, which calls

on Internet platforms to focus on actions to “remove fake accounts, label messaging as ‘bots’ and work with fact-checkers and researchers to identify disinformation and make verified information more visible” (European Commission, 2018). Such activity was observed in May 2019 on three platforms that signed the Code of Practice.

Conclusions. The digital revolution has changed how we participate in democracy, including how we vote and participate in political discourse. The EU wants to strengthen control over elections in order to ensure maximum democratic participation of citizens. Citizens’ digital participation in the election process can increase voter turnout, improve its accuracy and efficiency, and ensure greater transparency and accountability. However, it is crucial to ensure the safe and transparent use of digital technologies and that citizens can access information and resources that will allow them to participate fully in the electoral process.

180 — Civil society plays a critical role in ensuring that elections are free, fair and transparent and in monitoring/observing the use of digital technologies in the electoral process. By providing oversight, observation, advocacy and education, civil society can help ensure that the electoral process is accessible, fair and reflects the people’s will.

References:

1. Committee of Ministers. 2009. Rec. CM/Rec(2009)1 of the Committee of Ministers to member states on electronic democracy (e-democracy). 1049th meeting of the Ministers’ Deputies. 2009. 18 February 2009. https://www.coe.int/t/dgap/goodgovernance/Activities/Key-Texts/Recommendations/Recommendation_CM_Rec2009_1_en.asp
2. European Commission. 2016. Press Release: European Commission and IT Companies announce Code of Conduct on illegal online hate speech. 31 May 2016. https://ec.europa.eu/commission/presscorner/detail/en/IP_16_1937
3. EU, Euratom. 2019. Regulation (EU, Euratom) 2019/493 of the European Parliament and of the Council of 25 March 2019 amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament PE/14/2019/REV/1. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0493>
4. Gil De Zúñiga, H., Veenstra, A., Vraga, E. & Shah, D. 2010. “Digital Democracy: Reimagining Pathways to Political Participation.”

Journal of Information Technology & Politics 7:1, 36-51. [https://doi:10.1080/19331680903316742](https://doi.org/10.1080/19331680903316742)

5. Hintz, A. 2004. "Media Actors at the Dividing Lines of Information Society: Civil Society Media at the World Summit on the Information Society." Forum Barcelona 2004. Communication and Cultural Diversity. Barcelona 24-27 May 2004. <https://www.portalcomunicacion.com>

6. Kankiya, David. 2022. "Map of Violations 2022: Summary". Golos, 19 September. <https://golosinfo.org/en/articles/146204>

7. Lindner, R. Aichholzer, G. 2020. "E-Democracy: Conceptual Foundations and Recent Trends." In the European E-Democracy in Practice. Studies in Digital Politics and Governance. Aichholzer, G., Lindner, R., Nielsen, R. (ed.). Springer, Cham. P. 11–45. https://link.springer.com/chapter/10.1007/978-3-030-27184-8_2

8. Mishra, S. S. 2020. "Testing the antecedents to e-democracy towards citizens' happiness: a structural equation modelling approach to 'MyGov' initiative, India." International Journal of Public Administration 43(15), 1293–1303. <https://doi.org/10.1080/01900692.2019.1669051>

9. Norris, Pippa. 2013. "Does the World Agree about Standards of Electoral Integrity? Evidence for the Diffusion of Global Norms." Electoral Studies 32 (4): 576–588.

10. PACE. 2012. Res. 1897 (2012) of October 2, 2012 Ensuring greater democracy in elections Parliamentary Assembly. 3 October 2012. 32nd Sitting. <https://pace.coe.int/en/files/19121/html>

11. Troitiño, D. R. 2023. "EU Election and Internet Voting (i-voting)." In the Digital Development of the European Union: An Interdisciplinary Perspective. P. 319-334. https://books.google.com.ua/books?hl=uk&lr=&id=CX7GEAAAQBAJ&oi=fnd&pg=PA349&ots=eExl3UqUXs&sig=GHai6Viv9qb-FDboN69jUII6APQ&redir_esc=y#v=onepage&q&f=false

12. EU, Euratom. 2018. COUNCIL DECISION. 2018/994 of 13 July 2018 amending the Act concerning the election of the members of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018D0994&from=EN>

13. European Commission. 2018. Brussels, 5.12.2018 JOIN(2018) 36 final. Action Plan against Disinformation. <https://ec.europa.eu/digital-single-market/en/news/action-plan-against-disinformation>