

DISTRIBUTION OF SPOILED VOTES, WASTED VOTES AND THE «VOTES» OF NON-VOTERS: THE CASE OF UKRAINIAN PARLIAMENTARY ELECTIONS

У статті досліджуються проблеми розподілу мандатів між виборчими списками політичних партій за пропорційної виборчої системи партійних списків. Ця система ігнорує значне число голосів, поданих за малі партії, «зіпсовані» голоси та втрачені голоси і «голоси» тих, хто не бере участь у голосуванні. Автор аналізує наявні можливості для врахування цих голосів і вивчає вірогідні політичні наслідки їх застосування на практиці. Пропонується включити до бюлетеня пункт «проти всіх» та залишити частину місць у парламенті вільною відповідно до реального волевиявлення виборців. Також пропонується метод врахування втрачених голосів.

Ключові слова: виборча система, голос, абсентеїзм, не голосуючий виборець, «зіпсований» голос, втрачений голос, мандат, розподіл мандатів, загороджувальний бар'єр.

В статье исследуются проблемы распределения мандатов между избирательными списками политических партий в условиях пропорциональной системы партийных списков. Данная система игнорирует значительное число голосов, поданных за малые партии, «испорченные» голоса, потерянные голоса и «голоса» тех, кто не принимает участия в голосовании. Автор анализирует возможности для учёта этих голосов и изучает вероятные политические последствия их применения на практике. Предлагается включение в бюллетень пункта «против всех» и сохранение части мест в парламенте вакантными в соответствии с реальной волей избирателей. Также предлагается метод учёта потерянных голосов.

Ключевые слова: избирательная система, голос, абсентеизм, неголосующий избиратель, «испорченный» голос, потерянный голос, мандат, распределение мандатов, заградительный барьер.

This paper focused on the problem of the distribution of mandates among the lists of political parties in list party representation system. The system ignores a lot of votes casted for small parties, spoiled votes, wasted votes and the «votes» of non-voters. The author analyzes options available to make these votes count and investigates possible political consequences of existing alternatives. The researcher advocates presence of the «against all» option in the ballots and proposes to leave some seats at the parliament empty according to the real will of the voters. The method to process wasted votes is proposed also.

Key words: electoral system, vote, absenteeism, non-voter, spoiled vote, wasted vote, mandate, mandates distribution, threshold.

Statement of the problem. This article continues a line of papers devoted to electoral design issues. Previous one was focused on the ways of mandates distribution in proportional electoral systems. That time we touched mostly mathematical aspects of this procedure and described political consequences in general. But particularly issues which have a real influence on the outcome of the elections should be taken into account too. Modern electoral system of Ukraine trends to operate with political will of the voters without proper accuracy. The «votes» of non-voters, spoiled votes, wasted votes and the votes casted for parties which had not been able to pass the formal electoral threshold are processed in the same way. This way is very simple – the votes are proportionally distributed among the lists of the parties

which have passed the threshold. Obviously this way doesn't correspond with the will of the voters and it should be fixed.

Analysis of researches and publications. The author has already described these questions in previous papers devoted to the problem of the distribution of votes and to the principles of electoral design [1; 2]. That's why these questions are described here briefly. The most important papers on the questions were presented by A. Lijphart and P. Grilli Di Cortona. Despite the importance of transferring political will of the voters into the mandates, little attention has been paid to this process in Ukrainian political science.

The main content. The latest parliamentary elections provided us with the lowest voter turnout in the

modern history of Ukraine. Absenteeism level has dramatically raised from 28,78 % of registered voters in 1998 to 42,48 % in 2012 (illustration 1) [3; 4; 5; 6; 7]. Of course, low voter turnout is not a direct evidence of the

crisis of current electoral system. But it really makes us to be in doubts in connection with the level of popular support of main political institutions.

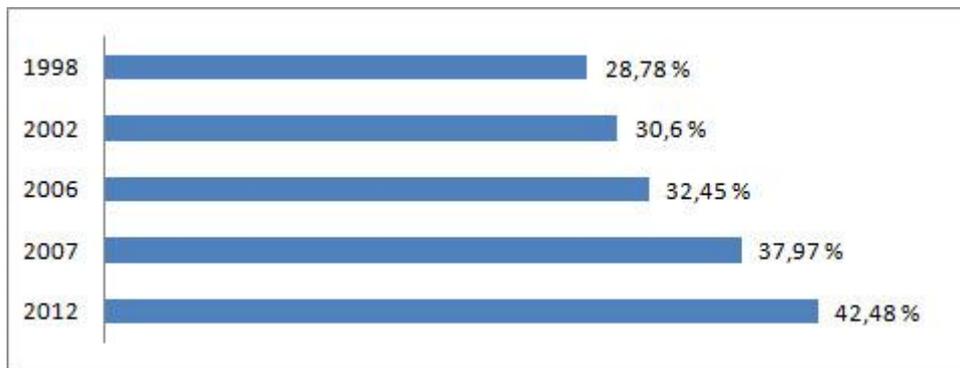


Illustration 1. Absenteeism at Ukrainian Parliamentary Elections: 1998-2012 in Multi-Member Districts [3; 4; 5; 6; 7]

The parliament of Ukraine enjoys full support of less than 10 % of Ukrainians in 2011-2013. 52,6 % of them didn't support the parliament in November, 2012, just before the parliamentary elections [8].

Emptying polling stations make legitimacy of parliament lower and lower. Extremely high popular expectations and poor results of a long line of subsequent cabinets have led to a broad disappointment in politics at all. A civic culture in Western democracies leads to low voter turnout because of a high level of acceptance of government politics. Satisfied voters prefer to stay at home at election day. They face with the lack of motivation for voting. The case of Ukraine highly differs. The voters do not support any of a wide range of candidates. They don't want to empower any of them.

A widely spread illusion assures us that there are two best ways to deprive politicians of our support: to stay at home and become absentee or to go to polling station to spoil the ballot. But this is an illusion only. «Votes» of absentees and spoiled votes have enormously high strength and importance at the moment of mandates distribution.

Let's have a look at the results of the latest parliamentary elections. In 2012 Ukraine got back to a mixed electoral system. This parallel system mostly was copied from 1998 and 2002 electoral systems for parliamentary elections. 450 mandates are contested: 225 at single-member districts and 225 in a single nationwide multi-member district. First past the post system is established for single-member districts (SMDs) and closed list party representations system is in use for

distribution of mandates in the multi-member district (MMD).

A brief examination of the electoral statistics helps us to find out important consequences of current electoral laws. Results of the Party of Regions (PR) provide us with an especially significant example. The list of PR got 6 116 746 votes. Total quantity of registered voters was as high as 36 213 010 [7]. So the share of popular support obtained by the list of PR was 16,89 %. According to this proportion a «fair» quantity of the mandates legitimated by real voters for PR was 38 of 225 or 76,01 of 450.

Of course, modern electoral systems don't take into account non-voters and deal with voter turnout figures. 30 % of the ballots were casted in favor of the list of PR at the election day. This means, that PR should get 67,5 of 225 mandates or 135 of 450 mandates.

But spoiled votes and votes casted for parties which have not been able to pass the threshold are not taken into account too. These votes simply become wasted. That's why the share of the list of PR has to be raised again. Now it is as high as 32,21 % [7]. This share gives PR 72 of 225 mandates or 144 of 450 mandates.

Finally, let's look at the real results of the mandates distribution. 72 mandates were reserved for the candidates from the list of PR and 112 mandates were won in SMDs. Total result was 184 mandates [7]. Overrepresentation of PR is extremely high (illustration 2). And the greatest contribution into this disproportion was made by the first past the post system at SMDs. It gave to PR 40 excess mandates.

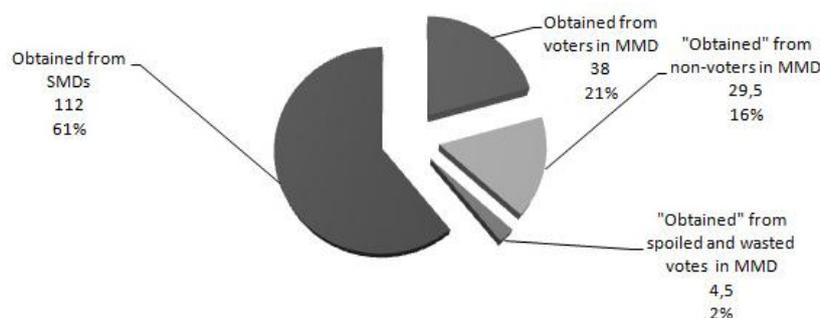


Illustration 2. Mandates Obtained by the List of the Party of Regions at the Parliamentary Elections in 2012

Of course, there is no sense to talk on the advantages and disadvantages of the first past the post system. They are well-known and described in numerous papers [9]. The author proposes to focus on the excess mandates obtained by party lists from «the votes» of non-voters and wasted votes.

These mandates really were not legitimated by voters, but they look to be decisive in constructing majority in parliament.

We need a system capable of not only transferring voter preferences into election results but also taking into account their hostilities and even their apathy. Now every vote has to be transferred to a mandate into the same manner, but this practice looks unfair since almost a half of the mandates obtained by the parties from MMD were distributed mathematically but not politically.

So let's classify registered voters into a several groups according to their political will and a way they are going to express this will.

The first clear distinction is obvious. There are two big groups of registered voters: interested in politics and going to express their political will; disinterested in politics and not going to waste their time for visiting polling stations.

The last group is really huge in modern Ukraine. 42,48 % of registered voters were absent at the polling stations in 2012, as we have mentioned above. But that doesn't mean that the attitudes of all of these voters are the same to all the parties. We can suppose, that a part of these voters are able to range parties from less to more appropriate, but a part of them takes all parties the same. We clearly see that political motivation of non-voting is highly different, but modern electoral system is not able to propose alternative voting for these citizens. What is really a fair way to transfer these «absentee votes» into mandates? Only three options are available.

First one is to keep existing system and distribute these «votes» proportionally among the party lists which pass the threshold. This option is mathematically accurate but politically questionable. The absent voters don't want to express their political will. Ukrainian sociologists' researches (2008-2010) provide us with a clear answer: from 12 % to 24,1 % of Ukrainians didn't support any political party even partly. This option is the simplest but it strengthens the most popular party with the help of the people which do not support it [10].

The second option looks utopian but it should be mentioned here, since it will be useful later. This option stands for the real representation: absentees didn't choose their representatives themselves so no one has power to do this instead of them. Then the seats for these representatives should be vacant until the next election. It means, that 95,98 of 225 mandates would be vacant according to the results of the parliamentary elections in 2012. This figure is more impressive for a pure proportional system with a single nation-wide MMD: 191,16 of 450 would be vacant. Of course, the parliament with the lack of more than 1/3 of deputies would become a very weak institution. It would be almost impossible to perform all necessary functions of legislative branch of power with this system of mandates distribution.

The third option for mandates distribution is not so utopian but is even more disputable. Since absentee voters

(or a part of them) do not see difference between political parties, there is no real reason to distribute their votes according to the will of the rest voters. So since all the parties are equal for non-voters, they should get equal share of mandates from them. It means that every party list at the parliamentary elections in 2012 should get approximately 19 mandates.

What will be the consequences of this solution? Surprisingly, it will not change the outcomes of the elections dramatically. Small parties will get some extra mandates from the most popular ones. Losers are expected to be not more than 15 mandates and «bonuses» not more than 7-8 mandates.

Adoption of this system is obviously in favor of small parties, but it leaves without a proper answer the question of the threshold. Why a party with 4,9 % of popular support should get zero mandates and a party with 5,0 % of votes should get not only their share but also a bonus mandates from the non-voters? There is no any reasonable explanation.

But this case points again at the same milestone – the electoral system should give a voter an option to express his will unambiguously: whether he doesn't want to take part in the elections at all or he wants to vote but he hasn't seen any proper party to support. Let's keep this in mind and go further.

The second group of users is represented by those who spoiled their ballots. This group is not so numerous and has never reached 1 million votes point at the parliamentary elections in MMD. The latest elections in 2012 brought 409 068 spoiled votes. Was it really a lot or not? Electoral quota was calculated as 84 404 votes. So, spoiled votes legitimated of about 5 mandates [7].

This figure doesn't look impressive really. Even for 450 mandates it would be just about 10. But the nature of spoiled ballots is far more important than these objective calculations. «The Guardian» introduces a brilliant quotation from a voter, who spoiled ballot at first: «I have always voted, but this time neither of them could be described even as «least worst», so this is a public gesture on my part» [11].

This quotation looks to be too emotional but it expresses the main reasons for intentional ballot spoiling. Absence of appropriate candidates makes people do this. But the electoral system does not take this as political will, only as a «public gesture».

And what is even more important – such ballots are the same for the system as unintentionally spoiled ones. The difference between this to kinds of ballots is extremely high so it is very important to provide voter with a proper option express his will without wasting his ballot.

It is a pity, but there is no way to process unintentionally spoiled ballots. Just now we have no any possibility to find out the exact number of such votes. Of course, it is lower than total quantity of spoiled votes.

It is important to stress, that these votes are not the same as non-voters «votes» in the process of vote distribution. Above we have considered three options of distribution absentees' votes. The only option for processing of spoiled votes is proportional distribution between the party lists which have passed the threshold. Other methods encourage temptation of dishonest

members of electoral bodies to damage valid ballots to make them spoiled and to reduce potential results of their political opponents.

The third group of voters consists of those who votes «against all». This option in the ballots was not present at the latest elections in 2012, so we have no exact number of «against all» votes.

But sociology provides us with really impressive figures. In 2012, just before the parliamentary elections 20,2 % of respondents said that they would use «against all» option if it had been included into the ballot. According to the proportion these percents match 45,45 of 225 mandates or 90,9 of 450 mandates [12].

Real figures represented in the record of Ukrainian parliamentary elections have never reached these heights. In 2007 only 2,73 % of those who took part in the elections voted «against all» in MMD. In 2006 there were 1,77 % «against all» votes, 2,45 % – in 2002 and 5,25 % – in 1998 [3; 4; 5; 6].

All the systems – from 1998 to 2007 – provided «against all» option as a gesture only. These votes were proportionally distributed between the parties which passed the threshold. That's why voting for «none of the above» was just a symbolic action but had no any legal or even political consequences. This approach looks to be really inappropriate and makes this option useless. That's why its rare usage looks to be a rational decision of voters.

Cancellation of the «against all» option was the simplest way to close eyes to avoid of looking for a real solution of the problem. And the problem is real and important: a huge group of registered voters has a certain political will but the electoral system is not able to distinguish this will and is not able to take it into account during mandates distribution procedure.

This option a real way to express their political will for those who don't want to stay at home at the election day but also don't see any worthy candidate to support. Also this is a conventional alternative for those who prefer to spoil their ballots instead of voting for inappropriate candidates.

The most important characteristics of voting «against all» is the fact that these voters don't want to legitimate election of any candidate from any party list. Proportional distribution of these votes between the parties which have passed the threshold looks like a perversion of the voters' will. But these is the most widely spread method of dealing with the «against all» votes.

The other method of distribution of «against all» votes is really different and unusual but it helps to transfer voters' will into the mandates justly. We propose to take «against all» as another list of candidates and distribute votes in accordance with this assumption. Also it has to be mentioned, that this «list» shouldn't be excluded from mandates distribution by the threshold rule.

The mandates of this «list» should become vacant since the voters don't see worthy candidates to get these seats. The seats may be vacant until the next regular elections or may be filled when a half of a term of elected deputies have passed.

The most important consequence of this solution is reducing the number of elected deputies. This number would be reduced not so dramatically as in the example above with the «votes» of non-voters. This would not stop

normal work of the parliament, but this would complicate the procedure of adoption disputable laws. Political parties should search for a broad consensus and broad cooperation to be able to conduct politics they want. Also it would be almost impossible to form a constitutional majority (300 of 450 mandates according to Ukrainian laws) in parliament without proper popular support.

Also this proposal would influence indirectly on the fractional discipline in the parliament. The quantity of elected deputies would be reduced and the «quality» of them is expected to be higher. This also potentially may help to reduce parliamentary corruption. Bargains between parties and deputies from the fractions of their opponent parties should become more costly and the quantity of those, who would be ready to change his political colors for a bribe, would not be enough to destroy the balance of power created by the will of voters.

By-elections for these vacant mandates of «against all list» provide voter with another promising option. Such elections in the middle of the term of the elected parliament would become real monitoring tool for voters. Parties would be forced to keep in mind their campaign programs and promises. 40-50 «reserved» mandates would be a good reminder for them. Voters would be able to shift a party from power twice faster for any inappropriate political decision.

This would also potentially increase voters turnout. With a proper explanation or even educational campaign voters would be aware of new possibilities provided by the «against all» option. Total unpopularity of parliament would make non-voters come to the polling stations and vote against all to reduce the number of deputies.

The other minor result of adoption of this method of mandates distribution could be found in the lower quantity of spoiled votes – better option with a clear political result would be able to attract a part of makers of «spoiled votes».

Also we should weight the outcomes of this system for incumbents and challengers. Opposition always looks for the protest votes, which are not really votes for challengers, but votes against the ruling party. Making «against all option» more attractive may lead to lower opposition support. These losses may be really substantial but cannot be truly estimated right now. A ruling party would get also an interesting option – to use proxy-parties or movements to propagate «against all» voting instead of the support of opposition. This tactic looks risky since this campaign may influence potential voters of incumbent party too, but it has to be taken into account.

An incumbent party would get some damage too if it had got more votes than the others. In this case the share of ruling party would be the biggest according to the traditional system of «against all» votes distribution. The new system would cancel these bonuses.

It is too tough to say now without unfounded assumptions, which side would lose more – a ruling party (coalition) or an opposition. But we can prove that this system would be not in favor of the most popular party. Also we suppose that lower quantity of elected deputies both from the ruling party and the opposition would strengthen opposition fractions in parliament. The space for bribery and indirect pressure would be seriously reduced.

The last important group of votes is a couple of votes casted for the small parties, which had not been able to

pass the threshold. There were 1 397 002 votes of this kind at the parliamentary elections in 2012. So 6,85 % of popular votes were ignored during seats distribution [7]. These party lists could claim as much as 15,41 of 225 mandates (or 30,83 of 450 mandates).

The system should have a mechanism to fix this defect. We suppose that the simplest and the most inexpensive way to do this is to give a second choice option for voters. A voter will have not only to mark his first preferred party list but a second one too. This option is widely spread in majority/plurality systems but it is not well known for the system of list party representation. These preferences will be used for transferring votes from party lists with too low support to pass a threshold to other party lists.

The ballot paper should not be change seriously to implement this proposal. The first way to do this is to put one more box near the present one. The old box will be used for first preferences and the new one – for the second choice. Another way is to use numbers 1 and 2 to mark the first and the second preferred party lists in the single column.

Both these methods would not make the ballot paper longer, so the cost of printing would stay the same. The only inconvenience would be brought to the electoral bodies during the calculations of the votes. But this is a good price for saving real political will.

Conclusion. Electoral system of list party representation can be improved and represent political will of the voters more correctly than now. There are several steps to take into account the «votes» of non-voters, wasted votes and votes «against all»:

1) include into the ballot «against all» option to increase voter turnout and decrease the quantity of spoiled votes;

2) take «against all» option as a vote for «against all party list» which doesn't have to pass the electoral threshold;

3) leave these seats of «against all party list» vacant until the next elections or by-elections;

4) give a voter two voting preferences to choose the first and the second preferred party lists;

5) transfer votes from the parties which have not passed the electoral threshold to the other ones according to the second preferences.

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