

Promo-LEX: Local General Elections May Be Postponed Only In Case of War or Disaster

The Promo-LEX Association presents an express analysis: **“Possible Scenarios for Setting the Date of 2015 Local General Elections”**. In accordance with the legal provisions described in the analysis, Promo-LEX states and insists that local elections are to be held between 5 June and 4 September 2015, and that the Parliament should set the date of elections at least 60 days in advance.

Lawyers note that the principle of continuity of state power may be extended for a period of time, even after the expiry of the mandate, thus legalizing the “interim function of the electee”. According to the principle of representation, elected officials have a limited mandate, and after its expiration, they may exercise their mandate for a clearly set period of time, until the new electees assume their duties. In absence of clear legal provisions that establish the maximum duration of the “interim mandate” of local elected officials, we can draw certain conclusions and deductions by making an analogy between the provisions regarding the organization of general parliamentary elections and general local elections, and between the mandate of the Members of Parliament and that of local elected officials.

By analogy with setting the date of parliamentary elections, Promo-LEX lawyers followed the provisions of Art.76 of the Election Code, which states that elections can be held within 3 months after the expiration of the mandate of Parliament. This maximum period cannot be extended for other categories of elected officials, namely for local and raion councilors, and

mayors. Thus **elected officials are given the possibility to exercise an “interim mandate” for a very short period of time, and it is required only for organizing elections.** Accordingly, the “interim mandate” of local officials cannot exceed the maximum period of three months, as specifically set out by the law for MPs. Otherwise, local elected officials exceeding their term in office of 4 years and 3 months may be suspected of usurpation of power in taking certain decisions.

We note that political statements on the possibility of extending the term in office of local elected officials beyond the limits set by the Election Code (3 months) have no legal basis at this time, as under Art.15 paragraph 3 of the Law on Local Public Administration, the mandate of the council may be prolonged only by organic law in case of war or disaster.

In conclusion, Promo-LEX recommends the Parliament to adopt a Decision to set the date of local general elections to avoid further speculation on this subject.

Express Analysis

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