IFES Comment on Possible Dissolution of the Verkhovna Rada and Timelines for Snap Parliamentary Elections

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Background

In 2017, President Poroshenko repeatedly rejected the possibility of early parliamentary elections. However, beginning in February of this year, politicians from the Petro Poroshenko Bloc advanced the possibility of holding snap parliamentary elections. Grounds for speculation were the decreased effectiveness of the Verkhovna Rada (Ukraine’s Parliament) in voting for needed and urgent reforms and three factions – Samopomich, the Radical Party and Batkivshchyna – de facto leaving the coalition. And, the Rada’s failure to vote for replacing Central Election Commission members who have expired terms resulted in yet new speculation on snap parliamentary elections.

Because Ukraine’s Constitution restricts grounds for dissolving Parliament and establishes deadlines for conducting snap parliamentary elections, it is a priority to determine clear deadlines for possible dissolution of the Rada and, subsequently, early elections.

Grounds for the Dissolution of the Verkhovna Rada and Related Issues

Under Article 90 of the Constitution, Parliament can be dissolved in three cases:

1. If no parliamentary coalition has been formed within one month following the first session meeting after the most recent parliamentary elections, or within one month following termination of an existing coalition;
2. If no new Cabinet of Ministers has been formed within 60 days following resignation of the present Cabinet of Ministers; and,
3. If within 30 days during a current session, its meetings are not conducted.

The current coalition was established in November 2014, and a Coalition Agreement was signed by representatives of five political factions – the Petro Poroshenko Bloc, the People’s Front, Oleh Liashko’s Radical Party, Samopomich and Batkivshchyna. Despite Samopomich, Batkivshchyna and the Radical Party announcing their departure from the Coalition in 2017 and early 2018, termination of a faction’s membership in a coalition and revoking commitment signatures under the Coalition Agreement is not legally regulated; and, the Coalition still exists. De facto, it consists of only two factions, the Petro Poroshenko Bloc and the People’s Front and includes only 217 Members of Parliament instead of a 226-member majority. However, Cabinet is operational, parliamentary sessions are conducted and no procedures for the Rada’s early dissolution are in place.

Even if such grounds existed, Article 90 of the Constitution states the Rada’s dissolution is a president’s right, rather than his or her obligation.
A President’s decision to dissolve Parliament can be challenged through the Constitutional Court; but, judicial consideration takes time. It took more than three years for the Court to declare that the 2012 National Referendum Law is unconstitutional. So, it is difficult to determine the timeframe on deciding the constitutionality of a politically sensitive decision like the dissolution of the Rada.

If the Rada is dissolved, early elections are possible only if it approves changes to the State Budget to pay for the snap elections. That approval can be elusive if political parties with representation in Parliament do not support the President’s decision to dissolve the Rada.

And, snap elections’ legitimacy could be questioned both domestically and internationally if they are administered by the current CEC, whose 13 members’ terms have expired.

**Deadline for Rada Dissolution and Snap Parliamentary Elections**

The Constitution’s Article 90 provides that the Rada cannot be dissolved during the last six months of a President’s or Parliament’s term. The incumbent President’s term began on June 7, 2014, when he was sworn-in at the Rada. Under Article 103 of the Constitution, his term in office expires on June 7, 2019. The six-month period during which the Rada cannot be dissolved commences on December 6, 2018 and, if the President schedules snap parliamentary elections after that date, his decision could be challenged at the Constitutional Court because it is inconsistent with Article 90.

If early parliamentary elections are scheduled by the President, they must be administered within 60 days following the announcement date of the President’s decision to dissolve Parliament, according to the Constitution’s Article 77. If a decision is promulgated on December 6, 2018 (that is, the last date such a decision would not violate the Constitution), elections would be administered on February 3, 2019, the last Sunday of the 60-day term.

**Summary**

Despite that *de facto* existence of the Coalition in the Rada can be questioned, there are a lack of provisions in law and Parliament’s Rules of Procedure governing establishment and termination of the coalition. *A de jure* coalition still exists if party faction leader signatures under the 2014 Coalition Agreement have not been formally revoked.

Currently, there are no constitutional grounds for Rada dissolution. Even if they existed, scheduling snap parliamentary elections by the President is not easy, given their cost and the perception they are not legitimate without a long-awaited CEC renewal.

The deadline for Rada dissolution by the President is December 6, 2018 if constitutional grounds for such a decision exist and if the President wishes to terminate the Rada’s powers early. Snap elections must be administered within 60 days of the formal dissolution announcement. Therefore, if the Verkhovna Rada is dissolved on December 6 the deadline for holding snap parliamentary elections will be February 3, 2019.

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