

OSCE prioritizes the establishment of electoral districts that take into account the settlement of national minorities

The Election Observation Mission of the Organization for Security and Co-operation in Europe (OSCE) monitoring the early parliamentary elections in Ukraine formulated a priority recommendation to redraw electoral districts by taking into account the settlement of national minorities and in full consultation with them. The OSCE report could serve as a guide for the Cultural Association of Hungarians in Transcarpathia (KMKSZ) to keep the issue on the agenda and to successfully demand the establishment of a Hungarian majority electoral district¹.

Since the independence of Ukraine, its electoral system has constantly changed: in 1994 the country opted for a majoritarian system, then introduced a mixed system (1998, 2002), which was followed by a proportional system (2006, 2007) and finally it reverted to a mixed system in 2010. At some of the mentioned elections they took into account the settlement of national minorities when drawing the boundaries of electoral districts, and the Hungarian minority in Transcarpathia managed to elect its own representative to the legislature in Kyiv (in 1994, 1998 and 2002). In 2006 the country opted for a proportional electoral system and the 3 per cent electoral threshold deprived the Hungarian party from sending a representative to the parliament. In 2010 the country introduced the mixed electoral system again, but the Central Electoral Commission (CEC), responsible for delimitation of electoral constituencies, put aside the aspect of settlement of national minorities in Transcarpathia when drawing the boundaries of the single-mandate district. Hungarians living compactly in Zakarpatska oblast were divided in three electoral districts, their proportion varying between 16 and 33 per cent, in contrast to 70 (in 1994) or 50 per cent (in 1998 and 2002). This solution, adversely affecting the chances of minorities in the elections was again applied in 2012 and at last year's elections.²

¹ The present analyses deals only with the potential establishment of Hungarian majority electoral district

² For a more detailed analysis see: Darcsi Karolina: A 2012-es ukrajnai parlamenti választások és a kárpátaljai magyarság, *Kisebbségkutatás*, 2012/5. pp. 768-781.

http://bgazrt.hu/_dbfiles/blog_files/0/0000000300/Darcsi%20Karolina%20-%20A%202012-es%20ukrajnai%20parlamenti%20valasztasok%20es%20a%20karpataljai%20magyarsag.pdf

Respecting its international commitments, in 2013 Ukraine passed amendments to a domestic law aiming at guaranteeing effective political participation of national minorities. The legislation on the election of people's deputies of Ukraine in Article 18 provides that the boundaries of the single-mandate districts should be defined on the basis of the borders of the administrative units and by taking into account the settlement of national minorities. It also adds that those administrative units where national minorities are living compactly and have common borders *shall* belong to the same electoral district. Consequently, the CEC has no unfettered discretionary power when drawing the electoral borders, a national minority living compactly in a specific region should not be divided into three separate electoral districts.

To circumvent the provisions of the law, the CEC decided in the late summer, referring to the shortage of time, not to redraw the electoral districts. However, this argument is significantly weakened by the circumstance that the CEC subsequently redraw the electoral borders in Eastern-Ukraine. After using all the remedies provided for in the domestic legal system the KMKSZ announced that it will file the case with the European Court of Human Rights in Strasburg.

The OSCE deployed an Election Observation Mission to observe the 26 October early parliamentary elections in Ukraine. Already in their preliminary findings the mission found as problematic that constituency boundaries were not redrawn before these elections by taking into account the ethnic composition of the population. The Final Report issued in December mentions – amongst others – the lack of faith in the electoral process, which is not conducive to national minority representation. Candidates of numerically smaller national minorities have a chance of entering the parliament only on the lists of major parties. Altogether, only four candidates on the lists of major parties explicitly campaigned as representatives of a national minority, among them László Brenzovics KMKF-president, winning a seat on the list of the Petro Poroshenko Bloc. The Final Report of the OSCE formulates 21 recommendations, 8 of them treating as a priority. Such a priority recommendation points also to the potential establishment of a Hungarian-majority electoral district in Transcarpathia. The OSCE recommends that:

- the CEC should complete the implementation of Article 18 of the election law regarding the delineation of single-mandate electoral districts
- well in advance of the next election cycle, and
- in full consultation with national minorities.

However, this should be followed only in case the current electoral system is retained, which weakens the strength of the recommendation.

The CEC, authority responsible for delimitation of electoral district, should take appropriate steps to bring the state electoral system in line with the international expectations. In case it fails to do so in the near-future, the KMKSZ could also send a signal that it awaits the beginning of the consultation process. Especially as the new boundaries should be redrawn well in advance of the next election cycle. According to international standards, i.e. in the opinion of the Venice Commission, it is not suitable to change the electoral law within one year of elections. OSCE recommends delineating the districts “well in advance of the next election cycle” and considering the time-consuming nature of such a process, the CEC should start with the work as soon as possible. By presenting its strong arguments relating to demographical data of Transcarpathia and the examples of electoral districts in the previous elections in the consultation process, the KMKSZ could convincingly argue for a Hungarian majority electoral district. If it still hopes for European perspective and wishes to consistently and in good-faith implement its international obligations and implement domestic law, Ukraine can hardly circumvent this solution.