Summary to the Decision of the Constitutional Court of Ukraine No. 7-rp/2012 dated April 4, 2012 in the case upon the constitutional petition of 59 People's Deputies of Ukraine concerning conformity with the Constitution of Ukraine (constitutionality) of the provisions of Article 22.2 of the Law "On the Elections of the People's Deputies of Ukraine" concerning proportional assignment of electoral voting stations abroad to all single-seat electoral districts established on the territory of the capital of Ukraine - the city of Kyiv

Subject of the right to constitutional petition - 59 People's Deputies of Ukraine – applied to the Constitutional Court of Ukraine with a petition to recognise as non-confirming with the Constitution of Ukraine (unconstitutional), several provisions of Article 22 of Law "On the Elections of the People's Deputies of Ukraine" dated November 17, 2011 No. 4061-VI (hereinafter referred to as "the Law"), which stipulate that electoral voting stations abroad shall be formed by the Central Election Commission at the diplomatic establishments of Ukraine abroad, military units (formations), deployed abroad, with proportional assignments to all single-seat electoral districts established on the territory of the capital of Ukraine - the city of Kyiv.

Pursuant to Articles 1.1, 1.3 of the Law the People's Deputies of Ukraine shall be elected by the citizens of Ukraine on the ground of universal, equal and direct suffrage by secret vote under mixed (proportional and majority voted) electoral system. According to the Law, 225 People's Deputies from 450 People's Deputies of Ukraine shall be elected under proportional system in the national multi-seat electoral district according to the electoral lists of candidates for People's Deputies of Ukraine from political parties, 225 – under majority system of relative majority in single-seat electoral districts (Articles 1.2, 1.3).

In accordance with the Articles 18.1, 18.2 of the Law, the elections of People's Deputies of Ukraine shall be held in the national multi-seat electoral district, which includes the whole territory of Ukraine and electoral voting stations abroad, and in 225 single-seat electoral districts, which shall be formed by the Central Election Commission and exist on permanent basis; single-seat electoral districts shall be formed in the Autonomous Republic of Crimea, oblasts, the cities of Kyiv and Sevastopol with approximately equal number of voters in each district; approximate average number of voters in single-seat electoral districts shall be determined by the Central Election Commission in accordance with the information of the State Register of voters; deviation of the number of voters in a single-seat electoral district shall not exceed 20 per cent of approximate average number of voters in single-seat electoral districts.

In accordance with the meaning of the Law prescribing the term, order and succession of actions to form single-seat electoral districts, and including voting stations abroad, the Central Election Commission must form voting stations abroad with their further (after establishment of single-seat electoral districts)

proportional assignments to all single-seat electoral districts, formed on the territory of the capital of Ukraine – the city of Kyiv (items 6.2, 6.3, 6.4 of Chapter XV “Final and Transitional Provisions”).

Thus, the Central Election Commission must establish single-seat electoral districts on the territory of the capital of Ukraine – the city of Kyiv with account of the number of voters, who at the moment of establishing these districts are included in the State Register of Voters in the city of Kyiv and having regard to 20 per cent limit of deviation from the determined approximate average number of voters in single-seat electoral districts, not including the number of voters, registered in the State Register of Voters, who live or stay abroad.

Under such circumstances the requirement established in the Article 22.2 of the Law regarding proportional assignment of voting stations abroad to all single-seat electoral districts, formed on the territory of the capital of Ukraine – the city of Kyiv, with account of the proportion of voters, who live or stay abroad, and voters in the city of Kyiv, does not comply with Article 18.2 of the Law, which determined the definite limit of deviation of the number of voters in the single-seat electoral district, namely up to 20 per cent from approximate average number of voters in single-seat electoral districts.

Proportional assignment of voting stations abroad to all single-seat electoral districts, formed on the territory of the capital of Ukraine – the city of Kyiv with account of the number of voters in the city of Kyiv, causes significant increase in the number of voters, who are not tied with the territorial community of the city of Kyiv.

Accordingly, the implementation of the provisions of the Law, according to which the voters, who live or stay abroad, vote for the candidates for the People’s Deputies of Ukraine in the single-seat electoral districts, formed on the territory of the capital of Ukraine – the city of Kyiv, does not ensure the reflection of the will of those voters, who live on the territory of the city of Kyiv.

The provisions of the Law on proportional assignment of voting stations abroad to all single-seat electoral districts on the territory of the capital of Ukraine - the city of Kyiv do not ensure equal legal possibilities for the candidates for the People’s Deputies, who will be running in the single-seat electoral districts in the city of Kyiv with regard to implementation of their right to be elected the People’s Deputies of Ukraine, since the possibilities of such candidates to form free will expression of voters, who live or stay abroad are restricted.

Thus, proportional assignment of voting stations abroad to all single-seat electoral districts established on the territory of the capital of Ukraine - the city of Kyiv under Article 22.2 of the Law, does not provide equal and free electoral right for the voters, who live or stay outside Ukraine and who – under existing proportional and majority electoral system - implement such right only under proportional component of the mixed voted system.

Thus, the Constitutional Court of Ukraine held to recognize as non-conforming to the Constitution of Ukraine (unconstitutional) the provisions “with proportional assignment to all single-seat districts, established on the territory of the capital of Ukraine – the city of Kyiv» of Article 22.2 of the Law “On the Elections of the People’s Deputies of Ukraine” dated November 17, 2011 No.4061-VI.