

Identification: UKR - 2002 - 1

a) Ukraine / **b)** Constitutional Court of Ukraine / **c)** / **d)** January 30, 2002 / **e)** 2-rp/2002 / **f)** Constitutionality of the provisions contained in Article 43 of the Law of Ukraine "On election of people's deputies of Ukraine" (case on the electoral deposit) / **g)** Official Bulletin of Ukraine #6/2002 / **h)**

Key words of the systematic thesaurus:

Constitutional justice - Subject of the right to constitutional petition (appeal) - Petitions from state power authorities - Legislative bodies

Constitutional justice - Object of control - Laws and other legal acts

Constitutional justice - Decision - Type - Recognition of constitutionality or non-constitutionality

State bodies - Legislative body - Structure - Elections

State bodies - Elections and form of direct democracy - Right to be elected

Fundamental rights - Civil and political rights - Electoral rights - Right to be elected

Key words of the alphabetic index:

Election / Voting qualification / Money (electoral) deposit

Headnotes:

The provisions contained in Article 43 of the Law of Ukraine "On election of people's deputies of Ukraine" comply with the Constitution of Ukraine.

Summary:

Subject of the right to constitutional petition believes that the requirements stipulated in Article 43 of the Law of Ukraine "On election of people's deputies of Ukraine" as to necessity of making money deposit establish property qualification for citizens of Ukraine that contradicts the provisions contained in Article 5 and Article 24 of the Constitution of Ukraine

The Constitutional Court of Ukraine proceeded from the following: the Constitution of Ukraine establishes a number of restrictive requirements to the right to be elected as people's deputy of Ukraine, namely as: citizenship of Ukraine, twenty one years of age as of the day of elections, residence in Ukraine for the last five years, no conviction for committing of an intentional crime, unless such a conviction is cancelled and withdrawn in prescribed by law order (Article 76, parts 2 and 3). These requirements are referred to as "voting qualification". The Constitution of Ukraine contains no other restrictive requirements to the citizens of Ukraine exercising their passive electoral rights, in particular the property qualification.

The voting qualification and money (electoral) deposit have different legal nature. The voting qualification is a qualifying condition regarding the availability of the electoral rights while the electoral deposit is just a condition for candidate's registration for deputies. The money deposit is used with the purpose to ensure responsible attitude of the citizens as prospective candidates for deputies to their participation in the election, to assist with making of the balanced decision by the candidate for deputy, nominated in one-mandate constituency, and candidate for deputies, included into voting lists in multi-mandate constituencies, and also prevent possible unjustified expenditures from state funds. The money (electoral) deposit may not be deemed as a restriction of citizens' passive electoral rights by property status. At the same time, establishment of money (electoral) deposit does not violate the constitutional principle of equality of citizens before the law and equality of their constitutional rights and freedoms, and also principle

of equality of political parties before the law. The money deposit envisaged by the provisions contained in Article 43 of the law by their legal nature is not a property qualification and the said norm does not contradict the provisions of Article 21 and Article 24 of the Constitution of Ukraine. The Constitutional Court of Ukraine indicated that the determination of the socially oriented amount of the deposit is a matter of political expediency and does not belong to the competency of the Constitutional Court of Ukraine.

Language: Ukrainian