

Constitutional Court changing the election rules

Today's Constitutional Court's ruling cancelling parts of the Electoral Code has radically shook the Czech political landscape less than 9 months ahead of general elections.

Pre-election coalition will be obliged to overcome the 5% threshold no matter the number of political parties and movements in the coalition. In current circumstances, liberal coalition of Pirates and STAN movement will no longer be obliged to overcome the 10% threshold as well as the conservative coalition of ODS, Christian Democrats and TOP09 which will not be required to pass the 15% threshold in order to be present in the Chamber of Deputies.

Moreover, the Constitutional Court decided to abolish essential parts of the law regulating allocation of seats (including D'Hondt formula), which together with the various sizes of electoral districts severely disadvantaged smaller parties. Without these provisions, the general elections effectively cannot take place.

However, the Court's ruling has decided to keep the 5% threshold as a protection against the fragmentation of the Parliament and obstacles when forming a government majority.

Consequently, both chambers of the Parliament are required to adopt the Electoral Act amendment before the October general elections respecting the Court's ruling. Importantly, both chambers have to find a consensus as in the case of electoral laws, the Chamber of Deputies cannot overrule the Senate veto. According to the judge-rapporteur, the Parliament has until August to come up with new rules compliant with the Constitution and the newest ruling.

The complaint filed by Senators from the STAN movement already in 2017 criticised the current electoral system as unconstitutional, infringing the principle of equality of the right to vote and the unequal chances for candidate entities. Czechia is divided into 14 electoral districts of various sizes favourable for dominant political parties. In other words, in several regions, small political parties struggle to gain enough votes to obtain an MP even when they score above 5%.

The ruling has been already criticised by several stakeholders. Despite being filed in 2017, the ruling will have a significant impact on the pre election campaign and forming the candidacy lists of particular parties and coalitions.

President Zeman already stated that the ruling could potentially cause a constitutional crisis before the October elections. Vice PM and Minister of the Interior Jan Hamacek stated he respected the Court's decision. Moreover, he will soon call for a meeting with all political party leaders in order to find a legal solution before the elections. Hamacek already proclaimed that the Ministry of the Interior would come up with a first legislative draft. Senator Zdeněk Hraba, chairman of the Standing Senate Commission on the Constitution, also announced he already called for a meeting of the commission, adding that the cooperation between both parliamentary chambers will be crucial.