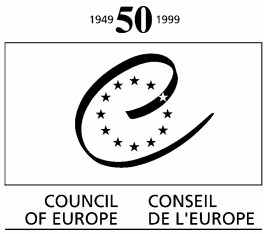

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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

ELECTORAL LAW AND NATIONAL MINORITIES

Introduction[1]

During the last ten years and the upheavals which have occurred in Europe, the protection of minorities has once again become one of the major preoccupations of European public law specialists. Far from being an academic subject reserved for those specialising in constitutional law and political science, it is central to political debate and to achieving the three fundamental principles of Europe's constitutional heritage on which the Council of Europe is based - democracy, human rights and the rule of law.

The involvement of members of minorities in the various aspects of life in society is an important factor in their integration and in the prevention of conflicts. This applies especially to what is commonly called public life, that is to say participation in state bodies.

The present report covers a central element of public life - participation in a state's elected bodies, especially the national legislature. Such participation is studied through electoral law and the possibilities it gives members of national minorities of being present in elected bodies.

1. Rules of electoral law which provide for special representation of minorities are an exception. They will be briefly considered in the first section of the report.

2. In most cases, the representation of minorities in an elected body is achieved through the application of the ordinary rules of electoral law, which treat people belonging to national minorities and others in the same way.

It is not always easy to identify which of these general rules promote and which hinder representation of minorities. There are various reasons for this.

a. First, the relationship between an electoral system and the composition of elected bodies - other than with regard to its purely mathematical aspects - is one of the most controversial questions in political science. The diversity of situations in the various states makes it impossible to deduce detailed rules which may be applied universally. Furthermore, the significance of international comparisons must be tempered by factors other than the mathematical formula for converting votes into mandates, such as the possibility voters may have of choosing between the candidates on a list or more than one list. The number of seats per constituency, although not part of the electoral system in its strict meaning, is also a decisive factor.

b. Second, in most states which replied to the questionnaire, there are no precise data on the presence of members of minorities in elected bodies. Failing such data, it is very difficult to know whether the electoral system tends to result in under-representation or over-representation of the minority in the elected body.

c. Third, it is often hard to ascertain whether or not the purpose of a rule is to ensure or strengthen the representation of minorities (or, on the contrary, to lessen it). For one thing, such an objective is not necessarily explicit. Also, the representation of national minorities, even if intended, is not necessarily the main objective of legislation, especially in states where there are no sizeable minorities. Thus, in a strongly proportional electoral system, which aims to ensure

[1] This report is based on the replies to the first part of the questionnaire on the participation of members of minorities in public life (CDL-MIN (96) 1), from the following States: Albania, Argentina, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Georgia, Greece, Hungary, Italy, Japan, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Portugal, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, and Ukraine (see documents CDL-MIN (97) 1, CDL-MIN (97) 2 and CDL-MIN (99) 2).

that small political groups are represented, the representation of national minorities may be an associated aim. And finally, paradoxical as it may seem, when an electoral system ensures that minorities are represented to their satisfaction, the question is not crucial, and thus there is no vital reason for wondering whether the legislation tends to ensure that minorities are represented. As a consequence, no distinction will be made in the present report between those ordinary electoral rules which merely result in the protection of minorities and those whose very purpose is such protection.

d. The rules on the conversion of votes into seats, especially those of a mathematical nature, which are most universal in scope, apply above all to political parties. They never concern a national minority directly. Their significance for the representation of national minorities therefore largely depends on the relationship between national minorities and political parties, or at least political groupings. Such rules concern national minorities when there are parties or other organisations peculiar to such minorities that present their own lists. Obviously, it remains to be seen to what extent the voters belonging to the minority - or indeed the majority - vote for such parties. If there are no such lists, there may be a link between an electoral system and the representation of minorities when membership of a minority is a decisive criterion in voting by citizens.

Consequently, this survey cannot simply present the rules of electoral law in relation to the protection of minorities. It must rather take a general look at electoral systems and their effects, before going on to consider their application to national minorities. Thus, the second section of the report will set out to elicit general rules relating to the influence of electoral systems on the representation of political groups, on the basis of which a third section will deal with the effects of electoral systems on the representation of minorities, distinguishing between situations where minorities have their own parties and those where they do not. Section four will consider the consequences of the distribution of seats between constituencies and the drawing of constituency boundaries. A final section will analyse current discussions on the revision of electoral law and the impact of such discussions on the representation of national minorities.

I. Rules specifically providing for representation of minorities

A. Representation of minorities as such

Only three of the states which replied to the questionnaire provide for the election of deputies intended to represent national minorities. They are *Croatia*, *Romania* and *Slovenia*.

1. The most explicit form of specific representation of national minorities is that resulting from the creation of *communities (or circles) of persons*, where the electorate is made up not of citizens who reside in a particular territory, but of those who belong to an ethnic group.

In the elections to the lower house of the *Croatian* parliament, members of national minorities may choose to vote for a general national list (like the members of the majority), but may also vote for specific minority lists (the Hungarian, Serbian and Italian minorities have one seat each, while minorities with small numbers of members are grouped together to elect one deputy between them). In *Slovenia*, one seat in the National Assembly is reserved for the Italian minority and one seat for the Hungarian minority.

2. The system for local elections in *Slovenia* is different in that it does not create constituencies based on people, but nonetheless provides a way of guaranteeing the representation of members of the Italian minority in ethnically mixed areas. The *Romanian* system ensures minimal representation of legally constituted organisations of citizens belonging to a national minority. If such organisations do not obtain a seat in either house through ordinary electoral procedures, but receive at least 5% of the average number of votes validly cast over the entire country for the

election of a member of the Chamber of Deputies, they are entitled to a seat in this house. In 1992, for example, thirteen organisations benefited from this clause.

B. Rules facilitating the representation of minorities

Other systems, while not necessarily guaranteeing the presence of members of national minorities in elected bodies, facilitate the representation of minority organisations. In *Poland* and *Germany*, for instance, threshold rules do not apply to such organisations.

C. The *Belgian* system is specific. The body of institutions is conceived in such a way as to establish a balance between the different linguistic groups (rather than between minorities in the strict sense). Moreover, in certain areas which are mixed from a linguistic point of view, adjustments have been made so that electors from different linguistic communities are represented in the elected body. In this way, a large mixed constituency was created in the centre of the country (Brussels-Hal-Vilvorde constituency). It covers both the bilingual region of Brussels-Capital and two Flemish districts where there are a large number of French speakers. Voters from this constituency can vote, with chances of success, for candidates from Flemish or French-speaking lists for both the Senate and the House of Representatives.

Concerning elections to the Senate, for which voters in the whole country are divided into two electoral colleges, the French electoral college and the Dutch electoral college, responsible for electing 15 and 25 senators respectively, voters from Brussels-Hal-Vilvorde can vote for a Flemish list or a French-speaking list and thus belong, according to the choice made, to one or other college. Finally, for both Chambers, voters from the two districts with linguistic facilities of Fouron and Comines-Warneton have the right to vote in a district situated on the other side of the linguistic border.

II. The influence of electoral systems on the representation of political groups – what kind of general rules?

In a democracy, it is the choice made by the voters which is the essential factor in determining the result of the election, in terms of seats as well as votes. The electoral system has a lesser part to play. Even so, it does influence the result, directly and indirectly. To begin with, the electoral system is a device for converting votes into seats: it reproduces - faithfully or otherwise - the structure of the electorate in the elected body. Second, it indirectly influences the very behaviour of voters.

The debate on the effects of one voting system as compared with another, which began with the birth of modern democracy, is far from over. It will not be settled by the present report. The purpose of the following paragraphs is simply to show what are the most generally accepted effects of electoral systems which may be taken into consideration with respect to the representation of minorities.

1. The extent of the impact of an electoral system on the *conversion of votes into seats* is shown by the difference between the fractionalisation of votes and that of seats. Fractionalisation of votes is defined as the chance that two voters do not choose the same party, whereas fractionalisation of seats is the chance that two seats do not belong to the same party[2]. When there is no divergence between vote fractionalisation and seat fractionalisation, the electoral system may be described as "neutral", the distribution of seats being proportional to that of votes. The more a system "defractionalises", on the other hand, the less proportional is the outcome.

[2] The notion of fractionalisation was developed by Rae, Douglas W., *The political consequences of electoral laws*, 2nd edition, New Haven/London, 1971, p. 53 ff.

Between a perfectly neutral - or fully proportional - system and the most defractionalising, there are a great many intermediate situations, the two extremes being linked by a continuum.

The impact of an electoral system on the conversion of votes into seats depends to a large extent on factors of a *mathematical* (or mechanical) nature. However, it is impossible to predict scientifically in each individual case what the effect of an electoral system will be, as the factors to be taken into consideration are so complex. At the most, a few general rules may be deduced.

One of the essential rules is that, the more a system defractionalises, the more favourable it is to large groups, in particular the largest, at least at constituency level, and the harder it makes the representation of minority political tendencies. If the entire territory over which an election is held is taken into account, exceptions are found to this rule, when political groups are unevenly represented over the territory. Conversely, the more a system is neutral as regards the conversion of votes into seats, the more it allows minority political tendencies to be represented. However, it would be wrong to think that neutral systems encourage small political groups. In actual fact, the representation they give those voting for such groups is equal to, not greater than, that given to other groups.

Obviously, the ultimate distinction between majority and proportional systems of voting has a large part to play in determining the extent to which such systems have a defractionalising effect. However, it allows but an initial differentiation, which needs refining, especially with respect to states using a proportional system.

Most of the states studied use a proportional or predominantly proportional system. This is obviously not to say that the systems are proportional all to the same extent. Without going into a detailed study of the countless variants of electoral systems, it is useful to recall the following: although proportional systems give a more proportional result than majority systems, a proportional system - or, to be more exact, a proportional method of translating votes into mandates - does not in itself guarantee that the composition of the elected body is a true reflection of that of the electorate. The proportionality of the outcome may be limited by several factors:

a. The most visible is the threshold, which excludes from the distribution of seats parties which have not obtained a certain percentage of votes. The significance of the threshold obviously depends on the percentage of votes to which it corresponds. Furthermore, a threshold which applies at national level will exclude more parties than one at constituency level. *Turkey* is an example of a particularly harsh threshold, as it is set at 10% nationwide, while *Poland* has a threshold of 7%. In *Germany*, too, the threshold is set at national level, but is only 5% (or three direct mandates), which allows five parties (or coalitions) to be present in the *Bundestag*, whereas only two would enter the parliament if there were a threshold of 10%. In *Denmark*, the threshold has hardly any impact, as it is merely 2%. In *Armenia*, the threshold is in principle 5%; however, if one political party manages to get more than 5%, the first two parties which follow (in number of votes) also obtain seats in proportion to their result. It should be pointed out that in *Poland*, as in *Germany*, the threshold rules do not apply to minority lists. Thus, the German minority in Silesia is represented in the parliament.

b. The electoral formula itself may have the effect of reducing the proportionality of the result, but to a much smaller extent (for instance, the systems using the largest average formula give a less proportional result than those using largest remainder method).

c. Also, and above all, the size of constituencies, or, to be more exact, the number of seats they contain, has an essential part to play in the proportionality of the result: the fewer seats there are in a constituency, the higher the electoral quotient is and the harder it is for a party to obtain a seat.

d. Moreover, as well as majority and proportional systems there are *mixed systems*, which combine aspects of the two major voting systems. This notion covers widely divergent situations. The extent to which the systems are proportional depends in part upon the criteria mentioned above, but, above all, the extent to which the proportional principle determines the result is variable.

When separate allocations of seats are made under the majority system and the proportional system, the extent to which the result is proportional will depend chiefly on the share of seats kept for the proportional system. In *Italy*, for example, this share is only 25%. As the minorities are concentrated, they are not harmed by the size of the share of seats filled by the majority system. By contrast, the threshold of 4% at national level which is required in order to win a seat under the proportional system is to their disadvantage. In *Albania*, the Greek minority, being concentrated, is not disadvantaged by the electoral system, even though only a little over a quarter of the seats is set aside for the proportional system.

In other states there is a balancing-out, in so far as when the seats are allocated under the proportional system, the seats already obtained under the majority system are deducted. Thus, in *Germany* the result is essentially proportional. There are three stages. First of all, half of the seats are allocated on a majority single-ballot single-member basis. All the mandates are then divided between the parties on a proportional basis and the seats obtained under the majority vote are then deducted. In *Hungary*, 176 seats are allotted for the majority single-member ballot, 152 for the proportional system with regional constituencies, and 58 on the basis of national party lists, which serve to balance out representation. In these two states, the limited numbers of members of minorities have not led to the creation of minority lists, at least at national level.

2. So far, consideration has been given to the influence an electoral system has on the transformation of votes into seats, that is to say issues of a mathematical nature. However, electoral systems also have an influence on *voters' choices*. In the first place, their possibilities of choice vary according to the type of system used (a point which will be taken up later[3]). Also, and above all, voters who are aware of the way electoral systems work adapt their voting to the electoral system, in particular by casting a "tactical" vote, that is to say avoiding giving votes to a party or a candidate without a chance. This behaviour in turn has an influence on parties and thus on who stands for election. This is a controversial question, which belongs to the realm of *political science* and will not be gone into further here. It is generally accepted, however, that the behaviour of voters tends to accentuate the effects of an electoral system. Tactical voting increases the chances of the major lists and reduces those of the small lists, thereby accentuating the mechanical effect of the electoral system.

To sum up, except for fully proportional systems, which are neutral but do not exist in a pure state in any of the states studied, all the voting systems are favourable to large political groups and unfavourable to small ones. At constituency level, this results from the automatic application of the system for converting votes into seats and is therefore of universal significance. However, if account is taken of the entire territory over which an election is held, such a rule applies only if the various tendencies are spread relatively uniformly. A majority tendency in a confined geographical area, which is not represented in the rest of the territory, may therefore benefit from a highly defractionalised system, despite being in a minority at national level.

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[3] Point III.B.2.b.

III. The effects of electoral systems on the representation of minorities

A. Political parties of national minorities - a factor in the representation of such minorities

The points discussed above apply to the "political parties of national minorities" - that is to say parties whose purpose is to represent national minorities and defend their interests - as they do to all other parties. How important are the former? The replies to the questionnaire allow the following picture to be drawn of the situation of political parties of national minorities.

a. Only a few of the states which replied to the questionnaire *prohibit* parties representing minorities. They are *Albania, Bulgaria, Georgia* and *Turkey*. On the other hand, the prohibition in the *Portuguese* constitution of parties of a regional nature or which have a regional dimension is not directed at minority parties.

b. However, it would appear that in most of the states which prohibit parties representing minorities, such prohibition is ineffective. In *Albania*, the party called Union for Human Rights includes, above all, the political organisation of the Greek minority, OMONIA. In *Bulgaria*, the Movement for Rights and Freedoms is the political party from the Turkish ethnic minority. Both these parties have deputies in the respective parliaments. In *Turkey*, on the other hand, the Constitutional Court has banned several parties pursuant to a statute which notably prohibits parties whose purposes include changing the unitary nature of the state; claiming that there are minorities in Turkey based on differences of national or religious culture, or of religious affiliation, race, or language; or creating minorities in the territory of the Turkish Republic by protecting, developing or disseminating languages and cultures other than the Turkish language and culture. It should be noted, however, that there is a question mark over the compatibility of such statutory provisions with the Constitution. Moreover, a political party claiming to represent the Kurdish identity is currently tolerated. It is not represented in the parliament, however, as it fell short of the threshold of 10% of votes nationwide. Regardless of any statutory prohibition, this threshold makes it very difficult for minority lists to be represented in the parliament. Last, the statutory prohibition in *Georgia* upon associations of citizens aimed at ethnic, religious or national representation is not shown by the questionnaire to have been applied to political parties. Furthermore, there is a large number of associations representing the minorities resident in Georgia.

To sum up, it is highly unusual, in practice, for political parties representing national minorities to be prohibited. As this would be a restriction upon the freedom of association, which is a fundamental part of the common constitutional heritage across the continent, it can be justified only in very special and individual cases, and not in a general manner. The principle of proportionality must always be fully respected.[4] It should be noted that the prohibition on using "minority" arguments in an electoral campaign can lead, in fact, to a prohibition on participating in parliamentary life, even if minority parties as such are not formally prohibited.[5]

c. The mere fact that parties representing minorities are permitted obviously does not imply that they exist. They are present in only a certain number of states.

Their absence is often linked to the limited number of people belonging to minorities (*Japan*), or to their being dispersed (*Hungary*). In *Switzerland*, where there are no minority parties strictly speaking, political parties have their roots largely in the cantons, which means that the cantonal sections, at least in the mono-lingual cantons, are composed of people belonging to the same

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[4] See document CDL-INF (98) 14, "Prohibition of Political Parties and Analogous Measures", report adopted by the Commission at its 35th plenary meeting, Venice, 12-13 June 1998.

[5] See the opinion of the European Commission of European Rights in the Ahmed Sadik case, Eur. Court HR, Ahmed Sadik v. Greece judgment of 15 November 1996, Reports of Judgments and Decisions 1996-V.

linguistic group. When concentrated minorities have few members, they sometimes have parties only at regional and local level (*Austria*; *Norway* and *Sweden* for the Samies; *Denmark* for the German minority). In other cases, even when present in the national legislature, parties from concentrated minorities are naturally situated in the regions where such minorities are in the majority (*Italy, Slovakia, Spain*), or where they at least have relatively large numbers of members. Indeed, when highly structured, an organisation representing a minority may obtain seats in a national parliament even if the minority is in the majority nowhere, or only in a very confined area. *Romania* is the country where the largest number of minority parties or organisations (treated as political parties for electoral purposes) took part in elections and have deputies and senators in the parliament.[6] In *Slovakia* and *the former Yugoslav Republic of Macedonia* there are many minority parties, one of them even being in the government in the latter case and three of them in Slovakia. The replies from *Croatia* and *Lithuania* also mention the existence of parties representing minorities.

Where there are national minority parties, the influence of the electoral system on the representation of the national minorities in the elected bodies is greater. Irrespective of the bearing an electoral system has on the outcome of an election in terms of seats, the deciding factor is always the choice made by the voter. As this choice is made on the basis of the candidates standing for election, the representation of members of national minorities in elected bodies varies according to the number of candidates from such minorities, or at least the number of candidates put forward by organisations which have a chance of winning seats. It is easier for members of minorities to stand for election - and thus to be elected - when there are parties specific to national minorities.

B. The situation when there are no parties of minorities

1. Representation of minorities through the proportionality of the results

The general rules concerning the influence of electoral systems on the representation of political groups cannot, just as they are, be transposed to national minorities, for the reasons given hereafter.

a. Political parties from national minorities are not a true reflection of such minorities. Members of national minorities also vote for other parties, especially when the latters' lists include candidates belonging to the minority and openly declaring themselves as such. Also, it is not impossible for a party from a minority to receive votes from outside such minority.

b. Also, and above all, minorities are not generally represented through political parties which are peculiar to them. Although widely permitted, such parties exist only in certain states. In general, when they exist, they are limited to the region where most of the minority resides.

Where there are no parties representing a minority, the relationship between the electoral system and the representation of the minority is very difficult to define, even assuming that the way voters cast their votes is determined by whether or not the candidates belong to the minority. Some general trends may nonetheless be identified, as will be seen in the following paragraphs.

It may be that a minority is not in a majority anywhere in the territory. Whether this be because it is dispersed or simply has few members, it has very little chance in such case of being represented in a defractionalising system, and especially in a majority system. When a minority with a small number of members is concentrated, its interest will be better served by a break-up

[6] It will be recalled that there are special statutory provisions in this country encouraging representation of such groupings. See *supra*, point I.A.2.

of national territory into constituencies than by a distribution of seats at national level with a threshold.

The more proportional an electoral system, the more it allows minorities, even dispersed ones, to be represented in the elected body, at least when the number of people belonging to the minority who take part in the election attains the electoral quotient - and, if such be the case, the threshold - in the constituency in question. The minority is then in a position to present its own list, but also to forgo such a list if it arranges with the traditional political parties for them to include its candidates. Thus, the proportional system allows the Swedish minority in *Finland*, which is in the majority only on the Åland Islands, to be represented by its own list in three other constituencies. It has a seat in a fifth constituency through alliances with other parties.

2. Plurinominal ballot and the election of members of minorities

a. Generalities

Constituencies with several seats, even under a majority system, may make it easier for members of minorities to be elected in constituencies where the minority is not in the majority. Indeed, in a district where there is only one seat to be filled, voters from the majority will tend to choose a candidate from the majority, whereas in a multi-member-constituency system, voters will not hesitate to vote for a list which includes candidates from both the majority and the minority. Thus, in *Greece*, parties include Muslim candidates on their lists and at least two of them are usually elected. The replies from a good many other states which use the proportional system (or, for the upper chamber, a plurinominal (multi-member) system of majority voting, as in *Poland* and *Switzerland*) show that parties tend to balance their lists so as to ensure that minorities are fairly represented. This applies both in states where a proportional system with closed lists is used (*Bulgaria*), even when combined with a single-member-constituency single-ballot majority system (*Albania*, *Azerbaijan*, and *Italy*), and in those which allow preferences between candidates to be expressed (*Austria*, *Finland*, *Latvia*, *Poland*, and *Slovakia*) or candidates to be selected from different lists (*Switzerland*). It should be noted that even in purely single-member-constituency systems (*Canada* and *the former Yugoslav Republic of Macedonia* until June 1998 - these states include concentrated minorities), parties sometimes balance out the candidates standing for election between the majority and the minority(ies).

b. Voters' freedom of choice and its impact on the representation of minorities

aa. Electoral systems differ not only in the way votes are converted into seats, but also in the possibilities offered to voters of choosing between the candidates belonging to one list or one party. Broadly speaking, under a plurinominal system, four situations may arise:

1/ The *lists are closed*. Voters vote merely for a list and the candidates are elected in the order in which they are listed. This system is applied in numerous states, e.g. *Azerbaijan*, *Bulgaria*, *Croatia, Spain, Portugal* and *Romania*; or *Germany*, *Albania*, *Armenia,* and *the former Yugoslav Republic of Macedonia* for the deputies elected using a proportional system.

2/ There is the possibility of *preferential voting* within a list, in which case voters may vote not only for a list but also for candidates on that list. The countries where this is found include the *Czech Republic* and *Slovakia* (where voters may express a preference for four candidates), *Austria*, *Estonia*, *Finland*, *Poland*, *Slovenia* (where each voter has one vote, which counts for a candidate and the list to which the candidate belongs) and *Latvia* (the elector can support one or more candidates or, on the contrary, cross out their names). When preferential voting is allowed, seats are more often than not allocated to the candidates in a list in decreasing order of votes obtained.

3/ Voters are entitled to vote for candidates from several lists (panachage). This is the system applied in *Switzerland* at all levels.

4/ Voters vote only for candidates, whom they put in order of preference, and not for lists. Seats are allocated to candidates according to the principle of proportionality. This method of voting, which is called the single transferable vote, is not used in any of the states which replied to the questionnaire. However, it is to be found in *Ireland* and *Malta*, for example.

bb. In states where lists are not closed, it is easier for voters to take account of membership of a national minority when casting their votes. It is not possible to ascertain whether, as a general rule, such freedom of choice helps or hinders the election of candidates from minorities. Going by what was said earlier about the effects of the various electoral systems, when seats are allocated to the candidates with most votes on a list - that is to say when a majority system is applied within a list - this should be favourable to minorities which are in the majority in the constituency, and rather unfavourable to the others. The single transferable vote and any other system of proportional allocation of seats to candidates belonging to the same party should ensure that minorities which comprise a proportion of the electorate greater than the electoral quotient are represented.

IV. Constituencies and the representation of minorities

The *distribution of seats* between constituencies and the drawing of constituency boundaries are an important part of electoral law. They may indeed have a strong impact on the overall result of an election.

1. The principle of *equality of electoral force* requires that seats be distributed evenly between constituencies, in accordance with a given allocation formula (number of inhabitants, nationals - including minors -, registered electors, or voters). When this principle is not respected, it is a matter of manipulation of electorates. Such manipulation is active when the distribution of seats leads to unequal representation from the first time it is applied. It is passive when it results from maintaining the distribution of seats across the territory unchanged for a long time. Regular redistribution of seats between constituencies, or the regular re-drawing of constituency boundaries - which is necessary in a single-member-constituency system - allows passive manipulation to be avoided.

Equality of electoral force is essential for lower houses, but not in the upper ones, where it is replaced by equality between federated states, or even between territorial authorities in non-federal states.

2. When there is unequal representation, this may have an effect on the representation of concentrated minorities when the territory where they are in the majority is over-represented or under-represented in the elected body. Some unequal representation in lower houses has been noted in the replies to the questionnaire. Also, especially in federal systems, seats in upper houses are in most cases not allocated on the basis of population alone (e.g. in *Switzerland*, each canton is entitled to two seats in the Council of States, irrespective of the number of inhabitants; and the *Spanish* Senate comprises four senators per province, except for island provinces). However, on the basis of the replies to the questionnaire, unequal representation or the representation of territorial entities in upper houses do not appear to have an impact, whether positive or negative, on the participation of minorities in elected bodies.

3.a. When a minority is in the majority over a given part of a territory, a very effective way of ensuring that it is represented in the elected bodies is to make the territory into an electoral constituency or divide it into several constituencies. On the other hand, the drawing of

constituency boundaries in such a way that a minority is nowhere in the majority would be detrimental to its achieving representation, especially under a majority system.

No such manoeuvrings, known as gerrymandering, are revealed by the replies to the questionnaire. However, this kind of territorial representation of minorities exists in all states where there are concentrated minorities of some size. In some, it results from the effects of an electoral system which in theory is not designed to ensure specific representation of minorities. In others, by contrast, it is explicitly sought. As the distinction between the two situations is often difficult to draw, the report will refer to examples of territorial representation of minorities without ascertaining whether or not it was sought by the drafters of the electoral legislation.

b. It should be noted that a *concentrated minority* will be very well represented in constituencies where it is in the majority, if a majority electoral system is applied, especially in single-member constituencies. Indeed, in this case, the chances of a member of such minority being elected are very high - whether he or she be a member of a party belonging to the minority or another party. This is so in most of the states which replied to the questionnaire where a single-member-constituency majority system is applied, or a mixed system including single-member constituencies, where concentrated minorities are in the majority in some of the constituencies. This is the case, for example, in *Albania* with the Greek minority in the south of the country, in *Canada* with the French-speaking population of Quebec and the autochthonous population in the north, and in *Italy* with the French-speaking minority in the Valle d'Aosta and the German-speaking minority in the province of Bolzano.

Where there are sub-minorities (majority groups at national level but minorities at local level), the interests of such concentrated minorities will be served by a defractionalising system, that is to say, in concrete terms, a majority system, and especially one with single-member constituencies (in such a system, as each party presents a single candidate, who will more often than not be from the minority, whereas in a multi-member-constituency system candidates from the sub-minority will probably be added so as to attract a maximum number of voters). A proportional system, on the other hand, may reduce the representation of such minorities by allowing a sub-minority to obtain seats in territories where this would be impossible under a single-member-constituency system.

Such a system, applied in constituencies where a concentrated minority is in the majority, allows such minority to be well represented, without being as favourable to it, however, as the uninominal majority system. The mere existence of a specific constituency ensures that the minority is represented. This is the case in *Denmark*, where the people of the Faroe Islands and Greenland, who are minorities at national level, are in the majority in the constituencies of the Faroe Islands and Greenland, which each elect two deputies, who thus represent the minority. It is also the case in *Switzerland* in four of the six cantons where the French-speaking minority is in the majority and in the canton where the Italian-speaking minority is in the majority. On the other hand, in the two cantons which are mainly French-speaking but where there is a sizeable German-speaking sub-minority, the latter is traditionally well represented in the two houses in the parliament (the National Council, which is elected under a proportional system, and the Council of States, which is elected using a majority system with two seats per constituency).

In *Spain* (where the constituencies correspond to the provinces), in certain areas of those Autonomous Communities where there is a particularly strong nationalistic awareness, the parties belonging to the minorities are in the majority. In *Romania*, the Hungarian minority is in the majority in two constituencies (departments). In both cases, despite the fact that a proportional system is applied and the presence of sub-minorities, the minorities, and even their parties, are well represented.

The *drawing of constituency boundaries* and the distribution of seats between constituencies may therefore have an important part to play in the representation of concentrated minorities. It is in majority systems that the effects of boundary drawing are most noticeable, but in proportional systems they become less and less negligible the more such systems depart from full proportionality. In general, the replies to the questionnaire do not show the rules on the drawing of constituency boundaries to have a favourable or unfavourable effect on the representation of minorities. However, the *Finnish* constitution provides that constituencies should be monolingual where possible, or that their linguistic minorities should at least be as small as possible. In addition, the Swedish-speaking Åland Islands form a constituency under an enactment which has constitutional status. In *Italy*, the drawing of constituency boundaries for the election of deputies must comply with the principle of concentration and thus group together homogeneous minorities.

4. The questionnaire asked about *the body responsible for deciding how boundaries are drawn and seats distributed* between constituencies and whether or not this may be subject to *judicial review*. The involvement of a judicial body or, at first instance, an electoral board made up without bias should make it possible to avoid drawing boundaries in a politically-oriented way. There is less guarantee, however, if the decision is taken solely by a political body. However, only half of the states which answered this question provide for judicial review in this area (e.g. *Austria*, *Azerbaijan*, *Italy*, *Slovenia* - Constitutional Court, *Japan* - ordinary courts, *Lithuania* - Vilnius district court), and in many cases the decision is taken by the parliament (e.g. *Georgia*, *Norway*, *Poland*, *Romania*, *Sweden*) or the president of the republic (*Albania*, *Bulgaria*) alone. However, from the replies it does not appear that this causes problems for the representation of the minorities.

V. Debate on the electoral system and national minorities

In every state the electoral system is a subject of more or less recurrent discussion. Although sometimes the matter is of interest only to a limited circle of politicians or specialists, the question whether or not there is a debate on the electoral system aimed at a wider public elicited more positive than negative replies.

The debate more often than not focuses on the extent to which the voting system is a proportional (or a majority) one. Although the choice between a purely proportional and a purely majority system does not seem to be a current issue in the states in question, the discussion may, for example, in mixed systems, cover the significance of the majority and the proportional parts of the voting system in relation to each other (*Albania*, *Armenia*), or the changeover from a predominantly majority mixed system to a purely majority system (*Italy*). In systems approximating proportional representation, proposals for change may concern greater proportionality (*Portugal*, *Spain*, *Turkey*), or, on the other hand, in order to make the parliament less splintered, a reduction in the proportionality of the result by setting a higher threshold than before (*Romania*).

Sometimes, what is sought is greater freedom of choice for voters, through the elimination of the closed lists system (*Spain*), or an increase in their possibilities of choice in a system where voters may express only one preference (*Sweden*).

There is apparently only one country amongst those which replied to the questionnaire, *Hungary*, in which a debate arose on creating representation for national or ethnic minorities in Parliament. The law on the rights of national and ethnic minorities refers to a separate Act to be adopted on the representation of national and ethnic minorities in Parliament. The debate that has arisen from this provision is based on the fact that no party based on belonging to a national or ethnic minority could reach the 5 % limit necessary for becoming a parliamentary party. This means

that representatives of national and ethnic minorities as such could only have seats in Parliament if different rules applied to their election, *i.e*, if less votes sufficed for a representative of a national or ethnic minority to become a MP. A proposal to this end, however, raised the difficult question whether such a regulation would not be contrary to the equality of the right to vote as enshrined in Article 71 (1) of the Constitution.

Although the degree of proportionality is a cause of concern chiefly to minority political parties, especially when their electorate is dispersed, it does not necessarily have an impact on the representation of minorities. For one thing, it may be that there are no significant minorities (*Portugal*). The minorities may be sufficiently concentrated not to be sensitive to a change in the proportionality of the results (*Spain*). Also, the proposed changes may be sufficiently limited not to have any impact on the representation of minorities. Thus, in *Finland*, were a majority system to be applied, this would be to the disadvantage of the Swedish minority and its party, which are nowhere in the majority except on the Åland Islands. On the other hand, greater proportionality through an increase in the size of the constituencies would have hardly any impact on the representation of this minority, because it is concentrated.

Consequently, reforming the electoral system in the strict sense, and especially increasing in its proportionality, does not necessarily appear to be the best way of achieving greater participation of members of minorities in elected bodies. It is often the case that under-represented minorities or those not represented at all have the smallest numbers of members (e.g. in *Poland* or *the former Yugoslav Republic of Macedonia*) and could not be guaranteed seats, no matter what electoral system were applied.

To sum up, at the present time, no direct link may be made between the debate on electoral reform and the representation of minorities in the states which replied to the questionnaire, except in Hungary.

Conclusion

The wide variety of electoral systems have been grist to generations of legal specialists, political analysts and mathematicians and will continue to be so. It is true that they do not all without exception guarantee that national minorities are fairly represented, but the main conclusion which may be drawn from the foregoing analysis is that there is no absolute rule in this field. Indeed, the electoral system is but one of the factors conditioning the presence of members of minorities in an elected body. Other elements also have a bearing, such as the choice of candidates by the political parties and, obviously, voters' choices, which are only partly dependent on the electoral system. The concentrated or dispersed nature of the minority may also have a part to play, as may the extent to which it is integrated into society, and, above all, its numerical size.

Nevertheless, the electoral system is not irrelevant to the participation of members of minorities in public life. On the one hand, certain states - but they are few in number - have specific rules designed to ensure such participation. On the other hand, it may be that neutral rules - for example, those relating to the drawing of constituency boundaries - are applied with the intention of making it easier for minorities to be represented. More often than not, however, the representation of minorities is not a deciding factor in the choices made when an electoral system is adopted or even put into practice. However, as regards the presence of members of minorities in elected bodies, the following general remarks may be made.

- The impact of an electoral system on the representation of minorities is felt most clearly when national minorities have their own parties.

- It is uncommon for political parties representing national minorities to be prohibited by law and highly unusual for this in fact to happen. Only in very rare cases does this constitute a restriction upon the freedom of association, which nonetheless respects the principle of proportionality, and is consistent with the European constitutional heritage.

- Although parties representing national minorities are very widely permitted, their existence is neither the rule nor indispensable to the presence of persons belonging to minorities in elected bodies.

- The more an electoral system is proportional, the greater the chances dispersed minorities or those with few members have of being represented in the elected body. The number of seats per constituency is a decisive factor in the proportionality of the system.

- When lists are not closed, a voter's choice may take account of whether or not the candidates belong to national minorities. Whether or not such freedom of choice is favourable or unfavourable to minorities depends on many factors, including the numerical size of the minorities.

- Unequal representation may have an influence (positive or negative) on the representation of concentrated minorities, but the replies to the questionnaire do not indicate any concrete instances.

- When a territory where a minority is in the majority is recognised as a constituency, this helps the minority to be represented in the elected bodies, especially if a majority system is applied.

To *sum up*, the participation of members of national minorities in public life through elected office results not so much from the application of rules peculiar to the minorities, as from the implementation of general rules of electoral law, adjusted, if need be, to increase the chances of success of the candidates from such minorities.

A P P E N D I X

Synopsis of Replies to the Questionnaire on the Participation of Members of Minorities in Public Life

Part I: Electoral Systems

The table summarises the replies to the first part of the questionnaire on the participation of members of minorities in public life (CDL-MIN (96) 1), apart from question 13 regarding statistical data on over- and under-representation of minorities, for which insufficient data are available. The questions are covered as follows:

Column in the table	Question
A	1
B	6
C	3 + 7
D	4 + 5a + 5d
E	5b
F	5c
G	8
H	2a
I	2b + 11
J	10
K	12
L	14
M	16
N	15
O	9

Glossary

The following glossary briefly explains *the least common* expressions in the table.

Nationwide constituency: a constituency in which the representative body is elected in full or in part without subdividing the territory or the people.

Cumulative vote: casting of several votes for the same candidate.

Latoisage: deletion of a candidate from a list.

Panachage: putting candidates from more than one list on a voting paper.

System:

- **of division by a succession of numbers:** seats are allocated in decreasing order of the numbers obtained by dividing the number of votes for each list by
- **(d'Hondt system):** 1; 2; 3; 4…
- **(pure Lague system):** 1; 3; 5; 7…
- **(modified Lague system):** 1,4; 3; 5; 7…

Largest remainders: after the number of votes for each list has been divided by the electoral quotient, the remaining seats are allocated to the lists with the largest numbers of remaining votes (or the largest shares).

Hagenbach-Bischoff: d'Hondt system presented in a different way.

Vote

- **preferential:** a vote cast for a specific candidate on a list;
- **limited:** multi-member system of majority voting in which the number of votes a voter has is less than the number of seats to be filled;
- **single non-transferable:** multi-member system of majority voting in which a voter can vote for only one candidate (extreme variant of the limited vote);
- **single transferable:** a proportional system in which a voter votes not for lists but for candidates, in order of preference; the first-choice votes in excess of the electoral quotient which are cast for elected candidates, and the votes cast for the worst placed candidates, are transferred to the second-choice candidates, and so on.

	A	B	C	D	E
	Electoral system: principle (parliamentary elections)	**Electoral system: details**	**Constituencies**	**Drawing of boundaries & distribution of seats: special features**	**Person/body responsible for drawing of boundaries & distribution of seats**
Albania	Mixed	115 seats absolute majority 40 proportional (largest remainders; 2% threshold)	Majority: single member Proportional: nationwide	None	President of the Republic
Argentina	Proportional (Chamber of Deputies) Mixed (Senate)	D'Hondt (Chamber of Deputies) Two representatives of the first party and two of the second (Senate)	Provinces	None	Parliament
Armenia	Mixed	75 seats relative majority; 56 proportional (strongest remain; threshold 5%)	Majority: single-member Proportional: nationwide	None (the difference in the number of inhabitants per constituency may not exceed 15%; a given constituency may not include geographical areas which do not border one another)	Central electoral committee
Austria	Proportional	D'Hondt, 4% threshold, seats assigned at regional and national levels for remaining votes	Three levels: district, region and nationwide	None (apart from regional elections in Burgenland and Kärnten)	Parliament (statute)
Azerbaijan	Mixed (absolute majority/ Proportional)	100 seats majority double ballot, 50% of votes + 50% turn-out in 1st ballot. 25 seats proportional (largest remainders)	Majority: single-member Proportional: nationwide	None	Central electoral committee
Belarus	Absolute majority	As a rule, two ballots, more if turn-out < 50%	Single-member	None	Central electoral committee

	A	B	C	D	E
	Electoral system: principle (parliamentary elections)	**Electoral system: details**	**Constituencies**	**Drawing of boundaries & distribution of seats: special features**	**Person/body responsible for drawing of boundaries & distribution of seats**
Belgium	Proportional	D'Hondt	House of Representatives: 20 constituencies; distribution of seats at a higher level (in principle provincial) in case of grouping of electoral lists; Senate (for directly elected senators): 3 constituencies	No	Parliament (law)
Bulgaria	Proportional	D'Hondt, 5% threshold; redistribution at regional level	Subdivisions of regions (between 4 and 13 seats)	None	President of the Republic
Canada	Plurality	-.-	Single-member	None	Provincial electoral commissions + parliamentary review
Croatia	Proportional	D'Hondt, with 5 % threshold, at constituency level	House of Representatives: 10 constituencies with 14 seats + 1 constituency for Croatians abroad; 5 seats for the representatives of minorities; House of Counties: 3 seats per county = constituency	None	Parliament (statute)
Czech Republic	Proportional (Chamber of Deputies) Absolute majority (Senate)	Chamber of deputies: 5% threshold Allocation of remainders according to the results at national level	Chamber of Deputies: 7 constituencies - from 10 to 40 deputies Senate: single-member	None	Parliament (statute)

Denmark	Proportional	Modified Lague (local level) Allocation of remainders at national level: largest remainders	Local: between 2 and 6 seats Nationwide	Over-representation of sparsely populated constituencies - no effect on minorities	Parliament (statute)

	A	B	C	D	E
	Electoral system: principle (parliamentary elections)	**Electoral system: Details**	**Constituencies**	**Drawing of boundaries & distribution of seats: special features**	**Person/body responsible for drawing of boundaries & distribution of seats**
Estonia	Proportional	Modified d'Hondt, 5% threshold	Eleven constituencies	None	Parliament (statute)
Finland	Proportional	D'Hondt	Regional : from 2 to 16 deputies	The constitution provides for monolingual constituencies, or constituencies in which minorities are as small as possible	Parliament (statute). Details: government
Germany	Mixed (proportional / Plurality)	50% of seats under plurality system (direct mandates) Allocation of all seats at national level using proportional system (largest remainders, 5% threshold or three direct mandates) and substraction of seats obtained under the plurality system	Single-member (majority) Nationwide (proportional)	None	Parliament (statute), on the basis of a proposal by a permanent commission named by the Federal President
Georgia	Mixed (proportional / absolute majority)	150 seats: proportional, 5% threshold. 85 seats: majority, double ballot	Majority: single-member Proportional: nationwide	Criticism of the drawing of constituency boundaries does not relate to the representation of minorities	Parliament (statute)

Greece	Proportional		Varying number of deputies	None	
Hungary	Mixed (proportional and absolute majority)	176 seats: majority. 210 seats: proportional (d'Hondt) (152 in constituencies and 58 at national level for balancing out)	Majority: single-member Proportional: nationwide + departments / capital	None	Parliament (statute)

	A	B	C	D	E
	Electoral system: principle (parliamentary elections)	**Electoral system: Details**	**Constituencies**	**Drawing of boundaries & distribution of seats: special features**	**Person/body responsible for drawing of boundaries & distribution of seats**
Italy	Mixed (plurality and proportional)	75% of seats: plurality; 25% balancing-out mandates (nationwide with 4% threshold at national level for Chamber of Deputies, and regional for Senate)	Majority: single-member Proportional: nationwide (allocation of seats to candidates at local level) (Chamber of Deputies); regional (Senate)	The drawing of constituency boundaries should allow concentrated minorities to be represented	Government
Japan	Mixed (plurality and proportional)	House of Representatives: 300 seats - plurality; 200 seats – proportional (d'Hondt); House of Councillors: 152 seats – single non-transferable; 100 seats – proportional (d'Hondt)	Majority: single-member (House of Representatives); prefectures (from 2 to 8 seats) (House of Councillors) Proportional: 11 constituencies (from 7 to 33 seats) (House of Representatives); nationwide (House of Councillors)	House of Representatives: the number of voters per representative may vary by a rate of between 1 and 2 House of Councillors: represent prefectures, disparities in representation allowed	Parliament
Kyrgyzstan	Absolute majority	-.-	Single-member	None	Electoral committee
Latvia	Proportional	Lague	Five constituencies	None	Central electoral commission
Lithuania	Mixed (absolute majority and proportional)	71 seats: majority/double ballot (2nd ballot: the two candidates with most votes in the first ballot); more ballots if turn-out < 40%. 70 seats: proportional (largest remainders)	Majority: single-member Proportional: Nationwide	Representatives of minorities suggest that "purely national" constituencies be formed	Central electoral committee

	A	B	C	D	E
	Electoral system: principle (parliamentary elections)	**Electoral system: details**	**Constituencies**	**Drawing of boundaries & distribution of seats: special features**	**Person/body responsible for drawing of boundaries & distribution of seats**
Norway	Proportional	Modified Lague	Between 4 and 15 deputies (+ 8 deputies at national level)	Some over-representation of rural areas	Parliament
Poland	Proportional (Sejm). Plurality (Senate)	Sejm: d'Hondt, 391 seats at constituency level and 69 seats at national level (lists > 7%)	Wojewodztwo - Sejm: between 3 and 17 seats; Senate: 2 or 3 seats	Senate: all constituencies except 2 have same number of seats	Parliamentary statute (constituencies coincide with wojewodztwos)
Portugal	Proportional	D'Hondt	Districts: Between 3 and 50 seats	None	Constituencies coincide with districts (parliamentary statute) Distribution of seats by a national electoral committee
Romania	Proportional	D'Hondt, 3% threshold, seats assigned at national level for remaining votes	Departments: from 4 to 29 seats (Chamber of Deputies); from 2 to 13 seats (Senate); + nationwide	None	Parliament (statute)
Slovak Republic	Proportional	Hagenbach-Bischoff, threshold (in principle 5, 7 or 10% according to the number of parties in the list)	One constituency (nationwide)	None	Parliament (statute)
Slovenia	Proportional	Simple quotient, seats assigned at national level for remaining votes (threshold of approximately 3%)	Eight constituencies + nationwide	Specific representation of minorities	Parliament (statute)

	A	B	C	D	E
	Electoral system: principle (parliamentary elections)	**Electoral system: details**	**Constituencies**	**Drawing of boundaries & distribution of seats: special features**	**Person/body responsible for drawing of boundaries & distribution of seats**
Spain	Proportional (Congress of Deputies) Plurality (Senate)	D'Hondt (Congress of Deputies) Limited vote (Senate)	Provinces Congress of Deputies: 2 seats per province, then distribution of remaining seats in proportion to population Senate: 4 senators per province (Differences in Ceuta, Melilla and the islands)	None	Constitution
Sweden	Proportional	Modified Lague, 310 seats constituency-based, and 39 seats on a national basis; 4 % threshold	29 constituencies with between 2 and 33 seats Nationwide	None	Parliament (statute)
Switzerland	Proportional (National Council) Majority (Council of States, except for one canton)	Hagenbach-Bischoff (National Council) Cantonal law (Council of States), usually absolute majority	Cantons Between 1 and 35 deputies (National Council) 2 deputies (20 cantons), 1 deputy (6 former half-cantons) (Council of States)	Concentrated minorities have something of an advantage	Constitution
"The former Yugoslav Republic of Macedonia"	Mixed (absolute majority and proportional)	Majority: 85 seats, double ballot; proportional: 35 seats, D'Hondt, 5 % threshold	Majority: single-member; proportional: nationwide	None	Parliament (statute)
Turkey	Proportional	D'Hondt, 10% national threshold	Provinces or subdivisions thereof: between 2 and 18 deputies	Each province assigned one basic deputy at the outset	Supreme Board of Elections (= a judicial body)

	A	B	C	D	E
	Electoral system: principle (parliamentary elections)	**Electoral system: Details**	**Constituencies**	**Drawing of boundaries & distribution of seats: special features**	**Person/body responsible for drawing of boundaries & distribution of seats**
Ukraine	Mixed (majority proportional)	450 seats: majority – 225 seats (elected in single-member constituencies on the basis of a relative majority); proportional – 225 seats (nationwide with 4% threshold for parties and blocs of parties on the basis of proportional representation)	Majority: single-member Proportional: nationwide	Account taken of the administrative and territorial structure of Ukraine and the concentration of minorities in the drawing of constituency boundaries	Central Electoral Commission is responsible for drawing up boundaries, taking into account proposals of the Verkhovna Rada of the Autonomous Republic of Crimea and regional, Kyiv and Sevastopol city local self-government councils; Central Electoral Commission is responsible for distribution of seats

	F	G	H	I	J
	Drawing of constituency boundaries and distribution of seats: judicial review	**Preferential vote**	**Concentrated minorities in the majority in part of the territory**	**Minorities: special representation**	**Parties representing minorities**
Albania	No	No	Yes	Yes (as territory)	Prohibited, but there is in fact a party representing above all the Greek minority
Argentina	Yes, (federal electoral justice)	No	No	No	Permitted
Armenia	No	No	No	No	Permitted; a political party representing the *yézidi* minority exists since 1997
Austria	Yes (Constitutional Court)	Yes (one preference)	In a single district in Kärnten	No	Permitted. A few groups for regional and district elections
Azerbaijan	Yes (Constitutional Court)	No	Yes	Question pending (problem of Nagorno-Karabakh)	Permitted
Belarus	Yes	Not relevant	Yes	No	Permitted
Belgium	Yes (Court of Arbitration)	Yes (vote for a list or for a candidate)	Yes	Yes(territorial; personal: possible in two districts on the linguistic border, and, for the Senate, for voters in the constituency of Brussels-Hal-Vilvorde)	Permitted

	F	G	H	I	J
	Drawing of constituency boundaries and distribution of seats: judicial review	**Preferential vote**	**Concentrated minorities in the majority in part of the territory**	**Minorities: special representation**	**Parties representing minorities**
Bulgaria	No	No	Yes	No	Prohibited under the Constitution, but not in practice - party representing Turkish community
Canada	No	Not relevant	Yes	Yes (as territory)	Permitted
Croatia	Yes	No	Italians and Hungarians up to a certain extent, Serbs too (above all before the armed conflict), others rather dispersed	Yes (as people; as territory currently suspended)	Permitted. Two Serbian parties
Czech Republic	Yes	Yes (four preferences)	No	No	Permitted
Denmark	Yes	Yes (one preference)	Yes	Yes (as territory - Faroe Islands and Greenland)	Permitted - parties representing the German minority (at local level); parties specific to Greenland and Faroe Islands
Estonia	Yes	Yes (one preference)	Yes	No	Permitted: 3 Russian parties
Finland	No, apart from minor details (Council of State)	Yes (one preference)	Yes	Yes (as territory - Åland Islands)	Permitted - Swedish People's Party

Germany	Yes (Constitutional Court)	No	No	No, but rules relating to threshold do not apply	Permitted

	F	G	H	I	J
	Drawing of constituency boundaries and distribution of seats: judicial review	**Preferential vote**	**Concentrated minorities in the majority in part of the territory**	**Minorities: special representation**	**Parties representing minorities**
Georgia	No		Yes	Yes (as territory)	Prohibited
Greece			Yes, at town and village level	No	Permitted. There have recently been such parties
Hungary	Yes, (Constitutional Court)	No	No	No	Permitted
Italy	Yes	No	Yes	Yes (as territory)	Permitted - exist in the three regions where there are linguistic minorities
Japan	Yes, in connection with review of the validity of election results	No, apart from single non-transferable vote	No	No	Permitted
Kyrgyzstan	No	Not relevant	Yes	No	Permitted
Latvia	Yes	Yes – preferential vote and latoisage	No	No	Permitted. There is a party for the Russian minority.
Lithuania	Yes (Vilnius district court)	Yes, unless parties request otherwise beforehand	Yes	No	Permitted. There are three parties representing minorities

	F	G	H	I	J
	Drawing of constituency boundaries and distribution of seats: judicial review	**Preferential vote**	**Concentrated minorities in the majority in part of the territory**	**Minorities: special representation**	**Parties representing minorities**
Norway	No	Yes – latoisage and cumulative vote	Yes, at municipal level	No	Permitted - exist at local level
Poland	No	Yes (one preference)	No	*De jure* no, but *de facto* yes, through rules regarding threshold not being applied	Permitted Associations representing minorities take part in elections
Portugal	Yes (by Constitutional Court, of decisions by the National Electoral Commission)	No	No	No	Regional parties prohibited
Romania	No	No	Yes	Yes (as territory and as people)	Permitted Associations representing minorities are treated as political parties for electoral purposes
Slovak Republic	Yes (Constitutional Court)	Yes (four preferences)	Yes	No	Permitted. Parties representing the Hungarian (4), Rom (5) and Ruthenian-Ukrainian (1) minorities
Slovenia	Yes (Constitutional Court)	No	No	Yes (as people)	Permitted
Spain	No	No for Congress of Deputies Panachage for Senate	Yes	Yes (as territory)	Permitted. There are "nationalist" parties (Basque, Catalan)

	F	G	H	I	J
	Drawing of constituency boundaries and distribution of seats: judicial review	**Preferential vote**	**Concentrated minorities in the majority in part of the territory**	**Minorities: special representation**	**Parties representing minorities**
Sweden	No	Yes (one preference)	No	No	Permitted. A party exists at local level
Switzerland	No	Yes – panachage, cumulative vote for National Council	Yes	Yes (as territory)	Permitted Political parties have their roots in the cantons
"The former Yugoslav Republic of Macedonia"	**Yes (Constitutional Court)**	No	Yes	Yes (as territory)	Permitted - numerous parties representing minorities
Turkey	No, but see column E	No	Yes	Yes (as territory)	Prohibited However, there is at present a Kurdish party
Ukraine	Yes (Supreme Court)	No	Yes	Yes (as territory)	Permitted

	K	L	M	N	O
	Tendency for parties to balance their lists	**Concerns about the representation of minorities**	**Debate on the representation of minority political tendencies**	**Debate on the electoral system**	**Electoral system for local and regional elections**
Albania	Yes	No	No	Yes	Proportional for councils; majority for executive
Argentina	Not relevant (no minorities)	No	No	Yes (above all at local level)	Provincial law
Armenia	No	No	No	Yes	Majority
Austria	Yes	No	No	No	Cf. National elections (Regional parliaments are responsible for the drawing of electoral boundaries for regional elections)
Azerbaijan	Yes	No	No	No	Majority
Belarus	No	No	Yes	No	Cf. National elections
Belgium	Yes (the question relates above all to the German-speaking minority)	No	No	Yes	D'Hondt system, cf. national elections

	K	L	M	N	O
	Tendency for parties to balance their lists	**Concerns about the representation of minorities**	**Debate on the representation of minority political tendencies**	**Debate on the electoral system**	**Electoral system for local and regional elections**
Bulgaria	Yes	No	No	No	Akin to system for national elections

	K	L	M	N	O
	Tendency for parties to balance their lists	**Concerns about the representation of minorities**	**Debate on the representation of minority political tendencies**	**Debate on the electoral system**	**Electoral system for local and regional elections**
Canada	Yes	Yes, hence tendency to increase the number of candidates from minorities	Under-representation due to plurality system	No	Cf. National elections
Croatia	Yes (some parties)	Yes (in both directions)	Yes, in some political circles	Yes (especially at local level)	Cf. National elections
Czech Republic	No	No	No	No	Municipality is constituency at local level
Denmark	No	No	No	No	Proportional - d'Hondt, single constituencies covering the entire locality
Estonia	No	No	No	Yes	Cf. National elections
Finland	Yes	No	Yes (for small constituencies)	No	Cf. National elections
Germany	Partially	Yes	Yes	Yes, sometimes	Proportional (according to the law of Land)
Georgia	Yes	No			

Greece	Yes				

	K	L	M	N	O
	Tendency for parties to balance their lists	**Concerns about the representation of minorities**	**Debate on the representation of minority political tendencies**	**Debate on the electoral system**	**Electoral system for local and regional elections**
Hungary	No	No	Yes	Yes	Plurality, mixed or proportional (depending on population)
Italy	Yes, especially in Friuli-Venezia Giulia	No	Yes	Yes	In general, mixed systems (regions: plurality premium)
Japan	No	No	No	Yes	Plurality for executive. Single non-transferable vote for councils
Kyrgyzstan		Yes			
Latvia	Yes	No	No	No	Proportional
Lithuania	Yes	Parties and political organisations representing minorities wish to increase their representation	No	Yes	Proportional
Norway	Yes, at local level	No	No	No	
Poland	Yes	Yes (except for the German minority)	No	No	Cf. Elections to the Sejm

	K	L	M	N	O
	Tendency for parties to balance their lists	**Concerns about the representation of minorities**	**Debate on the representation of minority political tendencies**	**Debate on the electoral system**	**Electoral system for local and regional elections**
Portugal	No - no significant minorities	No	Yes	Yes	Cf. National elections
Romania	No	No	No	Yes	Cf. National elections (councils); majority, double ballot (mayors)
Slovak Republic	Yes	No	No (except for parties representing the Hungarian minority)	Yes (especially at municipal level)	Plurality
Slovenia	No, as there are special rules on the representation of minorities	There is over-representation owing to the special rules on the representation of minorities. There are objections to the right of minority representatives to take part in parliamentary debates which do not concern the rights of minorities	No (apart from the powers of deputies representing national minorities)	Yes	Plurality, or d'Hondt system with preferential vote
Spain	No	Yes, hence fair representation of minorities	Yes	Yes	Cf. Congress of Deputies
Sweden	No	No	No	Yes	Cf. National elections, but 3 % threshold for regional elections and no threshold for local elections

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Switzerland	Yes	No	No	No	Cantonal law - in general, proportional for legislative bodies and majority for executive
"The former Yugoslav Republic of Macedonia"	Yes	Yes (especially for small minorities)	Yes	Yes	Councils: proportional; mayors: majority
Turkey	Yes	Yes (notably on account of the 10% threshold)	Yes	Yes	Cf. National elections (but mayors: plurality)
Ukraine	No	The draft law on the Status of the Crimean Tatar People provides for the guaranteed representation of Crimean Tatars in the Verkhovna Rada of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea and local self-government bodies of Crimea	Yes (at the Mejlis of Crimean Tatar People)	Yes (at the Mejlis of Crimean Tatar People)	Local and regional elections: majority system Verkhovna Rada of the Autonomous Republic of Crimea: majority system