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**A case initiated with respect to the Minister's order, by which the decision of the Salaspils Regional Council on establishing standing committees is partially suspended**

On 24 November 2017, the 3<sup>rd</sup> Panel of the Constitutional Court initiated a case “On compliance of the Order of 1 August 2017 by the Minister for the Environmental Protection and Regional Development (hereinafter also – the Minister) No. 1-13/6038 “On suspending Para 1, 3, 4 and 5 of the decision of 16 June 2017 by the Salaspils Regional Council “On Establishment of the Standing Regional Committees and Election of Members thereof” (Minutes No. 12, § 4)” with Article 1 of the *Satversme* of the Republic of Latvia and Section 49 of the law “On Local Governments”.

**The Contested Act**

Order of 1 August 2017 by the Minister for the Environmental Protection and Regional Development (hereinafter also – the Minister) No. 1-13/6038 “On suspending Para 1, 3, 4 and 5 of the decision of 16 June 2017 by the Salaspils Regional Council “On Establishment of the Standing Regional Committees and Election of Members thereof” (Minutes No. 12, § 4)<sup>1</sup>.

**The Norms of Higher Legal Force**

Article 1 of the *Satversme*: “Latvia is an independent democratic republic.”

Section 49 of the law “On Local Governments: “The operation of an unlawful binding regulation or other regulatory enactment or specific paragraphs of such issued by a city or municipality council, except the operation of decisions taken in accordance with the procedures of Section 47 of this Law, may be suspended by a substantiated order of the Minister for Environmental Protection and Regional Development. The order shall indicate the paragraphs of the specific binding regulations or other normative enactment

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<sup>1</sup> The contested act is available here: <https://www.vestnesis.lv/op/2017/154.11> (accessed: 27.11.2017.).

that are to be revoked as unlawful, or shall indicate that the binding regulations or other regulatory enactment are to be revoked in their entirety. The order shall be published in the official gazette *Latvijas Vēstnesis* within three days from its issue and shall be sent to the chairperson of the relevant city or municipality council, who shall be responsible for its implementation.

The chairperson of the city or municipality council shall convene, within two weeks after receipt of an order from the Minister for Environmental Protection and Regional Development, an extraordinary meeting of the city or municipality council in which shall be examined the issue regarding revocation of the relevant binding regulations or other regulatory enactment or specific paragraphs of such. The Minister for Environmental Protection and Regional Development shall be timely notified of the time and place of the extraordinary meeting of the city or municipality council.

If the city or municipality council fails to take a decision to revoke the relevant binding regulations or other regulatory enactment or specific paragraphs thereof, it shall submit an application to the Constitutional Court regarding the revocation of the order of the Minister within three months. In such case the order of the Minister for Environmental Protection and Regional Development, regarding the suspension of the operation of the city or municipality council binding regulations or other regulatory enactment or specific sections thereof, shall remain in force until the proclamation of the judgment of the Constitutional Court.

The city or municipality council has no right to submit an application to the Constitutional Court regarding the revocation of the order of the Minister for Environmental Protection and Regional Development, if it within two months following the day of receipt of the opinion of the Ministry of Environmental Protection and Regional Development has not fulfilled the duty to take a decision determined in Section 45, Paragraph four of this Law in which a substantiation is provided why the city or

municipality council does not agree with that specified in the opinion of the Ministry of Regional Development and Local Government Matters.

If the city or municipality council or its chairperson fail to implement the provisions of Paragraph two or three of this Section, the unlawful binding regulations or other regulatory enactment or specific paragraph thereof shall be considered to no longer be in force. The Minister for Environmental Protection and Regional Development shall issue a notice regarding such in the official gazette *Latvijas Vēstnesis*.”

### **The Facts**

The case was initiated with regard to an application by the Salaspils Regional Council (hereinafter – the Council). On 1 August 2017, the Minister by the contested act suspended some paragraphs of the decision of 16 June 107 by the Council “On Establishment of the Standing Regional Committees and Election of Members thereof” (hereinafter – the Decision). The Minister holds that the Council, in establishing the composition of four of its committees, has not abided by the principle of proportionality. I.e., the number of council members elected to these committees, allegedly, is not proportional to the number of council members elected to the Council from each political party.

The Council has examined the contested act at an extraordinary meeting and decided to leave the Decision unamended, as well as to submit an application to the Constitutional Court regarding the contested act. The Council holds that in issuing the act the principle of separation of powers and the jurisdiction granted to the Minister by Section 49 of the Law “On Local Governments” had been breached. The decision is said to be political and the Minister, allegedly, cannot review the legality thereof.

### **Legal Proceedings**

The Constitutional Court has requested the Minister provide a reply on the facts of the case and legal substantiation by 24 January 2018.

The term for preparing the case is 24 April 2018. The Court shall decide upon the procedure and the date for hearing the case after the case has been prepared.

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The press release was prepared with the aim to facilitate understanding of the actual facts of the case. It shall not be regarded as part of the ruling and is not binding to the Constitutional Court. The judgements, decisions and other information regarding the Constitutional Court are available at the homepage of the Constitutional Court [www.satv.tiesa.gov.lv](http://www.satv.tiesa.gov.lv).

**Ketija Strazda**

Assistant to the President of the Constitutional Court

[Ketija.Strazda@satv.tiesa.gov.lv](mailto:Ketija.Strazda@satv.tiesa.gov.lv)

+ 371 67830737, + 371 26200580