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**A case initiated with respect to the Minister's order, which suspended regulation on an opinion poll of the inhabitants of Ikšķile Region**

On 16 August 2019, the 2<sup>nd</sup> Panel of the Constitutional Court initiated the case “On Compliance of the Order by the Minister for Environment Protection and Regional Development of 25 April 2019 No. 1-2/59 “On Suspending the Regulation on the Opinion Poll of the Inhabitants of Ikšķile Region “Vote of Ikšķile Region”” with Article 1 and Article 101 of the *Satversme* of the Republic of Latvia and Article 5 of the European Charter of Local Self Government.”

**The Contested Act**

Order by the Minister for Environment Protection and Regional Development (hereinafter – the Minister) of 25 April 2019 No. 1-2/59 “On Suspending the Regulation on the Opinion Poll of the Inhabitants of Ikšķile Region “Vote of Ikšķile Region””<sup>1</sup>.

**Norms of Higher Legal Force**

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

Article 101 of the *Satversme*: “Every citizen of Latvia has the right, as provided for by law, to participate in the work of the State and of local government, and to hold a position in the civil service.

Local governments shall be elected by Latvian citizens and citizens of the European Union who permanently reside in Latvia. Every citizen of the European Union who permanently resides in Latvia has the right, as provided by law, to participate in the work of local governments. The working language of local governments is the Latvian language.”

Article 5 of the European Charter of Local Self Government (hereinafter – the Charter):  
“Protection of local authority boundaries”: “Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.”

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<sup>1</sup> The contested act is available here: <https://www.vestnesis.lv/op/2019/84.12> (accessed on 16.08.2019).

## The Facts

The case was initiated with respect to an application by the Ikšķile Regional Council (hereinafter – the Council). The Minister has suspended the regulation on the opinion poll of the inhabitants of Ikšķile Region “Vote of Ikšķile Region” (hereinafter – the Regulation) by the contested act. The Minister holds that the regulation envisaged organising an opinion poll regarding administrative-territorial reform, which, as to its form, is similar to election or a local referendum for adopting a binding decision. However, it is alleged that regulatory enactments do not provide for a local government council’s right to organise an opinion poll like this or to hold local referenda. Moreover, administrative-territorial reform is said to be an important matter in the life of the state and society, which should be decided on by the legislator itself.

The Council, having examined the contested act at an extraordinary sitting, decided to keep the Regulation unamended and submit an application to the Constitutional Court regarding the contested act. The Council is of the opinion that the contested act is incompatible with Article 1 and Article 101 of the *Satversme* as well as Article 5 of the Charter.

The Council noted that, pursuant to Article 5 of Charter 5, a decision on changing the territorial boundaries of a local government could not be adopted without consulting the inhabitants of the respective local government. Whereas the right of a local government’s inhabitants to effective participation in the work of the local government, *inter alia*, the right to express their opinion on administrative-territorial reform, is said to follow from Article 1 and Article 101 of the *Satversme*. Therefore the Council, in accordance with Section 12 of the law “On Local Governments”<sup>2</sup>, has the right to organise an opinion poll like this as a voluntary initiative to find out the opinion of the local government’s inhabitants on administrative-territorial reform and to represent it more effectively.

The Council holds that the form and the procedure of holding the opinion poll cannot mislead as to the importance of its outcome and consequences since the Council had duly

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<sup>2</sup> Section 12 of the law “On Local Governments” provides that local governments, in the interests of residents of the relevant administrative territory, may voluntarily carry out their initiatives with respect to any matter if it is not within the competence of the *Saeima*, the Cabinet, ministries, other State administrative institutions, the courts or other local governments, or also if such activity is not prohibited by law.

informed the inhabitants of the local government that the opinion poll was only consultative.

### **The Legal Proceedings**

The Constitutional Court has requested the Minister to submit a written reply on the facts of the case and the legal reasoning by **16 October 2019**.

**The term for preparing the case is 16 January 2020**. The Court will decide on the type of procedure and the date for hearing the case after it has been prepared.

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The press release was prepared with the aim to facilitate understanding of cases heard by the Constitutional Court. It shall not be regarded as part of the judgement and is not binding upon 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).

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