

**CONSTITUTIONAL  
COURT OF THE  
REPUBLIC OF  
LATVIA**



Press Release  
Case No. 2020-16-01  
04.12.2020

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**The Constitutional Court recognises the norm in the law “On Dismissal of the Riga City Council” as being compatible with the *Satversme***

On 3 December 2020, the Constitutional Court delivered the judgement in case No. 2020-16-01 “On Compliance of Para 2 of Section 1 of the law “On Dismissal of the Riga City Council” with Article 1 and Article 101 of the *Satversme* of the Republic of Latvia”.

**The Contested Norm**

Para 2 of Section 1 of the law “On Dismissal of the Riga City Council” (hereafter - the contested norm) provided that by this Law, the *Saeima* dismissed the Riga City Council, in view of the fact that the Riga City Council had allowed unlawful actions and did not fulfil the autonomous function of a local government established in Waste Management Law, the law “On Local Governments” and other regulatory enactments – to organise household waste management.

**The Norms of Higher Legal Force**

Article 1 of the *Satversme* of the Republic of Latvia (hereafter – 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.”

### **The Facts**

Section 91 (1) of the law “On Local Governments” defines four instances when the *Saeima* may dismiss a local government council. Section 92 of this law, in turn, establishes the procedure for doing it.

On 13 February 2020, the *Saeima* adopted the law “On Dismissal of the Riga City Council”. Twenty members of the 13<sup>th</sup> convocation of the *Saeima* (hereafter – the Applicant) turned to Constitutional Court, requesting examination one of the grounds for dismissing the Riga City Council indicated in Section 1 of this Law. It was noted in the application that the dismissal of the Riga City Council had been politically motivated and that the Riga City Council had fulfilled its autonomous function to organise household waste management properly, whereas the accusations regarding violations of legal norms in the area of household waste management were said to be unsubstantiated.

In the annotation to the draft law and the written reply by the *Saeima*, in turn, it is stated that the Riga City Council had repeatedly allowed substantial violations of legal norms. The Riga City Council is reproached, *inter alia*, of not enforcing for a long period the Constitutional Court’s judgement of 6 December 2012 in case No. 2012-01-01 and failing to meet the requirements of regulatory enactments in fulfilling its autonomous function – organising household waste management.

## **The Court's Findings**

### On the necessity to review the constitutionality of the contested norms

Two grounds for dismissing the Riga City Council were mentioned in Section 1 of the law “On Dismissal of the Riga City Council”; however, the Applicant had contested only one of them. Moreover, since the initiation of the case, the actual circumstances have substantially changed, i.e., on 2 October 2020, the newly elected Riga City Council convened for its first sitting. However, the Constitutional Court found that the dismissal of a local government council was an issue of constitutional importance and there was valid interest to review the constitutionality of the contested norm. The Constitutional Court also took into account the fact that the present case was the first, in the framework of which it had to review a legal norm by which the *Saeima* dismissed a local government council. [18.]

### On the scope of Article 1 and Article 101 of the *Satversme*

The Constitutional Court found that both Article 1 and Article 101 of the *Satversme* comprised, *inter alia*, the principle of local government, which is the basis for the institutional existence and functional operation of a local government. Moreover, all public institutions, local governments among them, may act only in compliance with the principle of the rule of law, within their competence defined in law. Hence, the Constitutional Court examined the compliance of the contested norm with Article 1 of the *Satversme* in interconnection with its Article 101, reviewing the compliance of this norm with the principles of local government and the rule of law. [19.2.]

### On the dismissal of a local government council as the last resort for *ex-post* legal oversight of a local government's actions

The legality of actions taken by a local government council is supervised by various *ex-post* measures, the last resort among which is the dismissal of a local government council. This measure entails the most serious consequences because a democratically elected institution is dismissed. Both the legislator and institutions of the executive and the judicial power are involved in the process of dismissing a local government council, thus ensuring

the legality of this process and its compliance with the principle of local government, likewise, ensuring that the principle of separation of powers is complied with. [20.]

Although to dismiss a local government council, the *Saeima* has to adopt a law and, therefore, to a certain extent such a decision is political, a law like this should be based on legal arguments. In examining a legal norm, by which a local government council has been dismissed, it should be taken into account that this measure applies to a democratically elected institution and also restricts the rights of members of the local government to participate in the work of the council, established in Article 101 of the *Satversme*. In a democratic state governed by the rule of law, a law on dismissing a local government council may not be adopted arbitrarily, on the basis of solely political considerations. [21.]

The Constitutional Court recognized that the law on dismissing a local government council could be adopted only in the instances defined in the law “On Local Governments”, in legal procedural order, on the basis of concrete facts and legal arguments. [21.]

#### On the issues to be reviewed

The Constitutional Court found that, in the present case, to examine the constitutionality of the contested norm, it had to establish,

- 1) whether the procedural order for dismissing a local government council, established in legal norms, had been complied with;
- 2) what had to be considered as a violation of regulatory enactments in the meaning of Para 1 of Section 91 (1) of the law “On Local Governments” and whether the Riga City Council had committed such violations;
- 3) whether, in the particular circumstances, the dismissal of the local government council as *ex-post* measure of legal oversight was necessary in a democratic state governed by the rule of law. [22.]

#### On whether the procedural order for dismissing a local government council, established in legal norms, has been complied with

The Constitutional Court noted: in examining the compliance with the principle of good legislation of the procedure, in which a legal norm by which a local government council

had been dismissed, predominantly, the compliance of this procedure with the order set out in the law “On Local Governments” and the Rules of Procedure of the *Saeima* had to be reviewed, as well as of the elements in specifying the principle of good legislation that applied to the involvement of society and stakeholders in the legislative process and the need for sufficient grounds for the adoption of the contested norm. [23.]

The Constitutional Court found that, in the process of preparing the draft law “On Dismissal of the Riga City Council”, the opinion of the Riga City Council and the Latvian Association of Local and Regional Governments had been duly heard. [23.2.] Likewise, in the process of adopting the contested norm by the *Saeima*, the violations of legal norms, committed by the Riga City Council, were examined and the stakeholders’ opinion was heard. [23.3.] Hence, in adopting the contested norm, the procedure, established in legal norms, for dismissing a local government council had been complied with. [23.4.]

On what should be deemed to be a violation of regulatory enactments and whether the Riga City Council had committed violations

A local government council cannot be dismissed for any violation, committed by it, even if it had been committed repeatedly. It follows from the principle of local government and the system of the law “On Local Governments” that a local government council, as a democratically elected institution, can be dismissed only in the case where substantial violations of legal norms had been committed repeatedly. [24.1.]

The materiality of the violations of legal norms, committed by a local government council, is proven, *inter alia*, by the consequences that are caused or could be caused by such violations for the lawful interests of the inhabitants of the particular administrative territory or the general society, as well as the systemic character of such violations, which simultaneously indicates that the local government council is repeatedly violating legal norms. Also, failure to enforce a valid court’s judgement, in which the unlawfulness of a particular local government council’s actions had been clearly established, is a substantial violation of legal norms and jeopardises the rule of law and legal order. A situation, in which a public institution, *inter alia*, a local government, does not enforce a court’s ruling, is inadmissible in a democratic state governed by the rule of law. [24.1.]

Hence, a local government council may be dismissed if it since its election (commencement of work) has repeatedly committed substantial violations of legal norms. These violations must be duly examined in the process of drafting and adopting the respective law on dismissing the local government council. [24.1.]

It is concluded in the judgement that the authorities had repeatedly requested the Riga City Council to eliminate violations in the area of household waste management, and the Riga City Council had expressed its opinion on violations. [24.3.]

The Riga City Council, in fulfilling its autonomous function – organising household waste management, could not act arbitrarily, and it had to comply with both the regulatory enactments and the Constitutional Court's judgement in case No. 2012-01-01. [24.4.] The Constitutional Court recognised, that for years, also during the period when the dismissed Riga City Council worked, household waste management in Riga was organised by violating the requirements defined in legal norms, thus, arbitrarily infringing on the lawful interests of inhabitants and general society, as well as jeopardising the rule of law. Hence, the violations committed by the Riga City Council in the area of household waste management, examined in their interconnection, are to be recognised as repeated substantial violations. [24.5.]

On whether, in the particular circumstances, the dismissal of the local government council as a measure of *ex-post* review of the legality of actions taken by the local government was necessary in a democratic state governed by the rule of law

It is noted in the judgement: the correspondence between the authorities and the Riga City Council, continuing for years, proves that the Riga City Council had not deemed it necessary to eliminate the violations committed in organising household waste management and had delayed legal solution to the situation by using the pretext that a new system for household waste management was being created and this work had not been completed yet. [25.]

The aim of the law “On Dismissing the Riga City Council”, first and foremost, was to prevent a situation, in which a council not only repeatedly committed substantial violations of legal norms but also ignored the warnings repeatedly expressed by the authorities. The Constitutional Court concluded that the Riga City Council's attitude and unlawful actions,

in fulfilling its autonomous function, proved that the elimination of violations would not have been reached by other measures for legal oversight of a local government's actions, for example, convening a sitting of the Riga City Council and setting the agenda for it. [25.]

In the adoption of the contested norm, the significance of household waste management as an autonomous function of a local government and the need to fulfil it properly and effectively, which follows from the significant impact of this area on a person's right to live a benevolent environment, on public health and welfare, as well as sustainable national development, was taken into account. This impact on society's lawful interests and environmental protection as the aims of sustainable development is even greater in a city as large as Riga. [25.]

The Constitutional Court found that, in the particular circumstances, the dismissal of the Riga City Council as *ex-post* measure for reviewing the legality of the local government's actions was necessary in a democratic state governed by the rule of law. Thus, the contested norm complies with Article 1 and Article 101 of the *Satversme*. [25.]

#### On the legal oversight of a local government's actions

The Constitutional Court also noted that, in a democratic state governed by the rule of law, the relations between the State and local governments should be developed in the form of a dialogue, abiding by the principle of good faith and mutual respect, to ensure effective public administration and use of resources. A local government council, which is included in the system of public administration, must comply with these principles. [26.]

If an authority has indicated to a local government council on possible violations of legal norms, then the council should either eliminate these violations or turn to the authority to reach a legal solution in the particular situation. The actions of all public institutions should be aimed at reaching common purposes – ensuring the lawful interests of society and the rule of law. [26.]

The Constitutional Court drew the attention of the Cabinet and the Ministry of Environmental Protection and Regional Development to the fact that eliminating unlawful actions by a local government, in particular, if these actions were repeated, was not only

their right but also their obligation. A situation, where a local government for a long period does not enforce a court's judgements and repeatedly commits substantial violations of legal norms, thus jeopardising the lawful interests of society and the rule of law, as well as diminishing the public trust in the State and courts, is inadmissible in a democratic state governed by the rule of law. If it is impossible to achieve the elimination of violations by other *ex-post* measures of legal oversight then the Cabinet, without unfounded long delay, should consider the possibility of submitting to the *Saeima* a draft law on dismissing the local government council. [26.]

**The Constitutional Court held:**

**To recognise Para 2 of Section 1 of the law “On Dismissal of the Riga City Council” as being compatible with Article 1 and Article 101 of the *Satversme* of the Republic of Latvia.**

The Constitutional Court's judgement is final and not subject to appeal; it enters into effect on the date of its publication. The text of its judgement is available on the Constitutional Court's homepage:

[https://www.satv.tiesa.gov.lv/wp-content/uploads/2020/03/2020-16-01\\_spriedums-1.pdf](https://www.satv.tiesa.gov.lv/wp-content/uploads/2020/03/2020-16-01_spriedums-1.pdf)

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**Zanda Meinarte**

Public relations specialist  
of the Constitutional Court

[Zanda.Meinarte@satv.tiesa.gov.lv](mailto:Zanda.Meinarte@satv.tiesa.gov.lv)

+ 317 67830759, + 371 26393803