



S U P R E M E C O U R T

C O N S T I T U T I O N A L R E V I E W C H A M B E R

J U D G M E N T

in the name of the Republic of Estonia

Case number	5-25-18
Date of judgment	23 July 2025
Judicial panel	Chair Villu Kõve; members Saale Laos and Heili Sepp
Case	Complaints by Kaspar Kartanas and Märt Põder against the activities of the National Electoral Committee
Participants in the proceedings	Applicant Kaspar Kartanas Applicant Märt Põder National Electoral Committee
Manner of examination	Written procedure

The Supreme Court decides as follows:

- 1. To deny the complaint by Kaspar Kartanas**
- 2. To deny the complaint by Märt Põder**

F A C T S A N D C O U R S E O F P R O C E E D I N G S

1. On 10 July 2025, an electronic meeting of the National Electoral Committee (NEC) was held in the Microsoft Teams web application, starting at 14:00. On 8 July 2025, the State Electoral Office (SEO) published a notice of the meeting on its website valimised.ee as a news piece which included an agenda and a reference: “The State Electoral Office will create an opportunity to follow the meeting for persons who have notified their wish to participate in the electronic meeting by e-mail (info@valimised.ee) before the start of the meeting.”

Complaint by Kaspar Kartanas

2. On 16 July 2025, K. Kartanas filed a complaint with the Supreme Court, contesting the fact that (a) he was not admitted to the NEC meeting on 10 July 2025, (b) he was not notified of his non-admission to the meeting nor were any reasons given for it, and (c) he was removed from the meeting.

3. The applicant informed the SEO of his wish to observe the meeting on 10 July 2025 at 14:02. An e-mail sent from his own address was not answered and no link to join the meeting was sent. The applicant himself did not consider it a problem that he informed the SEO of his wish to observe the meeting after the start of the meeting, because at the NEC meeting held on 20 June 2025 a person who notified their wish to observe the meeting 24 minutes after the start of the meeting had been allowed to join the meeting. In the applicant’s opinion, both the fact that he was not admitted to the

meeting, that he was not informed of his non-admission to the meeting and that no reasons were given for the decision not to admit him, is unlawful.

4. The applicant had also notified the SEO of his wish to participate in the meeting on 8 July 2025 by e-mail sent from the address nyymse@proton.me, using the name Anu Nüümse. The applicant wished to remain anonymous, because, as according to § 19⁴(1) of the Riigikogu Election Act (REA), everyone has the right to observe the acts and procedures of the NEC, everyone has the right to privacy. Participation in a meeting under a pseudonym can be recorded in the minutes and the wish to participate can be traced via e-mail. No link to join the meeting was sent to the applicant, which is why the applicant used the link received from Märt Pöder via social media to join the meeting on 10 July 2025 at 13:50. The NEC demanded that Anu Nüümse turn on the microphone or camera, but the applicant's computer did not have them. Text chat was turned off in the virtual meeting room. During the meeting, the applicant sent an e-mail to the SEO, confirming that he was following the meeting but did not disclose his name. The chair of the NEC decided to remove the applicant from the meeting because he could not be identified via camera or microphone. The applicant seeks a declaration of unlawfulness of his removal from the meeting.

5. According to the information published on the website valimised.ee, it is necessary to register in advance to follow an electronic meeting, but there is no requirement to identify oneself. Nor does the obligation to present oneself set out in § 19⁴(2) of the REA give rise to the requirement for identification of a person or a prohibition on the use of a pseudonym. Nor can the requirement for registration be inferred from the REA. It is not clear which legislation governs an observer's obligation to present themselves. Identifying a person via a camera or microphone amounts to collection of biometric personal data, which is unreasonable in the present case.

Complaint by Märt Pöder

6. On 16 July 2025, M. Pöder filed a complaint with the Supreme Court, seeking a declaration of unlawfulness of his removal from the NEC meeting on 10 July 2025.

7. On 9 July 2025, M. Pöder sent an e-mail to the SEO from the address gafgaf@infoaed.ee in the name of Märt, requesting to follow the NEC meeting on 10 July. The SEO asked him to provide both his first name and surname, which the applicant refused to do, as the working procedure of the National Electoral Committee does not require this. M. Pöder used the link received from Kalle Kulbok, who had received an invitation to the meeting, to join the NEC electronic meeting on 10 July. In order to identify the meeting participant, the meeting chair asked him to turn on the microphone and camera. The applicant did not do so and was removed from the meeting on 10 July at approximately 14:15.

8. In the opinion of M. Pöder, his removal from the meeting was unlawful because the NEC's wish to verify the identity of the meeting participant was not justified. The NEC has no legal basis for identifying a person. At the same time, the NEC itself should have recognised who he was, as he had used this e-mail address before. By removal from the meeting, the applicant's right to be present at a public meeting arising from § 12(3) of the REA was interfered with. Failure to verify a person's identity is not a legitimate purpose for removal from a meeting. M. Pöder was following the meeting passively on the basis of clause 7.4 of the National Electoral Committee working procedure and, therefore, the request to switch on the microphone or camera was excessive.

9. On 18 July 2025, the applicant supplemented his complaint.

10. The Supreme Court Constitutional Review Chamber joined case No 5-25-18 (complaint by K. Kartanas) with case No 5-25-20 (complaint by M. Pöder) into unified proceedings.

Replies by the National Electoral Committee to the complaint

11. On 8 July 2025, the SEO announced on its website that the possibility to follow the NEC meeting on 10 July 2025 would be created for persons who notify their wish to participate before the start of the meeting at the address info@valimised.ee. A web link to the meeting was sent to persons whose name was indicated in their application to follow the meeting. The SEO sent an e-mail to others, asking them to provide the first and last name of the person wishing to participate. Those who did not provide the participant's first and last name (including persons with the addresses nyymse@proton.me and gafgaf@infoaed.ee) were not sent the web link.

12. Mr Kartanas submitted an application under his own name to observe the meeting after the meeting had begun, but according to the notice published on the valimised.ee website, this had to be done before the start of the meeting.

13. According to clause 4.3 of the working procedure of the National Electoral Committee, NEC meetings are public. Persons wishing to attend meetings held at Toompea 1, Tallinn, will be admitted to the meeting room after presenting themselves. Participants in electronic meetings are also expected to present themselves.

14. Under § 19⁴(1) and (2) of the REA, everyone may observe the acts and procedures of the NEC and an observer must present themselves. Under § 19⁴(4) of the REA, an observer may not disrupt the work of the NEC or participate in the activities of an election manager. The same requirements are contained in other electoral laws. The NEC expects the persons following a meeting (observers) to behave in accordance with generally accepted norms of behaviour. When asked, an observer must reveal their name and switch on the camera at least for a moment, they may not disrupt the meeting and must comply with the instructions of the meeting chair.

15. Both applicants make attempts to dictate the course of the NEC meetings. At the NEC meeting on 12 June 2025, which the applicants attended physically, they did not agree with the explanations and instructions provided, and the police had to be called to remove them from the meeting room. At the meeting on 10 July 2025, there were an unusually large number of people who did not wish to present themselves, which suggests coordinated action. K. Kartanas attended under a false name. Setting up the online meeting, which takes minutes for people acting in good faith, took about a third of the meeting time. The detailed description of the events contained in M. Pöder's complaint, in turn, leads to the conclusion that he most likely recorded the meeting without permission. This, too, does not indicate the exercise of rights in good faith.

16. The Supreme Court has noted that obstructionist conduct by the parties to court proceedings must not begin to dictate the course of judicial proceedings or turn the court into a hostage of the parties (Supreme Court Criminal Chamber judgment of 18 June 2010, 3-1-1-43-10, para. 46). The same principles apply to other procedures. The rights conferred by law must be exercised in good faith. Under § 45(4) of the Administrative Procedure Act, the chair of a session may remove from the session a person who fails to comply with the procedure for conducting the session set by the chair of the session. The applicants, appearing under the names Anu Nüümse and Märt P, were removed from the meeting because they failed to comply with the instructions of the meeting chair.

OPINION OF THE CHAMBER

17. The Chamber does not agree with the applicants' allegations that the NEC acted unlawfully in relation to the applicants in conducting the electronic meeting of 10 July 2025.

(I) Refusal to admit K. Kartanas to the NEC meeting

18. Mr Kartanas reproaches the NEC for not having admitted him to the electronic meeting at issue: no web link was sent to him to join the meeting room, and he was not notified of his non-admission to the meeting nor were any reasons given for the refusal. The applicant attributes the failure to notify him to the SEO. According to the minutes of the meeting, the decision not to admit the applicant to the meeting was made by the NEC. If the applicant's e-mail with a request to follow the meeting had been answered, it would have been done by the SEO, but guided by the NEC decision. Therefore, both the denial of admission to the meeting and failure to notify of it constitute acts of the NEC.

19. According to clause 7.4 of the National Electoral Committee working procedure, persons who have notified of their wish to participate are be allowed to follow the NEC electronic meeting. The notice published on the website valimised.ee about the meeting of 10 July 2025 explicitly stated that the wish to participate in the meeting must be notified before the start of the meeting. According to the notice, the NEC meeting began at 14:00. Mr Kartanas sent an e-mail with a wish to follow the meeting at 14:02, i.e. after the start of the meeting.

20. Although, according to the National Electoral Committee working procedure, submitting an application to that effect is sufficient to follow an electronic meeting, imposing an additional condition for participation is not precluded if this condition is unambiguously understandable and does not place an unreasonable burden on the participant. The Supreme Court has repeatedly found that prior registration may be a reasonable and justified measure to ensure the smooth organisation of a meeting (e.g. Supreme Court Constitutional Review Chamber judgment of 18 July 2025, 5-25-15/2, para. 9). The requirement published on the website valimised.ee to notify of the wish to attend *before* the start of the meeting is understandable to everyone. This is also a reasonable requirement, the purpose of which is to ensure the smooth running of the meeting. If it is not known in advance how many observers will attend, nor is it known how much of the meeting time will be spent on fulfilling the observers' obligation to present themselves, including establishing connections. The NEC must be able to plan the meeting reasonably and conduct it without disruption. If the committee is working under time pressure, dealing with participants who have not registered in advance at the expense of meeting time may prevent the discussion of items on the agenda. The NEC must enable the meeting to be observed, but it is under no obligation to allow anyone who wishes to do so to join the meeting at any time. The applicant relies on the claim that the NEC allowed a person who notified their wish to participate during the meeting to join the meeting of 20 June 2025. This is not relevant in the present case, as the advance notice of the meeting of 20 June on the website valimised.ee did not require notification of the wish to participate before the start of the meeting. The NEC may change the procedure for conducting a meeting over time according to the need and the substance of agenda items (cited 5-25-15/2, para. 11).

21. Refusing to admit K. Kartanas to the meeting on 10 July 2025 was not unlawful because he failed to register for the meeting in accordance with the conditions set for the meeting participants. Nor was it unlawful to decline to reply to his e-mail. The applicant had already been aware, based on the information previously published on the valimised.ee website, that in order to attend the meeting it was necessary to notify one's wish *before* the start of the meeting. The NEC had no reason to enter into correspondence with the applicant in order to repeat this to him. Moreover, the NEC did not have to do so while it was busy conducting the meeting, because it would have disrupted the work of the NEC (see § 19⁴(4) of the REA).

(II) Removal of K. Kartanas and M. Põder from the NEC meeting

22. In the opinion of K. Kartanas and M. Põder, their removal from the NEC meeting on 10 July 2025 on the grounds that they did not switch on the camera or microphone as instructed by the NEC was unlawful. Among other things, M. Põder claims that the NEC's requirement to switch on a camera or microphone for personal identification interfered with his right to passively observe the meeting, which arose from clause 7.4 of the NEC working procedure.

23. The Chamber notes, first of all, that M. Põder's attempt to distinguish between passive and active observation of a NEC meeting is irrelevant. According to the explanatory memorandum to the Draft Act Amending the Riigikogu Election Act and Other Acts, an election observer's activities by their very nature are passive, i.e. an observer *monitors* the committee's activities, rather than supervises, assists or organises the committee's work (160 SE, XIII composition of the Riigikogu) (see also Supreme Court Constitutional Review Chamber judgment of 2 July 2024, 5-24-18/2, para. 7). An observer may not *participate* in the acts within the competence of the electoral committee (§ 19⁴(4) REA). Thus, when establishing regulatory provisions on election observation, the legislator has considered observation and following to have the same meaning. Under § 19⁴(1) of the REA, election observation includes observation of the acts and procedures of the NEC and election managers. The NEC's form of work is a meeting (§ 12(1) REA). Thus, anyone who is not a NEC member or a person invited to a meeting and who observes a NEC meeting is an observer within the meaning of § 19⁴(1) of the REA, and the rights and duties of an observer, including the duty to present oneself before starting the observation (§ 19⁴(2) REA), extend to them.

24. The NEC chair as the chair of a NEC meeting (clause 6.1 of the working procedure of the National Electoral Committee) has the right to give instructions to the participants in order to ensure the smooth and efficient conduct of the meeting, including requiring an observer to show their face when presenting themselves (cited 5-25-15/2, paras 11 and 12). The meeting chair also has the right to require a participant to give their first and last name in order to fulfil the obligation to present the observer. The obligation to submit one's name could not have been surprising to the applicants in this case either. Before sending the meeting invitation, the SEO asked for the first and last name of the persons who had notified of their participation in the meeting but whose e-mail did not reveal the participant's full name or with regard to whose name a reasonable doubt had arisen.

25. The Chamber does not agree with K. Kartanas's assertion that an observer may also be anonymous. An observer's obligation to present themselves includes the obligation to disclose their identity, in particular to provide their real name. Neither the SEO nor the NEC will have to make independent additional efforts to identify the name, e.g. by means of e-mails sent by the individual earlier, etc.

26. The right to observe the organisation of elections presupposes that the observer is reasonably able to observe the committee's activities (Supreme Court Constitutional Review Chamber judgment of 12 November 2021, 5-21-25/5, para. 29; 9 November 2021, 5-21-22/3, para. 26). This right is violated in a situation where unreasonable obstacles to observation are imposed. Imposing conditions or obstacles to observation is lawful if it pursues a legitimate purpose and does not unreasonably interfere with the rights of the observer.

27. A NEC meeting is public (§ 12(3) REA) and an observer has the right to observe it, but they must present themselves *before* starting the observation (§ 19⁴(2) REA). In the present case, the applicants failed to fulfil their statutory obligation to present themselves. It is also worth emphasising that an observer may not disrupt the work of the NEC (§ 19⁴(4) REA). Preventing disruption of the NEC meeting may be a legitimate purpose for interference with the right of observation. While removing observers from a meeting does interfere with the right to observe elections or the organisation of elections, if it is done for the reason that the observers significantly disrupt the work of the NEC then this cannot be considered unreasonable. The behaviour of K. Kartanas and M. Põder in connection

with the NEC meeting of 10 July 2025 (registering for the meeting under different names, refusing to present themselves) gave the NEC grounds to believe that the applicants' aim was not only to observe the meeting but also to disrupt the work of the NEC. It appears from the minutes that a significant portion of the meeting time was spent on dealing with observers. The abuse of observer rights does not warrant protection.

28. For the above reasons, the removal of K. Kartanas and M. Pöder from the NEC meeting of 10 July 2025 was lawful. The Chamber denies the complaints by K. Kartanas and M. Pöder on the basis of § 46(1) clause 2) of the Constitutional Review Court Procedure Act (CRCPA).

29. Under § 40(2) clause 1 of the CRCPA, the Court declines to examine the supplement to the complaint filed by M. Pöder on 18 July 2025 because a complaint against an act of the NEC (including any supplements thereto) must be filed with the Supreme Court through the NEC (second sentence of § 38(1) of the CRCPA; see also Supreme Court Constitutional Review Chamber judgment of 28 March 2023, 5-23-13/9, para. 25).

(signed digitally)