



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

CONSTITUTIONAL REVIEW CHAMBER

JUDGMENT

in the name of the Republic of Estonia

Case number	5-25-76
Date of judgment	19 December 2025
Judicial panel	Chair Juhan Sarv, members Julia Laffranque and Margit Vutt
Case	Complaint against the National Electoral Committee resolution No 87 of 8 December 2025
Participants in the proceedings	Applicant Anton Dijev National Electoral Committee
Manner of examination	Written procedure

THE SUPREME COURT DECIDES AS FOLLOWS:

To deny the complaint by Anton Dijev.

FACTS AND COURSE OF PROCEEDINGS

1. Anton Dijev ran as a candidate in the 2025 municipal council elections in Kohtla-Järve city on the list of the Centre Party. On 27 November 2025, the Kohtla-Järve City Electoral Committee (CEC) registered A. Dijev as a member of the Kohtla-Järve City Council. On 1 December 2025, the CEC appointed an alternate member to A. Dijev, as the city secretary had drawn the Committee's attention to the fact that, on 16 October 2025, a judgment convicting A. Dijev of an intentional criminal offence had entered into force. The CEC relied on § 18(1) clause 8 of the Local Government Organisation Act (LGOA), under which a municipal council member's mandate expires prematurely in connection with the entry into force of a court judgment convicting the member of an intentional criminal offence.

2. A. Dijev challenged the CEC's decision of 1 December 2025 in the National Electoral Committee (NEC), arguing that the CEC had incorrectly applied § 18(1) clause 8 of the LGOA. The judgment convicting the applicant entered into force on 16 October 2025, but he was elected as a member of the municipal council only on election day, i.e. 19 October 2025. The voters knew about him and his actions even before the elections and were able to form their opinion taking into account all the circumstances.

3. On 8 December 2025, the NEC denied the complaint by resolution No 87. The NEC noted that, under § 5(6) of the Municipal Council Election Act (MCEA), a valid criminal conviction does not

prevent a person from running for a seat on the municipal council, but under § 18(1) clause 8 of the LGOA a municipal council member's mandate is terminated if a conviction is imposed while the person is serving as a municipal council member. The judgment of conviction in respect of the applicant entered into force during the elections. Such a situation is not regulated by law. Referring to the Supreme Court judgment of 1 July 2010 in case No 3-4-1-7-10 and the Chancellor of Justice opinion No 6-1/131122/1303828 of 6 September 2023, the NEC considered it appropriate to proceed from whether voters were aware of the applicant's criminal conviction. In the NEC's opinion, they were not. The applicant did not notify the city secretary of the entry into force of the court judgment (§ 18(2) LGOA) and information about the applicant's conviction was published in the press only on 27 October 2025. In a situation where the judgment of conviction entered into force during the elections and the conviction became publicly known after the election day, voters were unable to make an informed choice. A municipal council member's mandate terminates automatically in the case set out in § 18(1) clause 8 of the LGOA. In such a case, the rural municipality or city electoral committee must adopt a decision to appoint an alternate member (§ 20 LGOA). The CEC fulfilled that obligation by appointing an alternate member to A. Dijev.

4. A. Dijev filed a complaint with the Supreme Court, seeking annulment of the NEC resolution and the CEC decision of 1 December 2025. In the applicant's opinion, a municipal council member's mandate is terminated due to a judgment of conviction only if the judgment enters into force at a time when the person has already been elected as a municipal council member. The applicant had not yet been elected as a municipal council member at the time of entry into force of the judgment convicting him on 16 October 2025. The NEC's conclusion that § 18(1) clause 8 of the LGOA also applies if a conviction enters into force during advance voting and electronic voting is erroneous. On election day, a voter can change the vote cast in advance voting or electronic voting. Section 18(2) of the LGOA, which prescribes the duty to notify, is relevant to the appointment of an alternate member, not to the application of § 18(1) clause 8 of the LGOA or to informing voters of a candidate's criminal record. The applicant could not influence the fact that information about his conviction was published in the press only on 27 October 2025.

5. The NEC maintains its position set out in the contested resolution and requests that the complaint be denied.

OPINION OF THE CHAMBER

6. The Chamber is of the opinion that the complaint must be denied on the basis of § 46(1) clause 2 of the Constitutional Review Court Procedure Act. The appointment of an alternate municipal council member to A. Dijev, who was punished by a court judgment that entered into force on 16 October 2025 with a pecuniary punishment for accepting a bribe, i.e. for an intentional criminal offence, is consistent with the purpose and spirit of § 18(1) clause 8 of the LGOA.

7. The first alternative under § 18(1) clause 8 of the LGOA lays down that a municipal council member's mandate expires prematurely in connection with the entry into force of a judgment of conviction for an intentional criminal offence. At the same time, § 5(6) of the MCEA prohibits a person convicted of a criminal offence from standing as a candidate for a seat on the municipal council only if they are serving a prison sentence. The Supreme Court has explained that these provisions do not treat convicted persons unequally. In one case, when a court judgment enters into force after an election, it becomes clear that the person has committed a criminal offence. In the second case, voters know the candidate and their actions already before the elections thanks to a court judgment that has entered into force, and can form their opinion about the person by taking account of all the

circumstances and vote accordingly in the elections (Supreme Court Constitutional Review Chamber judgment of 1 July 2010, 3-4-1-7-10, para. 9).

8. The purpose of § 18(1) clause 8 of the LGOA also includes the exclusion from a municipal council of a person who was convicted before their mandate arose, but whose voters could not reasonably expect at the time of casting their vote that they would be represented in the municipal council by a person convicted of an intentional criminal offence. When giving a mandate, a voter must have the opportunity to decide whether the criminal offence committed should enable the person to be a municipal council member or not (see the Chancellor of Justice opinion No 6-1/131122/1303828 of 6 September 2013).

9. In the opinion of the Chamber, A. Dijev's voters did not have a sufficient opportunity to know that they were voting for a person who had been convicted of an intentional criminal offence. The municipal council elections were held from 13 to 19 October 2025. The judgment convicting the applicant entered into force on 16 October 2025. Voters who voted for the applicant before 16 October 2025 cast their vote for a person who had not yet been convicted because the judgment had not yet entered into force (see also the cited 3-4-1-7-10, para. 9). Moreover, those voting at a polling station could not change their vote later, as only votes cast electronically can be changed (§ 53² MCEA and § 48⁹ Riigikogu Election Act). Although those who voted electronically had the right to change their vote, it may not have been practically possible for every voter to do so.

10. Nor did the voters who cast their vote for the applicant on 17–19 October 2025 have a sufficiently effective opportunity of finding out that they were voting for a convicted person. In the instant case, it is not disputed that information about the applicant's conviction was published in the press only on 27 October 2025, i.e. after the elections. Although no evidence has been submitted to the Chamber as to when the applicant's conviction data became visible in the criminal records database, this fact is not of decisive importance in the case at hand. It must also be taken into account that the applicant, who was also a member of the previous composition of the Kohtla-Järve City Council, failed to fulfil the duty under § 18(2) of the LGOA to notify the Kohtla-Järve city secretary of his conviction. Failure to comply with the notification duty may have at least indirectly contributed to the fact that some of the applicant's voters did not find out about his criminal conviction before casting their vote. In the light of these specific circumstances, the NEC was right in denying A. Dijev's complaint.

11. However, the Chamber notes that, in view of the principles of legal clarity and legality, it would be desirable for the law to unambiguously regulate whether and under what conditions a judgment of conviction entering into force during the voting period precludes a person from being registered as a municipal council member or terminates their mandate as a municipal council member.

(signed digitally)