

President Ilves: amendments to the Election Act are not unconstitutional, since they do not change the established election system. However, the final judgment will probably have to be made by the Supreme Court. Today President Toomas Hendrik Ilves promulgated the law amending the Local Government Election Act, which was passed by the Riigikogu on April 16th.

According to the President of the Republic, the amendments to the Election Act that were approved by a majority of the Riigikogu are not unconstitutional, since they do not change the established election system. However, the final judgment on the legal dispute that has arisen regarding Tallinn's election procedures will probably have to be made by the Supreme Court.

"Court disputes were topical in Estonia as it approached the last local elections, as well as those preceding them. In 2009, we are regrettably in the same situation. The Supreme Court has clearly stated that, based on the requirements of democratic principles, it is unacceptable for the political forces in power to make significant changes immediately before the elections in elections rules, which have been announced several years in advance, in order to achieve better election results," the Head of State said.

According to the President, the election districts in Tallinn have been based on the city districts since 1993, whereas some electoral mandates were distributed evenly among the electoral districts and the remainder were distributed based on population. "This principle has endured unchanged for sixteen years. It would have been possible to change the election procedure at any time during this period or to clarify its constitutionality. This was not done. Changes to the elections system were initiated less than a year before the election. I think this is irresponsible," the Head of State commented.

President Ilves said, "The rational functioning of national life requires that constitutional institutions, including the Riigikogu and local governments, operate in good faith and selflessly. Increasing the number of Tallinn Council members to 79 was not a selfless act by the majority of the Riigikogu; Tallinn's counteraction is just as inappropriate. When the law provides that elections will be carried out in election districts based on city districts, then the abolition of the city districts does not fulfil this objective.

The current legal confusion will probably need to be resolved by the Supreme Court. Unfortunately, the problem will need to be resolved at a time when the election rules should be in force and known to everyone.

The uncertainty regarding the constitutionality of the election procedure that was valid in Tallinn for sixteen years indicates the seriousness of the situation. If this is unclear, then the constitutionality of the election results is also unclear.

My assessment is that the amendment to the Election Act recently passed by the Riigikogu is not unconstitutional – the law does not change the election system – and therefore, I lack the basis for not promulgating it. However, the set of self-interested decisions made to amend the election procedure immediately before the election may turn out to be unconstitutional."

# **President Ilves promulgated an amendment to the Election Act**

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