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Charter Order for the Election of Municipal Hungarian National Councils and Members of the Council of the Pomurska National Self-government Community at the 1998 Elections and on the Operation of Councils (Nepujsag, No. 38/98), Art. 8.3 Charter Order on the Establishment of the Nationality Council of Lendava Municipality and Dobrovnik Municipality, and the Election of the MNSS Council of Lendava Municipality (Official Gazette RS, No. 64/98), Art. 10.2 Charter of the Hungarian Self-governing Lendava Municipality (Nepujsag, Nos. 15/2000, 16/2000 and 8/01), Art. 12.3

Case number.:	U-I-32/99
Challenged act:	Charter Order for the Election of Municipal Hungarian National Councils and Members of the Council of the Pomurska National Self-government Community at the 1998 Elections and on the Operation of Councils (Nepujsag, No. 38/98), Art. 8.3 Charter Order on the Establishment of the Nationality Council of Lendava Municipality and Dobrovnik Municipality, and the Election of the MNSS Council of Lendava Municipality (Official Gazette RS, No. 64/98), Art. 10.2 Charter of the Hungarian Self-governing Lendava Municipality (Nepujsag, Nos. 15/2000, 16/2000 and 8/01), Art. 12.3
Operative provisions:	The petition for the commencement of the proceedings for the review of the constitutionality and legality of Art. 8.3 of the Charter Order for the Election of Municipal Hungarian National Councils and Members of the Council of the Pomurska National Self-government Community at the 1998 Elections and on the Operation of Councils (Nepujsag, No. 38/98) and Art. 10.2 of the Charter Order on the Establishment of the Nationality Council of Lendava Municipality and Dobrovnik Municipality, and the Election of the MNSS Council of Lendava Municipality (Official Gazette RS, No. 64/98) is rejected. Art. 12.3 of the Charter of the Hungarian Self-Governing Lendava Municipality (Nepujsag, Nos. 15/2000, 16/2000 and 8/01) is annulled.
Abstract:	Art. 12.3 of the Charter means that, in the case of the termination of the term of office of a newly elected council member, substitutive (new) elections are not needed since the council member whose term of office terminates is replaced by the next candidate (opposition candidate) following the first candidate as regards the number of obtained votes. The matters concerns regulation which is contrary to the very character of a majority electoral system on the basis of which voters select among individual candidates. Art. 12.3 means substantial divergence from the principle of a majority electoral system, which is not required by the need to adjust the particularities of the election of council members of municipal self-governing national communities. Thus it is inconsistent with Art. 29 of the Local Election Act. Since the mentioned provision makes it possible for the candidate who was not elected by the voters to acquire term of office, also the voting right determined in Art. 43 of the Constitution is thereby violated. Therefore the Constitutional Court annulled Art. 12.3 of the Charter (Indent 2 of the disposition).
Thesaurus:	Elections, substitutive decisions, exclusion. Local self-government, local elections (municipal council, mayor). Constitutional Court, review of a general act which ceased to apply during the proceedings. Voting right. Constitutional Court, jurisdiction to review general acts issued for the implementation of public authorities. National communities, Hungarian national community, rights. National communities,

organization, council of a national community. Constitutional Court, review pursuant to the principle of linking issues. Constitutional Court, lack of jurisdiction to review general acts of entities under public or private law.

Legal basis: Constitution, Arts. 43, 64 Self-Governing National Communities Act (ZSNS), Arts. 4, 7, 8, 10, 20 Local Self-Government Act (ZLS), Art. 39 Local Elections Act (ZLV), Arts. 29, 50, 55 Constitutional Court Act (ZUstS), Arts. 25, 45.3, 47

Notes:

Full text:

Type of document: review of constitutionality and legality of regulations and other general acts

Type of act: municipal regulation

Applicant: Irma Hrelj, Csaszar, Lendava

Date of application: 02/08/1999

Date of decision: 05/17/2001

Type of judgement: decision

Type of resolution: annulment or annulment ab initio

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