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RULING OF THE CONSTITUTIONAL REVIEW CHAMBER OF THE SUPREME COURT

No. of the case	3-4-1-12-05
Date of decision	8 September 2005
Composition of court	Chairman Märt Rask, members Tõnu Anton, Eerik Kergandberg, Lea Kivi, Ants Kull
Court case	Petitions of Maiko Markus, Enn Oja and Henn Põlluaas to review the constitutionality of the Act on the Ratification of the State Border Treaty between The Republic of Estonia and the Russian Federation and the Treaty on the Delimitation of Maritime Areas of Narva Bay and the Gulf of Finland between the Republic of Estonia and the Russian Federation
Hearing	Written proceeding
Decision	To dismiss the petitions of Maiko Markus, Enn Oja and Henn Põlluaas

FACTS AND COURSE OF PROCEEDING

1. On 28 June 2005 Enn Oja addressed the Supreme Court with a petition requesting that the Act on the Ratification of the State Border Treaty between the Republic of Estonia and the Russian Federation and the Treaty on the Delimitation of Maritime Areas of Narva Bay and the Gulf of Finland between the Republic of Estonia and the Russian Federation, passed by the Riigikogu on 20 June 2005, be declared unconstitutional.

E. Oja is of the opinion that the referred Act is in conflict with § 122 of the Constitution, because it alters the land boundary between Estonia and Russia, determined by the Tartu Peace Treaty. Pursuant to § 122 of the Constitution the land boundary of Estonia is determined by the Tartu Peace Treaty of 2 February 1920 and by other international boundary agreements.

2. On 30 June 2005 Maiko Markus submitted a petition to the Constitutional Review Chamber of the Supreme Court requesting that the Chamber review the constitutionality of the Act on the Ratification of the State Border Treaty between the Republic of Estonia and the Russian Federation and the Treaty on the Delimitation of Maritime Areas of Narva Bay and the Gulf of Finland between the Republic of Estonia and the Russian Federation.

M. Markus is of the opinion that the State Border Treaty between the Republic of Estonia and the Russian Federation, ratified by this Act, is in conflict with the preamble of the Constitution, as well as with §§ 2, 3, 5, 6, 32, 122 and 123 thereof. M. Markus points out in his petition that his petition is based on the duty of an

Estonian citizen, established in § 54 of the Constitution, to be loyal to the constitutional order and to defend the independence of Estonia.

3. On 30 June 2005, on the basis of § 16 of the Constitutional Review Court Procedure Act and § 15 of the Constitution, Henn Põlluaas requested that the Supreme Court declare the Act on the Ratification of the State Border Treaty between the Republic of Estonia and the Russian Federation and the Treaty on the Delimitation of Maritime Areas of Narva Bay and the Gulf of Finland between the Republic of Estonia and the Russian Federation, unconstitutional and invalid.

Henn Põlluaas is of the opinion that the State Border Treaty between the Republic of Estonia and the Russian Federation violates the preamble of the Constitution, as well as §§ 2(1), 5, 6, 32(1) and 122(1) thereof.

4. Proceeding from the fact that all the petitions submitted concern the Act on the Ratification of the State Border Treaty between the Republic of Estonia and the Russian Federation and the Treaty on the Delimitation of Maritime Areas of Narva Bay and the Gulf of Finland between the Republic of Estonia and the Russian Federation, and on the basis of § 52 of the Constitutional Review Court Procedure Act, the Constitutional Review Chamber decided to join the petitions of E. Oja, M. Markus and H. Põlluaas and to hear these together.

DISPUTED ACT

5. The Act on the Ratification of the State Border Treaty between the Republic of Estonia and the Russian Federation and the Treaty on the Delimitation of Maritime Areas of Narva Bay and the Gulf of Finland between the Republic of Estonia and the Russian Federation, passed by the Riigikogu on 20 June 2005 (RT II 2005, 18, 59), establishes the following:

"Proceeding from the legal continuity of the Republic of Estonia proclaimed on 24 February 1918, as it is stipulated in the Constitution of the Republic of Estonia, from the resolution of the Republic of Estonia Supreme Council of 20 August 1991 "On the National Independence of Estonia" and from the declaration of the Riigikogu of 7 October 1992 "On the Restoration of Constitutional Power", and keeping in mind that the Treaty referred to in Art. 1 of this Act shall, in accordance to Art. 122 of the Constitution of the Republic of Estonia, partially alters the state border line established by Art. III section I of the Tartu Peace Treaty of 2 February 1920, shall not influence the rest of the Treaty and shall not determine the treatment of bilateral issues not connected with border treaties, the Riigikogu decides:

§ 1. To ratify, pursuant to Art. 121 Clause 1 and Art. 122 of the Constitution of the Republic of Estonia, the annexed State Border Treaty between the Republic of Estonia and the Russian Federation that was signed on 18 May 2005 in Moscow.

§ 2. To ratify, pursuant to Art. 121 Clause 1 and Art. 122 of the Constitution of the Republic of Estonia, the annexed Treaty on the Delimitation of Maritime Areas of Narva Bay and the Gulf of Finland between the Republic of Estonia and the Russian Federation that was signed on 18 May 2005 in Moscow."

OPINION OF THE CONSTITUTIONAL REVIEW CHAMBER

6. M. Markus, E. Oja and H. Põlluaas have contested in the Supreme Court the constitutionality of the Act on the Ratification of the State Border Treaty between the Republic of Estonia and the Russian Federation and the Treaty on the Delimitation of Maritime Areas of Narva Bay and the Gulf of Finland between the Republic of Estonia and the Russian Federation.

7. The submission of petitions for the constitutional review of legislation is regulated by the Constitutional Review Court Procedure Act. The Constitutional Review Chamber of the Supreme Court is of the opinion that the Constitutional Review Court Procedure Act does not enable an individual to submit petitions for the protection of the interests of other people or in a public interest. The Constitutional Review Court Procedure

Act sets a prerequisite for the submission of individual complaints that the subjective rights of the person be violated. The Chamber has come to the same conclusion earlier, too (see ruling of the Constitutional Review Chamber of the Supreme Court of 25 May 2005 in matter No 3-4-1-8-05, RT III 2005, 19, 192).

8. None of the petitioners has shown how the contested Act violates his rights. H. Põlluaas argues that the basis of his petition is the violation of the constitutional rights of all citizens of the Republic of Estonia. M. Markus has submitted his petition proceeding from the duty of a citizen of Estonia to be loyal to the constitutional order and to defend the independence of Estonia. E. Oja argues that his rights are violated through the violation of the Constitution by the legislator. The Chamber is of the opinion that the petitions of M. Markus, E. Oja and H. Põlluaas are petitions submitted in a public interest.

9. Proceeding from the aforesaid the Supreme Court is not competent to hear the petitions of M. Markus, E. Oja and H. Põlluaas, and on the basis of § 20(3) of Constitutional Review Court Procedure Act the Chamber shall dismiss the petitions.

Märt Rask, Tõnu Anton, Eerik Kergandberg, Lea Kivi, Ants Kull

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