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**JUDGMENT
OF THE CONSTITUTIONAL REVIEW CHAMBER
OF THE SUPREME COURT
of 22 June 1993**

Review of the petition of the President of the Republic, submitted pursuant to § 107 of the Constitution, for the declaration of unconstitutionality of the National Coat of Arms Act.

The Constitutional Review Chamber sitting in a panel presided over by the chairman of the Chamber, Chief Justice Rait Maruste and composed of members of the Chamber, justices Tõnu Anton, Lea Kalm, Jaano Odar, with the Chancellor of Justice E.-J. Truuväli and the representative of the President of the Republic, legal adviser V. Glaase appearing, and in the presence of expert H. Schneider reviewed the proposal of the President of the Republic, based on § 107 of the Constitution, to declare the National Coat of Arms Act unconstitutional.

The President motivates his petition with the argument that the keeping of the state seal with the State Secretary as provided by § 5 of the National Coat of Arms Act subordinates the head of state, through the State Secretary, to the control of the Government of the Republic, and making the head of state dependent on the Government of the Republic violates the principle of balanced activities and separation of powers between the President of the Republic and the Government of the Republic, established in § 4 of the Constitution.

Having heard the matter and having listened to the explanations of V. Glaase, the opinion of the expert and the comments of E.-J. Truuväli, the Constitutional Review Chamber is of the opinion that according to § 5(2) of the National Coat of Arms Act the impression of the state seal is used solely on the letters of credence of ambassadors and envoys, or on letters recalling them and on the envelopes inclosing these, and also on documents of ratification or denunciation of conventions and international agreements.

According to § 78(2) of the Constitution, the President of the Republic is competent to appoint and recall diplomatic agents of the Republic of Estonia by relevant resolutions. The impression of the state seal is not used on the resolutions of the President of the Republic. According to § 87(3) of the Constitution, the Government of the Republic shall administer the implementation of legislation of the President of the Republic.

It is necessary to distinguish between the resolutions of the President of the Republic by which he or she

appoints or recalls diplomatic agents of the Republic of Estonia, and the activities for the implementation of such resolutions i.e. the preparation of the credentials or recall letters of ambassadors or envoys on the basis of the resolutions.

On the basis of § 87 (1) and (7) of the Constitution the execution of foreign policies and the management of relations with other countries is within the competence of the Government of the Republic. According to § 87(4) the Government of the Republic shall submit international treaties to the Riigikogu for ratification or denunciation. On the basis of § 121 of the Constitution the Riigikogu shall ratify and denounce treaties of the Republic of Estonia, and pursuant to § 78(6) of the Constitution the President of the Republic has an obligation to sign instruments of ratification and denunciation. The use of the impression of the state seal on these instruments can not prevent the President of the Republic from performing this duty even when the state seal is kept with the State Secretary, since according to § 87(3) of the Constitution the Government of the Republic has an obligation to implement the resolutions of the Riigikogu regarding ratification or denunciation of treaties of the Republic of Estonia.

It follows from the foregoing that keeping of the state seal with the State Secretary pursuant to § 5(3) of the National Coat of Arms Act does not subordinate the head of state, through the State Secretary, to the control of the Government of the Republic or make him or her dependent on the Government of the Republic, neither does this violate the principle of separation and balance of powers, established in § 4 of the Constitution.

On the basis of the foregoing and § 19 (1) 1) of the Constitutional Review Court Procedure Act, the Constitutional Review Chamber

has decided:

to dismiss the petition of the President of the Republic for the declaration of unconstitutionality of the National Coat of Arms Act.

Rait Maruste
Chief Justice of the Supreme Court

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