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## constitutional-judgment-5-23-41

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

CONSTITUTIONAL REVIEW CHAMBER

### COURT ORDER

Case number	5-23-41
Date of order	14 February 2024
Judicial panel	Chair: Villu Kõve; members: Saale Laos, Ivo Pilving, Nele Vutt
Case	Complaint by 15 members of the Riigikogu against Riigikogu connection with granting assistance to Ukraine
Participants in the proceedings	The applicants members of the Riigikogu Arvo Aller, Ants I Moonika Helme, Mart Helme, Martin Helme, Kert Kingo, R Kunnas, Alar Laneman, Siim Pohlak, Anti Poolamets, Eveli Põlluaas, Jaak Valge and Varro Vooglaid, representative att Jüri Luik  Riigikogu
Manner of examination	Written procedure

## **OPERATIVE PART**

- 1. To decline to examine the complaint.**
- 2. To deny the application by the applicants for compensation of procedural expenses.**

## **FACTS AND COURSE OF PROCEEDINGS**

**1.** On 11 September 2023, the Government of the Republic submitted a draft Riigikogu resolution (258 OE) on “Covering the Interest Costs of Loans to Ukraine” and the draft Riigikogu resolution (259 OE) on “Increasing the Holding of the Republic of Estonia in the Council of Europe Development Bank”. On 12 September 2023 the Board of the Riigikogu accepted the draft resolutions for proceedings. On 23 October 2023, the Government of the Republic submitted the draft Riigikogu resolution (336 OE) on “Grant of a State Guarantee to the European Investment Bank to Support Reconstruction of Ukraine”. On 24 October 2023 the Board of the Riigikogu accepted the draft for Riigikogu proceedings. The Finance Committee was assigned as lead committee for all three draft resolutions.

**2.** The first reading of draft resolution 258 OE was completed on 10 October, the first reading of draft resolution 259 OE was completed on 11 October and the first reading of draft resolution 336 OE was completed on 8 December 2023. After the first reading, the Estonian Conservative People’s Party (EKRE) parliamentary group submitted 100 amendments to draft resolution 258 OE, 50 amendments to draft resolution 259 OE and 451 amendments to draft resolution 336 OE.

**3.** At its meeting of 14 December 2023, the Riigikogu Finance Committee decided to decline to examine the amendments submitted by the EKRE parliamentary group to draft resolutions 258 OE, 259 OE and 336 OE and not to include them in the list of amendments compiled for the second reading. At a meeting on 18 December, the lead committee decided to examine nine amendments submitted by the EKRE parliamentary group to draft resolution 336 OE. These amendments were included in the list of amendments for the second reading with a note that they are not subject to a vote in the plenary assembly in line with § 106(2) of the Riigikogu Rules of Procedure and Internal Rules Act (RRPIRA).

**4.** The Riigikogu adopted draft resolutions 258 OE, 259 OE and 336 OE at the second reading on 20 December 2023. 73 members of the Riigikogu voted in favour of draft resolution 258 OE, 71 members of the Riigikogu voted in favour of draft resolution 259 OE and 68 members of the Riigikogu voted in favour of draft resolution 336 OE.

**5.** On 27 December 2023, 15 members of the Riigikogu belonging to the EKRE parliamentary group lodged

a complaint with the Supreme Court seeking annulment of the above resolutions of the Riigikogu plenary assembly of 20 December 2023.

**6.** Alternatively, the applicants seek the annulment of either:

- 1) the resolution entered in the record of the Riigikogu Finance Committee meeting of 14 December 2023 by which examination of amendments submitted by the EKRE parliamentary group to draft resolutions 258 OE, 259 OE and 336 OE was declined and a proposal was made to submit these drafts for the second reading;
- 2) the resolution of the Board of the Riigikogu to include draft resolutions 258 OE, 259 OE and 336 OE on the agenda of the regular sitting of 20 December 2023;
- 3) the resolution of the Riigikogu plenary assembly of 18 December 2023 by which the agenda of the 12th working week of the II session of the Riigikogu plenary assembly was approved, insofar as it stipulated the second reading of draft resolutions 258 OE, 259 OE and 336 OE; or
- 4) the resolutions of the Board of the Riigikogu of 20 December 2023 to put draft resolutions 258 OE, 259 OE and 336 OE to the final vote.

## **THE POSITION OF THE APPLICANTS**

**7.** The applicants assert that the Riigikogu resolutions of 20 December 2023 adopting draft resolutions 258 OE, 259 OE and 336 OE are unlawful since procedural rules as well as subjective rights of the EKRE parliamentary group and its members were seriously violated in the proceedings of these drafts. The unlawfulness of these Riigikogu resolutions was caused by the unlawful actions of the Finance Committee. Refusal to examine amendments submitted by the EKRE parliamentary group and failure to include them in the list of amendments for the second reading contravenes § 100(1) and § 102 of the RRPIRA. Because of these resolutions by the Finance Committee, the amendments submitted by the applicants were not put to the vote at the plenary assembly, which contravenes § 106 of the RRPIRA. The above violations of the RRPIRA have resulted in a violation of §§ 61, 62, 103 and 104 of the Constitution. Since both the Board of the Riigikogu and the plenary assembly were aware of the unlawful activities by the Finance Committee, this in turn resulted in inclusion of the drafts in question on the agenda, approval of the agenda, putting the drafts to the final vote, and the unlawfulness of the resolution of the Riigikogu plenary assembly.

**8.** The activities of the Board of the Riigikogu are unlawful because it did not exclude from the agenda of the plenary working week the drafts that had been unlawfully handled by the lead committee. The Board as the body accepting drafts for proceedings, assigning lead committees for the drafts and preparing the plenary agenda must check that proceedings of a draft have been carried out properly before the draft is included on the agenda.

**9.** The agenda of the Riigikogu plenary working week prepared by the Board of the Riigikogu is approved by the Riigikogu plenary assembly. The plenary assembly may also decline to approve the agenda or amend it before approval. At the time of approval of the agenda of the 12th working week the Riigikogu plenary

assembly was aware of the unlawful activities of both the Finance Committee and of the Board, so it should have either amended the agenda or declined to approve it.

**10.** In the opinion of the applicants, the resolutions of the Board of the Riigikogu to put the contested draft resolutions to the final vote at the Riigikogu sitting on 20 December 2023 are also unlawful. The applicants assert that putting drafts to the final vote is covered by the competence mentioned in § 13(2) clause 4 of the RRPIRA – i.e. to accept drafts for proceedings and assign lead committees to them – so that this resolution of the Board can be challenged under § 17 of the Constitutional Review Court Procedure Act (CRCPA).

**11.** Also unlawful are the Riigikogu plenary assembly resolutions of 20 December 2023 to adopt the contested drafts at the final vote. Since the violation of procedural rights pointed out by the applicants was serious, it cannot be argued that the final vote would have yielded the same result if the plenary assembly had been able to vote on the amendments which the Finance Committee had declined to examine. Thus, the violation has resulted in an incorrect final resolution.

**12.** The above resolutions violated the constitutionally protected core aspects of parliamentary democracy and of the mandate of a member of the Riigikogu. The right of a member of the Riigikogu to submit amendments to a draft, to explain them in the lead committee and request that they be voted on in the plenary assembly is part of the constitutionally established right of exercise of the mandate of a member of the Riigikogu, which is regulated more specifically by the RRPIRA. Law-making is the core function of a member of the Riigikogu. Similarly to initiation of draft laws, submission of amendments also enables carrying out a desired political programme. The right to submit amendments becomes void of substance if those proposing amendments are not allowed to explain them or request that they be voted on in the lead committee and in the plenary. However, from § 62 of the Constitution in conjunction with the first sentence of § 12(1) it follows that, in principle, people's representatives must be able to participate in the work of the Riigikogu under equal conditions.

**13.** The amendments submitted by the EKRE parliamentary group complied with the requirements laid down by § 99 of the RRPIRA: they had been submitted within the time limit and in writing, they were signed and contained a reference to the part of the draft to be amended and the exact wording of the desired amendment. The lead committee had no legal basis to decline to examine them. Moreover, neither the Riigikogu nor the Finance Committee have the competence or knowledge to assess the compatibility of the amendments with the Constitution in order to decline to examine them on that ground. In conclusion, a number of people's representatives were deprived of the opportunity to express an opinion, to seek compromises and engage in discussion characteristic of parliamentary democracy.

## **OPINION OF THE RIIGIKOGU**

**14.** In the opinion of the **Riigikogu**, the complaint should not be examined since the applicants lack standing. However, if the Supreme Court examines the complaint, the complaint should be denied.

**15.** The Riigikogu resolutions adopted on 20 December 2023 on “Covering the Interest Costs of Loans to Ukraine”, “Increasing the Holding of the Republic of Estonia in the Council of Europe Development Bank” and “The Grant of a State Guarantee to the European Investment Bank to Support the Reconstruction of Ukraine” do not affect the applicants’ rights or duties. Therefore, these resolutions cannot violate the applicants’ rights either. A Riigikogu resolution cannot be contested for protection of the public interest.

**16.** The applicants are not entitled to lodge a complaint for annulment of the resolution of the Riigikogu Finance Committee. The Finance Committee is a Riigikogu subsidiary body whose resolution is not a Riigikogu resolution within the meaning of § 2 clause 3 of the Constitutional Review Court Procedure Act, nor can it therefore be challenged under the CRCPA. Nor is it possible to request annulment of an agenda prepared by the Board of the Riigikogu since no such option is laid down by § 17 of the CRCPA. The Riigikogu resolution to approve the agenda for the 12th working week of the II session of the Riigikogu cannot be challenged because neither the Constitution nor the RRPIRA lay down a requirement that voting on amendments in the plenary assembly should be possible in any case. Under the RRPIRA, the submitter of an amendment has no say as regards the decision to include the draft on the agenda of the Riigikogu plenary assembly. Nor would contesting the resolution on approval of the agenda enable the applicants to achieve their objective since at the second reading the Riigikogu had already debated the drafts which are the subject-matter of the complaint, and had voted on and adopted them. No annulment of the resolutions can be requested through contestation of the agenda. The applicants have arbitrarily interpreted § 13(2) clause 4 of the RRPIRA by construing the decision of the chair of the sitting to put the draft to the final vote as an activity of the Board of the Riigikogu in accepting drafts for proceedings. Putting a draft to the vote does not depend on the Board of the Riigikogu, so that decisions of the chair of the sitting cannot be appealed to the Supreme Court under § 17 of the CRCPA.

**17.** The contested resolutions are lawful. Submission of amendments and their examination in the lead committee is regulated by §§ 99 and 100 of the RRPIRA. The task of the lead committee is first of all to assess – after the time-limit for submission of amendments has passed – which amendments meet the requirements. In order to ensure an effective debate, the draft and any amendment submitted to it must comply with higher-ranking legal acts. Since the Riigikogu must adopt laws and resolutions in the utmost good faith that they are compatible with the Constitution, when preparing the plenary debate the lead committee must also assess the constitutional compatibility of amendments. Amendments submitted by the EKRE parliamentary group to draft resolution 258 OE contravened either European Parliament and Council Regulation (EU) 2022/2463 or the Constitution, amendments to draft resolution 259 OE contravened a foreign treaty, and amendments to draft resolution 336 OE contravened the guarantee agreement. From 601 amendments proposed by the EKRE parliamentary group to the three draft resolutions, the lead committee found nine amendments to be compatible.

**18.** The other resolutions mentioned in the complaint are also lawful. The Board of the Riigikogu includes drafts on the agenda on the basis of proposals by lead committees. The Board may not intervene in the committee’s competence or check how the proceedings of a draft take place in the committee. The Riigikogu approved the agenda prepared by the Board and the chair of the sitting put the drafts to the final vote while observing the provisions of the RRPIRA. The three contested Riigikogu resolutions were dealt with in line with the provisions of the RRPIRA and were adopted by the majority of votes of the members of the Riigikogu. Equally with other members of the Riigikogu, members of the EKRE parliamentary group were able to submit amendments, participate in debating the drafts at the plenary assembly and take part in the

final vote.

**19.** In the opinion of the **Finance Committee** attached to the opinion of the Riigikogu, the majority of the committee find that the complaint is not justified and should not be examined or should be denied because the committee has not violated the law or treated members of the Riigikogu unequally during the proceeding of drafts 258 OE, 259 OE and 336 OE. The Finance Committee also notes that the law does not lay down the right of members of the Riigikogu to lodge a complaint with the Supreme Court against the activities of a Riigikogu committee. In a **dissenting opinion**, the representative of the *Isamaa* parliamentary group does not agree that, on the pretext of swift processing of drafts, the coalition may decline *en masse* to examine amendments submitted by the opposition and refuse to include them in the list of amendments.

## OPINION OF THE CHAMBER

**20.** The applicants seek annulment of the Riigikogu resolutions adopted on 20 December 2023 on “Covering the Interest Costs of Loans to Ukraine” (258 OE), “Increasing the Holding of the Republic of Estonia in the Council of Europe Development Bank” (259 OE) and “The Grant of a State Guarantee to the European Investment Bank to Support the Reconstruction of Ukraine” (336 OE). Alternatively, the applicants seek annulment of the Riigikogu resolution of 18 December 2023 on approval of the agenda for the 12th working week of the II session of the Riigikogu plenary assembly, as well as annulment of the resolutions of the Board of the Riigikogu or of the Finance Committee (see para. 6 of the judgment above).

**21.** The applicants’ objective is to contest the allegedly unlawful situation where amendments submitted by a Riigikogu parliamentary group were declined for debate. Although in the opinion of the applicants the unlawful situation was caused by the activities of the Finance Committee, in view of Supreme Court case-law they consider it logical to contest first and foremost the resolution on approval of the agenda. The applicants assert that their standing arises from §§ 16 and 17 of the Constitutional Review Court Procedure Act (CRCPA).

**22.** Under § 16 of the CRCPA, any person who finds that their rights have been infringed by a resolution of the Riigikogu may file a petition with the Supreme Court to annul that resolution. The rights protected under § 16 of the CRCPA should be mostly understood as the rights of individuals against the state in an external legal relationship, first and foremost fundamental rights (Supreme Court Constitutional Review Chamber judgment 5-21-32/8, para. 31). In line with the case-law of the Supreme Court Constitutional Review Chamber, § 16 of the CRCPA also guarantees judicial protection in an internal legal relationship if a resolution of the Riigikogu plenary assembly may violate those rights of a member of the Riigikogu which can be interpreted as constitutionally protected core aspects of parliamentary democracy and of the mandate of a member of the Riigikogu (Supreme Court Constitutional Review Chamber judgment 5-21-32/8, paras 32 and 34; 5-23-31/18, para. 26; 5-23-37/6, para. 29).

**23.** Under § 17 of the CRCPA, any member, alternate member or parliamentary group of the Riigikogu who finds that their rights have been infringed by a resolution of the Riigikogu listed in § 13(2) clauses 2, 2<sup>1</sup>, 3 or

4 of the RRPIRA or in §§ 13 or 14 of the Status of Members of the Riigikogu Act may file a petition with the Supreme Court to annul that resolution. Thus, § 17 of the CRCPA sets out a closed list of cases where a member of the Riigikogu may contest a resolution of the Board of the Riigikogu in an internal legal relationship (Supreme Court Constitutional Review Chamber judgment 5-21-32/8, para. 31).

**24.** To establish standing, the Chamber will thus have to ascertain whether contested resolutions of the Riigikogu plenary assembly can violate the applicants' rights in an external legal relationship or interfere with the constitutionally protected core aspects of parliamentary democracy and of the mandate of a member of the Riigikogu. It is also necessary to assess whether the applicants are contesting a resolution of the Board of the Riigikogu mentioned in § 17 of the CRCPA.

**25.** First of all, the applicants contest three Riigikogu resolutions of 20 December 2023 by which the drafts submitted by the government were adopted. A resolution handled by the Riigikogu as a draft and adopted by the Riigikogu plenary assembly and which concerns a substantive issue can be contested by a person under § 16 of the CRCPA only for protection of their subjective rights, i.e. rights arising from an external legal relationship. This restriction also applies in contesting the formal lawfulness of a resolution, including possible procedural errors. However, the applicants have not claimed that the resolutions in question violate their subjective rights as individuals, nor could provision of assistance from Estonia to Ukraine infringe the applicants' such rights in any manner. The application was lodged for protection of the rights arising from the mandate of a member of the Riigikogu. A member of the Riigikogu is not entitled under § 16 of the CRCPA to seek annulment of a final Riigikogu resolution on the ground that in the course of its proceedings their rights as a member of parliament were allegedly violated.

**26.** All the previous cases where the Supreme Court has expansively interpreted the right under § 16 of the CRCPA, extending it to internal parliamentary disputes, have concerned resolutions on parliamentary working arrangements directly related to the rights arising from the mandate of a member of the Riigikogu. A Riigikogu resolution passed on a substantive issue is too far removed from the parliament's internal legal issues. Such a resolution regulates issues outside the Riigikogu (in this case assistance to Ukraine) and does not address parliament's internal relationships. Similarly to any other person, a member of the Riigikogu can contest such a resolution if it interferes with their rights as an individual.

**27.** The applicants have alternatively contested the resolution of the Riigikogu plenary assembly of 18 December 2023 by which the agenda of the 12th working week of the II session of the Riigikogu was approved insofar as concerns the second reading of draft resolutions 258 OE, 259 OE and 336 OE. The Supreme Court has considered a resolution of the Riigikogu plenary assembly on approval of the agenda to be contestable under § 16 of the CRCPA if it interferes with the core aspects of the mandate of a member of the Riigikogu (see Supreme Court Constitutional Review Chamber judgment 5-23-37/6, paras 37 and 41). In case No 5-23-37, the Supreme Court attributed to the Riigikogu a failure to reply to interpellations in time and failure to arrange a timely first reading of a draft act as the Riigikogu passed resolutions on approval of the agenda in which the contested issues were not included. Replying to interpellations and debating a draft legislative act at a Riigikogu sitting, as required respectively by § 74(2) and § 103(1) of the Constitution, is possible only if these are included on the agenda. Thus, the resolution on approval of the agenda had a direct effect on the rights arising from the capacity of a member of the Riigikogu which were in question in case No 5-23-37. In the present case, when approving the agenda the Riigikogu did not decide on the applicants' right to submit amendments. An agenda, as a plan for Riigikogu sittings, determines which issues will be discussed at what time and in what order, rather than assessing the appropriateness of preparation of the

issues to be included on the agenda. In addition, the documents serving as the basis for discussing an agenda item might not have been made available to Riigikogu members by the time of approval of the agenda (see § 62 RRPIRA). Based on the foregoing, the Riigikogu resolution to approve the agenda for the 12th working week of the II session of the Riigikogu does not interfere with the applicants' rights as indicated in the complaint.

**28.** Based on § 17 of the CRCPA, the applicants seek annulment of the resolutions of the Board of the Riigikogu by which the contested drafts were included on the agenda of the working week, as well as resolutions by which these drafts were put to the final vote on 20 December 2023. In the opinion of the applicants, the Board made the resolutions on inclusion of the drafts on the agenda under § 13(2) clauses 4 and 7 of the RRPIRA and the resolutions on putting the drafts to the final vote under § 13(2) clause 4 of the RRPIRA. Section 17 of the CRCPA enables a member of the Riigikogu to file a petition with the Supreme Court against the Riigikogu resolution mentioned in § 13(2) clause 4 of the RRPIRA. Under § 13(2) clause 4 of the RRPIRA, the Board decides on acceptance of drafts for Riigikogu proceedings and on assignment of lead committees to them. This is a competence of the Board of the Riigikogu which is regulated more precisely by § 93 of the RRPIRA. Accepting a draft for proceedings cannot be equated with placing the draft on the plenary agenda or putting the draft to the final vote. The tasks and competence of the Board of the Riigikogu in preparing the agenda of the Riigikogu plenary working week is laid down by § 13(2) clause 7, § 53(2) and (3) and § 54(1) of the RRPIRA. Thus, § 17 of the CRCPA does not entitle a member of the Riigikogu to contest the activities of the Board of the Riigikogu in preparing the agenda.

**29.** The applicants believe the resolution on putting a draft to the final vote also amounts to a resolution of the Board of the Riigikogu mentioned in § 13(2) clause 4 of the RRPIRA. Under the RRPIRA, the decision to put a draft to the final vote is not made by the Board of the Riigikogu but by the chair of the sitting (§§ 63 and 83). Nor does the CRCPA stipulate the possibility to contest resolutions of the chair of the sitting either.

**30.** The applicants also contested the resolutions of the Riigikogu Finance Committee on declining to examine the amendments submitted by the EKRE parliamentary group to drafts 258 OE, 259 OE and 336 OE and on a proposal to include these drafts for the second reading on the agenda of the Riigikogu plenary working week. A committee is a subsidiary body of the Riigikogu, the procedure for whose formation and whose rights are determined by the Riigikogu itself (§ 71(1) and (3) Constitution). The Supreme Court has defined a Riigikogu committee as a form of collective parliamentary decision-making intended to ensure the efficiency of parliamentary work through division of labour and specialisation (Supreme Court Constitutional Review Chamber judgment 3-4-1-3-05, para. 25). Although the resolutions of all the subsidiary bodies of the Riigikogu are ultimately attributable to the Riigikogu, a committee resolution cannot be regarded as a Riigikogu resolution within the meaning of § 16 of the CRCPA. From among these, only resolutions of the Board can be contested in the Supreme Court to the extent laid down by § 17 of the CRCPA. The CRCPA does not stipulate standing for contesting resolutions of Riigikogu committees. Thus, the Supreme Court is not competent to resolve complaints against the resolutions of Riigikogu committees.

**31.** Based on the foregoing, the Chamber is of the opinion that the CRCPA does not enable members of the Riigikogu to file a complaint against an alleged violation of the right to submit amendments either through contestation of a Riigikogu resolution with an external effect, Riigikogu organisational resolutions with internal effect or resolutions of Riigikogu subsidiary bodies. In the opinion of the Chamber, the Constitution does not require either that a member of the Riigikogu should necessarily be able to contest restriction of the right to submit amendments in court. Nor is there an international standard which would make such



protection necessary. For example, the Venice Commission has considered it sufficient for protection of the minority if filtering the relevant amendments is decided by a committee where the opposition is proportionally represented (see Venice Commission, CDL-AD(2019)015 [1], paras 107 and 156).

**32.** The Chamber notes that even though the Constitution does not mention the right to submit amendments, the right to propose amendments is an essential part of the mandate of a member of the Riigikogu and of the parliamentary legislative procedure (cf. Venice Commission, CDL-AD(2002)012 [2], para. 42; CDL-AD(2008)035 [3], para. 49). The absence of the possibility to propose amendments would significantly reduce the prospects of members of the Riigikogu to participate effectively in the exercise of the legislative function and would inhibit formation of the will of the Riigikogu in the spirit of the principles of parliamentary democracy as characterised by a comprehensive discussion of drafts, public treatment of minority criticism and consideration of alternatives presented.

**33.** The Constitution leaves for the Riigikogu itself to determine the right to submit amendments to draft resolutions of the Riigikogu (§ 104(2) clause 6). In this regard, it should be taken into account that this right may also be limited by virtue of the Constitution itself. If the Riigikogu has to decide on a matter on a proposal of a body specified in the Constitution, the Riigikogu might entirely lack the right to amend the content of the draft and be competent only to approve or reject the proposal (e.g. in the cases mentioned in § 65 clauses 7 and 8 of the Constitution). The resolutions in dispute in the present case were adopted on the basis of § 65 clause 10 of the Constitution, under which the Riigikogu, acting on a proposal from the Government of the Republic, decides whether to authorise government borrowing or assumption of other financial obligations for the state. Although the Riigikogu has laid down the possibility to submit amendments to the latter draft resolutions by way of general procedure (§ 99 RRPIRA; but cf. §§ 117 and 118 RRPIRA), this does not mean that the Constitution requires establishment of this right (cf. § 116 of the Constitution, which expressly lays down the right of the Riigikogu to amend the draft national budget submitted by the Government).

**34.** The Chamber emphasises that the applicable law ensures judicial review of whether the Riigikogu has complied with the procedural requirements arising from the Constitution when adopting a resolution, including ensuring the right of members of the Riigikogu to propose amendments. Under § 16 of the CRCPA, such a review can be initiated by a person whose subjective rights may be violated by the Riigikogu resolution, or by the Chancellor of Justice in the instance set out in § 6(1) clause 5 of the CRCPA. Formal constitutionality of laws is checked by the Supreme Court in both abstract and specific constitutional review proceedings. Section 15(1) clause 4 and § 24(1) clause 1 of the CRCPA empower the Supreme Court to annul a Riigikogu resolution, inter alia, when procedural rules were violated at its adoption.

**35.** The Chamber notes that abuse of rights arising from the mandate of a member of the Riigikogu cannot constitute a benefit to be protected in the Supreme Court. By its very nature, large-scale obstruction amounts to an abuse of the powers of a member of parliament, i.e. their use for a purpose other than that for which they have been given to a member of the Riigikogu (Supreme Court Constitutional Review Chamber judgment 5-23-31/18, para. 52; 5-23-37/6, para. 53). In the absence of other appropriate measures, moderate obstruction may be justified in order to reach an agreement or to draw the attention of the public to an issue to be resolved in the Riigikogu. Obstruction must be tolerated by other members of the Riigikogu only to the extent that it does not paralyse the work of the parliament as a constitutional institution for a longer term and extensively (see Supreme Court Constitutional Review Chamber judgment 5-23-31/18, para. 52; 5-23-37/6, para. 53).

**36.** Prohibition of abuse of rights is a generally accepted legal principle that must be observed when exercising both state power (§ 13(2) Constitution) and fundamental rights (§ 19(2) Constitution) (cf. Article 17 of the European Convention for the Protection of Human Rights and Fundamental Freedoms). Consequently, the prohibition on abusing one's powers also applies to a member of the Riigikogu as a representative of the legislative power. Although a member of the Riigikogu is not bound by a mandate and is not accountable for voting and political statements in the Riigikogu or its bodies (§ 62 Constitution), this does not mean unrestricted and judicially protected freedom to use his or her powers in whichever manner. As a person exercising state power, a member of the Riigikogu must take into account the principles of the Constitution in the performance of his or her powers, including the prohibition arising from the principle of democracy (§ 1 Constitution) to paralyse the exercise of legislative power and thereby the functioning of the constitutional order (cf. Supreme Court Constitutional Review Chamber judgment 5-23-31/18, paras 50 and 52).

**37.** In the opinion of the Chamber, the amendments by the applicants were motivated by the aim of paralysing the work of the Riigikogu and discussion of drafts initiated by the government. This is evidenced both by the number and insincere content of the amendments at issue (e.g. hundreds of alternative proposals to change the amount of money mentioned in the draft, which differed from each other by only a few euros). Moreover, the applicants were not entirely deprived of their right to submit amendments, but only to the extent exceeding the limits that the majority of the Riigikogu must tolerate.

**38.** The foregoing affirms that no reason exists in the present case to consider exclusion of standing by §§ 16 and 17 of the CRCPA as unconstitutional.

**39.** By relying on § 20<sup>1</sup>(2) of the CRCPA, the Chamber declines to examine the complaint by the members of the Riigikogu.

**40.** Since in the present case the applicants have no right of recourse to the court and the complaint is returned without examination, § 63 of the CRCPA also does not provide a basis to cover the procedural expenses of the applicants from the state budget.

(signed digitally)

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